



STATELESS  
JOURNEYS

# Statelessness in Myanmar

Country Position Paper  
May 2019



European  
Network on  
Statelessness



Institute on  
Statelessness and  
Inclusion



**CONTENTS**

<b>Summary of main issues .....</b>	<b>3</b>
<b>Relevant population data .....</b>	<b>4</b>
<b>Rohingya population data .....</b>	<b>4</b>
<b>Myanmar's Citizenship law .....</b>	<b>5</b>
Racial Discrimination .....	6
Arbitrary deprivation of nationality .....	7
The revocation of citizenship.....	7
Failure to prevent childhood statelessness.....	7
Lack of naturalisation provisions .....	8
<b>Civil registration and documentation practices .....</b>	<b>8</b>
Lack of Access and Barriers .....	8
Legal Certainty and Rule of Law.....	9
<b>Populations affected by statelessness in Myanmar .....</b>	<b>10</b>
Rohingya .....	10
Other minorities not included as one of the national ethnic groups of Myanmar .....	12
Other minorities in Rakhine State .....	12
Muslim minorities elsewhere in Myanmar.....	13
Persons of mixed ethnic or religious parentage .....	13
Internally Displaced Persons (IDPs), IDP returnees and ethnic minorities living in areas affected by conflict with the central state.....	13
Returning refugees .....	14
<b>Protection challenges faced by Myanmar's stateless population outside the country .....</b>	<b>14</b>
Trafficking and exploitation.....	15
Indefinite detention .....	15
<i>Refoulement</i> of stateless persons to Myanmar .....	15
<b>Documentation in Myanmar .....</b>	<b>17</b>
<b>Bibliography.....</b>	<b>18</b>



*This document provides information on the profiles of stateless individuals and persons who may be at risk of statelessness due to nationality or civil documentation problems in Myanmar. The analysis presented here is based on a desk review of relevant sources, conducted between January and March 2019. The research was informed by and draws from the previous work of the Institute on Statelessness and Inclusion in collaborating with partners (academics, community members and human right activists) to monitor developments relating to statelessness in Myanmar since 2014. A full bibliography of the resources used can be found at the end of this document. Please note that the information presented should not be understood to be fully comprehensive of all nationality and statelessness problems in Myanmar. There may be other situations in which statelessness arises in the country, or other specificities, that differ from the information given here.*



## SUMMARY OF MAIN ISSUES

- Since the implementation of the 1982 Citizenship Law, Myanmar has been home to one of the largest stateless populations in the world. Statelessness particularly affects individuals who are not recognised as belonging to one of the pre-colonial ethnic groups listed by the State. The largest of these groups is the Rohingya minority in Western Myanmar's Rakhine State.
- Myanmar has a very weak human rights framework generally, including for stateless and undocumented persons, resulting in numerous protection risks. Myanmar's stateless populations and/or undocumented have, since military rule began in 1962 and continuing until today, been subject to human rights violations, persecution, crimes against humanity and mass expulsions from the country. This is not confined to the Rohingya populations who were first expelled in 1978, but also to Burmese Indians or those of Chinese descent who were expelled during the 1960s as well as, since 1988, undocumented ethnic minority populations in the conflict areas. By 2017, as a result of hundreds of thousands of Rohingya fleeing extreme violence at the hands of the military and civilians in Rakhine State, the estimated Rohingya population in Bangladesh increased to almost one million, with an additional one million estimated to be displaced elsewhere in the world.
- Around one third of Myanmar's population are considered to lack adequate state-issued documentation. Administrative barriers, delays, corruption, arbitrariness and discrimination within civil documentation and registration processes leave a large proportion of the population at risk of statelessness. Members of ethnic and religious minorities, Internally Displaced Persons (IDPs) and people from areas that have been affected by conflict between armed groups and the central state are disproportionately affected by these problems.
- Myanmar has a tiered and hierarchical system of citizenship, which is discriminatory. Those without "full citizenship" do not have equal access to rights and benefits and their citizenship status can be revoked more easily.
- Myanmar has no safeguards against statelessness and the number of children born into statelessness in Myanmar is increasing over time.
- Myanmar's stateless populations living overseas face further protection issues and continue to experience inter-generational forms of social exclusion. In particular they are at risk of trafficking, indefinite detention, and *refoulement*. This is not confined to Rohingya populations, though non-Rohingya populations tend to be less frequently identified or associated with statelessness.

**RELEVANT POPULATION DATA**

Official Language:	Burmese
Estimated Population:	50.3 million <sup>1</sup>
Estimated total number of refugees from Myanmar living abroad:	1.2 million <sup>2</sup>
IDPs in Kachin and Shan State (UNOCHA 2019):	106,290 <sup>3</sup>
Stateless population in Myanmar outside Rakhine/Rohingya areas:	Unmapped

**ROHINGYA POPULATION DATA**

Stateless Rohingya not displaced in Myanmar (UNHCR 2019):	495,939 <sup>4</sup>
IDPs in Rakhine State - mostly Rohingya and Kaman Muslims (UNOCHA 2019):	127,987 <sup>5</sup>
Refugees from Myanmar in Bangladesh – mostly Rohingya (UNHCR 2019):	909,774 <sup>6</sup>
Rohingya arrivals in Bangladesh since August 2017 (UNHCR 2019):	740,930 <sup>7</sup>
Total estimated number of Rohingya outside Myanmar:	1.8 million <sup>8</sup>

Stateless persons in Myanmar have been subject to human rights violations, persecution and mass expulsions. In the military operations against stateless Rohingya in Rakhine State in 2017, at least 10,000 Rohingya were killed and at least 40% of Rohingya villages in Northern Rakhine State were destroyed and hundreds of thousands of Rohingya were driven into Bangladesh. Running in parallel with the operations were the government's attempts to enforce their Nationality Verification and registration procedures. The UN Independent International Fact-Finding Mission on Myanmar (IIFFM) report concluded that the violations "constituted the gravest crimes under international law" and recommended the senior Generals in the Myanmar military be investigated and prosecuted for crimes against humanity, genocide and war crimes.

**Resources:** OHCHR, The Report of the Independent International Fact-Finding Mission on Myanmar, 2018 (IIFFM report 2018) A/HRC/39/64  
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E>

<sup>1</sup> Myanmar census of 2014. In many of the areas affected by conflict in Myanmar, people did not take part in the census. Other sources estimate the population 48-60 million (Myanmar Information Management Unit).

<sup>2</sup> UNHCR 2017 data [http://popstats.unhcr.org/en/asylum\\_seekers](http://popstats.unhcr.org/en/asylum_seekers) This figure includes Rohingya but only those mapped by UNHCR

<sup>3</sup> UNOCHA Jan 2019 based on CCCM report Dec 2018

[https://reliefweb.int/sites/reliefweb.int/files/resources/MMR\\_Kachin\\_Shan\\_Access\\_Tracking\\_Jan2019.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/MMR_Kachin_Shan_Access_Tracking_Jan2019.pdf)

<sup>4</sup> UNHCR Global Focus: Myanmar [http://reporting.unhcr.org/node/2541#\\_ga=2.261815757.1793627529.1551014125-722931992.1495718844](http://reporting.unhcr.org/node/2541#_ga=2.261815757.1793627529.1551014125-722931992.1495718844) The number of stateless in Myanmar in 2016 prior to recent displacements was estimated at 1,090,000. See OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar, Report of the United Nations High Commissioner for Human Rights*, 32<sup>nd</sup> session, 2016, A/HRC/32/18 (OHCHR 2016)

[https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session32/Documents/A\\_HRC\\_32\\_18\\_AEV.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session32/Documents/A_HRC_32_18_AEV.docx)

<sup>5</sup> UNOCHA Jan 2019 based on UNHCR stats

[https://reliefweb.int/sites/reliefweb.int/files/resources/Rakhine\\_Snapshot\\_IDPS\\_A4\\_Jan19.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Rakhine_Snapshot_IDPS_A4_Jan19.pdf)

<sup>6</sup> UNHCR data on responses in Bangladesh 2019 [https://data2.unhcr.org/en/situations/myanmar\\_refugees](https://data2.unhcr.org/en/situations/myanmar_refugees)

<sup>7</sup> Ibid

<sup>8</sup> Al Jazeera map based on figures available in October 2017 from IOM, UNHCR and other aid agencies  
<https://www.aljazeera.com/indepth/interactive/2017/09/rohingya-crisis-explained-maps-170910140906580.html>



## MYANMAR'S CITIZENSHIP LAW

**Myanmar's 1982 Citizenship law does not comply with international standards and has been implemented in an arbitrary manner resulting in large stateless populations in Myanmar.**

**Key resources:**

Arraiza and Vonk, *Report on Citizenship Law: Myanmar*, European University Institute, 2017, [http://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS\\_GLOBALCIT\\_CR\\_2017\\_14.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS_GLOBALCIT_CR_2017_14.pdf?sequence=1)

Institute on Statelessness and Inclusion and Norwegian Refugee Council, *Navigating without a map: access to civil documents and citizenship in south east Myanmar*, forthcoming 2019 (draft report available on file with Institute on Statelessness and Inclusion)

Nyi Nyi Kyaw, 2017, Unpacking the Presumed Statelessness of Rohingyas, *Journal of Immigrant and Refugee Studies*, 15(3) pp 269-286

Myanmar's Citizenship Law is discriminatory and is in contravention of the international law principle which prohibits arbitrary deprivation of nationality (UN High Commissioner for Human Rights 2016).<sup>9</sup> Acquisition and withdrawal of nationality is regulated in Myanmar under the 1982 Citizenship Law accessible online here: <https://www.refworld.org/docid/3ae6b4f71b.html>

The 1982 Citizenship Law, which was passed by the military government of General Ne Win repealed the 1948 Union Citizenship Act and the 1948 Union Citizenship Election Act (section 76). The new law severely restricted the acquisition of citizenship through criteria other than membership of a list of ethnic groups considered by the Council of the State to be pre-colonial (section 3-4). The 1982 law narrowed the criteria for automatic citizenship through connections to the country and removed provisions for naturalisation through residence or marriage.<sup>10</sup> It also introduced a tiered and hierarchical system of citizenship with a different set of rights and rules applying to each category. These include rules that limit the transmission of citizenship to children and the situations in which citizenship can be revoked.<sup>11</sup>

New identity documents and documentation processes based on the 1982 Citizenship Law were first rolled out in 1989 under the new State Law and Order Restoration Council (SLORC) military *junta* as part of a citizenship scrutiny exercise. They were enforced nation-wide in the wake of political unrest in the country as well as heightened conflict and opposition to the central state in the Myanmar's ethnic minority and border regions. A list of different identity documents is included in Annex 1. The

<sup>9</sup> OHCHR 2016 para 26.

Article 15(2) of the UDHR provides that "no one shall be arbitrarily deprived of his nationality".

UN General Assembly, Resolution 50/152: Office of the United Nations High Commissioner for Refugees, 9 Feb 1996, para 16 recognises the prohibition of arbitrary deprivation of nationality as a fundamental principle of international law.

<http://www.un.org/documents/ga/res/50/ares50-152.htm>

<sup>10</sup> For a comparison of the 1948 Citizenship framework with the 1982 Citizenship framework in Myanmar, see Institute of Statelessness and Norwegian Refugee Council, *Navigating without a map: access to civil documents and citizenship in South East Myanmar*, forthcoming 2019 (draft report available on file with Institute of Statelessness and Inclusion)

<sup>11</sup> The three categories of citizenship are "citizen" (Chapter II), "associate citizen" (Chapter III) for those who had a citizenship application pending prior to the 1982 citizenship law, and "naturalised citizen" (Chapter IV).



1982 Law states that those who were citizens before the law came into force shall remain citizens (section 6). However, a lack of documentary evidence of citizenship together with the arbitrary removal and destruction of state-issued documents by state authorities leaves many of those entitled to citizenship under the 1948 framework, in practice, unrecognised as citizens under the 1982 Citizenship Law.<sup>12</sup>

The following summary identifies problems relating to the law or its application that may lead to statelessness.

### Racial Discrimination

Under the 1982 Citizenship law, the acquisition of nationality in Myanmar is primarily based on “race” or “ethnicity” rather than objective criteria. The ethnic criteria is not adequately balanced by other avenues through which to acquire nationality for those with strong ties to the country. As such, those who do not belong to the 135 national ethnic groups recognised by the State are disadvantaged and discriminated against. The prohibition of race discrimination is a norm of customary international law.<sup>13</sup>

“Full citizenship” in Myanmar is reserved for those who belong to one of the national ethnic groups who are listed by the state as having settled in Myanmar before 1823, or before British colonial rule (section 3) and the children of citizens. The groups included on the list are decided at the complete discretion of the Council of the State (section 4). The list of 135 national ethnic groups does not include Rohingya, Arakan Muslim,<sup>14</sup> or people with ancestral affiliations with Chinese, Indian or Nepali populations, thus denying them access to “full citizenship”.<sup>15</sup> The 1973 census, in contrast, included 144 ethnic groups, which did not correlate with the later list of 135.<sup>16</sup> Under the 1982 Citizenship Law, the two other tiers of citizenship are: “associate citizenship”, for those who had pending citizenship applications when the 1982 law came into force (section 23-41); and “naturalised citizenship” which applies to those who have “conclusive evidence” of entry and residence in Myanmar before 1948, who speak one of the national languages and whose children were born in Myanmar (section 43-61). These requirements are often prohibitive. Associate and naturalised citizens have fewer rights,<sup>17</sup> they cannot transmit citizenship to their children easily, and their citizenship can be revoked more easily. Further, naturalised citizenship is acquired through an application process which is characterised by decision-making processes that are discretionary, arbitrary and corrupt. This results in the exclusion of many applicants from minority groups.<sup>18</sup>

Since the 1990s, the UN’s Special Rapporteurs on the human rights situation in Myanmar have been calling for the reform of the 1982 Citizenship Law to bring it into line with international standards.

---

<sup>12</sup> Kyaw, N.N., 2017. Unpacking the Presumed Statelessness of Rohingyas. *Journal of Immigrant & Refugee Studies*, 15(3), pp.269-286.

<sup>13</sup> The Tunis Conclusions stated that “loss or deprivation of nationality may not be based on discrimination on any ground prohibited in international human rights law, either in law or in practice.” The UN High Commissioner for Refugees (UNHCR), *Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality (“Tunis Conclusions”)*, March 2014, available at: <https://www.refworld.org/docid/533a754b4.html> [accessed 24 February 2019]

<sup>14</sup> “Arakan Muslim” was previously used as an ethnic or racial designation by the Myanmar State.

<sup>15</sup> OHCHR 2016, para 20.

<sup>16</sup> Nick Cheesman, 2017, How in Myanmar “National Races” Came to Surpass Citizenship and Exclude Rohingya, *Journal of Contemporary Asia*, 47:3, 461-483

<sup>17</sup> Section 30(c) and 53 (c) state that associate and naturalised citizens shall “be entitled to enjoy the rights of a citizen under the laws of the State with the exception of the rights stipulated from time to time by the Council of State.”

<sup>18</sup> Institute on Statelessness and Inclusion and Norwegian Refugee Council, *Navigating without a map: access to civil documents and citizenship in south east Myanmar*, forthcoming 2019 (draft report available on file with Institute of Statelessness and Inclusion)



This includes replacing “race” as a determining factor for citizenship with objective criteria, such as birth within the territory or the passing of citizenship through parents who are citizens.<sup>19</sup>

### **Arbitrary deprivation of nationality**

Many Rohingya and other groups not recognised by the State as belonging to one of the national ethnic groups were arbitrarily deprived of their nationality as a result of the nation-wide citizenship scrutiny exercise in 1989, during which time new identity documents were issued as proof of citizenship under the 1982 law. Prior to this time, much of the population including Rohingya held National Registration Certificates (NRCs) which, in practice, functioned as evidence of Myanmar citizenship.<sup>20</sup> The new 1982 law provided for Myanmar citizens to maintain their citizenship when the new law came into force. However, Rohingya and probably others, were not provided with the new identity cards. They were excluded from citizenship in an arbitrary and discriminatory manner which went against the provisions of the 1982 law.<sup>21</sup>

### **The revocation of citizenship**

The 1982 Citizenship Law gives overly broad powers to the State to revoke citizenship from those with “associate” and “naturalised” citizenship (Section 8b). The law lists wide-ranging and loosely-defined circumstances in which associate and naturalised citizenship can be revoked including communicating with a member of an organisation hostile to the State and serving more than one year in prison for an act of “moral turpitude” (section 35). Under the law, no consideration is given as to whether revocation of citizenship will lead to statelessness. Further, since dual nationality is not permitted (section 13), there is an increased likelihood that the revocation of citizenship will result in statelessness.

### **Failure to prevent childhood statelessness**

Under the 1982 law, in order to acquire citizenship by birth, both a child’s parents must be members of the national ethnic groups (section 5). Further in order to qualify for citizenship, both a child’s parents must be citizens; different rules for transmission of citizenship apply in cases where one (or both) parents has associate and naturalised citizenship (section 7). Children born of a parent who is not recognised as a member of one of the national ethnic groups are thus discriminated against on the basis of their ethnicity. There is no legislation in place for children to acquire nationality where they would otherwise be stateless, violating a child’s right to acquire a nationality (CRC Art 7). In cases where a parent’s citizenship is revoked, a child’s citizenship is also revoked (Section 29). These factors result in the number of children born into statelessness in Myanmar “spiralling” or increasing over time.<sup>22</sup> The 2012 concluding remarks of the Committee on the Rights of the Child made a number of recommendations on childhood statelessness in Myanmar, including the removal of the

---

<sup>19</sup>For more than 20 years, holders of the special procedures mandate on the situation of human rights in Myanmar have been advocating reform of the Citizenship Act of 1982. The Special Rapporteur reiterates that the Act needs reform in order to ensure equal access by all persons in Myanmar to citizenship which is fundamental to addressing the marginalisation of the Rohingya and other communities in the country’, UNGA, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, 2013, A/68/397 para 57. Similar recommendations have been made in all SR reports since then.

See also CEDAW Concluding observations on the fourth and fifth periodic reports on Myanmar, 2016, CEDAW/C/MMR/CO/4-5 para 32 and 33 available: [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMMR%2fCO%2f4-5&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMMR%2fCO%2f4-5&Lang=en)

<sup>20</sup> UNHCR, *The Statelessness Issue in Myanmar*, 2014.

<sup>21</sup> UNHCR, *The Statelessness Issue in Myanmar*, 2014.

<sup>22</sup> UNHCR, *The Statelessness Issue in Myanmar*, 2014.





discriminatory categories in the citizenship law, addressing the gaps in the law that lead to statelessness and removing ethnic and religious identities from ID cards.<sup>23</sup>

### Lack of naturalisation provisions

There are no provisions within the 1982 Citizenship Law to acquire nationality through marriage or through long-term residence after 1982. Over three generations, associate and “naturalised” categories of citizens should, in principle, be able to acquire “full citizenship” in Myanmar. However, this is rarely the case in practice. This is considered to be an excessively long period over which to acquire full citizenship rights. The 2017 report of the Advisory Commission on Rakhine State recommended expanding the naturalisation provisions in Myanmar’s citizenship law.<sup>24</sup>

## CIVIL REGISTRATION AND DOCUMENTATION PRACTICES

### Lack of Access and Barriers

There are multiple challenges to civil registration and documentation in Myanmar. In the Rohingya areas of North Rakhine State since 1995, a mixture of administrative barriers, local orders and “hidden policies” have delayed and prevented the registration of marriages and births. Permission to marry is required only for Rohingya populations. Delays and obstacles to obtaining marriage permission, prevent parents from registering new-borns on the household list. Children born out of wedlock cannot be registered. Local orders were in place in North Rakhine State from at least 2005 until 2014, which restricted Rohingya families to two children only.<sup>25</sup> This has led to a large number of Rohingya children being unregistered or “blacklisted”.<sup>26</sup> If one member of a household is not present during a household check by State authorities in North Rakhine State, they may be struck off the household list, effectively being de-registered. This can lead to arrest at a later time and has caused adult males to flee the country.<sup>27</sup> Since 2015, the largely unsuccessful implementation of National Verification in Rakhine State has led to further restrictions to registration and documentation.<sup>28</sup>

Barriers to marriage and birth registration are also prevalent across the country.<sup>29</sup> Lack of access to birth registration particularly affects children born in remote rural areas; children born in conflict areas and children born of former refugees and migrant workers, since birth certificates issued in Thailand and other states are not recognised in Myanmar.<sup>30</sup> Applications for identity cards and citizenship documentation in Myanmar impose a very high evidentiary burden on the part of the applicant, often requiring the documents of their grandparents. Thus, the lack of birth registration

<sup>23</sup> Committee on the Rights of the Child, *Concluding Remarks: Myanmar*, 59th session, 2012, CRC/C/MMR/CO/3-4 (CRC 2012)

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/MMR/CO/3-4&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/MMR/CO/3-4&Lang=En)

<sup>24</sup> Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report*, 2017 <http://www.rakhinecommission.org/the-final-report/>

<sup>25</sup> Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims*, 2014 (FR 2014)

[https://www.fortifyrights.org/downloads/Policies\\_of\\_Persecution\\_Feb\\_25\\_Fortify\\_Rights.pdf](https://www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf)

<sup>26</sup> The Arakan Project, *Issues to be raised concerning the situation of stateless Rohingya children in Myanmar (Burma)*, Submission to the Committee on the Rights of the Child, 2012 [http://www.burmalibrary.org/docs12/ArakanProject-Submission\\_to\\_CRC-Myanmar-2012-01-red.pdf](http://www.burmalibrary.org/docs12/ArakanProject-Submission_to_CRC-Myanmar-2012-01-red.pdf)

<sup>27</sup> FR 2014 pp37-39

<sup>28</sup> IIFFM 2018 483-486

<sup>29</sup> CRC 2012

<sup>30</sup> Norwegian Refugee Council, The Seagull, Institute of Statelessness and Inclusion, Snap, *A Gender Analysis of the Right to Nationality in Myanmar*, 2018 <https://www.nrc.no/resources/reports/a-gender-analysis-of-the-right-to-a-nationality-in-myanmar/>

Institute of Statelessness and Norwegian Refugee Council, *Navigating without a map: access to civil documents and citizenship in south east Myanmar*, forthcoming 2019 (draft report available on file with Institute of Statelessness and Inclusion)



or registration on the “household list” take on a particular significance that impact future generations and create multiple barriers in accessing citizenship documents. High levels of institutionalised corruption, discrimination and arbitrary decision-making throughout the administrative system create further barriers to registration.<sup>31</sup> Those without identity documents in Myanmar are not able to enjoy freedom of movement within the country and face barriers to accessing other rights and benefits associated with citizenship. Undocumented people living in the conflict or border areas of the country where checkpoints and immigration checks are prevalent, are particularly vulnerable to arbitrary fines, arrest and detention.

### Legal Certainty and Rule of Law

There is a lack of clarity and consistency in the administrative processes relating to citizenship, resulting in arbitrary, corrupt and uneven decision making. Decisions are often affected by the area in which the application is submitted, and the individual officials involved. Officials exercise broad discretion, which often results in an increase in the evidential requirements for citizenship, increased barriers and discrimination. There are sometimes very long delays in the decision-making process relating to citizenship documentation, with some cases pending indefinitely. There are no mechanisms or procedures set up to appeal against negative administrative decisions on citizenship or delays.

Registration and documentation processes often involve payments of “unofficial fees”, the cost of which can be prohibitive resulting in a lack of access to registration, identity documents and citizenship. Corruption is prevalent throughout Myanmar’s government departments<sup>32</sup> and there is often a high correlation between the use and scale of bribes and persecution and discrimination.<sup>33</sup>

Myanmar has a recent history of arbitrarily removing and destroying identity documents held by members of minority opposition groups, and the political opposition.<sup>34</sup> Further, political opposition, ethnic minorities and journalists are often detained on charges relating to indiscretions in registration procedures or immigration charges.<sup>35</sup>

The UN Independent International Fact-Finding Commission concluded that state practices relating to citizenship acquisition for Rohingya:

---

<sup>31</sup> Institute of Statelessness and Norwegian Refugee Council, *Navigating without a map: access to civil documents and citizenship in south east Myanmar*, forthcoming 2019 (draft report available on file with Institute of Statelessness and Inclusion)

<sup>32</sup> Myanmar ranked 132 out of 180 countries on Transparency International’s 2018 Corruption Perception Index <https://www.transparency.org/country/MMR>

<sup>33</sup> Burma Human Rights Network, *State-led Persecution of Burma’s Muslim Minorities*, 2017 <http://www.bhrn.org.uk/en/report/20-bhrn-publishes-research-revealing-state-led-persecution-of-burma-s-muslim-minority.html>

Burma Human Rights Network, *Discrimination against Muslim Passport Applicants*, 2018 <http://www.bhrn.org.uk/en/report/1051-bhrn-releases-report-on-discrimination-against-muslim-passport-applicants.html>

Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims*, 2014 [https://www.fortifyrights.org/downloads/Policies\\_of\\_Persecution\\_Feb\\_25\\_Fortify\\_Rights.pdf](https://www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf)

NRC et al, 2018.

<sup>34</sup> “The confiscation of identity cards has also been used by the authorities as a means of harassment of recognised citizens.” Para 136 *Report of the Special Rapporteur on the Human Rights Situation in Myanmar*, 1997, see also para 136-142 available here: <https://www.ibiblio.org/obl/reg.burma/archives/199711/msg00193.html>

<sup>35</sup> Assistance Association for Political Prisoners (Burma), April 2018 report stated, “It is important to note that vague laws relating to drugs and immigration offences have often been used as tools to clamp down on people for their involvement in political activities.” Available: <http://burmacampaign.org.uk/media/AAPP-Apr-2018.pdf>



*violate legal certainty, the rule of law and international human rights law generally. Arbitrariness is shown in the way in which citizenship was revoked, domestic laws were applied or not, cards were handed out and revoked, and people were called “illegal immigrants”, yet accepted back in repeated cycles of mass displacement and repatriation.<sup>36</sup>*

#### **Barriers to civil registration and documentation particularly impact women and children in Myanmar.**

##### **Key resource:**

NRC, The seagull, ISI and SNAP, 2018, A Gender Analysis of the Right to Nationality in Myanmar.

<https://www.nrc.no/resources/reports/a-gender-analysis-of-the-right-to-a-nationality-in-myanmar/>

Some state documentation processes in Myanmar have resulted in abuses against minority groups across the country (see populations at risk of statelessness section). For example, violence and abuses related to the issuance of the ID Card for National Verification (ICNV cards or NVCs), in Rakhine State between 2016-7 are well-documented and occurred alongside violence that may amount to crimes against humanity and genocide.<sup>37</sup>

Identity documents in Myanmar have been criticised by international human rights bodies due to the risks of discrimination and stigmatisation associated with the practice of issuing ID cards on which the recording of ethnic identity is mandatory.<sup>38</sup> Cards are also colour coded, stigmatising those who are not recognised as “full citizens”. Further, Rohingya and other minorities in Myanmar are prevented from self-identifying through their ethnic identity. Other ethnic identities such, as “Bengali” or “mixed race”, have been imposed on them through state registration and documentation processes. Practices such as these are considered to be indicative of situations in which there is a high risk of persecution and genocide.<sup>39</sup>

## **POPULATIONS AFFECTED BY STATELESSNESS IN MYANMAR**

### **Rohingya**

Rohingya are a predominantly Muslim ethnic group with ancestral roots in Rakhine State Myanmar, bordering modern day Bangladesh. They have been stripped of their right to citizenship in Myanmar by a) the 1982 Citizenship Law (see previous section); b) multiple mass expulsions to Bangladesh since 1978 which have been followed by mass repatriations and declining legal status and; c) state practices relating to the removal, destruction and nullification of documents used to prove their identity and residence. In Lieu of their treatment in Myanmar, ISI concludes that there should be a *prima facie* assumption that Rohingya are refugees entitled to protection under the 1951 Refugee Convention.

---

<sup>36</sup> IIFFM report 2018 para 496.

<sup>37</sup> IIFFM report 2018 para 485-8.

<sup>38</sup> CRC 2012

<sup>39</sup> Stanton, G. *10 Stages of Genocide* <http://www.genocidewatch.org/genocide/tenstagesofgenocide.html>





In 2015, Rohingya were stripped of their right to vote and participate in local and national politics, at which time they were told their identity cards - "Temporary Registration Cards" or "white cards" - they held were no longer valid.<sup>40</sup> Since then, the Myanmar government has used increasingly coercive tactics in attempting to issue Rohingya with Identity Cards for National Verification, which Rohingya reject on the grounds that the process further destroys their identity as Rohingya people from Myanmar.<sup>41</sup> The labelling of Rohingya as Bengali poses a distinct problem for recognition of their status and identity: it contributes to the misunderstanding that the Rohingya population is from or has ties with Bangladesh, which can shroud their statelessness and cause them to be attributed an imputed nationality that is a false representation of their situation.

There are currently around half a million Rohingya remaining in Myanmar and approximately 1.8 million Rohingya who have been displaced since the 1970s and are living outside the country.<sup>42</sup> The vast majority remain stateless. Many of the countries in which they have sought refuge are not signatories to the 1951 Refugee Convention or the 1954 and 1961 Statelessness Conventions, including Bangladesh, Malaysia, Thailand, Saudi Arabia, India and Pakistan. An estimated 1 million Rohingya are living in Bangladesh. More than 740 000 arrived after August 2017. Around 30,000 Rohingya have remained in UNHCR-administered refugee camps since the exodus 1991-2 in which 250,000 Rohingya fled Myanmar. The majority were forcibly repatriated back to Myanmar in 1993-4. Registration in Bangladesh was closed after the repatriations. Facing continued persecution in Myanmar throughout the 1990s and 2000s, many fled back to Bangladesh, but unable to register with UNHCR, lived in make-shift camps in Bangladesh.<sup>43</sup> In 2017, the Bangladesh government opened registration again with the assistance of IOM. Since then, Rohingya have not been registered as refugees but as 'displaced Myanmar nationals'.

There are around 150,000 Rohingya living in Malaysia.<sup>44</sup> Although they are able to register with UNHCR and access very limited resettlement options, they are still regarded as irregular migrants by Malaysia and are unable to access work in the formal economy and have limited education options. Large numbers remain unregistered in Malaysia due to delays in processing applications with UNHCR.<sup>45</sup> There are also approx. 200,000 of Rohingya in Saudi Arabia where they are unable to either regularise their legal status or access refugee determination procedures. This is a particular problem as children enter adulthood and are unable to regularise their status and may face indefinite detention due to their immigration status. Some Rohingya have been deported to the refugee camps of Bangladesh.<sup>46</sup> There are 20-40,000 in India. Many have been able to register with UNHCR there but are considered by the government of India to be illegal immigrants. Rohingya remain in indefinite detention in prisons and immigration centres. Some have been refouled to Myanmar. Rohingya communities in India have been subject to attacks by Hindu nationalists,

---

<sup>40</sup> Burma Rohingya Organisation UK (BROUK), The Rohingya, the Citizenship Law, temporary registration and the implementation of the Rakhine State Action Plan, 2015 <http://burmacampaign.org.uk/media/BROUK-White-Card-Briefing.pdf>

<sup>41</sup> IIFFM Report 2018.

<sup>42</sup> Al Jazeera based on figures available in October 2017 from IOM, UNHCR and other aid agencies <https://www.aljazeera.com/indepth/interactive/2017/09/rohingya-crisis-explained-maps-170910140906580.html>

<sup>43</sup> Crisp, J. "Primitive People": *The untold story of UNHCR's historical engagement with Rohingya refugees*, Humanitarian Practice Network, 2018 <https://odihpn.org/magazine/primitive-people-the-untold-story-of-unhcrs-historical-engagement-with-rohingya-refugees/>

<sup>44</sup> All numbers in this paragraph from Al Jazeera map based on figures available in October 2017 from IOM, UNHCR and other aid agencies <https://www.aljazeera.com/indepth/interactive/2017/09/rohingya-crisis-explained-maps-170910140906580.html>

<sup>45</sup> Equal Rights Trust, *Equal Only in Name: Stateless Rohingya refugees in Malaysia*, 2014 <http://www.equalrightstrust.org/news/equal-rights-trust-publishes-two-reports-stateless-rohingya-refugees-malaysia-and-thailand>

<sup>46</sup> Detention in Saudi Arabia, see Middle East Eye, *After Years in Saudi Detention, deported Rohingya face jail in Bangladesh*, 2019 <https://www.middleeasteye.net/news/bangladesh-jail-rohingya-deported-saudi-arabia-using-fake-passports-773330715>



creating an increasingly insecure situation for them. Since 2017 some Rohingya have been making their way back to the refugee camps of Bangladesh.<sup>47</sup>

With no legal mechanisms in place to enable stateless Rohingya to regularise their status in the countries where they have sought refuge, many remain in situations of intergenerational insecurity and statelessness and face multiple forms of discrimination due to their immigration status. Left with no legal options, some Rohingya have resorted to obtaining travel documents through irregular means in order to move on to a safer country.

### Other minorities not included as one of the national ethnic groups of Myanmar

Other groups, especially those who have affiliations with populations in the Indian sub-continent and China are also excluded from citizenship because their ethnic group is not recognised as one of the groups residing in Myanmar prior to the colonial period.<sup>48</sup> Some of these groups may not be generally referred to in Myanmar by self-ascribed ethnic identities due to the political nature of categorisation during the British colonial period and since the 1982 Citizenship law came into effect, fixing ethnic categories. Less is known about their experiences or strategies in negotiating the rigid ethnic criteria of the citizenship law as their groups are smaller and more dispersed. They may include Gurkhas, Tamils, Hindu speakers of Bengali-dialects, groups that straddle the Chinese/Myanmar border and Muslim and Hindu populations throughout the country who do not fall into an ethnic designation listed by the Myanmar state.<sup>49</sup>

#### Myanmar's treatment of stateless Rohingya children violates the Convention on the Rights of the Child

##### Key resource:

Goodwin-Gill and Pobjoy, commissioned by Save the Children, Norway, 2018:

[https://resourcecentre.savethechildren.net/node/13627/pdf/joint\\_legal\\_opinion\\_-\\_myanmar.pdf](https://resourcecentre.savethechildren.net/node/13627/pdf/joint_legal_opinion_-_myanmar.pdf)

### Other minorities in Rakhine State

Other minority groups in Rakhine State, where populations are settled alongside or nearby Rohingya communities, have also been increasingly affected by statelessness. This includes Hindus and Maramgyi Buddhists who are linguistically affiliated and bare some physical resemblance to Rohingya.<sup>50</sup> Also affected are Kaman (or Kamein), who are a Muslim ethnic minority group residing in Rakhine State that are listed as one of the recognised national ethnic groups of Myanmar. Many Kaman are at risk of statelessness partly as a result of the destruction of their documents and displacement during the 2012 violence in Rakhine State, and also because their citizenship

<sup>47</sup> Human Rights Watch, *7 Rohingya Deported to India: Forced Return threaten life, liberty, violate international law*, oct 2018 <https://www.hrw.org/news/2018/10/04/india-7-rohingya-deported-myanmar>

<sup>48</sup> ARC, *Myanmar: Query Response, The situation in Chin State and Sagaing Region*, March 2019, section 13. Access to Documentation. See also, ARC, *Myanmar Query Response – Chin State*, July 2017, section 6

<sup>49</sup> Charney, Michael, Misunderstandings of ethnic identities in Rakhine as fixed and biological are leading to policy errors by the Government of Myanmar and NGOs on the ground in Rakhine, SOAS, July 2018, <https://eprints.soas.ac.uk/26123/1/Charney%202018%20Brief%20on%20Rohingya%20identity.pdf>

<sup>50</sup> Internal Displacement Monitoring Centre, *Submission to the UPR working group*, 2015 (IDMC 2015). <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=2112&file=EnglishTranslation>



applications are viewed with increasing suspicion and are scrutinised in the context of documenting Rohingya populations.<sup>51</sup>

### **Muslim minorities elsewhere in Myanmar**

Muslims from other areas of Myanmar lack adequate documentation and are increasingly at risk of statelessness. Myanmar Muslims report systematic refusals and indefinite delays in the issuance of identity cards and passports<sup>52</sup> as well as discrimination against the Myanmar Muslims migrant workers who need to have their citizenship verified by the Myanmar State in order to regularise their status in neighbouring countries, such as Thailand.<sup>53</sup> Muslims in Myanmar are also registered, or coerced into registering, under the category “mixed race” or ethnic categories that denote them as or foreign, such as “Bengali”, “Pakistani” or “Indian”. They report being subjected to longer delays and greater obstacles in citizenship applications, as well as being forced to pay higher bribes than other (non-Muslim) applicants. Additionally, some are harassed by Myanmar Intelligence officers as a result of applications.<sup>54</sup>

### **Persons of mixed ethnic or religious parentage**

Those who are of mixed ethnic parentage are at risk of statelessness. Often, they do not fit into the rigid ethnic criteria set out in the citizenship law which does not always reflect demographic realities or self-ascribed identities within the country. As a result, those of mixed ethnic or religious parentage frequently have ethnic categories imposed on them by state authorities that exclude them from access to full citizenship.<sup>55</sup> Those who have at least one parent who does not belong to one of the recognised national ethnic groups of Myanmar do not qualify for automatic citizenship. Although children with a parent who is a citizen not belonging to the national ethnic groups can, in certain circumstances, apply for citizenship, in practice they often do not receive it due to poor or discriminatory implementation of the law.<sup>56</sup>

### **Internally Displaced Persons (IDPs), IDP returnees and ethnic minorities living in areas affected by conflict with the central state**

There are at least 350,000 IDPs in Myanmar. Most IDP populations are in camps in Kachin State and Northern Shan State where they have been displaced by the conflict between armed opposition groups and the central State<sup>57</sup>; and Rakhine State where Rohingya, Kaman and other minority groups

---

<sup>51</sup> ICG, *Myanmar: The Politics of Rakhine State*, 2015 p10 <https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmar-politics-rakhine-state>

<sup>52</sup> Nyi Nyi Kyaw, 2015, Alienation, Discrimination, and Securitization: Legal Personhood and Cultural Personhood of Muslims in Myanmar, *The Review of Faith & International Affairs*, 13:4, 50-59

Burma Human Rights Network, *State-led Persecution of Burma's Muslim Minorities*, 2017 <http://www.bhrn.org.uk/en/report/20-bhrn-publishes-research-revealing-state-led-persecution-of-burma-s-muslim-minority.html>;

Burma Human Rights Network, *Discrimination against Muslim Passport Applicants*, 2018 <http://www.bhrn.org.uk/en/report/1051-bhrn-releases-report-on-discrimination-against-muslim-passport-applicants.html>

<sup>53</sup> Burma Human Rights Network, *Burma Reinforces Muslims' Statelessness as Thai Migrant Registration Deadline Looms*, 2018 <http://www.bhrn.org.uk/en/report/1052-burma-reinforces-muslims-statelessness-as-thai-migrant-registration-deadline-looms.html>

<sup>54</sup> *ibid*

<sup>55</sup> Than Toe Aung, Identity Crisis, *Frontier Myanmar*, 2019 <https://frontiermyanmar.net/en/identity-crisis>

Sai Latt, *Burma's Ominous Political Debate over ethnicity*, 2013 <https://www.irrawaddy.com/opinion/guest-column/burmas-ominous-political-debate-over-ethnicity.html>

Thomas Manch, *For Muslims across Myanmar Citizenship Rights are a Legal Fiction*, 2017 <https://frontiermyanmar.net/en/for-muslims-across-myanmar-citizenship-rights-a-legal-fiction>

<sup>56</sup> ISI and NRC 2019

<sup>57</sup> UNOCHA, *Kachin and Norther Shan Humanitarian Access Snapshot*, 2018

[https://reliefweb.int/sites/reliefweb.int/files/resources/Kachin\\_Shan\\_Humanitarian\\_Access\\_Snapshot\\_20180709.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Kachin_Shan_Humanitarian_Access_Snapshot_20180709.pdf)





remain having been displaced by the violence of 2012.<sup>58</sup> Populations from the IDP camps often move on to refugee situations elsewhere, for example IDPs from Rakhine State unable to return home have moved on to Malaysia or Bangladesh and IDPs from Kachin areas have sometimes moved across the border into China. Many IDPs do not have identification documents due to displacement and destruction of their properties and possessions. There are multiple barriers to civil registration and accessing identity documents including the requirement to apply for identity cards from their home town and the increased scrutiny of applications.<sup>59</sup> Additionally, ethnic minorities from areas historically affected by conflict with the central state or areas that have been under non-government control, such as Karen or Mon, face multiple barriers to accessing recognition of their citizenship. Those without the correct documentation face barriers to travel and in accessing health, education and financial services.

### Returning refugees

Refugees returning to Myanmar from the camps in Thailand, Bangladesh and elsewhere face multiple barriers to proving their citizenship and residence rights. In 1993-4 approximately 200,000 Rohingya refugees were repatriated from Bangladesh to Myanmar. Marriages that took place in the camps of Bangladesh were not recognised on return to Myanmar. Families faced multiple barriers in registering on the household list new marital partners, children born as result of those marriages, and children born in Bangladesh. Unregistered or “blacklisted” returnees faced harassment, extortion and arrest in Myanmar. As a result, many fled Myanmar again.<sup>60</sup> Myanmar also does not recognise the birth certificates of refugees born in Thailand, potentially creating barriers to accessing rights and benefits on return to Myanmar.<sup>61</sup> Returning refugees without the correct documents are unable to access their rights and remain unable to move or relocate within Myanmar.

Stateless Rohingya are at risk of forced repatriation to Myanmar.

#### Key resource:

The Institute of Statelessness and Inclusion has issued guidelines on conditions to be met for the repatriation of stateless Rohingya, “Repatriation, Statelessness and Refugee Status”  
[http://www.institutesi.org/repatriation\\_statelessness\\_and\\_refugee\\_status\\_2017.pdf](http://www.institutesi.org/repatriation_statelessness_and_refugee_status_2017.pdf)

## PROTECTION CHALLENGES FACED BY MYANMAR'S STATELESS POPULATION OUTSIDE THE COUNTRY

Myanmar's stateless populations are found throughout the world including Bangladesh, Thailand, Malaysia, Pakistan, India, Saudi Arabia and elsewhere in the Middle-East. Unable to acquire

<sup>58</sup> Human Rights Watch, All you can do is pray: Crimes against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State, 2013

<sup>59</sup> Norwegian Refugee Council, 2017, Half A Million Identities <https://www.nrc.no/news/2017/june/half-a-million-identities/>

<sup>60</sup> Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims*, 2014  
[https://www.fortifyrights.org/downloads/Policies\\_of\\_Persecution\\_Feb\\_25\\_Fortify\\_Rights.pdf](https://www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf)

<sup>61</sup> NRC et al, 2018.



citizenship or gain formal access to documentation in the countries of displacement across multiple generations, they face social exclusion and the denial of protection and human rights.<sup>62</sup>

### Trafficking and exploitation

The absence of durable solutions and protection for Myanmar's stateless populations outside of Myanmar who are not able to return to the country as Myanmar citizens increases their vulnerability to trafficking and exploitation.<sup>63</sup> Myanmar's stateless women are trafficked for sexual exploitation, marriage and domestic servitude. Men are also vulnerable to trafficking and labour exploitation, particularly in countries where their statelessness prevents them from accessing the formal, regulated sectors of the labour market such as Malaysia, Thailand, India and Bangladesh.<sup>64</sup>

### Indefinite detention

Myanmar's stateless populations, especially Rohingya men, women and children are frequently detained indefinitely in prisons and immigration detention centres. They are generally apprehended and detained as irregular migrants or on minor charges and remain in detention unable to gain release due to their lack of a legal status and inability to return to Myanmar. Rohingya are detained in Saudi Arabia, India, Bangladesh, Thailand, Malaysia and elsewhere. Often, they are unable to access refugee determination procedures from detention, increasing the likelihood of remaining detained indefinitely.<sup>65</sup>

### Refoulement of stateless persons to Myanmar

Myanmar's stateless populations, in particular Rohingya, have been forcibly repatriated or *refouled* to Myanmar over many decades. Rohingya refugees were *refouled* on mass in 1979 and in 1993-4. Myanmar did not recognise the returnees as citizens, and they have faced ongoing persecution and human rights violations in Myanmar.<sup>66</sup> Rohingya in detention in India, who did not have access to refugee determination procedures were also *refouled* to Myanmar in 2018 and 2019. They were not recognised as Myanmar citizens prior to return and are unable to travel outside their region in Rakhine State. They remain at risk of continued persecution in Myanmar.<sup>67</sup> Additionally, neighbouring states that are unable to make formal bilateral arrangements with Myanmar for the return of stateless persons, sometimes practice "soft deportations" - stateless persons are sent back across the porous land borders into Myanmar where they are often delivered into the hands of smugglers who extract fees to facilitate onwards travel. This has been a common practice in Thailand,

---

<sup>62</sup> de Chickera, 2018, *Statelessness and Identity in the Rohingya Refugee Crisis*, Humanitarian Practice Network, 2018, <https://odihpn.org/magazine/statelessness-identity-rohingya-refugee-crisis/>

<sup>63</sup> US Department of State, Trafficking in Persons report 2018, country narratives on Burma (p119) and Bangladesh (p92) <https://www.state.gov/documents/organization/282800.pdf>

<sup>64</sup> See, Kangkun and Quinley III, *Mass Atrocities and Human Trafficking: Rohingya on the move*, Humanitarian Practice Network, 2018 <https://odihpn.org/magazine/mass-atrocities-human-trafficking-rohingya-muslims-move/>

<sup>65</sup> Detention in Saudi Arabia, see Middle East Eye, *After Years in Saudi Detention, deported Rohingya face jail in Bangladesh*, 2019

<https://www.middleeasteye.net/news/bangladesh-jail-rohingya-deported-saudi-arabia-using-fake-passports-773330715>

Equal Rights Trust, *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*, 2010

Detention in Thailand and Malaysia see Equal Rights Trust, 2014, *Equal Only in Name* <http://www.equalrightstrust.org/news/equal-rights-trust-publishes-two-reports-stateless-rohingya-refugees-malaysia-and-thailand>

<sup>66</sup> Crisp, "Primitive People": the untold story of UNHCR's historic engagement with Rohingya Refugees, Humanitarian Practice Network, 2018 <https://odihpn.org/magazine/primitive-people-the-untold-story-of-unhcrs-historical-engagement-with-rohingya-refugees/>

<sup>67</sup> Human Rights Watch, *7 Rohingya Deported to Myanmar: Forced Returns Threaten Life, Liberty, Violate International Law*, 2018 <https://www.hrw.org/news/2018/10/04/india-7-rohingya-deported-myanmar>



for example, where the return of stateless, persecuted Rohingya without access to refugee determination procedures amounted to *refoulement*.<sup>68</sup>

---

<sup>68</sup> Human Rights Watch, *Thailand, Don't deport Rohingya boat people*, 2013 <https://www.hrw.org/news/2013/01/02/thailand-dont-deport-rohingya-boat-people>





## DOCUMENTATION IN MYANMAR

The below table offers an overview of the different types of documentation available in Myanmar. It is important to emphasize that not everybody from Myanmar is in the possession of or able to acquire these documents even if they would, under the relevant law and policy, be eligible. For instance, many displaced persons are not in possession of any of these documents. The non-possession of documents by an individual from Myanmar should not be taken to affect the validity of their story.

DOCUMENT	Colour	Description
Household Registration List		<i>It is mandatory for all residents to be registered on this document. Sometimes called family list.</i>
National Registration Certificates (NRC)	Pink for women, Blue for men.	<i>Issued from mid-1950s until 1989. Although these documents were not officially citizenship cards, in practice they were used as proof of citizenship, as foreigners were registered separately under the Registration of Foreigners Act. For dissidents absent for periods following the civil unrest of 1988, many retained and continued to use these documents. These documents did not include reference to ethnicity. They are sometimes called “three-fold” cards. Many Rohingya held these documents before 1989, but when they reapplied for citizenship cards in 1989, they were not issued with CSCs.</i>
Citizenship Scrutiny Cards (CSC)	Pink	<i>Citizenship Scrutiny Cards have been issued since 1989 until today. They are colour coded. They replaced NRCs. Contain ethnic group as per 1982 citizenship law. Pink ones were issued to “full” citizens. They are sometimes called “red cards”.</i>
Associate Citizenship Scrutiny Cards (ACSC)	Blue Green	<i>As described for CSC above, blue-green coloured cards are for associate citizens.</i>
Naturalised Citizenship Scrutiny Cards (NCSC)	Green	<i>As described for CSC above, green coloured cards are for naturalised citizens. A limited number have been issued to Rohingya. They use the term “Bengali” to describe Rohingya and are sometimes locally known as “Bengali cards”.</i>
Temporary Registration Cards (TRC)	White	<i>Known as “white cards”, these documents were issued if NRCs were lost or if an application for an NRC was pending. They were also issued en mass to Rohingya in North Rakhine State from 1995 and were valid until 2015. They were necessary documents for Rohingya to access facilities and to apply for a “Form 4” which enables them to travel to other towns within their region. Rohingya were able to use these cards to vote in referendums and national elections in the past.</i>
Receipt Cards or TRC slips		<i>In 2015, white cards were nullified and voting rights removed. The white cards were collected and replaced with a laminated receipt, known as a “receipt card”.</i>
Identity Cards for National Verification (ICNV) REBRANDED NATIONAL VERIFICATION CARDS (NVC) IN 2016	Turquoise	<i>In 2015 these cards were piloted in Rakhine State using the term “Bengali”. They were resisted by Rohingya. They were later rolled out across Rakhine State and elsewhere in the country in 2016 until today(2019) without an ethnic designation. They are issued to former holders of white cards or anyone who “needs to apply for citizenship” until status is determined. The implementation of this reverification scheme has been controversial and largely unsuccessful with many communities remaining non-compliant.</i>



## BIBLIOGRAPHY

Advisory Commission on Rakhine State, *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report*, 2017 <http://www.rakhinecommission.org/the-final-report/>

Arakan Project, *Issues to be raised concerning the situation of stateless Rohingya children in Myanmar (Burma)*, Submission to the Committee on the Rights of the Child, 2012  
[http://www.burmalibrary.org/docs12/ArakanProject-Submission\\_to\\_CRC-Myanmar-2012-01-red.pdf](http://www.burmalibrary.org/docs12/ArakanProject-Submission_to_CRC-Myanmar-2012-01-red.pdf)

Arraiza and Vonk, Report on Citizenship Law: Myanmar, European University Institute, 2017  
[http://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS\\_GLOBALCIT\\_CR\\_2017\\_14.pdf?sequence=1](http://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS_GLOBALCIT_CR_2017_14.pdf?sequence=1)

Assistance Association for Political Prisoners (Burma), April 2018 report,  
<http://burmacampaign.org.uk/media/AAPP-Apr-2018.pdf>

Burma Human Rights Network, *State-led Persecution of Burma's Muslim Minorities*, 2017  
<http://www.bhrn.org.uk/en/report/20-bhrn-publishes-research-revealing-state-led-persecution-of-burma-s-muslim-minority.html>

Burma Human Rights Network, *Discrimination against Muslim Passport Applicants*, 2018  
<http://www.bhrn.org.uk/en/report/1051-bhrn-releases-report-on-discrimination-against-muslim-passport-applicants.html>

Burma Human Rights Network, *Burma Reinforces Muslims' Statelessness as Thai Migrant Registration Deadline Looms*, 2018 <http://www.bhrn.org.uk/en/report/1052-burma-reinforces-muslims-statelessness-as-thai-migrant-registration-deadline-looms.html>

Burma Rohingya Organisation UK (BROUK), *The Rohingya, the Citizenship Law, temporary registration and the implementation of the Rakhine State Action Plan*, 2015 <http://burmacampaign.org.uk/media/BROUK-White-Card-Briefing.pdf>

Charney, Michael, *Misunderstandings of ethnic identities in Rakhine as fixed and biological are leading to policy errors by the Government of Myanmar and NGOs on the ground in Rakhine*, SOAS, July 2018,  
<https://eprints.soas.ac.uk/26123/1/Charney%202018%20Brief%20on%20Rohingya%20identity.pdf>

Cheesman, Nick, 2017, How in Myanmar "National Races" Came to Surpass Citizenship and Exclude Rohingya, *Journal of Contemporary Asia*, 47:3, 461-483

Committee on the Rights of the Child, *Concluding Remarks: Myanmar*, 59th session, 2012, CRC/C/MMR/CO/3-4 (CRC 2012)  
[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/MMR/CO/3-4&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/MMR/CO/3-4&Lang=En)

Crisp, Jeff, *"Primitive People": the untold story of UNHCR's historic engagement with Rohingya Refugees*, Humanitarian Practice Network, 2018 <https://odihpn.org/magazine/primitive-people-the-untold-story-of-unhcrs-historical-engagement-with-rohingya-refugees/>

de Chickera, Amal, *Statelessness and Identity in the Rohingya Refugee Crisis*, Humanitarian Practice Network, 2018, <https://odihpn.org/magazine/statelessness-identity-rohingya-refugee-crisis/>



Equal Rights Trust, *Equal Only in Name: Malaysia*, 2014 <http://www.equalrightstrust.org/news/equal-rights-trust-publishes-two-reports-stateless-rohingya-refugees-malaysia-and-thailand>

Equal Rights Trust, *Equal Only in Name: Thailand*, 2014 <http://www.equalrightstrust.org/news/equal-rights-trust-publishes-two-reports-stateless-rohingya-refugees-malaysia-and-thailand>

Fortify Rights, *Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims*, 2014 [https://www.fortifyrights.org/downloads/Policies of Persecution Feb 25 Fortify Rights.pdf](https://www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf)  
NRC et al, 2018.

Goodwin-Gill and Pobjoy, commissioned by Save the Children Norway, *Joint legal opinion on the Government of Myanmar's compliance with the convention on the rights of the child in the context of the treatment of Rohingya children following the events of 25 August 2017*, 2018:  
[https://resourcecentre.savethechildren.net/node/13627/pdf/joint\\_legal\\_opinion\\_-\\_myanmar.pdf](https://resourcecentre.savethechildren.net/node/13627/pdf/joint_legal_opinion_-_myanmar.pdf)

Human Rights Watch, *7 Rohingya Deported to Myanmar: Forced Returns Threaten Life, Liberty, Violate International Law*, 2018 <https://www.hrw.org/news/2018/10/04/india-7-rohingya-deported-myanmar>

Human Rights Watch, *Thailand Don't deport Rohingya boat people*, 2013  
<https://www.hrw.org/news/2013/01/02/thailand-dont-deport-rohingya-boat-people>

Human Rights Watch, *All you can do is pray: Crimes against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State*, 2013 [https://www.hrw.org/sites/default/files/reports/burma0413\\_FullForWeb.pdf](https://www.hrw.org/sites/default/files/reports/burma0413_FullForWeb.pdf)

Institute on Statelessness and Inclusion, *Repatriation, Statelessness and Refugee Status*, 2017  
[http://www.institutesi.org/repatriation\\_statelessness\\_and\\_refugee\\_status\\_2017.pdf](http://www.institutesi.org/repatriation_statelessness_and_refugee_status_2017.pdf)

Institute on Statelessness and Inclusion and Norwegian Refugee Council, *Navigating without a map: access to civil documents and citizenship in south east Myanmar*, forthcoming 2019 (draft report available on file with Institute on Statelessness and Inclusion)

Internal Displacement Monitoring Centre, *Submission to the UPR working group*, 2015 (IDMC 2015).  
<https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=2112&file=EnglishTranslation>

International Crisis Group, *Myanmar: The Politics of Rakhine State*, 2015 p10  
<https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmar-politics-rakhine-state>

Kangkun and Quinley III, *Mass Atrocities and Human Trafficking: Rohingya on the move, Humanitarian Practice Network*, 2018 <https://odihpn.org/magazine/mass-atrocities-human-trafficking-rohingya-muslims-move/>

Manch, Thomas, *For Muslims across Myanmar Citizenship Rights are a Legal Fiction*, Frontier Myanmar, 2017  
<https://frontiermyanmar.net/en/for-muslims-across-myanmar-citizenship-rights-a-legal-fiction>

Middle East Eye, *After Years in Saudi Detention, deported Rohingya face jail in Bangladesh*, 2019  
<https://www.middleeasteye.net/news/bangladesh-jail-rohingya-deported-saudi-arabia-using-fake-passports-773330715>

Myanmar Citizenship Law 1982, available: <https://www.refworld.org/docid/3ae6b4f71b.html>  
Myanmar Household and Population Census, 2014. Data and reports available: <http://themimu.info/census-data>



Norwegian Refugee Council, The Seagull, Institute of Statelessness and Inclusion and SNAP, *A Gender Analysis of the Right to Nationality in Myanmar*, 2018. <https://www.nrc.no/resources/reports/a-gender-analysis-of-the-right-to-a-nationality-in-myanmar/>

Norwegian Refugee Council, *Half A Million Identities*, 2017 <https://www.nrc.no/news/2017/june/half-a-million-identities/>

Nyi Nyi Kyaw, 2017. Unpacking the Presumed Statelessness of Rohingyas. *Journal of Immigrant & Refugee Studies*, 15(3), pp.269-286.

Nyi Nyi Kyaw, 2015, Alienation, Discrimination, and Securitization: Legal Personhood and Cultural Personhood of Muslims in Myanmar, *The Review of Faith & International Affairs*, 13:4, 50-59

OHCHR, The Report of the Independent International Fact-Finding Mission on Myanmar, 2018 (IIFFM report 2018) A/HRC/39/64  
<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E>

OHCHR, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar, Report of the United Nations High Commissioner for Human Rights*, 32<sup>nd</sup> session, 2016, A/HRC/32/18 (OHCHR 2016)  
[https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session32/Documents/A\\_HRC\\_32\\_18\\_AEV.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session32/Documents/A_HRC_32_18_AEV.docx)

OHCHR, *Report of the Special Rapporteur on the Human Rights Situation in Myanmar*, 1997,  
<https://www.ibiblio.org/obl/reg.burma/archives/199711/msg00193.html>

Sai Latt, *Burma's Ominous Political Debate over ethnicity*, 2013 <https://www.irrawaddy.com/opinion/guest-column/burmas-ominous-political-debate-over-ethnicity.html>

Stanton, G. *10 Stages of Genocide*, <http://www.genocidewatch.org/genocide/tenstagesofgenocide.html>

Than Toe Aung, Identity Crisis, *Frontier Myanmar*, 2019 <https://frontiermyanmar.net/en/identity-crisis>

Transparency International, Corruption Perception Index, 2017 Myanmar data available here:  
<https://www.transparency.org/country/MMR>

UNGA, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, 2013, A/68/397  
[https://www.ohchr.org/Documents/Countries/MM/A-68-397\\_en.pdf](https://www.ohchr.org/Documents/Countries/MM/A-68-397_en.pdf)

UNHCR, *The Statelessness Issue in Myanmar*, 2014.

UNHCR Population Statistics, available here:  
[http://popstats.unhcr.org/en/overview#\\_ga=2.248168711.1467166807.1548253373-722931992.1495718844](http://popstats.unhcr.org/en/overview#_ga=2.248168711.1467166807.1548253373-722931992.1495718844)

UNOCHA, *Kachin and Norther Shan Humanitarian Access Snapshot*, 2018  
[https://reliefweb.int/sites/reliefweb.int/files/resources/Kachin\\_Shan\\_Humanitarian\\_Access\\_Snapshot\\_20180709.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Kachin_Shan_Humanitarian_Access_Snapshot_20180709.pdf)

US Department of State, Trafficking in Persons report 2018,  
<https://www.state.gov/documents/organization/282800.pdf>





**Statelessness is often overlooked in asylum and migration debates. It is a hidden but very real issue affecting many refugees and migrants in Europe.**

#StatelessJourneys is a joint project between the European Network on Statelessness and the Institute on Statelessness and Inclusion. It was designed to expose gaps, identify solutions and deliver evidence-based advocacy to secure the protection of stateless refugees and migrants, and to prevent new cases of statelessness arising in Europe.

For more information about the issue and the project please visit <https://statelessjourneys.org>



We would like to acknowledge the support of Open Society Foundations.

# OPEN SOCIETY FOUNDATIONS

This report is licenced under a Creative Commons Attribution-NonCommercial-Share Alike 4.0 International licence. With appropriate credit, this report can be copied, redistributed and adapted for non-commercial purposes. If you build upon the material, you must distribute your contributions under the same license as the original. The terms of this licence however should not be interpreted as precluding in any way the use of the report as a reference tool by legal practitioners working for remuneration.

