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Dear Hussain and Najma

**Your case**

Thank you for your instructions in this matter. I am very pleased you have chosen Bindmans to advise and assist you. My colleagues and I look forward to working with you.

I am now writing, in accordance with rules issued to solicitors by the Solicitors Regulation Authority, to summarise the work you have asked the firm to undertake and set out some formal information about this firm and the way in which we work. Please read this letter carefully in conjunction with documents in your client information pack comprising of:

1. Our terms of business - this sets out important formal information about how we deal with our clients. Your attention is particularly drawn to paragraphs 10-16 (Scope of our Responsibility) and paragraphs 17-22 (liability) which define, limit and exclude our liability and paragraphs 44-49 (level of service and client responsibilities). This letter will make clear which paragraphs of the terms of business, if any, do not apply to your case.
2. Information on Bindmans' other legal services.

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## Your instructions

1. You have approached me with regard to your humanitarian concern about the unfolding crisis in Myanmar affecting the Muslim community. You wish to raise funds and to consider possible legal actions to assist with the political efforts to bring justice for the Rohingya Muslims who are being forced to flee into Bangladesh.
2. You state that right now, in Myanmar, young children, women and men, the old and the disabled are all being tortured, set on fire, raped and murdered and their houses burned. We as human beings have to take action to help because they are innocent people who do not deserve this treatment. This persecution of the Rohingya Muslim community is due to the fact that the army and the government deems Islam to be foreign to the State condoned religion which is Buddhism. You say religion should not be the difference between human beings and people should not be persecuted for their religious or indeed non-religious beliefs.
3. Despite the documentation of crimes against humanity by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in a 'flash report' which was released on 3 February 2017, no serious action seems to have been taken to end this genocide.
4. This is regardless of the fact that another recent report made on the 30th August 2017- seems to have found that the violence perpetrated towards the Rohingya population in Rakhine State throughout this protracted crackdown could "very likely" amount to crimes against humanity.
5. The crackdown is said to have resulted in the killings of more than 10,000 Rohingya. This crackdown has equally been found to have resulted in the displacement of more than 300,000 Rohingya which is inclusive of about 90,000 who sought refuge from neighbouring Bangladesh within the last 2 months.
6. Also according to OHCHR "more than half of the women its human rights team interviewed reported having suffered rape or other forms of sexual violence. Many other interviewees reported witnessing killings, including of family members and having family who were missing." As well as women, children are major casualties in this brutal assault on the Rohingya Muslims.
7. Even after the Myanmar government assured the United Nations that the appropriate actions were going to be taken nothing substantive is being done to protect the Rohingya. The fact that the government has consistently absolved its security of any wrong doing and that President Ang San Sui Kyi has failed to even acknowledge the gross human rights violations against the Rohingya which appear daily on our screens shows that there is no will to address the abuses which are driving the Rohingya out of Myanmar and into Bangladesh's

camps which are overflowing and cannot cope with a catastrophe of this scale.

8. You have set up a CrowdJustice page and have invited donations stating that the Rohingya people in Myanmar are deeply in need of intervention by the international community. As well as political pressure, we are considering all potential legal avenues to add to the voices that say these human rights abuses cannot be allowed to continue and the government and military cannot be allowed to act with impunity. Please help restore the dignity of the Rohingya people alongside other minorities in Myanmar.
9. You have asked for CrowdJustice support to instruct Bindmans to consider these avenues further and to advise you more fully. You indicate that there will be several stages to the fundraising as this is an incredibly complicated issue.

#### **Legal Avenues - my advice**

10. Myanmar has ratified and accepted the obligations of international human rights treaties, including the Genocide Convention, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and is a party to the UN Charter. It is bound by Customary International Law, also called "the law of nations". Myanmar's constitution has caused it to be unable to comply with past UN Security Council resolutions. However, impunity for human rights violations means that there is no rule of law and no democracy.
11. Under Article 5 of the Rome Statute, the International Criminal Court (ICC) has subject matter jurisdiction over genocide, crimes against humanity and war crimes. Myanmar is not a State party to the ICC. However, Article 12 of the Rome Statute makes clear that the Court can exercise jurisdiction over nationals of States Parties to the Statute, even if their criminal conduct occurred on the territory of a non-State Party to the Statute. Identification of actors from fact findings will inform this legal opinion and decision.
12. The recent displacement of an estimated 430,000 Rohingya Muslims, around a third of the Rohingya Muslim population in Myanmar and the evidence of killings, violence - including rape and the burning and razing of Rohingya homes- being committed by the military and those supporting the military requires investigation and implementation of international law. The UN Secretary - General has described evidence and reports from Myanmar as having the appearance of ethnic cleansing.

13. In order to pursue, support and enforce Myanmar's international law obligations, the following will be undertaken by independent, international human rights expert lawyers:

- 1) Obtaining entry into Bangladesh for the purpose of fact finding by an appropriate fact finding body which will comprise independent international lawyers who will gather evidence of human rights violations. The fact finding will consider acts by actors, whether military, security forces or non-state armed actors. Evidence will be gathered and findings will be communicated to the UN Human Rights Council in support of its March 2017 Resolution and to the UN Office of the High Commissioner for Human Rights. The lawyers also will seek to take into account findings of the Rakhine Commission and the UN Office of High Commissioner for Human Rights.
- 2) Focus of the Fact Findings will be upon evidence, upon the International law framework and upon remedies for Rohingya survivors including rights to return to Myanmar.

14. Remedies will be pursued following the fact findings, including consideration of:

- (i) UN Human Rights Council Special Procedures; submitting written complaints to the monitoring bodies of the Treaties as well as to the Special Rapporteurs. Account will be taken of current reports, in particular from the Special Rapporteur on the situation of Human Rights in Myanmar.
- (ii) supporting the setting up of an International Commission of Inquiry as called for by the UN High Commissioner for Human Rights.
- (iii) the jurisdiction of the Office of the Prosecutor of the International Criminal Court to carry out a preliminary examination.

#### **What we need to do**

15. Stage 1 - We need to raise £15,000 for a team to gather the initial evidence and advise us on which legal avenues to pursue. Once that work is done and we have an advice then we will let you see it and you can help us decide whether to take the next steps. So far approx. £9,800 has been raised through the CrowdJustice platform. This is a good start but in order to carry out substantive work you will need to implement the strategies

which Crowdjustice have outlined and will have to devote serious further time to fund raising.

16. I set out further information about CrowdJustice below as this is important as it is a relatively new forum for raising funds.

### **CrowdJustice (CJ)**

17. You are raising funds through CrowdJustice to pay for the legal costs of exploring international legal remedies regarding the alleged genocide of the Rohingya Muslims fleeing Myanmar. This is a relatively new form of funding and to date and only a handful of cases have funded an entire legal action through fundraising in this way. This means that there are issues which I need to explain to you in some detail. The legal costs will be your own legal costs to pay for the legal actions discussed.

18. So far as CrowdJustice is concerned you have a contractual relationship with CrowdJustice and not us. The terms of that policy are set out on their website, which states as follows.

### ***Crowdfunding built for legal cases***

- Funds raised go directly to your solicitors' client account, giving backers comfort that it's a real case, and removing the need for claimants to set up a separate account or company to handle funds.
- Our platform is designed with lawyer client money rules and anti-money laundering protections in mind. We do KYC checks on every case owner and sanctions and PEPs checks on backers.
- CrowdJustice doesn't change the relationship between you and your client. Your client is ultimately responsible for all your legal costs and any adverse costs.
- In the event there are unused funds at the end of the case, your client returns those to CrowdJustice. We in turn reimburse backers who gave over £1000 (pro rata), and the rest is donated to the Access to Justice Foundation.
- We provide a mechanism for your clients to keep their backers updated about the legal case - connecting people to issues they care about and demystifying the law.

### **Anti-Money Laundering (AML) procedures**

19. I have asked for and received a copy of CrowdJustice's anti money laundering procedures for which see below as every solicitor has to ensure, in certain circumstances that money which they receive into a client account, has not been laundered or been provided by politically exposed persons, even though the primary relationship is between you and CrowdJustice. It states as follows:

**CrowdJustice: Anti-Money Laundering Policy**

20. CrowdJustice is designed for raising funds for legal cases. As such we take compliance issues very seriously. We take a risk-based approach to anti-money laundering, and have designed a process to comply with lawyers' client money rules. All funds raised by you as the Case Owner go directly to your lawyer's client account on your behalf, so you do not have to handle funds.
21. Our compliance checks include the following:
- We confirm that you have instructed a lawyer and that your lawyer is regulated by the SRA;
  - We undertake "know your client" (KYC) checks on you as the Case Owner to verify your identity as a real person; and
  - We also ensure that your Backers are not on any sanctions or other international risk lists.
22. Finally, we use Stripe, an international credit processor and regulated entity, to process payments. Stripe has its own anti-money laundering and compliance processes in accordance with the applicable financial regulations around payments.

**CrowdJustice AML explained further**

23. CrowdJustice is designed for legal crowd funding so has very specific AML policies designed to be compliant with solicitors' client account rules. CrowdJustice do checks on the Case Owner (as the ultimate beneficiary of the funds) and sanctions and Politically Exposed Persons checks on all Backers (in accordance with solicitors' client account rules). Funds raised go directly to the Case Owner's solicitor's client account, (net of platform fees). CrowdJustice have a strict unused funds policy (outlined in their Terms) to mitigate AML risk should there be any funds left over at the end of a case. In this case, should there be any funds left over at the conclusion of the case, we would charge our full charging rate and recover the difference between our full interpartes rates if there are sufficient funds to cover our costs at full rates.
24. There are not likely to be any fees left over on my current estimate so that is not an issue. I have considered the AML policy and it is satisfactory and appears to comply with the relevant Solicitors' Accounts Rules.

**Monies raised - a summary and update**

25. The way it works is that the amount raised is transferred to us net of CrowdJustice's fees (5%) and CrowdJustice's payment processor's fees (1.4%+20p per transaction).

26. CrowdJustice will normally transfer funds to your client account every month with a full accounting summary. Against these sums we will pay any disbursements, legal costs accrued and counsel's fees as we go along. If there is a shortfall then the money will be debited against the next payment received.

### **The basis of charging**

27. Our charges in this matter will be based on the time we spend on your behalf, as outlined in the financial information sheet (attached). Our standard hourly rates are:

28. Our standard hourly rates which we would apply for work of this sort are:

- Saimo Chahal QC (Hon) £450ph
- Solicitor less than 5 years £160ph
- Trainee/paralegal £110ph
- Leading Counsel £450ph
- Junior counsel £250 ph

29. Due to the important humanitarian nature of this case we have agreed to charge at reduced hourly rates as follows on an interim basis, with a hope to recovering our full costs at the conclusion of the case if sufficient funds can be raised. We will send a final bill at full rates if sufficient funds have been raised. In the meantime we will charge the following reduced rates on an interim basis:

- Saimo Chahal QC (Hon) £200
- Solicitor less than 5 years qualified- £100
- Trainee solicitor/paralegal -£60

30. Counsels' will also work at reduced rates for the reasons above and will charge as follows:

- Leading counsel, Ms Kirsty Brimelow QC - £200
- Junior counsel, if required £100.

31. All letters, emails and telephone calls, both in and out are charged at 1/10<sup>th</sup> of the relevant hourly rate so far as solicitors are concerned. All disbursements are paid in addition. VAT is payable at the applicable rate in addition and will be added on to each bill.

32. Bills will be addressed to you and will be rendered monthly or at the completion of a stage of the case or as appropriate.

33. The rates are usually reviewed in April of each year and you will be told in advance, with 14 days' notice if there is to be an increase in the rates.
34. An estimate of the likely costs for stage one is £15,000-£20,000 and I will let you know what we envisage can be covered in a separate letter.
35. If you manage to raise sufficient funds to cover our work at our full rates then we reserve the right to charge you at the full rates indicated above on the conclusion of the case or earlier if there are sufficient funds to cover the work agreed. We will give you 7 days notice if this is to happen.

### **Our services**

36. Our services will not extend beyond the scope of the work identified in this letter.

### **Responsibilities**

37. To help you effectively, I need you to provide me with clear and comprehensive instructions, keep me up to date with developments and respond within a reasonable time of me contacting you.
38. I also need you to make sure you keep all relevant documents safe and provide them to me as and when I need them. You must also keep me up to date with your contact details and let me know if, for any reason, you are unlikely to be contactable for any significant period of time. It is an important part of my agreement to act for you that you, in turn, agree to do these things.
39. I will attempt to deal promptly with your instructions and let you know if there is likely to be any delay. I will preserve your right to confidentiality, subject to any legal duty to the Court. I will not act for anyone whose interest's conflict with yours without consent. I will ensure that an appropriately qualified colleague is available to deal with your matter if I am unavailable. I will update you regularly on the costs of your matter and whether I consider the likely outcome still justifies the cost.

### **Time limits**

40. There are no applicable time limits in this case.

### **Next steps**

41. The next steps are for you to let me know if you require anything further.

### **The working team**

42. I am a solicitor and partner of Bindmans LLP. I am joint head of the firm's Public Law department.
43. I will be personally responsible for the conduct of your case, although I may ask other members of the team (including my Trainee, Basmah Sahib or Paralegal Assistant Ala Abdoun) to help with certain aspects of the case. The firm will try to avoid changing the people who handle your case, but if this cannot be avoided, I will notify you promptly.
44. I can be contacted on **020 7833 4433** between 09:30 AM to 5:30 PM or on my mobile phone 07919 307115.
45. If I am out of the office or unavailable my paralegal assistant Ala Abdoun will take a message. If I am away from the office for more than a day or two arrangements will be made for another member of the team to deal with any emergencies which may arise.

### **Communications**

46. You may correspond with me by email, which is my preferred method of communication as it fast and easy and includes a contemporaneous record of matters discussed. Please note however, that we cannot guarantee the confidentiality of any information sent to you by email and you may wish to check the terms of conditions of your email provider for clauses that allow them to access your information for marketing our other purposes.
47. We advise against the use of electronic file sharing programs e.g. Dropbox and Skydrive.

### **Estimate of costs**

48. At this stage, I am not able to give you a detailed estimate for the whole of your case because it is too early for us to know how much work will be required. Based on other work of this sort, I should say that it could be substantial.

### **Cost/benefit risk analysis**

49. I have set out above the estimated costs of your matter. I am obliged to consider carefully whether the likely expenditure justifies the outcome that you are aiming to achieve at the conclusion of the case.
50. I will keep the merits of your case under constant review, and update you as and when my assessment of the merits changes.

### **Data Protection**

51. Your instructions may require us to process your sensitive personal data; that is, data about your racial or ethnic origin, political

opinions, religious belief, trade union membership, health, sexual life, and commission or alleged commission of any offence. We will take care of any such data and if it is transferred to our employees or consultants working outside the office, we will ensure that it is protected by appropriate technical and contractual safeguards. We may also transfer this data for typing (or for other purposes if necessary to progress your case) outside the EEA. Your signature on the copy of this letter indicates your consent to any such processing.

#### **Our service to you**

52. We aim to provide an excellent service to you. However, if you are worried or unhappy about any aspect of our work for you please do not hesitate to contact me. In the event that the problem remains unresolved, the firm operates a complaints procedure in line with the Solicitors Regulation Authority guidelines. You should write in the first instance to our Complaints Partner, Tamsin Allen, who will let you have a copy of our complaints procedure. Further details can be found in our terms of business.

#### **Your agreement**

53. Your continuing instructions will amount to acceptance of the contents of this letter, the accompanying Terms of Business and the financial information sheet referred to in this letter.

Yours sincerely



Ms Saimo Chahal QC (hon)  
Partner  
**Bindmans LLP**  
Encs. 1- 2 above.