



“Citizenship without Consent”: A community level study of the social contract of citizenship in post-coup Myanmar

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### **Abstract**

*This study synthesises the findings from [‘Reimagining the Social Contract of Citizenship in Post-Coup Federal Myanmar’](#), a the joint project by Virtual Federal University (VFU) and the Institute on Statelessness and Inclusion (ISI). This project was supported by Knowledge Management Fund (KMF) and engages with their thematic area of social contracts in fragile and conflict-affected States. The project promotes dialogue and critical thinking on citizenship and statelessness in Myanmar through student-led knowledge-building and research. Four teams of student-researchers from VFU developed and implemented community-level research projects in conflict-affected communities in Myanmar, and participated in workshops reflecting on the research process and their findings. This paper explores the strengths and weaknesses of the social contract of citizenship between the multi-ethnic peoples of Myanmar and the formal, parallel and informal authorities operating in their communities. Findings from the research projects show that the threats to citizenship in Myanmar are two-fold. On the one hand conflict, displacement, securitization, persecution of opposition, and collapsing state institutions result in a crisis of legal identities, in which people of Myanmar are no longer documented or registered, placing them at greater risk of statelessness. On the other hand, people in Myanmar who are documented and can prove their citizenship are still unable to access their rights as citizens if they are associated with opposition movements. The paper also discusses how international relations impact the social contract of citizenship on the ground. It concludes with recommendations to the international human rights community based on the knowledge and analysis of members of Myanmar’s youth who oppose military rule in Myanmar.*

This paper is based on research conducted by the VFU research team in 2022-2023. It is written by Natalie Brinham and edited by Susanna Collins from ISI.

### **Acronyms**

CDM	Civil Disobedience Movement
CRPH	Committee Representing the Pyidaungsu Hluttaw
EAO	Ethnic Armed Organisation
IDP	Internally Displaced Person
ISI	Institute on Statelessness and Inclusion
KMF	Knowledge Management Fund
KNDF	Karenni National Defence Forces
NLD	National League for Democracy
NUG	National Unity Government
PDF	People’s Defence Forces
SAC	State Administration Council
VFU	Virtual Federal University

## 1. Introduction

In February 2021, Myanmar's military leadership under Min Aung Hlaing attempted to seize control of state institutions from a civilian elected government in a *coup d'état*, plunging the country into conflict and crisis. Since then, opposition to the coup-group, or State Administration Council (SAC), has been widespread, ranging from peaceful protest to armed resistance. Different strikes, protests and other forms of resistance to military rule spearheaded by civil servants, known collectively as the Civil Disobedience Movement (CDM), have continued since the coup. Society's trust in the formal state institutions under SAC control has broken down, resulting in strikes and long-running boycotts within many state sectors including healthcare, education, and administration.<sup>1</sup> Brutal crackdowns by SAC security forces on protest and opposition have led communities in Myanmar to turn to armed opposition groups for protection, or otherwise to set up their own security forces to defend their local communities.

A parallel central government, the National Unity Government (NUG), has been set up under a newly established 'Federal Democracy Charter.'<sup>2</sup> The charter rejects the existing constitution that marginalises Myanmar's ethnic minorities and attempts to unite Myanmar's multi-ethnic populations under a federal system. Meanwhile multiple long-running conflicts between Ethnic Armed Organisations (EAOs) and the Myanmar military have been reignited, with territories falling under increased control of local ethnic-based authorities with different visions of self-determination. In these areas, communities often look to local ethnic-led authorities for governance, education, healthcare, justice and/or administration.<sup>3</sup>

The coup-group's justice system and ability to enforce their laws through, as Weber terms it, a 'monopoly over the legitimate use of force'/violence<sup>4</sup> has been systemically undermined by these parallel authorities, security services, and administrative and justice systems.<sup>5</sup> Within this turmoil, social contracts are in a state of flux, simultaneously being re-imagined and re-practised as a political reality and as forms of resistance.

A vital aspect of reimagining social contracts in Myanmar is establishing an inclusive citizenship framework that embraces those previously excluded or marginalised under the military's 1982 Citizenship Law.<sup>6</sup> The narrow ethnic criterion in the citizenship framework excludes the Rohingya

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<sup>1</sup> For more information about the Civil Disobedience Movement, see Anonymous, Australia National University, 2021 'The Centrality of the Civil Disobedience Movement (CDM) in Myanmar's Post-Coup Era', available at: [https://www.newmandala.org/wp-content/uploads/2021/10/SEARBO\\_CDM-Myanmar\\_paper.pdf](https://www.newmandala.org/wp-content/uploads/2021/10/SEARBO_CDM-Myanmar_paper.pdf)

<sup>2</sup> The Federal Democracy Charter is available here: <https://crphmyanmar.org/wp-content/uploads/2021/04/Federal-Democracy-Charter-English.pdf>

<sup>3</sup> For more information on Myanmar's EAOs see: International Crisis Group, 2022, 'Myanmar's Coup shakes up its Ethnic Conflicts', available on: <https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmars-coup-shakes-its-ethnic-conflicts> and Bociaga, R., 2023, The Diplomat, 'Ethnic Armed Groups eye Post-coup Myanmar' available at: <https://thediplomat.com/2022/05/ethnic-armed-groups-eye-post-coup-myanmar/>

<sup>4</sup> 'The monopoly on the legal means of force/violence' as a defining conception of the state and state formation was coined by Max Weber in his 1919 essay, 'Politics as a vocation.' The concept is intrinsically linked to notions of state legitimacy and is a core concept of public law.

<sup>5</sup> For more discussion of (il)legitimacy of SAC, see: Human Rights Council, 52<sup>nd</sup> session, 2023, 'Illegal and Illegitimate: Examining the Myanmar Military's Claim as the Government of Myanmar and the International Response, Conference room paper of the Special Rapporteur on the situation of Human Rights in Myanmar.' Available at: <https://www.ohchr.org/sites/default/files/documents/countries/mm/2023-01-27/crp-sr-myanmar-2023-01-31.pdf>

<sup>6</sup> For discussion on a more inclusive framework see, Institute on Statelessness and Inclusion, 2021, 'Towards an Inclusive Citizenship in Federal Democratic Myanmar'. Available in Burmese at:

and other ‘unofficial’ ethnic minorities, as well as people with mixed ethnic and national heritage.<sup>7</sup> Since the coup in 2021, members of the political opposition have also been stripped of their Myanmar citizenship in an attempt by SAC to quell dissent.<sup>8</sup> The process of reimagining citizenship for this research project has involved identifying how the citizenship framework in Myanmar is linked to other discriminatory practices and, on that basis, re-thinking how equality and inclusion can be better practised under reconstituted and strengthened social contracts between society and formal/informal institutions.<sup>9</sup>

International engagement with, and recognition of SAC is understood by Myanmar’s opposition to legitimise and bolster the regime. Strategies have been developed by Myanmar’s opposition movements to de-legitimise the coup-group internationally. This includes protesting against SAC representation in international policy discussions and against international businesses engaging with individuals linked to SAC. Opposition groups have called to be represented at regional and international meetings by the parallel central government (NUG) and/or by ethnic political authorities.<sup>10</sup> In asking the international community to reject the SAC regime, Myanmar’s communities are pushing international bodies and states to rethink their relationship with state regimes that have weak or severed social contracts with the citizenry they claim to represent. This challenges international actors to reimagine citizenship beyond a formal status bestowed by ‘recognised’ state entities, and instead focus on the underlying social contracts of citizenship that operate through trust, legitimacy, and consent. Rethinking the role of states and the value assigned to social contracts in these conflict-affected areas has real-world implications for diplomatic and military relations, human rights protections, international aid delivery, and international business arrangements.

This paper draws on the research findings and reflections of members of Myanmar’s youth involved in opposition movements. It explores their perspectives on social contracts. It also summarises and synthesises key findings from the four community-level research projects that they conducted under the research initiative ‘[Reimagining the Social Contract of Citizenship in Post-Coup Myanmar](#)’.

‘Reimagining the Social Contract of Citizenship in Post-Coup Myanmar’ was jointly implemented by the Institute on Statelessness and Inclusion (ISI)<sup>11</sup> and Virtual Federal University (VFU).<sup>12</sup> It was supported by Knowledge Management Fund (KMF).<sup>13</sup> The initiative provides resources and support

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[https://files.institutesi.org/Towards\\_an\\_Inclusive\\_Citizenship\\_in\\_Myanmar\\_Burmese.pdf](https://files.institutesi.org/Towards_an_Inclusive_Citizenship_in_Myanmar_Burmese.pdf) and in English at: [https://files.institutesi.org/Towards\\_an\\_Inclusive\\_Citizenship\\_in\\_Myanmar.pdf](https://files.institutesi.org/Towards_an_Inclusive_Citizenship_in_Myanmar.pdf)

<sup>7</sup> For discussion of the discriminatory aspects of the 1982 Citizenship Law, see Institute on Statelessness and Inclusion, ‘Navigating with a Faulty Map: Access to Citizenship Documents and Citizenship in Myanmar’, (October 2021), available at: [https://files.institutesi.org/Access\\_to\\_Citizenship\\_in\\_Myanmar\\_Report.pdf](https://files.institutesi.org/Access_to_Citizenship_in_Myanmar_Report.pdf)

<sup>8</sup> For more information on citizenship stripping, see: Nyi Nyi Kyaw, 2022, ‘Citizenship Stripping in Myanmar as Lawfare’. *The Statelessness & Citizenship Review*, 4(2), 280-285. Available at: <https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/385>

<sup>9</sup> For more information on the project, see: <https://www.institutesi.org/pages/reimagining-the-social-contract-of-citizenship-in-myanmar>

<sup>10</sup> For more discussion of (il)legitimacy of SAC and the international response, see: Human Rights Council, 52<sup>nd</sup> session, 2023, ‘Illegal and Illegitimate: Examining the Myanmar Military’s Claim as the Government of Myanmar and the International Response, Conference room paper of the Special Rapporteur on the situation of Human Rights in Myanmar.’ Available at: <https://www.ohchr.org/sites/default/files/documents/countries/mm/2023-01-27/crp-sr-myanmar-2023-01-31.pdf>

<sup>11</sup> See: <https://institutesi.org>

<sup>12</sup> See: <https://www.federaluniversity.org/index.php>

<sup>13</sup> See: <https://www.kpsrl.org/knowledge-management-fund>

to indigenous knowledge production by enabling Myanmar youths to explore the impact of the current authoritarian citizenship regime at the community level and begin to reimagine what a more just and equal citizenship framework may look like. The four student-led research projects relate to: internally displaced children and experiences of education in southern Shan State; depleted citizenship rights and discrimination against Myanmar people from the conflict areas; loss of citizenship rights for Myanmar migrants in the Thai–Myanmar borderlands; and the symbolic impacts of citizenship stripping in Myanmar after the February 2021 coup.

The information from this paper is drawn from the final project reports authored by the student researchers, and from notes taken during three joint ISI-VFU workshops on research dissemination, research findings, and reflections on social contracts. It firstly explores social contracts between the Myanmar communities and the SAC regime. Secondly it considers social contracts between Myanmar communities and informal/parallel authorities. Thirdly it considers the social contract of citizenship in more depth. Lastly it focuses on social contracts and the international community. It concludes with summarising the findings relating to citizenship and providing some recommendations for the international community, as articulated by the student-researchers.

## **2. Social Contracts in Post-Coup Myanmar: Reflections from the field**

Sections 3, 4 and 6 are based on findings from the research projects, and reflections from the student-researchers during two joint ISI-VFU workshops. In the first of these workshops, student-researchers presented the main findings from their qualitative community-level research projects and also reflected on points of interest. In the second of these workshops, student-researchers explored different aspects of social contracts in Myanmar, reflecting on their research projects (see attachment for more details). Section 5 is primarily based on the research findings presented by student-researchers in their papers and in workshops.

There were four teams of two to three researchers, conducting qualitative research amongst four different Myanmar communities and covering four different topic areas. The communities were: Internally Displaced Persons (IDPs) in southern Shan State, migrants/refugees from Myanmar who fled to the Mae Sot area of Thailand after the 2021 coup, people from the conflict areas of Myanmar operating in Magwe and Sagaing regions of Myanmar, and the online general public (predominantly ethnic Bamar). The teams used different qualitative methods including: surveys; narrative interviews; in-depth semi-structured interviews; and field observations. Fieldwork was challenging for all teams due to the lack of safety and security, concerns about government surveillance, and the forced displacement of both researchers and research participants. Researchers were selected from the student body of the Virtual Federal University, which provides education to youth who are involved in opposition movements, especially the civil disobedience movement, and have had their education interrupted following the coup. Student-researchers were provided with training and support in research methods as well as citizenship and statelessness in international contexts. They developed and implemented their own research projects based on their areas of knowledge and interest.

There is no agreed definition of the term ‘social contract’. For the purpose of collectively exploring the concept in the Myanmar context for this project, a loose description of the term was developed for discussion in the joint ISI-VFU workshop. The description was drawn from the main discussion points covered in a 2022 webinar hosted by the Knowledge Management Fund for grantees under their ‘social contracts’ funding route and others. The description extracts the elements most relevant to the contemporary context in Myanmar and has been developed to promote critical

thinking and topical discussion, rather than provide an encompassing general definition. The description is as follows:

*“A social contract is an implicit agreement between societies and formal or informal authorities. For example, we may accept the legitimacy of a government system or a regime, or accept that we should comply with laws and moral codes, and in return we may expect to have security, state protection, and/or access to welfare. Strong social contracts involve trust in institutions, consenting to systems of governance, and sometimes negotiation and compromise on the part of both society and state institutions. Communities may have social contracts with informal authorities, for example with ethnic or religious authorities. In situations of conflict or state collapse, where there are competing concepts of political legitimacy, social contracts may form between communities and political bodies that function in parallel with formal state institutions. Sometimes social contracts can be imposed or influenced by external parties, for example in cases where international organisations or other states, for a range of reasons, lend legitimacy to an existing regime or government that is not trusted by significant sections of society.”*

The research teams were asked to reflect and discuss social contracts in Myanmar based on their experiences in the field and on their research findings. Discussions were based on the relationship between society (particularly in the communities where research was conducted) and a) the SAC regime, b) parallel and informal authorities, and c) the international community.

### **3. Social Contracts and the SAC regime**

The State Administration Council (SAC) is led by Commander-in-Chief of the Armed Forces, Min Aung Hlaing. Following the elections of 2020, in which Aung San Suu Kyi's National League for Democracy (NLD) won a landslide victory, Min Aung Hlaing seized power. SAC was formed the next day, on February 2<sup>nd</sup> 2021, with Min Aung Hlaing as Chair.<sup>14</sup> SAC's legitimacy as the state representatives of Myanmar is widely contested and attempts have been made to designate them a 'terrorist organisation' for the abuses they have waged on the people of Myanmar since the coup.<sup>15</sup> This is only the latest seizure of power by the military leadership in Myanmar. The country was under military rule for almost 50 years from 1962 onwards. In the decade preceding the 2021 coup, there was a period of 'transitional democracy', during which time the military maintained significant power within state institutions.<sup>16</sup> Discussions about social contracts and the SAC regime reflected the position of the student-researchers and research participants as those who had spent some of their formative years in Myanmar during the decade that promised 'transition' from military rule, as well as their experiences as the latest of several generations to resist military rule in Myanmar.

Discussion of the relationship between society and the SAC regime described the social contract as severed, weak, or entirely absent. Student-researchers described the relationship between society and SAC as "one-sided" and SAC's rule as "imposed." For example:

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<sup>14</sup> For a quick overview of the coup situation see: Ratcliffe, R., 2022, 'The Myanmar 2021 Coup Explained in 30 seconds', *The Guardian*, available at: <https://www.theguardian.com/world/2022/sep/19/myanmar-coup-2021-explained-in-30-seconds>

<sup>15</sup> Special Advisory Council for Myanmar (SAC-M), 2021, 'The Myanmar Military is a Terrorist Organisation under Law', available at: <https://specialadvisorycouncil.org/wp-content/uploads/2021/12/SAC-M-Briefing-Paper-Myanmar-Military-Terrorist-Organisation-ENGLISH.pdf>

<sup>16</sup> See for example: Zulueta-Fulscher, K., 14 April 2021, 'The struggle for legitimacy in post-coup Myanmar', *Carnegie Europe*, available at: <https://carnegieeurope.eu/2021/04/14/struggle-for-legitimacy-in-post-coup-myanmar-pub-84302>

*“They claim authority, but the majority of society throughout Myanmar does not accept their authority.”*

*“They have no legitimacy among the communities we work in. They make the laws for their own gain. There is no belief or trust in their laws or their intentions.”*

When exploring the notion of ‘trust’ between society and SAC authorities, the social contract was not characterised by an absence of trust, but by an emphatic *mistrust* on both sides, to the point where people sought to defend themselves not only from the abuses by security forces, but also from different forms of administrative and symbolic violence experienced in schools and universities, hospitals, township offices, and at checkpoints.<sup>17</sup> Findings from the research projects backed up these points. Research participants described being treated as non-citizens due to their opposition or perceived opposition to SAC. For example, one research participant was punished for his involvement in anti-coup strikes by the confiscation of his national identity card. In the high security environment of a conflict situation, this made it difficult for him to move around and function effectively. It also placed him under intense suspicion. When he needed to flee to Thailand for his safety, the journey across Myanmar to the border was more difficult and more dangerous without a national identity card due the security grids in place across the country. Another example was provided by one of the research projects which focused on the experiences of people from the conflict zones. National identity cards in Myanmar carry an indication of a person’s place of origin, based on a number assigned to different areas of the country. At checkpoints and in government offices, people who came from the conflict areas were identified by the number on their ID card as being from the conflict areas, and therefore fell under suspicion as people who may oppose SAC authorities. The numbers stigmatised them and exposed them to harassment and discriminatory treatment from security forces and in their everyday lives. For example, they had no freedom of movement and experienced extremely restricted access to employment and livelihoods. In factories and work dormitories they encountered further discrimination and threats of unfair dismissal due to their perceived allegiance to ethnic opposition groups.

In exploring the notion of ‘protection’ as part of a social contract, SAC security forces were characterised not as protectors, but as aggressors from whom communities needed to protect themselves. One research team pointed out that “some small groups receive protection” from SAC authorities. These groups were those who supported SAC or had personal or business connections to members of SAC. The protection they received was not within a rule of law framework<sup>18</sup> but was rather related to the protection of their assets, businesses, property or personal security in exchange for benefits or favours for the regime or SAC members. As such the description of ‘protection’ was more akin to implicit agreements within protection rackets and gangs, than to notions related to security services or state protection of citizens. This notion of state security forces as part of a protection racket also links to the broader conceptualisation of SAC as a ‘terrorist organisation’. Researchers emphasised that within the communities they were conducting research in, protection was provided by the People’s Defence Forces (PDFs) allied with opposition movements, the Ethnic Armed Organisations (EAOs) and more generally by local communities grouping together and

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<sup>17</sup> ‘Symbolic violence’ is a term coined by Pierre Bourdieu. It describes non-physical violence that is imposed on subordinate groups through unequal power relations between different social groups. See: Bourdieu, P., & Wacquant, L. J. (1992). *An Invitation to Reflexive Sociology*. Chicago, IL: University of Chicago Press.

<sup>18</sup> For the purposes of this paper, we draw on Bingham’s eight principles of the ‘Rule of Law’ as outlined in Bingham, T, 2010, *The Rule of Law*, Penguin.

providing various informal strategies of protecting one another and providing welfare for one another.

#### 4. Social contracts and parallel/informal authorities

Myanmar is described as a 'failing state.' A 'failed state' is one which has no effective ability to govern or exercise control over its people, territory, infrastructure, and economy.<sup>19</sup> It is estimated that SAC only maintain effective control over 17% of the country. 52% of the country is under the control of resistance organisations, including NUG. 23% of the country is being actively contested between SAC and resistance groups.<sup>20</sup> Designation of Myanmar as a failed state would result in suspension from the ASEAN and alternative representation in UN bodies. The alternative representation put forward to the international community is most often the NUG.<sup>21</sup> NUG was set up after the coup by the Committee Representing the Pyidaungsu Hluttaw (CRPH) or parliament and includes elected representatives from Aung San Suu Kyi's National League for Democracy party (NLD), ethnic minority groups, and minor parties. It claims not to be a shadow government, but the only and legitimate government of Myanmar.<sup>22</sup> For the purposes of this research, we refer to it as a parallel authority. The strength and weakness of social contracts between NUG and various Myanmar communities differs based on regional, ethnic, ideological, and political allegiances as well as different visions of Myanmar's future. Conflicts between the central state and ethnic groups have been ongoing since, and prior to, Myanmar's independence in 1948. During that period, ethnic groups such as Karen, Karenni, Kachin, Chin, Arakan, Shan, Palaung, Wa, and others have exerted varying levels of control over territory, people, administration, and economy.<sup>23</sup> These groups have their own defence forces, justice systems, and authorities overseeing different areas of governance and welfare, including education authorities which govern schooling and curriculums in ethnic languages. Social contracts between local communities and these authorities have become increasingly significant since the coup as the relationship between ethnic groups and the central state is being re-imagined and re-constituted.

Student-researchers identified different parallel and informal authorities with which society and local communities in their areas of research had social contracts. The identified authorities differed based on areas and communities but were made up of NUG and NUG-associated defence forces (PDFs), different EAOs, and 'independent legal authorities' associated with these EAOs, such as ethnic-based administrative authorities, education authorities, and health authorities.

Student-researchers working in urban and central areas described aspects of the social contract as generally "strong" based on notions of legitimacy and trust. They described how the majority of research participants had trust in NUG, viewed them as the legitimate representatives of Myanmar, and had ideas that broadly aligned with NUG's national vision for a federal Myanmar. However, the researchers noted that "some groups are in doubt" and that there are large regional and contextual

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<sup>19</sup> Hunt, L., 20 March 2023, "Should Myanmar Be Declared a Failed State?", *The Diplomat*, available at: <https://thediplomat.com/2023/03/should-myanmar-be-declared-a-failed-state/>

<sup>20</sup> Special Advisory Council for Myanmar, September 2022, 'Briefing Paper: Effective Control in Myanmar', available at: <https://specialadvisorycouncil.org/wp-content/uploads/2022/09/SAC-M-Briefing-Paper-Effective-Control-in-Myanmar-ENGLISH-2.pdf>

<sup>21</sup> See: <https://gov.nugmyanmar.org/>

<sup>22</sup> See: <https://gov.nugmyanmar.org/>

<sup>23</sup> For more information on Myanmar's EAOs see: International Crisis Group, 2022, 'Myanmar's Coup shakes up its Ethnic Conflicts', available on: <https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmars-coup-shakes-its-ethnic-conflicts> and Bociaga, R., 2023, *The Diplomat*, 'Ethnic Armed Groups eye Post-coup Myanmar' available at: <https://thediplomat.com/2022/05/ethnic-armed-groups-eye-post-coup-myanmar/>



disparities with regards to relationships of trust and legitimacy with NUG. Although the scope of this research is not large enough to account for national disparities, these regional variations may correlate to factors such as whether territories fall under the control of NUG, ethnic-based authorities, or areas contested with SAC.

Student-researchers working with participants from conflict-affected areas described some of these regional variations. They noted that, for example, in Karenni areas (Kayah State) the social contract was generally strongest with the Karenni National Defence Forces (KNDF) and associated civilian authorities. Karenni authorities were subject to critique from different individuals but in general their legitimacy was largely described as stable. Student-researchers noted that the strength of this social contract was based largely on notions of protection and welfare which were the primary concerns of people directly affected by military assaults and conflict. They explained that social contracts with NUG were “weak” or secondary to the authorities that addressed their more immediate concerns and had operated in communities over the long term. The same group of researchers noted that in some areas that were contested and not controlled by ethnic-based authorities, the social contract with NUG was weak, for example in some areas of Sagaing. They described these areas as “anarchic”, characterising them as areas where both formal and informal authorities were unable to govern or exert control.

Education has been a sector in Myanmar through which different authorities in conflict with one another have exerted control and promoted their visions of nationalism and/or self-determination. Schools are sites where the everyday practices of citizenship and civic engagement are learnt as part of social contracts between society and the state.<sup>24</sup> Under military rule, the school curriculum was tightly controlled and is generally considered to have promoted pro-military Bamar-Buddhist forms of nationalism.<sup>25</sup> This includes histories which marginalise ethnic and religious minorities.<sup>26</sup> In ethnic-held areas and refugee camps, education authorities have been set up to oversee schools. The main language of instruction is often in mother tongues rather than Burmese, and curriculums are adapted to make them more applicable to the students and the community. The schools in these areas are sites where military rule have long been contested.<sup>27</sup> Political opposition groups in Myanmar and in exile, including NLD and latterly NUG, have also funded and overseen education programmes and schools.<sup>28</sup> Lack of national and international recognition of school certificates and school achievements from these programmes remains a stumbling block. One research group focused on the experience of schooling for IDP children in southern Shan State. Students had mixed linguistic backgrounds. In the IDP camps, children were out of mainstream schools and instead attended schools funded and controlled by NUG and local education authorities. The lack of nationwide recognition of education in these schools demotivated students and their families. Researchers commented that communities “don’t care about education from NUG” and want to go to schools

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<sup>24</sup> Schools are considered one of the main sites through which existing social relations are maintained. For more about social reproduction and cultural reproduction in education, see: Willis, P., 1977, *Learning to Labour*.

<sup>25</sup> For analysis of military nationalism in the Myanmar education system, see: Zarni, M., “State and Hate in Myanmar” in (eds.) Verma, R. and Apple, M., 2020, *Disrupting Hate in Education*, Routledge.

<sup>26</sup> Metro, R., 2013, “Postconflict history curriculum revision as an “intergroup encounter” promoting interethnic reconciliation among Burmese migrants and refugees in Thailand.” *Comparative Education Review*, 57(1), 145-168.

<sup>27</sup> Jolliffe, K., 2015, ‘Ethnic Armed Conflict and Territorial Administration in Myanmar’, The Asia Foundation. Available at: [https://www.burmalibrary.org/docs21/AF-2015-06-Conflict&Territorial\\_Administration-en.pdf](https://www.burmalibrary.org/docs21/AF-2015-06-Conflict&Territorial_Administration-en.pdf)

<sup>28</sup> See Soe San, 2021, ‘Beyond the Coup in Myanmar: Don’t Let the Light of Education Be Extinguished’, Just Security, available at: <https://www.justsecurity.org/76921/beyond-the-coup-in-myanmar-dont-let-the-light-of-education-be-extinguished/>

from which qualifications will be recognised. Researchers raised concerns about what forms of education and qualifications are considered legitimate in future Myanmar, with it remaining unclear which school certificates would be considered legitimate under different education authorities.

Refugee and migrant communities in exile in Thailand and elsewhere have, over decades, constituted an important part Myanmar's opposition to military rule. Exiles have maintained strong social contracts with EAOs and their administrative wings, as well as opposition political groups and parallel authorities. The research group that worked with anti-coup activists displaced to the Thai-border town of Mae Sot maintained a strong focus on working towards change in Myanmar, but found that social contracts in this area were diverse owing to the mixed ethnic and geographical origin of Myanmar populations displaced to Thailand. Many exiles and migrants maintained strong social contracts with ethnic-led authorities and EAOs from which they felt protected and supported. Only a small number of people in exile received welfare or other forms of support from NUG. Few people in this area therefore felt strong bonds with NUG. In this mixed Myanmar society, social contracts with NUG were described as "weak", whereby only people with "personal connections" reported strong social contracts with them.

## 5. Social contracts and Myanmar citizenship

The 1982 Myanmar Citizenship Law and discriminatory implementation of the framework has been widely researched.<sup>29</sup> The Citizenship Law and the colour-coded identity card system (rolled out from 1989 onwards) was brought in under successive military regimes.<sup>30</sup> It stripped back the provisions in the Union Citizenship Act 1948 that allowed for the acquisition of citizenship through multiple pathways. It instead created a tiered and hierarchical system of citizenship in which 'full citizenship' or automatic citizenship was almost exclusively contingent on membership of one of the ethnic groups declared 'national' or 'indigenous' by the military junta. Others were required to submit applications for citizenship that were burdensome and left applicants exposed to discrimination and extortion.<sup>31</sup> Whilst many of Myanmar's religious and ethnic minorities and opposition groups have been impacted by the exclusionary citizenship framework, the best known example is the Rohingya, who were denied access to citizenship en masse under the 1982 Citizenship Law. Myanmar's legal framework provides extremely limited rights and protections for non-nationals. As such the 1982 Citizenship Law is widely understood to hold in place a broad system of apartheid for Rohingyas and 'policies of persecution' in Rakhine State, Myanmar.<sup>32</sup> The mass atrocities (crimes against humanity and genocide)<sup>33</sup> committed against Rohingyas by Myanmar's security forces between 2016 and 2017 brought further domestic and international attention to racial discrimination inherent in Myanmar's

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<sup>29</sup> Institute on Statelessness and Inclusion, October 2021, 'Navigating with a Faulty Map: Access to Citizenship Documents and Citizenship in Myanmar', available at:

[https://files.institutesi.org/Access\\_to\\_Citizenship\\_in\\_Myanmar\\_Report.pdf](https://files.institutesi.org/Access_to_Citizenship_in_Myanmar_Report.pdf)

<sup>30</sup> See: Brinham, N., 2019. "Looking beyond invisibility: Rohingyas' dangerous encounters with papers and cards". *Tilburg Law Review*, 24(2). 156-169. Available at:

<https://tilburglawreview.com/articles/10.5334/tilr.151>

<sup>31</sup> Institute on Statelessness and Inclusion, October 2021, 'Navigating with a Faulty Map: Access to Citizenship Documents and Citizenship in Myanmar', available at:

[https://files.institutesi.org/Access\\_to\\_Citizenship\\_in\\_Myanmar\\_Report.pdf](https://files.institutesi.org/Access_to_Citizenship_in_Myanmar_Report.pdf)

<sup>32</sup> Fortify Rights, February 2014, 'Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar'. Available (in English and Burmese) at: <https://www.fortifyrights.org/mya-inv-rep-2014-02-25/>

<sup>33</sup> For more information, see: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, International Court of Justice. See: <https://www.icj-cij.org/case/178>

citizenship framework. Both the Myanmar military and the civilian NLD-led ministries came under international scrutiny for their roles in both perpetrating the atrocities and failing to prevent the atrocities.

After the coup of 2021, as other communities came under attack by the SAC forces, there was a large outpouring of remorse from the civil disobedience movement for not speaking out against the atrocities and not speaking up for the Rohingya. There were wide-reaching attempts by Myanmar's resistance groups to build stronger alliances with Rohingya community leaders. As NUG attempted to assert their legitimacy domestically and internationally, the spotlight fell on their approach to citizenship in Myanmar. NUG developed a policy position that citizenship would be acquired through a mixture of birth to citizens and birth on the territory. This broadly followed international recommendations based on principles of non-discrimination, and the provision of a more "objective" citizenship criteria.<sup>34</sup> Researchers and students from this project noted that whilst many within Myanmar welcomed the introduction of a more inclusive framework, some critiqued the move. Ethnic groups had long mobilised their resistance to military rule around the concept of 'ethnic nationalities' and, for some, their struggle for equality was thought to be contingent on recognition of their indigeneity and a reserved place in the citizenship framework for indigenous groups.

In research conducted before the coup, the groups most impacted by discrimination in the administrative system and those that struggled to prove their identity and citizenship included the following groups: those who did not belong to official ethnic groups (including Rohingya); people of mixed racial or national heritage; religious minorities especially Muslims; internally displaced persons; returning refugees and migrants; people from conflict-affected areas of ethnic-held territories; people in rural or remote areas; people with disabilities; and political opposition.<sup>35</sup>

Since the coup, the SAC regime has publicly announced that they have stripped citizenship from 33 political opposition including ministers from NUG and other activists including social media influencers. This was largely believed to be a form of symbolic violence designed to spread fear amongst the opposition to quell dissent. Further ID issuance and other forms of registration in rural areas, conflict zones, and opposition-held areas have been interrupted, leading to concerns about increasing numbers of undocumented people who may be at risk of statelessness. The research projects therefore focused on some of these groups that were at risk of statelessness, namely refugees and migrants, people from conflict-affected areas, and IDPs, and on the impact of stripping the citizenship of political opponents of SAC.

Members of CDM (CDMers), who had fled Myanmar found that they had effectively lost their citizenship rights in Myanmar (including freedom of movement, security, and access to livelihoods). Their national identity cards were either confiscated and/or their household registration cancelled, or others found that their identity cards no longer provided access to the basic rights afforded to citizens. In Thailand they were unable to overcome their undocumented status and had to rely on informal strategies to survive. They were "considered neither refugees nor economic migrants".<sup>36</sup> Refugee registration was not open to them, and they also could not register as migrant workers.

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<sup>34</sup> Frontier Myanmar, 2021, "The NUG's Rohingya Policy: 'Campaign Statement' or Genuine Reform?" <https://www.frontiermyanmar.net/en/the-nugs-rohingya-policy-campaign-statement-or-genuine-reform/>

<sup>35</sup> Institute on Statelessness and Inclusion, 'Navigating with a Faulty Map: Access to Citizenship Documents and Citizenship in Myanmar', (October 2021), available at:

[https://files.institutesi.org/Access\\_to\\_Citizenship\\_in\\_Myanmar\\_Report.pdf](https://files.institutesi.org/Access_to_Citizenship_in_Myanmar_Report.pdf)

<sup>36</sup> Nyunt, H. S., and Wachpanich N., 24 March 2023, "Considered neither refugees nor economic migrants, Burmese workers in Thailand eke out a living in the shadows", *Equal Times*, available at: [https://www.equaltimes.org/considered-neither-refugees-nor#.ZCb\\_HPbMK5e](https://www.equaltimes.org/considered-neither-refugees-nor#.ZCb_HPbMK5e)

Thailand used to run a process that enabled undocumented workers to register for work permits after verifying their nationality with the Myanmar consulate. Since the coup of 2021, this has not been possible and CDMers eke out a living in the informal economies of Thailand. The lack of regulation leaves them open to exploitation and leaves them in a precarious situation with Thai authorities. Their lack of documentation in Thailand and the ongoing conflict in Myanmar leaves them at increased risk if they return to Myanmar without proof of their legal identity. This research project documented life stories of CDMers on a journey in which their citizenship rights are slowly eroded, as they face the challenges of displacement and loss of legal identity. The life stories also illustrate their resilience and the maintenance of a strong sense of community and identity related to their CDM membership, indicating the maintenance of social contracts and the hope that in future they may contribute to a fairer society in Myanmar and for Myanmar's dispersed people.

People from conflict-affected areas found that although they maintained their national identity cards and their citizenship status in Myanmar, their nationality had become ineffective, and they were treated similarly to those without a legal status. They experienced discrimination based on their place of origin, which was indicated on their national ID cards (for example by a number 2 or a number 5 in the code). Thus, the information on the ID card locked in a hierarchical system of citizenship. For example, they were unable to pass through the many security checkpoints, which had implications in terms of economic and social exclusion. They had unequal access to employment, education, and healthcare.

Internally displaced people also struggled with a loss of rights and difficulties proving their legal identity. Children lacking documentation and formal schooling, combined with the non-recognition of schooling received in IDP camps, found that they were increasingly marginalised from mainstream services including schools. The future remained uncertain for them; they were unclear who they should form a social contract with and who would be delivering their socio-economic rights in future.

The survey conducted by student researchers to gauge public opinion about citizenship acquisition and the impact of citizenship stripping produced some interesting responses. The respondents for this project were majority Bamar with mixed political allegiances. Despite the strong international media focus on Rohingya statelessness, the respondents showed greatest awareness of social media influencers from Myanmar being stripped of their citizenship since the coup. There were mixed responses relating to criteria for the acquisition of citizenship in Myanmar, with many responding that they thought citizenship should be acquired based on a mixed criteria, including through birth on the territory, through marriage, through long term residence, and through membership of an ethnic group. The mixed response to this question was interesting in that it did not indicate that respondents felt indigeneity was significantly more important than other criteria. However, the research group felt that they may have got different or more decisive results if the survey was repeated in predominantly ethnic minority areas. One response the group found surprising was that a significant proportion of the respondents felt that the Myanmar citizenship framework should give the state powers to strip people's citizenship on the grounds of national security. This was despite the fact that these powers had been misused by the state since the coup, and perhaps reflected the ongoing security concerns amongst the general Myanmar public.

## **6. Social contracts and the international community**

As noted in the introduction, seeking international recognition as state representatives has been a key strategy of NUG since it was set up after the coup in 2021. NUG has made some inroads into being recognised as the legitimate state representatives internationally. Researchers were aware

that the different responses of other states or international bodies to both SAC and NUG bolstered or depleted their legitimacy. For example:

*“Some states still have diplomatic relations with SAC, but they do not have legitimacy. They do not have the consent of the communities and people in the country.”*

*“After the coup in 2021-2022 the coup group Generals were invited to events – including military related international events. Now some countries do not give legitimacy to the SAC regime, and they do not invite them to meetings.”*

There was a general sense that ethnic-based authorities should also have a more significant position in international negotiations, meetings, and relations. This was based on notions of consent and strong social contracts.

*“They should invite EAOs to the table – because it’s them who have a strong social contract with those in their territory. They should be prioritised over NUG. NUG has no control over these territories and their legitimacy is not as strong as the local authorities and the EAOs.”*

The researchers understood that some powerful states have a vested interest in ensuring that the SAC regime maintains control over the territory and economy despite their lack of domestic legitimacy. For example:

*“Russia and China are giving legitimacy and military support to SAC. This means SAC stays at the table even if other countries work with other groups.”*

Another significant issue raised regarding international organisations lending legitimacy to different authorities related to the provision of humanitarian support and aid to people affected by conflict. For example:

*“In the IDP areas some countries and international organisations are working with the SAC regime to provide help. This gives them legitimacy. If they do this, human rights abuses cannot be controlled. It’s not helping.”*

*“Some international agencies are strongly with the EAOs and the PDFs. These organisations are helping refugees and those in the conflict areas.”*

## **7. Conclusion and recommendations for the international community**

Findings from the research projects show that the threats to citizenship in Myanmar are two-fold. On the one hand conflict, displacement, securitization, persecution of opposition, and collapsing state institutions result in a crisis of legal identities, in which people of Myanmar are no longer documented or registered, placing them at greater risk of statelessness. On the other hand, people in Myanmar who are documented and can prove their citizenship are still unable to access their rights as citizens if they are associated with opposition movements. The information contained on identity cards including religion, ethnicity, and place of origin locks in systems of stigmatisation and discrimination which, in situations of conflict, place people at acute risk of human rights violations.

Notions of consent and trust were vital to strong social contracts. The social contract of citizenship depends on the legitimacy of authorities operating in different areas of the country and amongst different communities. The significance of these authorities differs depending on which bodies exert effective control over territory, people, administration, security forces, economy, and resources.

Different visions of citizenship are based on the strength of social contracts with these authorities and varying notions of self-determination, resistance, and struggle.

The international community plays a role in lending legitimacy to the SAC regime that does not have the consent of the people and has weak, severed, or non-existent social contracts with Myanmar society. The regime is propped up through maintaining diplomatic relations and in some cases military relations as well as international business ties, and the delivery of humanitarian aid. Reimagining Myanmar citizenship rests on the consent of Myanmar's multi-ethnic people and, as such, will only be able to be effectively negotiated between different legitimate authorities and translated into reality when the authoritarian SAC regime is delegitimised internationally. As such, recommendations based on this research to the international community include:

- Include local and independent authorities in international forums (such as authorities linked to the EAOs), not just SAC or NUG
- Social contracts relating to welfare provision and community level support lie not with SAC but with different local, and/or independent authorities. Ensure that aid is delivered to the communities most in need. Where supply lines are blocked, distribute supplies through local and independent authorities with strong social contracts with communities on the ground including those aligned with EAOs and CDM
- Public sector human resources including those people who refuse to engage with the SAC authorities are now part of the Civil Disobedience Movement (CDM). This includes people from the health and education sectors. As such distribute medical supplies through CDM medics and deliver education through CDM teachers. There are plenty of skills within CDM but not enough supplies and other resources.
- Provide urgent support to IDPs including those in rural and township areas. Ensure access to shelter, food, and medical supplies. Where permission is blocked by SAC, use alternative distribution networks.
- Reduce strict rules for migrant workers from Myanmar, including reducing the need for bilateral relations with SAC to provide work permits. This will allow Myanmar's people to support themselves, live dignified lives, and support families in Myanmar.
- Recognise the registration documents, certificates, and qualifications issued by all authorities on any side of the conflict, not just those issued by SAC.
- Advocate for the removal of identifying characteristics from identity systems and identity documents including religion, ethnicity, place of origin and occupation. These factors enable systemic discrimination.

**Attachment:**

**Workshop on Social Contracts: ISI and VFU**

**14/03/2023**

**What is the social contract?**

A social contract is an implicit agreement between societies and formal or informal authorities. For example, we may accept the legitimacy of a government system or a regime, or accept that we should comply with laws and moral codes, and in return we may expect to have security, state protection, and/or access to welfare. Strong social contracts involve trust in institutions, consenting to systems of governance, and sometimes negotiation and compromise on the part of both society and state institutions. Communities may have social contracts with informal authorities, for example with ethnic or religious authorities. In situations of conflict or state collapse, where there are competing concepts of political legitimacy, social contracts may form between communities and political bodies that function in parallel with formal state institutions. Sometimes social contracts can be imposed or influenced by external parties, for example in cases where international organisations or other states, for a range of reasons, lend legitimacy to an existing regime or government that is not trusted by significant sections of society.

**Breakout rooms session 1 – Describing social contracts between society and the regime in Myanmar**

*A social contract is an implicit agreement between societies and formal or informal authorities. For example, we may accept the legitimacy of a government system or a regime, or accept that we should comply with laws and moral codes, and in return we may expect to have security, state protection, and/or access to welfare. Strong social contracts involve trust in institutions, consenting to systems of governance, and sometimes negotiation and compromise on the part of both society and state institutions.*

Questions:

What do you think the best translation for ‘social contract’ is in Burmese? It might not be a direct translation – it might be a description.

How would you describe the social contract in Myanmar between society and the SAC regime? Think about the terms ‘legitimacy’, ‘protection’, ‘trust’, ‘consent’, ‘negotiation’.

**Breakout rooms session 2 – Describing social contracts between society and informal or parallel authorities in Myanmar.**

*Communities may have social contracts with informal authorities, for example with ethnic or religious authorities. In situations of conflict or state collapse, where there are competing concepts of political legitimacy, social contracts may form between communities and political bodies that function in parallel with formal state institutions.*

Questions:

In Myanmar at the moment, one of the political bodies/informal authorities that have a social contract with communities is NUG. There are others too. What are they? Which informal authorities do you think are relevant to your research?

How would you describe the social contracts between the community you have been researching and NUG, and/or other informal authorities? Are they strong or weak? Why?

**Breakout rooms session 3 – Describing how the international community influences social contracts in Myanmar?**

*Sometimes social contracts can be imposed or influenced by external parties, for example in cases where international organisations or other states, for a range of reasons, lend legitimacy to an existing regime or government that is not trusted by significant sections of society.*

Questions:

Do you think the international community gives legitimacy to the existing regime in Myanmar? How?

How do you think the international community could work better with Myanmar's ethnic groups and minorities? For example, who should they be inviting to meetings, talking to about policy, or providing humanitarian support to?

What advice would you give to the international human rights community in supporting the people of Myanmar?