

COMMISSIONS OF INQUIRY AND FACT-FINDING MISSIONS ON INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW



GUIDANCE AND PRACTICE



UNITED NATIONS



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HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

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Contents

Foreword	v
Introduction	1
I. ROLE OF INTERNATIONAL FACT-FINDING AND INVESTIGATION BODIES.....	6
II. MANDATES.....	8
III. OPERATIONAL ASPECTS	17
A. Selection and appointment of members.....	18
B. The secretariat.....	22
C. Resources.....	28
D. Commencement of the commission's/mission's work.....	30
IV. METHODOLOGICAL ASPECTS	32
A. Principles and standards.....	33
B. Human rights investigations process	36
C. Gathering and assessing information.....	40
D. Access and cooperation	64
E. Methodological tools.....	65
F. Terms of reference.....	67
G. Methods of work.....	69
H. Rules of procedure	69
I. Information management	70
J. Protection of victims, witnesses, sources and other cooperating persons	74
K. Public information and the media.....	82
V. REPORT AND RECOMMENDATIONS.....	88
A. Report	89
B. Recommendations	94
VI. FOLLOW-UP.....	100

ANNEXES..... 105

- I. International legal and methodological standards and instruments..... 106
- II. Model standard rules of procedure for commissions of inquiry/fact-finding missions on violations of international human rights law and international humanitarian law 108
- III. International commissions of inquiry and fact-finding missions supported or deployed by OHCHR 114

Foreword

I am very pleased to present the updated edition of *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice*.

This publication captures the experience of United Nations international commissions of inquiry and fact-finding missions, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in supporting them, over the past two decades. It presents the principles, policies, practices and methodologies that guide their work.

International commissions of inquiry and fact-finding missions are now a key tool in the United Nations response to situations of violations of international human rights law and international humanitarian law, including international crimes. They are established with mounting frequency by the United Nations Security Council, the General Assembly, the Human Rights Council, the Secretary-General and the High Commissioner for Human Rights, to address violations in a growing variety of contexts. Regional organizations have also set up commissions and similar bodies.

Commissions of inquiry and fact-finding missions have proved to be valuable in countering impunity by promoting accountability for such violations. They gather and verify information, create an historical record of events, and provide a basis for further investigations. They also recommend measures to redress violations, provide justice and reparation to victims, and hold perpetrators to account. They deserve to be fully supported, including by receiving the cooperation they require from States, and to be adequately resourced.

The United Nations has acquired vast experience in this area. To date, my Office has supported the work of, or itself fielded, close to 50 international commissions of inquiry and fact-finding missions. My Office serves as the repository of institutional memory in this field and maintains a standing capacity to provide operational, legal, analytical and methodological support to these bodies.

A degree of flexibility has helped commissions of inquiry and fact-finding missions to address a variety of situations. So while there is no single format for the constitution and functioning of all such bodies, the methodological tenets that guide all fact-finding and investigations on human rights and international humanitarian law, as developed based on relevant norms, standards and principles, provide a common thread across the various models, and ensure the production of sound analysis, reports and recommendations.

The approaches outlined in this publication are well tested. The publication has also benefited from the feedback of members and staff of commissions and missions during

lessons learned exercises and during meetings with experts reviewing the work of my Office in this area, as well as from the experience of my predecessors. Although it is primarily directed at those involved in establishing, supporting and resourcing such commissions and missions, I am confident that this publication will be of use to others seeking information and advice on these investigative bodies.

A handwritten signature in black ink, appearing to read 'Zeid Ra'ad Al Hussein', with a long horizontal flourish extending to the right.

Zeid Ra'ad Al Hussein
United Nations High Commissioner for Human Rights

Introduction



A human rights officer walks over rubble and shattered concrete, after a night of shelling in the residential neighbourhood of Arada, Libya. UN / OHCHR Photo

Background

United Nations mandated commissions of inquiry and fact-finding missions (hereinafter commissions/missions) are increasingly being used to respond to situations of serious violations of international humanitarian law and international human rights law, whether protracted or resulting from sudden events, and to promote accountability for such violations and counter impunity. These international investigative bodies have been established by the Security Council,¹ the General Assembly,² the Human Rights Council,³ its predecessor, the Commission on Human Rights,⁴ the Secretary-General⁵ and the High Commissioner for Human Rights.⁶

Over the past 20 years, many commissions/missions have been established to assess some of the most serious situations of human rights and humanitarian law violations across the world: in the former Yugoslavia,⁷ Darfur,⁸ Timor-Leste,⁹ Lebanon¹⁰ and Guinea,¹¹ and the most recent international human rights investigations in Côte d'Ivoire,¹² Libya,¹³

¹ For example, the Commission of Experts on the former Yugoslavia (1992-1994), established by Security Council resolution 780 (1992) of 6 October 1992, and the International Commission of Inquiry on Darfur (2004), established pursuant to Security Council resolution 1564 (2004) of 18 September 2004.

² For example, the General Assembly, by resolution 52/135 of 12 December 1997, set up the Group of Experts for Cambodia to examine requests for assistance in responding to past serious violations.

³ For example, the International Commission of Inquiry on the Libyan Arab Jamahiriya (2011-2012), established by Human Rights Council resolution S-15/1 of 25 February 2011.

⁴ For example, the International Commission of Inquiry on East Timor set up in 1999 by Commission on Human Rights resolution 1999/S-4/1 of 27 September 1999 to look into post-consultation violence.

⁵ For example, the Secretary-General established in 2000 the International Commission of Inquiry for Togo to look into allegations of extrajudicial killings in 1998 raised in an Amnesty International report, following a request by the Government of Togo to the Secretary-General of the United Nations and the Secretary-General of the Organization of Africa Unity. In 2010, he set up the Panel of Experts on Accountability in Sri Lanka to advise him on "the modalities, applicable international standards and comparative experience relevant to the fulfilment of the joint commitment to an accountability process, having regard to the nature and scope of alleged violations." Although the Panel of Experts was advisory in nature and not a commission of inquiry or fact-finding mission, it has been included in this publication, as many lessons can be learned from its work.

⁶ For example, in 2005, the High Commissioner dispatched a fact-finding mission on events in Andijan, Uzbekistan, and in 2008 an OHCHR fact-finding mission was sent to look into post-electoral violence in Kenya. At its twentieth session, the Human Rights Council requested the High Commissioner to monitor the situation in northern Mali and to report to the Council (resolution 20/17 of 6 July 2012) and the High Commissioner sent a fact-finding mission to Mali and neighbouring countries and presented a report to the Council at its twenty-second session (A/HRC/22/33).

⁷ Commission of Experts on the former Yugoslavia, see note 1.

⁸ International Commission of Inquiry on Darfur (2004), established by Security Council resolution 1564 (2004).

⁹ Independent Special Commission of Inquiry for Timor-Leste (2006), established by the Secretary-General.

¹⁰ Commission of Inquiry on Lebanon (2006), established by Human Rights Council resolution S-2/1 of 11 August 2006.

¹¹ International Commission of Inquiry on Guinea (2009), established by the Secretary-General on 28 October 2009 (S/2009/556).

¹² Independent International Commission of Inquiry on Côte d'Ivoire (2011), established by Human Rights Council resolution 16/25 of 25 March 2011.

¹³ See note 3.

the occupied Palestinian territory,¹⁴ the Syrian Arab Republic,¹⁵ the Democratic People's Republic of Korea,¹⁶ Sri Lanka¹⁷ and the Central African Republic.¹⁸

As part of its core work, the Office of the United Nations High Commissioner for Human Rights (OHCHR) provides expertise and support to commissions and missions. This includes developing guidance, advising on investigation methodology and applicable international law, developing investigation tools, setting up secretariats with specialist staff, providing administrative, logistical and security support, undertaking reviews and lessons learned exercises. Since 1992, OHCHR has provided support to and deployed close to 50 commissions and missions. In 2014, it provided support to the International Commission of Inquiry on the Democratic People's Republic of Korea and the Commission of Inquiry on the Central African Republic and, before the establishment of the Commission by the Security Council, deployed an OHCHR fact-finding mission to the Central African Republic. In addition, it is providing support to the International Commission of Inquiry on the Syrian Arab Republic, the Commission of Inquiry on the occupied Palestinian territory and the Commission of Inquiry on Eritrea, is carrying out an investigation on Sri Lanka, and is in the process of deploying a fact-finding mission to Iraq. Consequently, OHCHR serves as the repository of institutional memory with regard to the establishment and operation of such bodies.

1. OBJECTIVE

This publication provides policy, methodological, legal and operational guidance based on relevant international standards and two decades of experience by OHCHR in advising, supporting, deploying and reviewing international commissions of inquiry and fact-finding missions. It is intended to assist the work of such international investigative bodies, and those establishing and mandating them, in applying a consistent methodology based on best practice and maximizing their potential to successfully fulfil their mandates.

This guidance is provided with the understanding that every United Nations investigative body is different. The mandate, the situation of inquiry, the independent commissioners

¹⁴ International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory (2012), established by the Human Rights Council under resolution 19/17 of 22 March 2012.

¹⁵ Independent International Commission of Inquiry on the Syrian Arab Republic (2011-2014), established by Human Rights Council resolution S-17/1 of 23 August 2011; preceded by the Fact-finding Mission to the Syrian Arab Republic (2011) established by the High Commissioner for Human Rights pursuant to Human Rights Council resolution S-16/1 of 29 April 2011.

¹⁶ Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (2013), established by the Human Rights Council in resolution 22/13 of 21 March 2013.

¹⁷ OHCHR Investigation on Sri Lanka (2014), established by the Human Rights Council in resolution 15/1 of 27 March 2014.

¹⁸ International Commission of Inquiry on the Central African Republic established by Security Council resolution 2127 (2013) of 5 December 2013.



OHCHR visit to a detention centre, Nepal. UN Photo / Robert Few

or experts appointed as members (hereinafter referred to as “members”), and the circumstances surrounding the body’s establishment and conduct will vary each time. While existing standards and best practices provide a solid framework to guide the work of commissions and missions, flexibility, good judgement and adaptability will be required, as every commission/mission will in some way be unique and require specific responses and support.

While the guidance is based primarily on the experience of United Nations fact-finding and investigative bodies, it is also intended to assist other organizations, including regional organizations, in the establishment and management of similar international bodies.

2. TARGET AUDIENCE

The guidance is mainly intended for use by members of commissions/missions, staff of such bodies, States, civil society organizations and United Nations departments that may be involved in advocating, mandating, establishing, supporting and resourcing such bodies. It is also directed at national human rights institutions, academic institutions and others who may be involved in these activities.

3. SCOPE AND ADDITIONAL RESOURCES

This publication is designed as a practical guide for the planning, establishment, conduct and follow-up of commissions/missions. The guidance is general and therefore not a comprehensive examination of all the topics covered. It is based on existing internal OHCHR guidance, updated based on the results of reviews, lessons learned exercises involving both members of commissions/missions and staff, and evolving practice, as well as other OHCHR published material on standards and methodologies for human rights and international humanitarian law fact-finding and investigations. Several of the methodological issues covered are dealt with in more detail in other publications and resources produced by OHCHR. Where relevant, these are referred to in the text. A list of key resources can be found in annex I.

ROLE OF INTERNATIONAL FACT-FINDING AND INVESTIGATION BODIES



United Nations Fact-finding Mission on the Gaza Conflict visiting a site struck by shelling in Gaza. UN / OHCHR Photo

The work of commissions and missions

In the United Nations context, the terms “international commission of inquiry” and “international fact-finding mission” have been used to designate a variety of temporary bodies of a non-judicial nature, established either by an intergovernmental body or by the Secretary-General or the High Commissioner for Human Rights, and tasked with investigating allegations of violations of international human rights, international humanitarian law or international criminal law and making recommendations for corrective action based on their factual and legal findings.¹⁹

The work of commissions/missions is crucial for strengthening human rights protection in multiple ways. The commissions/missions can provide an historical record of serious violations of human rights and international humanitarian law, and influence changes in law and practice to advance human rights. Critically, they assist in ensuring accountability for serious violations, which is fundamental in order to deter future violations, promote compliance with the law and provide avenues of justice and redress for victims. International human rights investigations have furnished crucial elements to judicial procedures. They have done so in the inquiries of ad hoc international tribunals and of the International Criminal Court. Many of them have delved into the root causes of the violence and violations, triggering transitional justice mechanisms that address the rights to the truth, justice, remedies and reparations, and guarantees of non-recurrence, and have thus informed more sustainable peacebuilding and reconciliation efforts, and assisted in the political settlement of conflicts.

In fulfilling their mandates, commissions/missions often review judicial and other accountability mechanisms and their recommendations focus on strengthening legislation and institutions so as to improve accountability for past violations at the national or international level, and provide redress to victims. In some instances special domestic accountability mechanisms have been established to address the violations investigated by the commission/mission and to give effect to its recommendations.

Considerable publicity around the work of commissions/missions, for example, those investigating the events in Gaza or the Syrian Arab Republic, has increased the public profile of such investigations and highlighted the important role they play in the implementation of international human rights norms and international humanitarian law, and in supporting accountability for perpetrators in instances where other mechanisms have failed.

¹⁹ Within the United Nations, fact-finding and investigation of violations of human rights and international humanitarian law are carried out by a variety of bodies and mechanisms, including special rapporteurs of the Human Rights Council, field offices of OHCHR, including human rights components integrated in peace missions, and certain treaty-based bodies. While the methodological standards applicable to professional fact-finding and investigations are the same, regardless of the entity that conducts the activity, this publication focuses on international commissions of inquiry and fact-finding missions as defined above.



MANDATES



The Human Rights Council in session. UN Photo / Jean-Marc Ferré

The formulation of mandates

The formulation of mandates of commissions/missions has varied considerably, depending on the situation under investigation, the nature of the violations and the purpose of the investigation. In some instances the mandate covered the entire country (for example, Libya or the Syrian Arab Republic); in others only part (for example, Darfur). Many commissions/missions were given a very general mandate to investigate alleged violations of human rights or international humanitarian law or both. Some mandates related to a specific incident or event, for example, the Commission of Inquiry for Côte d'Ivoire (2004)²⁰ was required to investigate alleged human rights violations in connection with a march planned for 25 March 2004 in Abidjan. Other mandates defined longer periods for investigation, with varying degrees of precision.²¹ Mandates frequently include general language, requiring interpretation by the commission's/mission's members (see chap. IV, sect. B, Human rights investigations process). However, in some instances the language of the resolution was very specific as regards the nature of the violations that the commission/mission was expected to investigate.

Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (2013)

"... the commission of inquiry will investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea ... including the violation of the right to food, the violations associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, violations of freedom of expression, violations of the right to life, violations to freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other States, with a view to ensuring full accountability, in particular where these violations may amount to crimes against humanity"

²⁰ Commission of Inquiry on the events connected with the march planned for 25 March 2004 in Abidjan, established by the Secretary-General at the request of the President and Prime Minister of Côte d'Ivoire. The Independent Special Commission of Inquiry for Timor-Leste (2006) and the International Commission of Inquiry on Guinea (2009) were also mandated to investigate events spanning from one to a few days.

²¹ For example, the Mapping Exercise undertaken by OHCHR in the Democratic Republic of the Congo covered a period of ten years (1993-2003); the Panel of Experts on Accountability in Sri Lanka reviewed the nature and scope of violations in the "final stages of conflict"; the United Nations Fact-finding Mission on the Gaza Conflict was mandated to investigate violations "before, during and after" Operation Cast Lead; the Commission of Inquiry on the Syrian Arab Republic covers an ongoing situation.

Independent Special Commission of Inquiry for Timor-Leste (2006)

“to establish the facts and circumstances relevant to incidents that took place on 28 and 29 April and 23, 24 and 25 May and related events or issues that contributed to the crisis, clarify responsibility for those events and recommend measures of accountability for crimes and serious violations of human rights allegedly committed during the mandated period.”

While mandates need to be designed in the light of the situation that requires investigation and provide clarity with regard to what is expected of the commission/mission, they should always reflect international standards on human rights fact-finding, and be drafted in such a way as to enable the commission/mission to conduct its work in line with best practice methodology, without prejudging any aspects of its work.

The terms of the mandate necessarily have an impact on the time frame and resources required to fulfil it. Reporting deadlines as well as resources provided by the mandating authority must thus be commensurate with the mandate and consider the circumstances under which the commission/mission is required to operate. This has not always been the case and has at times posed unnecessary difficulties for the relevant commission/mission. For example, the Human Rights Council established the Commission of Inquiry for Côte d'Ivoire (2011) in March 2011 and required it to present a report at the next session of the Council in June 2011. The Commission had approximately six weeks in which to undertake investigations and prepare and submit a final report. In other cases, budgets have not adequately reflected the scope or tasks of the commission/mission.

1. TASK DEFINITION

In determining the body's task, mandates have required them to “establish the facts”, as in Burundi (1995)²² or to “establish the facts and circumstances”, which was the directive of the Commission of Inquiry for Timor-Leste (2006). The mandates of other bodies have required them to “investigate the situation of human rights violations” (Georgia, 1993)²³ or to “investigate reports of violations of international humanitarian law and human rights law” (Darfur, 2004).²⁴ The Commission of Inquiry for Côte d'Ivoire (2011) was required to

²² International Commission of Inquiry for Burundi, established by Security Council resolution 1012 (1995) of 28 August 1995.

²³ Established by the Secretary-General in October 1993, an initiative welcomed in Security Council resolution 876 (1993) of 19 October 1993. Report of the Secretary-General's fact-finding mission to investigate human rights violations in Abkhazia, Republic of Georgia (S/26795, annex).

²⁴ Security Council resolution 1564 (2004), para. 12.

“investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights”,²⁵ and the Commission of Inquiry on the Syrian Arab Republic (2011) was mandated to “investigate all alleged violations of international human rights law ... [and] to establish the facts and circumstances that may amount to such violations”.²⁶ The International Commission of Inquiry on East Timor (1999) was requested to “gather and compile systematically information on possible violations of human rights and acts which may constitute breaches of international humanitarian law”.²⁷

Despite the variations in the formulation of mandates, commissions/missions have approached the task consistently as involving:

- The **establishment of facts** in relation to incidents and allegations of violations of international human rights and humanitarian law;
- The **assessment** of such facts in the light of the applicable body(ies) of law;
- The reaching of **conclusions** with regard to the existence of violations and, where relevant, alleged perpetrators; and
- The issuing of **recommendations** to different entities.

2. APPLICABLE LAW

Some mandates of commissions/missions have referred only to international human rights law, while others, pertaining to situations of armed conflict, have referred also to international humanitarian law. For example, the Secretary-General referred only to “alleged gross human rights violations” in the establishment of the investigations into the killings on 28 September 2009 in Guinea,²⁸ while the mandate of the United Nations Fact-finding Mission on the Gaza Conflict (2009)²⁹ required it to “investigate all violations of international human rights law and international humanitarian law”. Commissions/missions have exercised discretion in deciding the applicable law framework in the situations they were investigating. For example, although the mandates of the Commissions of Inquiry for Libya (2011-2012) and the Syrian Arab Republic (2011-2014) referred only to international human rights law, both bodies interpreted their mandates to include international humanitarian law when the situation in these countries reached the level of internal armed conflict.³⁰ The mandates of some commissions/missions also refer to international criminal

²⁵ Human Rights Council resolution 16/25, para. 10.

²⁶ Human Rights Council resolution S-17/1, para. 13.

²⁷ Commission on Human Rights resolution 1999/S-4/1, para. 6.

²⁸ “Letter dated 28 October 2009 from the Secretary-General addressed to the President of the Security Council” (S/2009/556).

²⁹ Human Rights Council resolution S-9/1 of 12 January 2009, para. 14.

³⁰ “Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya” (A/HRC/17/44), paras. 55 and 56; “Report of the independent international commission of inquiry on the Syrian Arab Republic” (A/HRC/21/50), annex II, para. 3.

law; for example, the Commission of Inquiry on the Syrian Arab Republic was required to “establish the facts and circumstances ... of the crimes perpetrated”, and also identify perpetrators of violations “that may constitute crimes against humanity”.³¹

3. ACCOUNTABILITY

There has been an increasing tendency for mandates of commissions/missions to mention accountability. For example, in Darfur (2004) it included to “identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable”;³² in Timor-Leste (2006) to “recommend measures to ensure accountability for crimes and serious violations of human rights”;³³ in Libya (2011) to “identify those responsible, to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable”;³⁴ in the Syrian Arab Republic (2011) to “identify those responsible with a view to ensuring that perpetrators of violations, including those that may constitute crimes against humanity, are held accountable”;³⁵ in the Occupied Palestinian Territory to “make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable”.³⁶

Commissions/missions have been increasingly explicit in explaining that their **understanding of accountability goes beyond that of criminal prosecutions**. For example, in Darfur (2004), there was no definition of “accountability”, but the report focused on the justice and reparation element of accountability, speaking of the Commission having “gathered information that allows it to take a first step in the direction of ensuring accountability for the crimes committed in Darfur by pointing out to the appropriate prosecutorial and judicial authorities those who deserve thorough investigation”. The report also mentioned the need to have “measures to bring relief and redress to the victims ... to complete the process of accountability”.³⁷ In Timor-Leste (2006), the mandate leaned towards criminal justice by adding that accountability measures should take “into account that the Government of Timor-Leste considers that the domestic justice system ... should be the primary avenue of accountability for these alleged crimes and violations”.³⁸ While the report focused on the

³¹ Human Rights Council resolution S-17/1, para. 13.

³² Security Council resolution 1564 (2004), para. 12.

³³ Report of the Independent Special Commission of Inquiry for Timor-Leste (S/2006/822), annex, para. 4 (c).

³⁴ Human Rights Council resolution S-15/1, para. 11.

³⁵ Human Rights Council resolution S-17/1, para. 13.

³⁶ Human Rights Council resolution S-21/1 of 23 July 2014, para. 13.

³⁷ Report of the International Commission of Inquiry on Darfur to the Secretary-General (S/2005/60), paras. 528 and 565.

³⁸ See S/2006/822.

national justice system in accordance with the mandate, the Commission also considered other accountability measures such as police disciplinary procedures and complaints to the national human rights institution.³⁹

The report on Sri Lanka (2010) included explicit statements about the Panel's understanding of accountability, guided by relevant international norms: "victims of crimes under international law have three basic rights: the right to the truth, the right to justice and the right to reparations, including through institutional guarantees of non-recurrence."⁴⁰ The report also states: "... accountability goes beyond the investigation and prosecution of serious crimes that have been committed; rather it is a broad process that addresses the political, legal and moral responsibility of individuals and institutions for past violations of human rights and dignity. Consistent with the international standards mentioned above, accountability necessarily includes the achievement of truth, justice and reparations for victims. Accountability also requires an official acknowledgment by the State of its role and responsibility in violating the rights of its citizens, when that has occurred. In keeping with United Nations policy, the Panel does not advocate a 'one-size-fits-all' formula or the importation of foreign models for accountability; rather it recognizes the need for accountability processes to be defined based on national assessments, involving broad citizen participation, needs and aspirations. Nonetheless, any national process must still meet international standards. Sri Lanka's approach to accountability should, thus, be assessed against those standards and comparative experiences to discern how effectively it allows victims of the final stages of the war to realize their rights to truth, justice and reparations."⁴¹

The final report on Libya (2011) stated: "The Commission notes that the concept of accountability incorporates various methods including criminal prosecutions, disciplinary measures, administrative procedures and victim compensation measures. Accountability should therefore not be interpreted in a narrow, restrictive way to refer only to criminal prosecutions".⁴²

The mandate of several commissions/missions required them to **identify the persons responsible for the violations**. In Darfur (2004), the Commission was required by its mandate to "identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable",⁴³ whereas in Guinea (2009), the Commission's mandate required it to "determine responsibilities and, where possible, identify those

³⁹ Ibid., paras. 214–217.

⁴⁰ "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka", 31 March 2011, para. 266.

⁴¹ Ibid., executive summary.

⁴² "Report of the International Commission of Inquiry on Libya" (A/HRC/19/CRP.1), para. 763.

⁴³ Security Council resolution 1564 (2004), para. 12.

responsible”,⁴⁴ and in Libya (2011), the mandate required the Commission to “identify those responsible, to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable”.⁴⁵ In the Central African Republic (2014), the mandate included to “help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and to help ensure that those responsible are held accountable”.⁴⁶

In practice, none of the commissions/missions, except those for Guinea (2009) and Timor-Leste (2006), named individual perpetrators in their public reports but instead included these in a confidential list that was then handed to the Secretary-General or the High Commissioner for Human Rights. The Commission of Inquiry on Darfur (2004) explained that it had decided to withhold the names of alleged perpetrators from the public domain for three main reasons: “(a) the importance of the principles of due process and respect for the rights of the suspects; (b) the fact that the Commission has not been vested with investigative or prosecutorial powers; and (c) the vital need to ensure the protection of witnesses from possible harassment or intimidation”.⁴⁷

The Commission of Inquiry on Libya (2011) explained its reason for not publishing names thus: “This is to prevent risk of harm to those who are held in custody and to avoid jeopardizing the fair trial rights of any persons who may be brought to trial in the future”.⁴⁸

The two fundamental principles of the **protection of sources of information from possible harm** and the **need to respect the right to fair trial** of individuals who are alleged to have committed violations need to guide the approach of commissions/missions on this issue.⁴⁹

4. PARTIES UNDER INVESTIGATION

In general, mandates have not referred specifically to the party whose actions are the subject matter of the inquiry and required the “**investigation of all alleged violations**” of human rights and, where applicable, humanitarian law. On occasion, however, particularly

⁴⁴ S/2009/556, annex, para. 2 (c).

⁴⁵ Human Rights Council resolution S-15/1, para. 11.

⁴⁶ Security Council resolution 2127 (2013), para. 24.

⁴⁷ S/2005/60, para. 645.

⁴⁸ A/HRC/19/CRP.1, para. 760.

⁴⁹ Principle 9 of the “Updated Set of principles for the protection and promotion of human rights through action to combat impunity” (E/CN.4/2005/102/Add.1) states, in relation to international and national commissions of inquiry and truth commissions: “Before a commission identifies perpetrators in its report, the individuals concerned shall be entitled to the following guarantees: (a) The commission must try to corroborate information implicating individuals before they are named publicly; (b) The individuals implicated shall be afforded an opportunity to provide a statement setting forth their version of the facts either at a hearing convened by the commission while conducting its investigation or through submission of a document equivalent to a right of reply for inclusion in the commission’s file”.



United Nations Fact-finding Mission on the Gaza Conflict during public hearings in Geneva. UN Photo / Jean-Marc Ferré

in cases of foreign occupation or invasion, the mandate required the commission/mission to investigate the actions of only one party, for example, in Lebanon (2006), where the mandate required investigation only into Israel's actions in Lebanon. As explained in its report, the Commission considered that an inquiry into the Israeli Defense Forces required that account be taken of the conduct of the opponent. However, the Commission considered that it could not construe its mandate to include investigations into the actions of Hezbollah in Israel, as "to do so would exceed the Commission's interpretative function and would be to usurp the Council's powers".⁵⁰ In Gaza (2009), where the resolution of the Human Rights Council requested the Mission to investigate violations by one party,⁵¹ the President of the Council,⁵² in announcing the establishment of the Fact-Finding Mission and in his letters appointing the members, required them "to investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009, whether before, during or after."⁵³ This broadened the scope of the mandate to include all relevant parties.

Where mandates have included inquiries into violations of international humanitarian law, commissions/missions have applied such law to all parties to an armed conflict, including non-State armed groups. Similarly, commissions/missions have applied relevant

⁵⁰ "Report of the Commission of Inquiry on Lebanon pursuant to Human Rights Council resolution S-2/1" (A/HRC/3/2), paras. 14 and 15.

⁵¹ Human Rights Council resolution S-9/1, para. 14.

⁵² Public statement of 15 June 2009 by Amb. Martin Uhomoibhi, President of the Human Rights Council.

⁵³ "Report of the United Nations Fact-Finding Mission on the Gaza Conflict" (A/HRC/12/48), para. 151.

international criminal law to non-State actors (for example, crimes against humanity or genocide).⁵⁴

With regard to the more complex issue of the relationship between non-State actors and international human rights law, commissions/missions have also **called on a number of non-State actors to respect fundamental human rights**. For example, the report on Sri Lanka (2010) stated: “With respect to the LTTE [Liberation Tigers of Tamil Eelam], although non-State actors cannot formally become party to a human rights treaty, it is now increasingly accepted that non-State groups exercising de facto control over a part of a State’s territory must respect fundamental human rights of persons in that territory. Various organs of the United Nations, including the Security Council, have repeatedly demanded that such actors respect human rights law. Although the Panel recognizes that there remains some difference of views on the subject among international actors, it proceeds on the assumption that, at a minimum, the LTTE was bound to respect the most basic human rights of persons within its power, including the rights to life and physical security and integrity of the person, and freedom from torture and cruel, inhuman or degrading treatment and punishment.”⁵⁵

The first report on Libya (2011) stated: “Non-State actors in Libya, in particular the authorities and forces of the National Transitional Council, cannot formally become parties to the international human rights treaties and are thus not formally given obligations under the treaties. Although the extent to which international human rights law binds non-State actors remains contested as a matter of international law, it is increasingly accepted that where non-State groups exercise de facto control over territory, they must respect fundamental human rights of persons in that territory. The Commission has taken the approach that, as NTC has been exercising de facto control over territory akin to that of a governmental authority, the Commission will examine also allegations of human rights violations committed by NTC forces.”⁵⁶

⁵⁴ See, for example, S/2005/60, Part Three.

⁵⁵ See “Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka”, para. 188.

⁵⁶ “Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya” (A/HRC/17/44), para. 62.

OPERATIONAL ASPECTS



The Commission of Inquiry on Libya inspects a house that was bombed in Tripoli. UN / OHCHR Photo

A. Selection and appointment of members

1. PROCESS

The practice for the selection of members of commissions/missions varies and decisions on their composition may be affected by a variety of factors. The decision on the composition normally rests with the mandating authority – be that the Security Council, the General Assembly, the Human Rights Council, the Secretary-General or the High Commissioner for Human Rights. In some cases, the mandating authority has asked the Secretary-General (for example, the Security Council for Darfur (2004) and the Central African Republic (2014) or the High Commissioner (for example, the Human Rights Council for the follow-up to the report on the Gaza conflict (2010)⁵⁷) to select and appoint the members. OHCHR maintains a list of well-qualified high-level persons who may be considered as members for investigative bodies, seeking to ensure the necessary range of expertise, skills, integrity and other requirements as further detailed below.

With regard to commissions/missions established by the Human Rights Council, the President of the Council generally seeks the views of States, non-governmental organizations (NGOs) and OHCHR regarding possible candidates. OHCHR reviews possible candidates based on the requirements of each commission/mission. The final decision rests with the mandating authority.

International standards and over two decades of experience point to a number of important elements that should be considered in the selection of members to ensure the effective fulfilment of mandates.

2. GENERAL CRITERIA

In the selection of members, consideration should be given to the following:

(a) How many members?

Most commissions/missions have been composed of either three or five members. An odd number is preferable to facilitate final decision-making, should the members be unable to reach consensus. The choice of members will also have an impact on the conduct of the work and on the resources needed. Sometimes the number of members is stipulated in the mandating resolution. If not, a decision should be made following a thorough analysis of the mandate, the likely activities the commission/mission will conduct, the type of expertise required, the logistical capacity and the

⁵⁷ Committee of independent experts to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, established pursuant to Human Rights Council resolution 13/9 of 25 March 2010.

financial resources available. An increase in the number of members has an impact on the overall resources needed (staff, means of transport, security). Situations of extreme hardship with limited resources, for example, may call for small delegations. In any event, attention should be paid to the secretariat's capacity in relation to the number of members.

(b) Qualifications

While the mandate may require that members have certain specific qualifications, skills and expertise, the following key issues should always guide the selection of members:

Independence and impartiality

Members should, in all cases, have a proven record of independence and impartiality. It is also important to ensure that the background of candidates, prior public statements or political or other affiliations do not affect their independence or impartiality, or create perceptions of bias.

Recognized competence and proven substantial knowledge and experience in international human rights law, including women's rights and gender issues, international humanitarian law, and/or international criminal law, as relevant

Substantial knowledge of human rights fact-finding and investigations principles, standards and methodology, and proven experience in this field

This includes, as relevant, specialized issues such as sexual violence or war crimes.

Substantial international experience in human rights

Commitment to upholding all human rights and ensuring gender equality

Acknowledged personal integrity and high moral standing

Knowledge of the country, situation and region

This may not be required of all members.

Language skills

It is essential that all members are fluent in the language of the commission/mission. Knowledge of local languages spoken in the country/region of the inquiry may be useful.

Public profile and exposure to leadership roles in human rights at the national, regional or international level

Having eminent personalities as members could be beneficial for mandates that require a high-profile approach. However, it should not be the only determinant factor.

Suitability to the conditions of assignment/ability to work in difficult contexts

Field visits, especially in hardship zones, may require special attention to physical health conditions.

(c) Gender balance

The selection of members must seek to ensure equitable representation of women and men. Commissions/missions that investigate serious violations of women’s human rights and sexual violence against women and girls will require expertise that may best be represented through female members.

(d) Geographic diversity

The international character of the body is best reflected by geographically diverse membership. Ensuring adequate representation of persons from the region of the country that is the subject of the inquiry often facilitates an understanding among the members of the political, legal, social and cultural context in which the investigation is to be conducted.



Archbishop Desmond Tutu, Head of the High-Level Fact-finding Mission to Beit Hanoun. UN Photo / Pierre-Michel Virot

3. INFORMATION DISCLOSURE

During the selection process, candidates are requested to disclose any information that may lead to questions being raised about their independence, impartiality and integrity, including, for example, any publication on the object of the inquiry, political affiliations, financial interest in the country in question, membership in any organization that might be involved or have an interest in the matters under investigation. Commissions/missions, their members and their work are often under intense public scrutiny. In addition to ensuring transparency and enhancing confidence in the work of the commission/mission, disclosing and considering information ahead of time strengthens the credibility of members, and the ability of the mandating authority and of the commission/mission to withstand disingenuous attempts to discredit their work. It is also important for members to be aware of the work involved when accepting this task, and not to take up any other duties or responsibilities during their tenure that could affect perceptions of their independence, integrity and impartiality or their ability to fully perform the tasks expected of them.

4. APPOINTMENT

Once the candidates have confirmed their interest and availability, the mandating authority issues a letter of appointment, which clearly states the mandate and timeline of the commission/mission, and the role and task expected of the members. The mandating authority usually designates one member, at the time of his/her appointment, as Chair of the commission/mission. The letter also specifies the support to be provided by OHCHR, as well as the role of the secretariat. Appointees are requested to respond in writing to confirm acceptance of their task and sign an undertaking to act independently and impartially throughout their tenure, to respect confidentiality and not to disclose information including after the end of their appointment (see subsect. 5, below). Upon receipt of written confirmations, the mandating authority usually issues a public statement announcing the appointment of the members. Members usually serve pro bono.

5. DECLARATION BY MEMBERS

Upon appointment, members are requested by the mandating authority to sign the following declaration:

Declaration by members of commissions of inquiry and fact-finding missions

"I solemnly declare and promise to exercise my functions independently, impartially, loyally and conscientiously, and to discharge these functions and regulate my conduct in accordance with the terms of my mandate, the Charter of the United Nations and the principles and values of the United Nations, and with the sole objective of contributing to the promotion and protection of human rights, without seeking or accepting instructions from any Government or any other source. I also undertake to respect, during the tenure of my mandate and subsequently, the confidentiality of all information made available to me in my capacity as a member of the commission of inquiry/fact-finding mission. Additionally, I agree to comply with the United Nations ethical, personal conduct, administrative and security rules and policies."

B. The secretariat

1. ROLE AND STANDARDS

Commissions/missions operate with the support of a secretariat. The size and composition of the secretariat will depend on a number of factors, including the mandate and composition of the commission/mission, the nature and scope of the inquiry and the time frame. The secretariat will assist the commission/mission from its establishment to the presentation of the report by providing substantive and technical expertise and support. It will continue to function for some time even after the formal work of the commission/mission has been completed, to ensure finalization of archiving of documentation and the most immediate follow-up actions. Secretariat staff are appointed or recruited according to United Nations rules and procedures. For commissions/missions supported by OHCHR, the coordinator and other staff of the secretariat are selected by the High Commissioner.

All expertise required to fulfil the commission's/mission's mandate must be provided for in the secretariat, or secured by the latter through arrangements in keeping with United Nations rules. To ensure the integrity and independence of the commission/mission, staff as well as consultants or contractors that may be required to assist the commission/mission in fulfilling its mandate must be hired through United Nations contracts. In selecting staff,

in addition to the required substantive competence, gender balance and geographic diversity must be given due consideration. When staff are seconded to the secretariat from other United Nations entities, they must be fully integrated into the team and subject to the same reporting lines as all other staff for the duration of their assignment.

The independent and impartial conduct of the secretariat, and perceptions thereof, are as important as those of members. All members of the secretariat – whether OHCHR staff, seconded staff from other United Nations entities, externally hired staff or consultants – are required to undertake to always act independently and impartially and to respect, during their tenure with the commission/mission and afterwards, the confidentiality of all information gathered or accessed in the course of the work of the commission/mission, to ensure the security of such information and not to share it with anyone outside of the commission/mission except if duly authorized according to United Nations rules (see chap. IV, sect. C.6, Informed consent).

2. SECRETARIAT STAFF

While, as mentioned above, the size and composition of the secretariat may vary, there are certain professional profiles that are necessary to fulfil the mandate of all commissions/missions. Most functions can usually be performed by OHCHR staff or by staff of other United Nations departments. Some may require expertise and skills that may not be available within OHCHR or the United Nations and it may thus be necessary to recruit staff or consultants from outside (staff, if the expertise is required on an ongoing basis; consultants, if required for contained or one-off tasks).

The coordinator/head of the secretariat/chief of staff

Must have strong substantive human rights expertise as well as developed management skills and a proven ability to handle complex and sensitive assignments. Political awareness and diplomatic skills are also important.

Investigation team leader

Must have proven ability in planning and managing complex investigations, with knowledge of international human rights law and/or international humanitarian law and/or international criminal law, depending on the scope of the mandate.

Human rights investigators

Must have proven ability to handle complex human rights fact-finding and investigations. They should have extensive investigations experience and be fully trained in human rights investigative methodology. Investigators specialized in specific human rights issues, for example sexual violence, may be required.

Legal adviser

Must be a trained human rights lawyer with good knowledge of and experience in international law and standards, including international humanitarian law and international criminal law.

Analyst

Must have proven experience in analytical activities, with a special focus on complex, large-scale investigations; strong reasoning skills, including ability to understand complex scenarios, handle conflicting information and hypotheses, identify information gaps, and develop sound logical inferences.

Witness/source protection adviser

Protecting persons cooperating with the commission/mission – especially victims, witnesses and other sources of information – is the responsibility of all members and staff, in keeping with the policies and methodologies guiding the work of the commission/mission. In some cases, the commission/mission may need to appoint a witness/source protection adviser, especially if a large number of victims, witnesses and other sources will be interviewed in a volatile situation with the absence of security and a high risk of reprisals in the location where the inquiry takes place. In other cases, responsibility for ensuring the implementation of witness/source protection policies across the commission's/mission's work may be entrusted to a member of staff, such as the investigation team leader.

Gender adviser

While ensuring that gender issues are integrated in the commission's/mission's work is the responsibility of all members and staff, having a specialized gender adviser as part of the secretariat, with experience in gathering and analysing data on gender issues, has proved useful to provide advice and support to both members and staff during the conduct of the commission's/mission's work.

Media officer

In most cases the commission/mission will need the full-time support of a media officer to establish links with the media in an optimal manner and to advise on specific media communications (e.g., press releases). When full-time support is not required, responsibilities for media work may be combined with editing or drafting support, as media specialists would generally be able to assist in these areas as well. In addition, especially for high-profile commissions/missions, it may also be necessary to have staff or consultants monitor the media in the local languages.

Administrative assistant

The number of administrative assistants required depends on the number of members and staff, the complexity of the investigations, the number and location of field missions and the duration of the investigation.

Logistics assistant

Has responsibility for assisting with equipment, procurement, transport, communication and shipping. It may not be necessary for the logistics assistant to be employed full-time and his/her services may be required only during the establishment of the secretariat, and during field missions to arrange office space, equipment, transport and accommodation for the secretariat and members.

Archivist/data management officer

This task should be performed by specialized professional staff or by staff specifically assigned to and trained for this function.

Security officer

Has primary responsibility for safety and security oversight of all activities through continuous risk assessments and the development of appropriate risk mitigation strategies.

Interpreters

Due to the sensitivity and confidentiality of the proceedings, it is good practice to recruit international interpreters. It is important to select interpreters that are prepared for field visits, including ones that may involve some level of security risk and entail some hardship. Interpreters need to be fully briefed on the methodology followed by the commission/mission, on the policies and rules related to the confidentiality of information and the protection of sources, and on how to deal with victims of serious violations.

Translators

The commission/mission may require capacity to translate documents, reports, analysis or public information into its working language.

Criminal investigators

Some investigations, especially those with a mandate to establish individual accountability and criminal responsibility, will benefit from the skills and experience of criminal investigators to complement those of human rights investigators.

Political/country adviser

Investigations can benefit from the expertise of persons who have in-depth political knowledge of the country/region which is the subject of the commission's/mission's investigation. Expertise can cover a range of issues, including cultural awareness, influential actors, informal networks, political assessment, geographical influence, relationships with other countries and the role of the business elite.

Forensic experts

It is important to determine what kind of forensic expertise is necessary to investigate incidents that the commission/mission identified as a priority. For instance, if the inquiry concerns torture and recent killings, then the advice of a forensic pathologist may be necessary. If it concerns mass graves, then archaeologists and/or anthropologists may help.

Military analyst/military weapons expert

Investigations dealing with armed conflict situations will benefit from the advice and support of a military analyst and a weapons expert. They should have the skills and experience to assess the weapons and the manner in which they were used in the conflict, and, for example, whether there has been an indiscriminate attack on a civilian population. Military experts could also assist in defining the command structure of the military or armed groups for the purposes of accountability for violations.

Crime analyst/police adviser

Expertise relating to organized crime, police work, including crowd control, or similar issues may be helpful to some investigations, for example, to determine if police action in the specific circumstances was reasonable, justified and proportional. Weapons experts can also assist in assessing the appropriateness of the use of firearms by police.

Researchers

Specialized research knowledge that the human rights investigators do not have may become necessary in some cases, for example, on the plundering of natural resources or deforestation and its impact on human rights. Specialist researchers may also be recruited to conduct research in specific languages relevant to the inquiry.

IT specialist

The commission/mission may require IT support, including encryption software and safe electronic communications, satellite communication and database maintenance.

Verbatim note taker

Note-taking functions are usually performed by human rights investigators, who are also responsible for ensuring processing through relevant information management systems. If the commission/mission will be conducting a large number of meetings, for example, with officials, it may be beneficial to employ the services of a verbatim note taker.



A victim of torture being examined by a medical forensic expert of a commission of inquiry.
UN / OHCHR Photo

C. Resources

Adequate resourcing is essential to the successful fulfilment of commissions'/missions' mandates and goals. Budgets for commissions/missions are often prepared before these are set up on the basis of the mandating resolution. This is the case, for example, for bodies established by the Human Rights Council, the Security Council and the General Assembly, which also have to approve their budgets.

Resource requirements need to be **assessed based on both the mandate and the operational context**. A similar mandate may result in different costs depending, for example, on the security situation in the country that is the object of the inquiry, the location of victims, witnesses and other sources of information relevant to the commission's/mission's mandate and whether they are in multiple countries, and the logistical aspects such as transport requirements. The number of members and the methodological aspects – for example, the use of public hearings – also affect the cost.

There is, accordingly, no template approach to budgets. However, the experience developed by the United Nations points to a number of **good practices and standard resource requirements** that need to be taken into account in preparing realistic budgets commensurate with the tasks required of commissions/missions. A certain level of **scenario planning** is required. Budgets should be based on the most likely sequence of events to implement the mandate and provide flexibility to overcome any operational obstacles that might present themselves. It may often be necessary to plan for alternative scenarios, depending on political and/or security considerations, in addition to the mandate's requirements.

Budgets and resource allocation have wide-reaching implications for the conduct of the commission/mission. Resources should be **comprehensively assessed** and provided based on the best possible projection of activities to be undertaken in the light of the information available at the time of budget preparation. They **should not unduly constrain the performance of the commission's/mission's work**, which should be based on best practice methodologies.

The following needs to be considered when preparing budgets:

(i) **Members**

In most cases members are appointed as pro bono experts and receive travel allowances when on mission but no salaries. In a few cases, however, they have been hired on United Nations contracts and received partial or full salaries for the duration of their assignments.

(ii) Secretariat

- **Staff (including start-up, end-of-mission activities and witness protection)**

Costs include the salaries and allowances for secretariat staff for the entire duration of the mandate. The coordinator and other key secretariat staff are required to start working two to four weeks before the official start of the mandate, in order to finalize the establishment of the secretariat and other preparatory arrangements. End-of-mission activities, such as preparations for the formal presentation of the report, proper filing and archiving of documentation, completion of lessons learned process, also need to be budgeted for.

It is good practice to ensure that budgets make provision for expenses related to follow-up activities that are necessary to help protect persons who have provided information to or otherwise cooperated with the commission/mission. This may involve the extended presence on the ground of an officer as a confidence-building measure and to take or facilitate measures to protect individuals at risk.

- **Consultancies**

Consultants are required for ad hoc, time-bound specialized expertise, for example a forensic pathologist.

- **Interpreters, translators, security officers**

Locally hired personnel, for example drivers, may also be required.

(iii) Equipment and services to be procured

- Equipment, including security and IT, to support the work of the commission/mission;
- Items such as stationery, maps, satellite imagery;
- Services such as analysis of audio or video material, forensic examinations.

(iv) Travel

- Travel of members to Geneva, the mission area or other locations, for example, neighbouring countries or areas where relevant sources of information can be accessed;
- Travel of secretariat staff, security, interpreters and other personnel needed for field visits to the mission area or other relevant locations as above;
- Travel of victims, witnesses and other sources inside or outside the country of inquiry, depending on the initial security assessment or expectations of access to the country for the commission/mission;
- Travel of United Nations staff or consultants for activities related to post-investigation witness protection and follow-up.

(v) Transport, communications and other administrative arrangements

- These cover everything from the leasing of vehicles or other means of transport, to communication costs, renting of premises and shipment of materials gathered.

D. Commencement of the commission's/mission's work

Commissions/missions are usually set up in response to allegations of serious violations of international human rights law or international humanitarian law that require urgent reaction, and in most cases they work under very tight timelines to complete their assessments and report back to the mandating authority. However, there is usually a temporal gap between agreement on the mandate (for example, in the form of a United Nations resolution), the appointment of the members, the establishment of the commission/mission and the actual commencement of its work. Appointing members and securing their availability over the required period is a process that may stretch over weeks or even months in the most difficult cases.

At the same time, and often while this appointment process is still under way, OHCHR needs to set up a secretariat and make all the administrative arrangements required for the operation of the commission/mission. These activities are carried out under considerable time pressure, and at times uncertainty about the final financial allocations, and require effective coordination and quick action by several parts of OHCHR. It is essential that the coordinator and key secretariat staff be identified, appointed and/or recruited as soon as possible so as to be able to start preparations for the work of the commission/mission. It has been OHCHR practice for **the secretariat to be in place at least two weeks before the commission/mission convenes**.

Commissions/missions have been based variously in Geneva, in the country concerned, or in both. The decision of where the commission/mission will be based depends on a number of factors, including security, access, cooperation afforded by the country concerned, logistics, costs and United Nations presence in the country. If the commission/mission is based in Geneva, field missions to the country concerned or other countries where information relevant to its mandate may be available are a normal part of its work.

The mandate (as set out in resolutions or, for commissions/missions established by the Secretary-General or the High Commissioner, in terms of reference) specifies the time frame within which the commission/mission must complete its work and submit its report to the mandating authority. The official date of commencement of the work of the commission/mission may be different from the date at which the establishment of the body is announced, and is usually the date on which the members first convene, usually in Geneva, to discuss and agree on the commission's/mission's programme, terms of reference and methods of work.

Typically, the **first meeting of the commission/mission** includes:

- (i) Discussion and deliberation on its:
 - Mandate
 - Terms of reference
 - Methods of work
 - Programme of work, including field missions (where, how many and when), other meetings of members and report preparation and timelines
 - Media strategy
- (ii) Substantive briefings on issues related to its mandate by:
 - OHCHR (this includes briefings both on human rights issues and on practice and experience related to the operation of similar bodies, including methodological and legal aspects)
 - United Nations agencies
 - NGOs
 - Other relevant international or regional organizations
 - Individual experts
- (iii) Meetings with:
 - Mandating authority
 - Representatives of the country concerned
 - Representatives of other relevant countries
 - High Commissioner for Human Rights
- (iv) Technical briefings on:
 - Administrative rules and processes applicable to the members during their assignment
 - Security briefing
 - Media and publicity strategy

Discussions are supported by **background documentation and option papers** on the commission's/mission's establishment, mandate, terms of reference, methods of work, applicable legal framework, investigations scenarios and other preliminary research.

It is particularly important, at the beginning of the commission's/mission's work, to establish **effective work modalities** between the members and the secretariat, based on a clear understanding of expectations and roles, and on trust. The role of the coordinator, both in acting as a link between the members and the rest of the secretariat and in effectively managing the human and other resources assigned to the commission/mission, is key in this regard.

The development of a **work programme** and the assignment of tasks within the secretariat is also a very important function of the coordinator at this stage, based on a review of the commission's/mission's mandate and work needs.

IV

METHODOLOGICAL ASPECTS



A member of the OHCHR Fact-finding Mission to Mali investigates a well in the town of Sevaré, in which the bodies of victims were thrown. UN / OHCHR Photo

A. Principles and standards

Commissions of inquiry and fact-finding missions mandated by the United Nations to investigate violations of international human rights and humanitarian law are required to ensure that their methods of work conform to the principles and standards of the Charter of the United Nations and international law (international human rights law, international humanitarian law, criminal law and refugee law). The United Nations has also created a body of principles and standards for fact-finding and inquiries under its authority and, over the years, established practice and doctrine. United Nations-mandated commissions/missions should ensure that they adhere to these principles and standards, reflect them in their terms of reference, methods of work and rules of procedure, and describe them in the final report.

Principles of human rights and international humanitarian law fact-finding and investigations

Do no harm

While the commission/mission is unable to guarantee the safety of the persons it comes into contact with, it should ensure that its actions or inaction do not jeopardize the safety of such persons, its staff, its information or its work. It should also ensure that its activities are not detrimental to the United Nations.

Independence

Members and staff of the commission/mission are required to act independently. They should ensure that they do not seek or accept instructions from any person, Government or other source, and are not unduly influenced in the exercise of their functions by any person, Government, NGO or other entity.

Impartiality

All tasks of the commission/mission should be based on its mandate and applicable international norms, and alleged violations by all parties should be investigated with equal thoroughness and vigour. The commission/mission should avoid any perceptions that it could be siding with one party over another.

Transparency

The commission/mission should, as far as is possible without detriment to its work or the security of its staff, information and persons cooperating with it, make information about its mandate, methodology and work publicly available. Commissions/missions do not work in secrecy and undertake activities in a country only with the consent of the Government.

Objectivity

The commission/mission is required to collect all relevant facts from all relevant sources, objectively consider all the facts and information gathered and base its conclusions on the facts gathered. It should take into consideration only information that is gathered in an unbiased and impartial manner.

Confidentiality

The commission/mission is required to respect the confidentiality of persons who cooperate with it and of the information it gathers. In addition to the protection it affords, confidentiality enhances the credibility of the commission/mission, the integrity of its information-gathering activities and the effectiveness of its work.

Credibility

The commission/mission has to gain the trust of victims, witnesses and others to obtain their cooperation in providing information. It should not make any promises it is unlikely to fulfil and should follow through on any promises it does make.

Visibility

The commission/mission should have a visible presence in the country concerned, if it is granted access. This makes the authorities aware of its work, and allows victims and witnesses to approach it with information. Visibility could also deter further human rights violations. However, the commission/mission should be aware that visibility could also present risks to persons wanting to cooperate with it, and should take appropriate precautions.

Integrity

The commission/mission should treat all victims, witnesses and other cooperating persons with decency and respect. It should be respectful in its dealings with government authorities and alleged perpetrators. Members and staff should act with honesty. They should also ensure that the commission's/mission's investigation methodology guarantees the integrity of the process of collecting, evaluating and analysing information, and is beyond reproach.

Professionalism

Members and staff are required to approach each task in a professional manner, with the required knowledge, diligence and competence.

Consistency

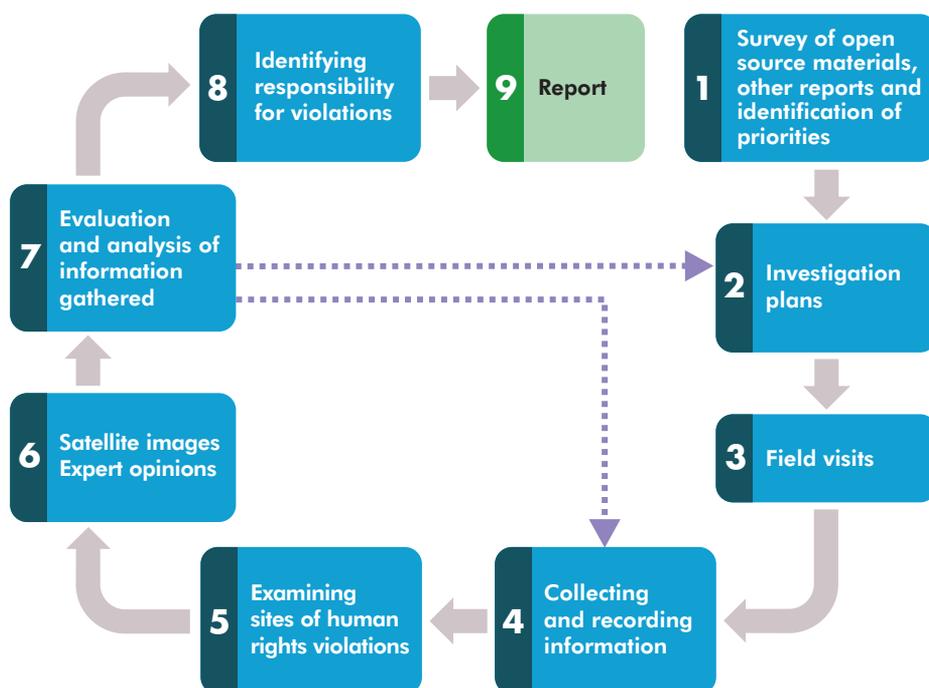
The commission/mission should examine and analyse each piece of information it receives, irrespective of the source. It should continue this process until it has completed a thorough and comprehensive inquiry, all possible sources of information have been explored and it has obtained a clear understanding of the situation under investigation.

The international standards, principles and guidance on methods of work can be found in international human rights treaties, United Nations declarations and principles, and United Nations manuals and guidelines (see annex I).

B. Human rights investigations process

A human rights investigation has to adopt a systematic approach to uncovering the truth about serious violations of human rights and international humanitarian law. A methodical approach will ensure that the investigation is thorough, professional and able to withstand scrutiny, especially by those alleged to have perpetrated violations. Throughout the investigation, the protection of victims, witnesses, sources and others with whom the investigation team comes into contact is paramount.

INVESTIGATION PROCESS



Note: After evaluation and analysis of information gathered (step 7), it may be necessary to revisit investigation plans (step 2) and collect and record additional information (step 4) through a variety of methods.

1. MANDATE, INTERPRETATION AND DEVELOPMENT OF TERMS OF REFERENCE

As mentioned previously, mandates have typically been defined in general terms of establishment of facts, investigation of allegations and gathering of information on violations of human rights and international humanitarian law. In most cases, commissions/missions will have to interpret the mandate before setting out to implement it. The interpretation

of the mandate in simple and unambiguous terms is key to the success and credibility of an inquiry. This is usually done through the adoption by the commission/mission of terms of reference (see sect. F, Terms of reference). The commission/mission will have to determine:

- **Geographic mandate** (*ratione loci*) – Does it cover the whole country or parts of it; other countries?
- **Temporal mandate** (*ratione temporis*) – What time period is covered by the mandate? How will the commission/mission deal with historic events?
- **Subject matter mandate** (*ratione materiae*) – What issues are covered by the mandate? Will it prioritize certain violations and what criteria will be applied?
- **Actors** (*ratione personae*) – Whose actions will it investigate? Who are the entities or persons of concern to the investigation?

2. GATHERING BACKGROUND INFORMATION

The first task will be to gather relevant information about the context in which the incidents or events under investigation occurred: history, Government and political structures, political parties, judiciary, economic issues, constitution and laws, structure of security forces and police, ethnic groups, culture and religion, position of women in society and information on influential actors, including foreign Governments. It will also be important to gather preliminary information on relevant events that have occurred in the country, and to develop a chronology of these events. The background information will provide a better understanding of the country, and assist in the development of investigation plans and in refining the investigation methodology, taking into consideration cultural, social and religious issues and the security situation in the country.

3. REVIEW OF OPEN SOURCE MATERIALS AND INTERNAL REPORTS

Open sources such as newspapers and other publications, news agencies, television stations, websites, NGO reports, government reports, social media and United Nations reports are invaluable for gathering background information. Open source material could also be mined for information on events relevant to the mandate of the commission/mission, which will assist in identifying key incidents, help to define the priorities for investigations, provide leads for investigations and identify sources.

Internal United Nations reports, especially an analysis of the prevailing human rights situation, could provide valuable insights into ongoing violations and the parties that may be involved, and suggest avenues that the commission/mission could pursue in its own investigations.

4. IDENTIFICATION OF ISSUES TO BE INVESTIGATED AND CRITERIA FOR PRIORITIZATION

Apart from the few cases in which commissions/missions have been set up to investigate one or more pre-identified incidents, commissions/missions are required to prioritize the issues and incidents they will investigate, within the broad terms of their mandate, to ensure that their tasks are completed within the limited resources and time at their disposal. The commission/mission will have to adopt **criteria for prioritization**, which may include:

- **Geographic location** (e.g., ensuring that different parts of the country are covered or only some parts);
- **Threshold for violations** (e.g., focusing only on serious violations);
- **Types of violations** (e.g., torture, killings, forced displacement, sexual violence, destruction of homes);
- **Discrimination** (e.g., targeting of specific groups);
- **Perpetrators** (e.g., focusing on specific perpetrators such as government security forces, armed groups);
- **Illustrative value** of the incident with regard to patterns of violations; and
- **Access to information.**

The background information and review of open sources will assist in defining the criteria for prioritization and in defining the issues, places, incidents and perpetrators that will be investigated.

In determining priorities the following should be considered:

- (a) Mandate;
- (b) Time and resources available for investigations;
- (c) Geographic area to be covered;
- (d) Access to victims, witnesses and sources, and their location;
- (e) Protection of victims, witnesses and sources;
- (f) Access to sites of violations;
- (g) Expectations of the people of the country concerned and the international community;
- (h) Availability of expertise to conduct specialized investigations.

5. INVESTIGATION PLANS

Investigation plans identify the issues to be investigated, the methodology for gathering information and the field missions to be undertaken (if relevant), and define who will carry out the various tasks. Essentially, the investigation plan will define **what needs to be done, by whom and how**. The investigation plans have to:

- Clearly identify what violations (international human rights law and/or international humanitarian law) will be investigated based on the commission's/mission's interpretation of the mandate and agreed terms of reference;
- Identify what information is already known about the events under investigation and what information still has to be gathered;
- Identify whose conduct is under investigation, entities (State or non-State) or individuals or both;
- Identify potential sources of information (e.g., witnesses and victims);
- Define the methodology for gathering the information (e.g., face-to-face interviews, documents);
- Define who will gather the information;
- Set out measures that will be taken to protect victims, potential witnesses and sources and any other relevant security considerations;
- Outline field missions that will be undertaken (where, when, who?) and the resources and equipment required.

Investigation plans need, from the outset, to fully integrate gender aspects, from the analysis of violations to be investigated and the identification of relevant information sources, to the definition of the methodology, including anticipation of gender-specific protection concerns and measures to address them.



Members of commissions of inquiry and fact-finding missions require access to victims, witnesses and sources, some of whom may be in detention centres. UN Photo / Martine Perret

C. Gathering and assessing information

1. INFORMATION COLLECTION

It is vital to develop a systematic approach to the collection, recording and storage of information to ensure that:

- Information is collected efficiently, limiting the time, money and other resources spent and focusing resources on achieving the investigation tasks.
- Information is collected effectively, focusing on identified priorities.
- Information is recorded accurately and stored in a format that is easily retrievable, especially for analysis.

(a) Documenting the source

Regardless of who collects information, where it is collected or how it is collected, the first step is to document details of collection. As a minimum, the following information should be recorded:

- Time, date and place obtained;
- From whom it was obtained;
- Who received it;
- Notes regarding origin and validity;
- A unique number assigned to identify the information.

(b) Information collection plan

One of the first steps after the adoption of an investigation plan is to carefully plan the collection of information to ensure efficiency and effectiveness. An information collection plan will also ensure that information that is important or critical to the investigations is not missed or overlooked. The plan is likely to change as information is gathered: the secretariat analyst may identify gaps or redirect the investigation, new leads may become known, different sources of information may become available, victims, witnesses or sources that were identified may not provide the information expected.

The information collection plan sets out collection tasks or activities that need to be undertaken and the time frame within which these have to be completed. The plan has to specify:

- The information requirements of the investigation;
- What information is needed to meet these requirements;

- From whom this information will be collected;
- How it will be collected;
- Who will collect it; and
- When it will be collected.

The mandate, the priorities established by the commission/mission and the elements of each alleged violation will help define the information requirements. Establishing the information requirements will assist in determining what information will have to be collected to meet these requirements.

The selection of the most appropriate method of collection will depend on a number of issues including ease of collection, risk to the victim, witness or source and/or to the investigators, access to the source, urgency and resource availability.

The example below is a simple matrix showing the key aspects of an information collection plan.

Information requirement	Type of information	Source	Collection method	Collection task
General conditions at Central Prison	Reports of inspections by officials of Ministry of Prisons	Ministry of Prisons, NGOs supporting prisoners, Prison Staff Union	Confidential requests to sources	Mamsy to complete by 24 March
	Complaints lodged by prison staff regarding conditions	Prison Staff Union, NGOs	Confidential requests to sources	Babs to complete by 24 March
		Prison staff	Interviews	Pren to complete by 30 March
		Media reports	Review newspapers and TV news reports	Xaxa to complete by 5 April

(c) Information report

When documentary, photographic, video or similar information is collected, it is important to have a formal record regarding each piece of information, including the name of the source, the name of the person who collected it and the date on which it was collected. The record could be in the form of an information report, which will allow the investigator to also record his or her observations or opinions regarding the information and the source.

Information reports should be in electronic format in the commission's/mission's database, allowing access by those who require it. Information reports provide important information that could assist later evaluation and analysis of information.

Date of collection	24 March 2014
Description of source/ name	Prison Staff Union official / wants to remain anonymous
Security classification / protection concerns	Information to remain confidential / source concerned about safety
Collector	Mamsy
Description of information	Confidential report by Union on conditions in Central Prison
Observations	Source has more information – need to develop relationship of trust
Validity of information	Document seems authentic – may need further corroboration
Reliability of source	Medium – has access to confidential information but also union leader with possible bias

2. SOURCES OF INFORMATION

During any investigation, information is gathered from a variety of sources, including **primary sources** (such as victims, witnesses, investigators' direct observations at the locations where facts occurred and declarations by alleged perpetrators) and **secondary sources** (such as second-hand testimonies, the media, information provided by human rights NGOs, medical reports and certificates). Information comes in various forms: oral testimony, documents, video material, photographs, personal observations and satellite images. It is important for commissions/missions to access and use a broad and diversified range of sources. Particular attention needs to be paid to ensuring that the choice of sources enables a comprehensive identification and analysis of violations and of how they

affect men and women differently. Depending on the source and type of information, the commission/mission will have to determine who has the information and what method will be used to collect it.

(a) Victims and witnesses

The testimony of victims and witnesses constitutes the most valuable information available to the investigation. Apart from those who experienced the events first-hand, there may also be other observers of situations who could provide important information, including local officials, staff of United Nations and international agencies, United Nations peacekeepers, diplomats, refugees and displaced persons, community and religious leaders. These observers may be able to provide information about the context in which the incident under investigation occurred and what events preceded and followed it. They may also be able to provide information to corroborate the testimony of victims and witnesses.

(b) Alleged perpetrators

Alleged perpetrators could be a rich source of insider information that is often difficult to access. Considerable information is provided publicly by alleged perpetrators who often use the media as a propaganda tool, boasting about their achievements. In some instances, alleged perpetrators may be willing to disclose information about violations committed by others in their groups because they disagree with such actions or to divert attention from themselves. Alleged perpetrators may also be willing to provide information on the hierarchy and command structure of the entities involved in the violations, and may be able to provide documents or other materials (for example, video) to corroborate their stories.

The International Commission of Inquiry on Libya interviewed several senior officials of the Qaddafi regime in custody who provided information on specific incidents, the different entities in the security forces and their command structures. Some also corroborated information gathered from victims and witnesses.

Investigators should be cautious about accepting at face value anything that an alleged perpetrator says and, similar to information provided by others, should find other sources to corroborate the information. Additionally, they should be cautious about the person misleading the investigation and diverting attention away from the incidents being investigated.



Human remains lie exposed in a mass grave under investigation by a commission of inquiry. UN / OHCHR Photo

(c) Video material and photographs

Mobile phones with the capability of taking high-quality photographs and videos are now ubiquitous, and a common tool used by people around the world to capture events that are occurring around them. Many videos, for example, of the conflict in the Syrian Arab Republic, are uploaded to public sites such as YouTube, and videos and photographs are shared through social networking sites such as Facebook. Community activists set up their own blogs to share such material and to provide comments on the events they are witnessing.

These images offer interesting and important information for investigators, especially where access may be difficult or impossible. They could provide information on incidents that have not been widely reported or several videos could provide different perspectives on incidents widely reported in the international media. Social networking and media sites have also become important propaganda tools for all sides involved in conflict situations.

Videos and photographs provide investigators with interesting leads. Yet, they also present them with considerable challenges. Without adequate resources, including expert analysis, it is difficult to establish their authenticity and veracity. Were the images altered? Did the incident actually occur? Did the persons in the images actually commit the acts portrayed? Independent corroboration of the material is therefore essential.

Videos and photographs captured by witnesses who provide them to investigators could provide crucial corroboration of witness testimonies. If time and circumstances permit, it will be important for the investigator to view the photographs or videos in the presence of the witnesses and to ask them to explain the contents.

(d) Official documents

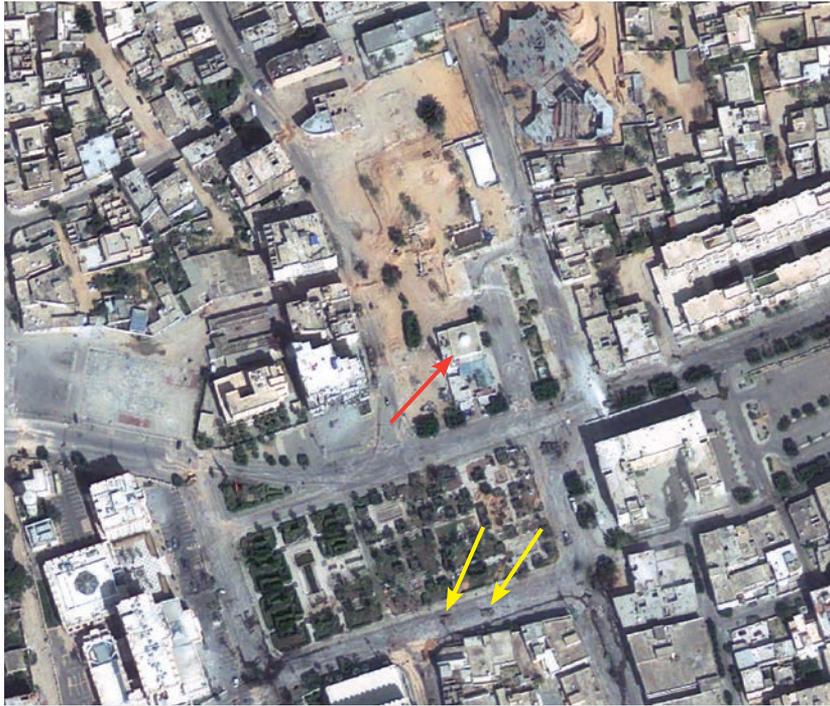
A range of official documents, including autopsy reports, court records, military personnel records, official press statements and public speeches, may be collected by investigators. As a general rule, original documents should not be collected, but rather copied or photographed and such copies/photographs stored with a detailed information report (see sect. 1 (c) above). All official documents relevant to the issues or incidents under investigation have some value to the inquiry. Some may be offered to the commission/mission, while in other instances investigators may stumble across them, for example, in an abandoned detention centre or military barracks. Investigators should guard against spurious or planted documents, designed to mislead the investigation. A local person familiar with the formatting and certification of official documents could assist in assessing the authenticity of the documents, by noting such clues as a missing stamp or misplaced signature.

(e) Satellite images

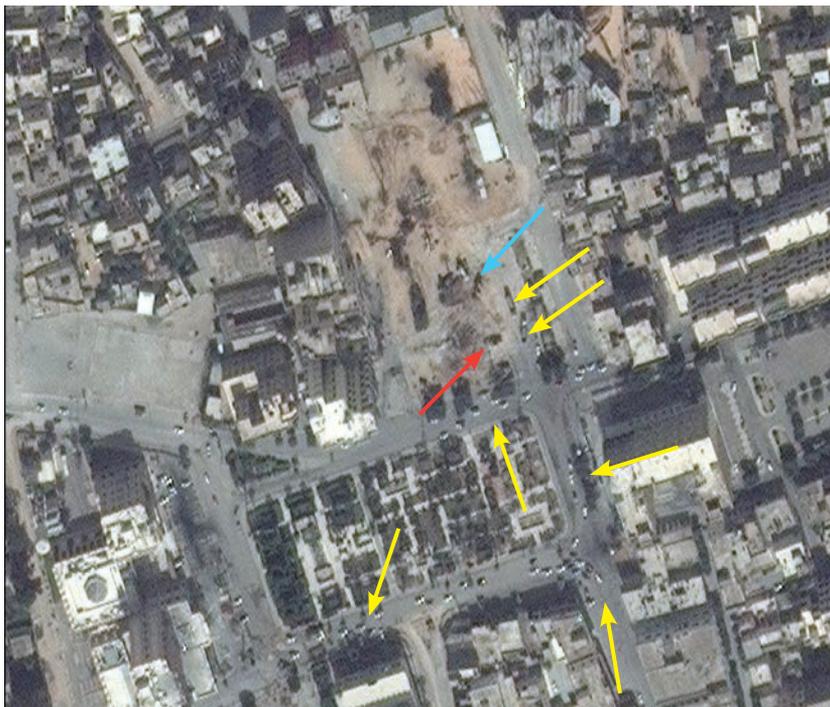
Commercially available overhead satellite images can be very valuable to investigations by providing information on what existed on the ground during a specific incident. While satellite images may not be able to show how the actual incident unfolded, they provide important contextual information. A comparative analysis of the “before” and “after” images could provide information on, for example, the extent of the damage, the presence of the perpetrators and types of vehicles in the area. This information from an independent and impartial source could corroborate victim and witness testimonies and also allow the commission/mission to challenge the perpetrators’ version.

Satellite images could also corroborate the date on which an incident may have occurred. While they may not provide the exact date, they help to provide a date range that could support a victim or witness testimony. If investigators do not have access to sites, satellite images provide an alternative source of information.

Investigators will have to obtain some information about the incident (date and place) from media reports, victims or witnesses so that the correct and best images can be obtained to support their investigations.



Red arrow points to mosque, identified by satellite imagery, 8 March 2011.



Red arrow shows mosque destroyed, 14 March 2011.

Source: © DigitalGlobe. Produced by UNITAR/UNOSAT.

(f) Expert opinions

A commission/mission may come across a range of information that may require examination and analysis by an expert. The expertise required will depend on the mandate, the priorities identified and the information that is sought and gathered. For example, when investigating killings and torture, a forensic pathologist, with experience in dealing with cases of torture could examine persons who allege they were tortured to establish if the injuries they sustained are consistent with their allegations. Such an expert could also help in interpreting an autopsy report, and examine corpses or photographs of corpses to assess whether the autopsy report correctly reflects all the injuries and the cause of death. In conflict situations, a military or ballistics expert with experience in combat can assist the commission/mission in understanding the nature of the weapons used, their accuracy and the ability of those using them to prevent indiscriminate attacks on civilians.

Information-gathering methods of the United Nations Fact-finding Mission on the Gaza Conflict (2009)

- “(a) The review of reports of international organizations, including the United Nations; reports and other documentation, including affidavits, produced by non-governmental and civil society organizations (Palestinian, Israeli and international); media reports; and writings of academics and analysts on the conflict;
- (b) Interviews with victims, witnesses and other persons having relevant information. In keeping with established human rights methodology and in order to ensure both the safety and privacy of the interviewees and the integrity of the information provided, such interviews were conducted in private. The Mission decided not to interview children. The Mission conducted 188 individual interviews. Most interviews were conducted in person. If the Mission was unable to meet the relevant persons, interviews were conducted by telephone. Also in keeping with normal practice for this type of report and to continue to protect their safety and privacy, the names of the victims, witnesses and other sources are generally not explicitly referred to in the report and codes are used instead. The names of individuals who publicly testified at the hearings held by the Mission or who have explicitly agreed to be named are, however, identified;
- (c) Site visits to specific locations in Gaza where incidents had occurred. The Mission investigated 36 incidents in Gaza;

- (d) The analysis of video and photographic images, including satellite imagery provided by UNOSAT, and expert analysis of such images;
- (e) The review of medical reports about injuries to victims;
- (f) The forensic analysis of weapons and ammunition remnants collected at incident sites;
- (g) Meetings with a variety of interlocutors, including members of the diplomatic community, representatives of the parties concerned, NGOs, professional associations, military analysts, medical doctors, legal experts, scientists, United Nations staff;
- (h) Invitations, through notes verbales, to United Nations Members States and United Nations agencies, departments and bodies to provide information relating to the Mission's investigation requirements;
- (i) The wide circulation of a public call for written submissions from NGOs and other organizations and individuals interested in bringing information to the attention of the Mission. As a result, it received numerous submissions from organizations and individuals from Israel, the Occupied Palestinian Territory and elsewhere in the world;
- (j) Public hearings in Gaza and in Geneva to hear: (i) victims and witnesses of violations; and (ii) individuals with specialized knowledge and expertise on the context and impact of the hostilities."

(g) Social media

Social media have become an important means of communicating information, and are a tool often used by civil society. Ordinary people use the networks to provide others with a window into their lives and their experiences. The networks are also often used as propaganda tools by opposing groups in a conflict. In addition to uploading photographs and videos to these sites, these groups also have narratives on events that could provide valuable information. For example, the Facebook page of an armed opposition group posted a photograph of a government soldier it had captured. It provided details such as the soldier's name, the date and place of his capture. Further images showed the soldier being beaten, with an explanation that he was beaten because he refused to provide information about government troops in the area. A few days later a picture of the same soldier, now dead, was posted on the Facebook page with a warning that this would be the fate of captured soldiers who refused to provide information.

Although second-hand, and with the caution previously expressed with regard to authenticating videos and photos, this information is useful in investigating the action of this armed group. Facebook pages of armed groups also provide some information on the hierarchy of the group, the area in which they operate and some of the incidents in which they have been involved.

(h) Reports of United Nations mechanisms, intergovernmental and non-governmental organizations

In situations where large-scale human rights violations are occurring, there are likely to be many international and non-governmental organizations collecting information similar to that which the commission/mission sets out to collect. United Nations reports, including those of special rapporteurs, may have information that could assist the commission/mission in setting its priorities and provide valuable leads for investigations. Often, regional intergovernmental organizations such as the European Union, the Organization for Security and Co-operation in Europe and the African Union will have observers in the country or region and their reporting, if made available, can be of value to the investigation.

International human rights NGOs write detailed reports, interview victims and witnesses, and have extensive contacts among groups of victims and witnesses, and the authorities. While the commission/mission could easily access the public reports of these NGOs, other information such as the contact details of victims, witnesses and local authorities in the country concerned may not be in such reports and may need to be accessed through direct contacts. Local and regional NGOs, including, for example, those providing services such as medical care and education, have established contacts with communities and their leaders, and often have valuable information.

3. INFORMATION-GATHERING METHODS

(a) Interviewing

Interviewing is one of the most common methods used by commissions/missions to gather information. Some interviews seek to obtain first-hand information on violations, while others may seek to verify information already gathered by the commission/mission.

In some instances, investigators can plan and prepare interviews in advance based on pre-identified lists and have some prior knowledge of the interviewees and the information they are likely to provide. In many situations, however, investigators access victims and witnesses with little advance notice or meet them when visiting a refugee camp or a site of human rights violations. In any event, the commission/



Investigator engaged in discussions with local militia leader about alleged atrocities in the area. UN / OHCHR Photo

mission needs to plan and prepare for interviews, especially in regard to **measures to prevent risk of harm to interviewees** (see sect. J, Protection of victims, witnesses, sources and other cooperating persons).

It is also important to consider who the interviewees are likely to be (men, women, children, elderly, rural, urban) to decide who will conduct interviews with, for example, female witnesses or male survivors of sexual violence, and what additional precautions may be necessary.

The commission/mission should also take into consideration the languages interviewees will speak and whether interpretation will be required, and whether additional expertise will be necessary (for example, a forensic medical specialist to examine victims of alleged torture). Additional preparations may be required to interview persons belonging to specific groups or survivors of especially traumatizing human rights violations, including, for example, children, persons with disabilities, survivors of sexual violence, trafficking or torture, indigenous communities and women in a specific cultural, social and religious context.

Interviews must be conducted based on **best practice human rights methodology**. The location needs to be selected so as to afford the interviewee privacy and minimize the risk of harm to the interviewee, and in consultation with the interviewee whenever possible. It is essential that interviews are **conducted in private**. If not, interviewees may influence each other's testimony, may be unwilling or unable to disclose confidential information, and there may be risks of retaliation. When private

interviews are not possible, the commission/mission needs to take this into account in assessing the information so received and using it in its conclusions.

Interviewees must be informed about the commission's/mission's mandate, the purpose of the interview and what measures will be taken to ensure the confidentiality of their identity and the information they provide. Interviewers should also enquire about security concerns that the interviewees may have, without raising expectations of protection beyond the commission's/mission's capacity.

At the outset, the interviewer should **seek permission** to take notes and, if deemed appropriate and secure, to use an audio recorder to record the interview. Audio recording increases the accuracy of the report of the testimony, especially if interpretation is required, including for possible use in future criminal proceedings. However, it requires the consent of the interviewee, and may expose him/her to heightened security risks, which need to be carefully weighed.

The interviewer obtains the full personal details of the interviewee, as well as contact information and how the interviewee would prefer to be contacted for any follow-up (for example, by mobile phone or through an intermediary).

It is good practice to start by allowing interviewees to narrate their experiences in their own words. This helps to establish confidence in the interviewer. **Open-ended questions** allow interviewees to provide information without suggesting an expected answer. Based on the initial account, more specific questions can then be asked to clarify or verify information. It is important for investigators to ask how interviewees came to know about the facts narrated to establish whether interviewees are relaying a story they heard from someone else or are describing what they personally experienced. Questions can be asked to **probe inconsistencies**, in a respectful, non-challenging and sensitive manner. Asking the same question in different ways may help investigators to see the facts from different perspectives and assess the veracity of the entire story. Investigators rarely have a second opportunity to interview the same victims or witnesses and should therefore ensure that they have as complete a picture as possible. Sketches, photographs and props can help interviewees to provide a clearer account of what they experienced or observed, or correctly identify the location of an incident during a site visit.

The interviewer may ask for any **corroboratory information** such as medical reports, photographs, video materials or official documents. As a general rule, investigators do not take originals but make copies, scan or photograph documents. The interviewer should also ask if anyone else was present, saw, heard or experienced the same situation as the interviewee and obtain the names and contact details of these persons.

Throughout the interview, the **interviewer should assess the interviewee’s credibility and reliability**. The interviewer should be cautious about concluding that someone is not reliable or the account not credible on the basis of inconsistencies or because the person was not assertive. In some cases the lack of consistency or assertiveness could be the result of trauma.

The **informed consent** of interviewees to use or share the information provided must be obtained during the interview (see subsect. 6, below). Interviewers need to explain the commission’s/mission’s confidentiality policy and ask the interviewees whether they consent to specific ways in which the information they have provided can be used or shared. For example, whether the information about the incident can be included in a public report without the interviewee’s identity or if the information could be shared with other United Nations entities or with the International Criminal Court. Interviewees have to be fully aware of the possible implications of their decisions and the potential risks. With regard to children or persons with intellectual disabilities, the consent of parents or legal guardians must be obtained.

Once the interview is over, the interviewer is required to **promptly record the notes of the interview in the commission’s/mission’s database**. The task of the interviewer is to convert the information provided by the interviewee into a logical presentation about what happened, where, how, and who was involved. The narrative should be as faithful as possible to the account given by the interviewee and have the greatest level of detail to allow anyone not familiar with the incident, such as the commission’s/mission’s analyst, to easily understand and use the information. The report should also indicate any protection concerns of the interviewee and the extent of the person’s consent to use or share the information.

(b) Field missions

Field missions have to be carefully planned to ensure that they yield maximum results while making efficient use of resources. Mission plans will address the following:

Where?

There may be several places within each country where investigations will be conducted and these should be clearly identified. What sites will be visited? A security risk assessment has to be conducted for each location to ascertain the potential risks to investigators, potential sources and the safety of the information gathered, and take measures to mitigate such risks.

When?

Dates of the mission, including dates of travel between different places.

Who?

Identify the members and staff of the secretariat and other personnel (interpreters, security, experts and logistics) who will go on mission. Who will perform what tasks? Who will coordinate the different activities?

What?

Clearly define the purpose of the mission and what information will be gathered. What resources (financial, local staff) and logistical arrangements (accommodation, office space, vehicles, communications and safety equipment) will be required during the field visit?

How?

What methodology will be used to gather the information (interviews, site visits, collection of documents)? What equipment will be required to gather information (video cameras, audio recorders, GPS, scanners, secure laptops, encrypted USB/external hard drives)?

(c) Site visits

Investigation of the site of an incident, which takes place during field missions, is always a valuable method of uncovering information regarding events of interest. It is also a method of verifying what a source has told an investigator. It is important for investigators to obtain as much detail as possible from the person before visiting the site so that they know what to look for. The visit provides investigators with an opportunity to assess whether the descriptions provided by the source match what they observe. If there is a difference, it does not necessarily mean that the person lied, but that the investigators still have to find some other information. If there are inconsistencies between what the investigators observe at the site and the source information, they should go back to her/him and seek clarification. There may be



The OHCHR Fact-finding Mission relies on resources of the United Nations Mission in the Central African Republic to visit a remote location. UN / OHCHR Photo

a good reason for the inconsistencies, for example, new buildings may have been constructed or trees chopped down since the time the person was last at the site.

Investigators should conduct a detailed examination of a site and **document its key features as accurately as possible** by taking photographs and recording videos, drawing maps or sketches, and by taking detailed notes of their observations. As a general rule, investigators do not collect physical objects that may constitute evidence in criminal proceedings, but rather record them in detail through photographs, videos and drawings. In very **exceptional circumstances** investigators may have to exercise judgement as to whether they should go further than merely document and actually collect physical information, for instance if there is a risk that the object may otherwise be destroyed or irretrievably lost. In such cases, ensuring strong documentation of the handling, transport and storage of the items collected, also known as “chain of custody” or continuity, is essential.

(d) Public hearings

Commissions/missions have occasionally used public hearings to gather information on incidents or issues covered by the mandate (Gaza (2009) and Democratic People’s Republic of Korea (2013)). Public hearings have significantly raised the **visibility** of the inquiries conducted by the commissions/missions. Participants in the public hearings have included (a) victims and witnesses of alleged violations of human rights and

international humanitarian law; and (b) experts on issues relevant to the situation under investigation (for example, the use of certain weapons, the situation of women). Public hearings in the context of international human rights fact-finding and investigations mechanisms are a **complementary**, rather than an exclusive, information-gathering method. The information obtained at the hearings may: serve to supplement information that the commission/mission has already received through its other fact-finding activities; constitute information that requires further verification by the commission/mission; or be information that stands on its own, neither supplementing existing information nor requiring further verification.

Organizing public hearings is a complex undertaking and its advantages as an information-gathering method – primarily with respect to the higher visibility that such hearings provide for violations suffered by victims, the possibility for victims to have their voice directly heard and the added transparency of the proceedings – must be carefully weighed against the risks, resource implications and complexity. While proceedings are informal, it is important to set clear rules in advance, and ensure that they are well known to and understood by all involved. It is important to ensure that appropriate psychological support is available for participants. Participation in such hearings is fully voluntary and must be based on informed consent.

Given the heightened exposure of witnesses, victims and sources of information through this public procedure, the commission/mission must pay special attention to the **risks**



The United Nations Fact-finding Mission on the Gaza Conflict conducts public hearings in Gaza to enable victims, witnesses and experts from all sides of the conflict to speak directly to the international community. UN / OHCHR Photo



The Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea takes testimony from witnesses at a public hearing in Tokyo. UN / OHCHR Photo

deriving from participation in the hearings. Participants must be fully informed of the nature and conditions of the hearings, including, for example, whether they will be broadcast on television or made available on the Internet, and of the commission's/mission's limited capacity to ensure their protection and safety should security risks arise. In some cases, commissions/missions have had to turn away interested individuals based on an assessment of possible retaliation against them or their families or the organizations they worked for.

4. INVESTIGATING DURING AN ONGOING CONFLICT

Some commissions/missions have carried out their mandates to investigate violations of human rights and international humanitarian law during an armed conflict – for example, in Libya (2011), the Syrian Arab Republic (2011-2014) and the Central African Republic (2014). These contexts present additional challenges.

During an armed conflict, the security situation is usually unpredictable and evolves rapidly. This makes it very difficult for the commission/mission to undertake accurate risk assessments, and often prevents **access** to the affected countries or areas. An additional challenge in this

ever-changing landscape is the emergence of new armed groups, aligned with or opposed to the Government, that also pose threats to victims and witnesses and to the commission's/mission's staff. It may be difficult to gather accurate information about all the armed groups that may be operating in an area to assess the risks and identify alleged perpetrators. Often, different armed groups may be operating in different regions without coordination, requiring separate negotiations with each group to obtain safe access to different parts of a city or town. The prevailing security situation could also be a reason for the Government to refuse the commission/mission access to the country or to certain regions, or to insist that it should be accompanied by its security forces, which could hamper the commission's/mission's work.

Most situations in which a commission/mission works present considerable challenges for the **protection of victims and witnesses**. During an armed conflict, these challenges are even greater. The difficulty in obtaining information to conduct an accurate assessment of the threats and risks faced by victims and witnesses and the sources of such threats has an impact on the commission's/mission's ability to gauge what measures may be adequate to prevent risk of harm. In such situations, commissions/missions may need to take additional precautionary measures and seek to obtain the information in other ways than through direct contact.

Conflict usually leads to the breakdown of governance structures, with no recognized or legitimate authority for the commission/mission to interact with. Communications with the central Government may not be recognized in all parts of the country, and may require the commission/mission to enter into **additional negotiations** with those in control of a region to gain access to victims, witnesses and sites. Some armed groups may have a negative perception of the international community and may refuse to cooperate. The absence of government structures may also make it difficult to access information from government sources, and the conflict may have resulted in the loss or destruction of information held in government buildings and archives. On the other hand, accessing places such as detention centres and archives of government institutions may be made easier by looser authority structures.

Certain circumstances – such as possible lack of control by some armed groups over their fighters, publication of video and photographic materials, use of social media to obtain support or for propaganda – also provide opportunities to harvest valuable information on violations and perpetrators, or leads on incidents soon after they have occurred.

Internal armed conflict usually results in the **displacement** of large numbers of people within the country and in neighbouring countries. A common consequence of a continuing armed conflict is the creation of transient communities, with the population fleeing to safety and then fleeing again when its safety is threatened. This presents considerable challenges for the commission/mission to locate and interview victims and witnesses. Each victim or witness may have information related to different incidents and may thus require substantial



A human rights investigation team from the Commission of Inquiry on the Central African Republic and a survivor visit a site in Bangui where extrajudicial executions took place and a mass grave was discovered. UN / OHCHR

time to provide full testimony, which needs to be considered in planning the commission's/mission's work. It may be difficult for the commission/mission to allay the fears of victims and witnesses or to meet their expectations, making them reluctant to provide information. Information on the whereabouts of victims and potential witnesses may change when communities flee, and it may be difficult for the commission/mission to trace them.

In many conflict situations communities become polarized based on, for example, support for the Government or for opposition armed groups, ethnicity or religion. Assessing the information gathered with regard to its validity and truthfulness, as well as the reliability of sources, as mentioned below, is thus particularly important, highlighting the need for adequate corroboration. The commission/mission should also guard against any perceptions in the community that its inquiry is biased by making efforts to collect testimonies from all sections of the population.

An ongoing armed conflict presents additional **logistical challenges** for a commission/mission. Commercial flights to the country or between different locations within the country may be halted. This may require the commission/mission to make journeys by road, including from neighbouring countries, or to rely on United Nations aircraft if these are operating in that

country. The use of armoured vehicles to provide additional security to members and staff of the commission/mission may be necessary. Secure accommodation facilities may be scarce in certain locations, preventing the commission/mission from staying overnight. Telephone communications and Internet access could be disrupted during the conflict and satellite phones may be necessary. The commission/mission will have to establish evacuation plans, including secure and safe transport of information gathered, should the security situation deteriorate and require members and staff to leave the country or region rapidly.

5. EVALUATION AND ANALYSIS OF INFORMATION

Evaluation and analysis start with the first pieces of information collected in any investigation, especially background information that will assist in identifying the key events or issues for investigation. The **evaluation** will consider the **relevance** of the information to the subject matter of the investigation. It will also look at the **reliability** of the source and the **validity** or truthfulness of the information.

The evaluation also has to test the probity of the investigation, that is, assess the **integrity** of the process of collecting information, which could have consequences for the investigation as a whole. It is important to collect information without any bias, with the investigators exercising the utmost independence and impartiality.

Continuous **analysis** of information is necessary to ensure that any gaps in information are identified and remedied. Analysis also helps to identify and correct any weakness in the investigations methodology before it affects the value of the information collected, for example, if an investigator is not obtaining the necessary consent from victims, witnesses and other sources to include the information they provide in the public report. Analysing information throughout the investigations will ensure that relevant information is collected and corroborated.

Whatever the standard of proof adopted (see subsect. 7, below), the commission/mission must ensure that the incidents or events on which it is reporting have been adequately **corroborated**.⁵⁸ While investigators should aim at corroborating any given piece of information by obtaining concurring information from two other independent and reliable sources, this may not always be necessary or possible. Information from a reliable primary source may need corroboration by only one additional independent and reliable source, which may include the investigator's own direct observations. For example, when an interviewee alleges torture, the investigator's assessment of the reliability of the source and the viewing and noting down of scars or injuries consistent with the account can provide corroboration.

⁵⁸ *Training Manual on Human Rights Monitoring*, Professional Training Series No. 7 (United Nations publication, Sales No. E.01.XIV.2), chap. VII, sects. E–F.

In some instances, for example incidents of sexual violence or torture, it may be very difficult to obtain corroboration of the victim's account from another independent source, especially if the victim has not received medical assistance or been able to report the incident to the authorities.

In such cases, corroboration may be obtained by assessing the details of the victim's account, evaluating if they are consistent with what is generally known about the incident (for example, the area where it occurred, the alleged perpetrators or the methods used) and establishing whether the incident reveals a pattern that is consistent with other similar incidents.

Corroboration of information obtained from an initial source can take different forms:

- The investigator's observations, for example, during site visits or of material information or injuries;
- First-hand account by a victim or an eyewitness;
- First-hand account by a perpetrator;
- Other collected and reliable materials, such as maps, photographs, satellite imagery, sourced videos, medical records or official documents;
- Second-hand accounts by credible sources (experienced NGO, expert advice, doctor, etc.).

Analysis forms the basis for drafting the commission's/mission's report and will consider the following questions:

- Did the events under investigation take place?
- Do the events constitute violations of international human rights law or international humanitarian law?
- What provisions of international human rights law or international humanitarian law have been breached?
- Have the violations reached the threshold to constitute international crimes as defined in the Statute of the International Criminal Court?
- Does the information reveal the root causes of the violations?
- Who can be held accountable for these violations?
- What measures would be necessary to stop, prevent or remedy violations?

Analysis therefore occurs at different levels. The **factual analysis** will aim to establish whether the incident or event under investigation occurred and what happened, according to the information gathered. The **legal analysis** will match the facts to specific provisions of human rights law and/or international humanitarian law to determine whether the facts established constitute violations. The legal analysis could also consider whether the facts constitute international crimes. The third aspect of analysis is to establish what **entities or** which **individuals** were **responsible** for the violations.

6. INFORMED CONSENT ON USING AND SHARING INFORMATION

Much of the information gathered during investigations, especially through interviews, is confidential. An investigator has to obtain the informed consent of an interviewee or source to **use and share** the information. The consent has to be specific regarding how the information can be used and the entity with which it can be shared. For example, sources may agree that the information they provided may be used by the commission/mission in its report, but without disclosing their identity. Or sources may agree to it being shared with local NGOs, but not with local authorities. In the absence of consent, the information should not be shared.

Confidentiality applies both to the **identity** of the sources and to the **information** they provide. Depending on the nature of the information and the security concerns of the source, most sources would be more concerned about their identity being disclosed than about the commission/mission using the information. Where information provided on a confidential basis is used in reports, care should be taken that the information itself does not reveal the identity of the source.

Even if there is consent, it may be necessary to edit or redact the original materials before sharing them, either to protect sources or in accordance with privacy rules. It is essential that such redacted materials should also be tracked in the database or information management system used by the commission/mission and that the redacted copy be associated with the original materials. Redactions must also be reflected in any translation of such material.

When a request is received to share information gathered by a commission/mission, an assessment should be made about **protection concerns** of the source at the time of the request. If there is a considerable risk of harm, it may decide not to share the information even if the source has consented.

Confidentiality pertains to the sharing of information with any other entity, including United Nations agencies, NGOs, special rapporteurs, the International Criminal Court and national authorities. Any decision to share information with a third party shall be guided primarily by the consent of the source to share the information and the need not to compromise the safety and security of the source. During the lifetime of the commission/mission requests for information will be considered by the members. Afterwards, such requests are addressed to OHCHR.

7. STANDARD OF PROOF

In line with their nature and mandate, commissions/missions are not required to establish guilt in the way courts do and as such they do not apply a criminal law standard of proof of “beyond reasonable doubt”.

Commissions/missions have most commonly adopted “reasonable suspicion” or “reasonable grounds to believe”, and less frequently “balance of probabilities”, as the standard to make a finding of fact. The standard may depend on the information to which the commission/mission has access.

It is important for commissions/missions to **clearly indicate** in their methods of work the standard of proof they adopt and to include an explicit reference and explanation in their report.

The Commission of Inquiry on Darfur (2004) based its findings regarding the identification of perpetrators on “a reliable body of material consistent with other verified circumstances, which tends to show that a person may reasonably be suspected of being involved in the commission of a crime”.⁵⁹ The same formulation was used for Timor-Leste (2006).⁶⁰ In Guinea (2009) the Commission of Inquiry based its findings of the responsibility of individuals for violations committed on “independently verified evidence assembled to demonstrate that a person may reasonably be suspected of having participated in the commission of a crime.”⁶¹ The Mapping Exercise in the Democratic Republic of the Congo (2008) used the *reasonable suspicion* standard with reference to an incident having happened: “Reasonable suspicion is defined as ‘necessitating a reliable body of material consistent with other verified circumstances tending to show that an incident or event did happen.’”⁶²

The Commission of Inquiry on the Syrian Arab Republic (2011-2014) adopted the following approach: “Particular incidents are described in the report if there are reasonable grounds to believe that they occurred, namely if the commission obtained a *reliable body of evidence, consistent with other information*, indicating their occurrence” (emphasis added).⁶³ The Commission of Inquiry on the Democratic People’s Republic of Korea (2013) also adopted a *reasonable grounds to believe* standard of proof: “there are *reasonable grounds* establishing that an incident or pattern of conduct [has] occurred whenever it [is] satisfied that it [has] obtained a *reliable body of information*,

⁵⁹ S/2005/60, summary.

⁶⁰ S/2006/822, para. 12.

⁶¹ Report of the International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea (S/2009/693), para. 22.

⁶² “Report of the Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003”, August 2010, para. 7.

⁶³ “Report of the independent international commission of inquiry on the Syrian Arab Republic” (A/HRC/19/69), para. 10.

*consistent with other material, based on which a reasonable and ordinarily prudent person would have reason to believe that such an incident or pattern of conduct [has] occurred” (emphasis added).*⁶⁴ In Gaza (2009) the Mission relied on corroboration of facts and assessing whether, in all the circumstances, there was “*sufficient information of a credible and reliable nature [...] to make a finding in fact*”.⁶⁵

The Fact-finding Mission investigating Israeli attacks on a flotilla (2010) adopted a *balance of probabilities* standard of proof: “Matters were decided on the basis of the preponderance and quality of the evidence so as to satisfy all the members of the Mission in order that they felt sure of their conclusions”.⁶⁶ In Libya (2011) the Commission also adopted a balance of probabilities approach: “It bore in mind the fact that it was not seeking evidence of a standard to support a criminal conviction, but rather making an assessment based on a ‘balance of probabilities’ to determine whether a violation had occurred.”⁶⁷

8. INTEGRATING GENDER ANALYSIS

Commissions/missions are required to integrate a gender perspective into their investigations to ensure that all violations against men and women of all ages and sections of society are recognized and accounted for. This helps to better understand the causes and types of human rights violations committed, how they may affect women, girls, men and boys differently, and the measures required for prevention and protection. It is important to remember that women as such do not constitute a vulnerable group and not all are victims. Many women are active leaders and some may be combatants.

A gender perspective has to be integrated **throughout the investigation**, beginning with the gathering of contextual information to understand fully how cultural, social, religious, legal and economic issues affect men and women, and how this could be related to the mandate of the investigation.

It is also essential that investigations should not focus only on civil and political rights. Erosion or removal of social and economic rights during crises has a particularly negative impact on women and can be linked intricately, even if not explicitly, to the concerns that a commission/mission is mandated to address.

⁶⁴ “Report of the commission of inquiry on human rights in the Democratic People’s Republic of Korea” (A/HRC/25/63), para. 22.

⁶⁵ A/HRC/12/48, para. 171.

⁶⁶ “Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance” (A/HRC/15/21), para. 24.

⁶⁷ “Report of the International Commission of Inquiry on Libya” (A/HRC/19/68), para. 6.

The commission/mission should:

1. Gather and analyse contextual information to understand the nature, extent and underlying causes of **discrimination** against women, and to define whether specific violations against women or broader gender discrimination should be a priority for investigation.
2. Integrate a gender perspective into its **investigation plans** to ensure that it gathers disaggregated information according to sex and age.
3. Consider the challenges it may face in investigating **gender-specific violations** and refine its investigations methodology by carefully considering who interviews the victims and where. In some situations, only a woman investigator may be allowed to interview a woman victim or witness and her husband or father may insist on being present throughout the interview.
4. Determine what **specific measures** it should take to protect victims of gender-based violations who provide testimony. The threats to such victims may come not only from the perpetrators and their cohorts, but also from their own families and communities.

D. Access and cooperation

Resolutions of the Security Council, the General Assembly and the Human Rights Council establishing commissions/missions have contained language about cooperation of Member States in order to facilitate their work. It is good practice that mandating authorities request such cooperation and take active steps to ensure it. For example, the Human Rights Council, in its resolution 22/13 urged “the Government of the Democratic People’s Republic of Korea to cooperate fully with the Special Rapporteur and the commission of inquiry, and to permit them and their staff unrestricted access to visit the country and to provide them with all information necessary to enable them to fulfil their mandates”. The terms of reference of bodies set up by the Secretary-General contain similar language.

Cooperation with a State can be difficult when the Government does not consent or agree to the establishment of a commission/mission. Fundamentally, consent will enable the commission/mission to have access to persons, locations and documentation necessary to carry out its investigation.

A challenge faced by several commissions/missions has been the unwillingness of Governments, non-State actors or the authorities that are the subject of investigation to cooperate. **Lack of cooperation may vary** from refusing to speak with and provide information and relevant documents to these bodies, to barring them from entering

the country or the area where the incidents under investigation took place, and intimidating victims, possible witnesses and sources of information to prevent them from cooperating with the investigators. To overcome these challenges, for example, in the operation of the OHCHR Fact-finding Mission to the Syrian Arab Republic (2011), the United Nations Fact-finding Mission on the Gaza Conflict (2009) and its follow-up expert committees, these bodies resorted to visiting neighbouring countries to meet persons who may have first-hand information on the events under investigation, inviting witnesses and victims to testify outside their country, relying more heavily on official statements and material in the public domain, as well as on informal contacts with individuals able to relay official positions. Lack of cooperation from the authorities has not prevented investigations and fact-finding from taking place nor commissions/missions from reaching conclusions.

E. Methodological tools

It will be beneficial for the commission/mission to develop a number of methodological tools to assist its investigation, analysis and report writing. For instance:

- **Applicable legal framework:** A crucial document to be prepared at the beginning of the work of the commission/mission is the analysis of the applicable legal framework and obligations under international human rights and humanitarian law, and international criminal law if applicable.
- **Timeline** of events relevant to the situation under investigation.
- **Actor mapping:** Mapping of key national and international actors relevant to the issue(s) under inquiry, and of links/dynamics relevant to understanding the issue(s) and recommending solutions. A visual representation of key actors and their relationships could be developed from the preliminary information gathered and then improved and further developed as the investigation progresses.
- **Government/opposition structures:** Mapping of military/police/government structures and structure of opposition forces (political leadership, armed groups, decision-making, chain of command, etc.).
- **Guidelines and protocols for members, staff, consultants and interpreters on protecting information and confidentiality:** These should cover the handling of all types of information, verbal, written and electronic, including safe transmission and disposal, and at all locations where the commission/mission will operate.
- **Interviewing guidelines and questionnaires:** These will ensure consistency in the information gathered by the different investigators. It is useful to develop or adapt

existing guidelines for specific groups that will be interviewed, such as survivors of sexual violence and children, and to define questions for each of the issues under investigation, for example, torture, use of force, arbitrary detention.

- **Guidelines on record keeping:** These should cover both paper and electronic communications and documentation.
- **Standard formats and logs for recording:**
 - a. Interviews/statements;
 - b. Information gathered through briefings and during meetings;
 - c. Documentation, such as reports, copies of statements taken by other organizations, photos, videos, collected or received by the commission/mission, including during field visits.
- **Field missions templates:** A mission planning template will ensure that all the essential issues are covered during the planning of investigative field visits.
- **Glossary of terms:** It may be necessary to draw up a glossary of terms to ensure consistency in the spelling of place names, reference to entities (e.g., State security institutions) and terminology used in reports, especially if the language of the country is different from the commission's/mission's working language. The glossary should also include the terms in the language of the country.



OHCHR investigating a guerrilla attack on an indigenous town in Colombia. UN / OHCHR Photo

F. Terms of reference

The terms of reference (ToRs) are developed and adopted by the commissions/missions based on the mandate and applicable legal and methodological principles. Clear, detailed and specific ToRs are essential to enable the successful fulfilment of their mandates.

The development of an agreement on detailed ToRs is the first step when commissions/missions start to work.

ToRs should generally include the following:

1. **Legislative authority:** The authority (official body and resolution or other mandating document) that established the commission/mission and defined its mandate and powers (e.g., Security Council, Human Rights Council, General Assembly, Secretary General).
2. **Mandate:** The exact language from the mandating authority (e.g., Human Rights Council resolution) should be reproduced in the ToRs. The ToRs should also set out how the commission/mission interprets its mandate, including through further detailing those aspects that may be only broadly defined in the mandating resolution or other official document. Mandate clarification should cover:
 - Time frame (*ratione temporis*)
 - Subject matter (*ratione materiae*)
 - Territorial range (*ratione loci*)
 - Actors (*ratione personae*)
3. **Legal framework:** Does the mandate include international human rights law and international humanitarian law? Will the commission/mission refer to international criminal law?
4. **Standard of proof:** There should be reference to the standard of proof the commission/mission has decided to apply.
5. **Composition:** The number and appointment of commissioners/experts and the responsibility of OHCHR to provide the substantive expertise and administrative, technical and logistical assistance required to fulfil the mandate promptly and efficiently, including through a secretariat.
6. **State obligations:** The entitlements of the commission/mission to freedom of movement, inquiry and protection should be clearly outlined, including the corresponding obligations of the State(s) involved. Standard language includes:
 - (a) Freedom of movement throughout the territory of the country concerned or other countries;

- (b) Unhindered access to all places and establishments, and freedom to meet and interview representatives of national, local and military authorities, community leaders, NGOs and other institutions, and any such person whose testimony is considered necessary for the fulfilment of the mandate;
 - (c) Unhindered access for individuals and organizations wishing to meet the commission/mission;
 - (d) Free access to all sources of information, including documentary material and physical evidence;
 - (e) Appropriate security arrangements for the staff and documents of the commission/mission;
 - (f) Protection of victims and witnesses and all those who come into contact with the commission/mission, and an undertaking that no such person shall, as a result of such contact, suffer harassment, threats, acts of intimidation, ill-treatment or reprisals;
 - (g) Privileges, immunities and facilities necessary for the independent conduct of the inquiry. In particular, commissioners/experts shall enjoy the privileges and immunities accorded to experts on missions under article VI of the 1946 Convention on the Privileges and Immunities of the United Nations, and officials of the United Nations shall enjoy the privileges and immunities of officials under articles V and VII of the Convention.
7. **Reporting obligations:** To whom (e.g., Human Rights Council, Security Council, Secretary-General) and the date by which the commission/mission shall submit its final report, including recommendations, and any interim report it may be mandated to produce. In keeping with their objectives, reports of commissions/missions are expected to be public.
 8. **Cooperation:** The enjoyment by the commission/mission of the full cooperation of all Member States of the United Nations (or relevant intergovernmental or regional organizations), United Nations departments or agencies (e.g., United Nations country team or peacekeeping missions), and the entitlement to seek the cooperation of international institutions and other relevant actors. Especially in countries where OHCHR does not have a field presence, the support of United Nations entities in the country will be needed to organize meetings with key actors, engage with stakeholders and for future follow-up, including protecting victims, witnesses and other sources.

G. Methods of work

The methods of work are another fundamental document guiding the work of commissions/missions, which must be defined and agreed at the beginning of their operations. It sets out the methods the commission/mission will use in fulfilling its mandate, including:

1. What **sources** of information it will use, including whether it will rely on primary or secondary sources, whether it will use open source material, examine video material and satellite imagery;
2. How it will **assess and verify** information;
3. How it will **gather** information, including whether it will visit the country concerned (or other countries), undertake visits to sites of violations, interview victims and witnesses, make a public call for submissions, receive submissions from Member States, undertake expert analysis or request opinions from experts;
4. How it will ensure the **confidentiality** of information and the **protection** of sources and information;
5. How it will ascertain the **consent** of sources on the use of information they provide to the commission/mission.

The methods of work must be based on international standards and best practices on human rights fact-finding and investigations. They must ensure that the commission's/mission's information-gathering and analysis take fully into account gender issues, for example, with regard to the choice of sources and ways of accessing them, and the gathering and presentation of disaggregated data. They underpin the integrity of the commission/mission through strengthening the independence and impartiality of its information collection and analysis processes, ensuring that these are beyond reproach.

H. Rules of procedure

In addition, the commission/mission may consider adopting rules of procedure which further define its internal methods of work and responsibilities. While commissions/missions with shorter-term mandates may have less need for such a comprehensive set of rules, it is still advisable to review and consider the model standard rules of procedure in annex II. This model was developed by OHCHR based on the 1970 Model rules of procedure for United Nations bodies dealing with violations of human rights, and modified on the basis of experience.

I. Information management

The diligent and systematic management of information is critical to the protection of its integrity and confidentiality and of the sources. Storage, retrieval, eventual archiving and preservation of information are the key concepts in an information management system. The commission/mission has to adopt an information management system that will help to document, organize, store and retrieve information systematically and consistently.

The coordinator of the secretariat has the overall responsibility for setting up and maintaining such a system, consistent with United Nations rules and procedures. Ideally, a staff member of the secretariat will be assigned to be the information management focal point. However, managing information is a shared responsibility and each staff member will manage and store data he or she has gathered and produced.

Commissions/missions usually use a web-based platform, incorporating a database, provided by OHCHR. The web-based platform comprises a shared space to register and safely store documents and other materials, and a structured database for safely recording interviews and uploading associated materials (for example, copies of documents or photographs) gathered during investigations.



Records and archives document the history of the United Nations. Every commission/mission should adopt an information management system, consistent with United Nations rules and procedures. UN Photo / Mark Garten

1. FILING PLAN

One of the most important tools for information management is the filing plan, which categorizes information and places similar information together (e.g., administrative and financial records) to make it easier to retrieve and use. The filing plan also determines access rights, manages security of information, and provides for storage and archiving rules. The filing plan applies to both electronic and paper files. OHCHR has developed an electronic filing plan template, available on the web-based platform used by commissions/missions, which allows their staff to securely share information from different locations.

Example of file classification

A. ADMINISTRATION & MANAGEMENT

- A.1 Terms of reference
- A.2 Budget
- A.3 Travel
- A.4 Logistics
- A.5 Internal guidance & workplans
- A.6 Contacts
- A.7 Staff personal documents – confidential
- A.8 Correspondence – OUT
- A.9 Correspondence – IN
- A.10 Meetings
- A.11 Security briefings
- A.12 Press releases
- A.13 Internal reports

B. ESTABLISHMENT OF COMMISSION

- B.1 Resolution
- B.2 Concept of operations
- B.3 ToRs of secretariat staff
- B.4 History of discussion
- B.5 Correspondence with Human Rights Council President

C. REFERENCE MATERIALS AND METHODOLOGY

- C.1 General reference material
- C.2 Media monitoring reports
- C.3 NGO reports
- C.4 Methodological tools

D. INVESTIGATION & FIELD MISSIONS

- D.1 Investigation & mission plans
- D.2 Meetings
- D.3 Contacts
- D.4 Photographs
- D.5 Videos
- D.6 Missions

E. REPORTS

- E.1 Experts' reports
- E.2 Oral updates
- E.3 Working drafts of report – confidential
- E.4 Final report
- E.5 Annexes

2. REPORTS

A good information management system should be able to deliver a range of reports. Some of the predetermined reports that it should be able to produce are:

- Lists of victims, witnesses, sources (including sex and age)
- Lists of alleged perpetrators



Secretary-General's Panel of Experts on Accountability in Sri Lanka. UN Photo / Eskinder Debebe

- Lists of key events or themes
- Types of violations
- List of places of incidents.

A fully searchable database, together with the predetermined reports, assists in finding and analysing information, and in the drafting of reports.

3. HANDLING AND STORING SENSITIVE INFORMATION

The commission/mission should establish internal guidelines to preserve the confidentiality of sources of information and the security of information and shall ensure that all members and staff are aware of their responsibility to implement the measures. These may include the exclusive use of the database of the commission/mission to collect, document and store information while on field missions, the use of encrypted hard drives or USB keys, and password protection. While in the field, staff should enter collected information into the database at the first opportunity and try to ensure that the Internet connection used is safe. Staff and members should be advised to carry with them only the information that is essential to their tasks.

4. CLASSIFYING SENSITIVE INFORMATION

In order to ensure that sensitive information is handled appropriately, the commission/mission shall identify what information needs to be classified and at what level (i.e., “strictly confidential”, “confidential” or “unclassified”),⁶⁸ as guided by applicable United Nations rules. For example, interview reports are always classified as “strictly confidential”. All information from a public source remains unclassified.

5. CREATING RECORDS FOR ARCHIVING

To ensure that the information gathered by a commission/mission is preserved in full and in its integrity, it should be stored, according to United Nations rules and procedures, in both soft and hard copy, with classified and unclassified information clearly separate and the content of any folder easily identifiable.

Information shall be stored as follows:

- The web-based platform containing all administrative and substantive information, including scanned copies of hard documents received in the course of the

⁶⁸ According to United Nations rules, “unclassified” information refers to all information or material that can be disclosed without prior authorization; “confidential” information refers to information that will be declassified automatically after 20 years, although access to the information will be granted only upon request; and “strictly confidential” information is never automatically declassified. Information and records that are marked “strictly confidential” shall be reviewed item by item for possible declassification after 20 years and thereafter every 5 years.

commission's/mission's work and all photographs, videos and other digital information.

- An electronic information storage device including all information on the web-based platform, as well as all e-mails sent to or received from the commission/mission e-mail address, including an audit trail of who accessed what information when. This device shall eventually be handed over to the United Nations archives along with the paper collection.
- A paper collection of all information considered of archival value, printed out for eventual storage in the United Nations archives. This paper collection shall constitute the official records of the commission/mission and it is therefore critical that all relevant information should be printed out and filed. The paper collection must also include records of all interviews conducted; photographs considered key to the findings; all original documents; all official records of the commission/mission; e-mails sent from or received by the commission/mission e-mail address; and any administrative records of archival value.

On the completion of the work of the commission/mission, each staff member shall be responsible for managing the information he or she has gathered and produced. An archivist/data management officer or designated staff member shall oversee and advise on all issues pertaining to information management and storage with a view to ensuring, among other things, that all data are security-classified and that records of archival value have been created. The printed information and records and the electronic copies are stored at the United Nations Archives in Geneva or the United Nations Secretariat Archives in New York, as appropriate.

J. Protection of victims, witnesses, sources and other cooperating persons

OHCHR has developed operational guidelines for the protection of persons cooperating with commissions/missions, including victims, witnesses and other sources of information, as well as persons facilitating the commission's/mission's work in other ways, based on the experience and lessons drawn from previous commissions/missions. They are recommended for use by members and secretariat staff involved in collecting, handling and processing information before, during and after their activities.

1. GUIDING PRINCIPLES

- The protection of all persons cooperating with commissions/missions should be explicitly referred to in their mandates and/or terms of reference. If it is not, it should be regarded as an **integral part of the mandate** and the Chair of the commission/mission should clarify this issue in an early public statement.
- The **primary responsibility** for the protection of cooperating persons rests with the **Government of the State(s) concerned**. The commission/mission should seek guarantees in writing from the State(s) concerned that individuals wishing to meet the commission/mission shall have unhindered access to it, and that no such person shall, as a result of such contact, suffer any harassment, threats, acts of intimidation, ill-treatment or reprisals, or face any criminal prosecution or other judicial proceedings.
- **Respect for confidentiality is fundamental**. Any breach of confidentiality can have serious consequences for the person providing the information or for those implicated, for the credibility and safety of staff, for the confidence the commission/mission enjoys among the local population and for the effectiveness of its work. Confidentiality covers both the identity of persons cooperating with the commission/mission and the information they provide. The commission/mission should have a clear policy on confidentiality that is disseminated to members and all staff and, if necessary, shared with those it comes in contact with.
- In all circumstances and at all times, commissions/missions have an obligation not to jeopardize the life, safety, freedom and well-being of victims, witnesses and other cooperating persons (the **do no harm** principle). The best protection they can provide to cooperating persons is to be aware of the potential risks of harm and to exercise good judgement, caution and sensitivity in all interactions. The lack of care of members or staff or their negligent behaviour, along with a failure to understand the operational context, can put persons who come into contact with the commission/mission at risk of harm.
- The commission/mission should **never make promises that it cannot keep**. Members and staff need to be aware of what they can effectively do, and not do, to avoid putting cooperating persons at risk or to ensure their protection. Upon establishing contact and before proceeding with the gathering of information, investigators have to inform victims, witnesses and other cooperating persons of the limitations of the commission/mission in guaranteeing their protection.
- The commission/mission must follow a **participatory approach** to protection by taking into account, whenever possible, the knowledge and views of cooperating persons and by involving them in the risk and threat assessment and the choice of measures to be taken to ensure their safety.

- The commission/mission needs to know and understand the local, regional and national context of the country in which they operate, because **protection is context-based and context-specific**. There is neither a blueprint nor a single correct approach to dealing with protection concerns or to improving the safety of victims, witnesses and other cooperating persons. The appropriate protection strategy will depend on the political and security environments, the commitment of the national authorities, the national witness protection framework, and the capacity and resources of the United Nations presence in the country, among other contextual factors.

2. SECURITY RISK ASSESSMENT

A thorough analysis and assessment of the security conditions in which the investigations will take place should take into account the security of the commission/mission, its staff, the persons cooperating with it, the proceedings, equipment and information. The commission's/mission's decisions on protecting cooperating persons will depend on the nature and extent of the risks involved based on a comprehensive security assessment, including, where appropriate:

- **Assessing the past action** of the Government and opposition groups in the country or countries to be visited with regard to persons who have testified about human rights violations, in particular any attempts to silence witnesses and informants. Information will include detention, imprisonment, prosecution, harassment or intimidation of any person for testifying or denouncing human rights violations.
- **Deploying a team** of security and human rights staff to the field **ahead of missions** to establish preliminary contacts, identify victims, witnesses and other important sources of information, and examine the general security conditions. The team should assess protection options and the extent to which the commission/mission may seek the cooperation of persons without jeopardizing their safety, and put in place safety arrangements for high-risk cases. The advance team should be careful not to draw unwarranted attention to victims, witnesses and other sources.
- Gathering information about existing **witness protection programmes** operated by the national police or any other national security agencies; the effectiveness and integrity of any such programmes, means or mechanisms should be carefully analysed.
- Inquiring about the protection of sources and the **security conditions** with persons with recognized experience or expertise in the country, such as civil society organizations, human rights activists and staff of international organizations, United Nations staff and academics.
- **Consulting international experts** from international tribunals specialized in the protection of witnesses for advice and guidance. In some exceptional situations the

commission/mission may also explore potential options for the granting of asylum to witnesses, victims and their families and their possible relocation to countries in the region or other countries.

If the analysis of the security conditions in the country in which the inquiry will take place indicates that the investigation will substantially jeopardize the safety of sources, the commission/mission should:

- (i) Revisit the use of protection measures and the methodology of its investigation to see if this might be sufficient to ensure the safety of sources;
- (ii) Consider whether it can gather adequate information in other locations and from other sources where there are fewer protection concerns; or
- (iii) Consider whether the field mission as a whole should be pursued or cancelled, in which case it should make a clear public statement about the source of the threats.

3. PREVENTIVE MEASURES

Prevention is key in the protection of persons cooperating with the commission/mission. It involves respecting fundamental principles and methods of work which enable investigations to be conducted in a manner that does not jeopardize the safety of those who come in contact with the commission/mission. Preventive measures should be taken throughout the investigation but in particular when gathering information, during which cooperating persons may be most exposed to risk.

(a) Planning

The risk assessment is part of the planning process and will inform investigators of the potential risks faced by persons with whom they may come into contact and the preventive measures they could take. Investigators are required to consider a range of issues when making contact with victims, witnesses and sources and interviewing them.

Some of these issues are:

- Who is the person to be interviewed? Is this interview a priority?
- How will the investigator make contact with the interviewee? Directly or through an intermediary?
- Where will the interview take place? Does it allow for confidentiality?

(b) Prioritizing among contacts

Investigators should prioritize victims, witnesses or sources who are able to provide relevant information, are accessible, and are least vulnerable to risk of harm as a result of their interaction with the commission/mission. If the risk of harm is too high,

investigators should consider whether the information the person is likely to provide could be obtained elsewhere or through means that do not require a meeting in person.

(c) Initial contact

When making initial contact, it is thus essential for investigators to assess the conditions in which contact can take place without risk. The focus should be on protecting the identity of cooperating persons and ensuring that it is not widely known that they have been in contact with the commission/mission. Investigators can contact victims, witnesses or sources directly or through an intermediary, such as a trusted person in the community (e.g., tribal or religious leader) or a civil society organization.

(d) Visibility or discretion

Investigators usually choose discretion as the standard approach to protection and make all efforts to draw the least possible attention to the persons they are meeting. It is of paramount importance to protect the identity of the persons and to take all measures to avoid exposing them and the contact with investigators to those who pose a threat.

In some situations visibility may be the better option and may afford the cooperating person a measure of protection. However, should investigators opt for visibility, they must first discuss this with the victims, witnesses or sources concerned and obtain their views on the suitability of this approach, and their informed consent.

(e) Minimizing exposure

It is very challenging for members and investigators to go unnoticed when travelling in United Nations or other identifiable official vehicles and accompanied by security personnel in an area where foreigners or vehicles are rare. Investigators should adopt measures, without undermining their own security, to reduce the exposure of the community and the persons they will be meeting. For example, the investigator could arrange for a trusted intermediary to make contact with the person and to accompany the interviewee to a prearranged private venue and the investigator could enter and leave the venue separately from the interviewee.

(f) Organizing and conducting interviews

An investigator could take a range of preventive measures when organizing and conducting interviews, including:

- Selecting a venue that protects the identity of the interviewee, ensures his or her safety and guarantees the confidentiality of the information provided. In some instances, it may be preferable to conduct the interviews on United Nations premises. In other instances, a hotel room may be the preferred option;

- Ensuring that the interview cannot be overheard by others and that curious people are not observing the interview;
- Not mentioning during the interview the names of other persons who have been interviewed or explicitly referring to information they have provided.

When concluding the interview, it is essential for the investigator to:

- Obtain informed consent on the use and sharing of the information provided;⁶⁹ the type of consent given by the interviewee should be clearly stated on the interview report;
- Discuss with the interviewee what preventive or protective measures he or she may take to avoid any reprisals as a result of the interaction with the investigator;
- Clearly inform the interviewee of the limitations of the commission/mission in providing protection if he or she faces threats or is subjected to reprisals;
- Provide the interviewee with useful contacts in the community that could offer different types of assistance (e.g., protection networks) and/or of local authorities, if these can be trusted, and/or of the local United Nations office, if it has agreed to assist;
- Provide the interviewee with a local mobile phone number to make contact for the duration of the commission's/mission's presence in the country, and contacts outside the country as well.

4. PROTECTION OF INFORMATION

The protection of information is closely related to the protection of cooperating persons. **Secure information management systems**, with controlled access, should be set up to store, manage and protect confidential and sensitive information. Only staff who require access to such information for their work should be authorized to do so. Commissions/missions usually use the database provided by OHCHR to register and safely store information, documents, photographs and video material.

Investigators should consider which of the methods (notebooks, computers, cameras, audio and video recorders) can ensure the highest level of security given the overall context in which the investigation is taking place. As it is often most convenient for investigators to use notebooks to record information, they should ensure that the identity and the personal details of interviewees are protected and kept separately from the interview report.

Cameras and audio or video recorders may be used only with the express consent of the interviewee, and in situations where they do not present additional security concerns, especially as interviewees may be identified from images or their voices. Extra care is needed to protect information recorded on such devices and investigators should avoid capturing images of the face of an interviewee.

⁶⁹ The standard database developed by OHCHR for use by commissions/missions includes options for consent by interviewees.

The security of information may be breached because of improper storage and careless handling. All confidential and sensitive information should be securely stored on the commission's/mission's database. When hard copies of documents and information need to be kept, these should be stored in lockable filing cabinets and access restricted to staff who need to use them. When information is transferred from notebooks to the database, the notebooks should be kept securely locked until the commission/mission is disbanded. Any information stored on the hard drive of a computer should be encrypted and protected by an additional password.

Information that is not needed by the commission/mission during its tenure (for example, documents that have been scanned and uploaded to the database) or at the end of its mandate should be shredded. Under no circumstances should notes or documents be discarded in waste or recycling bins.

Confidential and sensitive information needs to be handled with care at all times, including when circulated among the staff or shared with members. Internal reports or briefing notes should conceal or delete any information that could lead to the identification of the sources. Care should be taken during telephone calls among staff



A United Nations human rights team talks to victims' families in Côte d'Ivoire. UN Photo / Basile Zoma

or with members, including by being aware of possible tapping, as well as avoiding exchanging confidential or sensitive information over mobile phones or insecure means.

Investigators need to consider how the information they have gathered can be **securely transported** when they are on field missions. When possible, they should transmit confidential information via a secure Internet connection to Geneva (or other relevant HQ) and not carry it with them. Investigators should avoid using public or hotel Internet facilities to transmit sensitive and confidential data. Usually, United Nations vehicles and staff cannot be searched, but it may happen, and investigators need to plan possible action to protect information when faced with such situations. Investigators should not peruse confidential and sensitive information in public places, such as in a restaurant or at an airport, as it could be read by others or inadvertently left behind.

5. RESPONDING TO ALLEGATIONS OF THREATS OR REPRISALS

The protection of persons or groups subject to reprisals or facing threats of reprisals should be of the utmost concern to the commission/mission. Information on risks or threats against cooperating persons must be thoroughly assessed. It is therefore important to follow a thorough methodology to gather and verify information regarding allegations of threats or reprisals and, based on that analysis, determine which protective measures should be taken.

In close consultation with the person at risk, a protection response should include:

- Verifying the facts surrounding the allegation of a threat or reprisal;
- Assessing if immediate protective action is required given the nature and seriousness of the threat, the vulnerability of the person at risk and his or her capacity for protection;
- Mapping the protective measures that may be available to the person at risk;
- Identifying the best course of action given the specific circumstances of the case (e.g., family situation of the person at risk, his or her educational and professional background, mobility);
- Determining how measures will be put in practice;
- Working closely with the person at risk and relevant partners in their implementation, regular review and follow-up;
- Closing a protection case when it is deemed that the threat no longer exists or the risk has been minimized to an acceptable level.

Protective measures by the commission/mission could include:

- Advocacy and engagement with the national authorities, stressing their human rights obligations, including their duty to protect those at risk and to prosecute offenders;

- Increasing the political and social costs to the source of the threat through, for instance, public advocacy in partnership with national and international networks;
- Strengthening the cooperating person's capacity for self-protection;
- Seeking the support of the mandating authority and of relevant partners and international mechanisms, such as international NGOs, diplomatic missions, United Nations agencies, missions or special procedures;
- Mobilizing efforts to directly or indirectly provide physical protection to the person at risk, including through relocation;
- Limiting the capacity of the source of the threat to carry out an attack by addressing factors that make the person vulnerable;
- Intervening to influence or affect the behaviour/attitude of the source of the threat;
- Requesting an influential person, for example, a religious, community, political or civil society leader, to intervene with the source of the threat.

In consultation with the person at risk, the commission/mission should devise a protection strategy that maps appropriate protective options and defines a course of action with measures that should be taken in parallel and those that should follow a sequence.

Following completion of the work, the mandating body should keep under review the situation of persons who have cooperated with the commission/mission, and who could be subject to reprisals for this reason, or other risks.

K. Public information and the media

The public, especially in the countries concerned, has a legitimate interest in being informed of the commission/mission and its work. It is also in the interest of the commission/mission to make information available on its existence, its mandate, its methods of work and especially how it can be contacted by people wishing to submit information. The commission/mission will have to determine its public information and media strategy at the start of its work, specifying to what extent it will be public about its work. In some cases it might be useful to adopt a low-key position, while others will call for a more public stance.

1. WHO DEALS WITH PUBLIC INFORMATION AND THE MEDIA?

Depending on the context, information on the commission/mission may be provided to the public and the media by: the members themselves (within the framework of their rules of procedure or agreed methods of work); the coordinator of the secretariat; or the body

that established the commission/mission (e.g., the President of the Security Council or the Secretary-General). As mentioned above, it is important that the secretariat of high-profile commissions/missions that are likely to attract considerable media attention should include a professional media officer.

The commission's/mission's approach to public information and media should be agreed early on, preferably at its first meeting, including whether one member would be designated as its spokesperson or whether public speaking would be a shared responsibility; and how to agree on public statements made by any member.

2. BEFORE THE COMMISSION BEGINS WORK

As soon as a mandate for the establishment of a commission/mission is created, the media may demand information or public statements about the mandate and its implications. Even though the members have not yet been named, the mandating body may need to release brief details on the mandate and projections of when the commission/mission may begin work. These statements should ideally draw upon the language used in the mandate. The statements could be made by the President/Chair of the mandating authority or by relevant spokespersons in the context of press briefings.

A press release is usually issued by the mandating authority to announce the news of the appointment of the members and the beginning of the commission's/mission's work (or the agreed starting date).

3. AT THE BEGINNING OF THE COMMISSION'S WORK

As soon as it begins work, the commission/mission should publish information about its mandate, its terms of reference and its composition, its agreed methods of work, its schedule, if available and appropriate, and on how to contact it or submit information to it. It should also communicate protection of information and confidentiality provisions, and any guarantees provided by the State concerned and others to refrain from interfering with the inquiry and the persons cooperating with it.

Information should be short, simple and clear and ideally published as early as possible. It should be translated into local language(s) and distributed as widely as possible through the international and national media, United Nations agencies, NGOs and the State authorities concerned, and certainly before the commission/mission embarks on a field visit. This information should also be posted on the commission/mission website in all relevant languages.



Commissions/missions may make use of the OHCHR website to publicly disseminate information. For example, it has become regular practice for commissions/missions set up by the Human Rights Council to establish a web page on the Human Rights Council's section of the OHCHR website to post contact information, press releases and interim reports.

4. DURING THE MANDATE

(a) Public information targeted at victims and potential witnesses

It is good practice to have a one-page leaflet for distribution to all potential sources of information that may wish to cooperate with the commission/mission. Leaflets can be distributed directly by the commission/mission or its secretariat, and/or indirectly through United Nations offices in the country concerned and national civil society organizations. The primary purpose of the leaflet is to ensure that individuals/groups in the country where the inquiry will take place are aware of the mandate of the commission/mission and know how to contact it. The leaflet will have to be translated into local languages.

(b) Engagement with the media

The engagement by commissions/missions with the media during their investigations has varied. Some have chosen to maintain a general media silence; others have provided periodic public updates in the form of press releases or press conferences on their travel and meetings, but without addressing the substance of their findings and conclusions before their work was finalized; yet others, such as the Commission

of Inquiry on the Syrian Arab Republic (2011-2014), have had more substantive engagements with the media in the form of regular press releases and press conferences, with question-and-answer sessions and interviews with journalists.

The general practice has been for a commission/mission to issue a press release and/or organize a press conference at the end of its field visits when it completes its investigation. If more than one field visit is undertaken, the commission/mission may issue a press release at the end of each. The commission/mission may also announce its arrival in the country to alert potential witnesses and civil society organizations.

The screenshot shows the official website of the United Nations Human Rights Office of the High Commissioner for Human Rights. The header features the UN logo and the text 'United Nations Human Rights Office of the High Commissioner for Human Rights'. Below the header is a navigation menu with links such as 'Home', 'Your human rights', 'Countries', 'Human rights bodies', 'News and events', 'Human rights - New York', 'Publications and resources', and 'About us'. A search bar is located on the right side of the header.

The main content area is titled 'Independent International Commission of Inquiry on the Syrian Arab Republic'. It includes a map of Syria and a text box stating: 'The Independent International Commission of Inquiry on the Syrian Arab Republic was established on 22 August 2011 by the Human Rights Council through resolution S-17/1 adopted at its 17th special session with a mandate to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic. The Commission was also tasked 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. Read more... For any query, please write to: coisyrria@ohchr.org

The page is organized into several sections:

- In this section:** HRC home, About the HRC, Sessions, Documents and Resolutions, Membership, Presidency and Bureau, Universal Periodic Review, Advisory Committee, Complaint Procedure, Other Subsidiary Bodies, [Commission of Inquiry on Syria](#), Special Procedures (Human Rights Experts), NGOs and NHRIs information.
- Media:** Live Webcast and Archived Webcasts, Webcast, News and Media.
- Related links:** UN home page, General Assembly, HRC Extranet, UPR Extranet.
- DOCUMENTATION:**
 - Report of Commission of Inquiry on Syria - A/HRC/23/58, 4 June 2013 - English | Arabic (**Advance Unedited Version**), Media Advisory: English | Arabic
 - Resolution adopted at HRC 22nd regular session (Extends CoI mandate) [41 in favour, 1 against, 5 abstentions] 22 March 2013 - A/HRC/RES/22/24, E F S A C R
 - Report of Commission of Inquiry on Syria - A/HRC/22/59, 5 February 2013 - English | Arabic | Spanish, Corrigendum - English | Arabic only, Press release: E A F S R C
 - Audio of press conference - 18 February 2013 (🔊)
 - Oral Update of the Commission of Inquiry on the Syrian Arab Republic (covering period 15 January - 3 March 2013), 11 March 2013, E A
 - Periodic Update from the Commission (covering period 28 September to 16 December 2012), 20 December 2012, E A
- STATEMENTS:**
 - Statement by Paulo Sérgio Pinheiro, Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic, at the HRC 22nd regular session, Geneva, 11 March 2013
 - Statement by Paulo Sérgio Pinheiro, Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic, at the HRC 21st regular session, Geneva, 17 September 2012
 - Statement by Paulo Sérgio Pinheiro, Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic, at the HRC 20th regular session, Geneva, 27 June 2012
- PRESS RELEASES:**
 - Press release from the Commission of Inquiry on Syria (chemical weapons) - 6 May 2013, English Arabic French
 - UN Commission of Inquiry releases update on Syria - 11 March 2013

Source: www.ohchr.org.

Whatever the approach chosen, it is important that the commission/mission discusses this early on and decides on a media strategy, and does not simply react to events and media pressure.

Factors that should be taken into consideration in **deciding a public information and media strategy** include:

- Ensuring the public, the States concerned and other States are adequately informed of the commission's/mission's work.
- Avoiding any perception that the commission/mission has already reached its conclusions before gathering and analysing the full range of information.
- Countering any misinformation in the media about the commission/mission and/or members which may have an impact on its ability to fulfil its mandate effectively.
- Determining whether a statement by the commission/mission could have a positive or negative impact on a rapidly evolving human rights situation in which additional serious violations may occur.
- Responding to key events or developments that could have an impact on the commission's/mission's work or the situation in the country concerned.

The commission's/mission's lifespan, whether short or longer, may have a major impact on how the above criteria are interpreted. In addition, the stature, prominence or high profile of any member of the commission/mission may affect the extent and frequency of engagement with the media.

5. AT THE END OF THE COMMISSION'S WORK

The modalities of the public release of the report have to be considered in connection with the specific mandate and the mandating authority. In some situations, it may be appropriate, or even required, to release the report or an advance copy of it prior to the formal presentation to the mandating authority. For example, reports presented to the Human Rights Council are usually published ahead of their actual formal presentation. The media strategy must then take into account that the report will be in the public domain before its official presentation by the commission/mission.

A commission/mission normally presents its report at a **formal meeting of the mandating authority**. It will usually arrange a press conference immediately afterwards, make a public statement and answer questions from the media. Members may also accede to requests for interviews to give additional publicity to their findings and recommendations.

A **summary** of the commission's/mission's findings and key facts about its work may be useful for distribution to the media, together with a press statement, especially for



Members of the International Commission of Inquiry on the Central African Republic speak to the press after a field mission. UN Photo / Jean-Marc Ferré

commissions/missions with mandates of longer duration and sizeable reports. Summaries can also be more easily translated.

If the mandate is silent regarding the publication of the report, the mandating authority will have to decide on the modalities of its public release.

6. AFTER THE COMMISSION HAS ENDED ITS WORK

With the submission of the final report to the mandating authority, the work of the commission/mission ends. Members may sometimes make comments to the media in their capacity as “ex-members”. Ideally, any substantive points made in such circumstances should be agreed with all the former members beforehand. Statements made after the mandate has ended should make it clear that the former members make them in an individual, rather than official, capacity. However, in accordance with the undertaking on confidentiality made as part of the declaration upon appointment (see Declaration by members, above), members shall not publicly disclose any confidential information after their mandate has ended, including about the deliberations of the commission/mission.

REPORT AND RECOMMENDATIONS



Paulo Pinheiro, Chair of the Independent Commission of Inquiry on the Syrian Arab Republic, discusses the Commission's findings with the press in Geneva, Switzerland. UN Photo / Jean-Marc Ferré

A. Report

The final report marks the conclusion of a commission's/mission's investigations and is the most visible outcome of its work.⁷⁰ However, it is how the report, including its recommendations, is used that is most important. Such reports can have far-reaching consequences, as explained in chapter VI.

The mandating authority usually sets the deadline for the report's submission and presentation. Within the confines of their mandate, commissions/missions are generally free to decide how to structure and draft their reports. Nevertheless, a few established practices from previous experience regarding process and structure may prove helpful.

With regard to the actual drafting, it is useful to agree at an early stage how the members and the secretariat envisage it to proceed; who will be responsible for drafting different sections; how the drafting will be coordinated, including by collating the different sections, ensuring consistency in language and tone and harmonization; how any disagreement among members will be resolved; and how the report will be finally reviewed and adopted.

1. STRUCTURE AND CONTENT

The structure and preliminary outline of the report should be considered and agreed upon by the members as early as possible. Some reports are organized by alleged perpetrator, by region in which alleged violations were committed, according to the applicable international law, according to types of violations, or according to the commission's/mission's specific objectives as defined by its mandate.

Reports should include as a minimum the following information:

- Executive summary;
- Overview and explanation of the mandate and how the commission/mission interpreted it;
- Terms of reference;
- Methodology;
- Composition of the commission/mission;
- Cooperation (or lack thereof) received from the State or other actors object of the inquiry, including any positive measure taken by them to facilitate the work

⁷⁰ Some commissions have been requested to present interim reports. For example, when its mandate was extended at the twenty-second session of the Human Rights Council, the Commission of Inquiry on the Syrian Arab Republic (2011) was required "to present a written report on the situation of human rights in the Syrian Arab Republic during an interactive dialogue at the twenty-third, twenty-fourth and twenty-fifth sessions of the Council" (resolution 22/24 of 22 March 2013, para. 28).

of the commission/mission, as well as how its work may have been hindered or obstructed owing to non-cooperation or other reasons;

- Protection concerns, if any, with regard to sources, victims, witnesses and other persons cooperating with the commission/mission, and any action taken by the commission/mission and the relevant State/authorities to address them;
- Context/background, setting out relevant history, political developments, social and economic data and dynamics;
- Analysis of the applicable law and relevant legal obligations of the State concerned and any non-State actors;
- Findings:
 - The facts as alleged and established;
 - An assessment of the allegations against the information collected;
 - Analysis of the facts against the relevant international law, including conclusions about the existence of violations of international human rights and humanitarian law or criminal law, and attribution of responsibility;
- Conclusions and recommendations.

Maps, photographs and graphs are useful and encouraged wherever possible to clarify and reinforce the presentation of facts.

As mentioned in chapter II, lists of names of alleged perpetrators are usually provided in **sealed envelopes** to the Secretary-General or to the High Commissioner for Human Rights.

Annexes vary depending on the mandate, content and structure of the report and present additional information that is not confidential, such as:

- Timeline of events;
- Maps;
- An analysis of satellite images;
- Copies of correspondence with the State/actors concerned;
- Details of places visited;
- List of institutions or persons met (where there are no protection concerns);
- A bibliography.

Report of the International Commission of Inquiry on Libya (A/HRC/19/CRP.1)

Contents

Acronyms and abbreviations

- I. Introduction
 - A. Mandate and methods of work
 - B. Challenges faced by the Commission
 - C. Cooperation and acknowledgements
 - D. Applicable law
 - II. Background
 - A. Legacy of the Qadhafi Government
 - B. Gains made by the interim Government
 - C. Military forces and structures
 - D. Timeline of events
 - III. The Commission's findings
 - A. Excessive use of force
 - B. Unlawful killing
 - C. Arbitrary detentions and enforced disappearances
 - D. Torture and other forms of ill-treatment
 - E. Targeted communities
 - F. Sexual violence
 - G. Attacks on civilians, civilian objects, protected persons and objects
 - H. North Atlantic Treaty Organization (NATO)
 - I. Prohibited weapons
 - J. Use of mercenaries
 - K. Child soldiers
 - L. Pillaging
 - IV. Accountability
 - V. Assessment and findings
 - VI. Recommendations
- Annexes
- I. Correspondence from NATO to the International Commission of Inquiry on Libya
 - II. Map of Libya
 - III. UNOSAT imagery analysis
 - IV. Glossary of weapons used in Libya

If the **Government** has provided **responses** to allegations presented to it during meetings or through correspondence, the commission/mission should decide how best to reflect these in the report. Usually the responses are integrated into the different sections of the report to which they pertain. In some instances, as mentioned above, written correspondence from the State concerned has been annexed to the report.

Most United Nations reports have a limit of 10,700 words, a rule adopted for budgetary considerations and to ensure that United Nations translators have a manageable workload. However, it is often very challenging to present the findings, conclusions and recommendations of investigations over many months in so few words. Commissions/missions have recently adopted the practice of attaching annexes to their report to amplify or substantiate the contents. For example, the main report of the Independent International Commission of Inquiry on the Syrian Arab Republic (A/HRC/22/59) consisted of 26 pages and its 16 annexes had 105 pages. While this enables the commission's/mission's findings to be more comprehensively reported, in such cases only the main report will usually be translated into the other United Nations languages.

Some commissions/missions have arranged for unofficial translations of their report into the main language of the country concerned (for example, Arabic or Tetum) for distribution within the country at the time of its release or at a later stage, a practice that is strongly encouraged to allow for greater dissemination of these findings and assessment among the people who are most directly concerned.

2. RELEASE OF THE REPORT

Reports of commissions/missions should generally be **public**. The public nature of these reports is important for them to contribute to the historical recording of events, strengthen the calls for accountability and promote implementation of the recommendations.

As stated above, the report is usually published a week to two months before its formal consideration by the mandating body.

Practice related to sharing advance copies of the report with the parties concerned has also varied. Commissions/missions have often provided the State concerned with a copy a few days prior to its release. This is to allow it to prepare for the release and subsequent discussions during the report's presentation. In other cases, advance copies have not been shared with the State concerned, especially if it has not cooperated or owing to very tight deadlines for the finalization of the inquiry and the report. In a few instances, unedited reports have been transmitted to the State and other parties concerned (e.g., armed opposition groups) with a request for comments within a specific

time. In such cases, the commission/mission has to ensure that responses are received with sufficient time to allow it to finalize its report within the deadline set by its mandate.

In a few instances, the reports have been formally **submitted to bodies other than the mandating authority**, including other intergovernmental bodies, national bodies or regional organizations. This has occurred, for example, when the mandate itself so specified, such as with the report on East Timor (1999), which was submitted to the Security Council, the General Assembly and the Commission on Human Rights as specified by the Commission on Human Rights; or when the Secretary-General mandated commissions/missions and then referred their reports to the Security Council, as was the case with the report of the Investigative Team for the Democratic Republic of the Congo (1997) and that on Guinea (2009); or when commissions/missions have recommended that their report should be formally transmitted to other bodies.

Some reports have been formally submitted to national bodies, for example, the report on Timor-Leste (2006) was submitted to the Timorese National Parliament and that on Guinea (2009) to the Head of State of Guinea, the African Union and the Economic Community of West African States.

Reports should be used by all relevant bodies and in all relevant contexts, e.g., where they can provide information to help shape international responses, for example, by the Security Council, or have recommendations which should be considered by those bodies.

3. PRESENTATION OF THE REPORT

Commissions/missions mandated by the Human Rights Council are requested to present their reports orally to the Council at the relevant session, followed by an interactive dialogue with States. During this dialogue, States may take different positions on the commission's/mission's work: expressing support, taking issue or raising questions about its methodology or findings, supporting or questioning its recommendations. Commissions/missions mandated by the Security Council have presented their reports and findings either directly or through the High Commissioner for Human Rights. As stated previously, it is also established practice that members of commissions/missions hold a press conference on the occasion of the presentation of the report.

B. Recommendations

The recommendations contained in a commission/mission report should be carefully worded, taking into consideration the mandate, the human rights situation, the actors to whom they are addressed, their relevance to effect the necessary changes to improve the human rights situation, and other issues, such as available resources and feasibility of implementation.

(a) Addressees

Any recommendation put forward must clearly identify the addressee expected to implement the recommendation. Commissions/missions exercise their independent judgement in addressing recommendations to the entities that they consider can most effectively tackle the human rights problems identified. Recommendations are most commonly addressed to the United Nations mandating authority, the authorities of the State concerned, non-State actors in that State, the Security Council or the General Assembly (when not themselves the mandating authority), relevant third States, OHCHR and the United Nations Secretariat or United Nations specialized agencies, programmes and funds. Sometimes recommendations are also addressed to other international and regional organizations, such as the International Criminal Court, the African Union, the European Union or NGOs.

(b) Content

Recommendations should be action-oriented and contribute to positive changes in the human rights situation including through accountability for crimes that may have been committed, remedies and reparations for victims, changes in law, policies and practice. Any gender-specific aspect of the findings and conclusions should be explicitly addressed in the recommendations as well. A commission/mission may also address in its report the protection, after the end of its mandate, of those who provided it with information.

(c) Consultation

While commissions/missions are not obliged to consult those to whom they address their recommendations, it can sometimes be useful to do so. Consultation on what may be practicable and feasible, while preserving the independence of the commission/mission, can ultimately strengthen the recommendations.

Most recommendations can be grouped into the following categories:

- (i) **Cease and desist** recommendations to the State or other party calling for an immediate halt to violations – for example, the Inquiry Commission on the occupied Palestinian territories (2000) recommended, among other things, that: “Immediate and effective measures need to be taken to prevent the destruction of property in the occupied

territories, including the demolition of houses, the cutting down of fruit and other trees, and the destruction of farms and standing crops by the use of bulldozers and other means”.⁷¹ In its first report on the Syrian Arab Republic (2011-2014), the Commission of Inquiry recommended that the Syrian Government: “Release immediately all persons arbitrarily detained and provide international monitoring bodies and the International Committee of the Red Cross with access to all places of detention”.⁷² The Commission of Inquiry on the Democratic People’s Republic of Korea recommended that the Government “dismantle all political prison camps and release all political prisoners” and “end discrimination against citizens on the basis of their perceived political loyalty or the sociopolitical background of their families, including in matters of access to education and employment”.⁷³

- (ii) **Investigation, prosecution and accountability**-related recommendations (directed to national or international bodies) – for example, in Rwanda (1994), the recommendations included that “the jurisdiction of the International Criminal Tribunal for the former Yugoslavia be expanded to cover international crimes committed in Rwanda”.⁷⁴ The Commission of Inquiry on Darfur (2004) recommended that the Security Council refer the situation in Darfur to the International Criminal Court.⁷⁵ In Gaza (2009), the Mission recommended to the Palestinian Authority to “ensure prompt and independent investigation of all allegations of serious human rights violations by security forces under its control, and end resort to military justice to deal with cases involving civilians”.⁷⁶ It also recommended that “States parties to the Geneva Conventions of 1949 should start criminal investigations in national courts, using universal jurisdiction, where there is sufficient evidence of the commission of grave breaches of the Geneva Conventions”.⁷⁷ The Commission of Inquiry for Timor-Leste (2006) recommended that relevant prosecutions should take place within the domestic judicial system.⁷⁸
- (iii) **Reparations**-related recommendations, most of which call for the national authorities to provide reparations. For example, the report on Libya (2011) made a specific recommendation related to victims of sexual violence: “to establish appropriate gender-sensitive psychological, medical, legal and social support services throughout

⁷¹ “Report of the human rights inquiry commission established pursuant to Commission resolution S-5/1 of 19 October 2000” (E/CN.4/2001/121), para. 122.

⁷² “Report of the independent international commission of inquiry on the Syrian Arab Republic” (A/HRC/S-17/2/Add.1), para. 112 (e).

⁷³ A/HRC/25/63, para. 89 (b) and (h).

⁷⁴ Preliminary report of the Independent Commission of Experts established in accordance with Security Council resolution 935 (1994) (S/1994/1125), para. 142.

⁷⁵ S/2005/60, para. 647.

⁷⁶ A/HRC/12/48, para. 1974 (a).

⁷⁷ *Ibid.*, para. 1975 (a).

⁷⁸ S/2006/822, para. 230.

the country; to recruit and train female investigators, and to encourage and support the establishment of civil society organizations to provide victims of sexual violence with support”.⁷⁹ In some instances, the commission/mission recommended the establishment of an international reparation mechanism, for example, for Gaza (2009), the Mission called on the General Assembly to “establish an escrow fund to be used to pay adequate compensation to Palestinians who have suffered loss and damage as a result of unlawful acts attributable to Israel during the December-January military operation and actions in connection with it, and that the Government of Israel should pay the required amounts into such fund.”⁸⁰ The Commission on Darfur (2004) called for the establishment by the Security Council of an international compensation commission.⁸¹

- (iv) **Witness protection**-related recommendations generally calling upon the State concerned to ensure the protection of witnesses who cooperated with the commission/mission. For example, in Guinea (2009), the Commission called on the Government to “fulfil its obligations in this area [witness protection] and the commitments it has given to victims and witnesses, in particular those who have cooperated with the Commission, taking due account of gender specificities”. It also recommended to other States “to provide refuge in accordance with the provisions of international law governing asylum to all victims or witnesses who may be in danger”.⁸²
- (v) **Institutional or legal reform** – several commissions/missions have recommended institutional or legal reforms, in particular in regard to the security sector or the judiciary. For example, the Commission on Côte d’Ivoire (2011) recommended to the Government: “As part of the reform of its security institutions, ensure that the persons responsible for violations are not integrated into the national army or into any other security force and that a professional army that respects human rights is swiftly established”.⁸³ The Commission for Timor-Leste (2006) recommended “the establishment of robust and independent police and military oversight mechanisms [...] responsible for investigating complaints of police and military conduct”.⁸⁴
- (vi) **Initiatives of the Human Rights Council** – commissions/missions have addressed specific recommendations to the Human Rights Council to take initiatives usually to continue monitoring the situation or to ensure follow-up and implementation of recommendations to others. For example, in Togo (2000) the Commission

⁷⁹ A/HRC/19/68, para. 127 (j).

⁸⁰ A/HRC/12/48, para. 1971 (b).

⁸¹ S/2005/60, para. 649.

⁸² S/2009/693, para. 281 (a)-(b).

⁸³ “Report of the International Commission of Inquiry on Côte d’Ivoire” (A/HRC/17/48), para. 127 (d).

⁸⁴ S/2006/822, para. 229.

recommended “the appointment of a special rapporteur on the situation of human rights in Togo. The Commission is convinced that the creation of such a mandate would allow for the development of closer cooperation between the Commission on Human Rights and the Togolese authorities and Togolese civil society with a view to better protection of human rights in Togo.”⁸⁵ In Sri Lanka (2010) the Panel called on the Human Rights Council “to reconsider its May 2009 Special Session Resolution (A/HRC/S-11/L.1/Rev.2) regarding Sri Lanka, in light of this report”.⁸⁶ The Mission to Beit Hanoun (2006) recommended to the Human Rights Council the establishment of a mechanism to provide “independent monitoring and assessment of the human rights situation of civilians in conflict in the occupied territory of Gaza and neighbouring Israel” and to report “publicly with a view to promoting accountability and – ultimately – greater compliance with international human rights and humanitarian law”.⁸⁷



Philippe Kirsch, a member of the International Commission of Inquiry on Libya, presents its report at the eighteenth session of the Human Rights Council.

UN Photo / Jean-Marc Ferré

(vii) **Initiatives of the Security Council** – some recommendations by commissions/missions have been addressed to the Security Council. For example, the Commission on Darfur (2004), which was established by the Security Council, recommended that “the Security Council refer the situation in Darfur to the International Criminal

⁸⁵ Report of the International Commission of Inquiry for Togo (E/CN.4/2001/134), para. 74.

⁸⁶ “Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka”, p. 122.

⁸⁷ “Report of the High-Level Fact-Finding Mission to Beit Hanoun established under resolution S-3/1” (A/HRC/5/20), para. 22 (a)-(b).

Court pursuant to article 13 (b) of its Statute”.⁸⁸ Regarding Côte d’Ivoire (2004), the Commission requested the Security Council to expand the mandate of the United Nations mission in the country “to ensure the protection of witnesses to the indiscriminate killings of 25 March, especially those individuals and groups that provided confidentially valuable information to the Commission”.⁸⁹ The Commission of Inquiry on the Democratic People’s Republic of Korea (2013), in addition to recommending that the Security Council should refer the situation to the International Criminal Court for action in accordance with that Court’s jurisdiction, recommended that the “Security Council should also adopt targeted sanctions against those who appear to be most responsible for crimes against humanity”.⁹⁰

(viii) **Recommendations for OHCHR and other United Nations entities** – commissions/missions often recommend that the role of OHCHR in monitoring the human rights situation be strengthened. For example, in the Democratic Republic of the Congo (1997), the Investigative Team recommended that: “The Office of the High Commissioner for Human Rights should strengthen its country Field Office and set up provincial branches of it”.⁹¹ The Commission on the Democratic People’s Republic of Korea recommended that “the United Nations High Commissioner for Human Rights, with full support from the Human Rights Council and the General Assembly, should establish a structure to help to ensure accountability for human rights violations in the Democratic People’s Republic of Korea, in particular where such violations amount to crimes against humanity.”⁹² Recommendations have also been addressed to United Nations missions. For example, the Commission on Libya (2011) recommended to the United Nations Support Mission in Libya “to monitor the implementation of the recommendations made by the Commission in the present report; to provide the Government of Libya with technical assistance in meeting its international human rights law obligations, particularly those where shortcomings have been noted in the present report; to work with the interim Government on capacity-building programmes for courts, prisons, police, prosecutors and defence lawyers, and to coordinate the support of the international community for such programmes”.⁹³ Finally, the Mission investigating Israeli settlements (2012) recommended that the Human Rights Council’s Working Group on Business and Human Rights should be seized of the issue of

⁸⁸ S/2005/60, para. 647.

⁸⁹ Report of the Commission of Inquiry on the events connected with the march planned for 25 March 2004 in Abidjan (S/2004/384), para. 89.

⁹⁰ A/HRC/25/63, para. 94 (a).

⁹¹ Report of the Secretary-General’s Investigative Team charged with investigating serious violations of human rights and international humanitarian law in the Democratic Republic of the Congo (S/1998/581), chap. IV, sect. B, para. 9.

⁹² A/HRC/25/63, para. 94 (c).

⁹³ See A/HRC/19/68, para. 129.

business enterprises “conducting activities in or related to the settlements respect[ing] human rights throughout their operations”⁹⁴ and the Fact-finding Mission on the Gaza Conflict (2009) recommended that the Council should bring its recommendations “to the attention of relevant United Nations human rights treaty bodies so that they may include review of progress in their implementation, as may be relevant to their mandate and procedures” and “consider review of progress as part of its universal periodic review process”.⁹⁵

3. STATUS OF THE REPORT

Once published, the report becomes a United Nations document. However, its findings and conclusions remain independent by virtue of the independent mandate of the commission/mission. In most instances, following publication of a report, the mandating body (General Assembly, Security Council or Human Rights Council) will consider the report and adopt a resolution endorsing all its conclusions and recommendations or aspects of it and calling for them to be implemented accordingly.

⁹⁴ “Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem” (A/HRC/22/63), para. 117.

⁹⁵ A/HRC/12/48, para. 1968 (e).



Following a recommendation of the Commission of Inquiry on Guinea, Navi Pillay, High Commissioner for Human Rights (2008-14), signs a memorandum of understanding for the establishment of an OHCHR office in the country. UN / OHCHR Photo

The implementation of the recommendations of a commission/mission is usually dependent on the political will of the entity to which they are addressed. The mandating body usually ensures some form of follow-up, albeit not necessarily in the exact manner in which the commission/mission intended. Other parts of the United Nations may be required by a resolution of the mandating body to ensure follow-up. For example, the High Commissioner for Human Rights may be required to submit regular reports to the Human Rights Council on the human rights situation in the country concerned.

Most recommendations are addressed to the State concerned, and their implementation is dependent on the political will of the authorities and also on continued monitoring by the mandating body or another entity such as OHCHR.

1. IMPLEMENTATION OF RECOMMENDATIONS

There have been some high-profile cases of recommendations to the international community in regard to **investigation, prosecution and other forms of accountability** being successfully implemented. For example, following the first interim report of the Commission of Experts on Yugoslavia (1992-1994),⁹⁶ and consistent with its observations, the Security Council created the International Criminal Tribunal for the former Yugoslavia. Similarly, consistent with the findings on Rwanda (1994), the Security Council created



The General Assembly discusses a draft resolution on the Syrian Arab Republic. UN Photo / Devra Berkowitz

⁹⁶ Interim Report of the Commission of Experts established pursuant to Security Council resolution 780 (1992) (S/25274).

the International Criminal Tribunal for Rwanda. The recommendations on Darfur (2004) resulted in the Security Council referring the situation to the International Criminal Court. The reports of commissions/missions may also have been influential in the Prosecutor of the International Criminal Court initiating preliminary investigations, for example, in response to the report on Guinea (2009).

The appointment of independent experts by the Human Rights Council to continue monitoring the human rights situation was its response, for example, to the recommendations on Côte d'Ivoire (2011) and the Syrian Arab Republic (2011). In other instances the Human Rights Council has established another follow-up monitoring body. For example, in response to the report on Gaza (2009), it established a follow-up committee (2010) "to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side"⁹⁷ and has kept the situation under review based on progress reports in its subsequent sessions. In follow-up to the report of the Democratic People's Republic of Korea (2013), the Security Council placed the situation of the Democratic People's Republic of Korea on its agenda in December 2014.

There have been cases of effective **follow-up by United Nations entities**. In response to the recommendation on Guinea (2009) "that the Office of the United Nations



Louise Arbour, High Commissioner for Human Rights (2004-08), briefing the Security Council on the findings of the International Commission of Inquiry on Darfur, Sudan (February 2005). UN Photo / Eskinder Debebe

⁹⁷ Human Rights Council resolution 13/9.

High Commissioner for Human Rights should monitor the situation in Guinea ... by an appropriately significant presence, in both quantitative and qualitative terms, to serve as a deterrent to potential violators of international law",⁹⁸ OHCHR opened an office in Conakry in May 2010. The country office has based its priorities on the recommendations in the report to focus on security sector reform, combating impunity through strengthening of the judicial sector and providing technical support on transitional justice.

International bodies have continued to keep some situations that were the subject of international investigations on their agenda, with reports being presented by the Secretary-General and the High Commissioner for Human Rights. For example, the Secretary-General submitted a report⁹⁹ to the General Assembly on follow-up to Gaza (2009) and the High Commissioner submitted a report to the Human Rights Council on Libya.¹⁰⁰

At the national level, implementation has been less consistent. An example of highly successful follow-up is Timor-Leste (2006). The report recommended that cases related to the events it had examined should be investigated by an international prosecutor and tried before a mixed panel of local and international judges. With the support of the United Nations an international prosecutor was appointed in the Office of the Prosecutor General to head the Special Crimes Investigations Team, which had completed 335 investigations by December 2012, and several cases were tried before a hybrid court.

The report on Guinea (2009) contained a number of recommendations: that there be institutional reform of the military and judicial systems; for the Guinean authorities to take truth initiatives (including information on the disappeared), launch prosecutions and provide compensation to victims. The Government of Guinea set up the National Reconciliation Commission in 2011 and, together with the Peacebuilding Commission, agreed on a joint strategy to promote national reconciliation.¹⁰¹ In 2010, the Government appointed three investigating judges to look into the cases investigated by the Commission of Inquiry on Guinea (2009) (following also a National Commission). The panel of judges has charged several senior officials, including senior military officers, with various crimes arising from the events in 2009. In 2011, a joint communiqué was issued by the Government of Guinea and the United Nations on the fight against impunity for sexual violence, in which the Government made a commitment to implement the recommendations of the Commission and initiate a dialogue with the victims of sexual violence.

⁹⁸ S/2009/693, para. 276 (a)(ii).

⁹⁹ See, for example, "Second follow-up to the report of the United Nations Fact-Finding Mission on the Gaza Conflict" (A/64/890).

¹⁰⁰ See, for example, "Report of the Office of the United Nations High Commissioner for Human Rights on assistance for Libya in the field of human rights" (A/HRC/22/40).

¹⁰¹ See "Statement of mutual commitments on peacebuilding in Guinea between the Government of Guinea and the Peacebuilding Commission" (PBC/5/GUI/2).

2. FOLLOW-UP BEYOND THE COMMISSION/MISSION

The mandate of the commission/mission typically expires once its final report has been submitted to the mandating body, but the follow-up can continue long afterwards. The reports have frequently continued to be used as advocacy tools by civil society at national and international levels, especially to promote action on accountability.

Within its mandate and capacity, OHCHR also seeks to remain actively engaged in follow-up to the recommendations of commissions/missions. Some of the follow-up activities that OHCHR may undertake are:

- Continuing to monitor and publish reports on the human rights situation;
- Providing information from the commission's/mission's report to thematic special procedures mechanisms of the Human Rights Council;
- Developing technical cooperation activities necessary to put the recommendations made in the final report into practice;
- Identifying advocacy opportunities to promote implementation of the recommendations;
- Monitoring the safety of persons who cooperated with the commission/mission and assisting them in responding to threats.

ANNEXES



UN Photo / Martine Perret

Annex I

International legal and methodological standards and instruments

All relevant instruments of international law (human rights law, humanitarian law, criminal law and refugee law) can be found on the OHCHR website www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx (accessed 13 October 2014).

SELECTED UNITED NATIONS DECLARATIONS, PRINCIPLES AND REPORTS

- Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65 of 24 May 1989)
- Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (General Assembly resolution 46/59 of 9 December 1991)
- Declaration on the Protection of All Persons from Enforced Disappearance (General Assembly resolution 47/133 of 18 December 1992)
- Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 55/89 of 4 December 2000)
- Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (Commission on Human Rights, E/CN.4/2005/102/Add.1)
- Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147 of 16 December 2005)
- Draft Model Rules of fact-finding procedure for United Nations bodies dealing with violations of human rights (1970)
- Report of the Secretary-General on Impunity (E/CN.4/2006/89)
- Report of the Office of the High Commissioner for Human Rights on the right to the truth (A/HRC/12/19)
- Report of the United Nations High Commissioner for Human Rights on the right to the truth (A/HRC/15/33)

MANUALS AND GUIDELINES

- Minnesota Protocol: United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions (ST/CSDHA/12)
- Guidelines for the Conduct of UN Inquiries into Allegations of Massacres (DPI/1710 (OLA draft))
- *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Professional Training Series No. 8/Rev.1 (United Nations publication, Sales No. E.04.XIV.3)
- *Training Manual on Human Rights Monitoring*, Professional Training Series No. 7 (United Nations publication, Sales No. E.01.XIV.2) and revised *Manual on Human Rights Monitoring* (United Nations publication, forthcoming)
- *Manual on Human Rights Investigations* (United Nations publication, forthcoming)



The Security Council establishes an international tribunal to prosecute violations of international humanitarian law in the former Yugoslavia. UN Photo / Milton Grant

ANNEX II

Model standard rules of procedure for commissions of inquiry/fact-finding missions on violations of international human rights law and international humanitarian law

MANDATE

Rule 1

The Commission of Inquiry is established pursuant to [*resolution or decision of mandating authority*].

TERMS OF REFERENCE AND METHODS OF WORK

Rule 2

Before embarking upon any substantive activity, the Commission shall, based on its mandate, draft and adopt its terms of reference, which should specify, inter alia, the *ratione temporis*, *ratione loci*, *ratione personae* and *ratione materiae*, the legal framework as well as the methods of work that will inform its activities. The Commission shall thereafter be guided by its terms of reference and methods of work.

SOLEMN DECLARATION BY MEMBERS

Rule 3

The members of the Commission shall, upon appointment, make the following written declaration:

"I solemnly declare and promise to exercise my functions independently, impartially, loyally and conscientiously, and to discharge these functions and regulate my conduct in accordance with the terms of my mandate, the Charter of the United Nations and the principles and values of the United Nations, and with the sole objective of contributing to the promotion and protection of human rights, without seeking or accepting instructions from any Government or any other source. I also undertake to respect, during the tenure of my mandate and subsequently, the confidentiality of all information made available

to me in my capacity as a member of the Commission of Inquiry [or Fact-finding Mission]. Additionally, I agree to comply with United Nations ethical, personal conduct, administrative and security rules and policies.”

ELECTION AND POWERS OF THE CHAIR

Rule 4

If the mandating authority has not designated a Chair, the members of the Commission shall select a Chair from among themselves either by a show of hands or by secret ballot in which all members have one vote and a simple majority decision determines the outcome. If the Chair is unable to continue with his or her functions or resigns, the mandating authority shall designate another member as Chair after consultations with all the members.

Rule 5

- (a) The Chair, in the exercise of her/his functions, shall remain under the authority of the Commission;
- (b) The Chair can designate a member of the Commission to act in her/his place if necessary;
- (c) The acting Chair shall have the same powers and duties as the Chair.

REPLACEMENT OF A MEMBER

Rule 6

If any member decides to resign or, for any reason, is no longer able to fulfil his or her functions, with the shortest possible delay, a new member shall be appointed by the mandating authority for the unexpired term of her/his predecessor, following the same procedure used for the initial appointment of members.

MEETINGS AND QUORUM

Rule 7

- (a) The Commission shall hold its meetings in private but may open them to the public as and when it deems it necessary to make its work more effective;
- (b) The Commission shall meet at such times as it may decide; meetings may otherwise be called by the Chair;
- (c) If the Commission meets without the presence of all members, it will seek the opinion of the absent members before taking any major decisions;
- (d) The Commission shall decide which, if any, meetings should be recorded through the taking of minutes or through other means.

SECRETARIAT

Rule 8

- (a) The secretariat of the Commission includes all persons working under the mandate establishing the Commission, with the exception of the members;
- (b) The secretariat shall be established and supported by the Office of the United Nations High Commissioner for Human Rights acting under the authority of the Secretary-General, with staff drawn from the Office itself and from other relevant United Nations entities or especially recruited from outside the United Nations for this task, based on United Nations rules and procedures;
- (c) The secretariat shall be led by a coordinator/head/chief of staff who, together with the staff of the secretariat, shall be selected by the High Commissioner for Human Rights. All staff shall be held accountable for their conduct in accordance with United Nations rules and procedures and shall be responsible for upholding the independence and integrity of the Commission;
- (d) All secretariat staff, irrespective of their individual responsibilities or department of origin, as well as all consultants, contractors and service providers, shall act under the supervision of, and report to, the coordinator. The coordinator will distribute tasks and responsibilities within the secretariat;
- (e) All staff of the secretariat, as well as all consultants, interpreters or other contractors or service providers, shall sign a declaration undertaking to always act in an independent and impartial manner and to respect, during their tenure with the commission/mission and afterwards, the confidentiality of all information gathered or accessed in the course of the work of the commission/mission, to ensure the safety of such information and not to share such information with anyone outside of the commission/mission unless duly authorized to do so.

Rule 9

The secretariat shall be responsible for all tasks associated with the work of the Commission including: conducting research, analysis and investigations based on a plan and work programme agreed by the members; drafting press statements, correspondence, reports and other documents as requested by the members; providing administrative, logistical and security support; filing, storing and archiving information gathered.

LANGUAGES

Rule 10

The Commission shall determine its working language(s) from among the official United Nations languages.

DECISIONS

Rule 11

The Commission shall make every effort to take its decisions by consensus. In the absence of consensus, decisions of the Commission shall be taken by a majority of the members present and voting.

METHODS OF INQUIRY

Rule 12

In order to fulfil its mandate, the Commission may:

- (a) Request and receive information and materials from Governments, United Nations bodies and mechanisms, non-governmental organizations, academic institutions and individuals, as it deems necessary to conduct its enquiry;
- (b) Undertake investigative missions in the territory of [*specify*] or in other territories in order to gather information, take testimonies, collect documents, photographs and video material, examine sites of violations and verify facts;
- (c) Interview victims, witnesses and alleged perpetrators of violations of human rights and international humanitarian law;
- (d) Receive testimony or submissions from experts, officials and any person who may have relevant information;
- (e) Collate, evaluate and analyse information gathered from different sources.

The Commission shall take measures to protect the identity of its sources and the confidentiality of its information to reduce the risk of harm to persons who come into contact with it.

Rule 13

The inquiry shall be conducted in conformity with relevant international standards and best practices on human rights fact-finding and investigations as developed by the United Nations.

Rule 14

The Commission shall decide if and how to publicize its terms of reference, its methods of work, its travel dates and main destinations, its permanent contact address and the details to be provided to those wishing to offer testimony or information.

CONFIDENTIALITY OF INFORMATION

Rule 15

All information related to the work of the Commission is confidential and must therefore be kept safe and not be shared with anyone outside of the Commission. This includes handwritten notes taken during meetings and interviews, electronic files and e-mails. All members and secretariat staff are responsible for ensuring the security of the information they hold.

Rule 16

Members and secretariat staff shall refrain from taking a public stand on any issue or confidential question under discussion in the Commission. The Chair or designated members as agreed by the members shall make information on the work of the Commission available to the public to the extent that the Commission deems it appropriate, and in accordance with any undertakings provided to sources regarding confidentiality of the information they have provided.

Rule 17

All materials and records of the Commission, including information gathered during investigations, are the property of the United Nations and are protected by article II of the Convention on the Privileges and Immunities of the United Nations. The United Nations Secretary-General shall have the sole power to waive such protection.

COORDINATION AND COOPERATION WITH OTHER BODIES AND ORGANIZATIONS

Rule 18

The Commission may cooperate with other United Nations and intergovernmental bodies, including the Human Rights Council and its special procedures, the International Criminal Court or non-governmental organizations concerned with the situation under investigation.

COOPERATION WITH MEMBER STATES

Rule 19

The Commission may solicit the assistance of all Member States able to aid it in gathering information, in particular in their own territory. Such assistance may consist of:

- (a) Supplying the Commission with relevant documentation and information;
- (b) Allowing the Commission to conduct its activities in the territory of the State concerned and to collect, in the form that the Commission considers appropriate, the testimony of victims, witnesses and experts, and to interview government officials;

- (c) Removing any obstacles to the attendance of victims or witnesses and affording any person protection, as appropriate, from any acts of violence, intimidation, threats, reprisals or any kind of discrimination on account of their cooperation with the Commission, and from any legal action as a result of such cooperation.

REPORT

Rule 20

- (a) The report shall be drafted in private meetings;
- (b) The Commission shall finalize its report, incorporating its conclusions and recommendations, within the time frame stipulated in the mandate or, if not stipulated, by the date agreed by the members;
- (c) The report shall be submitted to the appropriate body in accordance with the Commission's mandate and terms of reference.

ARCHIVING OF INFORMATION

Rule 21

Archiving and custody of information, documents and other materials gathered by the Commission shall be the responsibility of the Secretariat and the Office of the United Nations High Commissioner for Human Rights. In discussion with the members, and with due consideration to protecting the confidentiality and integrity of data, and based on United Nations rules, the secretariat shall determine which data should be archived in hard copy and which may be archived in electronic form.

ADOPTION OF RULES OF PROCEDURES

Rule 22

The Commission shall adapt these rules to the specificities of its mandate and terms of reference and adopt them in the course of its first meeting. The rules of procedures shall constitute, together with the terms of reference, an integral part of the official documentation of the Commission.

OTHER PROCEDURAL MATTERS

Rule 23

Any procedural matters arising at a meeting which are not covered by these rules shall be determined by the members, under the leadership of the Chair, and in accordance with procedures used to take other decisions of similar importance.

ANNEX III

International commissions of inquiry and fact-finding missions supported or deployed by OHCHR

1. COMMISSION OF EXPERTS ON YUGOSLAVIA (1992)

Mandating authority	Security Council resolution 780 (1992) of 6 October 1992
Mandate	“Requests the Secretary-General to establish, as a matter of urgency, an impartial Committee of Experts to examine and analyse the information submitted ... together with such further information as the Committee of Experts may obtain through its own investigations and efforts ... with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia”
Report	<p>*First interim report of the Commission of Experts established pursuant to Security Council resolution 780 (1992) (S/25274), 10 February 1993</p> <p>*Second interim report of the Commission of Experts established pursuant to Security Council resolution 780 (1992) (S/26545), 6 October 1993</p> <p>*Final report of the Commission of Experts established pursuant to Security Council resolution 780 (1992) (S/1994/674), 27 May 1994</p>
Members	<p>Prof. Frits KALSHOVEN (Netherlands), Chair; Prof. M. Cherif BASSIOUNI (Egypt); Mr. William J. FENRICK (Canada); Justice Keba MBAYE (Senegal); and Prof. Torkel OPSAHL (Norway).</p> <p>Prof. Bassiouni appointed as Chair, and Ms. Christine CLEIREN (Netherlands) and Ms. Hanne Sophie GREVE (Norway) as new members, owing to the resignation of Prof. Kalshoven and the death of Prof. Opsahl.</p>

2. PANEL OF INQUIRY ON LIBERIA (1993)

Mandating authority	Statement by the President of the Security Council (S/25918), 9 June 1993. Established by the United Nations Secretary-General on 4 August 1993 (S/26265)
Mandate	“The Security Council requests the Secretary-General to commence immediately a thorough and full investigation of the massacre, including any allegations as to the perpetrators whoever they may be, and to report to it as soon as possible. It warns that those found responsible for such serious violations of international humanitarian law will be held accountable for such crimes and demands that the leaders of any faction responsible for such acts effectively control their forces and take decisive steps to ensure that such deplorable tragedies do not happen again.”
Report	The Carter Camp Massacre: Results of an Investigation by the Panel of Inquiry appointed by the Secretary-General into the Massacre near Harbel, Liberia, on the night of June 5/6, 1993, submitted to the United Nations Secretary-General, 10 September 1993
Members	Mr. Amos WAKO (Kenya), Chair; Mr. Robert GERSONY (United States of America); and Amb. Mahmoud KASSEM (Egypt).

3. SECRETARY-GENERAL'S FACT-FINDING MISSION TO INVESTIGATE HUMAN RIGHTS VIOLATIONS IN ABKHAZIA, REPUBLIC OF GEORGIA (1993)

Mandating authority	Established by the United Nations Secretary-General on 1 October 1993, welcomed by Security Council resolution 876 (1993) of 19 October 1993
Mandate	“to investigate the situation of human rights violations in Abkhazia, including reports of ‘ethnic cleansing’”
Report	Report of the Secretary-General’s fact-finding mission to investigate human rights violations in Abkhazia, Republic of Georgia (S/26795), 17 November 1993
Members	United Nations Centre for Human Rights

4. COMMISSION OF EXPERTS ON RWANDA (1994)

Mandating authority	Security Council resolution 935 (1994) of 1 July 1994
Mandate	“to examine and analyse information submitted pursuant to the present resolution, together with such further information as the Commission of Experts may obtain through its own investigations or the efforts of other persons or bodies, including the information made available by the Special Rapporteur for Rwanda, with a view to providing the Secretary-General with its conclusions on the evidence of grave violations of international humanitarian law committed in the territory of Rwanda, including the evidence of possible acts of genocide”
Report	*Preliminary report of the Independent Commission of Experts, established in accordance with Security Council resolution 935 (1994) (S/1994/1125), 4 October 1994 *Final report of the Commission of Experts established pursuant to Security Council resolution 935 (1994) (S/1994/1405), 9 December 1994
Members	Justice Atsu-Koffi AMEGA (Togo), Chair; Ms. Habi DIENG (Guinea); and Mr. Salifou FOMBA (Mali).

5. INTERNATIONAL COMMISSION OF INQUIRY FOR BURUNDI (1995)

Mandating authority	Security Council resolution 1012 (1995) of 28 August 1995
Mandate	“(a) To establish the facts relating to the assassination of the President of Burundi on 21 October 1993, the massacres and other related serious acts of violence which followed; (b) To recommend measures of a legal, political or administrative nature, as appropriate, after consultation with the Government of Burundi, and measures with regard to the bringing to justice of persons responsible for those acts, to prevent any repetition of deeds similar to those investigated by the commission and, in general, to eradicate impunity and promote national reconciliation in Burundi.”

Report	<p>*Letter dated 3 January 1996 from the Secretary-General addressed to the President of the Security Council submitting interim report (S/1996/8), 5 January 1996</p> <p>*Report of the International Commission of Inquiry for Burundi (S/1996/682), 22 August 1996</p>
Members	Mr. Edilbert RAZAFINDRALAMBO (Madagascar), Chair; Mr. Abdelali ELMOUMNI (Morocco); Mr. Mehmet GUNEY (Turkey); Mr. Luis HERRERA MARCANO (Venezuela); and Mr. Michel MAURICE (Canada).

6. SECRETARY-GENERAL'S INVESTIGATIVE TEAM CHARGED WITH INVESTIGATING SERIOUS VIOLATIONS OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW IN THE DEMOCRATIC REPUBLIC OF THE CONGO (1997)

Mandating authority	Letter dated 1 August 1997 from the Secretary-General addressed to the President of the Security Council (S/1997/617)
Mandate	To "investigate gross violations of Human Rights and International Humanitarian Law committed in the Democratic Republic of the Congo from 1 March 1993 ... the Investigative Team's principal task being to collect and analyse information, testimony and other evidence in order to establish facts and responsibilities in gross violations."
Report	Report of the Secretary-General's Investigative Team charged with investigating serious violations of human rights and international humanitarian law in the Democratic Republic of the Congo (S/1998/581), 29 June 1998
Members	Justice Atsu-Koffi AMEGA (Togo), Chief; Mr. Andrew CHIGOVERA (Zimbabwe), Deputy; Mr. Reed BRODY (United States), Deputy. Mr. Paul LABERGE (Canada) and Mr. Daniel O'DONNELL (United States and Ireland) appointed to replace Mr. Chigovera and Mr. Brody, who had resigned.

7. GROUP OF EXPERTS FOR CAMBODIA, ESTABLISHED PURSUANT TO GENERAL ASSEMBLY RESOLUTION 52/135 (1998)

Mandating authority	General Assembly resolution 52/135 of 12 December 1997
Mandate	<i>“Requests the Secretary-General to examine the request by the Cambodian authorities for assistance in responding to past serious violations of Cambodian and international law, including the possibility of the appointment, by the Secretary-General, of a group of experts to evaluate the existing evidence and propose further measures, as a means of bringing about national reconciliation, strengthening democracy and addressing the issue of individual accountability”</i>
Report	Report of the Group of Experts for Cambodia established pursuant to General Assembly resolution 52/135 (A/53/850 – S/1999/231), 16 March 1999
Members	Sir Ninian STEPHEN (Australia), Chair; Justice Rajsoomer LALLAH (Mauritius); and Prof. Steven R. RATNER (United States).

8. UNITED NATIONS INVESTIGATIVE TEAM FOR AFGHANISTAN (1999)

Mandating authority	General Assembly resolution 54/185 of 17 December 1999 United Nations Secretary-General requested OHCHR to establish the Investigative Team Security Council in its resolution 1193 (1998) of 28 August 1998 requests the Secretary-General to continue investigations
Mandate	<i>“Invites the Secretary-General and the United Nations High Commissioner for Human Rights to proceed without delay to investigate fully reports of mass killings of prisoners of war and civilians, rape and cruel treatment in Afghanistan”</i>
Report	The United Nations Secretary-General transmitted the report to the President of the General Assembly (see A/54/536 – S/1999/1145, para. 62, 16 November 1999)
Members	Office of the United Nations High Commissioner for Human Rights

9. INTERNATIONAL COMMISSION OF INQUIRY ON EAST TIMOR (1999)

Mandating authority	Commission on Human Rights resolution 1999/S-4/1 of 27 September 1999; endorsed by the Economic and Social Council in its decision 1999/293 of 15 November 1999
Mandate	“to gather and compile systematically information on possible violations of human rights and acts that might constitute breaches of international humanitarian law committed in East Timor since the announcement in January 1999 of the vote and to provide the Secretary-General with its conclusions with a view to enabling him to make recommendations on future actions”
Report	Report of the International Commission of Inquiry on East Timor to the Secretary-General (A/54/726 – S/2000/59), 31 January 2000
Members	Justice Sonia PICADO SOTELA (Costa Rica), Chair; Ms. Judith SEFI ATTAH (Nigeria); Justice A.M. AHMADI (India); Sir Mari KAPI (Papua New Guinea); and Ms. Sabine LEUTHEUSSER-SCHNARRENBURGER (Germany).

10. INTERNATIONAL COMMISSION OF INQUIRY FOR TOGO (2000)

Mandating authority	Established jointly by the Secretary-General of the Organization of African Unity and the Secretary-General of the United Nations, upon the request of the Government of Togo Sub-Commission on the Promotion and Protection of Human Rights endorsed the proposal of the Government of Togo (E/CN.4/Sub.2/2000/8), 28 July 2000
Mandate	“to verify the truth of allegations contained in an Amnesty International report of 5 May 1999, that hundreds of extrajudicial executions had taken place in Togo during 1998, and to report to the two Secretaries-General”
Report	Report of the International Commission of Inquiry for Togo (E/CN.4/2001/134 – E/CN.4/Sub.2/2001/3), 22 February 2001
Members	Mr. Mahamat Hassan ABAKAR (Chad), Chair; Prof. Paulo Sergio PINHEIRO (Brazil); and Mr. Issaka SOUNA (Niger).

11. HUMAN RIGHTS INQUIRY COMMISSION ON THE OCCUPIED PALESTINIAN TERRITORIES (2000)

Mandating authority	Commission on Human Rights resolution S-5/1 of 19 October 2000; endorsed by the Economic and Social Council in its decision 2000/311 of 22 November 2000
Mandate	“to gather and compile information on violations of human rights and acts which constitute grave breaches of international humanitarian law by the Israeli occupying Power in the occupied Palestinian territories and to provide the Commission with its conclusions and recommendations, with the aim of preventing the repetition of the recent human rights violations”
Report	Report of the human rights inquiry commission established pursuant to Commission resolution S-5/1 of 19 October 2000 (E/CN.4/2001/121), 16 March 2001
Members	Prof. John DUGARD (South Africa), Chair; Prof. Richard FALK (United States); and Mr. Kamal HOSSAIN (Bangladesh).

12. OHCHR INQUIRY INTO ALLEGED MASSACRE IN THE CHOCÓ REGION OF COLOMBIA (2002)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141 of 20 December 1993
Mandate	The Government of Colombia invited OHCHR to conduct an inquiry into a massacre that had taken place in the traditionally guerrilla-held territories of the Chocó region.
Report	Informe de la Oficina en Colombia del Alto Comisionado de las Naciones Unidas para los Derechos Humanos sobre su Misión de Observación en el Medio Atrato, 20 de mayo de 2002
Members	Office of the United Nations High Commissioner for Human Rights

13. OHCHR FACT-FINDING MISSION TO CÔTE D’IVOIRE (2002)

Mandating authority	High Commissioner for Human Rights under his general mandate as contained in General Assembly resolution 48/141
Mandate	Gather precise information regarding the violations of human rights and international humanitarian law in Côte d’Ivoire

Report	Report of the OHCHR Fact-finding mission submitted by the Secretary-General to the Security Council (S/2003/90), 24 January 2003
Members	Office of the United Nations High Commissioner for Human Rights

14. COMMISSION OF INQUIRY ON THE EVENTS CONNECTED WITH THE MARCH PLANNED FOR 25 MARCH 2004 IN ABIDJAN (2004)

Mandating authority	Secretary-General, in response to requests from the President and the Prime Minister of the Government of National Reconciliation of Côte d'Ivoire
Mandate	"to investigate alleged human rights violations committed in connection with the march planned for Abidjan on 25 March 2004 ... the mandate would consist of establishing the facts concerning the responsibility for alleged atrocities committed in connection with the planned march"
Report	Report of the Commission of Inquiry on the events connected with the march planned for 25 March 2004 in Abidjan (S/2004/384), 13 May 2004
Members	Ms. Franca SCIUTO (Italy), Chair; Ms. Vera DUARTE (Cape Verde); and Mr. Eugene NINDORERA (Burundi).

15. COMMISSION D'ENQUÊTE INTERNATIONALE SUR LES ALLÉGATIONS DE VIOLATIONS DES DROITS DE L'HOMME EN CÔTE D'IVOIRE (2004)

Mandating authority	Established by the Security Council (S/PRST/2004/17), 25 May 2004
Mandate	"requests therefore the Secretary-General to establish as soon as possible the international commission of inquiry, as recommended by the commission of inquiry of the Office of the High Commissioner for Human Rights and requested by the Government of Côte d'Ivoire, in order to investigate all human rights violations committed in Côte d'Ivoire since September 19, 2002, and determine responsibility."
Report	Rapport sur la situation des droits de l'homme en République de Côte d'Ivoire depuis le 19 septembre 2002 jusqu'au 15 octobre 2004 conformément aux dispositions de l'annexe VI de l'Accord de Linas-Marcoussis et à la Déclaration du président du Conseil de Sécurité du 25 mai 2004 (PRST/2004/17) submitted to the United Nations Secretary-General

Members	Prof. Gérard BALANDA MIKUIN LELIEL (Democratic Republic of the Congo), Chair; Ms. Radhia NASRAOUI (Tunisia), Vice-Chair; Ms. Fatimata M'BAYE (Mauritania); Justice Almiro RODRIGUES (Portugal) and Mr. Aref Mohamed AREF (Djibouti).
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16. OHCHR FACT-FINDING MISSION TO DARFUR (2004)

Mandating authority	Acting High Commissioner for Human Rights under his general mandate as contained in General Assembly resolution 48/141
Mandate	"to assess the human rights situation in Darfur"
Report	Report of the United Nations High Commissioner for Human Rights – Situation of human rights in the Darfur region of the Sudan (E/CN.4/2005/3), 7 May 2004
Members	Office of the United Nations High Commissioner for Human Rights

17. INTERNATIONAL COMMISSION OF INQUIRY ON DARFUR (2004)

Mandating authority	Security Council resolution 1564 (2004) of 18 September 2004
Mandate	"to investigate reports of violations of international humanitarian law and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable"
Report	Report of the International Commission of Inquiry on Darfur to the Secretary-General (S/2005/60), 1 February 2005
Members	Prof. Antonio CASSESE (Italy), Chair; Mr. Mohamed FAYEK (Egypt); Ms. Hina JILANI (Pakistan); Mr. Dumisa NTSEBEZA (South Africa); and Justice Therese STRIGGNER-SCOTT (Ghana).

18. OHCHR MISSION TO KYRGYZSTAN TO INVESTIGATE SERIOUS VIOLATIONS OF HUMAN RIGHTS IN ANDIJAN, UZBEKISTAN, IN MAY 2005 (2005)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141
Mandate	To “gather information from eyewitnesses and others having credible knowledge of the events in and around the city of Andijan, since 12 May 2005, with regard to the alleged serious violations of human rights which took place there during that time”
Report	Report of the mission to Kyrgyzstan by the Office of the United Nations High Commissioner for Human Rights (OHCHR) concerning the events in Andijan, Uzbekistan, 13-14 May 2005 (E/CN.4/2006/119), 1 February 2006
Members	Office of the United Nations High Commissioner for Human Rights

19. OHCHR FACT-FINDING MISSION TO TOGO (2005)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141
Mandate	«établissement des faits pour faire la lumière sur les violences et les allégations de violations des droits de l’homme survenues au Togo avant, pendant et après l’élection présidentielle, du 24 avril 2005»
Report	Rapport – La mission d’établissement des faits chargée de faire la lumière sur les violences et les allégations de violations des droits de l’homme survenues au Togo avant, pendant et après l’élection présidentielle du 24 avril 2005, 29 août 2005
Members	Mr. Doudou DIÈNE, Special Envoy of the United Nations High Commissioner for Human Rights

20. AFGHANISTAN CONFLICT MAPPING (2006)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141. OHCHR and the United Nations Assistance Mission in Afghanistan (UNAMA) provided support to the Afghan Independent Human Rights Commission (AIHRC) to document the violations of human rights and international humanitarian law in Afghanistan between 1978 and 2001.
Mandate	To conduct a mapping of “violations of human rights and humanitarian law committed by all parties to the Afghan conflicts between April 27, 1978, and December 22, 2001.”
Report	Report submitted to the United Nations High Commissioner for Human Rights and AIHRC
Members	Office of the United Nations High Commissioner for Human Rights

21. COMMISSION OF INQUIRY ON LEBANON (2006)

Mandating authority	Human Rights Council resolution S-2/1 of 11 August 2006
Mandate	“(a) to investigate the systematic targeting and killings of civilians by Israel in Lebanon; (b) to examine the types of weapons used by Israel and their conformity with international law; [and] (c) to assess the extent and deadly impact of Israeli attacks on human life, property, critical infrastructure and the environment”
Report	Report of the Commission of Inquiry on Lebanon, pursuant to Human Rights Council resolution S-2/1 (A/HRC/3/2), 23 November 2006
Members	Mr. João Clemente Baena SOARES (Brazil), Chair; Justice Mohamed Chande OTHMAN (Tanzania); and Prof. Stelios PERRAKIS (Greece).

22. INDEPENDENT SPECIAL COMMISSION OF INQUIRY FOR TIMOR-LESTE (2006)

Mandating authority	Established by the United Nations Secretary-General at the request of Senior Minister and Minister for Foreign Affairs and Cooperation of Timor-Leste, under the auspices of OHCHR (S/2006/383), 13 June 2006
Mandate	“to establish the facts and circumstances relevant to incidents that took place on 28 and 29 April and 23, 24 and 25 May and related events or issues that contributed to the crisis, clarify responsibility for those events and recommend measures of accountability for crimes and serious violations of human rights allegedly committed during the mandated period”
Report	Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste, 2 October 2006
Members	Prof. Paulo Sergio PINHEIRO (Brazil), Chair; Ms. Zelda HOLTZMAN (South Africa); and Mr. Ralph ZACKLIN (United Kingdom of Great Britain and Northern Ireland).

23. OHCHR MISSION TO WESTERN SAHARA AND REFUGEE CAMPS IN TINDOUF (2006)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141
Mandate	“to gather information about the human rights situation in Western Sahara and in the refugee camps in Tindouf, Algeria ... report to the High Commissioner about the human rights situation and make recommendations on how to assist the concerned parties to improve the promotion and protection of human rights of the people of Western Sahara”
Report	Report submitted to the United Nations High Commissioner for Human Rights, 8 September 2006
Members	Office of the United Nations High Commissioner for Human Rights

24. HIGH-LEVEL FACT-FINDING MISSION TO BEIT HANOUN (2006)

Mandating authority	Human Rights Council resolution S-3/1 of 15 November 2006
Mandate	“to travel to Beit Hanoun to (a) assess the situation of victims; (b) address the needs of survivors; and (c) make recommendations on ways and means to protect Palestinian civilians against any further Israeli assaults”
Report	*Report of the High-level Fact-finding Mission to Beit Hanoun established under resolution S-3/1 (A/HRC/5/20), 18 June 2007 *Report of the High-level Fact-finding Mission to Beit Hanoun established under Council resolution S-3/1 (A/HRC/9/26), 1 September 2008
Members	Archbishop Desmond TUTU (South Africa), Head; and Prof. Christine CHINKIN (United Kingdom).

25. HIGH-LEVEL MISSION ON THE SITUATION OF HUMAN RIGHTS IN DARFUR (2006)

Mandating authority	Human Rights Council decision S-4/101 of 13 December 2006
Mandate	“to assess the human rights situation in Darfur and the needs of the Sudan in this regard”
Report	Report of the High-Level Mission on the situation of human rights in Darfur, pursuant to Human Rights Council decision S-4/101 (A/HRC/4/80), 9 March 2007
Members	Ms. Jody WILLIAMS (United States), Head of Mission; Ms. Sima SAMAR (Afghanistan); Mr. Mart NUTT (Austria); Mr. Bertrand RAMCHARAN (Guyana); and Amb. Patrice TONDA (Gabon). Amb. Makarim WIBISONO (Indonesia) discontinued his participation.

26. OHCHR FACT-FINDING MISSION TO KENYA (2008)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141
Mandate	“to look into the violence and allegations of grave human rights violations following the presidential elections in December 2007”
Report	Report from OHCHR Fact-finding Mission to Kenya, 6-28 February 2008
Members	Office of the United Nations High Commissioner for Human Rights

27. RÉPUBLIQUE DÉMOCRATIQUE DU CONGO 1993-2003 PROJET MAPPING (2008)

Mandating authority	Established by the United Nations Secretary-General after consultations among relevant United Nations agencies and partners and with the Congolese Government. The Secretary-General requested OHCHR to lead the exercise, in cooperation with the United Nations Department of Peacekeeping Operations and United Nations Development Programme.
Mandate	<p>*Conduct a mapping exercise of the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003.</p> <p>*Assess the existing capacities within the national justice system to deal appropriately with such human rights violations that may be uncovered.</p> <p>*Formulate a series of options aimed at assisting the Government of the Democratic Republic of the Congo in identifying appropriate transitional justice mechanisms to deal with the legacy of these violations, in terms of truth, justice, reparation and reform, taking into account ongoing efforts by the Congolese authorities, as well as the support of the international community.</p>
Report	République Démocratique du Congo, 1993-2003: Rapport du Projet Mapping concernant les violations les plus graves des droits de l’homme et du droit international humanitaire commises entre mars 1993 et juin 2003 sur le territoire de la République démocratique du Congo, août 2010
Members	Office of the United Nations High Commissioner for Human Rights

28. OHCHR MISSION ON SITUATION OF HUMAN RIGHTS IN HONDURAS SINCE THE COUP D'ÉTAT ON 28 JUNE 2009 (2009)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141, based on the request from the Human Rights Council in resolution 12/14 of 1 October 2009, for "a comprehensive report on the violations of human rights in Honduras since the coup d'état"
Mandate	to "report on the violations of human rights in Honduras since the coup d'état, and to submit a preliminary report to the General Assembly at the main part of its sixty-fourth session and to the Council at its thirteenth session"
Report	Report of the United Nations High Commissioner for Human Rights on the violations of human rights in Honduras since the coup d'état on 28 June 2009 (A/HRC/13/66), 3 March 2010
Members	Office of the United Nations High Commissioner for Human Rights

29. UNITED NATIONS FACT-FINDING MISSION ON THE GAZA CONFLICT (2009)

Mandating authority	Human Rights Council resolution S-9/1 of 12 January 2009
Mandate	"to investigate all violations of international human rights law and international humanitarian law that might have been committed at any time in the context of the military operations that were conducted in Gaza during the period from 27 December 2008 and 18 January 2009, whether before, during or after"
Report	Report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48), 25 September 2009
Members	Justice Richard GOLDSTONE (South Africa), Chair; Prof. Christine CHINKIN (United Kingdom); Ms. Hina JILANI (Pakistan); and Col. Desmond TRAVERS (Ireland).

30. INTERNATIONAL COMMISSION OF INQUIRY ON GUINEA (2009)

Mandating authority	Established by the United Nations Secretary-General on 16 October 2009 (S/2009/556)
Mandate	“to establish the facts and circumstances of the events of 28 September 2009 in Guinea and the related events in their immediate aftermath, qualify the crimes perpetrated, determine responsibilities, identify those responsible, where possible, and make recommendations”
Report	Report of the International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea (S/2009/693), 18 December 2009
Members	Justice Mohamed BEDJAOUI (Algeria), Chair; Ms. Françoise Ngendahayo KAYIRAMIRWA (Burundi); and Ms. Pramila PATTEN (Mauritius).

31. NEPAL CONFLICT MAPPING (2009)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141
Mandate	To “document and analyse the major categories of conflict-related violations of international human rights law and international humanitarian law that allegedly took place in Nepal from February 1996 to 21 November 2006”
Report	Nepal Conflict Report, October 2012
Members	Office of the United Nations High Commissioner for Human Rights

32. COMMITTEE OF INDEPENDENT EXPERTS TO MONITOR AND ASSESS ANY DOMESTIC, LEGAL OR OTHER PROCEEDINGS UNDERTAKEN BY BOTH THE GOVERNMENT OF ISRAEL AND THE PALESTINIAN SIDE (2010)

March 2010

Mandating authority	Human Rights Council resolution 13/9 of 25 March 2010
Mandate	“to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, in the light of General Assembly resolution 64/254, including the independence, effectiveness, genuineness of these investigations and their conformity with international standards”

Report	Report of the Committee of independent experts in international humanitarian and human rights laws to monitor and assess any domestic, legal or other proceedings undertaken by both the Government of Israel and the Palestinian side, in the light of General Assembly resolution 64/254, including the independence, effectiveness, genuineness of these investigations and their conformity with international standards (A/HRC/15/50), 23 September 2010
Members	Prof. Christian TOMUSCHAT (Germany), Chair; Justice Mary McGowan DAVIS (United States); and Mr. Param CUMARASWAMY (Malaysia).

October 2010

Mandating authority	The Human Rights Council, in its resolution 15/6 of 29 September 2010, renewed the mandate
Mandate	<i>“Decides to renew and resume the mandate of the Committee of independent experts, established pursuant to Council resolution 13/9, and requests the Committee to submit its report to the Council at its sixteenth session”</i>
Report	Report of the Committee of independent experts in international humanitarian and human rights law established pursuant to Council resolution 13/9 (A/HRC/16/24), 5 May 2011
Members	Justice Mary McGowan DAVIS (United States), Chair; and Justice Lennart ASPEGREN (Sweden).

33. INTERNATIONAL FACT-FINDING MISSION TO INVESTIGATE VIOLATIONS OF INTERNATIONAL LAW, INCLUDING INTERNATIONAL HUMANITARIAN AND HUMAN RIGHTS LAW, RESULTING FROM THE ISRAELI ATTACKS ON THE FLOTILLA OF SHIPS CARRYING HUMANITARIAN ASSISTANCE (2010)

Mandating authority	Human Rights Council resolution 14/1 of 2 June 2010
Mandate	<i>“to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance”</i>

Report	Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance (A/HRC/15/21), 27 September 2010
Members	Justice Karl T. HUDSON-PHILLIPS (Trinidad and Tobago), Chair; Sir Desmond DE SILVA (United Kingdom); and Ms. Mary Shanthi DAIRIAM (Malaysia).

34. SECRETARY-GENERAL'S PANEL OF EXPERTS ON ACCOUNTABILITY IN SRI LANKA (2010)

Mandating authority	Established by the United Nations Secretary-General, 22 June 2010 (press release SG/SM/12967)
Mandate	"to advise the Secretary-General on the modalities, applicable international standards and comparative experience relevant to the fulfilment of the joint commitment to an accountability process, having regard to the nature and scope of alleged violations of international humanitarian and human rights law during the final phases of the armed conflict in Sri Lanka"
Report	Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011
Members	Mr. Marzuki DARUSMAN (Indonesia), Chair; Ms. Yasmin SOOKA (South Africa); and Prof. Steven R. RATNER (United States).

35. INTERNATIONAL COMMISSION OF INQUIRY ON LIBYA (2011)

February 2011

Mandating authority	Human Rights Council resolution S-15/1 of 25 February 2011
Mandate	"to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya, to establish the facts and circumstances of such violations and of the crimes perpetrated and, where possible, to identify those responsible, to make recommendations, in particular, on accountability measures, all with a view to ensuring that those individuals responsible are held accountable"

Report	Report of the International Commission of Inquiry to investigate all alleged violations of international human rights law in the Libyan Arab Jamahiriya (A/HRC/17/44), 12 January 2012
Members	Prof. M. Cherif BASSIOUNI (Egypt), Chair; Ms. Asma KHADER, (Jordan); and Justice Philippe KIRSCH (Canada).

June 2011

Mandating authority	The Human Rights Council, in its resolution 17/17 of 17 June 2011, extended the mandate
Mandate	“to continue its work, including through visits, and to provide an oral update to the Council at its eighteenth session, and a final written report as its nineteenth session”
Report	Report of the International Commission of Inquiry on Libya (A/HRC/19/68 and A/HRC/19/CRP.1), 28 January 2014
Members	Justice Philippe KIRSCH, (Canada), Chair; Prof. M. Cherif BASSIOUNI (Egypt); and Ms. Asma KHADER (Jordan).

36. COMMISSION D'ENQUÊTE INTERNATIONALE INDÉPENDANTE SUR LA CÔTE D'IVOIRE (2011)

Mandating authority	Human Rights Council resolution 16/25 of 25 March 2011
Mandate	“to investigate the facts and circumstances surrounding the allegations of serious abuses and violations of human rights committed in Côte d'Ivoire following the presidential election of 28 November 2010, in order to identify those responsible for such acts and to bring them to justice”
Report	Rapport de la Commission d'enquête internationale indépendante sur la Côte d'Ivoire (A/HRC/17/48), 1 juillet 2011
Members	Prof. Vitit MUNTARBHORN (Thailand), Chair; Ms. Reine ALAPINI-GANSOU (Benin); and Mr. Suliman BALDO (Sudan).

37. OHCHR FACT-FINDING MISSION TO THE SYRIAN ARAB REPUBLIC (2011)

Mandating authority	The Human Rights Council, in its resolution S-16/1 of 29 April 2011, requested the High Commissioner for Human Rights to “dispatch urgently a mission to the Syrian Arab Republic”
Mandate	“to investigate all alleged violations of international human rights law and to establish the facts and circumstances of such violations and of the crimes perpetrated, with a view to avoiding impunity and ensuring full accountability”
Report	Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Syrian Arab Republic (A/HRC/18/53), 15 September 2011
Members	Office of the United Nations High Commissioner for Human Rights

38. INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE SYRIAN ARAB REPUBLIC (2011)

October 2011

Mandating authority	Human Rights Council resolution S-17/1 of 23 August 2011
Mandate	“to investigate all alleged violations of international human rights law since March 2011 in 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.”
Report	Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/S-17/2/Add.1), 23 November 2011
Members	Prof. Paulo Sergio PINHEIRO (Brazil), Chair; Ms. Yakin ERTÜRK (Turkey); and Ms. Karen Koning ABUZAYD (United States).

39. INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE SYRIAN ARAB REPUBLIC (2011), CONT.

March 2012

Mandating authority	Human Rights Council, in its resolution 19/22 of 23 March 2012, extends mandate Human Rights Council, in its resolution S-19/1 of 1 June 2012, requests the Commission to conduct a special inquiry into the events in El-Houleh
Mandate	<i>“Decides to extend the mandate of the commission of inquiry established by the Human Rights Council in its resolution S-17/1, and requests the commission to continue its work, to provide an oral update to the Council at an interactive dialogue at its twentieth session and to present also a written updated report at an interactive dialogue at its twenty-first session”</i> ; resolution S-19/1: <i>“urgently conduct a comprehensive, independent and unfettered special inquiry ... into the events in El-Houleh”</i> .
Report	*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/19/69), 22 February 2012 (second report) *Periodic update of the independent international commission of inquiry on the Syrian Arab Republic, 24 May 2012 *Oral update of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/20/CRP.1), 26 June 2012
Members	Prof. Paulo Sergio PINHEIRO (Brazil), Chair; and Ms. Karen Koning ABUZAYD (United States). Ms. Yakin ERTÜRK (Turkey) withdrew in March 2012.

September 2012

Mandating authority	The Human Rights Council, in its resolution 21/26 of 28 September 2012, extends and expands the mandate
Mandate	<i>“Decides to extend the mandate of the independent international commission of inquiry on the Syrian Arab Republic established by the Human Rights Council in its resolution S-17/1, and requests the commission to continue its work and to present a written report on the situation of human rights in the Syrian Arab Republic at an interactive dialogue during the twenty-second session of the Council; Requests the commission of inquiry to continue to update its mapping exercise of gross violations of human rights in the Syrian Arab Republic since March 2011, including the assessment of casualty figures, and to publish it periodically”</i>

Report	<p>*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/21/50), 16 August 2012 (third report)</p> <p>*Periodic update of the independent international commission of inquiry on the Syrian Arab Republic, 20 December 2012</p>
Members	<p>Prof. Paulo Sergio PINHEIRO (Brazil), Chair; Ms. Karen Koning ABUZAYD (United States). Ms. Carla DEL PONTE (Switzerland) and Prof. Vitit MUNTARBHORN (Thailand) were appointed as new members.</p>

40. INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE SYRIAN ARAB REPUBLIC (2011), CONT.

March 2013

Mandating authority	<p>The Human Rights Council, in its resolution 22/24 of 22 March 2013, extended the mandate</p>
Mandate	<p><i>“Decides to extend the mandate of the independent international commission of inquiry on the Syrian Arab Republic established by the Human Rights Council in its resolution S-17/1 to investigate all alleged violations of international human rights law since March 2011 in the Syrian Arab Republic, including massacres, 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, and requests the commission to continue its work and to present a written report on the situation of human rights in the Syrian Arab Republic during an interactive dialogue at the twenty-third, the twenty-fourth and the twenty-fifth sessions of the Council”</i></p>
Report	<p>*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/22/59), 5 February 2013 (fourth report)</p> <p>*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/23/58), 18 July 2013 (fifth report)</p> <p>*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/24/46), 16 August 2013 (sixth report)</p> <p>*Assault on medical care in Syria (A/HRC/24/CRP.2), 13 September 2013</p>

	<p>*Without a trace: enforced disappearances in Syria (conference room paper), 19 December 2013</p> <p>*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/25/65), 12 February 2014 (seventh report)</p> <p>*Oral Update of the independent international commission of inquiry on the Syrian Arab Republic, 18 March 2014</p>
Members	Prof. Paulo Sergio PINHEIRO (Brazil), Chair; Ms. Karen Koning ABUZAYD (United States); Ms. Carla DEL PONTE (Switzerland); and Prof. Vitit MUNTARBHORN (Thailand).

41. INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE SYRIAN ARAB REPUBLIC (2011), CONT.

March 2014

Mandating authority	Human Rights Council, in its resolution 25/23 of 28 March 2014, extended the mandate
Mandate	<i>“Decides to extend the mandate of the commission of inquiry through to the twenty-eighth session of the Human Rights Council, and requests the commission to present a written report on the situation of human rights in the Syrian Arab Republic during an interactive dialogue at the twenty-seventh and the twenty-eighth sessions of the Council and to provide an oral update to the Council during an interactive dialogue at the twenty-sixth session”.</i>
Report	<p>*Oral Update of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/26/CRP.2), 16 June 2014</p> <p>*Report of the independent international commission of inquiry on the Syrian Arab Republic (A/HRC/27/60), 13 August 2014 (eighth report)</p>
Members	Prof. Paulo Sergio PINHEIRO (Brazil), Chair; Ms. Karen Koning ABUZAYD (United States); Ms. Carla DEL PONTE (Switzerland); and Prof. Vitit MUNTARBHORN (Thailand).

42. INDEPENDENT INTERNATIONAL FACT-FINDING MISSION TO INVESTIGATE THE IMPLICATIONS OF THE ISRAELI SETTLEMENTS ON THE CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS OF THE PALESTINIAN PEOPLE THROUGHOUT THE OCCUPIED PALESTINIAN TERRITORY, INCLUDING EAST JERUSALEM (2012)

Mandating authority	Human Rights Council resolution 19/17 of 22 March 2012
Mandate	“to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem”
Report	Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem (A/HRC/22/63), 7 February 2013
Members	Ms. Christine CHANET (France), Chair; Ms. Asma JAHANGIR (Pakistan); and Justice Unity DOW (Botswana).

43. MISSION D'ENQUÊTE DÉPLOYÉE PAR LE HAUT-COMMISSARIAT DES NATIONS UNIES AUX DROITS DE L'HOMME AU MALI (2013)

Mandating authority	High Commissioner for Human Rights under her general mandate as contained in General Assembly resolution 48/141, to assist the United Nations Mission in Mali (UNOM) to monitor and report on the human rights situation
Mandate	<p>“*Gather information through targeted meetings and interviews with victims, witnesses, civil society and other sources including those displaced in different locations;</p> <p>*Visit, when possible, the detention facilities where the pro-rebellion citizens are held;</p> <p>*Establish networks with local civil society organizations;</p> <p>*Identify protection needs of vulnerable groups.”</p>
Report	Rapport de la Haut-Commissaire des Nations Unies aux droits de l'homme sur la situation des droits de l'homme au Mali (A/HRC/23/57), 26 juin 2013
Members	Office of the United Nations High Commissioner for Human Rights

44. COMMISSION OF INQUIRY ON HUMAN RIGHTS IN THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA (2013)

Mandating authority	Human Rights Council resolution 22/13 of 21 March 2013
Mandate	"investigate the systematic, widespread and grave violations of human rights in the Democratic People's Republic of Korea ... including the violation of the right to food, the violations associated with prison camps, torture and inhuman treatment, arbitrary detention, discrimination, violations of freedom of expression, violations of the right to life, violations of freedom of movement, and enforced disappearances, including in the form of abductions of nationals of other States, with a view to ensuring full accountability, in particular where these violations may amount to crimes against humanity".
Report	Oral update by the commission of inquiry on human rights in the Democratic People's Republic of Korea to the Human Rights Council, 16 September 2013 Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea (A/HRC/25/63 and A/HRC/25/CRP.1), 7 February 2014
Members	Justice Michael KIRBY (Australia), Chair; Ms. Sonja BISERKO (Serbia); and Mr. Marzuki DARUSMAN (Indonesia).

45. OHCHR FACT-FINDING MISSION TO THE CENTRAL AFRICAN REPUBLIC (2013)

Mandating authority	The Human Rights Council, in its resolution 23/18 of 13 June 2013, requested the High Commissioner to submit a report on the human rights situation in the Central African Republic
Mandate	"Gather information on human rights violations committed in Bangui and if possible, in other localities, from December 2012 to the date of the arrival of the [fact-finding mission] in [the Central African Republic], in an independent and impartial manner; Submit to the High Commissioner a report setting out the findings of the mission regarding violations of international human rights law, and the nature and extent of those violations, committed during the relevant time period."
Report	Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Central African Republic (A/HRC/24/59), 12 September 2013
Members	Office of the United Nations High Commissioner for Human Rights

46. INTERNATIONAL COMMISSION OF INQUIRY ON THE CENTRAL AFRICAN REPUBLIC (2014)

Mandating authority	Security Council resolution 2127 (2013) of 5 December 2013
Mandate	“immediately to investigate reports of violations of international humanitarian law, international human rights law and abuses of human rights in [the Central African Republic] by all parties since 1 January 2013, to compile information, to help identify the perpetrators of such violations and abuses, point to their possible criminal responsibility and to help ensure that those responsible are held accountable”
Report	Final report of the International Commission of Inquiry on the Central African Republic (S/2014/928, annex), 22 December 2014
Members	Mr. Bernard Acho MUNA (Cameroon), Chair; Ms. Fatimata M'BAYE (Mauritania); Prof. Jorge CASTAÑEDA (Mexico); and Prof. Philip ALSTON (Australia), appointed to replace Prof. Castañeda, who had resigned.

47. OHCHR INVESTIGATION ON SRI LANKA (2014)

Mandating authority	Human Rights Council resolution 25/1 of 27 March 2014
Mandate	“To undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission, and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures mandate holders”
Report	Due to report to the Human Rights Council at its twenty-eighth session
Members	Office of the United Nations High Commissioner for Human Rights. Advisory experts: Mr. Martti AHTISAARI (Finland), Justice Silvia CARTWRIGHT (New Zealand), and Ms. Asma JAHANGIR (Pakistan).

48. INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON ERITREA (2014)

Mandating authority	Human Rights Council resolution 26/24 of 27 June 2014
Mandate	“investigate all alleged violations of human rights in Eritrea, as outlined in the reports of the Special Rapporteur”
Report	Due to report to the Human Rights Council at its twenty-ninth session
Members	Mr. Mike SMITH (Australia), Chair; Ms. Sheila B. KEETHARUTH (Mauritius); and Prof. Victor DANKWA (Ghana).

49. UNITED NATIONS INDEPENDENT INTERNATIONAL COMMISSION OF INQUIRY ON THE 2014 GAZA CONFLICT (2014)

Mandating authority	Human Rights Council resolution S-21/1 of 23 July 2014
Mandate	“to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, including East Jerusalem, particularly in the occupied Gaza Strip, in the context of the military operations conducted since 13 June 2014, whether before, during or after, to establish the facts and circumstances of such violations and of the crimes perpetrated and to identify those responsible, to make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring that those responsible are held accountable, and on ways and means to protect civilians against any further assaults”
Report	Due to report to the Human Rights Council at its twenty-eighth session
Members	Prof. William SCHABAS (Canada), Chair; Mr. Doudou DIÈNE (Senegal); and Justice Mary McGowan DAVIS (United States). Justice Mary McGowan Davis appointed to replace Prof. William Schabas, who had resigned.

50. OHCHR INVESTIGATION MISSION TO IRAQ (2014)

Mandating authority	Human Rights Council resolution S-22/1 of 1 September 2014
Mandate	“to investigate alleged violations and abuses of international human rights law committed by the so-called Islamic State in Iraq and the Levant and associated terrorist groups, and to establish the facts and circumstances of such abuses and violations, with a view to avoiding impunity and ensuring full accountability”
Report	Due to report to the Human Rights Council at its twenty-eighth session
Members	Office of the United Nations High Commissioner for Human Rights

The Office of the United Nations High Commissioner for Human Rights (OHCHR) is mandated to promote and protect the enjoyment and full realization, by all people, of all rights established in international human rights law. It is guided in its work by the mandate provided by the General Assembly in resolution 48/141, the Charter of the United Nations, the Universal Declaration of Human Rights and subsequent human rights instruments, the Vienna Declaration and Programme of Action of the 1993 World Conference on Human Rights, and the 2005 World Summit Outcome Document.

The mandate includes preventing human rights violations, securing respect for all human rights, promoting international cooperation to protect human rights, coordinating related activities throughout the United Nations, and strengthening and streamlining United Nations human rights work. In addition to its mandated responsibilities, it leads efforts to integrate a human rights approach within all work carried out by the United Nations system.

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