

# The Legal Status of Indians in Contemporary Burma

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The legal status of the Indian communities in Burma\* has undergone dramatic changes during the past three decades as a result of the political and economic policies pursued by the government since the Revolutionary Council came to power on 2 March 1962. These policies have resulted in a more serious curtailment of the power and privileges of the Indian communities and their leaders than either the separation of Burma from India in 1937 or the regaining of Burma's independence from Britain in 1948. The Indian communities no longer exist as they once did — as separate and nearly self-governing groups managing their own political and economic institutions within the larger Burmese society, serving as intermediaries with the outside world. Rather, they have become atomized so that the individual of Indian descent stands *qua* individual with his or her family in relation to the state.

These changes have resulted from the nature of the socialist economy and the one-party political system instituted after 1962 rather than from the Indian communities being singled out for discriminatory treatment. It is only when viewed in relation to their economic and political importance in the immediate post-colonial period that socialist and centralist state policies since 1962 have seemingly displaced the role of the Indian communities in a more dramatic manner than other smaller, less prominent groups.

In terms of their freedom in religious and other purely cultural affairs, however, few restrictions have been placed on followers of Islam, Hinduism, and other Indian faiths. The government has repeatedly stressed that non-indigenous individuals have full religious freedom as well as the right to pursue their economic livelihoods within the framework of the state's

socialist economic and political policies. Politically, however, Indians and other individuals of non-indigenous descent are barred from positions of authority in the state under the terms of the 1974 Constitution and the system of temporarily unequal citizenship that was established in 1982. Thus, to a foreign observer, while the institutions of Indian cultural life — the mosques and temples in Rangoon and other cities and the many small Indian-owned concerns — are still seen to exist despite uneasy or difficult circumstances, politically, Indians and others of foreign descent appear less than full participants in the life of the state. Ultimately, their descendants' full assimilation, determined by the passage of time and lack of contacts with their ancestors' homelands, will end this condition.

Two developments of the past decade which have immediate and long-term implications for the status of Indians in contemporary Burma are firstly, the results of the border negotiations prompted by the flow of refugees across the border between the state of Rakhine and Bangladesh in 1978/79; and secondly, the introduction and initial implementation of the 1982 Burma Citizenship Law. There is no direct relationship between these two events. The planning for the Citizenship Law was a consequence of the introduction of the 1974 Constitution of the Socialist Republic of the Union of Burma which preceded the refugee issue by at least two years. However, both events clearly indicate that the Indians have not only become dependent upon the state, but will in time be assimilated into the larger Burmese society. This in reality is underscored by the Burma-Bangladesh border negotiations which was aimed at preventing further large-scale immigration. Thus, the rapid development and relative autonomy of the Indian communities in Burma during the colonial period are followed by the gradual and irreversible addition of Indian-descended individuals to the heterogeneous culture of modern Burma. This chapter proposes to examine briefly the issues and outcomes of the 1978/79 Bangladesh-Burma refugee issue and the purpose of implementation of the Citizenship Law of 1982 in order to illustrate the basis for these conclusions.

### **1978/79 Bangladesh-Burma Border Issue**

The issue of the Indian-descended refugees who crossed over the border from the Burmese state of Rakhine to Bangladesh during 1978 raises a variety of points, not all of which relate specifically to the status of Indians in Burma. For the purposes of this chapter, however, the issue demonstrates the continuing sensitivity of government officials in Burma to indigenous

opposition to further large-scale immigration from the subcontinent. The border region between what is now Bangladesh and Rakhine has historically been of concern to controllers of the Burmese state since the pre-colonial period. Significantly, the first foreign challenge that resulted in the loss of Burma's independence to the British — the first Anglo-Burmese War of 1824–26, which led to the annexation of Rakhine and Tanintharyi to the British Indian empire — was precipitated by clashes between the Burmese King's troops and local dissidents being pursued across the border into British-held territory. The British retaliated to defend their new sovereignty and the border dispute escalated into a two-year war.<sup>1</sup> While much has changed since the early nineteenth century, the Rakhine border area has remained a problematic one for the Burmese authorities for essentially the same reasons. During the colonial period, when both areas were under the British-Indian imperial authority, Indians freely crossed into Rakhine from the subcontinent. Order was maintained even if the original inhabitants perceived that they were being displaced by foreign immigrants. During World War II the area was contested by British and Japanese armies. The chaos of those years opened the way for the greater disorder that developed in the area during the period just prior to independence.

One of the first anti-government insurgencies that developed in post-war Burma commenced in Rakhine under the leadership of the Mujahids who sought to have the area attached to the then new neighbouring state of Pakistan.<sup>2</sup> While this insurgency posed no threat to the continuity of the state of Burma after independence, it constituted a challenge to state sovereignty in a crucial border area. In as much as the Government of Pakistan apparently gave no encouragement to the Mujahids in Rakhine, the Burmese Government was able to limit their influence if not eliminate them completely. But their spirit lived on and around their Islamic-based sense of identity grew up a notion that they were a separate ethnic group, the Rohingya.<sup>3</sup>

Apparently the problem of refugees fleeing from Burma into Bangladesh initially developed in February-March 1978, resulting from efforts by the Burmese authorities to enforce the immigration and settlement regulations throughout Burma. Many of the refugees, however, claimed that the Burmese authorities were seeking to evict them from their homes. Quiet and unpublicized exchanges which then took place between the governments of Burma and Bangladesh to try to resolve the problem proved unsuccessful. That an immigration crisis was looming was suggested by the composition of a Burmese government delegation that visited Dacca in April 1978. In

addition to the Foreign Minister, it included the Commander of the Western Military Command who had control over Rakhine; the Chairman of the Rakhine State People's Council, the highest political official in the region; and the Director-General of the Immigration and Manpower Department responsible for the supervision of all non-citizens under the Ministry of Home and Religious Affairs.<sup>4</sup>

In mid-April 1978, following the failure of the two governments to agree on a solution to the problem, the Bangladesh Government publicly raised the issue before the 24 April meeting of the Islamic Council in Senegal. Dacca radio began the government's campaign, asserting that "over 20,000 Burmese Muslim nationals have so far been pushed into Bangladesh territory". The government alleged that the refugees were being "forced to leave their homes" by the Burmese authorities despite claims that they had "valid nationality certificates and family registration cards" and had "been living . . . for generations as citizens of Burma". It was further claimed that, in all, 40,000 individuals had been uprooted and that Burmese troops had fired into Bangladesh territory while pursuing the refugees.<sup>5</sup> It was also reported that Bangladesh had lodged a protest about these occurrences with the Burmese ambassador in Dacca.<sup>6</sup>

The Government of Burma replied indirectly to these allegations, announcing a few days later that it had launched a programme to undertake a "systematic scrutiny of the people residing in the state". The programme, known as Naga Min (King Dragon), was being carried out on an experimental basis in the Rangoon and Bago Divisions and the Shan, Mon, Kayin, and Rakhine States — areas known to have sizeable immigrant populations. Between 20 March and 26 April 1978 in Buthidaung Township, Rakhine State, 19,457 people were said to have absconded upon a demand to see their citizenship or foreigner's registration certificates while legal action was being taken against 594 people, presumably as illegal immigrants. The purpose of the inspection was to ensure that people had not been issued with national registration cards rather than foreigner's registration cards or forged documents.<sup>7</sup> Given that the government implicitly admitted that it was seeking to change people's citizenship status where possible and that such programmes are often carried out under military or semi-military auspices, it is not surprising that a climate of fear and intimidation was engendered in parts of Rakhine.

In addition to the obvious distress the refugees themselves were experiencing, their flight posed serious dilemmas for the two governments

involved. Bangladesh, with its own hard-pressed economy and dense population, could hardly absorb easily an additional complement of destitute individuals. The Government of Burma, while not seeking an issue of conflict with its western neighbour, wanted to avoid accusations of religious discrimination. Given the importance of religious freedom as a plank in the regime's claim to legitimacy, the government was embarrassed by the continuing statements by Bangladesh that the refugees were fleeing barbarous torture at the hands of Buddhist elements and the Burmese military were firing across the border into refugee camps.<sup>8</sup> The threat of the conflict escalating into an international incident with the Muslim states of Asia attacking Burma for anti-Islamic policies was made clear in early May 1978 when the Dacca Government called upon the world at large to stop the evictions of the refugees and to persuade the Burmese Government to take them back.<sup>9</sup>

Initially the Government of Burma made no effort at conciliation but rather it replied in kind, accusing the Bangladesh border patrols of firing into Burma's territory.<sup>10</sup> As indicated in Table 27.1 the claims and counter-claims about the number of refugees continued for nearly two

Table 27.1  
Bangladesh-Burma Refugee Claims, April–June 1978

<i>Date</i>	<i>Number Claimed</i>	<i>Source</i>
27 April	20,000	Dacca radio
28 April	30,000	Dacca radio
30 April	19,457 (Buthidaung)	Rangoon radio
1 May	71,000	Dacca radio
5 May	85,000	Dacca radio
10 May	100,000 plus	Dacca radio
13 May	23,400 (Buthidaung)	Rangoon radio
13 May	143,000	Dacca radio
17 May	130,000	Dacca radio
18 May	35,596 (Buthidaung)	Rangoon radio
19 May	150,000	Dacca radio
24 May	175,000	Dacca radio
30 May	101,048	Rangoon radio
3 June	176,000	Dacca radio

*Sources:* British Broadcasting Corporation, *Summary of World Broadcasts*, Far Eastern Series monitoring reports.

months. During this time the Dacca authorities made progressively wide appeals for international assistance, including that to the United Nations Secretary-General.<sup>11</sup> By mid-May 1978 reports from India and Bangladesh began to appear in the world's press,<sup>12</sup> which made clear the differing attitudes of the two governments toward the refugees, and the fact that neither wished to take ultimate responsibility for them. Bangladesh claimed that they had been residents of Burma for generations and therefore could not be accepted into its territory permanently while the Government of Burma insisted that they had fled illegally into Burma at the time of the 1971 civil war in Pakistan that led to the creation of Bangladesh, and therefore were recent and illegal immigrants. Burma announced that it would accept responsibility for its legal residents regardless of their origins, and claimed that they were being influenced by irresponsible and illegal political forces in Rakhine, possibly groups like the Rohingya leaders.

While Bangladesh was never accused of fomenting the trouble in Rakhine, Burmese officials were aware of the political problems as well as the opportunity that the situation of fellow Muslims presented for Dacca. It became clear that the Dacca authorities were combining their protests about the refugees with an appeal for increased economic assistance from the wealthy Arab states, especially Saudi Arabia and Libya. By mid-May 1978 the Bangladesh spokesmen were going so far as to accuse Burma of committing genocide against a "Muslim ethnic minority".<sup>13</sup> Their campaign had some success, indicated by the fact that the Governments of Pakistan and Malaysia issued statements emphasizing their desire for a peaceful settlement to the problem, though not taking side in the matter.<sup>14</sup>

Although the Government of Burma usually avoids discussing its internal affairs publicly, it replied to these claims again at the end of May 1978, reiterating that there was no religious persecution involved in what was merely a process of clarifying the legal status of residents in various parts of Burma. It explained the large exodus as the outcome of a sizeable migration of illegal immigrants in 1971/72. The government claimed that the problem was limited to the two townships of Buthidaung and Maungdaw; in neither of these had the majority of legal Muslim residents elected to flee.<sup>15</sup>

As the crisis deepened, the Government of Burma apparently felt it necessary to negotiate a settlement to stem the international and domestic damage. By early June 1978 more statements from Islamic sources were condemning the Government of Burma. For example, Saudi Arabia was

making its interest in the plight of the refugees clear.<sup>16</sup> However, the Islamic Council made a grant of only US\$500,000 for refugee relief.<sup>17</sup>

On 6 June 1978 Rangoon received a Bangladesh delegation to reopen negotiations on the problem. Upon its return to Dacca the delegation claimed that a solution had been reached involving the repatriation of the refugees to Burma. For its part, the Government of Burma had achieved one of its goals: an agreement to rectify the demarcation of the border between the two states which had allowed for the counter-claims of firing into each other's territory.<sup>18</sup> The tentative agreement reached at this time was doubtless assisted by the fact that the United Nations High Commissioner for Refugees (UNHCR) had by now become involved in the issue as a third, non-participant party and that the Government of Japan had offered a grant to the UNHCR of US\$1.3 million to aid the refugees.<sup>19</sup>

A further three days of negotiations between the Governments of Burma and Bangladesh were held in early July 1978 in Dacca before final agreements were reached on the repatriation of the residents of Burma as well as the demarcation of the border.<sup>20</sup> Burma agreed to accept back all those who possessed valid Burmese national registration certificates and foreigner's registration certificates, together with their families. At the same time, as the Burmese authorities underlined, the demarcation of the border would assist in putting a stop to any further illegal immigration into Rakhine.<sup>21</sup> Border negotiations between the two governments began at the end of July 1978.<sup>22</sup>

The first group of 200 refugees was accepted back into Burma at the end of August 1978 under the auspices of the UNHCR. Called Operation Hintha by the Government of Burma, the arrangements for the reception of the returnees included two stages. In the first stage those people whose names had been sent by Burma to Bangladesh would be received. In the second stage all those with proof of legal residence would be accepted back from the refugee camps.<sup>23</sup> The pace of the return was extremely slow; of the total of 187,197 refugees who eventually returned, Burma acknowledged that only 165 returned in the first month of Operation Hintha.<sup>24</sup>

As a result, apparently under pressure from Bangladesh, new procedures were negotiated between the two governments in early October 1978. Henceforth it was agreed that Burma would receive back a total of 2,000 refugees at ten separate receiving stations every three days. The legal basis for acceptance would be lists provided by the Government of Bangladesh of those holding valid Burmese national registration certifi-

cates.<sup>25</sup> In other words, Burma was forced to concede the Bangladesh claim about the status of the refugees. Still, repatriation proceeded very slowly in October 1978, although careful preparations were being made in Burma to receive the refugees back in their original areas with adequate supplies of food, agricultural equipment, and household goods until they could re-establish their homes.<sup>26</sup> As Table 27.2 indicates, the pace of repatriation increased from then on but it was still over eighteen months after the crisis arose before the last of the refugees returned to Rakhine. The return was made easier and the government's goodwill toward the refugees made clear

Table 27.2  
Bangladesh-Burma Repatriation Claims, August 1978–December 1979

<i>Date</i>	<i>Number Claimed</i>	<i>Source</i>
31 August 1978	200	Dacca radio
26 September	165	Rangoon radio
25 October	448	Rangoon radio
9 November	4,756	Rangoon radio
26 November	12,405	Rangoon radio
10 December	20,459	Rangoon radio
11 December	22,858	Rangoon radio
17 January 1979	about 50,000	Rangoon radio
19 January	51,548	Rangoon radio
31 January	60,803	Rangoon radio
13 February	67,800	Dacca radio
22 February	77,474	Rangoon radio
8 March	89,771	Rangoon radio
20 March	about 100,000	Dacca radio
23 March	101,592	Rangoon radio
1 April	108,955	Rangoon radio
1 May	131,268	Rangoon radio
7 May	138,781	Rangoon radio
23 May	151,000	Dacca radio
25 May	143,364	Rangoon radio
31 May	154,800	Rangoon radio
1 June	150,000	Rangoon radio
12 November	180,000	Rangoon radio
30 December	187,197	Dacca radio

*Sources:* British Broadcasting Corporation, *Summary of World Broadcasts*, Far Eastern Series monitoring reports.



by the grant in November 1978 of several hundred thousand kyats for the construction of 25 mosques, 13 schools, 20 ponds, and 15 bridges in the returnees' townships.<sup>27</sup>

While the process of repatriation continued, the two governments worked to restore good relations and to settle the boundary issue that had become manifest during the refugee crisis. High-level delegations were exchanged, with a special delegate of the President of Bangladesh visiting Rangoon in early May 1979<sup>28</sup> and the President of Burma visiting Dacca for three days later in the same month. During the latter meeting a land border agreement was signed.<sup>29</sup> Another agreement was signed between the two governments, completing the repatriation process and beginning the field-work to finalize border demarcation in November 1979.<sup>30</sup> The solution to this problem in the end proved satisfactory to both governments. Since 1979 there have been at least ten high-level exchanges between the two governments with no signs of serious disagreement between them. From the point of view of the Government of Burma, all issues in the region should be solved in such an amicable manner.<sup>31</sup> In May 1983, at what were described as "fruitful meetings", the two governments exchanged often identical views on international problems while congratulating each other on establishing a peaceful border region.<sup>32</sup>

Although the conclusion of the Rakhine refugee affair by December 1979 was in many ways satisfactory to the Government of Burma, it is not known how the residents of the area, whether of Indian or non-Indian descent, viewed the situation. Certainly anti-government forces in and outside Burma tried to keep the issue alive. In 1980, the Burma Communist Party, the major internal opponent of the regime, attacked the government for its allegedly "divisive, criminal and oppressive policies" in Rakhine State.<sup>33</sup> In 1982 a man claiming to be a leader of 2,000 Burma Muslim guerrillas then said to be fighting the government alleged in Iran that the government had usurped Muslim properties and closed schools and religious foundations.<sup>34</sup> While it is true that the government has nationalized all major economic enterprises and schools throughout the country as part of its socialist programme, no official attack on religious institutions has ever been confirmed. From the government's perspective, the return of the refugees from Bangladesh in the numbers insisted upon by the Dacca authorities has to be weighed against the advantages of the increased border security that has resulted. It has become very much more difficult for illegal immigrants to cross into Rakhine.

## **1982 Burma Citizenship Law**

The uncertainty about residence rights and citizenship that exists in the minds of many Indian-descended individuals in Burma was clearly underscored by the Rakhine refugee problem. In an apparent effort to clarify this situation, the government began in December 1978 a process of legal rectification. However, the subsequent 1982 Citizenship Law has done little to decrease the level of anxiety. Aware of the confusion that the citizenship situation has created, especially in regard to the administration of the law, an official press announcement of 31 March 1979 stated:

It has been learned that the Immigration and Manpower Department of the Ministry of Home and Religious Affairs is inquiring of foreigners residing in Burma if they wish to become Burmese citizens or not. The department has sent letters since the beginning of December 1978, to each and every foreigner in Burma who is carrying a foreigner's registration card. The letters are sent out because of changes in procedure in applying for citizenship under the 1948 Union of Burma Citizenship Act and there were also complications in the scrutinization of applications at various levels resulting in a delay of ten to fifteen years.

Letters were sent out to the foreigners who have been residing in Burma continuously for at least five years, who are at least eighteen years old and who have paid foreigner registration fees yearly, who are living in accordance with the rules laid down for foreigners and who have registered legally with the officer of the Immigration and Manpower Department. However, it has been learned that some of the foreigners, although they are qualified, have not received a letter for some reason. Hence they are now required to go to the Township People's Council offices in their areas and fill out the form expressing their wish to become citizens or not, by 30 June 1979. The necessary forms have been sent to the Township People's Council offices. Foreigners who do not have Foreigner's Registration Cards even though they are eighteen years old and who are doubtful about their status, may also report to their Township People's Council offices and fill out the form, expressing their wishes.

It is learned that foreigners who have already applied for citizenship under prevailing laws must express their wish at the Township People's Council offices without fail. The Township

People's Council will study their wishes — if they wish to remain as foreigners in Burma or if they wish to become citizens — and send the forms to the Ministry of Home and Religious Affairs through the State and Division People's Councils by the set date. The Ministry will then consider the wishes of the individual foreigners who want to become citizens and make decisions in accordance with the 1948 Union of Burma Citizenship Act. As for those who wish to remain here as foreigners, they will be permitted to do so under the 1940 Foreigners Registration Act. Foreigners who are not clear about the procedure regarding expressing their wishes may enquire at the Township People's Council offices or the Township Immigration and Manpower Department offices.<sup>35</sup>

Unclear as it was in many respects, this announcement specified that there had been no change in the procedure for determining one's citizenship status in Burma since 1948 other than the replacement of appointed District Magistrates by the newly formed elected Township People's Councils as the instrument through which one applied for citizenship. The implied administrative muddle of the previous twenty years, including delays of ten to fifteen years in the processing of papers, is the clearest fact emerging from the statement. It was this situation that was to be altered by the repeal of the 1948 Citizenship Act and its replacement by the 1982 Burma Citizenship Law.

The 1982 Burma Citizenship Law is intended to clarify the legal position of the officially estimated four per cent of the population of Burma who are of Indian and Chinese descent, whether or not they are citizens.<sup>36</sup> However, the ethnic descent of the population is very complex and it is difficult to believe that many individuals who consider themselves and are considered by the government as 'pure' indigenes are not themselves partially Chinese or Indian in origin. Large areas, especially of lower Burma, received large population migrations during the colonial period and the ethnic origins of many persons from these areas are mixed.

The 1982 Burma Citizenship Law replaced the acts introduced at the time of independence in 1948 which were intended to make it possible under the provisions of the 1947 Constitution for Indians and Chinese either to acquire Burmese citizenship or to declare their allegiance to the lands of their or their parents' origins. Section 11 of the 1947 Constitution of Burma specified that citizenship was granted to:

- (i) every person, both of whose parents belong or belonged to any of the indigenous races of Burma;
- (ii) every person born in any of the territories included within the Union, at least one of whose grandparents belongs or belonged to any of the indigenous races of Burma;
- (iii) every person born in any of the territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizens of the Union; and
- (iv) every person who was born in any of the territories which at the time of his birth was included within his Britannic Majesty's dominions and who has resided in any of the territories included within the Union for a period of not less than eight years in the ten years immediately preceding the date of the commencement of this Constitution or immediately preceding 1 January 1942 and who intends to reside permanently therein and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law.

The Union Citizenship Act of 1948 specified that the phrase "any of the indigenous races of Burma" meant the "Arakanese, Burmese, Chin, Kachin, Karen, Kayah, Mon or Shan race and such racial groups as have settled in any of the territories included within the Union as their permanent home from a period anterior to 1823 AD (1185 BE)". Under this Act all persons who qualified under sections (i), (ii), and (iii) quoted above were automatically citizens of Burma at the time of independence. Those who fell into the fourth section, primarily Indians who had not been permanent residents before World War II but were either recent migrants or itinerant workers, had to declare their desire by 1950 to become citizens of Burma under the second Act passed in 1948, the Union Citizenship (Election) Act. Under the Union Citizenship Act, if there was any doubt as to whether a person had the right to automatic citizenship under sections (i), (ii), or (iii) of Paragraph 11 of the Constitution, the Minister responsible (the Home Minister) had it within his power to decide on the basis of a recommendation to him by a District Magistrate.

Under the conditions set forth in the Union Citizenship (Election) Act, individuals who fell under the conditions outlined in Paragraph 11, section (iv) of the 1947 Constitution had to apply by 30 April 1950 to the

Deputy Commissioner of the township in which he or she resided and declare an intention to remain permanently in Burma. The application was then forwarded up through the bureaucracy to the Minister for decision.

The necessity for new legislation to deal with citizenship became apparent in the mid-1970s when the muddle that then existed with regard to applications made under subsequent amendments to this legislation became apparent as well as the fact that the 1947 Constitution had been null and void since 1962.<sup>37</sup>

While these legal and administrative reasons were sufficient grounds for the introduction of new legislation, political concerns were also present, as was made clear in a speech by the Party Chairman and then President of Burma, U Ne Win, at the 11 December 1979 meeting of the Burma Socialist Programme Central Committee. In his speech he contended that the security of the state required that distinctions be drawn among the residents of Burma. There were three kinds of persons residing in Burma: genuine Burmese; persons of mixed blood, that is, Burmese and Indian and/or Chinese; and those allowed to come into the country, that is, Indians or Chinese. Because of their mixed parentage, the descendants of alien-Burmese unions, like full aliens, could not “be fully trusted” because of their alleged foreign contacts and possible external economic or political interests.<sup>38</sup>

This view, a long-standing one in governing circles in Burma, was incorporated into the 1974 Constitution. The 1974 Constitution indicates in Chapter XI, Article 145, that

- (a) All persons born of parents both of whom are nationals of the Socialist Republic of the Union of Burma are citizens of the Union.
- (b) Persons who are vested with citizenship according to existing laws on the date this Constitution comes into force are also citizens.

While the Constitution grants equal rights to all citizens of the country, Chapter XII, Article 177, Paragraph (a) draws a distinction between the political rights of citizens differentiated in Article 145 quoted above, for only those citizens “born of parents both of whom are also citizens” can be elected to the national legislature, the Pyithu Hluttaw, or the lower-level state organs of power, the various levels of the People’s Councils. In effect, the Constitution draws a distinction between those who became citizens more than a generation back and those who did not. The 1982 Citizenship Law then underscores this by giving a legal criterion of the distinction.

The 1982 Burma Citizenship Law was drafted by the Burma Law Commission, appointed by the Council of State in 1977. As is now standard practice in regard to major pieces of legislation, the Law Commission toured the country with a draft for discussion in meetings of citizens, to solicit their advice. The draft was then discussed by the Chairman of the Burma Socialist Programme Party at the 1979 Central Committee meeting and returned to the Law Commission for further revision and once more submitted to mass meetings for advice. In its report the Law Commission indicated that it had received 37,186 suggestions from the people. A draft of the revised law was circulated in April 1982 throughout the country via the national newspapers to seek further advice and views from the people.<sup>39</sup>

In discussing the revised draft Citizenship Law the Party Chairman, U Ne Win, said at the Party's Central Committee meeting of 8 October 1982 that there were four kinds of persons living in Burma at the time of independence: nationals, guests, the children of marriages of guests and nationals, and the children of guests and guests. (By guests, he meant Chinese and Indians.) Since independence, the Party Chairman noted, further immigration of guests had taken place. Because of the confusion that surrounded the positions of the guests in the country who were "living in panic because most of them have no definite status", the new legislation was necessary in order to clarify their situation as well as defend the security of the state.<sup>40</sup>

Whereas the previous legislation, had it been effectively applied, would have resulted in a final and equal form of citizenship for everyone in the country immediately upon its being granted, the latest legislation indicates that there are three categories of citizenship. Full citizens, the first category, are 'nationals' who are the descendants of residents of the country before 1823, that is, like the indigenous races referred to in the 1947 Constitution and the 1948 legislation; citizens at the time the legislation came into force; or persons who are born of parents, either one or both of whom were citizens at the time of birth. A second category of citizens, known as 'associate citizens', consists of persons who "apply for citizenship under the Union Citizenship Act, 1948", which had been superseded by the new Act. Apparently what is meant is that all those granted citizenship after independence are associate citizens, though the precise meaning is far from clear. The third category of citizens created comprises naturalized citizens. The procedures for new applicants for citizenship are outlined in a fairly conventional pattern similar to the citizenship laws of many other countries.

After three generations all descendants of associate or naturalized citizens will be considered full citizens.

The administration of the law is placed in the hands of a Central Body composed of the Minister of Home Affairs as Chairman, with the Ministers of Defence and Foreign Affairs as members, clearly reflecting the concern for state security underlying the new legislation. The Central Body has wide authority, including the power to decide an individual's class of citizenship and the granting or revoking of any form of citizenship. In placing ultimate power in the hands of the Ministers the legislation is not unlike the superseded 1948 Acts, although bureaucratically more cumbersome for being collective.<sup>41</sup>

The 1982 legislation had been criticized both inside and outside Burma for its allegedly racist features. The Burma Communist Party condemned it as an act of racial bigotry, a "narrow-minded, bourgeois and racist manifesto".<sup>42</sup> Some Indians and Chinese in Burma are known to have expressed anxiety about their status as have others who are aware of their mixed origins. However, for most people the legislation has made little difference. Those without citizenship, either legal or illegal foreign residents, are not concerned about the new law as it does not change their status at all. Those excluded from full citizenship are aware that the decisions taken on their status are political and not racial in nature. As all power of decision rests with the Ministers on the recommendation of their subordinates, there is relatively little an individual can do but to use whatever personal influence he or she may have to effect a favourable decision. As under the previous arrangements, the poor and the illiterate will face the greatest barriers to citizenship for themselves and their children.

## **Conclusion**

Both the issue of the Rakhine refugees and the 1982 Burma Citizenship Law illustrate the decline in the power and privileges of the Indian community in Burma since 1962. The previously relatively liberal citizenship legislation passed in 1948 had been possible because of the political power that wealthy Indians had had under the British and parliamentary democratic political orders. Since 1962 power has been concentrated in the hands of the army and the Burmese Socialist Programme Party, institutions in which the Indian community has had no influence, but which express most clearly the ideology of Burmese nationalism.

Individuals of Indian descent who wish to advance in Burma now

must assimilate to the norms and standards of Burmese society. The impossibility of future large-scale immigration and the absence of foreign contacts as well as the pressures of the citizenship law will result in the final absorption of the remaining Indians into Burmese society. The religions of Indian immigrants will continue to be practised but other cultural forms will most likely be amalgamated into Burma culture. The end of Indian political power in Burma after 1962 has therefore meant, on the one hand, the atomization of this community and, on the other, the security of their descendants. It is difficult to imagine that anti-Indian riots such as those that occurred in Burma in the 1930s will ever recur because the Indian community no longer poses a threat to the indigenous nature of Burma.

## NOTES

- \* The terms Burma and Rangoon were replaced in 1989 by Myanmar and Yangon respectively.
1. John F. Cady, *A History of Modern Burma* (Ithaca: Cornell University Press, 1958), pp. 67–73.
  2. Hugh Tinker, *The Union of Burma*, 4th ed. (London: Oxford University Press, 1967), pp. 34, 47, 54, 68, and 357.
  3. *Pyihtauagsu ei T5ingy7nth5 Lumy8tamy8 hpyit thow 'Rohingya Lumy8su' ei Yasawin Aky7chok* [A short history of the 'Rohingyas', an indigenous race of the Union of Burma] (Rangoon: United Rohingyas Organization, 1960).
  4. British Broadcasting Corporation, *Summary of World Broadcasts*, Far Eastern Series FE/5789/A3/4.
  5. *Ibid.*, FE/5800/A3/1.
  6. *Ibid.*, FE/5801/A3/2.
  7. *Ibid.*, FE/5802/A3/1–3.
  8. *Ibid.*, FE/5803/A3/3; FE/5802/A3/3.
  9. *Ibid.*, FE/5809/A3/3.
  10. *Ibid.*, FE/5807/A3/5–7.
  11. *Ibid.*, FE/5812/A3/5.
  12. For example, Ranjan Gupta, "Burma, Bangladesh in migrant row", *Sydney Morning Herald*, 13 May 1978; Alamgir Hohiuddin, "Refugee influx hinders Dacca's Burma diplomacy", *The Australian*, 13 May 1978.
  13. British Broadcasting Corporation, *Summary of World Broadcasts*, FE/5814/A3/3.



14. Ibid., FE/5820/A3/8–9.
15. Ibid., FE/5828/A3/5–7.
16. Ibid., FE/5839/A4/1.
17. Ibid., FE/5833/A3/5.
18. Ibid., FE/5836/A3/12.
19. Ibid., FE/5852/A3/4.
20. Ibid., FE/5861/A3/1.
21. Ibid., FE/5863/A3/8.
22. Ibid., FE/5876/A3/13.
23. Ibid., FE/5906/A3/11–12.
24. Ibid., FE/5928/A3/10.
25. Ibid., FE/5940/A3/7.
26. Ibid., FE/5957/A3/6.
27. Ibid., FE/5977/A3/7.
28. Ibid., FE/6118/A3/12.
29. Ibid., FE/6125/A3/5.
30. Ibid., FE/6273/A3/13.
31. See Robert H. Taylor, “Burma’s Foreign Relations Since the Third Indochina Conflict”, in *Southeast Asian Affairs 1983* (Singapore: Institute of Southeast Asian Studies, 1983), pp. 102–12.
32. British Broadcasting Corporation, *Summary of World Broadcasts*, FE/7334/A3/7.
33. Ibid., FE/6600/B/1.
34. Ibid., FE/6957/B/1.
35. Ibid., FE/6084/B/1–2.
36. Paisal Sricharatchanya, “Some Are More Equal”, *Far Eastern Economic Review*, 8 October 1982.
37. For a fuller discussion see S.L. Varma, *The Law Relating to Foreigners and Citizenship in Burma*, 2nd ed. (Rangoon: Zabudipa Trading Co., 1961).
38. British Broadcasting Corporation, *Summary of World Broadcasts*, FE/6298/B/1–2.
39. *Working People’s Daily*, 21 April 1982.
40. British Broadcasting Corporation, *Summary of World Broadcasts*, FE/7156/B/1.
41. *Working People’s Daily*, 16 October 1982.
42. British Broadcasting Corporation, *Summary of World Broadcasts*, FE/7053/B/1–3; FE/7167/B/1–2.