



BURMESE ROHINGYA ORGANISATION UK (BROUK)

24 Quakers Place , Forest Gate , London E7 8AG
+44 208 553 5259, e-mail: brorg.london@gmail.com web: www.brouk.org

Media Release from Burmese Rohingya Organisation UK

For Immediate Release: 1st June 2020

Argentinean judiciary moves closer to opening case against Myanmar over Rohingya genocide

An Argentinean court has moved one step closer to opening a historic investigation against Myanmar's military and civilian leadership over the genocide against the Rohingya people, the Burmese Rohingya Organisation UK (BROUK) said.

A court in Buenos Aires on Friday overturned a previous decision not to pursue a case against State Counsellor Aung San Suu Kyi and senior officers in the Tatmadaw (the Myanmar military). The court has instead requested more information from the International Criminal Court (ICC), to ensure that a case in Argentina would not duplicate other justice efforts.

BROUK and Latin American human rights groups first petitioned the court to open the case last year under the international legal principle of universal jurisdiction.

“For decades, Myanmar authorities have tried to wipe the Rohingya out as a people. Today, the Argentinean judiciary has sent a clear signal that it is taking seriously the pursuit of justice for some of the worst crimes of our time, and we are grateful for this display of leadership and respect for international law,” said Tun Khin, President of BROUK.

“Today's ruling brings us closer to what victims most want to see – that the architects of the genocide against the Rohingya face a court of law. We are convinced that a universal jurisdiction case in Argentina will only complement and strengthen other international justice efforts, not undermine them.”

BROUK is supported in the case by the Argentinean human rights NGOs Grandmothers of the Plaza de Mayo and Foundation for Peace and

Justice, founded by the Nobel Peace Prize Winner Adolfo Pérez Esquivel. BROUK is legally represented by Tomás Ojea Quintana, a prominent human rights lawyer and the former United Nations Special Rapporteur on the situation of human rights in Myanmar (2008-2014).

Military and Civilian Perpetrators

The case relates to crimes perpetrated against the Rohingya by Myanmar authorities in Rakhine State for decades. In 2017, the Myanmar military and its proxies launched a vicious campaign in the region, killing thousands of people and driving close to 800,000 Rohingya to flee across the border into Bangladesh.

The Rohingya who remain in Rakhine State continue to live under a dehumanising system of oppression where all aspects of their lives are controlled. Harsh restrictions on freedom of movement means that accessing education, health care and other basic services is difficult in the extreme.

On 13 November 2019, BROUK petitioned Argentinian courts to open an investigation into the role of Myanmar's civilian and military leaders in committing genocide and crimes against humanity against the Rohingya. Under the principle of universal jurisdiction, such crimes can be investigated anywhere in the world regardless of where they were committed.

Those named in the case include Aung San Suu Kyi, Senior General Min Aung Hlaing, the Tatmadaw Commander-in-Chief, and other high-ranking military officials, as well as former presidents Htin Kyaw and Thein Sein.

A court of first instance in December 2019 initially rejected the case, arguing that it would duplicate the investigation launched by the ICC in November 2019 into Myanmar over crimes against humanity.

The Federal Appeals Court in Buenos Aires, however, on 29 May overturned the decision to reject the case. The Court ruled that it is necessary to approach the ICC for more information about its case against Myanmar through a formal diplomatic note, before making a final decision on whether to open an investigation in Argentina.

The ICC investigation into Myanmar's crimes against the Rohingya is relatively limited in scope. Since Myanmar is not a State Party to the Rome Statute of the ICC, the investigation only covers crimes against Rohingya that took place on Bangladeshi territory, including the crime against humanity of mass deportation.

A case in Argentina would, however, cover the full range of atrocities against the Rohingya inside Myanmar. Just one example of a crime not covered by the ICC investigation is the Tula Toli massacre, when the Myanmar military killed hundreds of Rohingya women, men and children on 30 August 2017.

In its 2018 report, the UN Fact-Finding Mission on Myanmar furthermore explicitly called on countries around the world to pursue universal jurisdiction cases against the Tatmadaw to ensure justice for atrocity crimes against the Rohingya.

“The Argentinean courts have today showed that there is hope not just for the Rohingya, but for the many other ethnic groups in Myanmar who have been brutalised by the Tatmadaw. The victims of such unspeakable violence deserve justice,” said Tun Khin.

“We urge the ICC to respond promptly to the request from Argentina to ensure that the investigation can begin as soon as possible.”

International Justice Efforts

The case in Argentina is the first universal jurisdiction case concerning the Rohingya genocide anywhere in the world, but not the only international legal process against the Myanmar authorities.

Apart from the ICC investigation, the Gambia in November 2019 launched a case against Myanmar for violating the Genocide Convention with the International Court of Justice (ICJ). In January this year, the ICJ imposed “provisional measures” on Myanmar as part of the case, essentially a legal injunction ordering the end to genocidal practices against the Rohingya.

The International Criminal Court in November last year approved an investigation into Myanmar for crimes against humanity against the Rohingya.

“Slowly but surely, the net is closing in around Myanmar’s leaders. After decades of killing Rohingya with impunity and creating conditions in Rakhine State that are so hellish that people see no option but to flee, they are for the first time looking at the prospect of facing justice,” said Tun Khin.

“The international community must continue to do everything it can to pressure Myanmar to end the genocide against the Rohingya, and to support all ongoing justice efforts. We urge other countries to show the same moral courage as the Gambia. This includes opening universal jurisdiction cases against Myanmar to demonstrate that the world is united in supporting the Rohingya.”

About Universal Jurisdiction

Universal jurisdiction is based on the principle that some crimes are so horrific that they concern humanity as a whole, and can be tried anywhere regardless of where they have been committed. All states are permitted to exercise universal jurisdiction over crimes under international law, such as crimes against humanity or genocide.

This allows for the ability to investigate and prosecute individuals suspected of responsibility for war crimes and crimes against humanity, torture, genocide, and enforced disappearances, regardless of where the crime was committed or the nationality of the suspect or victim.

The principle of universal jurisdiction is also enshrined in the Argentinean national legal framework, including in article 118 of the Constitution.

For more information, Please contact Tun Khin +44 (0) 7888714866.