



Original: English

No.: ICC-01/19

Date: 16 June 2023

PRE-TRIAL CHAMBER I

**Before: Judge Péter Kovács, Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera**

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

Public

**Public redacted version of the "Seventh Registry Report on Information and
Outreach Activities", 16 June 2023**

Source: Registry

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

The Office of the Prosecutor

Karim A. A. Khan
Nazhat Shameen Khan
Melissa Pack

Counsel for the Defence

Legal Representatives of Victims

Victims' Representatives

States Representatives

Amicus Curiae

REGISTRY

Registrar

Oswaldo Zavala Giler

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Philipp Ambach

Public Information Section

Sonia Robla

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 hereby submits its seventh report on the progress of its activities related to information and outreach activities in the situation of the People's Republic of Bangladesh/ Republic of the Union of Myanmar ("Situation").

II. Procedural History

2. On 20 January 2020, the Chamber ordered the Registry to: *i*) establish, as soon as practical, and in consultation and collaboration with the Office of the Prosecutor ("OTP"), a system of public information and outreach activities with the affected communities and particularly with the victims of the Situation;² *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 six months thereafter;³ and *iii*) seize the Chamber immediately if there is any development that requires judicial determination, particularly to provide for the protection and privacy of victims and potential witnesses pursuant to Article 57(3)(c) of the Rome Statute.⁴

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

² Order of 20 January 2020, para. 9 and page 7.

³ Order of 20 January 2020, para. 12 page 7.

⁴ Order of 20 January 2020, para. 12.

3. Between 6 July 2020 and 16 December 2022, the Registry filed six periodic reports⁵ on the progress of its activities related to information and outreach activities in the Situation.

III. Classification

4. Pursuant to regulation 23bis(1) of the Regulations of the Court (“RoC”), the present report is classified as “confidential”, [Redacted]

IV. Applicable Law

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

V. Submissions

A. Registry activities during the reporting period (17 December 2022 – 15 June 2023)

a. Activities conducted by PIOS

6. During the reporting period, the Public Information and Outreach Section (“PIOS”) worked towards organizing more online hybrid information sessions [Redacted]. The objective of this activity is to foster cooperation and gain support for the International Criminal Court’s (“ICC” or “Court”) outreach activities in [Redacted]. After preliminary sessions that were held online with [Redacted], in coordination between the Registry and the OTP, [Redacted]. In addition, it was reemphasized that there is a need to hold

⁵ See last, Registry, “Six Registry Report on Information and Outreach Activities”, ICC-01/19-48-Conf, 16 December 2022 (a public redacted version was notified on the same day, ICC-01/19-48-Red) (“Sixth Report”), containing references to the previous reports.

further joint engagements [Redacted], to ensure constructive participation in future sessions with, amongst others, [Redacted].

7. Following the consultations with various [Redacted] as previously reported,⁶ joint activities were implemented during the reporting period. PIOS is currently participating in a project of interactive Questions and Answers (Q&A) videos allowing the voices of ICC representatives to be heard directly [Redacted], and ensuring coordination within the ICC to get direct responses from relevant organs/sections. [Redacted] ICC-related questions on various subjects and an official of the Court is filmed whilst providing answers to these questions. [Redacted]. The first two videos were made and shared with the partners: a video of the ICC spokesperson responding to general ICC questions, such as the potential sentences that the ICC can impose and a video of an OTP representative responding to questions on the scope of the investigation. The questions asked [Redacted] gave the Court the opportunity to respond directly to the precise questions but also to reiterate more general messages responding to common concerns about the Court, such as the length of the ICC proceedings, and to provide clarity on the different stages of the proceedings, on how investigations are conducted, etc., thus contributing to managing expectations of the victim communities as a whole.
8. Finally, PIOS continued engaging [Redacted] to share information on activities and common projects and discuss questions and concerns from the affected communities, as well as possible ways to address them.

⁶ Sixth Report, para. 8.

b. Activities conducted by VPRS

9. During the reporting period, the Victims Participation and Reparations Section (“VPRS”) continued to maintain close contact with various interlocutors via different electronic communication tools and platforms; it also replied to communications and queries from interlocutors who sought information about victim-related matters and relevant judicial developments in the Situation.⁷ Furthermore, as previously reported, VPRS maintains relevant connections and networks in order to be able to reach out quickly to its interlocutors in case of any pertinent judicial developments.⁸
10. VPRS also remained in contact with legal representatives of victims (“LRVs”), in order to, *inter alia*, exchange information about their respective activities and the situation of their clients. On 12 June 2023, VPRS had a remote meeting with two teams of legal representatives of victims (“LRVs”) and on 13 June 2023, it received a written communication from them. In said correspondence, the LRVs detailed concerns regarding developments concerning the repatriation processes of the Rohingya to Myanmar; they also made submissions on a perceived direct link between the repatriation and the risks posed to international justice efforts. The LRVs emphasized the need for ongoing and frequent outreach and two-way communication between the Rohingya community and the Court. The information submitted by the LRVs - and reproduced below - is reportedly based on information received by the LRVs from their clients, which has been corroborated through documents and publicly available information where possible:

⁷ The content of relevant messages is coordinated between VPRS and PIOS.

⁸ If and where specific requests to submit victim applications at the present situation stage are transmitted, the VPRS engages with relevant interlocutors so that any victims who do submit forms at this stage are properly appraised of the stage of proceedings, and importantly that their expectations are managed.

Events are rapidly unfolding in the Kutapalong Rohingya refugee camp that suggest that a repatriation process lacking essential safeguards is likely imminent. This raises serious concerns for the safety and wellbeing of the Rohingya victims and witnesses in Bangladesh, and about the preservation of evidence relevant to the ICC Prosecutor's investigations.

In March 2023, it was widely reported that Bangladesh intended to send a group of 1,140 Rohingya back to Myanmar as part of a "pilot project" agreed upon by both governments.⁹ UNHCR released a statement saying that it was not involved in and did not support the process.¹⁰ Human Rights Watch and other NGOs condemned the initiative, saying that returnees would be at great risk.¹¹ The UN Special Rapporteur on the situation of human rights in Myanmar released a statement saying there were reports that Bangladeshi authorities were using deceptive and coercive measures to compel Rohingya refugees to return to Myanmar.¹²

There are real concerns about the repatriation process and the conditions in the junta-controlled camps where repatriated refugees will be interned. The publicly available information about these efforts, as well as that supplied by camp-based Rohingya through their legal representatives, indicates that they will continue to have their Myanmar citizenship denied. They will not be permitted to return to the areas from which they fled but will be housed in fenced camps in the areas currently controlled by the military. They will be returning to a country in a state of ongoing armed conflict. They will not benefit from any monitoring or security by international agencies. They will be subject to control by the very same military leadership which oversaw mass atrocities against the Rohingya people in 2016-2017 and earlier.

Rohingya refugees may decide to return to Myanmar. Their agency and right to do so should be respected. However, these conversations are being had against a

⁹ UNHCR statement on Bangladesh, Myanmar bilateral pilot project on Rohingya returns, 19 March 2023; Human Rights Watch, Bangladesh: Halt 'Pilot' Plan to Return Rohingya: Repatriation to Myanmar Under Military Junta Threatens Lives, Freedoms, 31 March 2023; France 24, Rohingya team to visit Myanmar for refugee return plan, 3 May 2023, AM Sakib, Bangladesh promises to take back Rohingya if pilot repatriation project fails, Andalou Agency, 12 June 2023.

¹⁰ UNHCR statement on Bangladesh, Myanmar bilateral pilot project on Rohingya returns, 19 March 2023.

¹¹ Human Rights Watch, Bangladesh: Halt 'Pilot' Plan to Return Rohingya: Repatriation to Myanmar Under Military Junta Threatens Lives, Freedoms, 31 March 2023; Human Rights Watch, Bangladesh: New Risks for Rohingya Refugees: Returnees to Myanmar Would Face Junta's Crimes of Apartheid, Persecution, 18 May 2023; Refugees International, Repatriation Endangers Rohingya Refugees, 2 June 2023.

¹² UN Special Rapporteur on the situation of human rights in Myanmar, Bangladesh must suspend pilot project to return Rohingya refugees to Myanmar: UN expert, 8 June 2023

backdrop of coercion and misinformation. Two legal teams representing Rohingya victims in Kutupalong Camp in Cox's Bazar, Bangladesh have contacted the VPRS to convey the views and input of their clients on the situation, stressing that the conditions in the camp have made people desperate to find a way out. The victim representatives have reported on how hungry people are (with rations now below internationally recognised minimum standards); on their terror amidst the murders of community leaders, and the lack of accountability for these; on the fear of generalized violence, extortion and arson; and on the continued denial of even basic education or access to livelihoods. In contrast, Myanmar has circulated information about the conditions awaiting the Rohingya in Rakhine State, stating that international agencies will monitor returns, omitting to mention that returnees will be confined to fenced-in camps, and making implausible claims about healthcare, livelihoods and education which are belied by the conditions faced by those Rohingya who remain in Myanmar.¹³ Some are now being offered a substantial cash incentive, of USD 2000, to participate in the Myanmar-led repatriation process.¹⁴

Developments in the last week show that the situation is intensifying. From Thursday of last week, 'protests' took place in the camp designed to send the message that Rohingya reject the concerns of the international community, and wish to return home without any official process, checks, or oversight. The legal representatives have been informed – including directly by clients – that the 'protests' were organized by Bangladesh's National Security Intelligence agency (NSI). Some clients have shared a script they were given by the NSI to be read out during these protests, which includes the demand: "We don't want any verification, any scrutiny, any interview, it's just a conspiracy of delaying repatriation; please don't stop repatriation, don't ask Bangladesh to stop repatriation."¹⁵

¹³ An English version of the booklet produced by Myanmar is available online [here](#).

¹⁴ See, for example: Shafiur Rahman, [Cash Incentives and Coercion: The Controversial Strategy for Rohingya Repatriation](#), *The Diplomat*, 2 June 2023.

¹⁵ According to the LRVs, the full script was circulated by the NSI in written English, and by WhatsApp voice notes in Bengali. The LRVs believe that the use of English seems to have been aimed at gaining the attention of the international media. The full text of the script is as follows: "We are the persecuted Rohingya people of Myanmar. Myanmar is our motherland but we were facing oppression in Myanmar for long time. Since 1978, we have been tortured, raped, killed; our villages and houses were burnt to ashes and we were forcefully ousted from Myanmar several times including the persecutions happened in 1990, 2012, 2017 etc. Only during the genocide of 2017 as many as 1.2 million Rohingya people have been ousted from Myanmar and took shelter in Bangladesh. We are grateful to the govt. of Bangladesh (GoB) for providing us shelter on humanitarian ground. We are also thankful to the UN and other concerned organizations for providing us with food, shelter and other supports. But, Bangladesh is not our country. We want to return to our homeland Myanmar. During 2017-'18, several agreements were signed by Bangladesh, Myanmar, China and the UN. But, till date no visible and effective progress has been made to repatriate us to Myanmar. We, the Rohingyas, are now stateless people. Last year we got \$12 per capita in food aid from WFP, now we are getting \$8 in food aid. It is known that the amount of

These developments constitute an acceleration of the repatriation efforts. The victim representatives have stressed that they believe that a process that is unlikely to be based on free, voluntary and informed consent, and which is intended to be carried out without any formal process or safeguards, will be imminently carried out. There is also a concerted communications campaign being undertaken by the government of Bangladesh to depict these efforts as being led by Rohingya, in an effort to deflect scrutiny by international agencies.

The real possibility of imminent returns under these circumstances is of direct relevance to the ICC and International Court of Justice (ICJ) proceedings and other international efforts for accountability. Those who return to junta-controlled areas of Myanmar will be unreachable by the ICC, the Independent Investigative Mechanism for Myanmar (IIMM) or the legal teams before the ICJ. It will become impossible to take steps to ensure their safety and well-being, including any among them who are at increased risk on account of their interactions with lawyers or investigators to date. It will likewise be impossible to secure their evidence in the future. Meanwhile, the real possibility of coerced returns is already making those who are intent on remaining in Bangladesh feel more fearful of interactions with international agencies.

Fears of witness tampering by Myanmar are now spreading in the camps. There is a widely-held belief that the repatriation process is intended to support Myanmar's ICJ case. Many camp-based Rohingya have reported that they are worried that those who return to Myanmar, and especially those who receive monetary incentives as part of this process, will be particularly susceptible to being coerced into providing false evidence. One of the legal teams representing victims has also heard from their clients that similar fears are growing in relation to the potential ICC proceedings.

food aid will decrease further. The United Nations we don't want food aid from you we want to go back to our own motherland. So please help us to a quick repatriation. The United Nations and world community please don't stop repatriation. We don't want any verification, any scrutiny, any interview, it's just a conspiracy of delaying repatriation; please don't stop repatriation, don't ask Bangladesh to stop repatriation; we want to go back to our country as soon as possible through the UNHCR data card. Almost Six years have passed since the exodus of 2017. How many days will we remain stateless? How many days will we be deprived of universal human rights? We no longer want to remain stateless. We are gravely anxious about the future of us and our future generation. We want to return to our motherland Arakan in Myanmar. We want to live in Myanmar as citizens with proper rights. So, we are earnestly urging the world leaders and communities to come forward and help us to quick repatriation, return to our homeland Myanmar and to live in Myanmar with proper rights."

B. Subsequent activities

a. PIOS

11. If conditions permit (including budgetary and security conditions), PIOS aims to conduct a mission [Redacted] for the purpose of developing outreach projects and providing ICC-related trainings, [Redacted] in order to channel funding into awareness projects on international justice and the ICC.
12. PIOS will also continue engaging with partners on the ground in the context of the project of interactive Questions and Answers (Q&A) videos allowing the voices of ICC representatives to be heard directly [Redacted].
13. Finally, in coordination with the OTP, PIOS will continue to endeavour to foster greater engagement and collaboration with [Redacted] to ensure constructive participation in future online Outreach sessions with, amongst others, [Redacted].

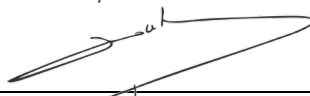
b. VPRS

14. VPRS will organize, as soon as feasible, a mission [Redacted]– either jointly with or in addition to the above-referenced PIOS efforts - in order to [Redacted]. At this occasion, the Section intends to continue the dialogue on victims' rights at the potential next stages of the ICC proceedings. [Redacted].¹⁶
15. VPRS will continue to focus on remote communication tools and ways to perform its functions (e.g. respond to requests for information, provide

¹⁶ [Redacted].

trainings and application forms for participation and/or reparations upon request through IT means of communication) alongside the aforementioned physical mission engagement, and continue exploring further avenues to this end.

16. PIOS and VPRS will continue to work closely together and carry out joint activities whenever possible and relevant.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 16 June 2023

At The Hague, The Netherlands