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## Klatsky Endowed Lecture in Human Rights

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## KLATSKY ENDOWED LECTURE IN HUMAN RIGHTS\*

*Catherine Marchi-Uhel*<sup>◇</sup>

Dear Dean Scharf, Ladies and Gentlemen, Dear Colleagues,

I am very honoured to accept the Frederick Cox Award for Advancing Global Justice, and to be here with you today to deliver the Klatsky Endowed Human Rights Lecture.

Today, no situation can highlight the need and urgency to advance global justice more than the situation in Syria. Since the beginning of the crisis, countless reports of atrocities committed on all sides have been brought to the attention of the international community, involving widespread violations of human rights and

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\* This article is adapted from the author's speech at the Klatsky Endowed Lecture in Human Rights, presented by the Head of the United Nations International, Impartial and Independent Mechanism 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.

◇. Catherine Marchi-Uhel, was appointed to head of the United Nations International, Impartial and Independent Mechanism for Syria (IIIM) on 3 July 2017. Marchi-Uhel is a former French judge with broad international experience trying and adjudicating war crimes. During her 27-year career, Marchi-Uhel has provided legal support to the International Criminal Tribunal for the Former Yugoslavia, the UN Mission in Liberia, and the UN Interim Administration Mission in Kosovo. She has also adjudicated for the Extraordinary Chambers in the Courts of Cambodia and served as Ombudsperson to the UN Security Council's Sanctions Committee. Before, that, she has served as Head of Chambers at the International Criminal Tribunal for the Former Yugoslavia (ICTY). Ms. Marchi-Uhel previously served as a full-time international judge at the Pre-Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia (ECCC) and was a Senior Legal Officer with the ICTY Appeals Chamber. From July 2014 to April 2015, Ms. Marchi-Uhel was seconded to the United Nations Mission in Liberia (UNMIL) as Principal Rule of Law Officer, advising the Special Representative of the Secretary-General and the Deputy Special Representative of the Secretary-General for Rule of Law on justice and security matters. Ms. Marchi-Uhel became a member of the French judiciary in 1989 and served as *juge du siège* at the Tribunal de Grande Instance de Coutances, being specially in charge of cases involving juveniles. She was later seconded to the French Ministry of Foreign Affairs, Legal Affairs Division, Human Rights Section before joining the United Nations. Ms. Marchi-Uhel studied law at the Université Paris I — Panthéon Sorbonne and at the Université de Caen Basse-Normandie. She was an *auditeur de justice* at the Ecole Nationale de la Magistrature.

international humanitarian law.<sup>1</sup> Depending on the circumstances, these allegations may amount to core international crimes. They involve torture; enforced disappearance; extrajudicial killings; sexual violence against females and males, including sexual slavery; and attacks against civilians and civilian objects, including schools, medical facilities and personnel; and the use of chemical weapons.<sup>2</sup>

The horrors suffered by the Syrian people over the past seven years defy description, and so far, the affected communities have been, understandably, disillusioned by the prospects of seeing justice.<sup>3</sup>

Since the outbreak of violence in 2011, the Security Council has failed to refer the situation in Syria to the International Criminal Court or to create an *ad hoc* tribunal.<sup>4</sup> It is against this background that, in December 2016, the General Assembly established the *International, Impartial, and Independent Mechanism 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*.<sup>5</sup> I will refer to it as “the Mechanism.”

The long title already reveals key aspects of the Mechanism’s mandate. This body is innovative in many ways and differs significantly from previous accountability initiatives established by the United Nations, such as, for instance, the *ad hoc* tribunals for the Former Yugoslavia and for Rwanda, although it significantly builds on their experiences.<sup>6</sup>

As you know, the Mechanism is not a prosecutor’s office nor a court. It cannot issue indictments, prosecute cases, or render

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1. See generally U.N. Hum. Rts. Council, *Report of the independent international commission of inquiry on the Syrian Arab Republic*, U.N. Doc. A/HRC/27/60 (Aug. 13, 2014) (compiling numerous reports on the human rights violations committed by the Syrian government).
  2. *Id.*
  3. Anne Barnard, Ben Hubbard, & Ian Fisher, *As Atrocities Mount in Syria, Justice Seems Out of Reach*, N.Y. TIMES (Apr. 15, 2017), <https://www.nytimes.com/2017/04/15/world/middleeast/syria-bashar-al-assad-evidence.html> [<https://perma.cc/W63C-JTXE>].
  4. Mark Kerston, *Calls for Prosecuting War Crimes in Syria are Growing. Is International Justice Possible?*, WASH. POST (Oct. 14, 2016), <https://www.washingtonpost.com/news/monkey-cage/wp/2016/10/14/calls-for-prosecuting-war-crimes-in-syria-are-growing-is-international-justice-possible/> [<https://perma.cc/4KFY-DGGW>].
  5. G.A. Res. 71/248 (Dec. 19, 2016) [hereinafter *The Mechanism*].
  6. See generally Paul R. Williams, Lisa K. Dicker & C. Danae Patterson, *The Peace vs. Justice Puzzle and the Syrian Crisis*, 24 ILSA J. INT’L & COMP. L. 2 (2018) (outlining how war crimes have been handled in the past through the use of tribunals, investigations, and other mechanisms).

judgments.<sup>7</sup> Instead, it is mandated to collect, consolidate, preserve and analyse evidence of violations collected by a variety of actors over the past 7 years, including UN bodies, Syrian and international NGOs, individuals, and States.<sup>8</sup>

It is further mandated to prepare files 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.<sup>9</sup>

Currently, this includes national courts that can exercise jurisdiction, such as forms of universal jurisdiction, over certain crimes committed in Syria.<sup>10</sup> However, in the future, these crimes could also be prosecuted at the international level, either by the ICC, or by a new *ad hoc* tribunal for Syria, or even by a regional court.<sup>11</sup> It is also hoped that, in the future, Syrian courts themselves will be able to take their part in this process.

In other words, the Mechanism has been mandated to conduct the essential preparatory work grounded in criminal law methodologies that will be needed for accountability processes, regardless of which judicial avenues may emerge in the future.<sup>12</sup>

I believe that the creation of the Mechanism is an important demonstration of the international community's will to ensure that crimes committed in Syria do not go unpunished. Its innovative mandate, that recognizes the value of creating synergies between international human rights fact-finding and criminal justice processes,

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7. Beti Hohler & Elizabeth Pederson, *The Syria Mechanism: Bridge to Prosecutions or Evidentiary Limbo?*, E-INT'L REL. (May 26, 2017), <https://www.e-ir.info/2017/05/26/the-syria-mechanism-bridge-to-prosecutions-or-evidentiary-limbo/> [<https://perma.cc/V5Q8-DAPS>].

8. *Id.*

9. *Id.*

10. *Id.*; see Stephanie Nebehay, *War Crimes Evidence in Syria 'Overwhelming', Not All Can be Pursued: U.N.*, THOMPSON REUTERS (Mar. 26, 2018, 1:54 PM), <https://www.reuters.com/article/us-mideast-crisis-syria-warcrimes/war-crimes-evidence-in-syria-overwhelming-not-all-can-be-pursued-u-n-idUSKBN1H22GN> [<https://perma.cc/8UCY-E7RT>].

11. See Brian Stauffer, "These Are The Crimes We Are Fleeing": Justice for Syria in Swedish and German Courts, HUM. RTS. WATCH (Oct. 3, 2017), <https://www.hrw.org/report/2017/10/03/these-are-crimes-we-are-fleeing/justice-syria-swedish-and-german-courts> [<https://perma.cc/2GJZ-QKLJ>] (noting that Syria is not now subject to the ICC and the challenges associated with prosecution of Syrian war crimes).

12. See The Mechanism, *supra* note 5, at ¶¶ 1-6 (outlining the duties under the Mechanism that support this groundwork preparation).

constitutes a crucial step forward towards ensuring accountability for these crimes.

In carrying out its functions, the Mechanism is guided by the fundamental principles of independence and impartiality.<sup>13</sup> With regard to independence, this means that the Mechanism does not act on instructions from any entity in performing its work,<sup>14</sup> nor is it influenced by the agendas of external actors.<sup>15</sup> Regarding the material it collects from various sources, the Mechanism will not import the conclusions drawn by other bodies.<sup>16</sup> Instead, in all instances, it will make its own objective assessment of material received and draw its own inferences, applying a criminal law standard.<sup>17</sup> In terms of impartiality, the Mechanism will not apply any bias against, or in favour of, any particular State, group or individual.<sup>18</sup> Instead, it will address crimes committed in Syria regardless of any affiliation of the alleged perpetrators.<sup>19</sup>

In discharging its mandate, the Mechanism is confronted with numerous challenges, one of the main ones being the unprecedented volumes, fragmentation and duplication of potential evidence of crimes in Syria collected by individuals, NGOs and other entities.<sup>20</sup> This includes large amounts of images and video material.<sup>21</sup> It is not by chance that the Syrian conflict has been tag-lined as the most recorded conflict in the world.<sup>22</sup> This in turn presents two important

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13. *Id.* at 2.

14. *Id.*

15. *Id.*

16. See U.N. Secretary-General, *Implementation of the resolution establishing the International, Impartial and Independent Mechanism 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* [hereinafter *Implementation*], U.N. Doc. A/71/755 (Jan. 19, 2017) (outlining the steps in investigation include gathering the intel and then directly reporting it without intervening conclusions).

17. *Id.*

18. *Id.*

19. *Id.*

20. Hohler, *supra* note 7.

21. Head of the Mechanism Catherine Marchi-Uhel, Informal Debate on the International, Impartial and Independent Mechanism 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 [hereinafter *Debates*], at 2 (Apr. 18, 2018).

22. See Armin Rosen, *Erasing History: YouTube's Deletion of Syria War Videos Concerns Human Rights Groups*, FAST COMPANY (Mar. 7, 2018), <https://www.fastcompany.com/40540411/erasing-history-youtubes-deletion-of-syria-war-videos-concerns-human-rights-groups>

challenges. The first one relates to the preservation and analysis of such volumes of material. To be able to do so, the Mechanism has acquired a state-of-the-art evidence management system, as mandated in its terms of reference, and has implemented effective measures aimed at protecting confidential materials and work-product against cyber-attacks.<sup>23</sup> Data protection and information security are key priorities, and the Mechanism is firm in its commitment not to compromise the safety and security of material in its possession, including sensitive data of victims and witnesses.<sup>24</sup> The second challenge flowing from the availability of such significant volumes of potentially relevant data relates to duplication, for instance when multiple entities are in possession of similar or identical material that eventually makes its way into the Mechanism's collection.<sup>25</sup> Evidentiary challenges can also arise from collection techniques inconsistent with criminal law standards.<sup>26</sup> In this respect, the Mechanism's IT systems provide a framework for meticulously organizing the material, ensuring that it is easily searchable and that appropriate metadata are established, integrated and maintained to facilitate analysis and corroboration of existing material.<sup>27</sup> Methods for tracking duplicate material, linking translations and rigorously enforcing confidentiality restrictions, including using cutting-edge technology, are also being integrated.<sup>28</sup>

Another key challenge for the Mechanism is ensuring sustained funding. In creating the Mechanism, the General Assembly decided that it would be funded by voluntary contributions.<sup>29</sup> However, as you know, voluntary funding is not appropriate for international justice mechanisms. This was recognised by the General Assembly when, in December 2017, it called upon the Secretary General of the United Nations to include the necessary funding for the Mechanism in his

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[<https://perma.cc/HP42-2S5G>] (“You have more hours of footage of the Syrian civil war on YouTube [than] there actually are hours of the war in real life.”).

23. *Debates*, *supra* note 21, at 2.

24. *Id.*

25. Hohler, *supra* note 7.

26. U.N. Secretary-General, *Report of the International, Impartial and Independent Mechanism 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*, [hereinafter *Report*] ¶ 20, U.N. Doc. A/72/762 (Feb. 28, 2018).

27. *Id.* at ¶ 35.

28. *Id.*

29. *Implementation*, *supra* note 16, at ¶ 51.

next budget proposal.<sup>30</sup> My team and I are currently preparing our budget submission and I am optimistic that the Mechanism will shift to regular budget funding by 2020. Securing regular budget funding for the Mechanism would be a significant step forward and it would demonstrate the international community's genuine commitment to justice for the victims of crimes in Syria.

Turning to current priorities, the Mechanism is committed to turning its Evidence Collection into a comprehensive central repository of evidence concerning crimes in Syria that can be used as a resource to facilitate accountability. This is possible given the Mechanism's broad mandate; and its dedicated focus and capacity to access material from a wide range of sources. In line with this objective, the Mechanism is progressing in its efforts to collect information and evidence from a variety of sources, including UN entities, civil society, States and other actors.<sup>31</sup>

With regard to UN entities, the Independent International Commission of Inquiry on the Syrian Arab Republic (The Commission) is a privileged interlocutor for the Mechanism.<sup>32</sup> The Commission was established by the Human Rights Council on 22 August 2011 to investigate alleged violations of international humanitarian and human rights law since March 2011.<sup>33</sup> By the time the Mechanism was established, the Commission had already been working on documenting crimes in Syria for over five years, producing several public reports and presenting its findings to the Human Rights Council.<sup>34</sup> The material collected by the Commission is of great relevance to the Mechanism's work, although significant differences exist between the two bodies, which have distinct and complementary mandates.<sup>35</sup> The Commission focuses on directly collecting

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30. G.A. Res. 72/191, ¶ 35 (Jan. 23, 2018).

31. *Debates*, *supra* note 21, at 2.

32. *See Report*, *supra* note 26, at ¶ 12 (defining The Commission's role within the Mechanism).

33. U.N. Hum. Rts. Council [UNHRC] *Resolution Adopted by the Human Rights Council at its Seventeenth Special Session* [hereinafter UNHRC] S-17/1 (Aug. 22, 2011).

34. *See Report*, *supra* note 26 (stating that resolution 71/248 establishing the Mechanism was adopted on 21 December 2016); *see also* UNHRC, *supra* note 33 (stating that the Commission established on 22 August 2011).

35. *Compare* The Mechanism, *supra* note 5, at ¶ 1 (stating that the Mechanism's purpose is to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law and to collect and analyze information and evidence of such crimes), *with* UNHRC, *supra* note 33, at ¶ 13 (stating that the Commission's purpose is to investigate all violations of international human rights law

information, publicly reporting broad patterns of human rights and international humanitarian law violations, and making recommendations, in particular, to Member States.<sup>36</sup> In contrast, the Mechanism focuses on the most serious crimes, and is required to maintain the confidentiality of its substantive work.<sup>37</sup> Other notable differences between the two bodies include the standard of proof. The Commission of Inquiry adopts the “reasonable grounds to believe” standard to attribute responsibility to a certain party,<sup>38</sup> while the Mechanism focuses on individual criminal responsibility and is guided by criminal law methodologies and standards.<sup>39</sup>

The resolution creating the Mechanism contains an express reference to the work of the Commission, and access to its holdings is a central requirement in the Mechanism’s mandate.<sup>40</sup> Indeed, this has been a priority from the very start of its work. In March, a memorandum of understanding was signed between the two entities, allowing for an important part of the Commission’s material to be shared with the Mechanism.<sup>41</sup>

In addition to the Commission of Inquiry on Syria, the Mechanism is engaging with other United Nations entities and identifying concrete opportunities for coordination and cooperation including, where possible, access to relevant material in their possession.<sup>42</sup>

The Mechanism is also engaging extensively with civil society, in particular Syrian NGOs, whose important role in documenting crimes the Mechanism has recognised since the very start.<sup>43</sup> Since violent unrest erupted in March 2011, and as the country descended into armed conflict, numerous individuals and organisations have been relentlessly documenting violations of human rights and international humanitarian law, some of which may amount to international crimes,

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and to collect all facts and circumstances that may amount to such violations).

36. UNHRC, *supra* note 33, at ¶ 13.
37. *See generally Report*, *supra* note 26 (establishing the Mechanism’s focus on the most serious crimes and intent to maintain confidentiality).
38. UNHRC, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic [hereinafter *UNHRC Report*] A/HRC/39/65, at ¶ 3 (Aug. 9, 2018).
39. *Implementation*, *supra* note 16, at ¶¶ 13, 15, 19, 23.
40. The Mechanism, *supra* note 5, at ¶ 1.
41. G.A. Res. 37/L.38, ¶ 47 (Mar. 19, 2018).
42. *Implementation*, *supra* note 16, at ¶ 12.
43. *Id.* at ¶ 5.



often at great risk to their own lives.<sup>44</sup> The material they have gathered is an integral part of what the Mechanism seeks access to, with a view to implementing its mandate. To this end, the Mechanism has developed and distributed numerous contributor surveys to elicit information from upstream collectors regarding the type, quantity, format and content of relevant material held by them.<sup>45</sup> The results of the surveys are being collated to give the Mechanism an overview of the material in question and to prioritize collection efforts.

The Mechanism is also committed to ensuring two-way communication with civil society, in particular Syrian NGOs, and to ensuring that the voices of victims are heard and appropriately factored into its work.<sup>46</sup> To this end, it is engaging in an ongoing dialogue both one-to-one as well as in group settings.<sup>47</sup> On 3 April in Lausanne, the Mechanism and 28 Syrian NGOs signed a protocol of collaboration outlining a set of overarching principles to guide mutual engagement.<sup>48</sup> The Protocol aims to promote mutual understanding regarding opportunities for collaboration, in furtherance of the parties' common goal of ensuring accountability for the crimes committed in the Syrian Arab Republic.<sup>49</sup> The principles outlined in the protocol provide a general framework for cooperation that can extend to other NGOs willing to collaborate with the Mechanism in the future.

The Mechanism is also continuing its engagement with States, many of which are willing to provide it with relevant information and evidence in their possession.<sup>50</sup> Several States have already revised, or

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44. *Id.* at ¶ 5; International, Impartial and Independent Mechanism, *Protocol of Cooperation Between the International, Independent and Impartial Mechanism and Syrian Civil Society Organizations Participating in the Lausanne Platform* [hereinafter *Lausanne Protocol*], at 1, available at [https://iiim.un.org/wp-content/uploads/2018/04/Protocol\\_IIIM\\_-\\_Syrian\\_NGOs\\_English.pdf](https://iiim.un.org/wp-content/uploads/2018/04/Protocol_IIIM_-_Syrian_NGOs_English.pdf) [<http://perma.cc/8YYX-ATVE>].

45. *Debates*, *supra* note 21, at 2.

46. *Lausanne Protocol*, *supra* note 44, at 2.

47. *See generally id.* at 2, 4 (allowing Syrian NGOs and organizations to openly communicate with the Mechanism and ensure continuous dialogue).

48. *Id.* at 1.

49. *Id.*

50. *Implementation*, *supra* note 16; Press Release, European Commission, The European Union steps up its support for investigations into war crimes and accountability in Syria (Jul. 19, 2017), available at [http://europa.eu/rapid/press-release\\_IP-17-2069\\_en.htm](http://europa.eu/rapid/press-release_IP-17-2069_en.htm) [<https://perma.cc/8JXX-ZP5X>].

are in the process of revising, their national laws and procedures to allow full engagement with the Mechanism.<sup>51</sup>

Moving on to another priority, the Mechanism has identified the need for a Structural Investigation to ensure a broad, contextual understanding of the Syrian situation.<sup>52</sup> The Structural Investigation seeks to map crime patterns, examine the contextual elements required to establish core crimes, and apprehend the cultural, historical, and gender dimension of crimes, as well as the structures of power and links between crimes and individuals, ranging from direct physical perpetrators to other perpetrators wielding power and authority over the events.<sup>53</sup>

The Structural Investigation also provides a crucial framework for another of the Mechanism's key priorities, namely the building of case files.<sup>54</sup> Indeed, the volume of allegations and the number of potential perpetrators make it impossible for the Mechanism to address all crimes committed in Syria since March 2011.<sup>55</sup> The Structural Investigation provides a principled foundation for the Mechanism to exercise discretion, in an independent and impartial manner, about which cases to build.<sup>56</sup> It also promotes consistency of approach across the Mechanism's case files, given that the key factual questions addressed in the context of the Structural Investigation potentially constitute cross-cutting material facts in the case files.<sup>57</sup> These

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51. *Debates*, *supra* note 21, at 3.

52. U.N. Office at Geneva, Press Conference by Catherine Marchi-Uhel, Head of the International, Impartial and Independent Mechanism 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 [hereinafter Press Conference], (Sept. 20, 2018) *available at* [https://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear\\_en\)/BF0B4A22311CE715C125830F00552D8A?OpenDocument](https://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/BF0B4A22311CE715C125830F00552D8A?OpenDocument) [<https://perma.cc/A328-5CR6>].

53. *Id.*

54. *Id.*

55. See Nousha Kabawat & Fernando Travesi, *Justice for Syrian Victims Beyond Trials: The Need for New, Innovative Uses for Documentation of Human Rights Violations in Syria*, INT'L CEN. FOR TRANSITIONAL JUST. [ICTJ], at 1 (Feb. 2018), [https://www.ictj.org/sites/default/files/ICTJ-Briefing-Syria\\_Documentation-2018.pdf](https://www.ictj.org/sites/default/files/ICTJ-Briefing-Syria_Documentation-2018.pdf) [<http://perma.cc/Q6E8-DMX8>] (explaining that the Syrian war is the most documented conflict in history and that information and stories have piled up, remaining unused in databases and files).

56. Press Conference, *supra* note 52.

57. U.N. Secretary-General, *Report of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes Under International*

include, for example, the existence and nature of armed conflicts and of widespread or systematic attacks – for war crimes and crimes against humanity charges, respectively; as well as command structures and joint action resulting in the commission of crimes – for theories of individual responsibility such as superior responsibility and co-perpetration.<sup>58</sup>

When it comes to selection of specific case files, the Mechanism is guided by the principles outlined in its First Report to the General Assembly.<sup>59</sup> Based on 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; a fair representation of crimes committed against victims on all sides of the events; a fair representation of harms experienced by men, women, girls and boys; crime categories and culpable acts or omissions that sustain the ongoing commission of crimes; and complementarity with case files developed by other actors, including national authorities and civil society.<sup>60</sup>

Finally, a key priority for the Mechanism is supporting national jurisdictions' efforts to investigate and prosecute crimes committed in Syria.<sup>61</sup> To this end, the Mechanism is continuing its proactive engagement with national war crimes units in various States, both directly as well as in the context of relevant fora, such as the EU Genocide Network hosted by Eurojust in The Hague.<sup>62</sup> Consultations held so far have identified areas where the Mechanism can be of assistance to overcome some of the major challenges that national prosecutors face, including limited resources, lack of access to the territory, and the constraints deriving from their own system's procedural rules.<sup>63</sup> In this sense, the Mechanism's unique status offers many advantages. First, the Mechanism can rely on a substantial analytical capacity, including an important Arabic-speaking component. Second, the mandate from the General Assembly places the Mechanism in a privileged position to access and analyse material held by others, which allows it to benefit from the collection and centralisation of considerable amounts of potential evidence.

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*Law Committed in the Syrian Arab Republic Since March 2011*, [hereinafter *Report II*] ¶ 16, U.N. Doc. A/73/295 (Aug. 3, 2018).

58. *Id.*

59. *Id.* at ¶ 19.

60. *Id.*

61. *Id.* at ¶ 20.

62. *Id.* at ¶ 36.

63. *Id.*

Furthermore, the Mechanism can rely on a flexible procedure, not bound by specific rules as is the case for national jurisdictions.

To date, the Mechanism has received and is currently processing several requests for information and evidence addressed to it by national war crimes units.<sup>64</sup> These requests for assistance are also informing the Mechanism collection effort and where possible, priority is being given to the collection of material most likely to assist ongoing national criminal justice processes.

While its mandate is firmly centered on supporting criminal prosecutions, the Mechanism also recognizes that criminal accountability is a component of a broader transitional justice process. The information collected by the Mechanism, for example, may be of relevance not only in the context of criminal proceedings, but also in the context of other transitional justice objectives.<sup>65</sup> These include, for instance, the search for missing persons as well as vetting and reparations processes. Although the Mechanism's mandate does not explicitly contemplate contribution to other forms of transitional justice, the experience of international tribunals set up by the Security Council, for instance, has revealed how overtime, legacy going beyond classic forms of justice has become an important part of their contribution.<sup>66</sup> With those objectives in mind, the Mechanism understands its scope for maximizing the utility of its evidence collection for broader transitional justice purposes and is open to possible developments in this regard.

I would like to spend a few words on the meaning of justice and on the significance of the Mechanism's work for those most affected by the crimes in Syria. I believe that justice has no meaning unless accountability efforts are not driven by the demands of victims. This is why, in performing this crucial preparatory work, the Mechanism is guided by a victim-centred approach, aimed at strengthening the confidence of the affected Syrian communities in the prospect of justice and promoting the dignity of the victims.<sup>67</sup> The Mechanism is further committed to promoting outreach and effective exchanges with affected communities, as well as hearing the views and interests of victims and making sure that these are canvassed and considered on an ongoing basis.<sup>68</sup>

The Mechanism is mindful of the risk of marginalizing the experiences of certain categories of victims in international justice processes—I am thinking in particular of victims of sexual and

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64. *Id.* at ¶ 21.

65. *Id.* at ¶ 48.

66. *Id.*

67. *Report, supra* note 26, at ¶ 4.

68. *Id.* at ¶ 22.

gender-based violence. It is not by chance that special emphasis is placed on these crimes in the Mechanism's terms of reference.<sup>69</sup> Important lessons in this regard have been learned from the experience of the international tribunals over the past 25 years, and I see a real opportunity for the Mechanism to build on this accumulated best practice. For instance, since the early days of its work, due consideration has been given to the appointment of experts in sexual and gender-based violence.<sup>70</sup> The Mechanism is further committed to addressing the full range of sexual violence and gender-based crimes arising in the Syrian context, making sure that they form part of our core work to support accountability for these crimes and ensuring that the voices of women are properly heard in the accountability process.

Let me conclude with a short reflection on the theme of the award I am so honoured to receive today: advancing global justice.

In establishing the Mechanism, the first body of this kind ever established, and in calling upon all States, all parties to the conflict as well as civil society to cooperate fully with it, the General Assembly has taken an initiative that I view as a historic step towards accountability. The Mechanism's creation sends a signal that impunity for those responsible for the most heinous crimes committed in Syria is not acceptable. It also signals that the pursuit of accountability no longer requires a choice between national and international (or hybrid) jurisdictions. On the contrary, the Mechanism can be seen as a model integrating different jurisdictional avenues at the national, regional or international level. It also constitutes a model for bridging the gap between human rights fact-finding and criminal prosecutions through proactive cooperation between investigative and prosecutorial authorities, UN entities, and civil society.

I am mindful of the disillusionment of people most affected by the crimes, who have no immediate prospects of justice. The Mechanism, which was established against a background of daunting allegations of international crimes and flagrant impunity, is globally raising important hopes and expectations, not least on the part of Syrian victims and the civilian population at large.

We have to be realistic; lots of work and time is going to be required before the Mechanism is in a position to complete and share full-fledged files. In addition, today, we cannot anticipate whether and when an international court or tribunal may in the future have jurisdiction over crimes committed in Syria.

However, several criminal proceedings relating to Syria have been initiated in various countries. In relation to these cases, the

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69. *Implementation*, *supra* note 16, at annex. ¶¶ 19-21.

70. *Report*, *supra* note 26, at ¶ 31.

Mechanism can play an immediate, significant role in supporting ongoing and future investigation of crimes committed in Syria by national prosecutors.

I believe that the Mechanism has the potential to contribute meaningfully to ensuring accountability and providing redress for victims, by assisting national jurisdictions and at the same time paving the way for future prosecutions at the international level.

I am inspired by the dignity and draw strength from the courage of the Syrian people as I carry out the important task that has been entrusted to me as Head of the Mechanism.

I thank you for your attention and look forward to further discussing with you.