

CITIZENS CALL FOR BANGLADESH TO RESPOND IN SUPPORT OF ICC PROSECUTOR'S SUBMISSION ON ROHINGYA DEPORTATION

As Bangladeshi individuals and organisations engaged in seeking justice for those subjected to violations of rights, we welcome the request of the International Criminal Court (ICC) Prosecutor for a ruling by ICC judges on whether the ICC has jurisdiction to investigate the deportation of Rohingya people from Myanmar from 25 August 2017 onwards. We call on the Government to respond to the invitation from ICC Pre-Trial Chamber I to Bangladesh authorities to submit, by 11 June 2018, observations on the question and to support the Prosecutor's request.

The ICC Pre-Trial Chamber's decision of 7 May has been made in response to the 9 April Request by the ICC Prosecutor, seeking a ruling on whether the Court has jurisdiction over the deportations of Rohingya people from Myanmar as a crime against humanity.

In her request, the Prosecutor Fatou Bensouda submitted that the ICC has territorial jurisdiction under Article 12(2)(a) of the Rome Statute, based on the deportation of persons from the territory of a State which is not a party to the Statute (Myanmar) directly into the territory of a State Party (Bangladesh). She further submitted that the Court may exercise jurisdiction because an essential legal element of the crime of deportation, namely 'crossing an international border', occurred on the territory of Bangladesh.

Bangladesh has yet to respond to the Pre-Trial Chamber's decision inviting observations of the Government.

It is our considered view that Bangladesh as a state party to the Rome Statute and a country which has its own history of having suffered war crimes and bringing those responsible to justice, must respond to this request. We believe the Government of Bangladesh should provide the Court with all information in its possession about the circumstances surrounding the presence of the Rohingya on its territory, as invited by the Pre-Trial Chamber. It needs to do so as a matter of principle, because as a State Party to the ICC, Bangladesh has committed itself to promoting accountability for mass atrocities. As disclosed by the Bangladesh Department of Immigration and Passport (DIP), over 700,000 of the 1 million Rohingyas who have been registered entered Bangladesh to escape persecution in Myanmar since 25 August 2017 (see reports of 19th meeting of the Parliamentary Standing Committee on the Ministry of Home Affairs in January 2018). Bangladesh has been compelled to address the humanitarian consequences of the deportation, and as such has an interest in providing information to ICC.

We urge the Government of Bangladesh to respond to the ICC Pre-Trial Chamber's request for observations and to support the view of the Prosecutor that the Court may assert jurisdiction against Myanmar. This will be an important first step in ensuring justice for the victims of the crimes against humanity that have occurred in Myanmar and a significant action for us to take as a people and a nation that has suffered horrific war crimes during our liberation war of 1971, which went unaddressed for too long.

Background

Bangladesh ratified the Rome Statute of the International Criminal Court in 2010. Bangladesh has repeatedly drawn the attention of the international community to the crimes against humanity committed against the Rohingya people in Myanmar since August 2017.

Due to the limited scope for international action, this crisis is yet to be addressed. Myanmar is not a State Party to the Rome Statute and the UN Security Council has not as yet referred the situation in Myanmar to the ICC. No significant action has been taken within Myanmar to address the alleged crimes. Against this background, the ICC Prosecutor submitted a Request to the ICC under

Articles 19(3) and 42 of the Rome Statute seeking a rule of the Court on its jurisdiction over the deportation of Rohingya from Myanmar to Bangladesh, which could be a milestone in addressing this crisis. The current request, even if results in a ruling that the Court has jurisdiction, would not relate to the alleged crimes of murder, rape, arson committed in their entirety in Myanmar territory as these cannot be brought as individual charges.

Endorsed by:

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