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PRE-TRIAL CHAMBER III

**Before: Judge Olga Herrera Carbuccion, Presiding Judge
Judge Robert Fremr
Judge Geoffrey Henderson**

**SITUATION IN THE PEOPLE'S REPUBLIC OF BANGLADESH/REPUBLIC
OF THE UNION OF MYANMAR**

Public

**Public redacted version of "Registry's First Report on Information and
Outreach Activities", 6 July 2020, ICC-01/19-33**

Source: Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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I. Introduction

1. Pursuant to Pre-Trial Chamber III's "Order on Information and Outreach for the Victims of the Situation" issued on 20 January 2020 ("Chamber" and "Order of 20 January 2020", respectively),¹ the Registry submits its first report on the progress of its activities related to information and outreach activities in the People's Republic of Bangladesh/ Republic of the Union of Myanmar situation ("Situation").

II. Procedural History

2. On 4 July 2019, the Office of the Prosecutor ("Prosecution" or "OTP") submitted its request for authorization of an investigation into the Situation ("Prosecutor's Request") pursuant to article 15 of the Rome Statute ("Statute").²
3. Between July and October 2019, the Victims Participation and Reparations Section of the Registry ("VPRS") conducted four missions to Cox's Bazar district, Bangladesh, during which it organized more than 60 meetings in the Rohingya camps and met approximately 1,700 individuals. Between 30 August and 12 November 2019, the VPRS transmitted to the Chamber five reports³ and a total of 339 victims' representations introduced on

¹ Pre-Trial Chamber III, "Order on Information and Outreach for the Victims of the Situation", 20 January 2020, ICC-01/19-28.

² Office of the Prosecutor, "Request for authorisation of an investigation pursuant to article 15", 4 July 2019, ICC-01/19-7.

³ Registry, "First Registry Report on Victims' Representations Pursuant to the Pre-Trial Chamber's Decision ICC-01/19-6 of 28 June 2019", 30 August 2019, ICC-01/19-10-Conf. A public redacted version was notified on 3 September 2019, ICC-01/19-10-Red; Registry, "Second Registry Report on Victim Representations Pursuant to the Pre-Trial Chamber's Decision ICC-01/19-6 of 28 June 2019", 13 September 2019, ICC-01/19-11-Conf. A public redacted version was notified on the same date, ICC-01/19-11-Red; Registry, "Third Registry Report on Victim Representations Pursuant to the Pre-Trial Chamber's Decision ICC-01/19-6 of 28 June 2019", 27 September 2019, ICC-01/19-12-Conf. A public redacted version was notified on 30 September 2019, ICC-01/19-12-Red; Registry, "Fourth Registry Report on Victim Representations Pursuant to the Pre-Trial Chamber's Decision ICC-01/19-6 of 28

behalf of more than half a million Rohingya, who all supported the Prosecutor's Request.

4. On 14 November 2019, the Chamber authorized the investigation in the Situation ("Decision Authorizing the Investigation")⁴ and ordered the VPRS to communicate the decision to the organisations and individuals who submitted representations.⁵

5. In its Order of 20 January 2020, the Chamber provided guidance to the Registry on matters related to information and assistance to victims in so far as it concerns their potential participation in future judicial proceedings.⁶ The Chamber ordered the Registry to *i*) establish, as soon as practical, and in consultation and collaboration with the Prosecutor, a system of public information and outreach activities with the affected communities and particularly with the victims of the Situation;⁷ *ii*) submit an initial report on its activities by 6 July 2020 and inform the Chamber about the progress of and challenges to its outreach and information activities in the Situation at least every 6 months;⁸ and *iii*) seize the Chamber immediately if there is any development that requires judicial

June 2019", 11 October 2019, ICC-01/19-15-Conf. A public redacted version of the document was notified on 17 October 2019, ICC-01/19-15-Red; Registry, "Final Consolidated Registry Report on Victims' Representations Pursuant to the Pre-Trial Chamber's Decision ICC-01/19-6 of 28 June 2019", registered on 31 October 2019 and notified on 1 November 2019, ICC-01/19-22. The public redacted version of Annex I to the Final Consolidated Registry Report on Victims' Representations was notified on 11 November 2019, ICC-01/19-22-AnxI-Red ("Final Consolidated Report").

⁴ Pre-Trial Chamber III, "Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar", 14 November 2019, ICC-01/19-27.

⁵ Decision Authorizing the Investigation, page 58.

⁶ See *supra*, footnote 1.

⁷ Order of 20 January 2020, para. 9 and page 7.

⁸ Order of 20 January 2020, para. 12 page 7.

determination, particularly to provide for the protection and privacy of victims and potential witnesses pursuant to Article 57(3)(c) of the Statute.⁹

III. Classification

6. Pursuant to regulation 23*bis*(1) of the Regulations of the Court (“RoC”), the present report is classified as “confidential”, since it contains sensitive information [Redacted]. The Registry will file shortly a public redacted version of the present report.

IV. Applicable Law

7. The Registry submits the present report pursuant to the Order of 20 January 2020.

V. Submissions

A. Information and outreach activities following the Decision Authorizing the Investigation

8. Immediately after the Decision Authorizing the Investigation was issued, the VPRS started reaching out to victims and its interlocutors in Bangladesh and in other countries [Redacted] in order to inform them about the outcome of the Article 15(3) proceedings. Key messages were prepared, translated into Rohingya, Bangla and Burmese, and subsequently disseminated.
9. On 14 November, the Registry’s Public Information and Outreach Section (“PIOS”) issued a press release and produced the “Ask the Court” television and radio programme in English and French. The press release

⁹ Order of 20 January 2020, para. 12.

and the programme were posted on the ICC website¹⁰ and the ICC social media platforms¹¹ and disseminated via email to relevant media contacts for broadcast. In the following months, the press release and a “Questions and Answers” document on the opening of an ICC investigation into the Situation were translated into Rohingya, Bangla and Burmese and published on the ICC website in written and audio format.¹²

10. On 22 November 2019, PIOS disseminated the Prosecutor’s Statement following the authorisation to commence the investigation into the Situation¹³ via the same above mentioned channels.

December 2019 Mission to Cox’s Bazaar, Bangladesh

11. [Redacted] December 2019, VPRS and PIOS staff members conducted a joint mission to Cox’s Bazar (“December 2019 Mission”) in order to meet with victims and victims’ representatives who submitted the vast majority of the 339 representations transmitted to the Chamber during the Article 15(3) process. [Redacted]. Registry staff informed them about the Decision Authorizing the Investigation and the next procedural steps in the Situation. [Redacted].

12. [Redacted]^{14 15}

13. As a consequence [Redacted], only approximately 300 Rohingya individuals who submitted representations on behalf of themselves, their families or communities were met, in six of the 34 camps in Cox’s Bazaar.

¹⁰ <https://www.icc-cpi.int/bangladesh-myanmar>.

¹¹ Facebook and Twitter.

¹² <https://www.icc-cpi.int/bangladesh-myanmar>.

¹³ <https://www.icc-cpi.int/Pages/item.aspx?name=20191122-otp-statement-bangladesh-myanmar>.

¹⁴ [Redacted]

¹⁵ [Redacted]

All the Rohingya that were met celebrated the opening of the investigation and expressed satisfaction and gratitude for having been consulted during the Article 15(3) process and for their voices having been heard and taken into account by the ICC Judges. Similarly, the Rohingya welcomed the fact that VPRS staff members came back to them promptly after the Decision Authorizing the Investigation was issued.¹⁶

14. During the mission, it became evident that most of the Rohingya in the camps heard about the ICC investigation being authorized, the proceedings brought by The Gambia against Myanmar before the International Court of Justice (“ICJ proceedings”), the universal jurisdiction proceedings brought before domestic courts in Argentina and the creation of the Independent Investigative Mechanism for Myanmar. However, it was equally clear that there is massive confusion and that the overwhelming majority of people have very little information and understanding, if any, of these various justice initiatives and, importantly, their different mandates and functions. Other key findings from the December 2019 mission include the following: *i*) Rohingya’s expectations with respect to expediency of proceedings are high in light of the fact that the Decision Authorizing the Investigation was issued very fast; *ii*) victims are worried that if they are repatriated, the ICC Prosecutor will not be able to reach out to them in order to properly conduct the investigations once they are back in Myanmar; *iii*) [Redacted].

15. It is for these reasons that the Registry considers that information about the ICC process and the next procedural steps need to be circulated as widely as possible in order to ensure that misconceptions and rumours are addressed in a timely manner. To this end, informative sessions

¹⁶ [Redacted]

[Redacted]¹⁷ need to be organized. As also done during the Article 15(3) process, special attention must be given to reaching out to women, children, young people and students, elderly, people with disabilities, etc.

16. In this context, the joint VPRS/PIOS December 2019 mission has enabled the Registry to perform a basic assessment of the situation on the ground in terms of public information and outreach including assessing the level of knowledge and perceptions about the Court, information tools and communication channels available and identifying potential partners for future PIOS activities. A series of meetings were organized in Cox's Bazar and in Dhaka [Redacted] in order to share information about the ICC proceedings, but also to create a network of potential partners for future outreach activities.

B. Activities conducted in 2020 and during the COVID-19 pandemic

17. As shown above, the VPRS was only able to meet a small number of victims and victims' representatives during the December 2019 mission. Therefore, in order to fully comply with the Chamber's order,¹⁸ the Registry started planning, in the beginning of 2020, a [Redacted] mission consisting primarily of meetings organized in each of the 34 camps in Cox's Bazar. [Redacted].

18. However, as a consequence of travel and other restrictions imposed after the outbreak of the COVID-19 pandemic, the plans for a new mission were suspended.

19. Between February and June 2020, PIOS consulted internally with relevant sections and organs, as well as with a number of external partners

¹⁷ [Redacted]

¹⁸ Decision Authorizing the Investigation, page 58 *in fine*.

[Redacted] in order to devise a system of public information and outreach activities as ordered by the Chamber.

20. [Redacted] PIOS produced common messages to be used for the production of documents, social media posts, audio-visual and other information materials. Key messages include general information about the Court, proceedings and victims participation, as well as the most commonly asked questions and concerns expressed by victims.
21. PIOS also produced for the OTP a number of short videos containing interviews with the Prosecutor on a series of messages regarding the mandate of her office. The videos were produced in Rohingya, Burmese and Bengali and were shared through mobile phone messaging apps with Rohingya individuals and civil society working with Rohingya, as well as media contacts in Bangladesh.
22. During the reporting period, the VPRS maintained contact with various interlocutors [Redacted] as well as through email communication.
23. Its interlocutors on the ground informed the VPRS that despite COVID-19 being the main focus and priority in the Cox's Bazar camps for the last months, the Rohingya remained focused and continue to demand information about the developments related to the various justice initiatives.¹⁹ According to these interlocutors, information about the various justice initiatives keeps being disseminated [Redacted], but there is a degree of confusion and many rumours are currently circulating.

¹⁹ See supra, para. 14.

24. The VPRS further organized video conferences with two (teams) of legal representatives who contacted the VPRS in order to request information about victims' participation in future proceedings. [Redacted].^{20 21}
25. At the present stage of proceedings, the VPRS is not actively pursuing the completion of application forms for participation in proceedings and/or reparations. However, it shares, upon request, the standard application forms for individuals and organisations to participate in proceedings in a Situation before the ICC and the guidelines on how to fill in the form. These documents are also available for download on the ICC website in English, French and various other local languages.²² Rohingya, Bangla and Burmese versions of the forms and guidelines are in the process of translation and will be made available in due course.

C. Subsequent activities

26. As long as the COVID-19 related restrictions remain in place, the VPRS will remain limited in its efforts to fully implement the Chamber's order to the VPRS to "communicate the decision [authorizing the investigation] to the organisations and individuals who submitted representations"²³ and to properly conduct its core functions of informing victims and representatives of their rights before the Court during the next procedural stages. The VPRS will remain in close touch with its interlocutors and will seek to perform some of its functions remotely (e.g. respond to requests for information, trainings, forms, etc. through IT means of communication).

²⁰ [Redacted]

²¹ [Redacted]

²² <https://www.icc-cpi.int/about/victims> under the 'Participation' headline.

²³ Decision Authorizing the Investigation, page 58 *in fine*.

27. The Registry will closely monitor the developments related to the Covid-19 pandemic and resume the planning of a potential subsequent mission to Cox's Bazar as soon as feasible considering all circumstances. The safety and security of victims, interlocutors and staff members and the duty of care will be at the core of planning of missions and any other activities. The Registry will also continue exploring different avenues to perform its functions remotely.
28. PIOS is currently finalising its communications plan containing the system of public information and outreach activities ("Communication Plan") as ordered by the Chamber. The Communication Plan is based on the assumption that no mission will be possible before the end of the year due to the COVID-19 pandemic. The pandemic related developments will be closely monitored and the Communication Plan will be revised should (some of) the restrictions be lifted.
29. The main objectives of the Communication Plan, in this initial phase, are:
- a) disseminating general information about the ICC, its mandate, organs, activities, scope of the investigation and next procedural steps;
 - b) identifying and addressing rumours and misinformation; and
 - c) managing expectations.
30. A number of activities are envisaged in order to ensure that complete and accurate information is being provided to various target groups [Redacted].
31. PIOS will continue consultations [Redacted] on production of tools, communication channels, impact of the activities on various target groups and other subjects of importance for the communications with the target groups.

32. [Redacted].

33. PIOS and VPRS will continue to work closely together, to update the ICC situation specific webpage²⁴ in line with the procedural developments and carry out joint activities whenever possible and relevant.



p.p. Marc Dubuisson, Director, Division of Judicial Services

On behalf of
Peter Lewis, Registrar

Dated this 6 July 2020

At The Hague, The Netherlands

²⁴ <https://www.icc-cpi.int/bangladesh-myanmar>.