



Guiding Principles of Inquiry into Violations of Human Rights and International Humanitarian Law*

Principles	Analysis
Combating Impunity and Right to Know	The State has an obligation to combat impunity under international law. To investigate crimes. Where sufficient evidence exists, to prosecute. Must be fair trials, no death penalty, cruel or inhuman punishment. State should not recommend amnesties or similar measures. Ensure full and effective exercise of every person's inalienable right to truth and family's right to know the fate of victims.
Establishment and Role of Commission	Establishing Commission, defining terms of reference and composition should be based on broad public consultations where views of victims and survivors are sought; men and women participate on the basis of equality. The Commission should secure recognition of parts of the truth formerly denied.
Guarantees of Independence, Impartiality and Competence	Members of Commission recognised for their impartiality and competence. Be independent of any agency, institution or person involved with inquiry. Have proved expertise and knowledge of human rights law and humanitarian law. Participation of civil society human rights groups, victims groups, women's groups and minority groups. All same criteria to apply to administrative staff. Commission should be guaranteed financial independence.
Definitions of Terms of Reference: Mandate	Mandated to investigate serious violations of international law, whether committed by government forces or by any armed group. Investigate involvement of commanders and military and civilian superiors including in planning, ordering or assisting in perpetration of violations. Make recommendations for future inquiry. Time limit to report findings. Publish regular, interim progress reports.
Powers of Commission	Power to obtain all necessary information; to compel attendance and cooperation of witnesses; to order the production of documents. Power to impose penalties for non-compliance. The Government should ensure that all information the Commission considers relevant is provided to it.
Operations and Procedures	Must be open, fair and public inquiry. Should be media and public access to proceedings and evidence as far as possible. A victim centred approach. A victim and witness protection programme. Must pursue all available sources of evidence. All interested parties able to submit evidence. Commission should establish a public information and education campaign.
Reporting, Reparations and Prosecution	Final report of Commission to be made public in full and disseminated as widely as possible. Commission should recommend full range of reparations required by international standards. Government to ensure that persons identified by inquiry as having participated in violations under international law are investigated and brought to justice.




*These principles are drawn from the Commission on Human Rights 'Updated Set of Principles to Combat Impunity' (2005) and Amnesty International's 'Guiding Principles of Inquiry into Violations of Human Rights and International Humanitarian Law' (2009).



Sri Lanka and the Lessons Learnt and Reconciliation Commission (LLRC)

The Traffic Lights System offers an immediate check as to the progress that is or is not being made by the Government of Sri Lanka and the LLRC relative to the agreed principles and actions necessary for a commission of inquiry.

Principles	Analysis	Progress						
Combating Impunity and Right to Know	The UN Panel of Experts on Accountability in Sri Lanka states “a de facto decision not to hold accountable those who committed serious crimes on behalf of the state during the final stages of the war is a clear violation of Sri Lanka’s international obligations and is not a permissible transitional justice option.” The Government of Sri Lanka has said that the “entire endeavour [of the LLRC] requires that what happened in the past must be relegated to history”. The right to know is not acknowledged.	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Establishment and Role of Commission	There has been no consultative stakeholder process. Only one in eight commissioners is female, only one is Tamil, only one is of Muslim background, nor are the backgrounds and expertise of all commissioners clearly relevant to the mandate.	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Guarantees of Independence, Impartiality and Competence	Both Chairman C.R.de Silva and member H.M.G.S. Palihakkara were senior government representatives during the final year of the war and have publicly defended the conduct of the government and military against allegations of war crimes.	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Definitions of Terms of Reference: Mandate	There is no clear mandate to investigate the allegations of war crimes by the Government of Sri Lanka and the Tamil Tigers. The UN Panel of Experts says that “the LLRC’s mandate does not satisfy international standards... which should explicitly refer to the power to investigate violations of international law.”	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Powers of Commission	The UN Panel of Experts states “while there is some flexibility on the forms of punishment under international law, investigations and trials are not optional, and the creation of a commission such as the LLRC does not in itself fulfil the state’s duty in this case”	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Operations and Procedures	Concerns are raised by the UN Panel of Experts on witness intimidation, lack of a witness protection programme, the access and harassment of the media and civil society to the proceedings and access and transparency of the work of the LLRC. Lack of a victim centred approach and patterns of discrimination against women.	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Reporting, Reparations and Prosecution	The decision as to whether the inquiry, or any part thereof, is to be public rests solely with the President. The LLRC, which was established under Sri Lanka’s Commission of Inquiry Act 1948 No.17, is silent on ensuring that disclosures of criminal acts lead to prosecutions.	<table border="1"><thead><tr><th>Red</th><th>Amber</th><th>Green</th></tr></thead><tbody><tr><td><input checked="" type="radio"/></td><td><input type="radio"/></td><td><input type="radio"/></td></tr></tbody></table>	Red	Amber	Green	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
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Traffic Lights:  Red = Danger: Requirement will not be met.  Amber = Some Progress: Likely to miss deadline.  Green = Making satisfactory progress.