

Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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12 June 2019

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Dear Senators and Mr. Scheer,

Obligation to hold Myanmar accountable for genocide: Immediately pass Motion No. 476

We write on behalf of Lawyers Rights Watch Canada (LRWC), a committee of lawyers who promote human rights and the rule of law. LRWC is an NGO in Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations (UN).

We are deeply disturbed by reports that a minority of Senators have been obstructing the progress of Motion No. 476 which aims to ensure that Canada fulfills its international law obligations to seek accountability of Myanmar for genocide against Rohingya people. On 11 April 2019, Hon. Marilou McPhedran made the following Motion:

That the Senate urge the Government of Canada without further delay to invoke the Genocide Convention and specifically to engage with like-minded States to pursue the matter before the International Court of Justice in order to hold Myanmar to its obligations and to seek provisional measures and ultimately reparations for the Rohingya people;

That the Senate urge Canada to exert pressure on Myanmar to allow for unobstructed access to Rakhine State by independent monitors in order to investigate the international crimes committed and to afford protection to remaining Rohingya;

That the Senate urge the Government of Canada to continue to assist the Government of Bangladesh through multilateral aid in addressing the humanitarian needs of the Rohingya refugees, with particular focus on the needs of women and children, including education; and

That a message be sent to the House of Commons requesting that house to unite with the Senate for the above purpose.

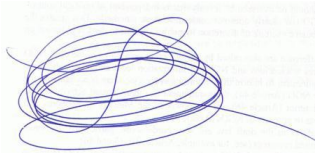
Motion No. 476 has now been on the Senate order paper for debate for two months. Some senators have reportedly used procedural measures to hinder completion of the debate and a vote.

The United Nations (UN) Human Rights Council (HRC) Independent International Fact Finding Mission (FFM) on Myanmar report of 24 August 2018¹ has confirmed systematic, severe, widespread and brutal human rights violations by officials in Myanmar that amount to genocide against the Rohingya people. Myanmar authorities at the highest level have contributed to genocide by facilitating the spread of false information, blocking all independent investigations, and overseeing the destruction of evidence. Myanmar's military and civilian authorities have failed to cooperate with the FFM or to provide the FFM or other UN officials with access to Myanmar. Despite considerable advocacy from States and civil society organizations, so far all efforts to persuade the UN Security Council to refer the matter to the International Criminal Court have failed. The current preliminary examination by the Prosecutor of the ICC covers only the crime of deportation of hundreds of thousands of Rohingya people into Bangladesh. This obstruction by Myanmar and its allies means there are major hurdles to Myanmar accountability.

In the absence of cooperation by Myanmar and some Permanent Members of the Security Council for a referral to the ICC, other measures must be urgently pursued, including referral of the matter to the ICJ under Article IX of the Genocide Convention. The International Court of Justice (ICJ) has confirmed that prevention and accountability for the crime of genocide is the concern of every state and of the international community as a whole, and that when genocide occurs in any State, it is the duty of all other States to ensure prevention and accountability for genocide.²

We urge all members of the Senate to take immediate, non-partisan action to pass Motion No. 476 without further delay.

Sincerely,



Gail Davidson, Executive Director, LRWC



Catherine Morris, UN Liaison Director, LRWC

Copied to Hon. Marilou McPhedran, Senate Sponsor of Motion No. 476; Hon Diane Bellemare, Seconder of Motion No. 476; and all other members of the Senate.

¹ Report of the Independent International Fact-Finding Mission on Myanmar, A/HRC/39/64, 24 August 2018, para 50, 93 at: <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/ReportoftheMyanmarFFM.aspx>

² International Court of Justice, Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Judgment, 26 February 2007.