

## FACT SHEET

### WHAT IS THE MYANMAR MECHANISM?

The United Nations Human Rights Council created the Independent Investigative Mechanism for Myanmar (“IIMM” or “Myanmar Mechanism”) through Resolution 39/2 on 27 September 2018. The Human Rights Council was responding to reports, including those by the UN Independent International Fact-Finding Mission on Myanmar (FFM), that reasonable grounds existed to conclude that gross human rights violations amounting to international crimes had been perpetrated in Myanmar, including in Kachin, Rakhine and Shan states. The United Nations General Assembly subsequently welcomed the decision to create the Mechanism.

*“The IIMM will vigorously pursue accountability irrespective of the race, ethnicity, nationality, religion or political affiliation of either the victims or the perpetrators... It sends a message to potential future perpetrators from all armed entities in Myanmar - we are watching and those who commit crimes may someday be brought to account.”*

Nicholas Koumjian, Head of the Independent Investigative Mechanism for Myanmar, Statement to the 42nd session of the UN Human Rights Council

## WHAT DOES THE MYANMAR MECHANISM DO?

The Human Rights Council established the Myanmar Mechanism with the mandate to collect, consolidate, preserve, and analyze evidence of the most serious international crimes and violations of international law. The Human Rights Council resolution directed the Myanmar Mechanism to use the material collected to prepare files that will facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have, or in the future may have, jurisdiction over these crimes.

## HOW DOES THE MYANMAR MECHANISM DIFFER FROM THE FACT-FINDING MISSION ON MYANMAR (FFM)?

The Myanmar Mechanism and FFM are separate entities with different leadership and purposes. The FFM was mandated to establish the facts and circumstances regarding any human rights violations and abuses amounting to possible international crimes in Myanmar since 2011. The FFM used the “reasonable grounds to conclude” standard of proof used in human rights documentation methodology. The Myanmar Mechanism, on the other hand, is focused on collecting evidence to build criminal files against individuals. The standard of proof in criminal cases is higher, requiring proof “beyond a reasonable doubt” or proof to the “intimate conviction” of the factfinder. The FFM has now completed its mandate, while the Mechanism is just beginning its work.

In building its case files, the Myanmar Mechanism will make use of information it has received from the FFM. It will also collect evidence from other sources and conduct its own analysis. The case files will be prepared for the purpose of facilitating fair and independent criminal proceedings in competent courts.

## WILL THE MYANMAR MECHANISM PROSECUTE PEOPLE AND HOLD TRIALS?

The Myanmar Mechanism is not a court and cannot arrest, prosecute or hold trials. The function of the Mechanism is to gather and preserve evidence, and prepare criminal case files for national, regional or international courts that may be able and willing, now or in the future, to conduct fair trials of individuals for crimes committed in Myanmar.

However, the Myanmar Mechanism will only share information if it is confident that the entity receiving the material will protect witnesses and sources of information and respect any promises of confidentiality made by the Mechanism. The Mechanism will only share files with courts or tribunals that respect international human rights law and standards, including the right to a fair trial and where it is assured that capital punishment cannot be imposed.

## HOW IS THE MYANMAR MECHANISM DIFFERENT FROM THE ICC?

The ICC is a treaty-based court with jurisdiction to conduct investigations and trials in certain circumstances, such as when the crime occurs on the territory of one of the states that ratified the treaty. On 14 November 2019, ICC judges [authorised](#) the Prosecutor to proceed with an investigation into crimes related to the forced deportation of Rohingya from Rakhine State in Myanmar, which is not party to the ICC treaty, across the border into Bangladesh, which is party to the ICC treaty.

On the other hand, the Myanmar Mechanism is not a court but an investigative mechanism. Further, the Mechanism is not limited to investigating crimes related to forced deportation across a national border but rather will be collecting evidence and building criminal case files regarding serious international crimes and violations of international law committed anywhere in Myanmar

since 2011, regardless of the ethnicity, nationality, or religion of either the victims or the perpetrators.

## **HOW IS THE MYANMAR MECHANISM DIFFERENT FROM THE ICJ?**

The International Court of Justice (ICJ) is the principal court of the United Nations. On 11 November 2019, The Gambia began proceedings against Myanmar at the ICJ, alleging violations of the 1957 Genocide Convention through acts against the Rohingya. These proceedings are not criminal and are directed at the State of Myanmar, not individuals.

In contrast, the Myanmar Mechanism is not a court but an investigative body. Its mandate is focused on collecting evidence for criminal prosecutions against individuals. The Mechanism will consider requests to use the information it has collected for purposes other than criminal prosecutions on a case-by-case basis, giving particular consideration to whether the proposed use of the information could deter crimes and/or promote accountability

## **WHY IS THE MYANMAR MECHANISM IMPORTANT?**

It is of crucial importance for any future prosecution that evidence of crimes and international law violations committed since 2011 in Myanmar is collected and preserved now. The passage of time and potential attempts to conceal or destroy evidence pose the biggest threats to successful criminal prosecutions of international crimes. The Myanmar Mechanism's effort to gather and preserve this valuable evidence will be of decisive importance for future trials.

It is important to note that the Myanmar Mechanism's mandate is ongoing. The Mechanism will be closely observing events in Myanmar and should serious international crimes be committed in Myanmar, it will gather the relevant evidence and seek to ensure that the persons responsible

will one day be held to account. By aggressively pursuing its mandate, the Mechanism hopes it will deter crimes and help protect the civilian population of Myanmar.

## WHAT WILL HAPPEN WITH THE INFORMATION COLLECTED BY THE FFM?

After receiving consent from the witnesses and other information providers, the FFM has transferred almost all of the material it gathered to the Myanmar Mechanism. The Mechanism will review and analyse all the information it gathers, including the material received from the FFM, to determine if the evidence meets the standard required to hold individuals criminally responsible for serious international crimes and if so, will prepare criminal case files.

## HOW CAN THE MYANMAR MECHANISM BE CONTACTED?

Signal or WhatsApp: +41(0)76 691 12 08; Email: [iimm@un.org](mailto:iimm@un.org)

**Before sharing confidential information, you may wish to contact the Myanmar Mechanism to discuss any concerns you have about how the information will be used and indicate whether you are requesting that your identity be protected. Also, please provide a phone number or otherwise indicate how you can be contacted.**