

Crime Against Inhumanity : Rohingya Persecution

Introduction

The *Rohingya* Muslim in Myanmar's *Rakhine* state have suffered serious and persistent human rights abuses. The *Rohingya persecution* becomes widespread issue for the last four years. The pattern of widespread and systematic human rights violations in *Rakhine* State may constitute crimes against humanity as defined under the Rome Statute of the International Criminal Court. Extrajudicial killing, rape and other forms of sexual violence, arbitrary detention, torture and ill-treatment in detention, denial of due process and fair trial rights, and the forcible transfer and severe deprivation of liberty of populations has taken place on a large scale and has been directed against the *Rohingya* Muslim population in *Rakhine* State. These human rights violations are connected to discriminatory and persecutory policies against the *Rohingya* Muslim population, which also include ongoing official and unofficial practices from both local and central authorities restricting rights to nationality, movement, marriage, family, health and privacy. Legal analysis considers whether the ongoing attacks on and persecution of the *Rohingya* Muslim population in Myanmar constitute genocide. This analysis does not conclude definitively whether genocide is occurring. Such a conclusion would require a full and independent investigation by an appropriately authorized institution with investigatory powers and provisions for the accused to respond to allegations.

Objectives

On this issue of *Rohingya* persecution we are basically focusing-

- To explore the continuous persecution of *Rohingya population*
- The reason behind the persecution

Methods

To complete the seminar paper regarding *Rohingya* crisis , we go for the secondary sources for literature review.

History of The *Rohingya*

The term *Rohingya* is derived from the word “*Rohang*” which is an old name for *Rakhine* Hence the term *Rohingya* has come to mean Muslim from *Rakhine* State.

The *Rohingya* are an ethno-religious minority group from the *Rakhine* region, formerly known as *Arakan*, which today is encompassed within the borders of Myanmar and is adjacent to Bangladesh. There is an estimated population of between one and 1.5 million *Rohingya* in

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Rakhine State (Human Rights Council: April, 2014). Much of the population is concentrated in the three townships of North *Rakhine* State – *Maungdaw*, *Buthidaung* and *Rathedaung* – where the *Rohingya* are in the majority. (Other smaller minority communities of *Rohingya* are scattered throughout *Rakhine* State. To a large extent, *Rohingya* have been contained in *Rakhine* State, through successive government policies. However, small numbers of *Rohingya* have settled in Yangon, the capital of Myanmar, and other places in Myanmar.

The *Rohingya* have historical, linguistic and cultural affiliations with the local populations of *Rakhine* State, as well as with the *Chittagongian* people across the border in Bangladesh. Thought to be descended from Muslim traders who settled there more than 1,000 years ago. They also draw their cultural heritage from diverse Muslim populations from the Persian and Arab world that passed through or settled around the important trading hub along the coast of *Rakhine* State over the centuries. The *Rohingya* trace their ancestral roots in the *Rakhine* region back several centuries – since long before Myanmar came into existence as the clearly demarcated post-colonial nation-state of today. These roots also go back to long before racial and ethnic categories became settled in accordance with those that are recognized in today's Myanmar. Despite this, the history of the *Rohingya* and their Muslim ancestors is today largely rejected in Myanmar. The *Rakhine* region and its ancient historical sites are of important cultural significance to Myanmar's Buddhist populations. Historical analyses have, thus, tended to focus primarily on the *Rakhine* region's Buddhist past, as opposed to its multi-faith and multiethnic past. Histories of the Islamic influences in *Rakhine* State have largely been viewed with suspicion in Myanmar.

The Continued Persecution of the *Rohingya*: 2012-Present

More than 1,200 homes have been razed in villages inhabited by Myanmar's Muslim *Rohingya* minority (BBC: Hell on Earth: 21 November, 2016). Human Rights Watch says, "The military is conducting security operation in *Rakhine* but the government denies it. No one can't verify the extent of destruction in *Rohingya* villages as the government has blocked international journalists from visiting the area." (ibid) Human Rights Watch identified 430 destroyed buildings in three villages from satellite images released on 13 November. The military are committing torture and women are being raped. *Rohingya* villagers told rights groups that the army has used helicopter, gunships to fire on civilians. Soldiers have set fire to their homes. Multiple *Rohingya* women also reported to Reuters in late October, 2016 that soldiers raped or sexually assaulted dozens of villagers at gun point during the military advance. (Reuters: "Preying on the *Rohingya*": July, 2013)

The *Rohingya*'s are deprived from fundamental rights and throughout military rules, the local government enacted increasingly repressive law against *Rohingya* are given below-

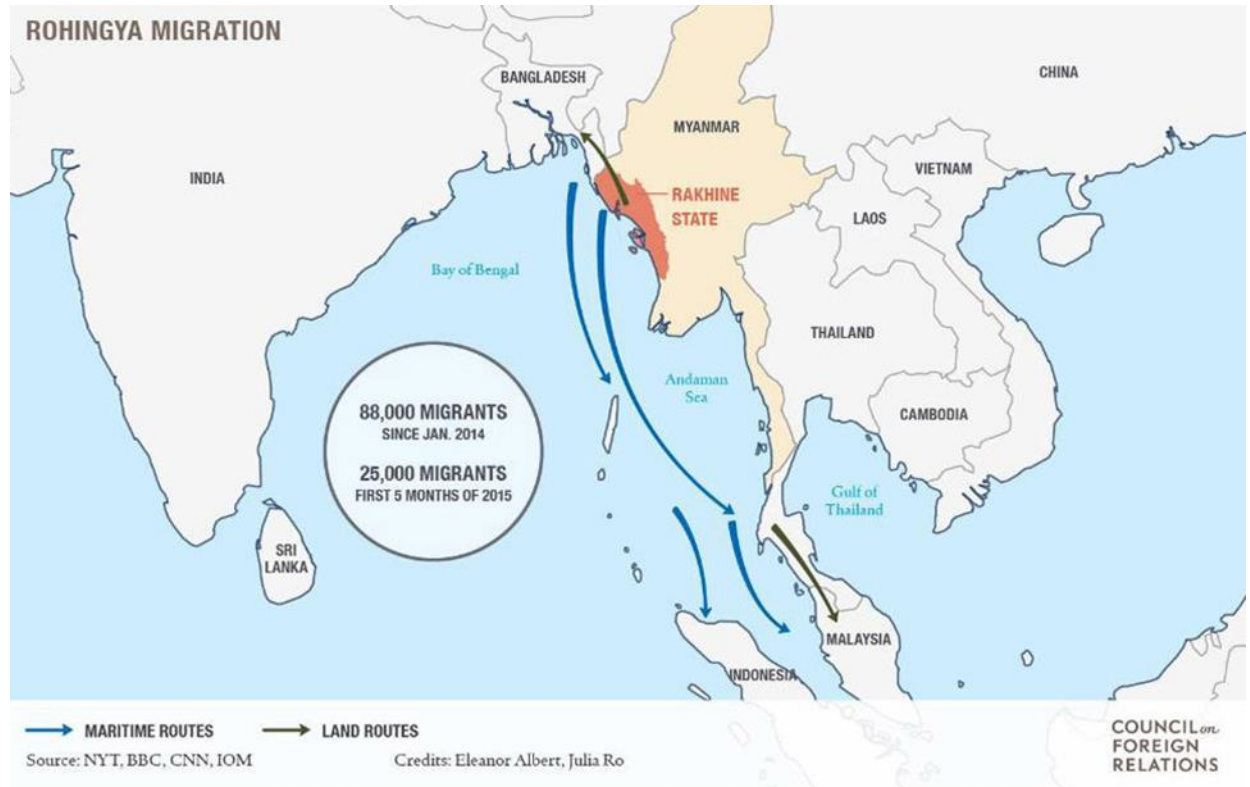


A woman walks among debris after fire destroyed shelters at a camp for internally displaced Rohingya Muslims in the western Rakhine State near Sittwe,(Reuters: Myanmar: May 3, 2016)

- **Denial of Citizenship:** Efforts to deprive *Rohingya* of citizenship begun shortly after Myanmar's independence, 1948. The 1948 union citizenship act to identify specific ethnicity, the "Indigenous races of Burma"-that were allowed to gain citizenship. The least *Rohingya* didn't include as citizens. In 1957 Myanmar began requiring all citizens to obtain national registration cards but allowed *Rohingya* to obtain only foreign registration cards because many schools and employers didn't recognize these cards. In 1982, General Ne Win instituted a new citizenship law that in order to be a citizen a person had to provide proof that his or her family had lived in Myanmar since before 1948. But the *Rohingya*'s lack records of their family's historical residence.
- **Forced Displacement:** In 1978 military began operation 'Dragon King' to take action against persons the military thought to be illegal migrants. This operation targeted the *Rohingya* in *Rakhine* state, the government claimed *Rohingyas* were foreigners rather than an ethnic minority of Myanmar. The military abused, raped and murdered many *Rohingya*.

More than 200,000 *Rohingya* fled across the borders into Bangladesh. More than 12,000 refugees died of starvation. Myanmar's General Ne Win repatriated many of

these refugees but they continued flood into Bangladesh over the next twenty years. The Myanmar government confiscated *Rohingya* Lands, causing more *Rohingya* to flee from the country.



- Forced Labor:** The *NaSaKa*, a security force consisting of police, military, intelligence, custom officers and riot police operated in *Rakhine* state until 2013 under the control of the ministry of border affairs. The *NaSaKa* forced *Rohingyas* either to pay a weekly fee to avoid work or to perform manual work such as, construction work, agricultural work, pottering or serving as guards. In 2008, The UN even special Rapporteur reported that, *Rohingya* had been killed for refusal to perform forced labor. In 2009 government authorities ordered most *Rohingya* households in rural areas to send a family member one or two times a week to serve as a village night guard. In 2004, a Myanmar court sentenced three people to death on a charge of high treason because they had contacted the International Labor Organization (ILO) to report forced labor.
- Religious Persecution:** The Myanmar government has participated in racial and religious persecution of *Rohingya*. In 2002, Human Rights Watch reported that government issued Military orders demanding that unauthorized mosques be destroyed. The government has closed mosques and Islamic schools, used them as government administrative office. In

2001 mobs attacked at least 28 mosques and religious schools. The government has also prohibited Muslims from repairing mosques.

- **Arbitrary Detention:** Under the in *Sein's* administration, state security forces, including the *NaSaKa*, have arbitrarily arrested and detained *Rohingya*. *Rohingya* have reported that soldiers have come into their village to make indiscriminate arrests. Human Right Watch documented that the *NaSaKa* detained between 2,000 and 2,500 *Rohingya* in 2011 for action such as repairing homes without permission. One *Rohingya* reported that soldiers arrested her family and neighbors for refusing to self-identify as “Bengali” on their census forum. State security forces have often refused to release *Rohingya* until ransoms were paid to local authorities.
- **Marriage Restriction and population control:** In the 1990's, Myanmar passed a law that required all people in *Rakhine* state to gain permissions before obtaining marriage licenses. This law was enforced only against the indigenous *Rohingyas*. The Border Region Immigration Control Headquarters and the township peace and Development Council of *Maungdaw* issued population control policies in 1993 and 2005 state that the *Rohingya* population is reproducing faster than the International standards of population increase. To obtain marriage licenses, man and women must follow the rules that conflict with *Rohingya* religious belief. For these the man shave their beards for their licenses photographs and the women prohibit from wearing head scarfs and face coverings .Authorities have required *Rohingya* women to take pregnancy tests before issuing marriage permits. The *NaSaKa* at various points in the marriage license process, have also demanded bribes that can total more than the equivalent of three months salaries. Since at least 2005, the government has allowed some *Rohingya* couples to obtain marriage licenses only if they agree to have no more than two children.
- **Sexual Violence:** The Myanmar army, Myanmar police force, *NaSaKa* has raped and sexually assaulted *Rohingya* women and girls. They have often attacked women when the women were taken for forced labor or their male relatives were taken for labor and they couldn't protect them. Since the 1990's the Myanmar Army has held Muslim women in *Rakhine* state as sex slaves. Some women have died as a result of gang rapes. On 27th April, 2004, *Sajeeda* ,a twelve years old, daughter of Noor Kamal of *Kawarbil* village under *Maungdaw* township was raped by a *NaSaKa* .
- **Restriction on Mobility:** The Military Regime has prohibited the *Rohingya*, their rights to freedom of movement within the state. According to the law, *Rohingya* in northern *Arakan* state must be take permission before travelling other villages. This law does not apply to the *Rakhine* population in the same *Rakhine* state. Travel restriction have further increased following the outbreak of communal violence in *Sittwe*, the capital of *Rakhine* state in February,2001.Freedom of movement is the fundamental right but the *Rohingya* are

deprived from this right and greatly inhibits the ability to earn a living and obtain proper health care.

- **Deprivation of Right to Education:** Since the promulgation of citizenship law in 1982, the *Rohingya* students who are stood in selection and formal admission for various seats of learning located in Rangoon and Burma proper are unable to pursue their studies as they aren't allowed to travel. Hats why *Rohingya* students are to stop their studies.

There are other rights that *Rohingya* people are deprived of like attainable standard of health ,right to work and resulting vulnerabilities, liberty and security, legal status, equality, access to adequate housing and others fundamental rights to survive.

Reasons behind Rohingya Persecution

The *Rohingya* face discrimination from Myanmar Buddhist majority and are seen as a threat to Myanmar and its religion-Buddhism. In 2012, tensions in *Rakhine* State reached a boiling point. On May 28, *Thida Htwe*, a 27 years old *Rakhine* women was robbed, allegedly raped and murdered in *Ramri* Township. Locals accused three Muslim men and authority promptly arrested them.(Fortify Rights: Policies of Persecution:2012:p18). On June 3, in retaliation for *Thida Htwe's* murder, a mob of three hundred *Rakhine* surrounded a bus carrying Muslim travelers and forced them off the bus and beat them to death.(Ibid) Hundreds of people, including nearby police and army soldiers witnessed the attack. Violence rapidly spread across *Rakhine* State. In response, On June 8, *Rohingya* in *Maungdaw* rioted after Friday prayers, destroying *Rakhine* property and killing at least seven *Rakhine*.(<http://www.nytimes.com/2012/06/10/world/asia/7-die-in-aectarian-riots-in-myanmar.html>) The root of the *Rohingya* issue is the relationship between Myanmar's Muslim minority and its Buddhist majority. A massive security operation was launched October, 2016 after nine police officers were killed in coordinated attacks on border posts in *Maungdaw*. Some government officials blamed a militant *Rohingya* group for the attack. Security forces then sealed off access to *Maungdaw* district and launched a counter-insurgency operation.

Myanmar Buddhists want ethnic cleansing in Myanmar as they consider the *Rohingya* as illegal settlers of Myanmar and Myanmar's ethnic diversity does not entail religious heterogeneity. They want national, racial and religious similarities among the citizens so showing these reasons the military regime started persecution years ago and becomes severe from 2012 until now. The outbreaks of persecution in 2012 and Myanmar's discriminatory policies toward the *Rohingya* have left the *Rohingya* community stateless and facing systematic abuse. Because of this persecution more ten thousands *Rohingya* fled from Myanmar to the overseas neighboring countries as migrants or refugees with no legal status. A majority of the population in Myanmar is Buddhist, with smaller religious minority populations

The State Responsibility

The state of Myanmar may be held responsible for acts of persecution committed against *Rohingya* by security forces. States are responsible for acts of persecution committed by its state organs. According to the International Law Commission (ILC) state organs include “Any person or entity which has that status in accordance with the internal law of the state .A state is responsible if the actions of a state organ constitute prohibited conduct such as persecution.

Myanmar held its first openly contested elections in 25 years last November, with Noble laureate *Aung San Suu Kyi*’s National League for democracy winning a landslide victory. Noble laureate *Aung San Suu Kyi* is in a delicate position, she is Myanmar’s de-facto leader but security is under control of the autonomous armed forces. The government led as it is by a former human rights icon has faced international criticism over the situation in *Rakhine* state. If Miss *Suu Kyi* bows to international pressure and sets up an incredible investigation into the alleged abuses in *Rakhine* state. She risks fracturing relationship with the army. It could jeopardies the stability of her young government. She commented that “The military in *Rakkhine* is operating according to the “Rule of Law”

The army’s “Clearance Operations” against the “Violent Attackers” of *Rakhine* state appear to have strong popular support, putting Miss *Suu ky*i under very little domestic pressure.



(BBC:will anyone help?:June:2015)

According to director of Human Rights Watch Asia, Brad Adams “instead of responding with military era-style accusations and denials the government should simply look at the facts and

take action to protect all people in Burma whatever their religion or ethnicity.” He also added “A government with nothing to hide should have no problem granting access to journalists and human rights investigation”

The Reactions of International Organizations and Mass Media

Myanmar and its neighbor countries see the *Rohingya* as minority groups and trafficking of migrants in the region very differently complicating the refugee’s plight. According to United Nations, *Rohingyas* are most persecuted minorities in the world who suffer routine discrimination at the hands of neighboring Buddhist *Rakhine* groups but international human rights groups and international communities as well as newspaper and journals, blogs over and above mass media had a reaction towards the persecution of the *Rohingya*.



An Indonesian policeman distributes used clothes to migrants believed to be Rohingya inside a shelter in Lhoksukon on May 11(Reuters:May ,2013)

Advocacy groups like Human Rights Watch, The *Arakan* Project, and Fortify Rights continue to appeal major international plays to exert pressure on Myanmar's government. An International Human Rights group Human Right Watch have accused Myanmar's authorities of being complicit in a campaign of ethnic cleansing against the *Rohingya* Muslims.

CFR (council for Foreign Rights) claims for the fundamental rights of *Rohingya* refugees by sharing legal status of *Rohingya* and blame Myanmar for their fleeing and seeking attention to resolve this crisis issue.(<http://www.cfr.org/burmamyanmar/rohingya-migrant-crisis/p36651>)

UN (United Nations) former secretary general Kofi Annan established a nine person commission in August 2015 to discuss options for resolving ethnic strife in *Rakkhine* State.

Myanmar is the member of ASEAN (association of South East Asian Nation).It observes that Myanmar is making ethnic and religious discrimination with *Rohingya* and claiming them as illegal Muslim settlers and until democracy established, this crisis will not going to be stopped.

Tun khin, President of Burmese *Rohingya* Organizations, UK said that "Burma needs democracy to prevent *Rohingya* crisis and when democracy comes the situation will be better." *Aung Zaw*, the editor of Irrawaddy Magazine banned in Myanmar until 2012 said that *Aung San Suu Kyi* has let *Rohingya* down.(BBC:Will anyone help?:10 June :2015)

New York Times columnist Nicholas Kristof, argue that the United States shouldn't have normal relations with the country until its persecution ends.

Cris Lewa of the *Rohingya* activist group the *Arakan* Project says "Extremely unwelcoming". The neighboring countries did not welcome the *Rohingya* refugees.(The *Arakan* Project: Forced Labour Still Prevails: An Overview of Forced Labour Practices in North Arakan, Burma, p. 2 May 30, 2012)

Numerous news portal have already published different issues regarding *Rohingya* crisis. BBC, CNN, AL-JAZEERA, Europe Newsweek, New Work times, Associate press of Pakistan and the daily news portal of Bangladesh as well talk about this *Rohingya* issue.

The United States and other global powers have urged the central government of Myanmar to do more to protect ethnic minority group from persecution.

Foreign ministers from three nation met on May20, 2016 to address the humanitarian crisis but Myanmar didn't take part in the talk. Presidential spokesman *Zaw Htay* says that the International media is misreporting what is actually going on. Here is the rundown of each countries policy stance so far.

Expectations of the *Rohingya* Refugee

For decades hundreds thousands of *Rohingya* Muslims have lived in *Rakhine* state near Myanmar's border with Bangladesh. This countries dramatic political changes have passed them by greater democracy has not brought greater respect for the stateless *Rohingya*'s human rights. But the formation of an Advisory Commission on *Rakhine* state represents a rare glimpse of hope. The *Rohingya* are not passing good memories since last four years. They have been suffering from long denied citizenship and freedom movement by the government of Myanmar. For the first time the Burmese government is seeking international expertise to try and solve one of the most complex problems.

The *Rohingya* would expected positive approaches from democratic government. But when *Aung San Suu Kyi* won the election, she remained silent and did not fulfill the expectations of these people. Now the ethnic group *Rohingya* who are the settlers of Myanmar and being Myanmar the member of many international organization like SARC, ASEAN, UN etc. And they will expect some help, protection, shelter, from this organizations and the neighboring countries of Myanmar. Now Kofi Annan, the former UN secretary general, has been tasked with taking a fresh look at the issues as head of nine –member commission .It just might be the game changer.(
<http://www.rfa.org/english/news/myanmar/new-un-effort-to-protest-refugees-not-seen-as-helping-vulnerable-internally-displaced-persons-10142016155844.html>)



Rohingya Muslims gather inside the Thet Kay Pyin internally displaced persons camp during a visit by former U.N. chief Kofi Annan in Sittwe, western Myanmar's Rakhine state, Sept. 7, 2016.

Solution of Rohingya Crisis

Thousands of *Rohingya* have fled Myanmar so far this year, many on rickety boats that have simply been abandoned at sea, who are mainly the victims of human trafficking. The situation in South and South-East Asian waters has grown so desperate that global coverage of the crisis has finally convinced some of the regional players to take action. ASEAN countries have only agreed to host the migrants for a year. None of the countries are agreeing to settle these refugees permanently. Bangladesh's foreign secretary estimated in May, 2016 that about 30 per cent of the migrants at sea in the current crisis were from Bangladesh. As Myanmar's political system has opened up over the past four years, making a transition from authoritarian army rule, ethnic and religious tensions have resurfaced, and waves of attacks on the Muslim ethnic *Rohingya* minority have devastated the community.

"Not until or unless the international community puts pressure on Myanmar to improve the lives of the *Rohingya* community," *Chris Lewa* argues, "because ultimately it is only Burma who can solve the problem."

The role of United Nations High Commissioner for Refugees (UNHCR), over the crisis is Providing International Protection to Refugees, Finding solutions to refugee problems, Voluntary Repatriation, Local Integration and Resettlement.

International powers could also make promises to resettle a certain number of the *Rohingya* each year for the next decade – public promises to which they could be held. Although the *Rohingya* might take time to acclimatize to the United States, Washington has taken in large numbers of migrants from vastly different cultures before – the Hmong in the 1970s and 1980s, or the Bhutanese in the past 10 years.

The democratic election of a civilian government will do anything to change the fate of the *Rohingya*, particularly with *Aung San Suu Kyi* and her government's silence on the treatment of the minority group. Separately, others observers have said the creation of the new commission offers a rare glimmer of hope for resolving the problem.

Regionally, no unified or coordinated ASEAN response has been proposed to address the deepening crisis. States in Southeast Asia lack established legal frameworks to provide for the protection of rights for refugees.

In addressing the *Rohingya* emergency, the Association of Southeast Asian Nations (ASEAN) could play a leading role. One approach would be for ASEAN to exert economic pressure on Myanmar to gradually reduce discrimination against *Rohingya*. Here, ASEAN has leverage, since its members represent the biggest investors in the country. Indonesia, Malaysia, Myanmar, and Thailand—all ASEAN members—have yet to ratify the UN Refugee Convention and its Protocol.

Senior advisor at the United States Institute of Peace and former U.S. mission chief in Myanmar Priscilla Clapp, say that placing sole blame on Myanmar oversimplifies and misrepresents the complexities of the country's historical ethnic diversity. "An international response that consists primarily of assigning blame for this humanitarian tragedy is no longer tenable. It is time for the international community to organize a realistic, workable solution," writes Clapp.

More must be done to address the plight of the Muslim minority to prevent it becoming "a flashpoint for further social and religious destabilization," as Clapp writes in a March 2016 CFR report. She says Washington should assist economic development and conflict mediation in *Rakhine state*: "The United States should be leading an international effort to find a humane solution to their plight, not only in Myanmar but in other countries as well."

Implementing any "solution" will be even harder. In the wake of the conflicts in 2012, the majority of Myanmar's *Rohingya* have been confined to villages in northern *Rakhine State* or Internally Displaced Persons (IDP) camps. The conditions in both northern *Rakhine State* and the IDP camps are dire: *Rohingya* lack freedom of movement, access to food, clean drinking water, sanitation, medical care, work opportunities, and education. Advisory Commission has been

formulated just recently. The formation of the advisory commission is something that may be the positive news that the *Rohingya* have had for a long time.

Conclusion

The *Rohingya* Muslims in Myanmar's *Rakhine* State have suffered serious and persistent human rights abuses. Myanmar authorities, security forces, police, and local *Rakhine* actors have engaged in widespread violence, acts of torture, arbitrary detention, rape, and other crimes causing serious physical and mental harm. The scale of these atrocities has increased precipitously since 2012. They live in conditions that appear to have been calculated to bring about their destruction. The acts committed against the *Rohingya*, individually and collectively, meet the criteria for finding acts enumerated in the persecution and have been perpetrated against a protected group. In light of this conclusion, the United Nations should adopt a resolution to establish a commission of inquiry on the human rights situation in *Rakhine* State, Myanmar. Previous commissions of inquiry have been established by various U.N. bodies and actors.

However, in the current circumstances, the Human Rights Council would be an ideal body for establishing such a commission. The mandate of the Human Rights Council includes addressing "situations of violations of human rights, including gross and systematic violations" and "making recommendations thereon."

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