

FACT SHEET

WHAT IS THE IIMM?

The United Nations Human Rights Council created the Independent Investigative Mechanism for Myanmar (IIMM) 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 (IFFM), 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 IIMM DO?

The Human Rights Council established the IIMM 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 IIMM 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.

The IIMM 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.

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

The IIMM 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 IIMM, 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 IIMM is just beginning its work.

In building its case files, the IIMM 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 IIMM PROSECUTE PEOPLE AND HOLD TRIALS?

The IIMM is not a court and cannot arrest, prosecute or hold trials. The function of the IIMM 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 IIMM 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 IIMM 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 IIMM 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. The Prosecutor of the ICC has requested permission from the judges of the Court to investigate 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 has ratified the ICC treaty. The ICC judges have not yet ruled on whether the Prosecutor can proceed with this investigation.

On the other hand, the IIMM is not a court but an investigative mechanism. Further, the IIMM 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.

WHY IS THE IIMM 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 IIMM's effort to gather and preserve this valuable evidence will be of decisive importance for future trials.

It is important to note that the IIMM'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 IIMM 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 IIMM. The IIMM 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 IIMM BE CONTACTED?

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Before sharing confidential information, you may wish to contact the IIMM 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.