

**PUBLIC INTERNATIONAL LAW MOOT - PROPOSITION**

1. Near the north-west border of a country called Burmanyar, there lived for two centuries, a mixed indigenous and religious minority community called Sholingilar. This community was largely not integrated into the Burmanyar economy. It survived by small-scale agriculture, fishing, hunting and handicrafts. Its people were noticeable darker and shorter than the majority of the Burmanyar population.
2. The community practiced a mix of different beliefs, bringing together indigenous, Muslim, Hindu, and Buddhist practices. It did not identify with any one religion or leader and used to be largely egalitarian in its practices. Their lands were very fertile, beautiful, had rivers running through them. The majority of the forest land of Burmanyar was found in Sholingilar areas.
3. After a military coup in Burmanyar in 2013, the new leadership began clamping down at the borders of the country to prevent people from fleeing the country and also to control the smuggling of goods and cattle. The military began to chop down the forest which the Sholingilar relied upon. After one year, the military regime also imposed one religion on the entire country as the new official religion. It began to arrest large numbers of protestors, who it termed as dissenters and terrorists, and without due process, indefinitely jailed thousands of persons.
4. As a result of the increased military presence and the climate of fear throughout the country, the Sholingilar population did not join the protests nor the Opposition political movement. However, their syncretic worship practices became a focus of attention of the regime, and Sholingilar persons began to be harassed and persecuted. The increased military presence on the border also meant that the Sholingilar territory now was increasingly dangerous for the people who had lived there for two centuries.
5. One fine day in 2015, the military regime declared that the whole of the Sholingilar territory would be deemed as part of a restricted border-security area. It was no longer governed by the laws of the country but by military law. The people could continue to stay there but they had to now submit to random daily checks, new identity cards, questioning, and restricted movement. The male youth began to be terrorized and the girls and women no longer ventured out of their houses.

6. When members of the Sholingilar community attempted to raise the issue of human rights and citizenship violations in the capital city of Burmanyar, they were arrested and disappeared. There were some colonels and generals, whose names were well known and feared, who were particularly sadistic and vicious persons in authority, and under who much of the attacks and persecution took place. They increased their reign of terror. Physical attacks on shops and homes now became a frequent occurrence, as the military personnel were given a free hand in controlling the Sholingilar area.
7. Landmines were laid in agricultural lands, and farming began to sharply dwindle. When a few better-off Sholingilar persons began to request passports so as to leave the country, these were routinely denied on one pretext or another. The community, which numbered over 1 million persons, became desperate. Some tried to swim across the rivers which bordered Burmanyar to try and enter the neighbouring country of Bangtangnagar; others tried to slip past the land border and barricades and enter Bangtangnagar by land routes. Slowly more and more persons began to find innovative ways to cross the border and flee into Bangtangnagar.
8. The relationship between the Bangtangnagar and Burmanyar countries was economically stable. Bangtangnagar supplied fruits to Burmanyar, which, in turn, supplied Bangtangnagar with textiles and weaponry. The Bangtangnagar government was not interested in disturbing the stability. It never questioned the new military regime next door, nor did it offer any protection to the dissidents.
9. The Bangtangnagar villages near the border began to employ Sholingilar persons as slave-like labour in their fields. They owners did not register their workers' names and they did not pay them a salary. Whereas Bangtangnagar was a signatory to the 1951 Refugee Convention, there was no UNHCR mission in the country, and no lawyers who took up the cases of the Sholingilar people. Bangtangnagar was also a theocratic state, and the ordinary people did not have much understanding or sympathy with the Sholingilar people. Bangtangnagar followed a *jus soli* policy of citizenship.

10. Meanwhile, the movement of people continued, and after 2 years, by 2020, over half a million Sholingilar persons were now residing in Bangtangnagar. Displaced from home, denied passports, and without being given status in their new country of residence, the community in Bangtangnagar was for all purposes, like a stateless people. The people of Bangtangnagar tolerated, and later resented the presence of the Sholingilar people. They wanted to know why they did not integrate. They used their labour in their fields and in their homes, but they did not want them to take any of the better jobs, or for their children to attend schools with their children. The situation became desperate once again.
11. The Sholingilar people were still invisible to the world. The young people began to commit suicide and take to drugs. The Bangtangnagar government had a powerful police Chief, under whose orders the police began to arrest the youth on charges of drug dealing and related crimes. He subjected young women to slave labour on state-owned plantations. Under his orders, the police tortured the male and female youth in prison and mocked them, suggesting they were not fully-human.
12. The government of Bangtangnagar turned a blind eye to his drastic exercise of power. This was an extremely traumatic repetition of events for the older Sholingilar people. While many Sholingilar families had now borne children in Bangtangnagar, and had cut off ties fully from Burmanyar, the new round of police persecution and racism raised for them the memories of their first displacement. They increasingly felt no longer able or safe to stay on in Bangtangnagar. They did not wish to raise their children in a country which treated them so badly.
13. So, once again, the people decided to move. This time they were luckier – they began to move by land to the more prosperous and more democratic country of Finlandia beyond the eastern border of Bangtangnagar. They were not stopped from leaving. When civil society activists in Finlandia noticed there was an increasing number of Sholingilar persons turning up in their cities, and saw the slow growth of a community, they began to speak to them about who they were and why they had come. They learnt, to their horror, how the Sholingilar community had been rendered vulnerable and persecuted in two countries. The activists did some research and discovered that

- Finlandia was a State party to the Rome Statute, unlike either Burmanyar or Bangtangnagar. Finlandia had also signed the Refugee Convention.
14. The Finlandia civil society mobilized lawyers who began to file the refugee applications of the Sholingilar people. The crimes that had been committed in Burmanyar and Bangtangnagar began to be told at the refugee hearings, and the newspapers began to cover the cases. The names of the most dangerous Generals in Burmanyar, and the name of the Police Chief in Bangtangnagar were now public. They were named as deliberately organizing witch-hunts and other crimes against humanity of Sholingilar people.
  15. The governments of both Burmanyar and Bangtangnagar became furious. Burmanyar attempted to get the Finlandia government to return the Sholingilar people to Burmanyar to address their complaints there. Finlandia refused. There now began to be public attacks on prominent Sholingilar activists by anonymous assassins.
  16. Having heard of the victory of a similar case, in 2023, the Finlandia civil society activists, along with Sholingilar people, raised the issue of the victimization of the Sholingilar people at the International Criminal Court. They attempted to initiate two simultaneous proceedings – 1. to prosecute the Police Chief of Bangtangnagar, and 2. To prosecute the Generals of Burmanyar.
  17. **THIS MOOT** concerns only the Prosecution of the Police Chief of Bangtangnagar. Submissions of victims were made to the Prosecutor, under Article 15 of the Statute. The Pre-Trial Chamber, upon examination of the request and the supporting material, and victims' submissions, found a reasonable basis to proceed with an Investigation. It also decided that the case fell within the jurisdiction of the Court. It authorized the commencement of the Investigation.
  18. The Police Chief was defended at the ICC by his government lawyers at the pre-trial and throughout the later proceedings. The government of Bangtangnagar otherwise declined to cooperate and sent in no submissions. It publicly made a statement that its functionaries could not be a party to the trial as it was not a signatory to the Rome Statute.
  19. The allegations of crimes against humanity as well as genocide that were levied against the Police Chief, were confirmed by the Pre-Trial Chamber. The matter moved to Trial

where the Court accepted jurisdiction, found the matter admissible, and upheld the charge of “slavery as a crime against humanity” against the Police Chief. The charges of deportation and genocide were struck off. He was given a sentence of imprisonment for 15 years.

20. Subsequent to the Trial decision, criminal charges of slavery and police torture were laid in Bangtangnagar against the Police Chief, and the matter is scheduled for trial there. The victims are concerned that justice will not be served in Bangtangnagar against such a powerful figure.

**The Police Chief has Appealed the decision at the ICC on multiple grounds.** You will have to determine these grounds for your arguments. **The Prosecutor has appealed the decision to dismiss the charge of deportation.** The Appeals are being heard together. **Issues:**

1. Whether the ICC has jurisdiction over the matter at the Appeal, as Bangtangnagar is not a State Party to the Rome Statute, and other grounds.
2. Whether the matter is admissible, as defined in the Articles of the Rome Statute?
3. Whether the dismissal of the charge of “deportation as a crime against humanity” is valid?

NOTE 1:- The Penal Code of Bangtangnagar provides that “any person liable, by any law in force in the Union of Bangtangnagar, to be tried for an offence committed beyond the limits of Bangtangnagar shall be dealt with according to the provisions of this Code in the same manner as if such act had been committed within Bangtangnagar.”

NOTE 2:- The Penal Code of Finlandia includes offences that require that conduct take place both within and outside Finlandia.