

Ms. Sandra Choufani
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Via e-mail

September 30, 2020

Summary Note In Respect of the Video Meeting of September 23rd, 2020

Dear Ms. Choufani,

Thank you very much for meeting with us on September 23rd.

This note is further to our presentation to you and your colleagues during our video meeting. We hereby provide you in written form with some of the information we presented orally, including the questions posed and requests we made, and additional details to offer a more complete picture of the various issues raised and in part discussed in our meeting.

CURRENT FUNDING ENVELOPE (\$300 MILLION)

To begin, we would like to address the issue of funding in a number of categories. As you know it is a key factor in addressing all of the issues around the situation of the Rohingya moving forward. The Rohingya Human Rights Network (RHRN) has been very supportive of the Canadian government's commitment in 2018 of \$300 million over three years. Given the time frame in which the funding was allocated we know that this commitment is coming to an end.

In addition, we would like to state for the record that we are disappointed to note that the UN Joint Response Plan (UNJRP) has only been 44% funded this year, which is even lower than previous years, and not enough to cover "vital needs".

Our questions around the issue of funding are as follows:

- ▶ Have all the funds from the original \$300 million commitment been allocated?
- ▶ What is the status of disbursement of funds earmarked for Rohingya refugees?
- ▶ When specifically will the funding come to an end?
- ▶ Has Canada contributed to the 2020 UNJRP and in what amount?

FUTURE OF AID BEYOND CANADA'S INITIAL \$300 MILLION

Also with regard to funding we would like to raise the issue of future aid beyond Canada's initial \$300 million commitment.

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The RHRN will be asking the Canadian government to ensure a new tranche of funding of at least \$300 million plus inflation, to be approved as soon as possible, so that multilateral aid agencies know that they can count on the resources required to implement their programs in 2021 and beyond. We will be making a similar request at the political level.

However, while the final decision will be made at the political level, we would like to make the following request:

- ▶ We request that GAC begin the necessary interdepartmental consultations required to prepare and finalize a Memorandum to Cabinet.

REFUGEE EDUCATION FUNDING

The issue of education for the Rohingya refugees also continues to be one of the RHRN's priorities. In attempting to help the Rohingya we need to ensure that they have the tools to build a better future for themselves. This cannot happen without access to higher levels of education for the children and youth living in refugee camps in Bangladesh.

We understand that education for refugees has been a sensitive political issue and continues to be so for the government of Bangladesh. We would like to note that the provision of education up to the Grade 9 level is a positive first step in helping the Rohingya. In our previous meeting with GAC we were told that Canada was undertaking efforts to make education more widely available to Rohingya refugee children. While this is a step forward we believe it is an accepted truth that in order for the Rohingya to have hope for a better future, education must be offered beyond the Grade 9 level, it must be accessible to Rohingya girls, and it must be provided in the Rohingya language.

Consequently, we would like to request the following:

- ▶ We ask that the Canadian government undertake efforts with the government of Bangladesh, and with leaders from the Rohingya community (in the diaspora and in the refugee camps), to provide education to Rohingya refugee children and youth beyond the Grade 9 level in the Rohingya language.
- ▶ We also request that the Canadian government facilitate a scholarship program that brings select Rohingya youth to Canada to pursue college/university level education.

MEDICAL AID AND SAFETY IN THE REFUGEE CAMPS

Medical aid for Rohingya refugees continues to be a critical issue as well. The Rohingya who fled Myanmar in 2017-18, as well as those who have continued to arrive in small numbers since then, have suffered physical and psychological trauma that we can only imagine. In addition, the physical safety of refugees has become an issue due to human trafficking.

From our network of team members on the ground we have received reports that the quality of medical aid for refugees appears to be substandard. For instance, there is very little access to surgery to address physical trauma like treatment of bullet wounds, burns, miscarriages, and related infection, as well as the medical support needed for treating such ailments.

We have also learned that a number of medical facilities in the camps funded by foreign aid dollars were found to be closed, and only opened their doors for service just prior to visits by international NGOs or government officials. In the absence of international observers and monitors it seems that some of these clinics are in reality failing to provide medical services to the Rohingya, and thereby clearly abusing the generosity of donors who have provided the funds for these clinics.

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We would also like to note that a lack of adequate security precautions for refugees in the camps has resulted in the trafficking of women and children. This has impacted the physical safety of refugees, as well as their mental health and well-being.

On the matter of medical aid and safety we make the following requests:

- ▶ The RHRN would like Canada to work with the aid agencies it funds to ensure that basic medical care is available to all refugees in the camps, and to ensure that where required cases of more serious health issues be transferred to Bangladeshi hospitals for more advanced medical treatment.
- ▶ We ask that Canada provide stronger oversight of the funds expended for medical aid for refugees, and work with other major donors to undertake this oversight so that medical care can be available to refugees when needed, and not based on the PR or political objectives of the agencies funded to provide that aid.
- ▶ We ask that efforts be undertaken with other aid partners to ensure the physical safety of refugees, and to work to arrest and prosecute those engaged in human trafficking.

SUPPORT FOR ROHINGYA ORGANIZATIONS / VOICES

One of the major problems in all the consultations and dialogue taking place to address the Rohingya crisis is the lack of an adequate voice for the Rohingya themselves in the areas of international dialogue, humanitarian aid, and efforts to find long lasting solutions to the crisis. It's clear that while there seems to be considerable efforts to help the Rohingya those efforts are taking place with limited to no input from the Rohingya.

In Canada, the issue is that Rohingya organizations such as ours operate on a shoestring budget (if on a budget at all!). This means that our efforts to be engaged in the process to help the Rohingya and come up with long term solutions are hampered due to financial limitations. The solutions that are proposed and the efforts undertaken to address the crisis created out of Myanmar's actions and policies targeting the Rohingya cannot and should not take place without the effective participation of Rohingya voices.

In this regard we make the following request:

- ▶ We ask that the Canadian government commit funding for Canadian Rohingya organizations and voices to take part in all decisions which affect their future, at home and internationally. This should especially be the case for issues relating to Rohingya women in line with Canada's Feminist Foreign Policy and international commitments under the Women, Peace and Security agenda.

CANADA'S INTERVENTION AT THE INTERNATIONAL COURT OF JUSTICE (ICJ)

Following the filing of the ICJ case against Myanmar by The Gambia in November 2019, in December 2019 Canada declared that it was considering options to provide support and assistance to The Gambia with the case. Consequently, Canada's recent announcement (jointly with The Netherlands) of its intention to intervene in the Rohingya genocide ICJ case is a welcome development.

However, the recent Joint Statement is ambiguous in regard to certain details which are key to assessing the impact of Canada's intervention. In our view, Canada should aim to intervene in the broadest possible way in the case and at the earliest stage. Based on legal advice, the RHRN believes that the best strategy would be to intervene under Article 62 of the Statute of the Court which would give Canada the opportunity to participate fully in the ICJ case.

With regard to Canada's ICJ intervention, the RHRN has the following questions:

- ▶ Other than the intention to intervene, what direct support has Canada provided to The Gambia? In concrete terms, what form has any such support taken?
- ▶ Does Canada (and The Netherlands) intend to intervene based on Article 62 or Article 63 of the Statute of the Court?
- ▶ Does Canada intend to intervene as a party or a non-party to the case?
- ▶ Will the intervention cover the jurisdictional phase which presents the earliest opportunity to intervene?
- ▶ Will Canada seek the assistance of outside counsel?
- ▶ Will Canada call upon more states to intervene at the Court in support of The Gambia?

Our requests in regard to Canada's ICJ intervention are as follows:

- ▶ We request (and strongly recommend) that Canada retain outside legal counsel to present before the ICJ, given that Canada has never presented on a genocide case before the court, and that the case raises serious and complex issues (as the Joint Statement acknowledges) such that the Canadian government would benefit from expert counsel serving Canada.
- ▶ As an intervener, we ask that Canada request that the ICJ make Myanmar's reports on implementation of the ICJ's Provisional Measures Order publicly accessible. Legally, there is nothing in the ICJ's Statute or the Rules of Court to prevent the ICJ from deciding to make these reports publicly available as it would serve Canada's declared interest and, moreover, benefit the Rohingya and other affected and concerned groups.
- ▶ We request that Canada commit to consulting with Rohingya organizations and voices and integrate their views into any arguments presented by Canada throughout the intervention process.

CANADIAN CORPORATE LINKS / INVESTMENTS AND MYANMAR MILITARY ENTITIES

Genocides like the on-going one against the Rohingya do not happen in a vacuum. Not only are there people involved in issuing the orders that instigate atrocities, but there are also those who benefit economically from the atrocities being committed, and the aftermath of the atrocities.

In the case of Myanmar, the military's two major holding companies (Myanmar Economic Holdings Public Company Ltd. (MEHL) and Myanmar Economic Corporation (MEC) are the main financial beneficiaries of the ethnic cleansing and genocide of the Rohingya. Reports released by the UN's Independent International Fact-Finding Mission on Myanmar (IIFMM) and Amnesty International provide evidence exposing the involvement of the MEHL and MEC in crimes under international law and serious human rights violations. In addition, the reports reveal the extensive partnerships with numerous western companies and business organizations sustaining the MEHL and MEC. This information has serious legal implications for foreign business partners and investment partners. By doing business with the MEHL conglomerate, foreign companies are also complicit in the crimes and violations committed by MEHL and MEC.

Regarding possible Canadian corporate relationships with Myanmar military entities, some areas of particular concern include the following.

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Direct transfers of equipment to military-controlled bodies

- For example: [Ross Video](https://www.rossvideo.com/ross-videos-graphite-scores-in-myanmars-general-aung-san-shield/) (based in Montreal) provided audiovisual equipment to *Myawaddy TV*, under the control of Myanmar Directorate of Psychological Warfare and Public Relations – <https://www.rossvideo.com/ross-videos-graphite-scores-in-myanmars-general-aung-san-shield/>.
- According to UN's Independent International Fact-Finding Mission on Myanmar (IIFMM) report, the Myanmar military sought to procure data streaming technology from the Waterloo-based company [Dejero](https://www.dejero.com/).

Corporations operating in Myanmar to the possible enrichment of military entities

- Mining: In 2019 Canada based [AsiaBaseMetals Inc.](https://www.asiabasemetals.com/) announced entry into lithium mining in Myanmar (mining is a primary revenue source for Myanmar military) – <https://www.mmtimes.com/news/canadian-company-pursue-lithium-exploration-myanmar.html>
- Land Leasing: According to the IIFMM report: “MEHL and MEC subsidiaries, as well as the Tatmadaw directly, own sizable amounts of land throughout Myanmar. These include MEHL-owned Pynmabin Industrial Zone in Yangon, the Ministry of Defence-owned ‘Golden City’ residential development in Yangon, and the Quartermaster General Office-owned land leased to the Sule Shangri-La Hotel and Sule Square commercial project”. Canada-based companies such as global real estate firm *Colliers International* and [Pacific Hunt Energy Limited](https://www.pacifichuntenergy.com/) have offices in Sule Square, as do other multinational corporations including *Prudential, Visa, Coca-Cola, Colgate Palmolive, Baker McKenzie, and McKinsey & Co.*
- Garment Industry: Brands sourcing goods produced in military-owned industrial zones – Ngwe Pinlae Industrial Zone and Pynmabin Industrial Zone – include *Next, Bestseller, H&M, Marks & Spencer, C&A and Espri* – <https://asia.nikkei.com/Business/Business-trends/Fashion-brands-rethink-Myanmar-position-after-report-on-military-ties>.

Canadian investments in companies supplying or in joint ventures with military entities

- *Canada Pension Plan* holds shares in several companies named in the IIFMM report on international corporations supporting the military's economic interests, including *Adani Ports, Aviation Industry Corporation of China (AVIC), Infosys, Japan Tobacco International, Kirin, LafargeHolcim, and POSCO*.
- *BC Investment Management Corp*, which manages 11 public pension funds in British Columbia, also holds shares in *Kirin, POSCO, and Adani Ports*.

Indirect transfers of military equipment / components

- According to a 2007 report by Project Ploughshares, Y-12 transport aircraft with engines manufactured in Canada were transferred to Myanmar's military by China – https://ploughshares.ca/pl_publications/canadian-engines-power-chinese-military-aircraft/.
- *Export Development Canada* has financed a leasing deal between *Bombardier* and AVIC, named in the IIFMM report for supplying Myanmar military with combat aircraft – <https://www.newswire.ca/news-releases/export-development-canada-finances-chinas-avic-leasing-for-usd-45m-517427621.html>.

Our questions in relation to Canadian corporate links / investments in Myanmar are as follows:

- ▶ What due diligence measures does Canada have to ensure that Canadian companies are not enabling or enriching the Myanmar military by doing business or investing in Myanmar?
- ▶ What measures are in place to ensure that arms components manufactured in Canada are not transferred indirectly to the Myanmar military, via states such as China, Ukraine, India, and Israel (all of which were identified as suppliers of the Myanmar military in the UN's IIFMM report)?

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- ▶ Are Canadian investments in companies involved in joint ventures with Myanmar military entities considered a breach of sanctions and Canadian laws, and what is Canada doing in this regard?
- ▶ Is there a role for the Canadian Ombudsperson for Responsible Enterprise (CORE) to investigate, particularly in the mining and garment manufacturing sectors?

Our request is as follows:

- ▶ The RHRN asks the Canadian government to review the sanctions regime and listed entities, to ensure it is responsive to the current situation, and we ask that any Canadian companies and their executives that conduct business with or invest in Myanmar be pursued and, as appropriate, prosecuted under the appropriate Canadian laws.

While we recognize that GAC may not be able to provide an immediate response to many of our requests, we would appreciate it if you would provide the information requested in our questions.

In closing we would like to note that we will also be pursuing the matters discussed at the political level with Parliamentarians. In addition, we will be making a request to meet with Minister of Foreign Affairs François-Philippe Champagne, and with Minister of International Development, Karina Gould to further pursue the issues discussed in our meeting. We would be grateful for your support in securing these meetings.

Once again thank you for taking the time to meet with us, and we look forward to continuing to engage with you in our efforts to help the Rohingya.

Regards,

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