# Bulletin No.1 – November 2018

The IIIM has an innovative mandate to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011. With a team of investigators, lawyers, information and evidence management officers and analysts, including colleagues with Arabic language skills, the IIIM is well positioned to implement this mandate and advance accountability for these crimes.

What value can the IIIM add to the documentation gathered by and analysis produced by Syrian civil society?

> ➢ **Capacity to build a full picture of the events in Syria by creating a comprehensive central repository of information and evidence of crimes and the context in which they were committed**

- The IIIM collects information from a broad spectrum of actors and we can serve as a central repository of information and evidence of crimes in Syria allowing us to build a comprehensive picture of the events for accountability purposes.

- The IIIM is working to establish sharing frameworks to facilitate its broad collection efforts and has already entered into a number of memoranda of understanding, including with the UN Commission of Inquiry on the Syrian Arab Republic and the OPCW.

- The IIIM has already collected 4 Terabytes of data, or over 900.000 records, from the UN Commission of Inquiry on the Syrian Arab Republic, States, various NGOs and individuals.

- Information collected by individual actors, including NGOs, may take on much greater evidentiary significance if combined with a large amount of information collected from other entities, rather than being assessed in isolation.

- By contributing their data to the IIIM, NGOs can maximise the chances that it will be included in criminal law case files for prosecution in available jurisdictions now and in the future.

Count vs incident_date by source
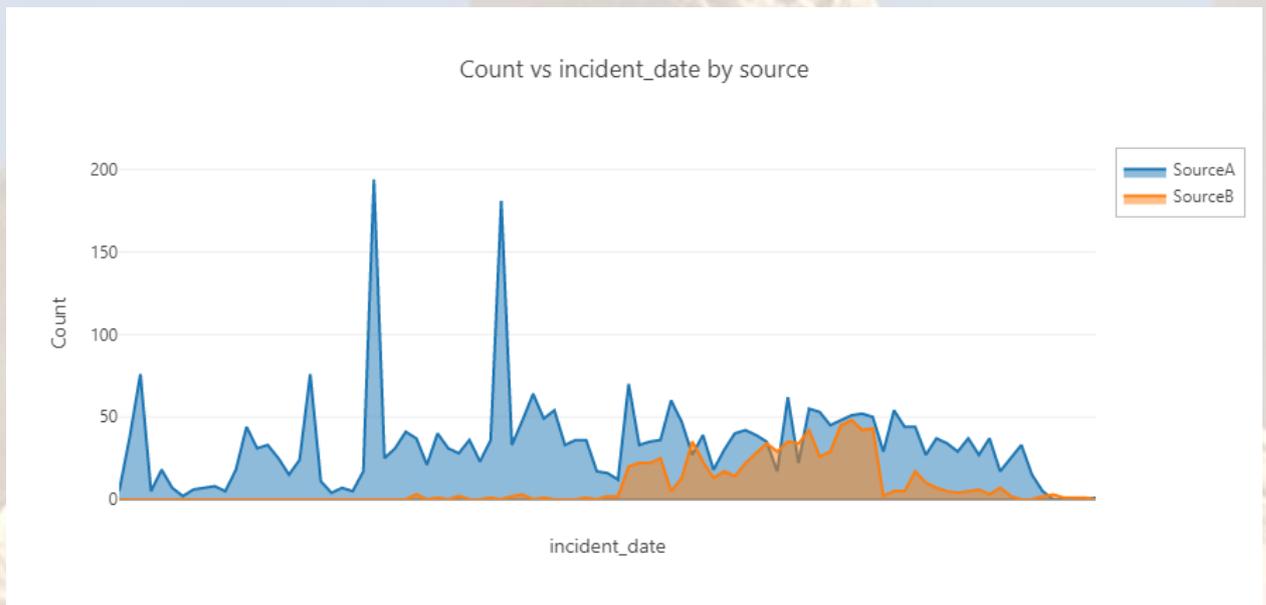
The above image demonstrates how data provided by two organizations, who both classified documents and events in a similar way, can be aggregated and correlated to draw inferences and identify gaps. In this specific example, the two organisations have mapped the frequency of "incidents" over time. They also classified these incidents using similar violation categories and by location, allowing for a quick high-level assessment of where analytical work had been performed and to highlight potential areas of expertise for future follow-up.

➤ Capacity to offer forensic preservation of material

• The IIIM has prioritized the preservation of the information collected, including sensitive data of victims and witnesses, in accordance with criminal law standards.

• The IIIM has acquired a unique capacity to store and preserve vast amounts of data in a safe manner, using an advanced, state-of-the art evidence management system which guarantees the highest standards of security.[1]

• When NGOs share data with the IIIM, this does not mean the NGOs can no longer access their data. The IIIM can offer several strategies for ensuring that the data is securely preserved for accountability purposes, while still allowing the provider NGOs to continue work based on their own data.

• The IIIM is recording the chain of custody of every piece of information and evidence it imports, with the aim of developing a comprehensive record of its origins. Consequently, the IIIM's records will show which NGO has provided the data. This is important for maximising the potential use of information as evidence in court. It is also important to ensure that any restrictions placed by the provider on the sharing of the data in the context of assistance to judicial authorities are tracked and implemented.

• If NGOs are in possession of, or know about valuable material, particularly anything at risk of being stolen, captured, damaged or lost, or that is too expensive for an NGO to store safely, the IIIM may be able to help. We encourage you to be in touch with us.

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[1] Data centre accredited with ISO 27001; regular auditing of procedures and practices; Service Organization Control (SOC) 2 reporting; and innovative incident response that assesses and mitigates physical and information security events.

- Collection of physical or digital evidence by the IIIM can be organized swiftly and representatives of the IIIM will endeavor to travel to other locations, as needed for that purpose.

> ➢ **Capacity to process raw materials, de-duplicate, tag, retrieve and analyse materials**

- The IIIM does not need NGO providers to organize their data in any particular way. Our information and evidence management system can ingest large amounts of data, even unstructured. NGOs should not delay providing data out of concern that they need to organize it first.

- The IIIM has exceptionally advanced software to meticulously organize the material it collects. This software allows it to:
  - ensure that materials are easily searchable;

  - establish, integrate and maintain appropriate metadata[2] to facilitate analysis and corroboration of existing material;

  - track duplicate material;

  - link translations; and

  - rigorously enforce confidentiality restrictions.

- The technology employed by the IIIM includes optical character recognition (OCR) of Arabic text, which makes the material searchable in the IIIM's system, significantly enhancing our analytical capabilities.

- The IIIM benefits from collaboration with forensic institutes.

> ➢ **Capacity to support on-going investigations/prosecutions**

- As national authorities share information with the IIIM about their ongoing investigations or prosecutions, data shared by NGOs with the IIIM can be shared with relevant prosecuting authorities or courts:
  - Material will only be shared with the agreement of the NGO concerned, which shall include, where applicable, the original source's consent.

  - Material can only be shared with jurisdictions that respect human rights law and standards, including the right to a fair trial, and where the death penalty would not apply.

  - The IIIM will respect limitations imposed by providers about how, and with whom, their material can be shared. The Mechanism will not share information with governmental authorities of any State – its mandate limits its support to courts and tribunals.

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[2] Metadata is data about files, information, evidence, and other data. In our work, metadata includes custom data such as analytical tags, as well as system-created data such as file timestamps.

- The IIIM is currently processing ten requests from national prosecuting authorities for information and evidence from the IIIM in connection with ongoing national investigations and prosecutions.

- Subject to any applicable confidentiality restrictions, the IIIM will aim to provide feedback to NGOs on the use of their data to support national prosecutions.

➢ **Capacity to integrate data provided by NGOs into the Mechanism's structural investigation and case files**

- The IIIM's structural investigation is designed to develop the broad, contextual understanding of the Syrian situation needed for an effective accountability process. This includes the cultural, historical, and gender dimension of crimes, as well as the structures of power connected with the commission of crimes and links between crimes and individuals.

- The structural investigation guides the IIIM's collection of information and evidence and it helps it to advance its work on building case files in an efficient and coordinated way.

- The IIIM has been mandated to prepare criminal files concerning serious international crimes committed in the Syrian Arab Republic; it will have to exercise significant discretion in its selection of cases. It will not be possible to prosecute all of the crimes committed, given their vast number.

- The IIIM's selection of specific case files is being guided by the principles of independence and impartiality. On the basis of the results of the structural investigation, case selection will reflect a range of factors, including:
  - the gravity of crimes;
  - the level and type of alleged perpetrator;
  - crime categories emblematic of the events in the Syrian Arab Republic;
  - balanced representation of crimes committed against victims on all sides of the events;
  - Surfacing harms that risk being overlooked, such as those experienced by women, girls, boys, disabled persons and persons of diverse sexual orientation, gender identity and/or sex characteristics as well as sexual violence against men and boys;
  - crime categories and culpable acts or omissions that sustain the ongoing commission of crimes;
  - complementarity with case files developed by other actors, including national authorities and civil society.

Overall, the IIIM's building of case files will reflect a victim-centred approach.

W hat kind of documentation gathered by Syrian NGOs is of particularly high value for the IIIM?

➢ **Documentation on a broad range of factual questions connected to the events in Syria is relevant to the IIIM's work**

• The IIIM's broad mandate, focusing on serious core international crimes committed in the Syrian Arab Republic since March 2011, means that documentation on a broad range of subjects is relevant to our work. In addition to evidence about the occurrence crimes, we are interested in evidence about the overall context in which the crimes were committed and the links between crimes and perpetrators, including those remote from the commission of crimes who may have orchestrated, condoned or otherwise assisted their commission.

➢ **Evidence can take many forms and high value material is not limited to evidence**

• Evidence can take many forms, including: documents; photos; videos; records of communications; witness accounts, including victims of crimes, witnesses who have an overview of the events, expert witnesses and witnesses who have knowledge of how structures of power associated with the commission of crimes were functioning.

• High value materials are not limited to 'evidence' in a strict sense. 'Lead information' that can help to identify relevant evidentiary sources or information that can assist the analytical process is also highly valuable. NGOs may possess data the evidentiary value of which is not immediately apparent, but, when viewed against other material in the IIIM's possession, can in fact assist the accountability process.

➢ **It assists the IIIM significantly to have overview information about what material NGOs have collected**

• To facilitate the collation of this information, the IIIM has developed two surveys about the type, quantity, format and content of relevant material held by NGOs. These surveys can be made available upon request to NGOs which have not yet received them. The results of the survey provide a valuable basis to identify concrete opportunities for collaboration.

• Where appropriate, the Mechanism will also send targeted requests to access specific materials held by NGOs to facilitate the IIIM's work.

What legal framework(s) govern the sharing of data by NGOs with the IIIM?

- The general legal framework of engagement between the IIIM and NGOs is provided by United Nations General Assembly resolution 71/248 (available at: http://undocs.org/A/RES/71/248), whereby the General Assembly called upon various entities, including civil society, to cooperate fully with it and, in particular, to provide it with any information and documentation they may possess, as well as any other forms of assistance pertaining to its mandate. The IIIM's terms of reference (available at: http://undocs.org/A/71/755) specifically require it to collect evidence and information from other sources, including from NGOs.

- On 3 April 2018 in Lausanne, the Mechanism signed a protocol of collaboration with Syrian NGOs. The purpose of the protocol is to outline a set of overarching principles to guide the engagement between the Mechanism and the signatory NGOs as well as Syrian civil society more broadly. The Protocol aims to ensure mutual understanding regarding opportunities for collaboration, in furtherance of the parties' common goal of ensuring justice, accountability, and redress for victims of crimes committed in Syria (available at: https://iiim.un.org/wp-content/uploads/2018/04/Protocol_IIIM_-Syrian_NGOs_English.pdf).

- To date, some NGOs have co-operated with the IIIM without requiring a detailed written framework. For example, they have provided information and evidence on the basis of a simple acknowledgment signed by a representative of the Mechanism and of the NGO in question. Others have indicated a wish for a memorandum of understanding. Consequently, the Mechanism has developed a template memorandum of understanding to apply in cases where there is a need to address specific operational details or working procedures. This document can be provided to NGOs on request.

How can NGOs contact the IIIM?

> NGOs willing to collaborate with the IIIM can get in touch with its representatives at any time at the following address: iiimsyria@un.org.
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> In order to help prioritizing our response to you, you may want to indicate the topic(s) of your communication in the subject line.