

Factsheet:

The 1982 Citizenship Law and Right to Citizenship of Minorities and Freedom of Movement

This factsheet is based on a joint submission made to the UN Universal Periodic Review, 37th Session of the Working Group by the following Myanmar civil society organizations that work on the issue of human rights and citizenship rights: Myanmar Cultural Research Society; Progressive Voice; Generation Wave; Nyan Lynn Thit Analytical; Olive Organization; Pace on Peaceful Pluralism; Synergy – Social Harmony Organization; Burma Monitor; Women’s Peace Network; Justice Base.

Brief Assessment of the Implementation of 1st and 2nd Cycle UPR Recommendations

Myanmar’s discriminatory Citizenship Law continues to be a key point of focus in international debate on the situation of human rights in Myanmar. Several UN human rights mechanisms including the UN Human Rights Council, the Office of the High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Myanmar have repeatedly recommended Myanmar to review its Citizenship Law. Similarly, during the past two cycles of the Universal Periodic Review, Myanmar received several recommendations to repeal or review the Citizenship Law in line with international standards. However, Myanmar failed to support any of these recommendations to review or repeal the law.

The Citizenship Law requires urgent review and amendments to comply with fundamental principle of equality in international human rights law. Existing classifications such as ‘mixed-blood’ persons constitute discrimination. The classification of citizenship categories and instructions on the determination of citizenship are not only discriminatory, dehumanizing and denationalizing but also foster corruption within the Government.

Challenges	Cases, Facts, Comments
<p>The Citizenship Law authorizes the establishment of a ministerial-level “Central Bodyⁱ,” of citizenship scrutiny with broad determinative powers, including for revocation and termination of citizenship. Its four members are the Ministers of Defence, Home Affairs, Immigration and Population and Foreign Affairs (two of whom are military appointees).ⁱⁱ</p>	<p>Kaman, a community of Islamic faith from Rakhine State, is one of the 135 officially recognized ethnic groups and one of seven ethnic subgroups of Rakhine State in Myanmar. The Kaman people are stuck between the citizenship scrutiny and national verification card process due to the loss the rights and identity of Rohingya community in Rakhine State. They are facing more and more stigmatization and discrimination because of their Islamic faith and even the Buddhist community in Myanmar often makes references to the Kaman people as “Fake Kaman”.ⁱⁱⁱ</p>
<p>While the Law does not enumerate national ethnic groups or national races, the Section 4 of the Citizenship Law empowers the Government to classify “whether an ethnic group is national or not.” It is on this basis the government created the existing list of 135 ethnic groups that are officially recognized as ‘national races’ or ‘<i>Taing Yin Thar</i>’</p>	<p>Reportedly, President U Thein Sein instructed the Ministry of Immigration in 2016 to issue new identity cards to the Monewon-Chinese, who will now be identified as Monewon-Bamar. This was done “for the sake of the country” according to Chapter 2 of the 1982 Citizenship Act”. There has been no initiative taken to add Monewon to the list of the 135 officials ‘national races’.^{iv}</p> <p>Although Kokang are a national race (<i>Taing Yin Thar</i>), the Myanmar government has tried to reclassify the ethnic Kokang through the introduction of the National Verification Card system. The Kokang ethnic group requires 12 items of proof (The forms to verify that they are Kokang, by the Kokang Literary and Cultural Association, head shots, copies of their household registration certificate, birth certificate, the citizenship cards of their parents, grandparents and great-grandparents, documents from their township office and police station etc.) to apply for citizenship, as opposed to the Kachin or Shan</p>

	<p>who only need 4 (household registration certificate, citizenship cards of their parents, and documents from township office and police station.).</p>
<p>The Citizenship Law continues to remain as one of the main tools of Rohingya exclusion in the country. Rohingya are not recognized as one of the 135 officially recognized ethnic groups. Rohingya are, instead forced to go through the National Verification Card Process that effectively categorizes them as foreigners.</p>	<p>Rohingya people, who identify themselves as a legitimate ethnic group of Myanmar, are still labelled as “Bengali” by the Government and society. The National Verification Card (NVC) is a step to apply the citizenship scrutiny recognition by the Citizenship Law, Section 65^{iv}in Myanmar. According to the evidence of the applicants, the verification of citizenship, i.e., citizen, associate citizen or naturalized citizen was classified by the Citizenship Law of 1982.</p>
<p>The law’s clear delineation between ‘nationals by birth’ and ‘citizen by law’ are fundamentally discriminatory on the basis of ethnicity, race or religion against long-time residents of Myanmar. Conditions for ‘Associate’ and ‘Naturalized’ citizenship are defined in Article 7(a to f) and Article 8.^vAccording to Article 7 and Article 8, the applicants for either of these types of citizenship need to show their ancestral documents or evidence of Family Tree for determination of their status of citizenship. Associate and naturalized citizens can also be stripped of their citizenship based on vague and politically motivated grounds.</p>	<p>The 1982 Citizenship Law (The Citizenship Law) of Myanmar remains the main tool of discrimination against and socio-economic exclusion of religious and ethnic minorities as well as religious and intercommunal conflict in Myanmar. There are multiple restrictions and discrimination against ethnic and religious minorities in the process of obtaining identity cards. This process is highly bureaucratic and riddled with entrenched corruption. So, Citizenship Law indirectly leads to against the civil rights, human rights, and freedom of movement.</p>
<p>The State has failed to protect the freedom of movement.</p>	<p>From 2012 to 2019, 7,210 Rohingya people were arrested for not having identification cards for travel. The military, police force, Ministry of Defense and Ministry of Home Affairs are not accepting the Rohingya as citizens and use the word, “illegal migrants” and “Bengalis” in press releases. They were sentenced to 2 years imprisonment for not possessing identification, and this included women and children. Several children have been detained at the Aung Thabyay Interrogation Center, Mayangone Township, Yangon Division.</p> <p>A total of 1,239 individuals of the Rakhine ethnic group were arrested multiple times from 2012-2019. The highest incidence of arrests was in 2019, when 778 Rakhine individuals were arrested. They were accused and arrested under Article 17(1) and 17 (2) of the penal code by reason of communicating with an unlawful organization. Rakhine people have been restricted from travelling inside Rakhine State as well as to their states and regions. If they wish to travel, they need special permission to do so. If they do not have travel permission they can be arrested, tortured and put in prison.</p> <p>The State Peace and Development Council (SPDC), which was dissolved in 2011, placed several restrictions on the freedom of movement of the Chin. They would not only have to pay money to the authorities to travel outside of their village, but their identity cards would be regularly confiscated.^{vii} From 2006-2010, the Chin Human Rights Organization (CHRO) documented more than 30 arbitrary arrests in the Chin State.^{viii} Around 600 Chin people in Rakhine State prefer to move to Magwe Division due to the escalation of fighting between the Arakan Army (AA) and the Myanmar military before 2020, January. However, they are not able to do so as they are not</p>

allowed to buy bus tickets without household registration and ID cards (NSCs).^{ix}

Recommendations

1. Repeal or amend the 1982 Citizenship Law in accordance with international human rights law.
2. Ratify ICCPR and ICERD and align national laws with these treaties.
3. Repeal the provisions establishing different categories of citizenship and remove any indication of ethnicity in identity documents.
4. Restore full citizenship for Rohingya community and eliminate requirements for citizenship that discriminate on the basis of race, religion, ethnicity or any other status.
5. Give full citizenship to the people who are in IDP and refugee camps.
6. End discrimination, restrictions on citizenship and take action against the people who violate the rights of minorities.
7. Remove restrictions on freedom of movement of ethnic and religious minorities, including the Rohingya.
8. End discrimination, restrictions and corruption, and ensure transparency of the citizenship process for ethnic and religious minorities to obtain ID cards.
9. Stop the National Verification Card process for the Rohingya as well as other ethnic groups who are victims of the systemic discrimination.

i 1982 citizenship law, sections 67-69

ii The commander-in-chief of the Tatmadaw appoints high-ranking military personnel to three key securities – related ministries, as per section 232(B) of the 2008 constitution. On the central body established by the 1982 citizenship law, a secretary joins the body as may a deputy secretary. State peace and development council, the law amending the Myanmar Citizenship Law, (The State Peace and development council law No 4/97), section 3

iii Bengali people who make a false representation and concealment their identity to be Kaman ethnic.

iv Article in the MyanmarTimes: <https://www.mmtimes.com/national-news/19717-chinese-minority-to-get-bamar-designation.html>

v Any person may apply to the Central Body when it is necessary for a decision as to his citizenship, associate citizenship or naturalized citizenship.

vi Article 8 (a) The council of State may, in the interest of the State confer on any person citizenship or associate citizenship or naturalized citizenship

vii Human Rights Watch report: https://www.hrw.org/report/2009/01/27/we-are-forgotten-people/chin-people-burma-unsafe-burma-unprotected-india#_ftn178

viii CHRO submission to UPR, 2010:

https://lib.ohchr.org/HRBodies/UPR/Documents/Session10/MM/CHRO_ChinHumanRightsOrganisation_eng.pdf

ix https://7day.news/detail?id=176348&fbclid=IwAR1IFRi1KDVg9kintxPwTL_44D8qam7Mez5qT5iRTKD2mEmitS63ISFo3vQ