

## Frequently Asked Questions

### OHCHR's mandate under resolution HRC 46/1

#### **What is the mandate for OHCHR under resolution 46/1 on Sri Lanka?**

In March 2021, the United Nations Human Rights Council, through its resolution 46/1, recognized the importance of preserving and analysing evidence relating to violations and abuses of human rights and related crimes in Sri Lanka with a view to advancing accountability. It therefore decided to strengthen the capacity of the Office of the UN High Commissioner for Human Rights (OHCHR) "to collect, consolidate, analyse and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka, to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction" (operative paragraph 6). The Human Rights Council also requested OHCHR to continue monitoring and reporting to the Human Rights Council on the human rights situation in Sri Lanka, including on progress in reconciliation and accountability (paragraph 16).

#### **What is the scope of the mandate? What will the OHCHR Sri Lanka accountability project do?**

In order to deliver on the Human Rights Council mandate, OHCHR is establishing a new specialized OHCHR Sri Lanka accountability project to conduct four specific tasks:

- collect, consolidate, preserve and analyze information and evidence of violations and abuses of human rights and related crimes committed in Sri Lanka;
- develop possible strategies for future accountability processes for gross violations and abuses of human rights or serious violations of international humanitarian law in Sri Lanka;
- advocate for victims and survivors; and
- support relevant judicial and other proceedings, including in Member States, with competent jurisdiction.

#### **Will the OHCHR Sri Lanka accountability project investigate all alleged violations and abuses?**

The Human Rights Council mandate under which the team will operate is not limited to violations and abuses by a particular party to the conflict or to particular victims, a particular period in time, or any one geographical area of Sri Lanka. It will collect,

consolidate, preserve and analyse information and evidence on violations and abuses of international law regardless of which parties or individuals are alleged to have committed them. Information and evidence will be accepted or collected from any available sources, for analysis further to standard methodology, with inculpatory and exculpatory information and evidence being treated on the same basis.

### **Is this mandate the same as the investigative mechanisms for Syria and Myanmar?**

No. Through resolution 46/1, the United Nations Human Rights Council decided to strengthen the capacity of OHCHR in the four specific areas identified above. This work will therefore be carried out within OHCHR, acting under the authority of the UN High Commissioner for Human Rights. It will provide information on its activities to the Human Rights Council, through periodic reporting by OHCHR, as mandated in resolution 46/1.

The independent mechanisms on the Syrian Arab Republic, established by the General Assembly on 21 December 2016, and Myanmar, established by the UN Human Rights Council on September 2018, are fully independent bodies, each headed by its own senior UN official. The Syria and Myanmar mechanisms are also considerably larger in terms of staffing and resources.

This OHCHR Sri Lanka accountability project is also different from independent commissions of inquiry or fact-finding missions established by the Council to inquire into a specific situation and report back directly to it. These mandates, usually comprised of independent experts, are also fully distinct from OHCHR.

### **Can the OHCHR Sri Lanka accountability project initiate legal proceedings against alleged perpetrators?**

No, this is not a court or a tribunal. In exercising this mandate, it will be possible to provide information to parties in criminal or civil proceedings in national, regional or international courts of competent jurisdiction, subject to baseline requirements of fairness, due process, non-applicability of the death penalty and compliance with other applicable human rights standards. The UN has well-established internal processes for such cooperation in judicial and non-judicial contexts, and the OHCHR Sri Lanka accountability project will fully apply those same policies and standards in this work.

### **How will the OHCHR Sri Lanka accountability project collect information and what will happen with the information collected?**

The OHCHR Sri Lanka accountability project will collect information and evidence from all sources willing to provide it, including Governmental authorities, other Member States, victims, witnesses, civil society stakeholders and any other sources of relevant

material. Various UN bodies have already gathered extensive documentation of serious violations and abuses of human rights and violations of humanitarian law committed in Sri Lanka, particularly during and after the armed conflict, which ended in 2009. Information and evidence collected will be reviewed and analysed by the OHCHR Sri Lanka accountability project, and all information and evidence will be stored securely in accordance with international best practice standards. Consistent with standard OHCHR practice, the consent of information providers to further external use(s) pursuant to the mandate is fundamental in the handling of such information.

### **Where will the OHCHR Sri Lanka accountability project be based?**

The OHCHR Sri Lanka accountability project will be based at OHCHR headquarters in Geneva, Switzerland. It will engage with the Sri Lankan authorities, inviting them to share any relevant material, and seek access to relevant locations where information and evidence may be found.

### **What roles do victims and survivors have in the work of the new OHCHR Sri Lanka accountability project?**

Victims and survivors are a key part of each aspect of the work of the OHCHR Sri Lanka accountability project. Resolution 46/1 also recognises them explicitly, mandating OHCHR "to advocate for victims and survivors". A victim-centred approach is central to all of OHCHR's protection and accountability work, including that of this project. Victims and survivors' testimonies, evidence and information will be protected and maintained safely and securely, in accordance with international practice standards in this area.

The OHCHR Sri Lanka accountability project will work closely with victims and survivors, and their representatives, to enable and facilitate their informed participation in the relevant work of the team, including in the design of possible strategies for accountability and reparation processes.

As with all other OHCHR work with victims and survivors, the OHCHR Sri Lanka accountability project will be sensitive and alert to any protection concerns that victims and survivors may have as a result of its engagement with them, further to the cardinal principle of 'do no harm'. Specific concerns will be considered and addressed as they arise, in conjunction as appropriate with affected persons.

### **How is the mandate funded and when will the new OHCHR Sri Lanka accountability project begin its work?**

OHCHR is moving ahead to implement HRC resolution 46/1. The United Nations budgetary and administrative processes applicable to such mandates require

consideration of resource implications by the Advisory Committee on Administrative Budgetary Questions (ACABQ) and in turn the UN General Assembly's Fifth Committee over the course of 2021. While the Office received formal approval for resources for an initial team undertaking preparatory work through 2021, the full team is projected to start in early 2022, subject to approval by the Fifth Committee.

In accordance with UN rules and procedures, OHCHR will recruit staff with a range of specialized expertise required for this dedicated project. The Office has initiated preparatory work, including the consolidation of all information already within its possession, the setting up and configuration of a central information repository for the storage of such information, and the holding of consultations with all relevant stakeholders. OHCHR will keep the Government of Sri Lanka and various stakeholders appropriately informed as it takes steps to implement the resolution.

### **How is the mandate funded?**

Being mandated by a resolution of the UN Human Rights Council, funding for the OHCHR Sri Lanka accountability project is through the regular budget of the United Nations, as mentioned above. Standard UN budgetary process will consider and decide on the OHCHR Sri Lanka accountability project's resources for next year in the course of 2021.

### **Will the work on this mandate replace the High Commissioner's reports to the UN Human Rights Council?**

No. In resolution 46/1, the Human Rights Council separately requested OHCHR to enhance its monitoring and reporting on the general human rights situation in Sri Lanka, "including on progress in reconciliation and accountability", with updates to the Council in September 2021 and March 2022, and a comprehensive report including further options for advancing accountability in September 2022. To fulfil that part of the Council's mandate, OHCHR will also enhance its efforts in collecting information and assessing progress in reconciliation and accountability.

Relevant developments related to the work of the OHCHR Sri Lanka accountability project will be included in these oral updates and future reports to the Human Rights Council.

Link to Resolution 46/1: <https://undocs.org/A/HRC/RES/46/1>

Should you have any questions, please contact the office at [ohchr-slaccountability@un.org](mailto:ohchr-slaccountability@un.org)