

MANUAL ON human rights MONITORING

Chapter 03

HUMAN RIGHTS MONITORING, FACT-FINDING AND INVESTIGATION BY THE UNITED NATIONS

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UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

HUMAN RIGHTS MONITORING, FACT-FINDING AND INVESTIGATION BY THE UNITED NATIONS



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A. Key concepts




- The United Nations as a whole and OHCHR specifically support and conduct various forms of human rights monitoring, fact-finding and investigations.
- Monitoring, fact-finding and investigations can be conducted directed by OHCHR, especially through field presences established under the High Commissioner's mandate or by resolution of the Security Council as part of peace operations, or by other United Nations mechanisms and bodies, such as special procedures of the Human Rights Council or commissions of inquiry. While these mechanisms operate under different time frames, and differ in their tasks, scope and composition, they apply the same monitoring principles and methodology. OHCHR also provides secretarial support to independent experts, mechanisms and bodies.
- Different monitoring activities and mechanisms reinforce and complement each other. Field presences should be strategic in making use of and building on the work of other United Nations monitoring mechanisms.



B. Introduction

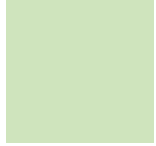
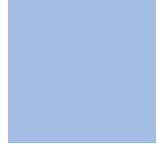
There are different mechanisms in the United Nations system that monitor human rights. They have elements in common as well as important differences. They are guided and based on the same body of international human rights law and pursue the same aim of strengthening the protection and promotion of all human rights for all.

This chapter briefly describes the different mechanisms that perform human rights monitoring functions in the United Nations system. It does not cover each of them in depth but briefly describes their main characteristics.

The human rights monitoring methodology presented in this *Manual* addresses primarily monitoring work undertaken by field presences, which takes place over a protracted period of time (see chapter on *Definition and the human rights monitoring cycle* ). Most aspects of this methodology, including information gathering, analysis, interviewing, protection of witnesses, victims and other sources, and reporting, are also applicable to the mechanisms described in this chapter, namely fact-finding missions, commissions of inquiry, country visits of special procedures and the country visits of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Other human rights mechanisms presented in this chapter, such as the universal periodic review and treaty bodies, have distinct rules of procedure and methods of work. They are based on an analysis of human rights information (received and compiled rather than directly collected and verified), through reporting, individual communications and inquiries.

With their differences and commonalities, human rights mechanisms complement and reinforce each other. Together with other sources of information, the findings of field presences feed into the analysis of treaty bodies, special procedures and the universal periodic review. The conclusions and recommendations of these mechanisms can, in turn, be used by field presences in their monitoring and advocacy work.

This chapter sketches out the United Nations human rights monitoring system to guide field presences in their strategic use of the system.



C. Treaty bodies

There are nine core United Nations international human rights treaties,¹ whose implementation is monitored by committees of independent experts, the treaty bodies. Treaty bodies are established by the provisions of the treaties they monitor. They receive substantive and administrative support from OHCHR.

Their main monitoring functions are:

- Consideration of State parties' reports;
- Consideration of individual complaints or communications;
- Confidential inquiries; and
- Country visits (only the Subcommittee on Prevention of Torture).

1 Consideration of State parties' reports

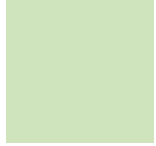
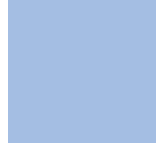
States that accept a core international human rights treaty, through ratification, accession or succession, assume the legal obligation to implement the rights set out in that treaty. One of the obligations is to submit periodic reports to the relevant treaty body on how the rights are being implemented.² In addition to the State party's report, treaty bodies may receive information on a country's human rights situation from other sources, such as national human rights institutions, United Nations agencies, other intergovernmental organizations, national, regional and international civil society organizations, academia and the media. States' reports, together with information from other sources, are then examined and discussed by the committees in meetings with State representatives. Based on the constructive dialogue established with the State parties, the committees then adopt *concluding observations* (concerns and recommendations), intended to provide the reporting States with practical advice and encouragement on further steps to implement the rights contained in the respective treaties. The treaty bodies generally seek to make their recommendations as concrete and practical as possible.

Concluding observations

The treaty bodies adopted 129 concluding observations in 2011 and 126 in 2012.

1 The International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

2 Each State party must submit a comprehensive initial report usually within one or two years of the treaty entering into force for that State. It must then continue to report periodically in accordance with the provisions of the treaty (usually every four or five years).



2 Consideration of individual complaints or communications

Human rights treaty bodies may, under certain circumstances, consider individual complaints or communications.³ Under this procedure any individual claiming that his or her rights under a relevant treaty have been violated can lodge a complaint with a treaty body against a State that is a party to the instrument and has recognized the competence of the treaty body to consider complaints from individuals. The complaint is first assessed on the basis of admissibility requirements. If admissible, the complaint is considered on its merits and the treaty body adopts a decision on whether or not a violation of a provision of the treaty has occurred.

i

Individual complaints

In 2011, the treaty bodies adopted 139 decisions on individual complaints or communications, of which 65 with findings of violations of the treaties by 30 States.

3 Confidential inquiries

The Committee against Torture, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on Enforced Disappearances, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child⁴ may, on their own initiative, initiate inquiries if they have received reliable information containing well-founded indications of serious or systematic violations of the treaties in a State party. Inquiries may be undertaken only with respect to State parties that have recognized the competence of the relevant committee in this regard. Where warranted, and with the consent of the State party concerned, an inquiry may include a visit to its territory. The inquiry procedure is confidential. By January 2013, two treaty bodies—the Committee on the Elimination of Discrimination against Women and the Committee against Torture—had undertaken confidential inquiries.

The Subcommittee on Prevention of Torture, established in 2007 under the Optional Protocol to the Convention against Torture, carries out fact-finding visits to any places of detention and other places of deprivation of liberty in the territories of State parties, including police stations, prisons, mental health and social care institutions.⁵ At the end of a country visit, the Subcommittee communicates its recommendations and observations to the State by means of a confidential report.

3 At the time of writing, this procedure already existed for the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of Persons with Disabilities, and the Convention on the Rights of the Child. It will come into force for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, when 10 State parties have made the necessary declaration under article 77.

4 On the basis of article 13 of the Optional Protocol on a communication procedure.

5 For more information, see OHCHR Fact Sheets No. 30/Rev.1 on *The United Nations Human Rights Treaty System* and No. 7/Rev.2 on *Individual Complaint Procedures under the United Nations Human Rights Treaties*. See also the web page on the complaint procedures of human rights treaty bodies: <http://www2.ohchr.org/english/bodies/petitions/index.htm> (accessed 10 April 2013).

D. Fact-finding by special procedures of the Human Rights Council

Special procedures is the general name given to the mechanisms established by the Human Rights Council to address either specific country situations⁶ or thematic issues throughout the world.⁷ They may operate as individuals (e.g., Special Rapporteur on the right to education, Special Rapporteur on the situation of human rights defenders) or as working groups (e.g., Working Group on Arbitrary Detention). They are independent experts and their mandates usually call on them to examine, monitor, advise and publicly report on human rights situations.

Mandate holders carry out **country visits** to assess the situation of human rights either generally or thematically. These visits are broadly classified as fact-finding missions and involve meetings with national and local authorities, including members of the judiciary, ministries and parliamentarians, national human rights institutions, non-governmental organizations (NGOs) and other civil society organizations, and rights holders. In some cases, mandate holders undertake joint country visits.⁸ While the assessment of individual cases is not the primary focus of these visits, specific cases can provide support to broader conclusions being drawn in reports. The reports of special procedures' mandate holders, including those on their country visits, are submitted to the Human Rights Council and are publicly available. They include an analysis of the human rights situation, the findings of the mandate holder and recommendations to Governments and others.

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Country visits

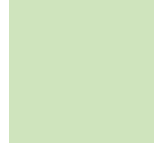
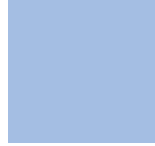
In 2011, special procedures mandate holders undertook 82 country visits to 60 States and territories. Several missions were organized with the support of OHCHR field presences (e.g., Central African Republic, Colombia, Ecuador, Guatemala, Iraq, Mexico, Papua New Guinea, Senegal). In 2012, 80 visits took place to 55 States and territories.

When mandate holders receive credible information on alleged human rights violations related to individuals or to a broader situation, they can send a **communication**, transmitted through OHCHR, to the State concerned to request clarification, information and comments on the allegation and preventive or investigatory action.

⁶ At the time of writing, the country mandates concerned: Belarus, Cambodia, Central African Republic, Côte d'Ivoire, Democratic People's Republic of Korea, Eritrea, Haiti, Iran (Islamic Republic of), Mali, Myanmar, the Palestinian territories occupied since 1967, Somalia, Sudan and Syrian Arab Republic.

⁷ See the list of mandates of special procedures at www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx (accessed 10 April 2013).

⁸ For instance, in 2009 the independent expert on the question of human rights and extreme poverty and the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation undertook a joint visit to Bangladesh (A/HRC/15/55); and in 2007 the Human Rights Council mandated a group of seven mandate holders to report on the human rights situation in Darfur (A/HRC/6/19).



Communications usually take the form of either “urgent appeals” or “letters of allegations”. Mandate holders send joint communications when cases fall within the scope of more than one mandate. Communications sent and replies received are regularly compiled in publicly available reports to the Human Rights Council.⁹

By intervening in concrete cases, communications serve as a protection mechanism for individual situations and, when remedied, can bring about broader change beyond the individual case.

Special procedures can intervene with a communication or by requesting an invitation to undertake a visit in any country or territory, regardless of whether the State has ratified any of the United Nations human rights instruments.

⁹ For more information on the communications procedure of special procedures and their reports, see www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx (accessed 10 April 2013).

E. Universal periodic review

The universal periodic review (UPR) was created through a United Nations General Assembly resolution and started functioning in April 2008. It is a unique mechanism of the Human Rights Council and involves a review of the human rights records of all United Nations Member States once every four and a half years. It is a State-driven process, which gives each State an opportunity to explain how it is fulfilling its human rights obligations and to undergo a peer review by other States. The review is conducted by the Working Group on the Universal Periodic Review.¹⁰ It is based on: (a) a national report prepared by the State itself on the human rights situation in the country; (b) a compilation of ten pages prepared by OHCHR with information from treaty bodies, special procedures and United Nations agencies; and (c) a summary of ten pages prepared by OHCHR with information from civil society. The review takes place through a three-and-a-half-hour interactive dialogue between the State under review and the other States. A final outcome document, containing the report of the Working Group and the position of the State under review on the recommendations put forward, is then adopted.¹¹

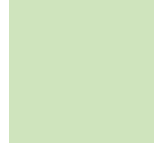
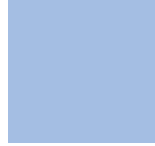
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Universal periodic review

By 2011, the Human Rights Council had completed its first review of the human rights records of all 193 Member States of the United Nations. The second cycle started in 2012.

¹⁰ The Working Group consists of the 47 members of the Human Rights Council. However, any United Nations Member State can take part in the dialogue with the States under review.

¹¹ For more information, see www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx (accessed 10 April 2013).



F. Human rights monitoring and fact-finding by the Office of the United Nations High Commissioner for Human Rights

OHCHR carries out monitoring, fact-finding and investigations primarily through its field presences, in particular its country offices and the human rights components of peace operations and special political missions mandated by the Security Council. The High Commissioner can also decide to deploy a monitoring, fact-finding or investigative mission to respond to a particular situation ad hoc.

1 Monitoring and fact-finding by OHCHR field presences

OHCHR field presences monitor the human rights situation, provide technical human rights advice, implement technical cooperation projects, undertake capacity-building and awareness-raising initiatives, and support international human rights mechanisms to advocate change at the national level.

While the mandate of OHCHR field presences is based on the general mandate of the High Commissioner for Human Rights,¹² each type of field presence¹³ has specific arrangements and agreements defining more specifically its activities in a country or region. Country offices are established through host country agreements between the High Commissioner and the host Government. Such agreements are also used to establish regional offices, following consultations with countries in the region. Human rights components of United Nations peace and political missions, like the missions themselves, derive their mandate from Security Council resolutions, which may also emphasize certain areas of work. Human rights advisers are usually deployed upon request by United Nations resident coordinators, primarily to assist in integrating human rights in the work of the United Nations country team.



Nepal

The OHCHR Office shall support national human rights institutions in monitoring the observance of human rights and international humanitarian law [...].

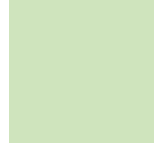
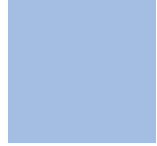
The Office shall have the following functions [...]:

- Monitor the situation of human rights in cooperation with the National Human Rights Commission (NHRC) pursuant to its constitutional mandate;
- Engage all relevant actors for the purpose of ensuring the observance of relevant international human rights and humanitarian law [...].

Source: Agreement between the Government of Nepal and the United Nations High Commissioner for Human Rights concerning the Office of the High Commissioner for Human Rights in Nepal (2010).

¹² General Assembly resolution 48/141.

¹³ OHCHR has four types of field presences: country and stand-alone offices; regional offices and centres; human rights components of United Nations peace and political missions; and human rights advisers in United Nations country teams.



South Sudan

The United Nations Mission in South Sudan has, inter alia, the following tasks:

“Monitoring, investigating, verifying, and reporting regularly on human rights and potential threats against the civilian population as well as actual and potential violations of international humanitarian and human rights law, working as appropriate with the Office of the High Commissioner for Human Rights, bringing these to the attention of the authorities as necessary, and immediately reporting gross violations of human rights to the [United Nations] Security Council”.

Source: Security Council resolution 1996 (2011), para. 3 (b) (iii).

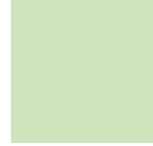
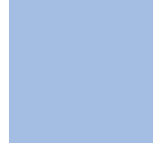
Human rights monitoring is an essential aspect of the work of field presences. It reinforces or complements all other aspects of their work, from advisory services to capacity-building and advocacy. In view of their presence on the ground, they are best placed to undertake human rights monitoring in its broadest sense and cover all the stages of the monitoring cycle, from the identification of problems and priorities to follow-up and corrective action.

Decisions on thematic and/or geographical priorities of human rights monitoring vary depending on, inter alia: the human rights situation; the political environment and space to undertake monitoring; security considerations; available resources; the actions and role of others; the added value of OHCHR monitoring; and the type of field presence.

Typically, country offices and human rights components of peace and political missions have a clear mandate to monitor. However, even field presences that do not have the resources to engage in all phases of the monitoring cycle may engage in activities of a more limited scope, such as monitoring the drafting of key laws and policies or supporting country visits of special procedures. Over the years, all types of field presences have engaged in monitoring, sometimes by being creative in overcoming the limited resources available to them, for instance through joint monitoring with other actors (see chapters on *Engagement and partnerships with civil society*, on *Engagement with national authorities and institutions*, and on *Engagement and partnerships with international actors* [\[11\]](#)), or by investing in creating and preserving the space for OHCHR monitoring work.

2 Ad hoc missions of OHCHR

OHCHR human rights monitoring, fact-finding and investigative missions are established by the High Commissioner under her own general mandate on her initiative. They are usually short-term and aim either at monitoring certain situations or events or at investigating allegations of violations of international human rights or humanitarian law with a view to ensuring accountability. OHCHR human rights fact-finding missions are headed by senior OHCHR staff and supported by OHCHR human rights officers and administrative staff, and sometimes external technical experts. These missions usually result in public reports.



OHCHR human rights fact-finding missions have, for example, been deployed to Uzbekistan (2005), Togo (2005), Kenya (2008) and Mali (2013).



Togo

Following the death of the Togolese president in February 2005, the country plunged into a constitutional crisis. The United Nations country team requested urgent assistance from OHCHR, which deployed a mission and then a human rights adviser to assist in devising a protection strategy. This resulted in the establishment of an OHCHR country office in Togo in 2006.



Kenya

From 6 to 28 February 2008, OHCHR deployed a fact-finding mission to Kenya to “look into the violence and allegations of grave human rights violations following the presidential elections in December 2007”.

Part of the follow-up to the mission included the establishment of a human rights adviser in the United Nations country team of Kenya.

G. Human rights fact-finding and investigative mechanisms established by United Nations bodies

Human rights fact-finding and investigative mechanisms, such as international commissions of inquiry (Cols) and fact-finding missions (FFMs), can be established by the Security Council, the Human Rights Council, the General Assembly, the Secretary-General or the High Commissioner for Human Rights (see above). They are independent mechanisms that investigate alleged violations of international human rights and humanitarian law. The United Nations has increasingly resorted to Cols or FFMs to respond to serious violations of international humanitarian and human rights law and to ensure accountability for such violations. Some have been set up to investigate alleged violations of international human rights and humanitarian law in the context of conflicts;¹⁴ others have been set up in situations of high levels of violence.¹⁵

These mechanisms strengthen human rights protection in multiple ways. They help in ensuring accountability for serious violations, which is fundamental to deterring future violations, promoting compliance with the law, and providing avenues of justice and redress for victims. Many of them have analysed the root causes of violence and violations, triggering transitional justice mechanisms that address the rights to truth, justice, remedies and reparations, as well as guarantees of non-recurrence. They have therefore informed more sustainable peacebuilding and reconciliation efforts, and assisted in the political settlement of conflicts. They can also provide a historical record of serious violations, and influence positive change in law and practice.

Cols and FFMs usually take place over several months and may be mandated to investigate single events as well as broader situations. Their mandate may include the identification of perpetrators.¹⁶ In some cases, they are mandated to also report on international crimes. FFMs and Cols are not expected to seek “evidence of a standard to support a criminal conviction”¹⁷ but rather to gather “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.”¹⁸

These mechanisms are usually composed of three to five members, who are appointed by the mandating authority giving consideration to human rights and other types of expertise, gender and regional representation. They serve as independent experts in their individual capacity and are supported by a secretariat, which is normally multidisciplinary. OHCHR is usually mandated to provide the secretariat for Cols or FFMs investigating violations of international human rights and humanitarian law.¹⁹ Depending on the types of violations to be investigated and the mandate of the body, the secretariat may include

¹⁴ Joint mission to investigate allegations of massacres and other issues affecting human rights which arise from the situation prevailing in eastern Zaire [Democratic Republic of the Congo] (1998), Commission of Inquiry on Lebanon (2006), and 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).

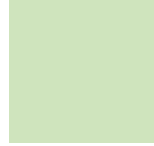
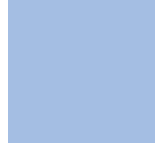
¹⁵ Independent Special Commission of Inquiry for Timor-Leste (2006), independent, international commission of inquiry on Côte d'Ivoire (2011) and International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea.

¹⁶ International Commission of Inquiry on Darfur (Security Council resolution 1564 (2004)), independent, international commission of inquiry on Côte d'Ivoire (Human Rights Council resolution 16/25), independent international commission of inquiry on the Syrian Arab Republic (Human Rights Council resolution S-17/1) and International Commission of Inquiry on Libya (Human Rights Council resolution S-15/1).

¹⁷ A/HRC/19/68, annex I, para. 7. The International Commission of Inquiry to investigate all alleged violations of international law in Libya further explained that “it made its assessments based on a ‘balance of probabilities’ as to whether the information gathered supported a finding that a violation in fact occurred”.

¹⁸ “Report of the International Commission of Inquiry on Darfur to the Secretary-General” (S/2005/60), para. 15.

¹⁹ At the time of writing, OHCHR had supported more than 30 such bodies.



human rights investigators, criminal investigators, legal advisers, police and military analysts, experts on sexual and gender-based violence, forensic scientists, child protection specialists, and victim and witness protection experts. Security and logistical support as well as interpretation and translation services are also provided by the secretariat.

The methodology outlined in this *Manual* applies to fact-finding and investigations carried out by Cols and FFM as well.



Libya

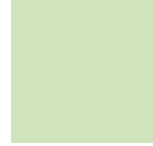
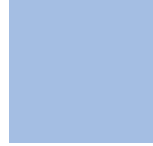
The International Commission of Inquiry on Libya used the following information-gathering methodology:

- (a) Interviews with victims, witnesses and other persons having relevant information. The Commission conducted more than 400 individual interviews;
- (b) The review of reports of international organizations, including the United Nations; reports and statements produced by non-governmental and civil society organizations (Libyan and international); media reports; and writings of academics and analysts on the conflict;
- (c) Site visits to specific locations in Libya where incidents had occurred as well as site surveys of battle damage across Libya;
- (d) Analysis of video and photographic images, including satellite imagery;
- (e) Review of medical reports about injuries to victims;
- (f) Forensic analysis of weapons and ammunition remnants found at incident sites;
- (g) Meetings with members of the diplomatic community, government officials, NGOs, professional associations, military analysts, medical doctors, legal experts, scientists and United Nations staff; and
- (h) Invitations to United Nations Members States and United Nations agencies, departments and bodies to provide information relating to the Commission's investigation requirements.

Source: A/HRC/19/68, annex I, para. 6.

The work of Cols and FFM results in reports that are submitted to the mandating authority and usually made public. Their reports generally include information on their interpretation of their mandates, their methods of work, factual and legal analysis of the information they collected, their conclusions, including on accountability, and their recommendations. The reports of some Cols have led to the creation of, or referral to, international criminal accountability mechanisms.²⁰

²⁰ For more information on international Cols and FFM, see *Commissions of Inquiry and Fact-finding Missions on International Human Rights and Humanitarian Law: Guidance and Practice* (United Nations publication, forthcoming).



Sudan

The Security Council, acting under Chapter VII of the Charter of the United Nations, adopted resolution 1564 (2004), in which it requested the Secretary-General to rapidly establish an international commission of inquiry “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”.

The International Commission of Inquiry found that the Government of the Sudan and the Janjaweed (a militia supported by the Government) were responsible for serious violations of international human rights and international humanitarian law amounting to crimes under international law. The Commission also found that rebel forces were responsible for serious violations of international human rights and international humanitarian law which may amount to war crimes. It concluded that the Government of the Sudan had not pursued a policy of genocide. A list of names of alleged perpetrators was handed in a sealed file to the Secretary-General. The Commission recommended to the Security Council that it should refer the situation of Darfur to the International Criminal Court.

The investigation into the situation in Darfur was officially opened by the International Criminal Court on 6 June 2005 after being referred to it by the Security Council on 31 March 2005.

Source: S/2005/60.

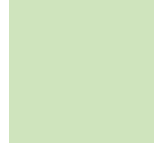
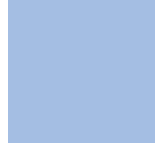


Guinea

In October 2009, the Secretary-General informed the Security Council of his decision to establish a commission of inquiry “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”.

The Commission concluded that the crimes perpetrated on 28 September 2009 and in the immediate aftermath could be described as crimes against humanity. In its report (S/2009/693), the Commission named the persons who it suggested “should be the object of a more in-depth investigation” and recommended that where there was a strong presumption that crimes against humanity had been committed, the cases against the individuals should be referred to the International Criminal Court.

The Office of the Prosecutor of the International Criminal Court has kept the case under examination since 2009. In 2010, the Guinean Chief Prosecutor appointed three judges to investigate the 28 September 2009 case on the basis of two reports: that of the Guinean commission of inquiry and that of the United Nations Col. The Prosecutor of the International Criminal Court initiates investigations and prosecutions only if the national authorities fail to do so. Regarding the situation in Guinea, the role of the Prosecutor of the International Criminal Court has therefore been to ensure that investigations and prosecutions proceed and are completed within a reasonable time.



H. Truth commissions and criminal tribunals

The United Nations and, in some instances, OHCHR specifically have over the years provided various types of support to the following mechanisms:

1 Truth commissions

Truth commissions are temporary non-judicial bodies that establish the facts surrounding gross violations of human rights and, where relevant, of humanitarian law that have occurred over a certain period of time. This often involves mapping violations, taking testimonies from individuals and groups, and holding hearings with victims, witnesses and perpetrators. Truth commissions publish a public report on their findings. These reports are impartial historical records of the events examined with conclusions on accountability, and recommendations on reconciliation and reparations.



Sierra Leone

The Truth and Reconciliation Commission of Sierra Leone^a was established in the wake of the 11-year civil war to “create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone, from the beginning of the conflict in 1991 to the signing of the Lomé Peace Agreement; to address impunity, to respond to the needs of the victims, to promote healing and reconciliation and to prevent a repetition of the violations and abuses suffered”.^b

The Commission received major support from OHCHR at various stages. OHCHR helped to establish the Commission through a technical cooperation project which provided funds to civil society groups and organizations to conduct public education and awareness-raising programmes about the Commission. OHCHR funded and technically supervised a preliminary investigation into the human rights violations that had occurred during the conflict.

After the conclusion of work of the Commission, OHCHR continued to provide technical support to the Government of Sierra Leone for the implementation of the Commission’s recommendations.

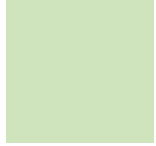
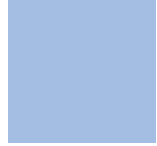
^a www.sierraleonetr.com.

^b Truth and Reconciliation Commission Act, 2000.

2 International criminal tribunals and hybrid courts and tribunals

(a) International Criminal Court

The International Criminal Court is a permanent tribunal to prosecute individuals for international crimes specifically outlined in its founding treaty, the Rome Statute. Cooperation with the United Nations is regulated by the Negotiated Relationship Agreement between the International Criminal Court and the United Nations.



(b) International criminal tribunals

The two United Nations ad hoc tribunals for the former Yugoslavia and for Rwanda were established by Security Council resolutions. They are full-fledged courts, established for a specific period of time with the task of trying individuals responsible for international crimes specified in their statutes.²¹

(c) Hybrid courts and tribunals

Hybrid courts are of mixed composition (national and international judges and prosecutors) and/or jurisdiction (national and international law) and usually operate where the crimes occurred.

In Kosovo²² and Timor-Leste, international legal professionals were incorporated into domestic systems by a United Nations administration, to cope with the challenge of trying mass crimes and politically sensitive cases against a background of an extremely weak and polarized national system. In other contexts, the United Nations was invited by the national authorities to establish a hybrid tribunal. This was the case in Sierra Leone, where the Special Court for Sierra Leone was established by agreement between the United Nations and the Government, and in Cambodia, where the United Nations and the Government agreed to create Extraordinary Chambers in the Courts of Cambodia.²³



Cambodia

The Extraordinary Chambers in the Courts of Cambodia aim at providing Cambodians with a measure of justice for the suffering experienced during the Khmer Rouge era.

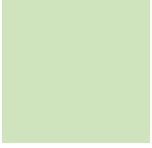
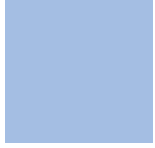
OHCHR has worked inter alia with lawyers, prosecutors and judges at the Extraordinary Chambers on: (a) increasing public information about, and awareness of, legacy activities^a at the Extraordinary Chambers and other hybrid tribunals; (b) facilitating dialogue and debate about the Extraordinary Chambers in the Cambodian legal and judicial sector; (c) facilitating the introduction of tools and curricula to disseminate the Extraordinary Chambers' jurisprudence and practice to legal professionals and academics, to ensure they have a lasting impact on the national sector.

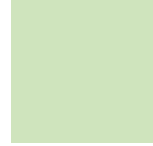
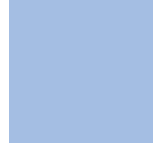
^a In this context, legacy is defined as the hybrid court's lasting impact on bolstering the rule of law in a particular society, by conducting effective trials to contribute to ending impunity, while also strengthening internal judicial capacity. The aim is for this impact to continue even after the work of the hybrid court is complete. *Rule-of-law Tools for Post-conflict States: Maximizing the Impact of Hybrid Courts*, pp. 4–5.

21 For more information, see their websites: www.icty.org and www.unict.org.

22 All references to Kosovo should be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

23 For more information on hybrid courts, see *Rule-of-law Tools for Post-conflict States: Maximizing the Impact of Hybrid Courts* (United Nations publication, Sales No. E.08.XIV.2).





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