

## LATEST NEWS

### Two Case Files Related to Unlawful Attacks in Syria Opened by the IIIM

The Head of the International, Impartial and Independent Mechanism – Syria (IIIM), has made the decision to open two new case files related to unlawful attacks involving use of chemical and conventional weapon, including those against medical facilities. The facts underlying these attacks allegedly took place in the Syrian Arab Republic in 2015 and 2017.

This decision was reached after intensive work within the context of the IIIM's line of inquiry on unlawful attacks. The IIIM team reviewed analysis as made by other investigative bodies, including the Independent International Commission of Inquiry on the Syrian Arab Republic. The IIIM team also reviewed associated underlying data, as well as materials collected by the investigating team from other sources, including civil society actors.

All these materials are preserved within the IIIM's Central Repository. Evidence of core international crimes committed in the Syrian Arab Republic since March 2011 and analysis of that evidence, form part of the IIIM's Structural Investigation.

## MESSAGE FROM THE HEAD OF IIIM



The recurring violations of international law in Syria that take place with apparent impunity have become an increasing source of righteous frustration amongst Syrian victims and survivors. The familiar pattern of attacks followed by statements of condemnation without concrete repercussions to change the status quo, clearly does little to soothe the intensity of pain and grief visible in the faces of victims and survivors.

The mounting injustices visited upon Syrians are unimaginable. Yet many continue to do the critical work of calling out crimes and violations whether States act or not. Days after the destruction caused to a hospital in Northern Syria, a doctor speaking about lost colleagues and patients, ended his comments by saying: "We rebuild. We do the work. We continue. We have no other choice."

In a world of shifting priorities, justice and accountability may sometimes seem to rank low on the list, even as the numbers of those impacted continue to rise. However, for the IIIM the priority is and will always remain to facilitate justice and accountability, where it may exist now or may possibly arise in the future. For us to be effective in this work, it is vital that core international crimes in Syria continue to be documented and shared with us. We apply criminal law methodologies and prioritise work that will assist competent jurisdictions to investigate and prosecute those responsible for the most serious crime under international law in Syria. We identify justice avenues as they become available and we seize every opportunity to support them by maximising the use of the material we preserve in our Central Repository.

My team tirelessly makes use of the Central Repository and of our investigative capacity to support on-going investigations undertaken proactively or in response to requests for assistance. Additionally, we are using our investigative and analytical capacity to develop an understanding of facts underlying allegations of core international crimes as well as of the organisational structures connected to these events.

When work has sufficiently progressed in one line of enquiry, I am, resources permitting, in a position to decide to open

a new case file. In developing our two newly opened case files, we are determined to look at the linkages between the use of chemical weapons and conventional attacks, and the impact such attacks have on affected communities. We are mindful that, to date, the distinctive experiences of women and girls of unlawful attacks has been under-documented as has the analysis of the specific impact of these attacks on children. We will seek to remedy this in the context of our cases.

After a decade of this devastating conflict, it is clear that the delivery of justice and accountability is not swift. I can only reiterate our commitment as an organisation that we will not slow down our efforts. We work on the

assumption that the current efforts of national jurisdictions prosecuting core international crimes in Syria, will in due course be supplemented by the efforts of other courts and tribunals, national, regional. We will continue to support and proactively engage with those working towards comprehensive justice and accountability. There is no choice but to continue.

CATHERINE MARCHI-UHEL

## SPOTLIGHT: Collection

When the IIIM became operational, in 2018, there was already considerable documentation of crimes and other violations of international law committed in Syria since 2011. These materials were spread across the globe, in the possession of a variety of different actors, from individuals to States, UN agencies to NGOs. The IIIM prioritised developing frameworks and processes to collect and consolidate much of these dispersed materials.

This process, building on the work of Syrians and others, enabled the IIIM to create the central repository, a powerful resource fuelled by the information and evidence it houses. This is what underpins the work of the IIIM, as it supports competent jurisdictions seeking to investigate and prosecute suspected perpetrators, as well as allowing it to contribute to the broader international justice and accountability efforts.

The work of Identifying and collecting evidence is now a more strategic activity, led by the IIIM investigators, who make assessments on initiating collections based key criteria:

### How Do You Prioritise Collections?

The IIIM regularly assess best use of its resources and capacity. It prioritises:

- Information to support on-going investigations related RFAs
- Information to support the IIIM's analytical and investigation projects.
- Filling gaps identified in the documentation of GBV Crimes and Crimes Against Children.

#### • Gaps Identified:

- As part of a IIIM project, or [in response to a request for assistance \(RFA\)](#) from a competent jurisdiction, information gaps within the evidence held are identified.
- Investigators will make a search from amongst their networks and sources.
- This may reveal that the required material already exists as part of an uncollected archive
- OR it clarifies that the IIIM will need to conduct its own targeted investigation, taking statements, identifying, and gathering the evidence needed.

#### • Material Identified by Providers and Sources:

- Information providers and sources working with the IIIM, may update on new material they possess.
- If this material aligns with priority areas, the investigators will initiate steps to collect this material.
- Material from existing sources is often easier to absorb into the IIIM's work processes since there is familiarity of areas of interest, documentation processes and what is of value as evidence.

### The Investigators

Investigators at the IIIM have experience at an international level<sup>1</sup>

Bringing with them:

- Experience in handling sensitive, confidential material and sources
- Understanding of the specifics of international crimes and violations,
- Knowledge of the processes to build a case to a criminal law standard.
- Understanding of the legal requirements to fulfil the IIIM's mandate.
- GBV Crimes and Crimes Against Children.

<sup>1</sup> Either through law enforcement tracks – often starting at a national level and perhaps working on international crimes or gaining experience at international courts. Or through international human rights investigations.

The IIIM also proactively approaches those who it identifies as holding material that should be part of the central repository. Information and evidence that is relevant to RFAs from jurisdictions or IIIM projects, inevitably takes precedence for collection. Outside of these criteria it is less easy to allocate resources for collection, though the IIIM is always looking for ways to expand our capacity.

## THE CHALLENGES

The IIIM does not have access to enter Syria and so is unable to directly attend the locations of suspected unlawful incidents. However, it means that the many Syrians who do have access play a critical role in providing information.

The main challenge that faces all investigators is sifting through the vast swathes of information that exists. [Technology and evidence management systems developed by the IIIM](#) and others have made huge strides in this regard, but much of work can only be done by skilled personnel and is time intensive.

Investigators must assess the security risks for the sources and information providers, not only at the time of collection but also with an eye to the long-term should the sources testify in court. There are additional assessments and considerations if the source is a vulnerable witness, including a child witness, and requires support. Duty of care is a strong consideration throughout, with the value of the material being collected being measured alongside the potential impact on the information provider.








## CHAIN OF CUSTODY

“The sheer volume collected by the Mechanism allows it to aggregate information and evidence and authenticate material through comparative analytical work... The Mechanism pays particular attention to the chain of custody concerning information and evidence in its possession, to help ensure that such evidence is admissible in court”

[Excerpt from the IIIM's 4th report to the GA](#)

Understanding the importance of collecting and preserving evidence to ensure its value in court, is a key part of evidence collection. Chain of custody is one of the ways the integrity of material is safeguarded. It refers to the written record of every individual who has had control of the information.

### The record should include:

	Description of the material/evidence
	Date, location of collection and reason for collection
	Details of the individual or organisation who collected the material/evidence
	Identity and details of each of the individuals releasing and collecting the material.
	Signature of each individual releasing and individual collecting respectively
	Purpose for change of custody
	Time and date of exchange

This is updated each time the material changes hands. Each organisation may have additional details as part of their own record keeping system.

The IIIM always maintains chain of custody from the moment it collects. As the IIIM deals with a variety of different sources, chain of custody documentation varies. Occasionally the provenance of some material may not have been documented. In these situations, in line with its priorities and as resources permit, the IIIM seeks to find out the details that will fill these gaps, such as how the source obtained and maintained the material while it was in their possession. This additional documentation may include gathering affidavits and witness statements. However, the assessment of an item of evidence's value will include considering whether it was lacking chain of custody information.

## SHARING MATERIAL/ SHARING WITH JURISDICTIONS

At the end of these processes, the IIIM is able to share material with competent jurisdictions, as either:

- 1. Individual pieces of evidence.** jurisdiction will make the final assessment on its credibility, reliability and value for proving facts at trial, in the context of the other evidence they already have. They will be assisted by the IIIM's provenance documentation and other chain of custody elements of individual evidence.
- 2. Evidence along with analytical work.** In this situation the IIIM will have made determinations on credibility, reliability, and value for proving facts at trial, and **produced analysis that shows how the evidence supports criminal responsibility.** The content of individual pieces of evidence would be corroborated by other pieces of evidence presented as part of the analytical product.
- 3. Analytical work.** The IIIM also produces analytical products that are entirely factual and may not address a legal requirement. It may also be shared without any underlying evidence. For example organisational structures of power, that provide information on the different levels of responsibility in the commission of crimes.



## FEEDBACK ON MATERIAL SHARED

The Protocol of Cooperation signed in 2018 by the Head of the IIIM and a number of Syrian NGOs provided the general principles and framework for Syrian CSOs to share material or engage more substantially with the Mechanism. As part of the Protocol of Cooperation the IIIM states that:

“The Mechanism, whenever possible, and subject to operational constraints, shall endeavour to provide feedback to Syrian NGOs that have submitted information and evidence”

[Excerpt from the protocol of cooperation](#)

While the IIIM does not have capacity to provide feedback on all material shared, it does make every effort to provide feedback within its resource constraints. The type of feedback provided will vary and usually addresses certain aspects of the methodology used by the information provider. The aim is to assist information providers to further develop and enhance their own documentation work. Where possible, the IIIM also updates sources and information providers should their material be shared with jurisdictions for on-going investigations and if possible when their material is used to develop analytical products.

All this will naturally be within the confidentiality parameters associated material used in legal processes.

While there is an understandable desire for individual feedback on what has been shared with the IIIM, the sheer volume of material now collected makes a thorough evaluation of what the central repository holds an on-going process. With limited resources, priority and analysis is given to information and material which has the most likelihood to be used by prosecutors and courts.

## IIIM SUPPORT TO ONGOING INVESTIGATIONS

As 2021 reaches the halfway mark, the number of requests for assistance (RFAs) submitted by competent jurisdictions since the start of the year is 44. This brings the total number of RFAs from 13 different competent jurisdictions to 136. These numbers reflect the continued endeavours by investigators, prosecutors and judges to pursue opportunities for accountability and expend efforts to bring perpetrators to justice.

The RFAs received vary in nature and scope, with requests including:

- Providing information and evidence
- Identifying or locating witnesses
- Taking witness statements
- Conducting multi-lingual open source research
- Preparing analytical products
- Undertaking geolocation analysis

There are also more specific requests defined by each ongoing investigation, with a large proportion focused on individual suspects. The investigations also reflect the reality of the wide-ranging nature of crimes being committed in Syria. These include but are not limited to: detention-related crimes, torture, cruel treatment, killings and persecutions

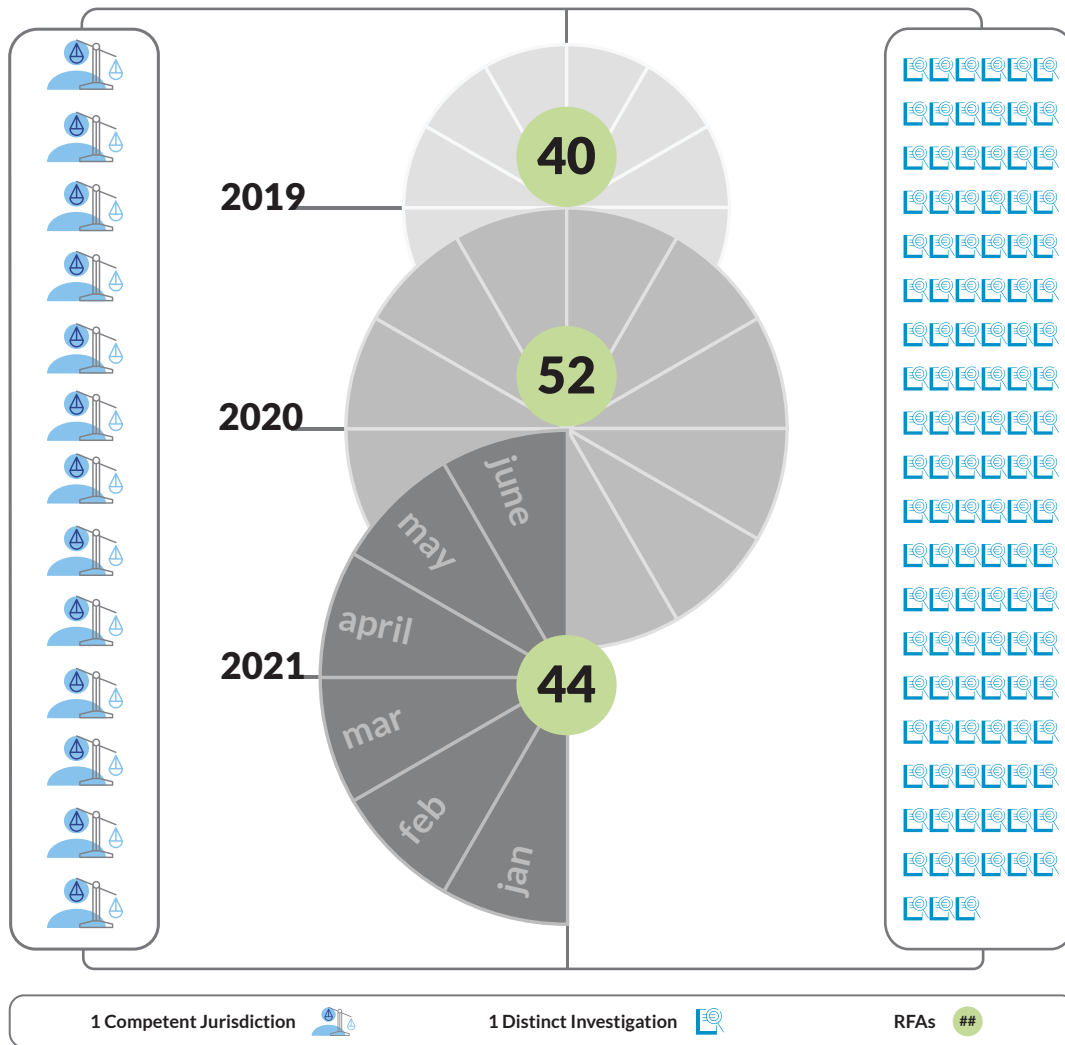
based on political, ethnic, religious grounds, enforced disappearance, rapes and sexual violence. To date, the IIIM has received requests to assist 117 concrete distinct investigations and has assisted cases where a suspect is in detention or which have led, or are about to lead, to trials.

Outside the context of RFAs, the IIIM continues to prepare and proactively share reports containing factual and legal analysis relevant to a broad range of crimes, perpetrators and legal issues that directly support the investigations of several law-enforcement and judicial authorities. Pursuing opportunities to facilitate justice at national and international levels remains a priority activity for 2021.

**13** Competent Jurisdictions

**136** RFAs

**117** Distinct Investigation



## CONTACT

For any comments, questions or further information please email [iiimsyria@un.org](mailto:iiimsyria@un.org)

## GLOSSARY

**Analytical Products:** This refers to the combination of factual and legal analysis that the IIIM develops with a view to share with competent jurisdictions alongside information and evidence. These products take many forms depending on the material being shared; for example, analysis of information and evidence in the **central repository** could allow conclusions to be made on whether crimes occurred, as well as providing linkage between organisational structures and crimes as well as individuals within those structures.

**Competent Jurisdictions:** Term that defines the jurisdictions that the IIIM shares information with. These jurisdictions will have courts that respect international human rights laws and standards, and do not apply the death penalty to the offences being considered.

**RFA / Request for Assistance:** Prosecutors and investigators from different jurisdictions submit RFAs to the IIIM for support with their investigations and prosecutions. (See Bulletin #3 for further details on RFA process).