

INTRODUCTION

War Crimes Cases in Ukraine

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1-2 SENTENCE FRAMING

Ukraine is one of the first, and possibly only, countries prosecuting war crimes cases during an ongoing conflict. Satellite imagery has become absolutely critical in these cases for crime based and linkage evidence (command responsibility). However, the Office of the Prosecutor General's resources are stretched extremely thin and they do not have access to the frequent imagery they need.

TIMEFRAMES & URGENCY

Domestic war crimes cases are already occurring throughout Ukraine. However, without timely imagery, which can be a key piece of crime based and linkage evidence, prosecutors may not be able to adequately prove the crime and those who commissioned it. Prosecutors need frequent imagery now for cases currently on their desk.

STAKEHOLDERS

Those involved in the domestic Ukrainian justice system such as judges, prosecutors, defense attorneys, as well as victims. Additionally, there are numerous organizations and governments trying to help fund accountability efforts in Ukraine, but they are focused on individual capacity building rather than access to data and information for cases, such as satellite imagery. Victims rely on these domestic cases as international cases at the International Criminal Court are famously slow and only go after the highest level of officials. Domestic cases can go after direct perpetrators.

THE DECISION CHALLENGE

THE SITUATION

WHO IS AFFECTED?

The conflict in Ukraine has affected the entire nation. Every region of Ukraine has been affected by war crimes, crimes against humanity, and in the occupied regions, even genocide. The people who have been mostly affected by these crimes are civilians, many of which are children.

WHAT ARE THE DATA NEEDS?

In an ideal world, the entire country would have daily coverage but even once every few days would be a significant improvement. The western part of Ukraine has been affected the least, yet, the targeting of that area has increased. The eastern occupied regions are the most affected, and the central regions also continue to be significantly affected as attacks increase. Air and drone strikes occur daily across the country.

THE DECISION CHALLENGE

WHAT DECISIONS NEED TO BE MADE?

Investigators and prosecutors need timely imagery in order to determine the nature of attack, victims, and command responsibility. Satellite imagery can be used in the pre-trial investigation phase to issue a Notice of Suspicion to a suspect, it can form the basis of an arrest warrant, and can be used during a trial as crime based and linkage evidence.

WHY ARE THEY DIFFICULT WITHOUT THIS DATA?

Without imagery, investigators and prosecutors lose key pieces of evidence. This evidence is sometimes the final piece needed to prove responsibility and defense attorneys lose possible exculpatory evidence.

HOW WOULD SATELLITE IMAGERY BE USED?

All those involved in the judicial process including judges, prosecutors, and defense attorneys. Geospatial analysts may be consulted for satellite imagery interpretation as well as other specialists, including weapons and military experts in order to confirm certain details. Once imagery has been determined useful and admissible as evidence, prosecutors then use the imagery as key evidence to build their case.

IMPACT, RISKS & GOVERNANCE QUESTIONS

WHAT CHANGES

WITH OPEN IMAGERY

- Access to more frequent imagery would allow for more accurate and efficient case building and trials.
- This imagery would also be more cost efficient for the Ukrainian judicial system which either has to rely on unusable imagery provide by the military or has to pay for commercial imagery they cannot afford.
- Access to more frequent imagery would greatly assist accountability efforts across Ukraine as well as increase the quality of trials due to better evidence.
- This would allow judicial systems across the entire country to have access to critical, timely evidence.

POTENTIAL RISKS

- Civilians are already at risk despite the availability of satellite imagery. Imagery from Common Space would not increase the risk that civilians have already faced for the past 4 years.
- All open imagery has the potential for misuse, this imagery will not change that. Judicial processes are usually closed, so it is unlikely imagery would be misused in this context.
- All imagery has the potential to be misinterpreted, especially if not done by knowledgeable individuals.
- Not only would more frequent imagery be valuable for prosecutors, it would also be valuable for the defense who are also typically underfunded and don't have the same resources as state prosecutors. This would further help with holding fair trials.

GOVERNANCE QUESTIONS

- ? This imagery would only be used in pre-trial investigations and trials as evidence. The evidence in these cases are not typically made available to the public. Trial transcripts may be made public but are generally redacted and do not include evidence annexes. Open access would better include affected communities.
- ? Since this imagery would be reactive, after something has happened, it would not be top priority. Cases take time, however, domestic cases move much quicker than international cases. Imagery that can prevent suffering or help immediately relieve it should be top priority, but accountability efforts should be close behind.
- ? Affected communities are involved in judicial processes by way of being victims or witnesses. Being involved in a trial gives them access and ownership they otherwise would not have.

INTRODUCTION

Justice for Myanmar

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1-2 SENTENCE FRAMING

The civil war in Myanmar is the longest ongoing civil war at over 80 years and affects the entire country. This conflict is severely neglected and has seen no accountability to date but international and universal jurisdiction cases are being built for future prosecution. Satellite imagery has become absolutely critical in these cases for crime based and linkage evidence (command responsibility). However, United Nations and NGO resources are stretched extremely thin and they do not have access to the frequent imagery they need.

TIMEFRAMES & URGENCY

The International Criminal Court has an ongoing investigation regarding the Rohingya genocide, where satellite imagery is vital. The UN Independent Investigative Mechanism for Myanmar has been investigating atrocity crimes since 2019 and routinely shares evidence with various courts. Numerous NGOs are filing criminal complaints in universal jurisdiction courts, most of which have been accepted and are in the pre-trial investigation phase.

STAKEHOLDERS

Investigators at the ICC, analysts and investigators at the UN IIMM, and lawyers and investigators with NGOs, such as Legal Action Worldwide, Myanmar Accountability Project, and Myanmar civil society groups like the Burmese Rohingya Organization UK, the Karen Human Rights Group, and more, would use imagery for analysis and as evidence in cases. In a rare occurrence, victims were present at the International Court of Justice proceedings of the Gambia v Myanmar, regarding the Rohingya genocide where satellite imagery was used. Some victims and witnesses have created Civil Society Groups where they use satellite imagery in advocacy efforts.

THE DECISION CHALLENGE

THE SITUATION

WHO IS AFFECTED?

The conflict in Myanmar has affected the entire nation hundreds of thousands killed since the start of the conflict in the 1960s. Every region of Myanmar has been affected by war crimes, crimes against humanity, and genocide in Rakhine state. The people who have been mostly affected by these crimes are civilians, many of which are children. The conflict is largely ethnic Bamar, who make up most of the Dry Zone and members of the military, versus other ethnic groups Chin, Karen, Karenni, Shan, Rohingya, etc.

WHAT ARE THE DATA NEEDS?

Ideally, the entire country would have daily coverage but even once every few days would be a significant improvement. The most affected areas of the country are rural, which are imaged far less frequently than cities with gaps from months to years. Additionally, given that Myanmar has a monsoon season for nearly six months out of the year, SAR imagery would be a game changer.

THE DECISION CHALLENGE

WHAT DECISIONS NEED TO BE MADE?

Investigators and prosecutors need timely imagery in order to determine the nature of attack, victims, and command responsibility. Satellite imagery can be used in the initial investigation phase in order to determine if a qualifying occurred and if so, add it to the ICC's investigation, open a case file at the IIMM or file a criminal complaint in a universal jurisdiction court.

WHY ARE THEY DIFFICULT WITHOUT THIS DATA?

Without imagery, investigators and prosecutors lose key pieces of evidence. This evidence is sometimes the final piece prosecutors need to prove a violation of international law and establish responsibility and defense attorneys may lose possible exculpatory evidence.

HOW WOULD SATELLITE IMAGERY BE USED?

All those involved in investigations and possible cases including analysts, investigators, judges, prosecutors, and defense attorneys. Geospatial analysts may be consulted for satellite imagery analysis as well as other specialists, including weapons and military experts in order to confirm certain details. Once imagery has been determined useful and admissible as evidence, prosecutors then use the imagery as key evidence to build their case or defense attorneys to refute alleged perpetrator responsibility.

IMPACT, RISKS & GOVERNANCE QUESTIONS

WHAT CHANGES

WITH OPEN IMAGERY

- Access to more frequent imagery would allow for more accurate and efficient investigation and case building.
- This imagery would also be more cost efficient for the UN, NGOs, and courts which either have to rely on unusable imagery provided by free sources, like Google Earth, or have to pay for commercial imagery and additional licenses they cannot afford.
- Access to more frequent imagery would greatly assist accountability efforts by having more evidence and better evidence.
- This would allow judicial systems across the world to have access to critical, timely evidence for Myanmar cases.
- Access to more affordable imagery would remove an evidentiary barrier for the UN, ICC, domestic courts, and NGOs globally.

POTENTIAL RISKS

- Civilians are already at risk despite the availability of satellite imagery. Imagery from Common Space would not increase the risk that civilians have already faced for the past 80 years.
- All open imagery has the potential for misuse, this imagery will not change that. Investigations are confidential, so it is unlikely imagery would be misused in this context.
- All imagery has the potential to be misinterpreted, especially if not done by knowledgeable individuals.
- Non-affordable imagery creates a barrier to civil society groups and local NGOs trying to achieve justice and accountability for themselves.

GOVERNANCE QUESTIONS

- ? This imagery would only be used in pre-trial investigations and trials as evidence. The evidence in these cases are not typically made available to the public. Trial transcripts may be made public but are generally redacted and do not include evidence annexes. Open access would better include affected communities.
- ? Since this imagery would be reactive, after something has happened, it would not be top priority as cases take time. Imagery that can prevent suffering or help immediately relieve it should be top priority, but accountability efforts should be close behind.
- ? Affected communities are involved in judicial processes by way of being victims or witnesses. Being involved in an investigation, the submission of a criminal complaint, or a trial gives them access and ownership they otherwise would not have. Victims want to be more involved and having access to this resource would help with that.

INTRODUCTION

Conflict in Sudan

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1-2 SENTENCE FRAMING

Sudan has seen numerous civil wars over the years, with the most recent starting in April 2023. The first offense took place in the urban capital of Khartoum, but the conflict has since concentrated on ethnic violence in rural and remote areas. However, much of this is occurring in rural areas with little to no communication with the outside world.

TIMEFRAMES & URGENCY

Armed extremists groups have been committing atrocity crimes against civilians with impunity. Issues include lack of awareness on part of the global community and lack of resources for the United Nations, International Committee of the Red Cross, NGOs, and others who wish to document and investigate crimes for future accountability efforts, as well as civilian protection and famine relief.

STAKEHOLDERS

Humanitarian and justice and accountability actors would be the main users of imagery, which would assist with needs assessments for food and shelter (IDP camps) and criminal investigations for future accountability and negotiations or other conflict cessation efforts. Civilians in extremely remote areas with little to no communication would benefit from imagery in that imagery may be the only way stakeholders know these communities exist.

THE DECISION CHALLENGE

THE SITUATION

WHO IS AFFECTED?

It's estimated that over 66,000 people have been killed, if not hundreds of thousands, mostly civilians and many children. The majority of the population is Sudanese Arab with smaller non-Arab groups such as the Fur, Dinka, and others. Sudanese Arab extremists are continuously attacking non-Arab groups to establish ethnic and religious dominance in the country.

WHAT ARE THE DATA NEEDS?

The central and southern regions of Sudan particularly North, West, and South Kordofan and North, East, West, South, and Central Darfur. Other areas are affected but these areas have the highest concentration of attacks, displacement, and famine. Further, these are also some of the most rural and remote areas with little to no infrastructure, including communications. Most information is being posted online by armed groups and not civilians. With these areas being largely desert, there are very few features to be used for geolocation of photos, videos, and satellite imagery. Imagery is so infrequent in these areas that up to date imagery is needed for accurate geolocation, investigation, and needs assessments.

THE DECISION CHALLENGE

WHAT DECISIONS NEED TO BE MADE?

For humanitarian needs, the humanitarian coordinator deciding where to deploy famine relief and shelters for internally displaced peoples. For human rights, monitors and researchers need to know what is happening and where. Investigators and analysts need imagery to determine crime based and linkage (command responsibility) evidence for atrocity crime cases.

WHY ARE THEY DIFFICULT WITHOUT THIS DATA?

Satellite imagery of central and southern Sudan is very infrequent and at times low resolution because it is not a priority area, so accurate assessments nor investigations can take place. This means those affected cannot get what they need and cases cannot be accurately built for future accountability.

HOW WOULD SATELLITE IMAGERY BE USED?

Human rights, humanitarian, and justice and accountability organizations, both local and international, all need access for timely decisions. Mapping entry points into and distribution points within affected areas for humanitarian aid, where populations in need of aid are, and incident mapping for investigations.

IMPACT, RISKS & GOVERNANCE QUESTIONS

WHAT CHANGES

WITH OPEN IMAGERY

- *Access to more frequent imagery would allow for more rapid humanitarian decision making and more accurate investigation.*
- *This imagery would also be more cost efficient for the UN and NGOs which either have to rely on outdated/unusable imagery provided by free sources or have to pay for commercial imagery they cannot afford given budget cuts.*
- *Access to more frequent imagery would greatly assist accountability efforts by having more evidence and better evidence as well as more targeted aid assessments and distribution.*
- *Given that these affected areas are under near constant attacks and displacement, outside assistance is needed which can be improved with more timely imagery.*
- *Access to imagery would aid in investigation and future accountability efforts as well as humanitarian efforts by organizations around the world.*

POTENTIAL RISKS

- *Civilians are already at risk despite the availability of satellite imagery. Imagery from Common Space would not increase the risk that civilians have already faced for several decades. However, these armed groups are at higher risk of using this information for attacks.*
- *All open imagery has the potential for misuse, this imagery will not change that. These armed groups, however, could use imagery to attack aid convoys, distribution points, or IDP camps/migration flows.*
- *All imagery has the potential to be misinterpreted, especially if not done by knowledgeable individuals.*
- *Non-affordable imagery creates a barrier to civil society groups and local NGOs trying to achieve justice and accountability for themselves as well as those trying to provide aid locally. A major critique of outside aid is the dispossession of locals to do this work themselves, so removing that barrier would help with agency and autonomy.*

GOVERNANCE QUESTIONS

- ? *Tiered may be best given the presence/involvement of bad actors. If/when the conflict ends, it could be made open.*
- ? *Civilian protection and humanitarian aid should be prioritized with areas for investigation/accountability coming second. Protection of civilians should always come first.*
- ? *Affected communities are involved in judicial processes by way of being victims or witnesses. Being involved in an investigation, the submission of a criminal complaint, or a trial gives them access and ownership they otherwise would not have. As for humanitarian aid, timely imagery helps those in need by providing faster and more accurate information to aid distributors and protection agencies.*