



# Navigating with a Faulty Map

*Access to Citizenship Documents  
and Citizenship in Myanmar*

## Executive summary & recommendations

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## & recommendations

**This report is structured in three parts. The Executive Summary and Recommendations provides an overview of the report as a whole offering recommendations which have been drafted with the objective of supporting efforts to reform and improve law, policy and practice. Part one provides the reader with an overview of the issues and research process, as well as the context and historical background of the situation covered. It also provides an overview of profiles most at risk of discrimination and exclusion and looks at some of the fundamental challenges related to citizenship and access to documentation. Part Two provides an overview of the legal framework – the law and policy context as well as relevant international obligations of Myanmar. Part Three, which is the core of the report, presents the field research findings, providing a deeper overview of the manner in which discrimination, and the intersection of different types of discrimination, impacts those who possess certain characteristics. In doing so, it takes a closer look at the specific challenges to accessing documentation and citizenship, which were identified through the research. This part also looks at the impact and mutually reinforcing relationship between lack of documentation and/or citizenship, and access to other human rights.**

This report analyses the administrative challenges of accessing citizenship documents in Myanmar, in particular for minority groups. In Myanmar, a significant proportion of the population lack access to the documents that would facilitate access to the services and rights they should be entitled to. As such, they suffer from a deficit of rights and are at risk of statelessness. The research findings indicate that people who fit specific demographic profiles were more likely to face challenges in accessing documentation. They point to significant issues of discrimination, arbitrariness and corruption within the administrative system.

This report assesses Myanmar's 1982 Citizenship Law, and the manner in which it has been implemented, against international standards. It finds it to be discriminatory and unnecessarily complex in the multi-tiered and hierarchical citizenship scheme it offers. As it stands, the law privileges recognised ethnic groups, disadvantages unrecognised groups and racially discriminates in the acquisition of nationality; it falls short of Myanmar's obligations under the Convention on the Rights of the Child; it considers being 'of unsound mind' an adequate basis for the denial of citizenship; and, while not directly discriminating on the grounds of gender, it has a gender discriminatory-

impact in its implementation. Further, the category of 'naturalised' citizen is applied to people who should acquire citizenship by right, resulting in discrimination and exclusion of large sections of the population of the country. The law encourages reactionary and arbitrary decision making by penalising decision makers for wrongfully attributing citizenship, but not for wrongfully denying citizenship. The Law also fails to impose time limits for decision making and lacks a mechanism for the review or appeal of administrative decisions.

The research identifies groups of people who are at heightened risk of discrimination and exclusion. These include ethnic and religious minorities, internally displaced persons (IDPs) and former IDPs, returning refugees, those who have migrated within the country, people living in conflict areas, the children of mixed marriages, persons whose parents or grandparents lack documentation and disabled persons. The research found that those who have one or more of these characteristics are at increased risk of discrimination, exclusion and in extreme cases, even statelessness.

This report identifies the following as the main challenges faced by persons in accessing documentation: discrimination in the implementation of the law; arbitrariness and lack of effective oversight; the abuse of discretion, excessive evidentiary requirements; lack of accessibility, data entry problems; bribery and delayed decision making. Importantly, these challenges are interlinked and overlapping, with discrimination and arbitrariness being a constant and underlying theme. Of particular relevance is intersectional discrimination, where an individual suffers increased discrimination due to a variety of interconnected discriminatory factors such as eth-

nicity, gender, disability etc. The report briefly looks at the impact of the arbitrary and discriminatory denial of documentation on individuals, families and communities. It finds that the disadvantages faced by affected persons impact many aspects of their lives, including education, livelihood, ownership of property, travel and healthcare. Many interviewees spoke of a significant emotional and psychological impact, both because of the lack of documentation itself and the lack of clarity and closure relating to the uncertainty and indefiniteness of the documentation procedures.

Based on the research findings, which point to a system which is unfair, ineffective and inefficient, the research team puts forward the following recommendations for consideration. These recommendations are made with full cognisance of the current political crisis in Myanmar, as a result of the military coup of February 2021. We stand in solidarity with the people of Myanmar and do not recognise the legitimacy of the military as the government of Myanmar. Our research is shared and recommendations are made with a future Myanmar in mind, in which the National Unity Government or a civilian government are in a position to make changes to the citizenship framework and civil registration and documentation procedures. We hope that the recommendations will offer some guidance on the devastating impact of Myanmar's current civil documentation system, and the steps that can be taken to replace it with a fairer, more inclusive system. Some recommendations also apply to international actors, states in which refugees from Myanmar currently live, donor states and relevant UN and international organisations, who have protection and human rights obligations towards the people of Myanmar.

## Recommendations

**1 In order to achieve a modern, fair and efficient citizenship and civil documentation system which complies with international standards, a civilian government of Myanmar should repeal and replace the 1982 Citizenship Law and its procedures. A new citizenship framework should be developed through a consultation process which is genuinely inclusive and reflects Myanmar's diverse population. In particular:**

**A.** A new law should reflect the prohibition of discrimination on all grounds including ethnicity, disability and gender.

**B.** The multi-tiered and discriminatory system of citizenship envisaged by the 1982 law should be dismantled and replaced with a fair and inclusive system that adheres to international standards (including the right to nationality and prohibition of discrimination and arbitrariness) and reflects the diversity of Myanmar. Further, there should be no difference in the quality and security of citizenship on the basis of how citizenship was acquired.

**C.** Naturalisation should be made available to foreigners and stateless persons who demonstrate genuine linkages to the country through residence, marriage, adoption or protection status, through a fair and transparent procedure that adheres to international standards.



**2 A civilian government of Myanmar should address the multiple challenges related to the discriminatory and arbitrary implementation of the law, which undermines the rule of law, public faith in the legal system and social cohesion. In particular:**

**3 A civilian government of Myanmar should strengthen its adherence with international standards. In particular:**

**D.** Clear safeguards against statelessness should be introduced, ensuring that all children born in the territory who would otherwise be stateless are recognised as citizens of Myanmar.

**E.** The law should guarantee due process, impose reasonable time limits for decision making and ensure the right of review and appeal of administrative decisions. The law should incentivise good decision making, and decision makers should be obligated to provide written reasons for their decisions.

**F.** The grounds for loss and revocation of citizenship should be revised to protect against discrimination and arbitrariness and to bring them in line with international standards.<sup>1</sup> In no circumstances should children lose their citizenship because their parents' citizenship is lost or revoked.

**A.** All administrative procedures should be published and made available in languages understood by the applicants, to ensure that the requirements are known to all applicants, and to protect against discrepancies in the evidence required of different applicants.

**B.** All public servants should receive training and ongoing professional development and support in maintaining administrative and procedural practices and standards, including in relation to non-discrimination, transparency, accountability and anti-corruption.

**C.** The evidentiary burden on applicants should be reduced and shared with the state. Authorities should have greater discretion to accept alternative evidence in the absence of the listed documents, but less discretion to increase the evidentiary burden on applicants.

**D.** Civil registration should be more accessible and streamlined, including through minimising the number of visits to government offices and operating mobile clinics in remote areas.

**E.** Public servants should adhere to the highest professional standards when inputting data into official forms and applicants should not be penalised for administrative errors in data entry or translation.

**A.** Myanmar should implement all relevant recommendations of the Committee on the Rights of the Child and the Committee on the Elimination of All Forms of Discrimination Against Women.

**B.** Myanmar should accede to the core human rights treaties (including the International Covenant on Civil and Political Rights) as well as the 1954 Convention Relating to the Status of Stateless Persons (CRSSP) and the 1961 Convention on the Reduction of Statelessness.

**C.** Myanmar should accept and implement recommendations on protecting the right to nationality and eradicating statelessness, of relevant UN Special Rapporteurs, Independent Commissions and Mechanisms and human rights organisations.

<sup>1</sup> Institute on Statelessness and Inclusion, 'Principles on Deprivation of Nationality as a National Security Measure,' (2020), available at: <https://files.institutesi.org/PRINCIPLES.pdf>.

**4 A civilian government of Myanmar should take special measures to address the needs and vulnerabilities of disadvantaged groups. In particular:**



**A.** Ethnic and religious data should be removed from all ID and registration documents to avoid discriminatory treatment. Ethnic and religious data in state registration processes should be provided on a voluntary basis that allows for self-identification.

**B.** Returning refugees and IDPs should be assisted in the acquisition of citizenship and civil documents. In particular, any civil documentation obtained by returning refugees and migrants in their previous countries of residence (or birth), should be recognised by Myanmar and serve as the basis for their civil documentation in Myanmar.

**C.** The current system of providing National Verification Cards to refugee returnees has proved coercive and divisive and should be abandoned. ID documents on return for refugees should be provided on a voluntary basis and in consultation with returnee communities.

**D.** Steps should be taken to facilitate access to documentation for all disabled persons. This includes increasing the accessibility of procedures and engaging in awareness-raising to counter negative stereotypes and encourage families to document disabled persons.

**E.** In conflict areas and areas that are not under the full authority of the central state, efforts should be made to ensure documents and evidence provided by local leaders and authorities are recognised in future applications for citizenship documents.

**5 All relevant international actors should support Myanmar's civilian government and act to protect Myanmar's people from the arbitrary and discriminatory actions of the Military regime. This requires *inter alia*:**

**A.** Recognise that the arbitrary and discriminatory deprivation of citizenship has been part of a wider strategy of persecution adopted by the military regime, and accordingly, make allowances to protect and provide legal status to undocumented refugees and migrants from Myanmar.

**B.** Providing legal status and civil documentation to all refugees and migrants from Myanmar, both to counter the discriminatory deprivation of documents and legal status, and to facilitate their dignified return when the situation allows. This will help to guarantee the right to nationality and other rights of returning refugees.

**C.** Desist from providing technical or monetary support to the military regime to implement digital ID systems, or in furtherance of the current, discriminatory and arbitrary civil documentation system until a fairer system is in place.

**D.** Recognise the civil documents issued by different actors in Myanmar, including the military regime and authorities that are not aligned with military Junta in autonomous zones, to minimise the risk of statelessness going forward.





## Case Study: A Returning Refugee's Trouble with Personal Documents

*I am not a criminal.*

*But what if I get arrested for not having a recommendation letter? And my children are not able to go to school? And I cannot ask help from anyone? I don't have any hope.*

Haymar lives in the area of Thaton, Southeast Myanmar, close to the Thai border. She has two young children, both below the age of five. Her grandfather raised her, but never applied for an ID card on her behalf. Before she was able to take steps to acquire an ID card, she had to flee to Thailand because of the conflict between the Tatmadaw and the KNLA. Eventually, she returned to Myanmar with her husband, who is also from Myanmar. Subsequently, their two children were born in Myanmar.

Despite her efforts, she has failed to obtain an ID card. She faces many obstacles:

*To get an ID, I need to show my household list. But I never had one and to get a household list I need a recommendation letter from the village head: either from my husband's village or my birth village. Going back to my village is costly and I am not sure if they still have documents of mine because this was a long time ago. I do not have enough money to travel to my birth village or to give money to the immigration officer to proceed with my application. We have a hand to mouth survival situation. I cannot always chase the immigration officers and the village leaders regarding my ID because I have responsibilities towards the children and have*

*to work to earn money. My husband earns from 3000-5000 MMK (US\$ 2-3) per day. We can barely afford to pay for our expenses. Therefore, I cannot proceed with my ID application.*

Alongside the bureaucratic obstacles, she says that incompetence at her local council has not helped her case:

*There is incorrect information data entry. Names are not the same in different documents. The names are different in the birth certificate and other documents.*

## Case Study: Forced Displacement in Rakhine

Shahida is a married woman in her 30s. She has been living in an IDP camp in Rakhine State since 2012, when she was displaced by anti-Muslim violence. Her status as an IDP, a Muslim, a woman and a Rohingya made the citizenship application process inaccessible for her and her family members. She described how discrimination and administrative barriers combined. Firstly, she explained that she was unable to meet the evidentiary requirements of a citizenship application, since Muslim properties had been targeted for arson.

*The previous documents of my grandparents and parents burned in the fire during the violence. Therefore, we cannot show any old documents to apply for identity cards. We need those documents to show for the application process.*

The requirement to be recorded under the stigmatising term 'Bengali' for the purposes of citizenship applications, together with the stigma of 'naturalised' as opposed to 'full citizenship' was also a significant factor. She explained that multiple documents carried the term 'Bengali' including some birth certificates issued in the IDP camps, re-issued household registration cards and NCSCs.

*When the mobile immigration team came to the camp to receive applications of IDP people...we did not apply for citizenship card...A few people in camp applied for it to run their businesses normally. But most people did not because they worried they would not be recognised as original citizens - Only naturalized citizenship/green cards are issued, not citizenship scrutiny card (coloured pink).*

The lack of accessibility to the township offices also presented significant barriers. This specifically applied to Muslims who were prevented from travelling outside of the camp areas without a police escort. Fears regarding discrimination, harassment and security disproportionately affected women's ability to attend official appointments. They were mostly escorted by male family members. Shahida explained the experience of a close friend during the application process.

*People usually need to go to immigration official seven to eight times during whole process until completion. It takes the whole day to arrive back home. My sister (friend) had to pay so much money. She needed a police guard to go to the government office. We (Muslims from the IDP camps) cannot go there ourselves alone directly. So, we are required to pay charges for car rental and for the police guards.*

Further, the costs associated with citizenship applications that were applied only to Muslims in the area were prohibitive. The lack of access to work for those in the IDP camps and the loss of properties in the violence of 2012-3 reduced the household income, rendering applications impossible for most. Shahida recounted how a member of the family ended up in a situation of debt bondage as a domestic worker in Yangon in order to cover the costs of her citizenship application. In addition to the regular application fees, Muslims including Rohingya and Kaman, were required to pay for the costs of security to access appointments, transport costs, broker fees due to the complicated and inaccessible procedures, and extortionate unofficial fees or bribes.

## The story of Aung

Aung is a Bamar Muslim in his 60s, from a village in Loikaw, Kayah State. By virtue of being of Bamar ethnicity, he should, in theory, have straightforward access to documentation and citizenship. In order to confirm his identity and prove his ethnicity for his CSC card, he was asked to bring his parents' and his grandparents' documents. He was unable to fulfil this evidentiary burden and believes that unlike those from other religious groups, he could not get around this problem. After recognising that hundreds of individuals from his village were in the same position, all of whom were from religious minority groups, he looked into which documents were officially required, as he saw no consistency in what was being required of him and other applicants. Through his research, he identified 16 different types of documentary evidence that were verbally required by local officials of different applicants. These included:

1. Application, 2. Blood test results, 3. Oath paper, 4. Proof of having two blood relative nationals, 5. Father's application form, 6. Father's CSC photocopies, 7. Grandfather's application form, 8. Mother's application form, 9. Mother's CSC, 10. Applicant's Personal History Form, 11. Photographs, and 12. Recommendation letter from township or village head.

Aung identified that many persons in his community, just like many other interviewees of this research, received differing instructions from the local offices. After a long-drawn-out process, eventually, he was able to obtain a CSC for himself and his family. The CSC acknowledged that he was of Burmese ethnicity and an adherent of Islam.

Once he achieved this, he dedicated several more years of his life to facilitating the process for others in his community, taking people back and forth to the offices and intervening on their behalf with the officials. Two years later, due to his perseverance, he managed to organise a meeting with the State Investigation Committee to review the applications that were pending in his community. He was even appointed as a member of the Review Committee. The other members were the Internal State Administrator, State Police, State Legal Department and another elder from another village. Through this process, 248 persons, including 214 with Indian ancestry, were recognised as citizens and granted documentation.

The story of Aung shows that there is often no legal or institutional reason behind why decisions are not made or why no discretion is exercised to find solutions for persons who cannot meet the heavy evidentiary requirements. Through effort and perseverance, Aung was able to achieve a significant impact for individuals, particularly from ethnic and religious minority backgrounds, who were being denied recognition as citizens and related documentation.





**The Institute on Statelessness and Inclusion (ISI)** is the first and the only human rights NGO dedicated to working on statelessness at the global level. Its mission is to promote inclusive societies by realising and protecting everyone's right to a nationality.