INFO NOTE

UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER

Info Note 1
Report of the OHCHR Investigation on Sri Lanka, September 2015

Overview of the report

Establishment, Objectives

OISL is the first broad and comprehensive investigation by the United Nations into human rights violations and related crimes in Sri Lanka. It covers a wide range of alleged violations and abuses of human rights over a nine year period from 2002-11.

It was mandated by the Human Rights Council in March 2014, amid growing international concern at the lack of a credible national accountability process in Sri Lanka.

Its mandate was to "undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka … with a view to avoiding impunity and ensuring accountability".

Its core staff of seven human rights officers began work in Geneva in the summer of 2014. Three distinguished experts were appointed to provide advice and support: Martti Ahtisaari, former President of Finland, Silvia Cartwright, former High Court Judge of New Zealand and Asma Jahangir, former President of the Human Rights Commission of Pakistan (1, 2, 14, 15). UN Special Procedures mandate holders also contributed to the investigation.

Chapters I-V concentrate on the establishment of the investigation, its methodology and the background to, and evolution of, the 26-year conflict between the Sri Lankan Government and the LTTE. They also outline the command structure of Government security forces, the LTTE and paramilitary groups and the legal framework used for the investigation.

Chapters VI-XII cover patterns of violations and related crimes that were prevalent throughout the nine years under investigation. Some of these violations intensified towards the end of the conflict, or directly afterwards. These include unlawful killings, enforced disappearances, torture and sexual and gender-based violence, the forced recruitment of adults and the recruitment and use of children in hostilities.

Chapters XIII-XV focus on the impact of the conduct of the Sri Lankan Government and the LTTE in the final months of the conflict and its aftermath. They examine allegations that attacks were launched from, or into, densely populated areas, and that hospitals and other humanitarian facilities may, in some cases, have been deliberately targeted. They also examine restrictions on the movement of civilians, and allegations regarding the denial of humanitarian assistance.

Chapter XVI examines the impact of the mass deprivation of liberty of almost 300,000 internally displaced people in closed camps after the conflict and the conditions in which they were held.

Methodology:

The team's priority was to organise first-hand confidential interviews with witnesses and victims in 11 countries, taking into account protection concerns, as well as receiving written

statements (26-30). It conducted an extensive review of documents, including about 3,000 written statements and submissions.

The team also reviewed a large amount of audio-visual material and satellite imagery relevant to the inquiry (20-23).

Other key sources of information included many reports and other documentation from a range of sources including the UN, Sri Lankan and international NGOs.

Verification and evaluation of information:

The OISL investigation was not a criminal investigation, it was a human rights investigation. It therefore used the standard of "reasonable grounds to believe" that an incident occurred when there was sufficiently corroborated information (33). As it was not a criminal investigation, the report does not identify individual criminal responsibilities.

***Challenges*:**

The report documents a series of constraints to the investigation, including non-cooperation by the Government, lack of access to Sri Lanka, serious protection concerns for victims and witnesses, as well as the risks of re-traumatisation (36-40).

In spite of the lack of cooperation from the Government, OISL had access to numerous public reports and statements by Government and military officials and a number of previously unpublished official documents, which it assessed to be authentic (40).

Legal framework:

Chapter V details the legal framework used for the investigation, including international human rights and humanitarian law, and international criminal law (180-189, 190-192). In particular, it sets out the key international humanitarian law principles of distinction, proportionality and precaution in the context of conduct of hostilities (185-187). It also sets out definitions for war crimes (193-4), crimes against humanity (195-199) and genocide (200-203) as well as specific legal frameworks for other violations and crimes detailed in the report.

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The full report can be found at:
http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Documents/A_HRC_30_CRP_2.docx