



# BULLETIN

## MESSAGE FROM THE HEAD OF THE MECHANISM

There is mounting evidence that crimes against humanity and war crimes in Myanmar are intensifying. The people of Myanmar continue to suffer because of the lack of accountability for those who believe they answer to no law. In this context of impunity, the work of the Independent Investigative Mechanism for Myanmar has never been more important. Every person in my team is committed to the Mechanism's vision of collecting the evidence needed to ensure that perpetrators of the most serious international crimes in Myanmar face justice.



The preliminary findings outlined in our fourth [Annual Report](#) released in August indicate that there are widespread and systematic attacks against the civilian population of Myanmar. We are regularly receiving reports of indiscriminate attacks and heinous crimes perpetrated by members of the security forces and armed groups against civilians, including children. These crimes include torture, rape and other forms of sexual violence against both men and women.

While the Mechanism is very actively collecting evidence of crimes committed in the post-coup period, we continue to focus on crimes against the Rohingya, particularly related to the 2017 clearance operations. August marked five years since the wave of violence that resulted in around three-quarters of a million Rohingya fleeing their homes to neighboring Bangladesh. On my recent visit to Cox's Bazar where most of those displaced now live, Rohingya I met consistently asked how the Mechanism could help them return to their homes in Myanmar. As I explained to them, the Mechanism hopes that by helping to bring those responsible for the crimes that led to their forced displacement to justice, we will contribute to creating conditions that will allow their safe and voluntary return to their homes. We are committed to collecting evidence of the individuals responsible and supporting legal proceedings, including ensuring close cooperation and timely sharing of evidence with the ongoing investigations by the International Criminal Court and The Gambia v. Myanmar proceedings before the International Court of Justice.

I am grateful to the many brave individuals who have provided us with vital first-hand information about the crimes that have been committed in Myanmar, and to the Member States who have supported us to conduct in-person screenings and interviews on their territories. Conducting voluntary face-to-face interviews with witnesses is essential for our efforts to build files that will effectively facilitate criminal prosecutions. The Mechanism prioritizes the safety and security of witnesses and endeavors to refer witnesses to partners who can provide psychological and/or medical assistance to those who seek it. We call on all Member States who support accountability efforts to each do their part to ensure that witnesses are safe and have access to psychological and medical support.

For decades perpetrators of serious international crimes in Myanmar have believed that they could act with impunity. At the Mechanism, we are committed to breaking this cycle and we are focusing all our efforts to ensure that those responsible for serious international crimes in the country will one day face justice.

**-Nicholas Koumjian**

# INSTITUTIONAL UPDATE

The Mechanism has continued to closely monitor the deteriorating situation in Myanmar and has seized opportunities to collect and preserve evidence of violations of international law related to the fast-developing post-coup events, and the intensified fighting between the military and various armed groups. It also continues its investigations and analysis of earlier crimes, particularly in relation to the clearance operations of 2016 and 2017 in Rakhine State. Special efforts and resources have been allocated towards investigating sexual and gender-based crimes and crimes against and affecting children.

Almost 20 million information items have been collected and processed, including interview statements, documentation, videos, photographs, geospatial imagery, and social media material. This includes over 9 million items in the Myanmar language (Burmese), estimated to equate to over 22 million pages.

## WITNESS INTERVIEWS

With the easing of COVID-19 restrictions, the Mechanism's teams have redoubled efforts to gather testimonial evidence and carry out in-person interviews and screenings in Bangladesh and other countries. While increased travel has placed a greater demand on our limited budget, in-person interviews create the best conditions for witnesses to speak openly, and for Mechanism staff to ensure the integrity and confidentiality of the process. In-person interviews resulting in signed witness statements are also most likely to be admissible and considered probative in any court or tribunal. The protection and support for those who provide information is of utmost importance. To this end, the Mechanism has developed a comprehensive approach to witness protection and support with the assistance of the Member States and other partners.

## MEMBER STATE COOPERATION

The Mechanism continues to engage with States and intergovernmental organizations that may have relevant information or be in a position to support the Mechanism. The Mechanism especially seeks to strengthen cooperation with States in the Asia-Pacific region, to be able to interview and engage with potential witnesses in their territories. To deepen the cooperation and engagement by these States in the region, in May the Head of the Mechanism and members of his team met with representatives of the Government of Bangladesh in Dhaka and Cox's Bazar to discuss Bangladesh's ongoing cooperation with the Mechanism, and with representatives of the Rohingya community and civil society organizations. The Mechanism is grateful to the Government of Bangladesh for its sustained cooperation and commitment to the cause of justice and accountability for the Rohingya.

## OUR WORK IN NUMBERS

Information and evidence collected from over

**200**

sources,  
approximately

**20  
MILLION**

information items processed  
with

**71**

evidentiary and analytical  
packages prepared for sharing  
with judicial authorities.



## HUMAN RIGHTS COUNCIL

In its fourth annual report to the UN Human Rights Council (HRC), the Mechanism outlined its progress, and some of its key challenges. During the [interactive dialogue](#) that followed the presentation of the report at the HRC's 51st session in September, several Member States and civil society organizations reiterated their support for the Mechanism, in particular its efforts to investigate sexual and gender-based crimes and crimes against children.

### OUR TEAM

# 78

personnel currently employed

# 65

personnel based in Geneva

## STAFFING

As it commences its fourth year, the Mechanism is now fully operational. It has reached nearly full staffing levels and has recruited personnel with a diverse range of expertise and specializations in criminal investigations and prosecutions, including in the collection and analysis of open source and financial information and the investigation of sexual and gender-based crimes and crimes against and affecting children. Increasing its language capacities and capabilities, including through the use of advanced technological tools, continues to be a key priority going forward.

## FUNDING

In addition to its regular budget approved by the General Assembly in December 2021, the Mechanism also received voluntary contributions from donors and other entities for discrete projects and highly specialized expertise. The Mechanism is grateful to Justice Rapid Response for the support it has provided since 2019, and to Australia, Canada, Switzerland, the United Kingdom, the United States and others for the voluntary contributions they have made to the Mechanism to enhance its investigative capacities.

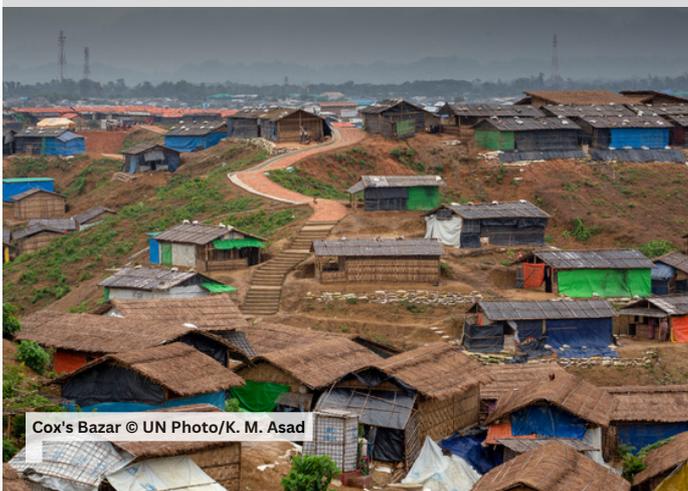
# OUTREACH

The Mechanism can only succeed in its mandate with the support and trust of victims, witnesses, civil society organisations, Member States and others who are committed to justice and accountability for the people of Myanmar. It utilizes a diverse range of closed-door and public channels to raise awareness of its work and support for its mandate. Some highlights of recent public outreach efforts include:

## ENGAGEMENT WITH THE ROHINGYA

During their [visit to Bangladesh](#) in May, the Head of the Mechanism, Nicholas Koumjian, and members of his team held six interactive dialogues with over 150 Rohingya representatives to raise awareness about the mandate and work of the Mechanism.

On 25 August, a [statement](#) by Mr. Koumjian acknowledged the ongoing suffering of the Rohingya who were forced to flee Myanmar following the violence that erupted five years previously, and outlined the Mechanism's role in their ongoing fight for justice.



To mark the five-year commemoration, Mr. Koumjian also participated in an [online event](#) broadcast in Cox's Bazar by Victim Advocates International where he answered questions posed by Rohingya about the Mechanism's work and international justice processes. He was also interviewed by [UN News](#) where he said "we need to create the conditions to allow them to return home safely, voluntarily, and in a dignified manner, to rebuild their lives and rebuild Myanmar."



## MEDIA COVERAGE

The Mechanism has featured in more than 150 media stories since April. In particular, the [preliminary findings](#) outlined in the Mechanism's Annual Report and Mr. Koumjian's [statement](#) to the HRC generated substantial media coverage including an interview with [BBC Newshour](#) where the Head of the Mechanism described findings of "unfettered violence by the regime to those opposed to the coup."

## PARTICIPATION IN EVENTS

The Head of the Mechanism and his team regularly participate in public or closed-door events to draw attention to the work and mandate of the Mechanism, and to share ideas with others working on similar issues. Some recent events include:

- [The Anchoring Accountability for Mass Atrocities Report](#)
- [The International Parliamentary Inquiry into the global response to the crisis in Myanmar](#)
- [The International Bar Association's Human Rights in Myanmar HRC side event](#)

# UPDATES ON ONGOING LEGAL PROCEEDINGS

## INTERNATIONAL COURT OF JUSTICE (ICJ) – THE GAMBIA V. MYANMAR

In 2019, The Gambia, with the backing of the 57 members of the Organisation of Islamic Cooperation, filed a case at the ICJ alleging that Myanmar failed to fulfill its obligations to prevent and punish acts of genocide committed against the Rohingya people in Myanmar as required under the Genocide Convention. On 22 July 2022, the ICJ rejected all of Myanmar's preliminary objections to The Gambia's application. The ICJ noted that the central purpose of the Genocide Convention is the "common interest" of all signatories to ensure the prevention, suppression, and punishment of genocide, and that The Gambia, as a signatory of the Genocide Convention, has the right to initiate proceedings against another signatory of the Genocide Convention in light of this "common interest".

The ICJ will next consider the parties' arguments concerning the merits of the case. Myanmar has been directed to file its brief by 24 April 2023.

## INTERNATIONAL CRIMINAL COURT (ICC) – SITUATION OF BANGLADESH / MYANMAR

In November 2019, the ICC Prosecutor was authorized to proceed with an investigation into crimes related to the forced deportation of Rohingya from Rakhine State in Myanmar across the border into Bangladesh. The Mechanism has been cooperating with the Office of the Prosecutor and sharing evidence.



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## APPLICATION OF UNIVERSAL JURISDICTION BY ARGENTINIAN COURT

In late 2021, the Federal Criminal Court No. 1 of Argentina, under Judge María Romilda Servini de Cubria, commenced investigations into allegations of genocide and crimes against humanity committed against the Rohingya. This follows the submission of a petition to the Argentinian courts in November 2019 to open an investigation under the principle of universal jurisdiction. In April 2022, the Head of the Mechanism and members of his team visited Argentina to discuss potential support for the judicial investigation, and to explore possible avenues for cooperation and sharing.



# FREQUENTLY ASKED QUESTIONS

## ARE THE DEATH SENTENCES CARRIED OUT BY THE JUNTA IN JULY CONSIDERED CRIMES AGAINST HUMANITY?

While capital punishment is not itself a serious international crime, imposing a death sentence on the basis of proceedings that do not satisfy the basic requirements of a fair trial can amount to a crime against humanity when committed as a widespread or systematic attack against a civilian population. There are strong indications that the executions of four individuals in July were without due process, as the proceedings lacked transparency and virtually no information has been made available regarding the charges and evidence.

The secrecy of proceedings is itself a violation of one of the most basic principles of a fair trial, and casts doubt on whether any of the other fair trial guarantees have been respected, such as the requirement that the tribunal was impartial and independent.

The Mechanism will continue to monitor and collect evidence in relation to any cases involving the imposition of the death penalty in circumstances that appear to violate fundamental fair trial guarantees.

## IS THE ASSASSINATION OF SUSPECTED INFORMERS A SERIOUS INTERNATIONAL CRIME?

Numerous reports indicate that civilians in Myanmar are being assassinated because they are suspected of being “dalan” – informers or collaborators. Perpetrators sometimes wrongly claim that such killings are justified and lawful.

The international law of armed conflict provides that civilians (those who are not members of the armed forces or armed groups) may not be targeted for attack except while they are engaged in a specific act that constitutes direct participation in hostilities.

Although procuring or providing military information about the other side could in certain circumstances constitute direct participation, the individual could only be targeted while engaged in that specific act. Civilians may not be targeted as a form of punishment for past acts of direct participation, nor to prevent future acts. Moreover, mere suspicion is not enough: any doubt about whether a person is directly participating in hostilities must be resolved in favour of the civilian. Anyone captured and detained for engaging in such activities may not be summarily executed.



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