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## Rohingya Ethnic Muslim Minority and the 1982 Citizenship Law in Burma

MD. MAHBUBUL HAQUE

### *Abstract*

*The Rohingyas have experienced difficulties in obtaining citizenship since the enactment of the 1982 Citizenship Law in Burma. From the beginning of Burmese independence, their separate identity was recognized by the then democratic government of Premier U Nu (1948–1962). Their situation worsened after the military takeover in 1962 leaving them subject to humiliating restrictions and harsh treatment by the State. However, the Burmese 1982 Citizenship Law institutionalized the Rohingyas statelessness. This paper argues that despite all evidence as indigenous people of Arakan, the ethnic Muslim minority Rohingyas are arbitrarily deprived of their citizenship. The Burmese are adamant that the Rohingyas are Bengalis regardless of their residency history, and therefore belong in Bangladesh. Their Islamic religion and Indo-Aryan appearance do not conform with the “Burmese citizenship standard”. In this context, Burma/Myanmar citizenship law fails to meet the international standard. Rohingya ancestry related documents prove that the government enacted the new law simply to deny the Rohingya identity.*

### Introduction

The Rohingya people of Burma<sup>1</sup> are an ethnic group existing in a state of national limbo. They are one of a number of severely affected communities living under a quasi-democratic regime in a country where human rights abuse and suffering is common. The Rohingyas have been denied Burmese nationality by the 1982 Citizenship Law. That law was created in the name of indigenous ethnicity to deny nationality to the Rohingyas. Many international actors believe that due to this lack of legal status, the Rohingyas have become stateless in their ancestors' land of Burma. This article explores key areas of the Rohingya citizenship question in Burma.

Firstly, this paper will examine the 1982 Citizenship Law, how it arbitrarily deprives the Rohingyas nationality and also fails to meet the international standard of right to nationality. Secondly, it will present various documentary evidences of a Rohingya presence in Burma since the independent Arakan kingdom. These evidences witness that Rohingyas are one of the indigenous groups of people in Arakan as well as of the current nation-state of Burma. Despite international community pressure, the Myanmar government repeatedly denies the Rohingyas identity and their citizenship status. Moreover, after mid-2012 communal riots, the Union and State government applied various policies against the

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Rohingyas in an effort to expel the whole community either to Bangladesh or any third countries for re-settlement.

### **Methodology**

This research article mainly focuses on two areas of interest: (a) examine the 1982 Citizenship Law which is based on indigenous ethnic identity and (b) explore the evidences of the long presence of the Rohingya in present nation-state of Burma. The nature of this research required an intensive review of the 1982 Citizenship Law and relevant documents of the Rohingyas' ancestry. With this objective, the researcher collected secondary data from the field especially in the Yangon and Chittagong areas. For security challenges, it was not possible for the researcher to collect the data directly from the Rakhine State (Arakan State). This study was conducted during three rounds of field work in July 2012, June 2013 and March 2014, to collect historical evidences of Rohingya presence in the now nation-state of Burma. All these findings are based on various reports, ethnographic interviews with Rohingya and other community leaders, and then checked with previous documents.

The research findings provide an overview as to why and how the 1982 Citizenship Law has deprived the Rohingyas of nationality in Burma. For the purposes of this study, the researcher obtained archival documents witnessing the Rohingyas historical presence in Arakan. The data were collected from various sources in Yangon and Chittagong and some parts of this study are based on oral history. After that, all primary and secondary data were checked with community leaders and relevant experts on the subject.

### **The 1982 Citizenship Law in Burma**

Citizenship and nationality as terms are used interchangeably. In Burma, according to the 1982 Citizenship Law, the term "citizenship" is used. There is no universally accepted definition of nationality or citizenship. In general, most countries consider that the acquisition of nationality can be made in one of two ways: first by descent from parents who are nationals (*jus sanguinis*) and second by territorial location of birth (*jus soli*). In addition, some may be able to acquire citizenship through naturalization. It should be noted that the practice of acquiring nationality varies considerably. There are some general rules developed through various treaties and declarations. The state is the highest authority empowered to make laws on citizenship. At the same time, international law repeatedly notes the principle that no one shall be arbitrarily deprived of his or her nationality. Therefore, nationality or citizenship law should maintain the standard of international human rights law as evidenced in conventions, customs and practices. In this section, the 1982 Citizenship Law will be examined in detail. Most scholars and rights practitioners have argued that this law is the main cause of the Rohingya's plight.

#### *Background of the 1982 Citizenship Law*

The Rohingya exclusion policy started after General Ne Win seized power in a military-staged coup d'état in 1962 and became head of state as Chairman of the Union Revolutionary Council and also Prime Minister. Before, going into detailed discussion of this new law, it is necessary to understand what encouraged the military government to promulgate this law. Three main factors are believed to have contributed to the new citizenship law as described below.

First, the overall Burmese impression of Chinese and people of South Asian origin was not good. Most of the administrative posts and business sectors had been controlled either by people of Chinese or Indian origin since the colonial period. For that reason, the military regime after 1962 instigated the so-called ultra-nationalist policy in the name of “Way to Burmese Socialism”.<sup>2</sup> Many South Asian-owned properties were confiscated by the Ne Win government in the name of nationalization. In Arakan, most businesses were owned by the people of Chittagong and North India. However, after the so-called nationalization, many Chittagongians and other members of the Indian business community abandoned their properties and returned to their country of origin. These people, or their ancestors, had originally immigrated to Arakan during the British colonial period.

Second, Burmese officials and Rakhine leaders often felt that in the Muslim dominated western frontier population growth posed an alarming threat to their country’s security.<sup>3</sup> Even before the enactment of the 1982 Citizenship Law, Union Home Minister Brigadier Sein Lwin had stated in 1981, expressing his frustration, that “Burma as a country would disappear and its original identity would become museum piece if immigration officials continued to let illegal immigrants into the country and to register them as citizens in lieu of a small bribe.”<sup>4</sup> This line of thinking could explain the Burmese regime’s position as to why they excluded the Rohingya Muslims in the 1982 Citizenship Law.

Third, after operation *Naga Min* in 1978, and the first Rohingya refugee exodus,<sup>5</sup> the Burmese government realized that the 1948 Citizenship Law had failed to manage citizenship and immigration issues.<sup>6</sup> After three decades, the Government of Myanmar had recognized that all these elements were inter-related and thus it promulgated the 1982 Citizenship Law. Hence, the argument in this paper that the Myanmar Government intentionally conducted a campaign undermining the Rohingyas’ existence in Burma following operation *Naga Min* that culminated in the 1982 Citizenship Law, thus ensuring the refugee exodus that followed.

#### *Categories of Citizenship under the 1982 Law*

This section will elaborate on the 1982 Citizenship Law and how it rejected Rohingya’s right to nationality in Burma. This law is based on the principle of *jus sanguinis* and repealed the Union Citizenship Act of 1948 which was focused on how to obtain permanent citizenship. The new law of the Ne Win government concentrated on race status and tried to ensure that only pure-blooded nationals would be entitled to citizenship of Burma. This was reflected in one of Ne Win’s speeches in which he claimed, “racially, only pure-blooded nationals will be called citizens”.<sup>7</sup> The Rohingya leaders and Chris Lewa, head of the Arakan Project, a Bangkok-based NGO argue that “this law was mainly created with the aim of excluding the Rohingyas”.<sup>8</sup> As explained by Amnesty International, the 1982 law provides three categories of citizenship, each with its own identity card and it was effective in 1989 (Citizens Scrutiny Cards).<sup>9</sup> It is discussed in detail in Burma immigration procedures—1983. The whole citizenship law has 76 sections in 8 chapters. The three categories of citizenship are described in chapters 2 to 4 of the act.<sup>10</sup>

##### (A) *Full Citizenship—Pink Card Holders*

The first criterion for full citizenship is recognized nationals of Burma. Under this law Chapter II, Section 3 “Nationals such as the Kachin, Kayah, Karen, Chin, Burman,

Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from a period anterior to 1185 B.E., 1823 A.D.” The Rohingya are not recognized by this act as nationals. The Council of State has unlimited powers and as mentioned in Section 4 “may decide whether any ethnic group is national or not”.<sup>11</sup> At the same time, the Council can revoke any categories of citizenship except a citizen by birth. Section 5 states that “every national and every person born of parents, both of whom are nationals are citizens by birth”. In addition, Sections 6 and 7 provide that “a person who is already a citizen on the date this Law comes into force is a citizen”. Children born abroad to parents belonging to specified combinations of citizenship categories are also citizens. It was the first time, Rohingya identity was not mentioned in the citizenship law. Their ethnic identity was not recognized as indigenous under Section 3.

(B) *Associate Citizenship—Blue Card Holders*

Chapter III, Sections 23 to 41 set out the criteria for associate citizenship. According to Sections 23 and 24, associate citizenship will be granted under certain conditions to those who had applied for citizenship under the 1948 law and their children, and whose application was ongoing at the time of promulgation. Again, it is elaborated on in Section 30; an associate citizen is “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”. This grants the government an unlimited discretion to deprive such persons of their rights as citizens. Regarding this category, “Central Body”<sup>12</sup> can enjoy and practice unlimited power to revoke “associate citizenship” in the name of “disaffection or disloyalty to the state” or “moral turpitude”. Ethnic Muslim minority Rohingya from the Arakan State are not entitled to this associate citizenship. The “Associate Citizenship” is virtually limited to those who applied under the 1948 Citizenship Election Act as a new settler in Burma. Associate citizenship is the new version of 1948 Citizenship Election Act with few amendments.

Only a few people applied for this process after the enactment of that law in 1948. According to the 1982 law, if a person cannot give proof of residence of all ancestors prior to this date, he or she can be classified as an associate citizen if one grandfather, or pre-1823 ancestor, was a citizen of another country. Actually, these people were qualified under the 1948 Citizenship Election Act but they will no longer qualify as full citizen under this new law.<sup>13</sup> At the same time, applications for associate citizenship had to make within one year of the promulgation of the law (October 1983). For that reason, associate citizenship opportunities have already closed. Rohingya leaders in Yangon claimed that, they did not meet or fit the criteria for this category. Few people of Chittagong origin who settled in Arakan more than three generations earlier applied for associate citizenship. In addition, Rohingya leaders argued that earlier they enjoyed rights as indigenous peoples, so why does associate citizenship undermine their status.<sup>14</sup>

(C) *Naturalized Citizenship—Green Card Holders*

The criteria for naturalized citizenship are included in Chapter IV from Section 42 to 61. Naturalized citizenship may be granted to non-nationals such as members of ethnic groups not recognized as indigenous races, which specifically includes the Rohingya. However, The Rohingya leaders argued that there was no reason for them to apply for naturalized citizenship; they enjoyed full citizenship rights in the Union before the 1982 Citizenship Law. Under this category, all foreign registration card holders could

apply for naturalized citizenship. HRW notes that stateless person may also apply for this category.<sup>15</sup> According to naturalized citizenship law, a citizen must “speak well one of the national languages”, “be of good character” and “be of sound mind”. This law does not provide any criteria for establishing good character and sound mind; this would be considered by the Council of State.

Mostly Foreigners Registration Card holders apply to be naturalized citizens.<sup>16</sup> According to Section 58, the “Central Body” (Council of State) may revoke naturalized citizenship if anyone infringes any of the following provisions: trading or communicating with enemy countries or assisting the enemy countries during war; committing any act to endanger sovereignty, showing disaffection or disloyalty to the State, giving information or leaking any secret to other states, or committing any moral crime for which a sentenced of imprisonment has been imposed. The Council of State was formed during the Ne Win regime. However, the present constitution makes no reference for to this so-called “Central body”. According to the 2008 constitution, citizenship will be the responsibility of the Ministry of Immigration. At the present time, the President’s Office and Ministry of Immigration deal with citizenship matters in Burma.

### **What is the Rohingyas Status in Burma?**

According to the 1982 Citizenship Law, ethnic minority Rohingya do not qualify for full citizenship and only some meet the criteria of associate citizenship. Naturalized citizenship is the last option for Rohingya. However, the Rohingya leaders have rejected naturalized citizenship for their community, and ask instead for restoration of their full citizenship rights in Burma which they enjoyed before the enactment of this new law. Section 6 clearly states that “A person who is already a citizen on the date this Law comes into force is a citizen. Action, however, shall be taken under section 18 for infringement of the provision of that section.” Rohingya MP Shwe Maung *alias* Abdul Razak argues that:

... the above mentioned article recognizes our citizenship before the enactment of the 1982 law, the Rohingya community enjoyed citizenship rights and joined the government. But in the name of indigenous ethnicity, the Rohingya are arbitrarily denied their right to nationality in Burma.<sup>17</sup>

Section 6 of the 1982 law provides that individuals who obtained citizenship under the 1948 Act would retain their citizenship status. This was mentioned earlier in this article. This section can be interpreted to mean that those Rohingya who registered and received National Registration Cards under the 1948 Act should be entitled to retain their citizenship. In Burma, this interpretation is not easily applied to Rohingyas. Rights activist and writer, Habib Siddique argues that

those Rohingyas who held the old National Registration Cards were ordered to turn in their cards when they made an application for citizenship under the new law: many of them complained that they received neither new documents nor the old ones back.<sup>18</sup>

It is not easy for the Rohingya to provide all the necessary papers. During the “Operation *Naga Min*” between March and August 1978, more than a quarter million people crossed the Naaf River and took refuge in Bangladesh territory. During that time, Buddhist Arakanese destroyed Rohingya properties and government law and order forces took no effective action to save the Rohingyas villages.<sup>19</sup> After returning from Bangladesh, many

Rohingya could not regain their possessions or even their houses. During the field work phase of this research in Yangon, Mohammad Salim, a Rohingya small business operator stated:

I have a Pink Card but none of my family members have this card. After they returned from Bangladesh in 1994, they got White Cards. Anyway, I escaped from Rathidaung and stayed in Yangon more than decade. Now, I cannot go back to my home town and due to lack of papers my family members are not allowed to move from that place except to flee the country.<sup>20</sup>

This is not an isolated case for Rohingya Muslims in Rakhine State. All Rohingya political leaders and running MPs uphold the Bengali ethnic identity in their official papers. Union National Development Party President, Abu Tahay, shared his personal experience:

It was 1990; I submitted all the papers for getting a citizen's scrutiny card. Yes, I mentioned Rohingya ethnicity in the application form. Then, the Rangoon immigration authority verified my relevant papers and found that all evidence was fair enough to give me a "Pink Card". But I am not allowed to write "Rohingya" identity. In that circumstance, I have to state "Bengali" ethnicity. Otherwise, I have to leave the country or have to remain *de jure* stateless in my habitual residence.<sup>21</sup>

It should be noted that not all local officials are unfriendly to the Rohingya in Rakhine State. Rohingya community people claim that Rakhine officials usually harassed them. But to some extent, non-Rakhine officials sympathized with them.<sup>22</sup> Lack of proper documentation prevents many otherwise eligible candidates from applying for citizenship. Consequently, a third generation of Rohingyas are now treated as illegal migrants or "Bengali settlers" in Arakan. Rohingya leaders and Rangoon-based community people are trying to restore their indigenous identity and nationality under the Union of Burma state framework. They believe that all democratic forces support them and will help them to establish peaceful co-existence in Arakan State.

## 1982 Citizenship Law Compared with the Union Citizenship Act 1948

In this section, we shall examine and compare the major clauses of both the 1948 and 1982 citizenship laws. There are fundamental differences between these two citizenship laws. Firstly, the 1982 Citizenship Law is based on indigenous ethnic identity. The indigenous identity was not mentioned with reference to citizenship under the Union Citizenship Act 1948. Secondly, the 1982 Citizenship Law introduced a three-tier system of citizenship (full, associate, and naturalized). The Union Citizenship Act 1948 was followed by a unitary system. Indeed, the 1948 law recognized Arakan Muslim citizenship but the 1982 law completely denied Rohingya identity and citizenship.

Regarding the question of indigenous ethnicity mentioned in Section 3 of the 1982 Burma Citizenship Law, it defines indigenous ethnic groups (*Taing-Yin-Tha*) as:

Nationals such as the Kachin, Karen, Chin, Burma, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the States as their permanent home from a period anterior to 1185 B.E., 1823 A.D.

According to this law they are Burma citizens. On the other hand, Section 3 (1) of the Union Citizenship Act, 1948 (as amended up to 1960) states:

For the purposes of section 11 of the Constitution the expression “any of the indigenous races” of Burma shall mean the Arakanese, Burmese, Chin, Kachin, Karen, Kayah, Mon or Shan race and such racial group as has settled in any of the territories included within the Union as their permanent home from a period anterior to 1823 A. D. (1185 B.E.).

The Union Citizenship Act, 1948 clearly stated that the Arakanese were one of the indigenous races in Burma. That law did not refer to the “Rakhine” or “Rohingya” which explains why before the 1982 Citizenship Law, the Rohingya did not face any identity crisis in Burma. Even the Rohingya name was recognized in various government documents. However, the 1982 law used the word “Rakhine” instead of Arakanese. Rohingya leaders and rights activists argued that this was intended by the Buddhist Rakhines to exclude the Rohingya Muslims from the Burmese state framework. Moreover, the Burmese central authority and Rakhine State government claim that Arakanese and Rakhine are synonymous. But historical documents do not show the evidence on which the Rakhine leaders’ arguments are based.

### **Right to Nationality under the Human Rights Discourse**

Since the rise of the nation-state in the eighteenth century, the right to nationality has, in practice, become integral to the enjoyment of almost all other rights. In 1923, the Permanent Court of International Justice stated that laws and practices of citizenship must comply with the principle of international law.<sup>23</sup> Regarding citizenship, state sovereignty is not the merely supreme authority. It should match with the substance of international law. Convention on Certain Questions Relating to the Conflict of Nationality Laws in 1930s under the General Principle, Article-1 states

it is for each State to determine under its own law who are the nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality.<sup>24</sup>

In addition, the Convention’s preamble adds that it is in the general interest of the international community to secure all its members and recognize that every person should have a nationality. This principle was later also reflected on the UDHR as well as other UN human rights treaties and conventions.

The right to nationality is highlighted in various international human rights laws. Firstly, it was introduced in the Universal Declaration of Human Rights (UDHR). Article 15 (1) which points out that “everyone has the right to a nationality” and in clause (2) that “no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”.<sup>25</sup> Although, UDHR is not a legally binding treaty most States uphold its spirit and it is treated as customary international law. This is a general understanding that nation-states must abide the rules and regulations of international human rights laws but today, many Asian countries have politicized their nationality and citizenship laws and thereby frequently violate the essence of this right to nationality.

There are numerous UN human rights treaties articulating the right to nationality such as: International Covenant on Civil and Political Rights, 1966 [Article 24 (3)]<sup>26</sup>; UN Convention on the Elimination of All Forms of Racial Discrimination, 1965 [Article 5 (d) (iii)]<sup>27</sup>; UN Convention on the Elimination of All Forms of Discrimination against Women, 1979 [Article 9]; and UN Convention on the Rights of the Child, 1989

[Article 7 (1)].<sup>28</sup> The latter states that, “the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parent”.<sup>29</sup> Most states signatories have ratified this convention except for the U.S. and Somalia. It should be noted that, Burma is a state party to several UN human rights treaties, namely CEDAW, CRC and UN Convention on the Rights of Persons with Disabilities. Therefore, it can be said that Burma has a legal obligation to implement these treaties in their national context.

### *Rohingya Presence in Burma from a Historical Perspective*

The 1982 Citizenship Law denied the Rohingya identity in the name of indigenous ethnic group. In this section, we will provide the supporting facts and figures related to Rohingya’s long presence in their ancestors’ land of Arakan, which is now officially called the Rakhine State. The Rohingya Muslims from Arakan, who are ethnically closer to Bangladeshi Muslims, have now become *de jure* stateless in Burma. Despite the argument of the current Government of the Union of Myanmar that the Rohingyas are Bengalis, they themselves claim to have their roots in Arakan, the northern part of today’s Rakhine State in Myanmar. Policy makers, academics, rights practitioners and other international actors firmly believe that the question of citizenship is the root cause of the Rohingya problem in Burma. In order to establish this we will examine below the colonial census reports, official documents, Burmese government papers, academic articles and historical evidences of the Rohingya presence in Arakan from pre-colonial days to until today’s parliament and its House of Representatives, *Pyithu Hluttaw*.

### *The Name Rohingya—Its Origin and Existence*

The name “Rohingya” became prominent after the enactment of the 1982 Citizenship Law. That law rejected the name Rohingya in reference to any indigenous ethnic group in Burma. From the Myanmar government’s side, Rohingya is presented in two ways. Firstly, the term “Rohingya” did not exist before the 1950s and was made up by some Bengali intellectuals. Secondly, Bengali illegal immigrants in Rakhine State tried to establish their indigenous identity using the name Rohingya. Up until 1962, the Rohingya Muslim people of the western frontier faced no identity problem in Burma. This was highlighted when the 1982 Citizenship Law was drafted on the basis of so-called indigenous ethnicity. That law did not accept the Rohingya as an ethnic group that existed in Burma before British colonization.

This study has researched on the word “Rohingya” and its interpretation. Historian Khanungo stated in his book *History of Chittagong* that the term “Rohang/Roang/Roshang” is an old Arakan name. Shah Aloal, a celebrity poet in the Arakan Royal Court during the seventeenth century, noted that, “Mrauk U king dynasty mentioned the country as the Kingdom of Roshang/Rosango.”<sup>30</sup> Bengali literature flourished in Roshang or Arakan Royal Court during the seventeenth century.<sup>31</sup> This makes it clear that the Roshang Royal Court in Arakan was not invented in recent times. Moreover, it can be said that Roshang and Bengal have long been related since the ancient period.

The present form “Rohingya” comes from the name of the country “Rohang/Roang/Roshang” or derives from the word “Roshangee/Roin” all meaning inhabitants of Rohang. In medieval Bengali works and Rennell’s map the name is written as Roshang.<sup>32</sup> A Rohingya activist explained during the discussion in Chittagong that the

term “Rohangya” is a combination of two words, Rohang and Ya (Rohang + Ya) that refers to the people of Rohang. When speaking of both Rohingya Muslims and Bengali, when they want to identify a person by his or her region, they add “Ya” after the name of that region. In this way, to identify the people of Rohang they use Rohang-ya which later changed slightly to Rohingya.

Rohingya leaders and scholars have confirmed this. Both Rohingya and Rakhine chronicles use similar derivatives regarding the name of Arakan. Rakhine chronicles mentioned that it was derived from Rakkasa, Rakhitta, Arrca, Rakka, Rakha and Rakhain and Rohingya claims that it was derived from Rokon, Al-Rokon and Arakan. The controversy is that Rakhine believed the name is derived from Pali (a branch of the Indo-Aryan language group) while Muslims are convinced that it is of Arabic origin.<sup>33</sup>

On the other hand, the Myanmar government and Rakhine documents have tried to refute the Rohingya claim and have rejected their existence in Arakan. The Myanmar government published the Rakhine Commission Report in 2013 which discusses in detail “the issue related to the term Rohingya”.<sup>34</sup> The first line of that report makes clear that “Rakhine history records close interactions between Rakhine people and Muslim Bengalis. The more powerful Rakhine kings had suzerainty over 12 regions in Bengal, including the Chittagong region.”<sup>35</sup> This statement acknowledges the close geographical and political relationship between Arakan and Bengal from ancient times. The next section (10.2) of the report comments:

In the British colonial period, Bengali migrant workers from Chittagong came to work agricultural land in the Rakhine region around Butheetaung and Maungdaw but moved between Bengal and Rakhine according to the seasons. Bengalis living in the south of Chittagong called the Rakhine region at the time “*Rohin Maloke*” in their dialect with *Rohin* meaning Rakhine and *Maloke* meaning country in that dialect. This is the root of the word Rohingya, with the “*gya*” meaning, “going to live.” Thus, “Rohingya” was not the name of a distinct race or people.<sup>36</sup>

This report sought not to recognize the Rohingya’s ethnic identity in present-day Rakhine State. Moreover, it tried to suggest that Bengali migrant workers often came to the Rakhine region for agricultural work. They were all from southern Chittagong and called the region *Rohin Maloke*. It is nothing to do with the name of any race. In fact, it is an old argument made by the Burmese/Myanmar central government as well as the Rakhine State government that there is no race or ethnic implication attached to the name “Rohingya”.

Rakhine and other Burmese leaders often raise the question as to why the Muslims of Arakan did not call themselves Rohingya at the time of Burmese independence. In addition, Rakhine leaders have claimed that Arakanese and Buddhism are synonymous and that the Rohingya are outsiders who have nothing related to the word Arakan/Arakanese. Rohingya Solidarity Organization-President Mohammad Yunus responded, saying:

... after independence when Burmese politics was developed based on ethnicity and questions arose about our identity. During that time some influential groups accused that we are Bengalese. Then our leaders stressed that we are Rohingya, the original inhabitants of Rohang, the old name of Arakan, and not immigrants from Chittagong.<sup>37</sup>

However, the ethnic Arakanese Muslims were divided over the use of this term along political differences. Some preferred “Rohingya” whereas others preferred to use the

term “Arakanese Muslim”. Subsequently, all Arakanese Muslims chose their ethnic name as “Rohingya” instead of “Arakanese Muslim”.

From the above discussion, it is clear that some Muslim groups were living in Arakan State before the Burmese and British colonization. One point of agreement is that Rohingya inhabitants of Arakan are one of the major Muslims groups in Burma and entirely different ethnically from other Muslims. They have a long history and have been involved in different political processes in Arakan since ancient times. Their indivisible identity was not questioned before the enactment of the 1982 Citizenship Law. Interviews and various statements made by Rakhine leaders provide support that the Rohingya have a strong attachment to Arakan. Discussion with Arakanese communities leads to the conclusion that the identity of Rohingya rests on the fact that they were inhabitants of “Rohang”—the ancient name of Arakan.

#### *Rohingyas Presence in Arakan during Pre-Colonial and Colonial Periods*

There is substantial evidence that Rohingya Muslims are an integral part of the present Rakhine State. Burmese and Rakhine accounts argue that no more ethnic groups exist in the name of “Rohingya” in the present Rakhine state. The Rakhine and Burmese both agree that many Bengali inhabitants settled in Rakhine State during the colonial period. For that reason, so-called Rohingya people cannot claim indigenous ethnicity in Burma today. Therefore, it is essential to explore the Rohingya presence in Burma from an historical perspective.

Geographically, Arakan is at the junction of South and Southeast Asia. The whole of Arakan is home to two major ethnic groups: Rakhine Buddhists and Rohingya Muslims. The majority is Rakhine or *Magh*,<sup>38</sup> of Mongoloid descent whose ancestors might have immigrated from the Magadha region of India.<sup>39</sup> The Rakhines are followers of Theravada Buddhism and ethnically close to the Burman. A. Wantanasombt examines how Arakanese Buddhist identities have merged with the majority Burman in today’s Burma.<sup>40</sup> He argues that Arakan or Rakhine state was annexed as a part of Burma in 1785. During this transformation period, there was resistance from local Arakan people. With time, the Arakanese blended in and mixed with the Burmese until they became one and the same. This was possible due to the two groups having the same religion, Theravada Buddhism.<sup>41</sup>

The Rohingya are the other major ethnic group who are predominantly Muslim and living in Northern Arakan. The Muslims of Arakan—Rohingya trace their ancestry to ancient Indian people of the Chandra dynasty of Arakan as well as to Arabs, Turks, Persians, Bengalis and some Indo-Mongoloid people. Thus, ethnic Rohingya evolved from different ethnic backgrounds over the centuries. Culturally and religiously, they are related to the people of South-eastern Bangladesh. So that is why Clive J. Christie stated “in the course of the untidy evolution of modern history, many communities in these regions have found themselves ‘trapped’ on the ‘wrong’ side of the nation-state frontiers that have been created”.<sup>42</sup>

#### **The Language of Burma and its Dialects**

Francis Buchanan stated that there were three dialects spoken in Burma, all derived from the Hindi language. “The first is that spoken by the Mohammedans, who have long settled in Arakan and who call themselves Rooinga or natives of Arakan.”<sup>43</sup> This argument was also cited in Michael W. Charney’s article.<sup>44</sup> In terms of language, Rohingya

and Rakhine reflect two completely different trends. Even the original names of Rohingya and Rakhine indicate that they were derived from Arabic and Pali languages respectively.<sup>45</sup> Henry G. Bell provides details about the race, culture and religion in the early days of the Arakan as follows:

... the native of Arracan proper call their country Yekein; the Hindoos of Bengal, Rossaun. The latter, who have settled in great numbers in Arracan are dominated by the original inhabitants KulawYekein or unnaturalised Arracaners. The Moguls know this country by the name of Rakhang and the Mahomedans who have been long settled in the country, call themselves Rooinga or native of Arracan.<sup>46</sup>

This evidence suggests that, Rohingya or Rooinga, Indo-Aryan descendents, have been settled in present-day Arakan State for many centuries. Their language, appearance and religious customs are completely different from the other aboriginal race, the Buddhist Rakhine. According to the Section 149 of the 1871 census report for British Burma (taken in August 1872), printed by the government press in Rangoon in 1875:

... there is one more race which has been so long in the country that it may be called indigenous, and that is the Arakanese Mussulman. These are descendants, partly of voluntarily immigrant at different periods from the neighboring province of Chittagong, and partly of captives carried off in the wars between the Burmese and their neighbors. There are some 64,000 of them in Arakan, differing from the Arakanese but little, except in their religion and social customs which their religion directs.<sup>47</sup>

In 1872, a British colonial census report on Burma clearly identified one more indigenous race living in Arakan. The Census report refers to them as “Arakanese Mussulman”. The Muslim identity in Bengal and Arakan mostly used the colloquial word “Mussulman”. Still today, the Muslim community in Bangladesh, India or Burma is called “Mussulman”. In that sense, there is no confusion about the Arakanese Muslims’ identity. In 1841, Lieutenant General Sir Arthur Phayre, who was then the Senior Assistant Commissioner of Arakan discussed the geographical, ethnic, religious and other descriptions of Arakan. As a member of the colonial civil service, Phayre stated:

I shall only refer to its ancient history so far as necessary to give a general idea of its condition previous to the British conquest, and to show that race the present inhabitants belong to. In the Plains: 1. Rakhoing-tha, 2. Ko-la, 3 Dom. In the Hills: 1. Khyoung-tha, 2. Kume, Khyeng, 3. Doing-nuk and other tribes.<sup>48</sup>

According to Phayre’s article, there were two major groups of people living in the plains of Arakan. The *Ra-khoing-tha* and *Khyoung-tha* both have the same ethnicity. Although the *Khyoung-tha* lived in the mountain areas, they received cultivation support from the *Ra-khoing-tha*. Their lifestyles were quite similar and both of these peoples were Buddhist, and racially, belong to the Mongoloid family. Phayre also stated that apart from the *Rakhoing-tha* “the Kolas or Moosulmans are of an entirely different race to the preceding, they being of Bengalee descent”.<sup>49</sup> During that time, the king of Arakan had possessions all along the coast as far as Chittagong and Dhaka. According to his statement, this Muslim community preserved the language of their ancestors for colloquial purposes, but always used the Burmese in writing. They have also adopted the dress of the country, except the headdress. The Rohingya leaders did not agree with some points

of Phayre's statements. Regarding the language, Rohingya leaders claimed that they never used the Burmese language before independence. In Arakan, the official language was Persian, and had been since the sixteenth century. Phayre's findings have shown that two separate groups of people existed in Arakan: the Moosulmans of Arakan who were completely different from the other major race, the Rakhoing-tha.<sup>50</sup>

It was not easy to estimate the exact population of Burma prior to the census era. Earlier, it depended on travelers' views and descriptions of particular areas. According to the 1829 census in Arakan, the population was 121,288. Three years later in 1832, it had increased by more than 60% to 195,107. This increase was remarkable because a sizable number of Arakanese had returned from Chittagong. It is noted that the Burmese kingdom from 1784 to 1826 occupied Arakan, which is why so many Arakanese had fled to neighboring Chittagong. Indeed, most Burmese and Rakhine scholars and politicians claim that the Muslim population of Arakan migrated from Chittagong. Webb's report does not concur with the Burmese and Rakhine argument today regarding the Muslim people in Arakan.<sup>51</sup> Webb also mentions the religious context in Arakan in the same report in Chapter 4.

... the coast line of Burma, especially in the Akiyab and Mergui districts are to be found indigenous Mahomedans scarcely differentiated from the neighboring Arakanese or Burmese in dress and speech and customs, the descendants of immigrants to the province many generations ago, yet who maintain their Mahomedan religion unaffected by the strength of their Buddhist surrounding.<sup>52</sup>

It is clear from this statement, that the ethno-religious and cultural characteristics of the Muslim population of some districts were quite different from those of their neighbors. The report also referred to them as "indigenous Mahomedans". It is common practice in many countries for Muslim people to be referred to as "Mahomedan". This colonial and other historical evidence suggests that the Rohingya Muslims are not new settlers or migrants from other parts of the South Asian countries, especially Bangladesh. Migration and forced displacement occurred in Arakan and other parts of the country before and after independence. Regarding the migration in Arakan, it is not at all related to the Rohingyas indigenous identity in the present-day nation-state of Burma.

### **Burmese Official Documents about the Rohingya**

The colonial census reports, British government documents, and civil servants' writings all clearly depict Arakanese Muslims as one of the indigenous groups in Burma today. Consequently, these government documents are evidence that the Rohingya were fully integrated into Burmese society since the beginning of independence. During the field work for this research in Burma, substantial evidence of a Rohingya presence was observed in government documents. It is important to understand that the Rohingya were victimized by the Ne Win military government after 1962. The Rohingya were strongly involved in parliamentary government (1948–1962) and their ethnic minority culture was nurtured by the Rangoon-based central government. Even lately, the Rohingyas have been recognized in various governments document. Yet, despite this level of recognition, the Rohingyas have been arbitrarily deprived of their citizenship.

The parliamentary government (1948–1962) had officially declared Rohingya as one of the indigenous ethnic groups of Burma. The declaration read by then Prime Minister of the Union of Burma, Prime Minister U Nu, said

... the people living in Maungdaw and Buthidaung regions are our nationals, our brethren. They are called Rohingyas. They are one of the same par in status of nationality with Kachin, Kyah, Karen, Mon, Rakhine and Shan. They are one of the ethnic races of Burma.<sup>53</sup>

*The Myanmar Encyclopedia* (1964) discussed in detail about the Rohingya populated May Yu frontier area in page number 89 and 90 under volume 9.<sup>54</sup> The encyclopedia covers the history from the first human settlements in present Burma. It also discussed in detail other parts of the country.

Burmese Radio broadcasted all national minorities program since 1947. "Rohingya language was relayed three times a week as part of the indigenous language program from the Burma Broadcasting Service in Rangoon, from 15 May 1961 to 30 October 1965".<sup>55</sup> On 1st November 1965, Rohingya, Mon, Paoh and Lahu language programs were stopped without any reason or explanation. This evidence shows that Rohingya language broadcasts stopped after the military coup in the 1960s. The textbook "Geography", produced by the Yangon University distance education program and published by the Ministry of Education in 2008, discussed the "Rohinggas" presence in western frontier region of Burma. This book was particularly intended for students of history and Burmese studies and referred to minority groups in border areas. "In northern Rakhine State close to the border with Bangladesh at Buthidaung and Maungdaw townships are where the Rohinggas and Chittagarians live. These minority ethnic groups had settled in the border region since early days."<sup>56</sup> It is one of the latest government documents, which clearly mention the Rohingya, located in the northern part of Rakhine State. It also acknowledges the Rohingya's long presence in border areas. The Rohingya Students Association in Rangoon University was one of the registered student associations in the 1959–1960 academic year. The Office of the Dean certified it on 3 December 1959. Indeed right up until the 1980s, the Rohingya students association conducted various activities on the university campus.<sup>57</sup>

On the basis of Burmese government documents identified, Rohingyas have had a long presence in the northern part of Rakhine State. Their religious identity and culture were recognized by Burmese regimes at different periods in recent history. A recently published textbook also refers to their indivisible identity in Burma. Despite all of this evidence, the Rohingya are currently treated as "Bengali illegal immigrants". The Burmese government has operated a coercive policy against the Rohingya and tried to take advantage by confusing their ethnicity and religion, in an effort to ignore and deny their history and force them out. However, government documents prove their historical presence in modern Burma for generations.

## Conclusion

The 1982 Burma Citizenship Law deliberately targeted the Rohingyas in Arakan State to become "stateless persons". Scholars and rights practitioners are concerned about the Burmese citizenship law, which clearly does not meet the international standards. In fact, the 1982 law does not even comply with Myanmar's 2008 Constitution. This article attempts to establish through various evidences that ethnic minority Rohingya Muslims have had a long presence in Arakan from their independent kingdom period. Before militarization, Rohingyas had a strong presence in government. Geographically, Arakan neighbors Bangladesh, but this fact does not mean that all the Rohingya migrated from Bangladesh and settled after British colonization. We argue that the Rohingya are

simply one of many and various ethnic groups in Burma, but due to the political situation in Arakan, the Rakhine Buddhists are afraid to recognize them by the term “Rohingya”. Indeed, Rakhines do not want to share the common heritage of Arakan with Rohingya Muslims. Therefore, Rakhine and Burmese Buddhists accuse the Rohingyas of being illegal immigrants entering Arakan following British withdrawal, which is not historically accurate as we have argued above. It can be concluded that, 1982 Citizenship Law was enacted to expunge the Rohingya Muslims identity in their ancestors’ land, and deny them citizenship in the present nation-state of Myanmar.

## NOTES

1. Burma is now officially called Myanmar. It was renamed by the then State Law and Order Restoration Council (SLORC) military government in 1989. Many of the opposition groups including the Rohingya community and Western countries continue to use the name Burma. They argue that Burma should still be used since it was an undemocratic government (military) which changed the name without the consent of the people. This article uses Burma except for direct quotation and government referral documents on the Myanmar.
2. General Ne Win implemented several policies to strengthen Burma’s economy in the name of ultranationalism. His administration introduced nationalization policy and confiscated the properties of people of South Asian and Chinese origin. The new system was called the “Burmese Way to Socialism”, which contained elements of Marxism, nationalism and Buddhism. Nevertheless, Ne Win had no deep faith in Buddhism and did not politically uphold Marxism.
3. Report of the Rakhine Investigation Commission to the Government of Myanmar, 8 July 2013, [http://www.burmacampaign.org.uk/images/uploads/Recommendation\(English\\_Version\).pdf](http://www.burmacampaign.org.uk/images/uploads/Recommendation(English_Version).pdf) (accessed 27 July 2013).
4. Aung Kin, “Burma in 1982: On the Road to Recovery”, in *Southeast Asian Affairs*, London and Singapore: Gower/Institute of Southeast Asian Studies, 1983, pp. 87–101.
5. Médecins Sans Frontières—Holland, 2002. “10 Years for the Rohingya Refugees in Bangladesh: Past, Present and Future”, p. 5, [http://www.doctorswithoutborders.org/publications/reports/2002/rohingya\\_report.pdf](http://www.doctorswithoutborders.org/publications/reports/2002/rohingya_report.pdf) (accessed 29 April 2011).
6. Report of the Rakhine Investigation Commission to the Government of Myanmar, 2013, p. 6.
7. *Working People’s Daily*, 9 October 1982.
8. Interview with Rohingya leaders and Chris Lewa, head of the Bangkok based NGO the Arakan Project in Yangon and Bangkok December 2012.
9. Amnesty International, Myanmar the Rohingya Minority: Fundamental Rights Denied, 2004, <http://www.amnesty.org/en/library/info/ASA16/005/2004> (accessed 12 June 2011).
10. Burma Citizenship Law, <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/87413/99608/F111836952/MMR87413.pdf> (accessed 12 June 2012).
11. The Council of State formed under the 1982 Citizenship Law. This council reserves the right to decide whether any ethnic group is national or not.
12. This Central Body is earlier mentioned as Council of State. It still exists under the President’s Office.
13. Human Rights Watch, “The Rohingya Muslims: Ending a Cycle of Exodus?” September 1996, 2012, <http://www.refworld.org/docid/3ae6a84a2.html> (accessed 12 December 2012).
14. Interview with Rohingya leaders in Yangon, July 2012, June 2013 and March 2014.
15. Human Rights Watch, “The Rohingya Muslims: Ending a Cycle of Exodus?”, *op. cit.*
16. *Ibid.*
17. Interview with Member of Parliament from Buthidaung Constituency in Rakhine State, March 2014.
18. Habib Siddiqui, “The Rohingya Problem: Why?” in *Contemplating Burma’s Rohingya People’s Future in Reconciliation and (Democratic) Reform*, Bangkok: Thammasat University, 15 August 2012. See <http://www.rohingyablogger.com/2012/08/the-rohingya-problem-why-speech-by-dr.html> (accessed 13 March 2013).
19. M. Yegar, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand and Western Burma/Myanmar*, Lanham/New York: Lexington Books, 2002.
20. Interview with Rohingya shopkeeper (anonymous) in Yangon, July 2012.
21. Interview in Yangon, June 2013 and March 2014.

22. Interview with Rohingya community in Yangon, March 2014.
23. The Permanent Court of International Justice, 1923, [http://legal.un.org/PCIJsummaries/documents/english/PCIJ\\_FinalText.pdf](http://legal.un.org/PCIJsummaries/documents/english/PCIJ_FinalText.pdf) (accessed 24 September 2013).
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28. Convention on the Rights of the Child, United Nations, Human Rights, Office of the High Commissioner: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (accessed 24 May 2013).
29. Convention on the Rights of the Child 1989, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed 24 May 2013).
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31. M. Musa, ed., *Muhammad Enamul Huq Rochonaboli*, Dhaka: Bangla Academy, 1993, pp. 90–97.
32. Interview with Rohingya community in Yangon and Chittagong, July 2013 and March 2014.
33. Z. Nurain, *Rohingya History: Myth and Reality*, Chittagong: Kaladan Press, 2010.
34. Report of the Rakhine Investigation Commission to the Government of Myanmar, 2013.
35. *Ibid.*
36. Report of the Rakhine Investigation Commission to the Government of Myanmar, July 8 2013, p. 54.
37. Interview with Rohingya Solidarity Organization President Mohammad Yunus, Chittagong November 2012.
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