

## Limitations of the Myanmar Universal Jurisdiction Case in Argentina: A Defence of Opportunities

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### 1. Widening Universal Jurisdiction in Argentina

Argentina's engagement with universal jurisdiction has been shaped by its own history of mass-atrocity crimes and transitional justice. The country's experience prosecuting the perpetrators of the 1976–1983 military dictatorship gave Argentine courts a unique doctrinal and institutional background for addressing international crimes. In the decades following the restoration of democracy, domestic litigation against those responsible for torture, enforced disappearances and crimes against humanity became a cornerstone of Argentina's human rights identity. This historical trajectory provides the foundation for the widening of universal jurisdiction in Argentina, allowing its courts to engage with international crimes committed beyond its borders, such as the ongoing litigation regarding Myanmar.

The constitutional basis for universal jurisdiction can be traced to Article 118 of the 1994 Constitution, which authorizes trials for 'crimes against the law of peoples'.<sup>1</sup> This provision was historically underused but gained significance in the post-dictatorship era, as courts began drawing upon international law in prosecuting crimes against humanity domestically.<sup>2</sup> Article 75(22) further bolsters this approach by granting constitutional hierarchy to human rights treaties such as the International Covenant on Civil and Political Rights and the American Convention on Human Rights.<sup>3</sup> The dual authority of constitutional law and international treaty law has enabled Argentine courts to directly apply norms prohibiting genocide, crimes against humanity and war crimes. The legislative framework was consolidated through the enactment of Law No. 26.200 (2006), implementing the Rome Statute of the International Criminal Court ('ICC').<sup>4</sup> This law not only criminalized genocide, crimes against humanity, war crimes and aggression in Argentine law, but also expressly granted jurisdiction to federal courts over such crimes, irrespective of where they occurred. The law created a statutory link between Argentina's domestic system and international criminal law, providing the legal basis for the reception of cases grounded in universal jurisdiction.

Judicial practice has played a decisive role in widening Argentina's understanding of universal jurisdiction. In the early 2000s, Argentine courts began entertaining complaints relating to crimes committed in Spain during the Franco dictatorship, in Venezuela during the government of Nicolás Maduro, and in Nicaragua.<sup>5</sup> While some of these cases

did not advance to the issuance of warrants, they established the principle that Argentine courts could receive petitions from victims or civil society concerning crimes without territorial or nationality connections to Argentina. These cases demonstrated both the symbolic and practical dimensions of universal jurisdiction: symbolic in affirming international norms, and practical in offering victims an alternative forum when territorial states were unwilling or unable to act.<sup>6</sup> The institutionalization of this practice was marked by the 2024 issuance of the *Pautas Generales de Actuación del Ministerio Público Fiscal de la Nación sobre Jurisdicción Universal* (General Guidelines of the Public Prosecutor's Office on Universal Jurisdiction).<sup>7</sup> These guidelines recognized that universal jurisdiction should be exercised exceptionally and subsidiarily, but also emphasized Argentina's role as part of a global system of accountability. The guidelines set out criteria for admissibility, including the gravity of the crimes, the absence of genuine proceedings in the territorial state, and the feasibility of evidence-gathering. They also clarified procedural standards, such as the role of victims and civil society in initiating proceedings.

The widening of universal jurisdiction in Argentina has also been reinforced by regional and international commitments. Argentina has been a vocal supporter of the ICC since its inception, incorporating the Rome Statute into domestic law and participating actively in the Assembly of States Parties.<sup>8</sup> It has also endorsed initiatives within the United Nations ('UN') to strengthen accountability for atrocity crimes. In this sense, Argentina's resort to universal jurisdiction is consistent with its broader identity as a state championing human rights and multilateralism.<sup>9</sup> However, Argentina's engagement is not merely rhetorical. By 2025, its courts had issued arrest warrants in concerning crimes in Myanmar.<sup>10</sup> This represents one of the most assertive uses of universal jurisdiction by a Global South state, distinguishing Argentina from the

Law and Practice in Argentina", *TRIAL International*, 2025.

<sup>6</sup> Alexandra Fowler, "Comparing Universal Jurisdiction in Europe and in Latin America: A Vehicle for International Justice or for Colonial Reckoning?", in *The International Journal of Human Rights*, 2025, vol. 29, no. 4, pp. 746–747.

<sup>7</sup> Secretaría de Coordinación Institucional, Fiscalía General de Política Criminal, Derechos Humanos y Servicios Comunitarios and Dirección General de Cooperación Regional e Internacional, *Pautas Generales de Actuación del Ministerio Público Fiscal de la Nación sobre Jurisdicción Universal*, December 2024.

<sup>8</sup> Alejandro Alvarez, "The Implementation of the ICC Statute in Argentina", in *Journal of International Criminal Justice*, 2007, vol. 5, no. 2, p. 480.

<sup>9</sup> Juan Ignacio Stampalija, "The Politics of Criminal Universal Jurisdiction in Argentina", in Lucia Leontiev and Manuel José Segovia González (eds.), *Extraterritoriality Around the Globe: Multiformal Approaches in a Multipolar World*, Routledge, Abingdon, 2025, p. 332.

<sup>10</sup> Derek Tonkin, "Preliminary Thoughts on the Argentine Universal Jurisdiction Case Against Aung San Suu Kyi", Policy Brief Series No. 169 (2025), Torkel Opsahl Academic EPublisher, Brussels, 2025, p. 1 (<https://www.toaep.org/pbs-pdf/169-tonkin/>).

<sup>1</sup> Argentina, Constitution of the Argentine Nation, 22 August 1994, Article 118 ('Argentine Constitution') (<https://www.legal-tools.org/doc/cee560/>).

<sup>2</sup> Argentina, Cámara Federal de Casación Penal, *Villa, Rodolfo Martín s/ Recurso de Casación*, Judgment, 20 September 2022, CFP 4591/2010/22/CFCS, p. 20 (<https://www.legal-tools.org/doc/1t7bqh4z/>).

<sup>3</sup> Argentine Constitution, Article 75(22), see *supra* note 1.

<sup>4</sup> Argentina, Ley no 26.200 de Implementación del Estatuto de Roma de la Corte Penal Internacional, 13 December 2006 (<https://www.legal-tools.org/doc/43268e/>).

<sup>5</sup> See Bénédicte De Moerloose and Máximo Castex, "Universal Jurisdiction:

European jurisdictions, such as Spain, France, Belgium and Germany, that have traditionally dominated the field.<sup>11</sup>

Yet, the widening of universal jurisdiction in Argentina is not without controversy. Critics argue that such cases stretch judicial resources, risk political backlash, and may undermine Argentina's domestic justice priorities. Others fear that universal jurisdiction could be misused for political purposes, targeting adversaries abroad while ignoring violations by allies taking into consideration how the new libertarian government views international criminal obligations as optional.

Nevertheless, Argentina's courts have generally framed universal jurisdiction as complementary to, rather than competitive with, international mechanisms. This positioning has allowed the judiciary to claim legitimacy while avoiding accusations of neo-colonialism or judicial overreach. The Myanmar case, therefore, should be seen as the latest manifestation of Argentina's widening embrace of universal jurisdiction, through which the strengths and weaknesses of Argentina's universal jurisdiction framework can be considered.<sup>12</sup>

## 2. The Myanmar Case: The Normative Framework

The proceedings against Myanmar officials in Argentina exemplify the application of the country's universal jurisdiction framework. They demonstrate how constitutional provisions, statutory incorporation of international law, and judicial practice interact to allow Argentine courts to entertain cases involving allegations of grave crimes committed thousands of kilometres away, with no direct nexus to Argentine territory or nationals.

The case began in November 2019, when the non-governmental organization Burmese Rohingya Organisation UK ('BROUK'), together with Argentine lawyer and former UN Special Rapporteur Tomás Ojea Quintana, filed a criminal complaint before the Federal Criminal and Correctional Court of Buenos Aires.<sup>13</sup> The complaint alleged genocide and crimes against humanity perpetrated against the Rohingya minority in Myanmar, citing widespread and systematic acts of persecution, killings, sexual violence and forced displacement into Bangladesh. Argentina was selected as the forum because of its constitutional commitment to human rights and its track record of exercising universal jurisdiction in earlier cases. The complaint relied on the above-mentioned Article 118 of the Constitution, which allows the prosecution of crimes against the 'law of peoples', and on the incorporation of international human rights treaties with constitutional rank under Article 75(22). In addition, the petition invoked Law No. 26.200, which criminalizes genocide, crimes against humanity and war crimes in domestic law, and grants jurisdiction to federal courts regardless of where the crimes occurred. These provisions, combined, created the legal basis for Argentine jurisdiction over the Myanmar situation.<sup>14</sup>

The judiciary accepted the petition, a decision that in itself marked a significant precedent.<sup>15</sup> Furthermore, in 2021, the Federal Court reasoned that universal jurisdiction was consistent with Argentina's constitutional framework and its international obligations to prevent and punish genocide.<sup>16</sup> The Court underscored that the prohibition of genocide and crimes against humanity belongs to the category of *jus cogens* norms, obliging all states to prosecute or extradite perpetrators regardless of territorial or nationality connections. This doctrinal reasoning aligned Argentina with international practice recognizing universal jurisdiction for the most serious crimes. The case advanced incrementally. In June 2024, Federal Prosecutor Guillermo Marijuán formally requested the issuance of international arrest warrants for 25 Myanmar officials,

<sup>11</sup> See the practice of these jurisdictions recorded in TRIAL International, *Universal Jurisdiction Annual Review 2025*, 2025.

<sup>12</sup> Winona Xu, "A Glimpse of Hope for the Rohingya: Argentinian Arrest Warrant for Min Aung Hlaing in the First Universal Jurisdiction Case", in *VerfassungsBlog*, 27 February 2025.

<sup>13</sup> BROUK and Tomás Ojea Quintana, "Criminal Complaint on Genocide and Crimes Against Humanity Committed Against the Rohingya", 11 November 2019 (<https://www.legal-tools.org/doc/pnxcv8xs/>).

<sup>14</sup> De Moerloose and Castex, 2025, see *supra* note 5.

<sup>15</sup> Argentina, Cámara Criminal y Correccional Federal, *Burmese Rohingya Organisation s/ Legajo de Apelación*, 26 November 2021, CFP 8419/2019/7/CA2 (<https://www.legal-tools.org/doc/rv8z2smg/>).

<sup>16</sup> *Ibid.*

including senior generals such as Min Aung Hlaing and Soe Win, as well as civilian leaders including Aung San Suu Kyi and former president Htin Kyaw.<sup>17</sup> Marijuán's submission relied on reports from the UN Independent International Fact-Finding Mission on Myanmar and the Independent Investigative Mechanism for Myanmar, which documented patterns of genocide and crimes against humanity against the Rohingya. It argued that Argentina had a duty under international law to act where Myanmar had failed to investigate or prosecute these crimes.

On 15 February 2025, Judge María Servini de Cubría granted the Prosecutor Marijuán's request and issued international arrest warrants.<sup>18</sup> In her decision, Judge Servini held that the alleged crimes met the definitions of genocide and crimes against humanity under Argentine law, which mirrors the Rome Statute. She concluded that universal jurisdiction was appropriate given the absence of genuine proceedings in Myanmar and the gravity of the alleged atrocities.<sup>19</sup> While Servini de Cubría's ruling is confidential, it is likely it drew on several legal sources present in Argentina's normative framework. First, the Rome Statute, incorporated through Law No. 26.200, likely provided the definitional framework for genocide and crimes against humanity, and, secondly, the Geneva Conventions of 1949 and their Additional Protocols, to which Argentina is a party, likely aided the requirement of States to prosecute or extradite individuals accused of grave breaches. In this sense, Servini de Cubría's rulings probably invoked customary international law and *jus cogens* norms to affirm the universality of obligations to punish perpetrators of genocide, situating Argentina's action within both domestic and international legal orders.<sup>20</sup>

The inclusion of civilian leaders such as Aung San Suu Kyi in the list of individuals subject to arrest warrants is particularly controversial.<sup>21</sup> Prosecutor Marijuán argued that Suu Kyi and other civilian officials bore responsibility for failing to prevent or punish crimes committed by the military, amounting to aiding and abetting genocide and crimes against humanity.<sup>22</sup> Critics, however, argued that extending liability to civilian leaders blurred the line between political responsibility and individual criminal responsibility, potentially undermining the credibility of universal jurisdiction proceedings.<sup>23</sup> Nevertheless, the Federal Court accepted the Prosecutor Marijuán's arguments, underscoring Argentina's broad interpretation of its jurisdictional mandate.

The normative framework in Argentina allows victims and civil society to initiate complaints under universal jurisdiction, reflecting a victim-centred approach. The BROUK petition demonstrates how diaspora communities and even small advocacy groups can leverage Argentina's legal system to pursue accountability when territorial states are unwilling or unable to act. This participatory mechanism could be seen as strengthening the legitimacy of Argentina's universal jurisdiction cases, while also aligning with its constitutional commitment to human rights. It can also expose Argentina to civil society actors who seek to use universal jurisdiction for political purposes.

The Myanmar case also reflects Argentina's self-understanding as a state committed to international justice. The judiciary has positioned itself as part of a global effort to combat impunity, complementing but not supplanting international mechanisms.<sup>24</sup> This is reflected in references to ongoing proceedings before the ICC and the International Court of Justice ('ICJ'). In *The Gambia v. Myanmar*, the ICJ has addressed Myanmar's responsibility for violations of the Genocide Convention, while the ICC has initiated proceedings concerning crimes committed against Rohingya refugees in Bangladesh.<sup>25</sup> Argentina's courts have acknowledged

<sup>17</sup> Ministerio Público Fiscal, "Solicitan la Captura Internacional de un Expresidente, una Exconsejera de Estado y de 23 Funcionarios y Militares de Myanmar por Genocidio y Crímenes de Lesa Humanidad Cometidos en ese País", 2 July 2024 (available on its web site).

<sup>18</sup> De Moerloose and Castex, 2025, p. 11, see *supra* note 5.

<sup>19</sup> "Court in Argentina Issues Warrants for Myanmar Officials Accused of Rohingya 'Genocide'", *Buenos Aires Times*, 15 February 2025.

<sup>20</sup> Stampalija, 2025, see *supra* note 9.

<sup>21</sup> Ministerio Público Fiscal, 2024, see *supra* note 17.

<sup>22</sup> *Ibid.*

<sup>23</sup> Tonkin, 2025, see *supra* note 10.

<sup>24</sup> Stampalija, 2025, see *supra* note 9.

<sup>25</sup> International Court of Justice, *Application of the Convention on the Preven-*

these processes, framing their own involvement as part of a mosaic of accountability efforts.

### 3. Domestic Procedures, International Expectations: Limitations of the Case

The Myanmar case represents a notable milestone in the development of universal jurisdiction in Argentina, but it also exposes the limits of this mechanism when applied in practice. Although the legal framework is well developed and Argentina's courts have demonstrated willingness to assume jurisdiction, systemic weaknesses, geographical distance and enforcement challenges significantly limit the effectiveness of these proceedings. These constraints illustrate the tension between the aspiration of universal jurisdiction and the reality of domestic judicial systems far removed from the territorial state.

In detail, first, institutional resource constraints are an important limitation for this case to succeed. The Argentine judiciary, like many in Latin America, struggles with a heavy caseload, limited resources, and significant delays even in domestic criminal matters.<sup>26</sup> In the transitional justice cases relating to the 1976–1983 dictatorship, trials often spanned many years, with some proceedings still ongoing decades after the return of democracy.<sup>27</sup> These structural delays illustrate the difficulty of managing complex atrocity crimes cases, which require extensive evidence, victim testimony and sophisticated legal analysis. Applying universal jurisdiction compounds these difficulties. Investigating crimes committed in Myanmar requires linguistic and cultural expertise, secure communication with witnesses in refugee camps in Bangladesh, and collaboration with international civil society organizations and experts. Understandably, the Public Prosecutor's Office will lack permanent staff with expertise in South-East Asia, forcing it to rely on *ad hoc* co-operation with external actors. The costs of translating documents, securing safe testimony from victims abroad, and processing large amounts of documentation place additional burdens on already overstretched institutions. Furthermore, Argentina's legal aid and witness protection systems are ill-prepared for transnational cases. While the country has developed mechanisms to protect witnesses in domestic human rights trials, extending these protections to Rohingya victims located abroad presents logistical and financial obstacles. The absence of embassies or consulates in Myanmar compounds the difficulty of engaging directly with affected communities.

Second, the geographical distance between Argentina and Myanmar creates a second major obstacle. Unlike cases of universal jurisdiction in Europe, where diaspora communities from Syria, Iraq or Afghanistan are present in large numbers, Argentina hosts only a very small Rohingya diaspora. Victim participation is therefore mediated almost entirely by international civil society organizations and advocacy organizations.<sup>28</sup> While these groups provide important documentation and contact with witnesses, reliance on intermediaries raises real concerns about evidentiary authenticity and judicial independence.<sup>29</sup> Collecting evidence in refugee camps in Cox's Bazar, Bangladesh or in border areas between Myanmar and Thailand requires co-operation with governments in the region. Argentina lacks diplomatic leverage in South and South-East Asia to facilitate such co-operation. Unlike other states, which often have stronger ties with regional governments, Argentina must depend on multilateral channels and the goodwill of international organizations. The digitalization of evidence presents both opportunities and risks. Civil society organizations and international mechanisms such as the Independent Investigative Mechanism for Myanmar have amassed extensive archives of documentation, including videos, satel-

lite images and witness statements. While Argentine prosecutors can draw on this material, the challenge lies in verifying chain of custody and admissibility in domestic courts. Without immediate investigative presence on the ground and direct examination of witnesses (many of whom have lived for years in refugee camps in Bangladesh), courts may face difficulties in meeting evidentiary standards for criminal trials.

Third, a fundamental limitation concerns enforcement. The arrest warrants issued by Judge Servini de Cubria in February 2025, while symbolically significant, are unlikely to be executed. Myanmar officials, including military leaders and civilian figures, remain within Myanmar, protected by the ruling regime. Even if they were to travel abroad, the likelihood of them entering Argentine jurisdiction is negligible as the case of the bombing of the Argentine Israelite Mutual Association against nationals of Iran demonstrates.<sup>30</sup> International co-operation mechanisms offer little prospect of enforcement. While Interpol Red Notices could theoretically be requested, geopolitical dynamics make it improbable that states in the region would execute warrants against Myanmar leaders. Countries such as China, India and Russia maintain close ties with Myanmar's military, and even states supportive of accountability, like Bangladesh, are reluctant to take actions that might destabilize their bilateral relations.<sup>31</sup> The lack of enforcement capacity underscores a broader critique of universal jurisdiction: that it risks being more symbolic than practical. Yet, without credible prospects of enforcement, universal jurisdiction risks undermining its own legitimacy. Critics may argue that courts issue decisions they know cannot be implemented, thereby politicizing the judicial process.<sup>32</sup>

Fourth, the Myanmar case has also sparked debates about the legitimacy of Argentina's exercise of universal jurisdiction. The inclusion of civilian leaders such as Aung San Suu Kyi is particularly controversial. Tonkin has argued that extending liability to civilian officials risks conflating political responsibility with individual criminal responsibility.<sup>33</sup> Aung San Suu Kyi, although widely criticized for her failure to protect the Rohingya, lacked effective control over the military and has been under house arrest since the first hours of the military coup. Imputing liability to her may weaken the credibility of the proceedings, reinforcing perceptions of judicial overreach. This criticism connects to a broader debate about universal jurisdiction. While its proponents emphasize the universality of obligations to prosecute atrocity crimes, critics warn that states may apply it selectively or in ways that undermine the principle's legitimacy. In Argentina's case, the question is whether its courts can strike a balance between advancing accountability and avoiding over-extension.

Yet, Argentina's proceedings do not occur in isolation. They unfold against the backdrop of parallel international efforts, particularly before the ICC and the ICJ. On 27 November 2024, the Prosecutor of the ICC applied for an arrest warrant against Senior General Min Aung Hlaing, alleging crimes against humanity of deportation and persecution committed against the Rohingya.<sup>34</sup> Argentina's assertion of universal jurisdiction thus complements the ICC by reinforcing the message that impunity is unacceptable. However, it also raises questions about whether distant states should take on cases when an international court with jurisdiction is already acting. The ICJ proceedings in *The Gambia v. Myanmar* adds another dimension. In January 2020, the Court ordered provisional measures requiring Myanmar to prevent genocidal acts and preserve evidence.<sup>35</sup> Argentina's universal jurisdiction proceedings can be seen as complementary to the ICJ's efforts, reinforcing the normative weight of the Genocide Convention. At the same time, duplication risks exist: multiple proceedings in different fora could create confusion, in-

*tion and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Order on Provisional Measures, 23 January 2020 (*The Gambia v. Myanmar*) (<https://www.legal-tools.org/doc/lg49pi/>).

<sup>26</sup> Catalina Smulovitz, "Acceso a la Justicia y Defensa Pública en Contextos Federales: ¿Quién Accede y por qué en las Provincias Argentinas?", in *Revista SAAP*, 2019, vol. 13, no. 2, p. 233.

<sup>27</sup> Registro Unificado de Víctimas del Terrorismo de Estado, "Fundamentos Conceptuales e Información Estadística Compilación", May 2022, p. 3.

<sup>28</sup> BROUK and Quintana, 2019, see *supra* note 13.

<sup>29</sup> Coalition for International Criminal Justice, "Atrocity Documentation Is Not a Monetary or Political Commodity", CICJ Statement No. 6, 12 March 2025 (<https://www.legal-tools.org/doc/d05494fe/>).

<sup>30</sup> Inter-American Commission on Human Rights, *Active Memory Civil Association, Argentina*, Judgment on Admissibility and Merits, 14 July 2020, Report No. 187/20, Case 12.204 (<https://www.legal-tools.org/doc/rw5cnun8/>).

<sup>31</sup> See Bertil Lintner, *The Wa of Myanmar and China's Quest for Global Dominance*, Silksworm Books, Chiang Mai, 2021.

<sup>32</sup> Tonkin, 2025, see *supra* note 10.

<sup>33</sup> *Ibid.*

<sup>34</sup> ICC, "Statement of ICC Prosecutor Karim A.A. Khan KC: Application for an arrest warrant in the situation in Bangladesh/Myanmar", Press Release, 27 November 2024 (<https://legal-tools.org/doc/h9dbxwqr/>).

<sup>35</sup> *The Gambia v. Myanmar*, 2020, see *supra* note 25.

consistent findings or dilution of accountability.<sup>36</sup>

International expectations further complicate Argentina's role. Victims' organizations and Rohingya diaspora groups have welcomed Argentina's activism, seeing it as a rare instance of a Global South state championing accountability.<sup>37</sup> By contrast, some states and international actors have expressed concern about the feasibility and legitimacy of such proceedings. For example, critics in South-East Asia argue that Argentina's involvement risks being perceived as extraterritorial interference in a region far removed from its own interests.<sup>38</sup> Balancing these expectations is a delicate task for Argentine courts, which must navigate between responding to victims' calls for justice and maintaining legitimacy in the eyes of the international community.

#### 4. Possible Outcomes and Policy Options Forward

In this context, the universal jurisdiction proceedings concerning Myanmar in Argentina highlight both the potential and the limitations of national courts addressing atrocities committed abroad. While the case has symbolic significance and contributes to the global fight against impunity, the challenges of distance, resources and enforcement point to the need for strategic reflection. Argentina now faces the question of how to maximize the impact of its engagement while mitigating the risks of overreach. A few options remain available and are worth exploring.

One possible outcome of the Myanmar case is that it remains primarily symbolic. The arrest warrants issued in February 2025 may never be enforced, and the accused may never appear before Argentine courts. Nevertheless, the symbolic value of the proceedings should not be underestimated. By acknowledging the crimes against the Rohingya as genocide and crimes against humanity, Argentina has contributed to the consolidation of international norms prohibiting these acts. Symbolic justice has tangible effects.<sup>39</sup> It affirms the dignity of victims, provides recognition of their suffering, and signals to perpetrators that their crimes are documented and condemned. In transitional justice processes, symbolic measures have often played a crucial role in restoring social memory and reinforcing commitments to human rights. For the Rohingya community, Argentina's case may serve as a source of moral support, even if it does not deliver judicial convictions.

A second possible outcome is that the Myanmar case catalyses institutional reforms within Argentina. By engaging with a case of such magnitude, Argentine institutions have been forced to confront the practical challenges of universal jurisdiction: evidentiary collection abroad, witness protection, and co-ordination with international organizations. These challenges could drive the creation of specialized prosecutorial units for atrocity crimes, as seen in Germany's Federal Prosecutor's Office, which has developed expertise in handling Syrian war crimes cases.<sup>40</sup> Such reforms would strengthen Argentina's credibility as a forum for universal jurisdiction and enhance its ability to contribute to global

justice. They could also benefit domestic proceedings, by improving institutional capacity to investigate and prosecute complex crimes. Investment in training, resources and international co-operation mechanisms would ensure that Argentina's engagement with universal jurisdiction is sustainable rather than episodic.

A third promising policy option forward is to align Argentina's universal jurisdiction proceedings with the work of the ICC. The ICC has already established jurisdiction over crimes committed against the Rohingya in Bangladesh, and the Office of the Prosecutor has sought arrest warrants against Myanmar's military leaders. By sharing documentation, witness testimonies and legal analysis with the ICC, Argentina can ensure that its efforts complement rather than duplicate international proceedings. Such co-operation would reinforce the principle of complementarity, demonstrating that national and international jurisdictions can work together to close accountability gaps. It would also enhance the credibility of Argentina's case by linking it to a multilateral institution with broader enforcement capacity. In practical terms, Argentina could formalize co-operation through memoranda of understanding with the ICC Prosecutor's Office, enabling the transfer of evidence and co-ordination of investigative strategies, as stipulated by the Rome Statute.<sup>41</sup>

In conclusion, the Myanmar case in Argentina is a landmark in the practice of universal jurisdiction in the Global South. It demonstrates Argentina's commitment to human rights and its willingness to assume responsibility for addressing atrocity crimes, even in distant contexts. At the same time, it highlights the structural limitations of universal jurisdiction: the absence of proximity, the difficulty of evidence-gathering, and the near impossibility of enforcement. Argentina's judiciary now stands at a crossroads. It can allow the case to remain symbolic, a gesture of solidarity with victims, or it can use the opportunity to strengthen its institutions and align with international mechanisms. The most constructive path lies in co-operation with the ICC, ensuring that Argentina's efforts reinforce the global system of accountability rather than operating in isolation. By pursuing this course, Argentina can transform its limitations into strengths: leveraging its symbolic role to support multilateral justice, consolidating its domestic institutions, and reinforcing the universality of the fight against impunity. In doing so, it will not only contribute to justice for the Rohingya but also reaffirm the principle that grave crimes are the concern of all humanity.

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<sup>36</sup> Michael Ramsden, "Strategic Litigation Before the International Court of Justice: Evaluating Impact in the Campaign for Rohingya Rights", in *European Journal of International Law*, 2022, vol. 33, no. 2, pp. 450–451.

<sup>37</sup> Xu, 2025, see *supra* note 12.

<sup>38</sup> Serajul Bhuiyan, "The Rohingya Crisis and Regional Echoes: Towards a Regional Humanitarian Solution in South and Southeast Asia", in *South Asia Journal*, 5 September 2025.

<sup>39</sup> Marina Aksenova, "Symbolic Expression at the International Criminal Tribunal for the Former Yugoslavia", in Carsten Stahn, Carmel Agius, Serge Brammertz and Colleen Rohan (eds.), *Legacies of the International Criminal Tribunal for the Former Yugoslavia: A Multidisciplinary Approach*, Oxford University Press, 2020, pp. 149–151.

<sup>40</sup> Benjamin Duerr, "International Crimes: Spotlight on Germany's War Crimes Unit", in *Justice Info*, 10 January 2019.

<sup>41</sup> Claus Kreß and Kimberly Prost, "Article 87: Requests for Cooperation: General Provisions", in Kai Ambos (ed.), *The Rome Statute of the International Criminal Court: Article by Article Commentary*, 4th ed., C.H. Beck/Hart/Nomos, Munich/Oxford/Baden-Baden, 2022, pp. 2457 ff.



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