



Forum: International Criminal Court

Topic: The Prosecutor v. Min Aung Hlaing

President/ Chair

Introduction

Min Aung Hlaing stands perhaps as one of the most prominent, influential figures in the entirety of modern Southeast Asian military and political history. As the Commander-in-Chief of Myanmar's Armed Forces (Tatmadaw) and a central figure in the country's recent political turmoil, his actions have garnered international attention, thorough scrutiny, and rigorous debate. Purportedly, Mr. Hlaing is accused of bearing responsibility over the barbaric torture, sexual violence, murder, and illegitimate imprisonment against individual's classified under the Rohingya ethnic minority. Such crimes, categorized as crimes against humanity under the Rome Statue, are precisely what constituted the filing of an arrest warrant against Mr. Hlaing by the chief prosecutor of the International Criminal Court (ICC), Karim Khan. While it has not yet been definitively established that Min Aung Hlaing directly ordered or committed such crimes, available evidence places him at the center of the decision-making process during the time they occurred, with clear indications of his involvement or oversight.

Ever since the country of Myanmar had gained its independence from British colonial rule in 1948, the Rohingya minority were continuously subjected to extensive discrimination. As time progressed, ethnic tensions between the Rohingya minority and Myanmar government were only exacerbated, and this was perhaps the central agent (along with other, secondary factors) that promoted the bloody, gruesome circumstances which took place between 2016-2017. The intolerable brutality first started precisely on October 9, 2016. The Arakan Rohingya Salvation Army (ARSA), a militant group composed entirely of ethnic Rohingya civilians who fight for equality, launched coordinated attacks on border guard posts, killing 9 police officers. Subsequently, the Myanmar military responded with what was labelled a "clearance operation" launched amongst Rohingya villages. Human rights groups present in the scenes claimed to have witnessed myriad, vile crimes against humanity, including mass rapes, village burnings and murders.

It was the attack that took place on August 25, 2017, and the subsequent military response, which led to the arrest warrant against Min Aung Hlaing. On this day, the ARSA conducted an even larger assault, effectively attacking approximately 30 police and military outposts. Min Aung Hlaing's military then retaliated through a second "clearance operation", which, mirroring the ARSA attack, was also larger in magnitude. The allegedly violent actions conducted by the military, such as supposed wide scale sexual assaults and massacres (all considered crimes against humanity), are claimed to have been the sole reason behind the

observed mass exodus of Rohingya individuals into neighboring Bangladesh.

This case amplifies the complexities of assigning individual accountability in contexts of systemic violence and military rule. While definitive legal guilt remains arduous to assign, the ample suffering expressed by numerous individuals, because of the military's actions, is undeniable. It underscores the urgent need for stronger mechanisms of international justice that balance sovereignty with accountability. Ultimately, Myanmar's crisis is a stark reminder of how power, when unchecked, can unravel the foundations of human rights and democracy.

Definition of Key Terms

Prosecution

In the context of the International Criminal Court (ICC), this term refers to the official courtroom party tasked with bringing charges, arguing and providing adequate evidence to effectively prove the accused as guilty of crimes under the ICC's jurisdiction, also known as the Rome statute. This is conventionally achieved through the presentation of witnesses, documents, and legal arguments to prove the accused's guilt beyond reasonable doubt.

Defense

This term refers to the official courtroom party tasked with representing the accused person within ICC proceedings. They essentially work to challenge the Prosecution's case, protect the rights of the accused, and argue for acquittal if the evidence does not prove guilt beyond reasonable doubt.

The Rome Statute

The founding treaty of the ICC. It served to establish the ICC as a permanent, independent, international court, along with establishing the jurisdiction, structure, functions, and legal procedures of the court. The Statute gives the ICC power to prosecute individuals (not countries or regions) for the most serious crimes of international concern, those being genocide, crimes against humanity, war crimes, and crime of aggression / ethnic cleansing.

Crimes Against Humanity

According to article 7 of the Rome Statute, crimes against humanity are defined as "certain serious acts committed as part of a widespread or systematic attack directed against any civilian

population, with knowledge of the attack”.

This includes acts such as exterminations (mass killings), enslavement, forced deportation, rape / sexual violence, persecution, torture and other inhumane acts. When an individual in power authorizes (or condones) the employment of such tactics, the ICC is granted jurisdiction to prosecute them.

Tatmadaw

The official name of the Myanmar military, which has held significant political power for decades.

Coup

An illegal seizure of power from the government, commonly conducted by a country's military or small group of elites.

Arakan Rohingya Salvation Army (ARSA)

A militant group composed of primarily Muslims that are ethnically Rohingya, operating mostly in Rakhine State.

Militant

An adjective to describe those who aggressively support a political or social cause, typically favoring the employment of confrontational, harsh and violent methods.

Rohingya

A Muslim ethnic minority group from Rakhine State in western Myanmar.

Bamar (Burman)

The largest ethnic group in all of Myanmar. It is known that a significant portion of governmental and military workers are ethnically Bamar.

Rakhine State

A region in Western Myanmar, where the Rohingya are originally from. It is here where the

military campaign against the Rohingya was launched (that led to the eventual arrest warrant against Mr. Min Aung Hlaing).

Annex

In the context of ICC / law, annexing describes the process of adding external territory into one's own territory.

General Overview

The Rohingya minority have had their human rights virtually incinerated. The exponential impunity amidst the conflict has become apparent, urging the need for appropriate judicial action, to ensure accountability, establish legal consequences for violations, and reinforce adherence to international law. The ICC now assumes this position, having a pivotal role in addressing the alleged crimes committed in Myanmar, fundamentally highlighting the significance of AMMUN's theme "Deliberate to Liberate". Through meticulous deliberation, the truth will come to a gradual reveal, and by rigorous debate, accountability relating to the case can be effectively identified and attributed to the involved parties. Subsequently, justice can be served. Thousands suffered while the world watched. The ICC's role is now clear: to deliberate not just to understand, but to liberate.

Historical Influences

Historically, the country of Myanmar (called Burman during this time) was subjugated by Britain, a result of three wars in the 19th century, which culminated in an annex of the country into the British Empire. During their colonial rule, significant demographic shifts wove threads of ethnic tension within the country's societal fabric. In 1886, Britain formally incorporated all of Burma into British India, completing its colonization. Borders between both regions were soon relaxed, and a large influx of Bengali Muslims into Myanmar was witnessed. Many of these individuals would later be called Rohingya, despite there already being ethnically Rohingya families present generations before the arrival of these immigrants. Various other ethnic groups, such as Rakhine Buddhists and Burmese nationalists, viewed these migrants as foreigners, consequently labeling them illegal immigrants.

Simultaneously, the British often favored the employment of Muslims, including those from Rohingya, as colonial administrators, clerks, and police officers, while the inhabiting Buddhists were left to feel powerless in their homeland. Evidently, it would seem inevitable for ethnic tensions to arise. Most importantly, it were the World War 2 divisions which likely most

strongly exacerbated ethnic tensions. Essentially, the British recruited Rohingya Muslims to fight the Japanese, while many Buddhists supported the Japanese, who promised them independence from Britain. The war in the region became a brutal ethnic battleground, with massacres on both sides. This cemented mistrust between the Rohingya and other Buddhist communities.

After the war, revenge killings and deep divisions plagued the country. When the country finally gained independence in 1948, it integrated the 1948 Citizenship Act into its legislation, which worked to establish which ethnic groups may be legally seen as citizens. This act did not explicitly exclude the Rohingya, and many were granted national identity cards and held government jobs. Unfortunately, this citizenship act was flawed, as its inherent ambiguous nature left it susceptible to political reinterpretation.

This is precisely what happened in 1982: being updated to the 1982 Citizenship Law, it officially excluded the Rohingya by recognizing only "national races" present in Myanmar before 1823. The Rohingya lost access to education, travel, voting, and government jobs. Through being relegated by the government to essentially second class citizens, violent outbursts were bound to ensue.

Rohingya Persecution

The updated 1982 Citizenship Law of Myanmar operates through categorizing those inhabiting Myanmar into what's regarded as three "tiers of citizenship". The first tier, known as full citizen, applies to all 135 recognized ethnicities which have historically resided in the land of Myanmar before its subjugation and annex into the British kingdom (before 1823). The second tier, labelled "associate citizen", applies to those who initially held citizenship under the 1948 law, but do not ethnically stem from communities which were present in Myanmar before British colonial rule. Finally, the third tier, or a "naturalized citizen", encompasses all those who must provide definitive evidence that their ancestors either inhabited or took residency in Myanmar before 1948. As of 2025, this act is still exercised.

The country's government is explicitly ordered to limit the rights of "associate citizens" and "naturalized citizens", and since this is where the Rohingya are classified, they could not qualify for full citizenship. They were soon rendered stateless, and exposed to various forms of legal exclusion, social discrimination, and persecution.

More specifically, the Rohingya were seen losing their citizenship rights: they couldn't vote, couldn't run for any political position, and were utterly denied access to civil service (as in governmentally owned hospitals, schools etc.). State hospitals would often refuse to treat any

individual who was ethnically Rohingya, children were denied access to official learning institutions, and many births were often, literally unregistered. Additionally, heavy travel restrictions were enforced, where Rohingya individuals were required to obtain special travel permits merely to travel between villages, and their movement was heavily policed.

Min Aung Hlaing's Relation

Born in the region of Dawei in southern Myanmar, on July 3, 1956, Min Aung Hlaing is an ethnically Burmese Buddhist whose . He first studied law for two years in Rangoon Arts and Science University (from 1973 to 1974); however, it seemed as though he had an underlying passion to serve his country, as, after being denied admission twice, he was finally accepted into the Defense Services Academy (1974), from which he graduated in 1977. While serving in the Tatmadaw, he gradually ascended in ranking.

Separately, at the time, the country was under rule by former president Ne Win, who himself led a military coup against the government in 1962, effectively seizing power of the entire country. In 1988, after a brutal military crackdown against protestors who were fed up with the corruption, food shortages and spontaneous economic policy changes, Mr. Win resigned from his role as president, and his position was abruptly assumed by Saw Mung. Shortly after, on the April of 1992, Mr. Mung's position was later taken by colonel Than Shwe, the former commander in chief who Min Aung Hlaing himself served under. After becoming prime minister, he simply skimmed passed high ranking, experienced officers and selected Min Aung Hlaing, in 2011, to ascend as the new commander in chief. In the same year he also became a general and was made vice senior general in 2012 and senior general in 2013. After this, Mr. Min Aung Hlaing's status as one of the most powerful men in Myanmar was practically cemented.

Since Myanmar was home to myriad ethnic insurgencies, negotiating peace and achieving security were prominent issues for Min Aung Hlaing, and his apparent inability to maintain societal cohesion was highlighted in the waves of violence taking place between 25 August 2017 and 31 December 2017 by the Tatmadaw, supported by the national police, the border guard police, as well as non-Rohingya civilians.

The Conflict and Crimes Against Humanity

In response to the incessant, unwavering persecution enforced by the Myanmar government against the Rohingya minority, a militant group within the ethnic community naturally responded through the synthesis of an oppositional insurgent militia: The Arakan Rohingya Salvation Army (ARSA). ARSA, formerly known as Harakah al-Yaqin ("Faith Movement" in Arabic), is a predominantly Muslim, ethnically Rohingya guerilla group which claim to operate under the principles of fighting for the rights of the Rohingya people and protect their community from state

oppression. The militant group first emerged to publicity in 2016; however, it is speculated that they formed and began orchestrating attacks since 2012-2014. The group was allegedly formed (and receives funding) from ethnically Rohingya individuals living in Saudi Arabia, who fled the country as a direct result of the persecution they were subjected to. It is claimed by the Myanmar government that the militants received training in neighboring Bangladesh and Pakistan. Their supposed leader, Ataulah Abu Ammar Jununi, was born in Karachi, Pakistan, yet grew up in Saudi Arabia. He is fluent in both Arabic and the Bengali dialect spoken in Rakhine State (Rohingya language).

The militant group is generally recognized and known to be poorly armed, relying primarily on their comprehensive training in the use of guerilla tactics: irregular warfare strategies which typically employ surprise attacks and ambushes. They conventionally used primitive weapons during their attacks, namely machetes / knives and, allegedly, sharpened bamboo sticks.

It was on October 9th, 2016, when the ARSA (then named Harakah al-Yaqin) executed their first, coordinated attack. Armed with machetes, militants attacked three border guard posts, killing 9 police officers. As a result of the 2016 attack, the Myanmar military, working underneath Mr. Min Aung Hlaing, responded with what was labeled a “clearance operation” and “counterinsurgency policy”, targeting Rohingya villages in what they claim to be an attempt to thwart terrorist groups. Human rights groups reported (well documented) alleged killings, rape and other sexual violence, torture, village burning, forced starvation tactics, and other human rights violations and crimes under international law.

While some may find this military response to be disproportionate, it was the second attack, taking place on August 25, 2017, that sparked the military retaliation which led to the subsequent arrest warrant against Mr. Min Aung Hlaing (essentially, the second attack is regarded as a “tipping point”). Simultaneously in this year, before the implementation of their second attack, they had changed their name from “Harakah al-Yaqin” to the Arakan Rohingya Salvation Army (ARSA). But it was on this day, that a small group of ARSA militants, armed with machetes and rigorous guerilla tactic training, stormed 30 police stations and killed 12 officers. In response, the military launched a grossly inordinate systematic campaign across northern Rakhine State. What is considered to be a second “clearance operation” by the Myanmar military cascaded into a massacre, seen through mass killings of civilians; with infants and the elderly not being spared, widespread abductions, rape and other forms of sexual violence against Rohingya women and girls, and the burning of Rohingya villages. The counterinsurgency efforts lasted until December 31, 2017. The sheer magnitude and alleged atrocity of this crackdown is what’s thought to have been the sole cause behind the observed mass exodus of over 740,000 Rohingya individuals into neighboring Bangladesh. An estimated 600,000 Rohingya individuals remained in Myanmar after the brutal military operation and are

purportedly still subjected to persecution and torture.

In November 2024, the chief prosecutor of the International Criminal Court (ICC), Karim Khan, requested an arrest warrant for Myanmar's current acting ruler, and former commander-in-chief of the Myanmar military, Senior General Min Aung Hlaing. The arrest warrant, presented before Pre-Trial Chamber I, cites Mr. Hlaing's alleged responsibility for crimes against humanity against the Rohingya minority. Since 14 November 2019, Mr. Khan and his office have been conducting a meticulous investigation of the purported crimes committed during the 2016 and 2017 incidents of violence in Rakhine State, Myanmar, and the subsequent exodus of a substantial portion of the Rohingya population from Myanmar to Bangladesh. The investigation, culminating in an arrest warrant, marks the first instance in which the ICC has sought to prosecute a high-ranking Myanmar official for such crimes.

Major Parties Involved

Min Aung Hlaing (Defendant)

Min Aung Hlaing is the defendant in this case, prosecuted by Pre-Trial Chamber I of the ICC, for fundamentally violating article 7 of the Rome Statute (the foundation upon which the ICC is built upon): Crimes Against Humanity. While the atrocities were allegedly committed by the Tatmadaw, it is argued by the ICC that, since he holds the position of senior general and commander-in-chief of the Myanmar military, he therefore irrefutably held complete and utter control over all processes taking place within the country's military.

The International Criminal Court (Prosecution)

The International Criminal Court is the prosecution in this case. Through recognizing the extensive, mass violation of article 7 in the Rome Statute taking place in Myanmar (and executed by the country's military), the ICC was inclined to act and deliberate to derive the truth hidden amidst the situation.

An investigation was carried out by chief prosecutor Mr. Karim Khan, and his office, on the violence taking place within the country between October 9, 2016, and August 25, 2017, and the consequential, noticeable mass migration of many Rohingya individuals to neighboring Bangladesh. Resultantly, the investigation led to the issuance of an arrest warrant on 27 November 2024 against Mr. Min Aung Hlaing, for his alleged responsibility in the violence.

Considering no single body in the country of Myanmar is capable of holding individuals accountable for the atrocities they authorized or actively condoned, the ICC, an international court

with the objective of enforcing justice, regardless of who the person may be, must now take the necessary action to prove beyond reasonable doubt whether the accused is guilty or not.

Bangladesh

While the atrocities themselves haven't occurred in Bangladesh, the country is thoroughly involved in this case as virtually all of the 740,000 Rohingya individuals which fled Myanmar as a result of the 2017 counterinsurgency policy escaped to seek refuge in Bangladesh. The country, now home to the largest refugee camp in the world, faces severe strains in the provision of resources along with struggling to receive adequate funding.

Arakan Rohingya Salvation Army (ARSA)

The Arakan Rohingya Salvation Army militia, composed primarily of Muslim, ethnically Rohingya militants, is a militant group that was created primarily due to a wave of brutal protests between Buddhists and Muslims in Rakhine State, that led to the displacement of many Rohingya individuals (considered the tipping point that led to the formation of the group). It was this group that conducted coordinated attacks against police stations in Myanmar, that triggered the counterinsurgency operations which culminated in an arrest warrant against Min Aung Hlaing.

Timeline of Events

Date	Event
1982/10/15	Myanmar adopted the 1982 Citizenship Law, which deprives the Rohingya ethnic group of citizenship and restricts them of many of their rights, laying the groundwork for decades of discrimination and loss of citizenship.
2011/03/30	Min Aung Hlaing was appointed to the Myanmar military, where he would serve as the Commander-in-Chief, giving him control over the armed forces in the area, therefore increasing his influence on national Myanmar security matters.

- 2013/03/27 Min Aung Hlaing was promoted from his role as Commander-in-Chief to his role as Senior General, increasing his authority as the top military leader in Myanmar.
- 2016/10/09 Attacks on police and military posts in the Northern Rakhine State were coordinated and launched by the Arakan Rohingya Salvation Army (ARSA) the which led to the death of several officers, resulting in a harsh military response.
- 2017/08/25 The ARSA attacked once again, this time attacking 30 police posts, and an army base located in Rakhine State, where the Myanmar military had an immediate response with “clearance operations,” which resulted in widespread violence and discrimination towards the Rohingya minority ethnic group.
- 2017/08/26 Events that caused targeted violence toward the Rohingya ethnic group led to large-scale displacement of thousands of Rohingya fleeing to Bangladesh in order to escape violence, village burnings, and reports of mass atrocities.
- 2017/09/02 Various satellite images across Myanmar and eyewitness accounts confirm that around 2,600 houses in the Rohingya-majority populated areas have been completely

demolished and raided within a week, escalating the humanitarian crisis.

2017/09/11

The United Nations High Commissioner for Human Rights refers to the military operation as a “textbook example of ethnic cleansing,” which heavily increased international condemnation of Myanmar’s actions.

2017/09/19

Myanmar’s head of state, Aung San Suu Kyi, addressed the citizens of Myanmar with a promise of punishing perpetrators of rights violations; however, avoided direct reference to the United Nations accusations of ethnic cleansing.

2017/10/12

Senior General Min Aung Hlaing publicly asserts that Rohingya Muslims are not native to Myanmar, reinforcing the government’s restrictive stance.

2019/11/14

The International Criminal Court (ICC) Chamber III authorized a Prosecutor to begin an investigation into the array of alleged crimes against the Rohingya ethnic minority group, with the main focus on deportation and persecution, marking a major step in international accountability efforts to de-escalate the issue.

2021/02/0	Min Aung Hlaing led a military coup, which allowed him to seize almost complete power in Myanmar, severely deepening the political crisis in the country.
2024/07/15	Min Aung Hlaing was sworn in as the President of Myanmar, which further increased his power and control over the government.
2024/11/27	The International Criminal Court Prosecutor Karim Khan filed a request for an arrest warrant against Min Aung Hlaing for his alleged crimes against humanity in Myanmar, representing a milestone by the ICC.
2024/12/16	The UN Special Rapporteur on Myanmar publicly supports the ICC's arrest warrant application and calls for international action to ensure accountability.

Attempts to Solve the Issue

Rome Statute of the International Criminal Court, July 17, 1998

The International Criminal Court established a principle in the Rome Statute defined as crimes against humanity under Article 7, which provides the legal framework needed for prosecuting widespread attacks of systematic attacks against civilians and populations. This jurisdiction is the basis for the ICC investigation investigating the crimes committed against the Rohingya, particularly when such crimes have a link to other State parties such as Bangladesh, where hundreds of Rohingya fled to for safety.

ICC Investigation Authorization, November 14, 2019

The International Criminal Court Pre-Trial Chamber III authorized the Prosecutor to investigate the alleged crimes while remaining within the Court's jurisdiction in the

Bangladesh/Myanmar situation, addressing the Rohingya. This investigation covered the crimes allegedly committed against the Rohingya between August 25 and December 31, 2017, focusing on aspects such as deportation and persecution of the Rohingya population. The authorization for this investigation came after the consideration of victim representations from over half a million Rohingya who supported opening the investigation. However, the progress of the investigation was limited due to Myanmar's lack of cooperation as a non-State Party to the Rome Statute.

Victim Participation Process, 2019-ongoing

The International Criminal Court (ICC) established a victim participation mechanism, which allowed thousands of Rohingya victims affected by the violence to submit their views and stories of the situation to support the investigation process. This represents an extraordinary level of victim engagement and support in the ICC proceedings; however, the real-world influence on providing justice and reparations remains to be determined due to the ongoing jurisdictional and enforcement challenges.

Possible Solutions

Enhanced International Cooperation Mechanisms

Enhancing international cooperation mechanisms, such as strengthening collaboration between the International Criminal Court (ICC) and regional organizations, particularly ones such as the Association of Southeast Asian Nations (ASEAN), to develop diplomatic pressure mechanisms, which could compel Myanmar's cooperation with the ICC proceedings. This includes targeted sanctions, travel bans, and the freezing of assets against key military leaders and their networks. In addition, regional bodies can establish monitoring mechanisms in order to take note of ongoing violations of national and international law and support evidence preservation for future prosecutions.

Universal Jurisdiction Prosecution

Encourage countries with universal jurisdiction laws to initiate domestic prosecutions against Myanmar military officials for international crimes committed against the Rohingya. This approach could circumvent Myanmar's non-cooperation with the ICC while creating multiple avenues for accountability. States could also use immigration and visa controls to prevent travel by implicated officials.

Comprehensive Victim Support and Reparations Framework

Encouraging countries with international and universal Jurisdiction laws to start domestic prosecution against the Myanmar military officials for crimes violating International Law against

the Rohingya. This approach can find a way around Myanmar's non-cooperation with the ICC, as they can be prosecuted on jurisdiction apart from the Rome Statute, while creating multiple pathways for accountability.

Guiding Questions

1. Who is Min Aung Hlaing?
2. Who are the Arakan Rohingya Salvation Army (ARSA)?
3. What mechanisms were employed by the Myanmar government to systemically persecute the Rohingya minority?
4. What instigated the formation of ARSA?
5. Under what motives does ARSA operate?
6. What were the attacks coordinated and conducted by ARSA within Myanmar?
7. How did the Tatmadaw respond to the attacks conducted by ARSA?
8. Was any article of the Rome Statute violated?
9. If so, which party actively violated the article?
10. Did Min Aung Hlaing have direct control over the Tatmadaw?

Appendix

- Read more about the history behind the persecution faced by the Rohingya
<https://www.cfr.org/backgrounder/myanmar-history-coup-military-rule-ethnic-conflict-rohingya>
- Read more about the violent 2016-2017 incidents between ARSA and the Tatmadaw
<https://www.hrw.org/news/2022/08/24/myanmar-no-justice-no-freedom-rohingya-5-years>
- For a holistic understanding of the case
<https://www.unrefugees.org/news/rohingya-refugee-crisis-explained/>
- For a general overview / background of the case

<https://www.amnesty.org/en/latest/news/2022/08/myanmar-rohingya-five-year-anniversary/>

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