



General Assembly

Distr.: General
7 August 2019

Original: English

Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 4

Human rights situations that require the Council's attention

Report of the Independent Investigative Mechanism for Myanmar*

Summary

In its resolution 39/2, the Human Rights Council established the Independent Investigative Mechanism for Myanmar to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011, and to prepare files in order to 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 may in the future have jurisdiction over these crimes, in accordance with international law. In resolution 39/2, the Council also decided that the Mechanism would, inter alia, report on its main activities on an annual basis to the Council as of the forty-second session. The present report is submitted to the Council pursuant to that request.

The General Assembly, in its resolution 73/264, welcomed the creation of the Mechanism and called for its expeditious entry into operation and steps to secure its effective functioning as soon as possible.

Since the Head of the Mechanism, Nicholas Koumjian, officially commenced his functions on 1 July 2019, he has focused on putting in place a broad strategy and concept of operations for the Mechanism with the assistance of the Secretariat, so that the Mechanism will be operational and functional as soon as possible. In this regard, the Mechanism has sought to learn from the experiences of international tribunals and other comparable international accountability mechanisms to ensure effectiveness and efficiency.

The Mechanism has identified a number of initial priorities that will put in place the technical, logistical and administrative measures necessary for the effective functioning of the Mechanism and the implementation of its mandate.

The Mechanism anticipates, however, that its substantive strategies will have to be flexible and in order to adjust in accordance with developments in its investigations and realities on the ground.

The Mechanism is still at a very early stage of its operations and is fully cognizant

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



of the challenges it faces in becoming fully functional. In this regard, it emphasizes the importance of cooperation with and the continued support of the international community, and looks forward to ongoing engagement with the Human Rights Council and the international community to that end.

I. Introduction

1. The first report of the Independent Investigative Mechanism for Myanmar on the progress of its work since the Head of the Mechanism officially commenced his functions on 1 July 2019 is hereby submitted to the Human Rights Council.
2. In its resolution 39/2 on the situation of human rights of Rohingya Muslims and other minorities in Myanmar, adopted on 27 September 2018, the Human Rights Council established the Independent Investigative Mechanism for Myanmar with the mandate to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011, and to prepare files in order to 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 may in the future have jurisdiction over these crimes, in accordance with international law.
3. The Human Rights Council also decided that the Mechanism would be able to make use of the information collected by the independent international fact-finding mission, established by the Council in its resolution 34/22, and continue to collect evidence; have the capacity to document and verify relevant information and evidence, including through field engagement and by cooperating with other entities, as appropriate; and report on its main activities on an annual basis to the Human Rights Council as of its forty-second session and to the General Assembly as of its seventy-fourth session.
4. In its resolution 73/264, the General Assembly welcomed the creation of the Mechanism and called for its expeditious entry into operation and steps to secure its effective functioning as soon as possible.
5. In letters dated 16 January 2019 addressed to the President of the General Assembly (A/73/716) and to the President of the Human Rights Council, the Secretary-General set out the terms of reference of the Mechanism.
6. On 2 April 2019, the Secretary-General announced the appointment of Nicholas Koumjian (United States of America) as the Head of the Mechanism, who officially commenced his functions on 1 July 2019. At the time of writing, the recruitment process for the position of Deputy Head of the Mechanism was ongoing and at an advanced stage.
7. Pursuant to paragraph 42 of the terms of reference, the Secretary-General determined that the seat of the Mechanism would be located in Geneva, and informed the President of the Human Rights Council accordingly in a letter dated 7 June 2019.

II. Mandate and priorities of the Mechanism

8. The mandate of the Mechanism is set out in Human Rights Council resolution 39/2 and further elaborated in its terms of reference. As part of the initial start-up phase, the Head of the Mechanism, since his appointment, has worked towards developing a broad strategy and concept of operations for the Mechanism with the assistance of the Secretariat, including the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of Legal Affairs and the Department of Political and Peacebuilding Affairs. The broad strategy will include the identification of priorities for the Mechanism, and the mapping out of the steps necessary to implement the strategy.
9. The Mechanism also anticipates that its substantive strategies will evolve flexibly over time in response to both developments in investigations and the operational realities of events on the ground. Adjustments of the Mechanism's strategy may become necessary in order to respond to the needs of national, regional or international prosecutorial or judicial authorities seeking assistance with cases that fall within the mandate of the Mechanism.

Furthermore, should serious international crimes that fall within the mandate of the Mechanism be committed in the future, the Mechanism would likely need to adjust its activities and staff planning to respond in an appropriate manner.

A. Selection of cases for investigation

10. Like in the situation faced by international criminal tribunals and comparable international accountability mechanisms, the Mechanism will have to make difficult choices of prioritization with regard to the allocation of its limited resources. The Mechanism has a mandate to prepare files with regard to crimes that allegedly were perpetrated through the contributions of large numbers of individuals. Attempting to prepare a large number of individual case files simultaneously is neither efficient nor practical, and would likely result in poor quality results. Therefore, the leadership of the Mechanism will develop strategies on the prioritization of case files, which will determine how the limited resources available should be utilized in order to secure the greatest effect on achieving accountability for serious international crimes, providing the victims of such crimes with the best prospects of justice, contributing through its work to deterrence of further crimes, and seeking to ensure that all the peoples of Myanmar can live safely in their own home communities.

11. Certainly, the scale of the crimes, notably the number of victims affected by the crime, is a paramount factor in case selection. The Mechanism is well aware of the large number of Rohingya now stranded in makeshift refugee camps and who have had to flee to Bangladesh because of alleged international crimes committed against them. Accordingly, the Mechanism, in close coordination with other relevant entities, will prioritize the analysis and investigation of these alleged crimes.

12. The case selection strategy will also take into consideration the impartiality of the Mechanism, namely, that it is concerned with obtaining justice for all those affected by international crimes, regardless of race, ethnicity, nationality, religion or political views. The case-selection strategy will reflect the fact that the mandate of the Mechanism covers serious international crimes and violations of international law committed anywhere within the entire territory of Myanmar, at any time since 2011. The Mechanism will thus seek to select cases that are appropriately representative of the international crimes committed throughout Myanmar, involving various victim groups within the period of its temporal jurisdiction.

B. Accountability for crimes of sexual violence

13. The Mechanism is aware of multiple reports alleging widespread crimes of sexual and gender-based violence, which would fall within the mandate of the Mechanism. Given that societies often stigmatize the victims of sexual and gender-based violence, it is well established that such crimes are almost always significantly underreported, and at times, massively so. The Mechanism will consider these facts within the specific context of its own mandate when selecting and prioritizing the incidents and cases to which it will devote resources. These cases also merit special, victim-centric handling in order to ensure that the investigation does not traumatize victims further, and best facilitates truth-seeking.

C. Investigations in order to prepare files

14. In accordance with the way investigations are prioritized, strategies will be developed on how to conduct investigations that would result in files meeting the high standards for criminal prosecution, while still being effective and efficient: essentially, situations whereby the evidence, if tested in fair and credible trials meeting international standards, would be capable of proving the guilt of the accused beyond a reasonable doubt.

15. A preliminary yet critical task for the Mechanism will certainly be the collection and analysis of information, documentation and evidence provided by other entities, particularly from investigations conducted by international entities, non-governmental organizations and civil society organizations. The probative value of such information, documentation and evidence and the extent to which they establish the elements of a criminal offence having

been committed by specific individuals can only be assessed once they are thoroughly analysed by qualified criminal lawyers. The past experience of international courts and comparable international accountability mechanisms suggests that it is likely that such evidence will not by itself be sufficient to build criminal case files that establish all elements of the applicable criminal offenses. Evidence collected by entities undertaking human rights investigations and reporting typically provides important leads with regard to relevant witnesses, and can also be very useful in helping to establish whether international crimes have been committed against a particular group and, on occasion, the identity of direct perpetrators. By themselves, however, such investigations and reports often fall short of proving all elements of the charges to the standard of beyond reasonable doubt. This is particularly true in the case of indirect perpetrators, namely, those that ordered, planned, instigated or financed a particular crime, or of superiors who, having knowledge of the crimes and the ability to take necessary and reasonable steps to prevent them, failed to do so. Thus, it is anticipated that it will be essential for the Mechanism to conduct its own investigative interviews and to collect further evidence in various forms.

16. A further challenge is posed by the fact that, while the seat of the Mechanism is in Geneva, it will be essential for the Mechanism to conduct a significant portion of its operational and investigative work in the south-east Asian region closer to where the crimes were committed and where numerous witnesses and most physical evidence are likely to be located.

17. In preparing case files, the Mechanism will also ensure that it proceeds in an even-handed fashion, and seeks the truth impartially. This would include collecting exculpatory evidence, including evidence of any efforts made by those in leadership roles to prevent crimes or to punish those responsible for crimes, as well as any evidence that has an impact on the credibility of witnesses.

18. The Mechanism recognizes that such investigations will be very challenging. It lacks police or judicial power to use its own authority to compel cooperation from individuals or entities. The Mechanism will seek the cooperation of the Government of Myanmar, and of States both in the region and elsewhere, in order to gain access to crimes scenes, witnesses and relevant physical and electronic material. The Mechanism will pursue, within the limits of its mandate, all available avenues to obtain relevant evidence, and strive to be innovative in pursuing such evidence. It will seek to recruit a team of highly experienced and innovative professionals with a variety of skills that can make use of all available strategies and technologies to overcome these challenges.

D. Cooperation

19. The Mechanism acknowledges the important work of the fact-finding mission over its years of operation, and its contribution towards seeking accountability for the crimes committed in Myanmar. The Mechanism is grateful for the efforts of the fact-finding mission to ensure the seamless transfer of the information, documentation and material in its possession to the Mechanism.

20. In implementing its mandate, the Mechanism will engage with States, regional and intergovernmental organizations, United Nations entities, civil society and other stakeholders to obtain further evidence of crimes and other relevant information and documentation pertaining to its mandate. It will also establish modalities and protocols for such cooperation and information-sharing.

21. The Mechanism will engage with States, regional and intergovernmental organizations, civil society and other stakeholders in order to encourage them to support its activities and to contribute appropriate resources, including specialized personnel or services, that would assist in the fulfilment of the Mechanism's mandate. In doing so, the Mechanism will take every precaution to ensure that its independence and its impartiality are fully preserved.

E. Sharing of information, documentation and evidence

22. It is important to recall that the Mechanism is not a court or tribunal. It has no power to issue arrest warrants, conduct trials or impose punishments on its own; rather, it has the mandate to share relevant information, documentation and evidence with competent investigative, prosecutorial and judicial authorities in order to 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 may in the future have jurisdiction over the crimes.

23. When sharing information, documentation and evidence with such authorities, the Mechanism will ensure it is done in accordance with its terms of reference, including United Nations rules, regulations and policies, relevant international law, including international human rights law, and rules and standards and good practices of other comparable international accountability mechanisms. In particular, it will ensure that it complies with the United Nations policy against international accountability mechanisms sharing evidence for use in criminal proceedings in which capital punishment could be imposed or carried out.

24. Furthermore, before sharing specific information, documentation or evidence with such authorities, the Mechanism must be satisfied that the disclosure is subject to the necessary and appropriate protective conditions. Assurances must be obtained from the entity requesting the information that it will respect the scope of the consent expressed by sources of information, including victims, witnesses, Governments and non-governmental providers of information. The Mechanism will only provide information once it is satisfied that the entity receiving the information will take appropriate measures, consistent with the rights of due process and fair trial, to ensure the protection of confidential information and the security of all relevant persons.

25. Moreover, the Mechanism must be confident that the authorities requesting the information are willing and capable of conducting fair and independent criminal proceedings in accordance with international law standards. Any request for material from the Mechanism will therefore be carefully studied before a decision is made on whether to provide such material, and if so, that the sharing is conducted with the necessary modalities so that the aforementioned concerns are addressed.

26. At the initial stages of its operations, the Mechanism will largely focus on the collection, preservation and analysis of information, documentation and evidence in order to extract the relevant evidence to prepare case files. Nonetheless, in anticipation of requests for the sharing of information, documentation and evidence arising in the future, the Mechanism will, at the initial stages, ensure the development of policies, methodologies, protocols and procedures for the future sharing of information, documentation and evidence.

F. Sharing information, documentation and evidence for other purposes

27. The terms of reference of the Mechanism provide that any other use of the information, documentation and evidence collected, preserved and stored by the Independent Investigative Mechanism pursuant to its mandate to facilitate fair and independent criminal proceedings in the future may be determined by the Mechanism on a discretionary case-by-case basis (A/73/716, annex, para. 19).

28. In addition to the aforementioned policies, methodologies, protocols and procedures for the sharing of information, documentation and evidence, the Mechanism will also establish policies and procedures for the exercise of its discretion regarding the sharing of information, documentation and evidence for such other uses. In this regard, the Mechanism will, in accordance with its mandate, place utmost importance on evaluating whether such disclosure could materially contribute to the interests of justice and the deterrence of further crimes. The Mechanism will also need to carefully consider the request to ensure that the disclosure will not endanger victims, witnesses or information providers, nor risk compromising assurances made by the Mechanism to treat information confidentially.

G. Public outreach

29. The Mechanism believes that regular and professional public outreach is essential to raise public awareness and understanding of the work of the Mechanism, and will be critical in securing the confidence and cooperation of victims and witnesses. While key aspects of the work of the Mechanism must necessarily remain confidential, it is also essential that accurate information about the mandate, goals, general activities and contact modalities of the Mechanism be publicly available.

30. Raising public awareness of the work of the Mechanism serves several purposes. Firstly, it can help to prevent victims from holding unrealistic expectations of the work of the Mechanism and the possible or likely outcomes, which could also reduce the risks of disillusionment. Secondly, it can help clarify the mandate of the Mechanism and how it differs from the diverse variety of other United Nations entities engaged in aspects of the situation in Myanmar. Lastly, it is essential to convey to the public that the Mechanism is concerned with all serious international crimes committed in Myanmar regardless of the race, ethnicity, nationality, religion or political affiliation of either the perpetrators or of the victims of such crimes.

31. A key objective for seeking to raise public awareness of the Mechanism is to maximize the potential deterrent effects on those contemplating the commission of such serious crimes. The files prepared by the Mechanism will not expire and will remain available for use in criminal proceedings in any national, regional or international courts or tribunals that have, or may in the future have, jurisdiction over those crimes, no matter how much time has passed.

32. The Mechanism plans to have a public website with as much information as is possible and appropriate, taking into account its confidentiality obligations and United Nations rules, regulations and policies concerning the disclosure of information. The information would be made available in the relevant languages.

33. The Mechanism will also maintain channels of communication with victim and survivor groups, members of civil society at the national, regional and international levels, and with relevant States and international organizations so as to facilitate dialogue.

H. Initial priorities of the Mechanism

1. Storage capacity

34. In order to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law that fall within its mandate and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, the Mechanism must first have in place the necessary personnel and physical assets to ensure the integrity of the evidence collected, as well as the security of its sources.

2. Information technology system

35. The Mechanism has prioritized the expeditious identification and acquisition of appropriate information technology as a key to efficiently carrying out its mandate. Such technology is necessary in order to safely preserve and appropriately analyse the information, documentation and evidence collected. Furthermore, the system should be capable of dealing with the multiple languages and scripts used in Myanmar and large quantities of photographic, video and other digital evidence. It is also crucial that the system allow analysts to search through massive quantities of documents, photographs, video and audio evidence in order to identify the material relevant to a particular case file. Ensuring that the appropriate system is established early on will spare the Mechanism of having to adjust or transition between information systems in the future, which could lead to delays in its work and additional unnecessary costs. In building its information systems, the Mechanism will hope to benefit from the experiences of international tribunals and comparable international accountability mechanisms in order to identify and acquire the necessary hardware and software for the system. While the Mechanism explores available

options for building such a system, it has also, in parallel, obtained the necessary basic information technology hardware that would already allow the Mechanism to begin to receive information, documentation and evidence from certain information providers.

3. Development of policies, standards, protocols, procedures and methods of work

36. In the early stages of its work, the Mechanism will develop policies, standards, protocols, procedures and methods of work to ensure it effectively, efficiently and consistently fulfils its mandate. These would cover the entire implementation process of the Mechanism's mandate, from the collection, preservation, storage and analysis of information, documentation and evidence to the conduct of investigations and taking of witness testimonies, the preparation of case files, and the sharing of information, documentation and evidence.

37. In particular, it would include policies regarding the handling of physical and electronic evidence to ensure its integrity and preservation, as well as protocols on protecting the security and privacy of witnesses and obtaining the informed consent of cooperating witnesses before their identities are shared with anyone outside the Mechanism. In addition, procedures and methods of work would be designed to minimize the security risks of witnesses and interlocutors, as well their families, which may arise as a result of their interaction with the Mechanism.

4. Frameworks for the transfer of information, documentation and evidence

38. In order to ensure that the Mechanism will be able to receive information, documentation and evidence from all relevant information providers, including Member States, international and regional organizations, United Nations entities and civil society organizations, the Mechanism will also engage with such information providers in order to establish the necessary and appropriate frameworks, including by entering into arrangements or agreements for the transfer of relevant information, documentation and evidence from information providers. Such frameworks will be in accordance with United Nations rules, regulations and established procedures and practices.

39. The frameworks would necessarily take into consideration the possibility that such information, documentation and evidence received may become evidence in the Mechanism's preparation of case files to facilitate and expedite fair and independent criminal proceedings in the future. Accordingly, the frameworks would seek to address, inter alia, issues of confidentiality, the uses of the information, documentation and evidence, and their possible sharing as evidence in case files with national, regional and international courts. The frameworks would also ensure that any transfer of information, documentation and evidence is in accordance with United Nations rules, regulations, policies and procedures.

5. Collection, preservation and analysis of information, documentation and evidence

40. Before further investigative activities are carried out, the Mechanism plans to receive, collect and analyse information, documentation and evidence held by other entities, and to identify which investigative activities are most likely to lead to prosecutable criminal cases.

41. When accepting information, documentation and evidence from other entities, the Mechanism will be most focused on verifiable facts concerning the events in question (such as witness statements, photographs and videos) rather than any analysis or legal conclusions that the provider may have drawn, or sought to draw, from those facts. The Mechanism will make its own analysis and draw its own legal conclusions with regard to potential criminal cases on the basis of a comprehensive, independent assessment of all available information, documentation and evidence using methodologies accepted in international criminal courts and in most national judicial systems. The Mechanism will also attempt to verify the information, documentation and evidence received through its own supplementary investigation, when deemed necessary or helpful.

42. As part of the its collection of information, documentation and evidence, the Mechanism will also collect witness and victim testimonies and undertake investigations in the field. While the actual scope and needs of these activities will be developed subsequently, an initial priority will be to ensure that the Mechanism has the expertise necessary to handle sexual and gender-based violence crimes. The Mechanism will therefore prioritize the recruitment of investigators, analysts and legal officers with specialized training in or experience handling of cases of sexual and gender-based violence. It will also provide specialized training to all staff dealing with victims of sexual violence, and prioritize the handling of these cases.

43. As a core function, the Mechanism will ensure that the information, documentation and evidence that it collects and preserves, and the analyses produced by it, conform with relevant United Nations rules, regulations, policies and procedures. This will require comprehensive and sustainable security and cybersecurity protocols to best ensure the effective reception, cataloguing, storage and sorting of documents, materials or other evidentiary elements.

6. Consultations and cooperation

44. The Mechanism recognizes that it can benefit in many areas from the experience of international courts or comparable international accountability mechanisms, and has already engaged in consultations with some relevant entities that have been generous in their assistance. The Mechanism believes it will particularly benefit from the experiences of these entities in the areas of development of information technology systems; the development of protocols regarding witness interviews, confidentiality and protection; and the standardization of the frameworks for the transfer of information, documentation and evidence from information providers.

45. Necessarily, all such systems and protocols will be tailored to fit the actual circumstances and needs of the Mechanism, which will differ in important respects from that of international courts or tribunals or other international accountability mechanisms. In particular, the many different languages that are spoken in Myanmar will pose specific challenges, including in hiring or contracting with competent and independent interpreters and translators. In addition, database search systems must be capable of accommodating the various scripts in which these languages are written.

III. Key challenges

46. The Mechanism is conscious that building a prosecutable criminal case requires presenting credible evidence that proves each element of the crime to the high evidentiary standards required in various jurisdictions for a criminal conviction (for example, proving each element beyond a reasonable doubt or to the “intimate conviction” (*conviction intime*) of the judges). When convictions depend on inferences from circumstantial evidence, the inference consistent with guilt must be the only reasonable inference. Furthermore, the Mechanism emphasizes that the evidence must not only prove that a crime has been committed; it must also establish the elements of the applicable mode of responsibility – including proof that the accused person held the required mental state to satisfy the *mens rea* element of the crime, as well as proof that the accused person’s acts or omissions fulfil the *actus reus* elements necessary to make them criminally responsible.

47. Taking into consideration the need for the Mechanism to collect evidence of such high standards, the Mechanism will have to ensure that it has the necessary policies, protocols, procedures and methodologies in place, and recruits and retains well-trained and experienced investigators and analysts to ensure that its investigations are of the quality demanded by its mandate.

48. The distance of the seat of the Mechanism from relevant witnesses and the locations of alleged crimes poses a logistical and operational challenge that the Mechanism will seek to address with innovative and cost effective operational structures and processes. The Mechanism will seek the cooperation of States in the region, including Myanmar.

49. Where such cooperation is not available, the Mechanism will proceed with its investigative efforts and prepare case files, drawing on the experience of international

courts and tribunals, and of other comparable international accountability mechanisms. Many international courts and other international accountability mechanisms have faced the challenge of a lack of State cooperation in investigations of serious international crimes, and have adopted a number of complementary strategies to compensate. Where cooperation is not forthcoming, the Mechanism will adopt strategies proven effective in other contexts, and will adopt its own innovations that allow it to pursue and have access to the best evidence available. At the same time, the Mechanism would benefit greatly from the ongoing support of the Human Rights Council in encouraging Member States, including Myanmar and neighboring States, to cooperate fully with the Mechanism.

50. Throughout the course of its operations, the Mechanism will work to ensure that its interactions with victims and other witnesses do them no harm (namely, that any risk of re-traumatizing victims or placing witnesses at risk of reprisal for cooperating with the Mechanism is minimized). The Mechanism will adopt appropriate procedures and methods of work to minimize the security risks of witnesses and interlocutors, and of their families, which may arise as a result of their interaction with the Mechanism.

51. Where witnesses or sources are deemed to be at risk during the course and as a result of such cooperation with the Mechanism, the Mechanism will seek to take all feasible steps within its means to protect their safety and security. Arrangements or agreements, as appropriate, with national Governments willing to cooperate in this regard will be desirable. Given that witness protection can often involve significant expense, the Mechanism will further seek the cooperation of competent national, regional and international authorities with well-developed witness protection programmes whenever possible.

IV. Practical steps taken for the operationalization and full functioning of the Mechanism

52. Following the setting out of the terms of reference of the Mechanism, the United Nations Secretariat worked to put in place the arrangements, personnel and budget necessary for the operationalization and full functioning of the Mechanism. This included the establishment of an administrative start-up team to facilitate prompt recruitment and operationalization processes once the Head of the Mechanism was appointed.

53. In parallel, the Mechanism is also proceeding with the recruitment a variety of other staff positions in the Mechanism. In this regard, in line with the Mechanism's mandate, and in order to establish the necessary infrastructure to receive information, documentation and evidence, priority has been given to recruiting personnel with the specific expertise to assist the Mechanism in (a) establishing a system for the receipt, treatment, safe storage and consolidation of information, documentation and evidence, particularly within a searchable electronic database; (b) developing protocols for the receipt, treatment and storage of information, documentation and evidence; and (c) drafting and putting in place the arrangements or agreements necessary for the receipt of information, documentation and evidence from identified providers. These capabilities are necessary in order for the Mechanism to optimally collect and preserve evidence, which it will subsequently analyse and use to prepare case files.

54. Since the Secretary-General's determination in June 2019 that the seat of the Mechanism should be located in Geneva, the Mechanism has sought to identify potential permanent office space that is adequate for the number of staff members anticipated when all positions have been filled and which would fit the security needs of the Mechanism. Consultations in that regard are ongoing with both the host Government and the United Nations Office at Geneva. Once the options available have been identified, the Mechanism will compare the costs of each, including recurring costs such as security at the site, to identify the most cost- and operationally efficient option. In the interim, the United Nations Office at Geneva has provided temporary office space and identified facilities for the safe storage of evidence received by the Mechanism until more permanent facilities become available.

55. With regard to short-term storage needs, the Mechanism has also ensured the availability of a secure facility in the United Nations Office at Geneva to store physical

evidence and electronic hardware for evidence received from the fact-finding mission and other entities.

56. Upon assuming his position on 1 July 2019, the Head of the Mechanism has consulted with stakeholders in order to hear their concerns and suggestions, to explain his mandate, and to develop strategies further for the implementation by the Mechanism of its mandate. One of the key messages that the Head has sought to convey is that the unique and technical mandate of the Mechanism is to build case files, which differs from the mandates of the fact-finding mission, the Special Rapporteur on the situation of human rights in Myanmar and the Special Envoy of the Secretary-General on Myanmar.

V. Conclusions

57. The Mechanism is at a very early stage of its operations. Many challenges lie ahead on the its journey towards fulfilling the ambitious mandate conferred upon it by the Human Rights Council. The experience of courts and tribunals dealing with international crimes, as well as other comparable international accountability mechanisms, has shown that such investigations are complex, and that it can take time for such information, documentation and evidence to be shaped into strong case files ready for prosecution. Successful investigations require painstaking efforts to locate and obtain the testimony of individuals with knowledge of the crimes, particularly those with evidence concerning the planning, preparation or orders that may have led to crimes, to collect any documentary or forensic evidence that may corroborate witness accounts, and to gather and evaluate all evidence, both inculpatory and exculpatory.

58. The Mechanism is, however, acutely aware that each day that passes without accountability for international crimes brings concomitant suffering for the hundreds of thousands of refugees stranded in makeshift refugee camps outside Myanmar, and hoping and waiting to be able to safely return to their homes, to those displaced from their homes to other locations within Myanmar, and to the many others who have themselves been victimized or who have lost family members to international crimes within the Mechanism's mandate. The voluntary and sustainable return of refugees to their home communities in Myanmar is likely to be dependant, to an important extent, on a process of accountability for those most responsible for the crimes that uprooted them from their homes. Few are likely to seek to return to a place where those that perpetrated serious crimes against them, or their families, still reside with impunity and retain the means or authority to inflict further harm.

59. The Mechanism is keenly aware of victims' expectations of its work and the weight of the responsibility that it has been given to pursue avenues towards justice. Nonetheless, even when assisted by the brave efforts of victims and witnesses who seek justice for the serious international crimes committed in Myanmar since 2011, the efforts of the Mechanism alone will not be sufficient. States in the region should cooperate with the Mechanism, in order to maximize its effectiveness, and the international community as a whole should affirm its enduring commitment to seeking accountability for the most serious international crimes and violations of international law committed in Myanmar since 2011.

60. Continued impunity for such crimes is only likely to lead to further violence and suffering, and accompanying risks to peace and security in the region and beyond. The prospects for a peaceful and prosperous future for the people of Myanmar, where all its peoples share the benefit of development and its bountiful resources, depend on the clear demonstration that such crimes will not be tolerated. The Mechanism looks forward to its ongoing engagement with the Human Rights Council towards that end.