

With violence erupting across the border in Myanmar and the number of new Rohingya refugees in Bangladesh crossing two lakh in number, it becomes imperative to revisit exactly how the ethnic minority has been persecuted through the decades. In light of this, excerpts of Michael Caster's piece "Statelessness and Rohingya Rights" from the June 2016 issue of *Himal Southasian* are being republished here. Some of the information here is not reflective of recent developments, e.g. this does not discuss the state-sanctioned nature of the violence that happened in the Rakhine State during Aung San Suu Kyi's leadership. In the months past, the government has also refused to cooperate with United Nations to manage the conflict: from denying entry to UN officials of a fact-finding mission, to last week's action of blocking UN aid from reaching civilians. This article provides legal and historical background to the current conflict.



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organisations, the USDP soon began backsliding on its extension of rights to White Card holders. A 2014 amendment to the Political Parties Registration Law forbade White Card holders from participating in party politics and later President Thein Sein announced that all White Cards were about to expire and were to be returned, again disenfranchising the Rohingya en masse. In June 2015, Rakhine immigration officials announced that they had collected nearly 400,000 White Cards, stripping their owners of what meagre identification and rights they possessed.

I first met Shwe Maung in August 2015. He had just found out that the Union Election Commission (UEC) had revoked his candidacy for the 2015 General Election. Following his rejection from the USDP, he had attempted to register as an independent but was denied by the UEC on the grounds that he was not a citizen and therefore ineligible, an odd claim considering his five years as a parliamentarian. According to the UEC, his parents were not citizens, a claim he denies noting that both of his parents had National Registration Cards before Ne Win's coup. His father was a police officer, he told me.

Shwe Maung argues that according to the Citizenship Law, the Rohingyas should be considered citizens:

The Rohingyas are not foreigners. Before independence, we were here. Before the British colonial period, we were here. While the Burmese were occupying Rakhine, we were here. Before the Burmese king occupied, when it was a Rakhine King, we were here. We never migrated from anywhere. Of course from one place to another in search of green pasture, people will migrate from one town to another. But these people are from this area.

The government intentionally misinterprets the 1982 Law, noted Wai Wai Nu, a Rohingya rights defender and former political prisoner who runs the Women Peace Network Arakan. Speaking one afternoon in her office, she explained that as much as she would like to see the 1982 Citizenship Law amended, the law doesn't necessarily need to be amended if the government would acknowledge history. For her, the solution seems simple: the government must recognise that the Rohingya have existed as a distinct and indigenous race in Myanmar since before 1823.

Contentious history

It was in the 16th century that King Bayinnaung unified much of the fragmented kingdoms in the region now comprising Myanmar, but the dynasty only lasted for 60 years. In 1599, the capital was burned to the ground by the rival coastal

Kingdom of Mrauk-U, in modern day Rakhine. The Kingdom of Mrauk-U had been founded in 1430 as a vassal territory of the Sultan of Bengal, but later, capitalising on the Mughal invasion of Bengal, the kingdom claimed independence in 1531 and expanded its territory into parts of modern-day

Bangladesh. It staged raiding missions in the Bay of Bengal, increasing its mostly-Muslim slave population and when, in 1660, a Mughal prince and his followers were granted sanctuary in Mrauk-U, their numbers increased the Muslim population in the predominantly Buddhist kingdom. In this, we can arguably trace the roots of contemporary Buddhist-Muslim tensions in Rakhine. The Rakhine capital, Mrauk-U, was eventually conquered by King Bodawpaya of the Konbaung Dynasty in 1785. This resulted in some 200,000 refugees fleeing to Chittagong, in present day Bangladesh. Following the sacking of Mrauk-U, Rakhine rebels mounted a guerilla insurgency against the Burmese

populations of Buddhists in Bengal and Muslims in Rakhine, the expansion of British India into the territory meant considerable labour migration of Muslims from Bengal into the region. The International Crisis Group (ICG) explains that such migration "changed the ethnic and religious mix, created socio-economic problems, and led to considerable resentment from the Rakhine Buddhist community."

There is striking evidence in support of Rohingya claims to indigeneity. In fact, the first English-language reference to Rohingya dates to a 1799 text by Francis Buchanan, a doctor with the British East India Company. Buchanan wrote of a group of Muslims, "who have

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PHOTO: AFP

A Muslim Rohingya woman sits outside her temporary shelter at a village in Minpyar in Rakhine state.

king. In response, Bodawpaya expanded his empire into Chittagong, Bengal, Assam, and Manipur. These regions, explain Myanmar scholars Michael Aung-Thwin and Maitrii Aung-Thwin, appear to have been under the dual administration by Rakhine and British India at the time and the incursions from Myanmar likely set in motion the First Anglo-Burmese war. War was declared in March 1824 and concluded in December 1825 with the British annexation of Rakhine and other states.

The annexation of Rakhine into British India meant that previous political boundaries were done away with, making cross-migration all the more easier. Academics Maung Zarni and Alice Cowley have argued that the fluidity of territorial borders characteristic of the few hundred years before colonisation coincided with equally fluid ethnic identity formation. Although there were admittedly already

long settled in Arakan [Rakhine], and who call themselves Rooinga, or natives of Arakan". At the same time, the instability and major population flows over several centuries helps to explain Myanmar's dominant nationalist narrative, which brands the Rohingya as outsiders and migrants. The two narratives, however, seem reconcilable. Rohingya have resided in present-day Myanmar since well before 1823 and, at the same time, been subjected to centuries of conflict and persecution, resulting in an itinerant past both within and across contemporary political boundaries. The boundaries themselves have been nearly as equally transient from warring kingdoms in the 16th century to the shifting front lines of World War II to the gradual decolonisation of the Subcontinent.

When the chaos of World War II arrived in Myanmar in 1942, it was the Northwest frontier of Rakhine that again

became the front line as it had been during the First Anglo-Burmese War. This time, however, the invaders were Japanese, who were at first welcomed by many Burmese as a means of liberation from British occupation. Indeed, the Japanese had been making inroads for several years already. The year before, Su Kyi's father, General Aung San, and others including Ne Win, had been receiving guerilla warfare and other military training from Japanese Colonel Keiji Suzuki.

Those who were pro-independence in Myanmar began to grow disillusioned with the Japanese and switched their allegiance to the British. Rakhine had become a major battlefield of World War II in Southeast Asia by 1944. According to the ICG, most of the Muslim population of Rakhine had remained pro-British from the start of hostilities. Matthew Walton, the Aung San Suu Kyi Senior Research Fellow in Modern Burmese Studies at Oxford University, has observed that while diverse forces in Myanmar eventually allied against the Japanese, they were likely "fighting against the same enemy but fighting for very different visions of the future."

In 1971, the Liberation War in East Pakistan, now Bangladesh, produced thousands of refugees who fled into the Rakhine State. Most of the refugees returned to Bangladesh within a year but this border instability presented both a legitimate security concern for Ne Win's military junta and a likely foundation to expand existing nationalist policies of exclusion.

In 1978, the military launched Operation Naga Min, or Dragon Head, to investigate suspected illegal immigrants from East Pakistan and take action against them. Again many Rohingya NRCs were confiscated, stripping them of proof of residence and forcing them to be identified as foreigners. According to the Irish Centre for Human Rights, the campaign quickly descended into chaos, with "widespread reports of army brutality, including rape, murder and the destruction of Muslim mosques". As a result, more than 220,000 Rohingyas fled across the border into Bangladesh. The International Commission of Jurists notes that a few displaced Rohingyas had preserved their citizenship papers that they showed to journalists in Bangladesh to prove they were legal residents of Myanmar.

Many countries have gone through episodes of darkness, when the will of the dominant majority had to be challenged in order to bring about a more just and fair society, from the civil-rights movement in the US to anti-apartheid campaigning in South Africa and around the world. Myanmar is likewise facing a moment of profound transition. Addressing gross violations and expanding equal access to citizenship will remain contentious and challenging, requiring a long-drawn-out campaign. Increasing awareness and unrelenting pressure from multiple stakeholders are needed if the Rohingya are to find justice in their land.

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policies that excluded those households who could not prove residency in Myanmar before 1823.

The 1982 Citizenship Law foreclosed the chances of full citizenship for the Rohingya. It created three categories of citizenship, which had not existed before: 'full citizen,' 'associate citizen,' and 'naturalised citizen'. Each 'category' of citizenship came with their corresponding and different sets of rights. An 'associate citizen' was one that met certain qualifications and had already applied for citizenship before the law took effect. The 'naturalised citizenship' status was available to foreign nationals, who could provide evidence that they or their parents had resided in Myanmar prior to independence and for anyone who had at least one parent who fulfilled the criteria of any one of the three newly instituted categories of citizenship. It could be stripped relatively easily. Similar to the 1948 Act, the Citizenship Law provided that "full citizenship" would be extended only to those belonging to the indigenous races of Myanmar. The list of 135 groups, who officially qualified for citizenship (that hasn't been amended since) was first disseminated at the time. The Rohingyas were excluded once again.

However, Article 6 of the 1982 law did hold that anyone who was a citizen on the date the law came into force would be a citizen. At that time, many people from the Rohingya community held NRCs, a form of citizen identification, and were considered citizens. Their subsequent denaturalisation is not in accordance with the law and is therefore

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a violation of the prohibition on arbitrary deprivation of nationality.

A Rohingya community leader in Yangon recalled how the 1982 Law was not immediately implemented across the country. He remembered that it wasn't really until 1990 that the full discriminatory effects began taking hold. This coincided with the 1989 citizenship verification campaign. Those who met the requirements of the new law had their National Registration Cards upgraded to Citizenship Scrutiny Cards (CSC). However, Rohingya NRCs that were submitted were not replaced with CSCs. From 1995, the government only began issuing White Cards to the Rohingyas, which do not confer citizenship status. This was done

regardless of their citizenship status before the 1989 campaign—a flagrant violation of the 1982 Law.

Despite their name, Temporary Registration Certificates (White Cards) have been anything but temporary, with many Rohingyas holding no other identification than the certificates they were issued more than 20 years ago. There was some cause for optimism that the Rohingya would gradually be accepted as citizens with the limited extension of civil and political rights that started with the 2010 general election. Granting White Card holders the right to vote stoked the hopes of citizenship because the Constitution provides that only citizens and the 'relevant national races' have the right to vote. Of course, as Human Rights Watch (HRW) points out, this provision has not always been applied, as seen by the fact the Rohingyas were permitted to vote in 1990 as well. But in light of the rhetoric of greater democratic principles, expectations peaked in 2010.

Not only were White Card holders allowed to vote, in an apparent attempt to defeat their Rakhine Nationalist Development Party (RNNDP) opponents, the military-backed Union Solidarity and Development Party (USDP) ran self-identifying Rohingya candidates to capitalise on the newly enfranchised, mostly Rohingya White Card voters. Among them, Shwe Maung was elected to the Lower House and used his position to campaign for greater Rohingya rights.

Responding to demonstrations by hyper-nationalist Buddhist

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