



Australian Government  
Department of Home Affairs

# Rohingya: Issues relating to statelessness

Myanmar

Country of Origin Information Services Section (COISS)

Effective from 2 June 2021

Released by Department of Home Affairs  
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# Acronym List

ARSA	Arakan Rohingya Salvation Army
BGP	Border Guard Police
CSC	Citizenship Scrutiny Card
DFAT	Department of Foreign Affairs and Trade
IDP	Internally Displaced Person
IDNC	Identity Card for National Verification
INRD	Immigration and National Registration Department
NGO	Non-governmental Organisation
NRC	National Registration Card
NVC	National Verification Card
TRC	Temporary Residence Card
UCC	Union Citizenship Card
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
USDOS	US Department of State

# Myanmar; Citizenship and documents

## 1947-1982 Myanmar: Citizenship and documents<sup>1</sup>

**From 1947-1982, most Rohingya were recognised as citizens, holding the formal identity papers of Burmese citizens.** Under Burma's first Constitution (1947) and subsequent Union Citizenship Law (1948), many Rohingya gained citizenship status and associated identity documents.<sup>2</sup> From 1948-1952, most Rohingya held Union Citizenship Cards (UCCs);<sup>3</sup> from 1948-1955 many Rohingya were issued with Citizenship Certificates.<sup>4</sup> Under the 1949 Resident Registration Act and 1951 Resident Registration Rules, all residents were required to comply with new civil registration regulations.<sup>5</sup> After 1951, citizens over the age of twelve were issued with National Registration Cards (NRCs),<sup>6</sup> replacing the former Citizenship Certificates and UCCs.<sup>7</sup> Noncitizens were issued with Foreign Registration Certificates.<sup>8</sup> Many residents of Rakhine State, including Rohingya, like other Burmese nationals, were issued with NRCs.<sup>9</sup>

**Furnished with NRCs, most Rohingya enjoyed the benefits of citizenship rights.** Not all Rohingya sought or held NRCs; for example those from remote areas.<sup>10</sup> Those who did hold NRCs were permitted to vote during Burma's brief period of post-independence democracy (1950-62).<sup>11</sup> On several occasions during the 1950s, Prime Minister U Nu referred to the Rohingya as an 'indigenous ethnic community'; the Rohingya were subsequently granted equal citizenship rights in line with other Burmese citizens at that time.<sup>12</sup> Government agencies recognised NRC holders as citizens, including the Rohingya of Rakhine State.<sup>13</sup>

**After a change of government following a military coup in 1962, the citizenship status of Rohingya became increasingly perilous.** Around 1962, Rohingya began to lose citizenship rights;

<sup>1</sup> This period of time extends from the enactment of independent Burma's first Constitution (1947) to the promulgation of the 1982 Citizenship Act. It also coincides with Burma's 'democratic era' (1948-1962) and the majority of the subsequent socialist period (1962-1988).

<sup>2</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, pp.88-90, CIS38A80121535; the authors indicate that copies and originals of these citizenship papers were verified during their fieldwork among Rohingya in 2011-2014.

<sup>3</sup> Authors of a 2016 publication indicate that originals and copies of these cards were still kept by some Rohingya, and were sighted by them during their (2011-2014) fieldwork – see: 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, pp.88-90, CIS38A80121535

<sup>4</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, p.135, CIS38A80121535

<sup>5</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, pp.88-90, CIS38A80121535

<sup>6</sup> 'Myanmar: The politics of Rakhine State', International Crisis Group, 22 October 2014, p.11, CISA447F084239

<sup>7</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, p.135, CIS38A80121535

<sup>8</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.23, 20190418091206

<sup>9</sup> 'Myanmar: The politics of Rakhine State', International Crisis Group, 22 October 2014, p.11, CISA447F084239; 'Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar', The Arakan Project, 30 June 2016, p.5, CIS38A80122715; 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.23, 20190418091206

<sup>10</sup> 'Myanmar: The politics of Rakhine State', International Crisis Group, 22 October 2014, p.11, CISA447F084239

<sup>11</sup> 'International Mission of Inquiry: Burma repression, discrimination and ethnic cleansing in Arakan', International Federation of Human Rights Leagues, 1 April 2000, p.18, CIS8BEF434385

<sup>12</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, p.72, CIS38A80121535; 'Rakhine State Needs Assessment September 2015', The Center for Diversity and National Harmony, 24 October 2015, p.8, CISEC96CF14195; 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.115, CIS7B839419491

<sup>13</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, p.87, CIS38A80121535; 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.115, CIS7B839419491

the new (socialist) administration issued Foreign Registration Cards to them.<sup>14</sup> Recognition of Rohingya children as Burmese citizens became increasingly difficult.<sup>15</sup> While NRCs were formal identity cards, they did not provide conclusive proof of a holder's citizenship.<sup>16</sup> Fine print on the cards stated 'this card does not necessarily mean that the holder is actually a citizen of that country'.<sup>17</sup> Officials began to use this disclaimer to deny Rohingya citizenship.<sup>18</sup>

**In 1978, a citizenship scrutiny exercise in Rakhine state triggered the mass displacement of Rohingya and stripped many Rohingya of their citizenship documentation.** In 1978 authorities launched a citizenship scrutiny operation (named 'Nagamin') throughout Sittwe and northern Rakhine state, during which every Rohingya had to present identity documents under the threat of arrest.<sup>19</sup> Atrocities committed by authorities led to some 280,000 Rohingya fleeing to Bangladesh, including around 150,000 with valid identity documents.<sup>20</sup> Mass forced repatriation from Bangladesh followed.<sup>21</sup> The legal status of the returnees was not reinstated.<sup>22</sup>

## 1982 Citizenship Act

**The 1982 Citizenship Act focusses on ethnicity and ancestry, providing three forms of citizenship.** The 1982 law makes membership in a 'national race' the primary basis for citizenship.<sup>23</sup> Alternatively, citizenship may be granted if a person can demonstrate that their ancestors settled in the country prior to 1823 (the year prior to British colonisation).<sup>24</sup> If a person cannot provide evidence of this ancestry, they may still be able to claim associate or naturalised forms of citizenship.<sup>25</sup> Persons who qualified under the 1948 citizenship law but who would no longer qualify under the 1982 law may be considered associate citizens if they had applied for citizenship in 1948.<sup>26</sup> Another report indicates

<sup>14</sup> 'Ethno-Demographic dynamics of the Rohingya-Buddhist conflict', Rachel Blomquist, *Georgetown Journal of Asian Affairs*, Fall 2016, p.98, CIS38A80124362

<sup>15</sup> 'International Mission of Inquiry: Burma repression, discrimination and ethnic cleansing in Arakan', International Federation of Human Rights Leagues, 1 April 2000, p.18, CIS8BEF434385

<sup>16</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 10 January 2017, par.3.11, p.12, CISED50AD28

<sup>17</sup> Informal translation provided in 'Rohingya: Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, p.135, CIS38A80121535

<sup>18</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 2016, p.135, CIS38A80121535

<sup>19</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, p.74,

CIS38A80121535; 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.115, CIS7B839419491

<sup>20</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, p.74, CIS38A80121535; 'Influx Virus - the Illegal Muslims in Arakan', U Shwe Zan and Dr. Aye Chan, August 2005, p.14, CIS9BE2467848; 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.115, CIS7B839419491

<sup>21</sup> 'Equal only in name: The human rights of stateless Rohingya in Malaysia', Equal Rights Trust & the Institute of Human Rights and Peace Studies, Mahidol University, October 2014, p.9, CISA447F084243

<sup>22</sup> 'Equal only in name: The human rights of stateless Rohingya in Malaysia', Equal Rights Trust & the Institute of Human Rights and Peace Studies, Mahidol University, October 2014, p.9, CISA447F084243

<sup>23</sup> 'How in Myanmar "national races" came to surpass citizenship and exclude Rohingya', Nick Cheesman, *Journal of Contemporary Asia*, Vol. 47:3, 15 March 2017, p.471, CISED50AD4508; 'Myanmar's Citizenship Law: An Analysis', Centre for Diversity and National Harmony, August 2018, pp.202-203, 20190723140406; Tonkin, D, 'Exploring the issue of citizenship in Rakhine state' in 'Citizenship in Myanmar: Ways of Being in and from Burma', South, A and Lall, M (eds), ISEAS Yusof Ishak Institute, 2018, pp.222-263, at p.237, 20200813163545; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.32, 20201015140416

<sup>24</sup> 'Burmese refugees in Bangladesh: still no durable solution', Human Rights Watch, 1 May 2000, p.9, CIS12716; 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(g), p.31, 20210331120647; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.32, 20201015140416

<sup>25</sup> 'Burmese refugees in Bangladesh: still no durable solution', Human Rights Watch, 1 May 2000, p.9, CIS12716

<sup>26</sup> 'Burmese refugees in Bangladesh: still no durable solution', Human Rights Watch, 1 May 2000, p.9, CIS12716



that associate citizenship is for those whose application for citizenship under the 1948 Citizenship Law was pending when the 1982 law came into force.<sup>27</sup> Evidence of one's parents entering and residing in Burma prior to 1948 may enable consideration for naturalised citizenship status.<sup>28</sup> According to other legal statutes, associate and naturalised citizens are unable to run for political office; serve in the military, law enforcement, or public administration; inherit land or money; or pursue certain professional degrees, such as medicine and law.<sup>29</sup> According to the Citizenship Act, only the third generation of associate or naturalised citizens are able to acquire full citizenship.<sup>30</sup>

**The 1982 Citizenship Act neither stripped nor denied Rohingya of their citizenship, and permitted *de jure* several avenues for Rohingya to maintain or assert claims to citizenship.** The Act made membership of a 'national race' the standard for obtaining citizenship.<sup>31</sup> Under the 1982 law, the Council of State could determine whether or not a group qualified as a 'national ethnic race'. This determination is now carried out by the president or Union government.<sup>32</sup> Following the entry into force of the 1982 law and procedures, the government released a list of 135 recognized national races; the list did not include the Rohingya.<sup>33</sup> Even so, the 1982 Citizenship Law provided two paths for Rohingya to access citizenship: under Section 6, stating that those already granted citizenship under the previous 1948 Citizenship Act remain citizens, or through application for naturalised citizenship.<sup>34</sup> Further, not being a retroactive law, the Act should have enabled those not deemed to be 'national races' to have retained prior citizenship through transferring over to the new regime under section 6 of the Act.<sup>35</sup>

**The (mis)application of the Act, and the failure of authorities to implement it, led to most Rohingya becoming *de facto* stateless.** Implementation of the Act did not correspond with its

<sup>27</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.116, CIS7B839419491; See also: 'National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar', Fortify Rights, 3 September 2019, p.37, 20190923110528; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.32, 20201015140416

<sup>28</sup> 'Burmese refugees in Bangladesh: still no durable solution', Human Rights Watch, 1 May 2000, p.9, CIS12716; See also: 'Unpacking the Presumed Statelessness of Rohingyas', Taylor and Francis Online, Nyi Nyi Kyaw, 25 August 2017, pp.276-277, CISED50AD7565; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, pp.32-33, 20201015140416

<sup>29</sup> 'Country Reports on Human Rights Practices for 2018 - Burma', US Department of State, 13 March 2019, Section 2(d), p.32, 20190314092917; 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(g), p.31, 20210331120647

<sup>30</sup> 'Country Reports on Human Rights Practices for 2018 - Burma', US Department of State, 13 March 2019, Section 2(d), p.32, 20190314092917; 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(g), p.31, 20210331120647; Tonkin, D, 'Exploring the issue of citizenship in Rakhine state' in 'Citizenship in Myanmar: Ways of Being in and from Burma', South, A and Lall, M (eds), ISEAS Yusof Ishak Institute, 2018, pp.222-263, at p.236, 20200813163545

<sup>31</sup> 'How in Myanmar "national races" came to surpass citizenship and exclude Rohingya', Nick Cheesman, *Journal of Contemporary Asia*, Vol. 47:3, 15 March 2017, p.471, CISED50AD4508

<sup>32</sup> 'Myanmar's Citizenship Law: An Analysis', Centre for Diversity and National Harmony, August 2018, pp.203-204, 211 & 213, 20190723140406; Tonkin, D, 'Exploring the issue of citizenship in Rakhine state' in 'Citizenship in Myanmar: Ways of Being in and from Burma', South, A and Lall, M (eds), ISEAS Yusof Ishak Institute, 2018, pp.222-263, at pp.236-237, 20200813163545; 'Citizenship and Human Rights in Myanmar: Why Law Reform is Urgent and Possible: A Legal Briefing', International Commission of Jurists, June 2019, p.8, 20200817140002

<sup>33</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(g), p.31, 20210331120647; 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.116, CIS7B839419491; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.32, 20201015140416

<sup>34</sup> 'Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar', The Arakan Project, 30 June 2016, p.5, CIS38A80122715; 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, pp.116-117, CIS7B839419491

<sup>35</sup> 'How in Myanmar "national races" came to surpass citizenship and exclude Rohingya', Nick Cheesman, *Journal of Contemporary Asia*, Vol. 47:3, 15 March 2017, p.472, CISED50AD4508



promulgation; in the late 1980s authorities began a new citizenship scrutiny exercise in which NRCs were replaced with Citizenship Scrutiny Cards (CSCs).<sup>36</sup> CSCs were issued in one of three colours – pink, green and blue – corresponding to the three tiers of citizenship outlined in the 1982 Act (full citizenship, associate citizenship and naturalised citizenship).<sup>37</sup> Everyone was required to reapply for citizenship, which could be granted after a scrutinising process.<sup>38</sup> Applicants had to provide detailed and convincing documents, such as a birth certificates, household lists and detailed information about parents, grandparents and great-grandparents on both sides.<sup>39</sup> Rohingya who presented their NRCs were reportedly refused a CSC, even when meeting the conditions for citizenship. This was facilitated by provisions under the 1982 Citizenship Law allowing for broad discretion in decision making.<sup>40</sup> Acting on higher authority, officials refused to re-register Rohingya entitled to the new citizenship cards (pink cards), often confiscating, destroying or refusing to return their old citizenship cards (NRCs) required to be submitted as part of the process.<sup>41</sup> Only small numbers of CSCs have been issued to Rohingya.<sup>42</sup> The delaying or denying of re-granting citizenship to the Rohingya effectively left them stateless.<sup>43</sup> The loss of documentation had immediate effects on the Rohingya, with ID/citizenship cards required for everyday transactions such as buying bus, boat and train tickets, applying to attend school and leaving one's ward.<sup>44</sup> Not all Rohingya surrendered their NRCs and thousands still hold on to them;<sup>45</sup> NRCs remain valid identity and permanent residence documents, though are not proof of citizenship.<sup>46</sup>

## Temporary Residence Cards (1995-2015)

**Excluded from access to CSCs, a separate exercise commenced around 1995, offering Temporary Residence Cards (TRCs) to Rohingya.** In 1995, the government began to issue TRCs

<sup>36</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.23, 20190418091206; note that contemporary sources and Myanmar people still commonly refer to the Citizenship Scrutiny Card as a 'National Registration Card'. See also: 'Unpacking the Presumed Statelessness of Rohingyas', Taylor and Francis Online, Nyi Nyi Kyaw, 25 August 2017, pp.271 & 282-283, CISED50AD7565

<sup>37</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, pp.58-59, 20190418091206

<sup>38</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, pp.6, 90, CIS38A80121535

<sup>39</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, p.90, CIS38A80121535

<sup>40</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.117, CIS7B839419491; See also: 'Myanmar's Citizenship Law: An Analysis', Centre for Diversity and National Harmony, August 2018, p.209, 20190723140406

<sup>41</sup> 'How in Myanmar "national races" came to surpass citizenship and exclude Rohingya', Nick Cheesman, *Journal of Contemporary Asia*, Vol. 47:3, 15 March 2017, p.472, CISED50AD4508; 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, p.6, CIS38A80121535; 'Rohingyas with NRCs Might Have Suffrage in Upcoming Elections', Rohingya Vision TV, 17 September 2015, CXBD6A0DE19458

<sup>42</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.59, 20190418091206

<sup>43</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, p.91, CIS38A80121535

<sup>44</sup> 'Burma: the Rohingya Muslims: ending a cycle of exodus?', Human Rights Watch, 1 September 1996, p.21, CIS9258

<sup>45</sup> 'The Politics of Rakhine State', International Crisis Group, 22 October 2014, p.11, CISA447F084239; 'Rohingyas with NRCs Might Have Suffrage in Upcoming Elections', Rohingya Vision TV, 17 September 2015, CXBD6A0DE19458

<sup>46</sup> 'Email to DIBP, Re: Information request from the Australian Department of Immigration & Border Protection', Chris Lewa, 13 June 2015, CISEC96CF12736; 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 10 January 2017, par.3.11, p.12, CISED50AD28

(also known as 'white cards')<sup>47</sup> to Rohingya<sup>48</sup>, both to those who previously held NRCs and those previously undocumented.<sup>49</sup> These interim 'white cards' became *de facto* identification documentation for approximately 700,000 Rohingya to whom they were issued for the next 20 years.<sup>50</sup> By 2014, around 90% of Rohingya held these cards.<sup>51</sup> In normal circumstances, TRCs were issued as interim documents to people who had lost their NRCs.<sup>52</sup> They conferred lawful residence status but not citizenship status, and were required for basic tasks such as seeking a marriage license or travel authorisation.<sup>53</sup> They also permitted Rohingya the right to cross into Bangladesh, though not necessarily freedom to move within Rakhine State.<sup>54</sup> TRC holders were permitted to vote in the 2008 referendum and the 2010 elections;<sup>55</sup> TRCs did not however grant their holders access to Burmese passports.<sup>56</sup>

**On 11 February 2015, then president Thein Sein announced that TRCs would expire by the end of May 2015, depriving many Rohingya of identification documents apart from their household lists.** The president's announcement was in response to pressure opposing voting rights for Rohingya in the late 2015 elections; their expiry effectively revoked Rohingya's voting rights.<sup>57</sup> The president's announcement required card holders to surrender their TRCs between 1 April-31 May 2015.<sup>58</sup> Only some Rohingya surrendered their TRCs; as at December 2016, around 390,000 Rohingya (and

<sup>47</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.88, CIS38A80121535

<sup>48</sup> ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206; 'Rohingya: The History of a Muslim Identity in Myanmar', Leider, J, Oxford Research Encyclopedia of Asian History, May 2018, p.14, 20190221154114

<sup>49</sup> ['Myanmar: The Politics of Rakhine State'](#), International Crisis Group, 22 October 2014, p.11, CISA447F084239

<sup>50</sup> ['Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.117, CIS7B839419491

<sup>51</sup> ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 10 January 2017, par.3.12, p.12, CISED50A D28; Note that Gibson *et al*'s survey data indicated around 26% of Rohingya without TRCs; the authors explain the lack of uptake in terms of cost factors – at 1,500 kyat (USD1.50-USD2.00) – or those who in principle refused to obtain one. For those lacking TRCs, household registrations were used as alternate identification papers – see: ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.91, CIS38A80121535. Also, see 'Unpacking the Presumed Statelessness of Rohingyas', Taylor and Francis Online, Nyi Nyi Kyaw, 25 August 2017, p.279, CISED50A D7565, which indicates that as at December 2014, only around half of the Rohingya held white cards.

<sup>52</sup> ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.58, 20190418091206

<sup>53</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.91, CIS38A80121535

<sup>54</sup> ['Report of the Special Rapporteur on the situation of human rights in Myanmar'](#), Human Rights Council, A/HRC/34/67, 1 March 2017, p.4, CISED50AD3584

<sup>55</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715

<sup>56</sup> 'Myanmar: The procedures and documents required to obtain a (Burmese) Myanmar passport and to obtain a seaman's identity card. Whether an individual who fled or deserted the military and was wanted by the military would be able to obtain a passport or a seaman's identity card. Whether individuals who fled or deserted the military are restricted from becoming seamen or obtaining a passport', Immigration and Refugee Board of Canada, 15 May 2007, 930

<sup>57</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715; ['Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma'](#), USCIRF, 13 December 2016, p.6, CIS38A80124348; ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206

<sup>58</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.89, CIS38A80121535

Kaman Muslims) had surrendered their cards.<sup>59</sup> Those who surrendered their cards were issued with a receipt and were expected to apply for citizenship under a Citizenship Verification process.<sup>60</sup>

## National Verification Process (2014-present)

In July 2014, the Immigration and National Registration Ministry initiated a pilot program to grant citizenship to Rohingya living in Myebon Internally Displaced Person (IDP) camp (Rakhine State).<sup>61</sup> The pilot program was part of a broader initiative to register all Rohingya by March 2015, after which the recorded population would be divided into three categories: those previously registered; those not previously registered but willing to submit to the citizenship verification process; those who reject definition in the existing laws (including those refusing the label 'Bengali' and those without adequate documents).<sup>62</sup> The latter group would be denied the right to be considered for citizenship, and were to be sequestered in government-constructed camps, subject to potential deportation.<sup>63</sup>

**The pilot program resulted in the majority of participants being granted some form of citizenship.** Over 1,000 Muslims participated in the process.<sup>64</sup> Out of 1,280 initial applications, 105 were granted full citizenship<sup>65</sup> and 459 naturalised citizenship as at July 2015, with at least 14 rejected, eight for being mentally unsound and six on language grounds.<sup>66</sup> Children of those issued with citizenship documents were also granted citizenship, making a total of over 1,000 individuals.<sup>67</sup> Applicants were not required to submit documentary evidence, with a verification of descent back to grandparents using government records and an application form sufficient to establish full citizenship.<sup>68</sup> Rohingya participating in the process were not allowed to self-identify as 'Rohingya' and

<sup>59</sup> 'Country Report on Human Rights Practices 2016 – Burma', US Department of State, 3 March 2017, Section 2(d), p.32, OGD95BE926875

<sup>60</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715; ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206; ['Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.118, CIS7B839419491. Rohingya were requested to undergo a 'citizenship verification process', as opposed to the 'citizenship process' for members of the 135 recognised ethnic groups. ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206; ['Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.117, CIS7B839419491

<sup>61</sup> ['Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.117, CIS7B839419491; ['Myanmar's Citizenship Law: An Analysis'](#), Centre for Diversity and National Harmony, August 2018, p.218, 20190723140406

<sup>62</sup> ['Government Plan Would Segregate Rohingya'](#), Human Rights Watch, 3 October 2014, CX1B9ECAB5660

<sup>63</sup> ['Government Plan Would Segregate Rohingya'](#), Human Rights Watch, 3 October 2014, CX1B9ECAB5660; ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715. Note that the ICG indicated that the controversial detention policies were later removed from government plans - ['Myanmar: The politics of Rakhine State'](#), International Crisis Group, 22 October 2014, p.34, CISA447F084239

<sup>64</sup> ['Government Plan Would Segregate Rohingya'](#), Human Rights Watch, 3 October 2014, CX1B9ECAB5660.

Note that the figure of 209 who were found eligible for citizenship included some ethnic Kaman, a Muslim group listed as an ethnic group under the 1982 Citizenship Act and therefore automatically entitled to full citizenship.

<sup>65</sup> USCIRF indicates that more than 200 applicants were deemed eligible for full citizenship, though specifies that the majority of these were reportedly Kaman Muslims – see: ['Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma'](#), USCIRF, 13 December 2016, p.6, CIS38A80124348

<sup>66</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715

<sup>67</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715

<sup>68</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715; ['Myanmar: The Politics of Rakhine State'](#), International Crisis Group, 22 October 2014, p.21, CISA447F084239

were instead identified as 'Bengali'.<sup>69</sup> The program was suspended following protests from Rakhine Buddhist groups.<sup>70</sup>

**In June 2015, the government<sup>71</sup> began issuing Identity Cards for National Verification (ICNV);<sup>72</sup> the project was short-lived, and attracted minimal uptake.** In June 2015, ICNVs or 'turquoise' cards<sup>73</sup> began to be issued to Rohingya.<sup>74</sup> Only a small number were issued (as few as 1,000), with the cards valid for two years, and with no indication of what would transpire at the end of this period.<sup>75</sup> Limited uptake was in part due to a lack of consultation with prospective recipients, a consequent lack of understanding from affected communities, and the limitations on rights to be recognised through the process.<sup>76</sup> Recipients were required to identify as 'Bengali' and hand in their TRCs. It is not clear what benefits accrued to an ICNV holder in terms of access to health or education or in terms of freedom of movement.<sup>77</sup> ICNVs were issued in accordance with the 1949 Registration Act and were a prerequisite for applying for citizenship for applicants no longer holding other identity cards.<sup>78</sup> ICNVs do not provide any legal status to holders.<sup>79</sup> A campaign to compel acceptance of the card is reported to have been conducted, reportedly accompanied by threats, with those retaining white card receipts in parts of northern Rakhine State facing increased restrictions.<sup>80</sup> By the end of 2015, approximately 1,000 Rohingya in Rakhine State had volunteered for the program.<sup>81</sup>

**In June 2016, the National League for Democracy (NLD)-led government revived the citizenship scrutiny process in Rakhine State.** On 7 June 2016, state-level officials commenced a revised citizenship verification plan in three townships of Rakhine State: Ponnagyun, Kyaukphyu and Myebon.<sup>82</sup> Within two weeks, the government extended the scheme to four villages in Maungdaw as well as to Thet Kay Pyin and Aung Mingalar in Sittwe.<sup>83</sup> Participants were not required to identify as

<sup>69</sup> [Rohingyas - Insecurity and Citizenship in Myanmar](#), T. Gibson *et al* (eds.), 1 August 2016, p.92, CIS38A80121535; [Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.117, CIS7B839419491

<sup>70</sup> [Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma](#), USCIRF, 13 December 2016, p.6, CIS38A80124348; [Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.117, CIS7B839419491

<sup>71</sup> Note that the government at this time was under the control of the military-aligned Union Solidarity and Development Party (USDP), preceding the reign of the National League for Democracy (NLD) (and *de facto* leader, State Counsellor Aung San Suu Kyi).

<sup>72</sup> Note that the cards are also known as National Verification Cards (NVCs).

<sup>73</sup> Note that the cards are also commonly referred to as 'green' or 'blue' cards.

<sup>74</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 10 January 2017, par.3.13, p.13, CISED50AD28

<sup>75</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206

<sup>76</sup> [Report of the Special Rapporteur on the situation of human rights in Myanmar](#), Human Rights Council, A/HRC/34/67, 1 March 2017, p.4, CISED50AD3584

<sup>77</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 10 January 2017, par.3.13, p.13, CISED50AD28; [Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.118, CIS7B839419491

<sup>78</sup> [Report of the Special Rapporteur on the situation of human rights in Myanmar](#), Human Rights Council, A/HRC/34/67, 1 March 2017, p.3, CISED50AD3584

<sup>79</sup> [Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715

<sup>80</sup> [Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.118, CIS7B839419491

<sup>81</sup> [Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar](#), The Arakan Project, 30 June 2016, p.6, CIS38A80122715

<sup>82</sup> [Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma](#), USCIRF, 13 December 2016, p.8, CIS38A80124348

<sup>83</sup> [Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar](#), The Arakan Project, 30 June 2016, p.7, CIS38A80122715



'Bengali' or to list their race or religion.<sup>84</sup> In late December 2016, the State Counsellor's<sup>85</sup> office issued a notification clarifying the objective of the ICNVs issued under the citizenship scrutiny process.<sup>86</sup> The notification articulated that ICNVs were issued only for the purpose of scrutinizing the eligibility of the holder for citizenship, while further indicating that card-holders from Rakhine State could travel freely in their resident township and inside Rakhine State (subject to regional orders), and could legally travel to Bangladesh with a border pass.<sup>87</sup> It remained unclear however what form of citizenship (full, associate or naturalised) would be granted under the scrutiny process,<sup>88</sup> or whether the form of citizenship gained through the program could be transmitted to children.<sup>89</sup>

**Uptake of ICNVs was again minimal, leaving the majority of Rohingya undocumented and effectively stateless.** The scrutiny process was unsuccessful.<sup>90</sup> At March 2017, only around 2,000 individuals had been granted a form of citizenship, with most Muslims refusing to participate in the process due to a lack of information, lack of tangible benefits or the inability to identify as 'Rohingya'.<sup>91</sup> Community leaders also urged Rohingya not to participate,<sup>92</sup> while some who sought to participate in the process were threatened by 'an unknown armed group'.<sup>93</sup> The Department of Foreign Affairs and Trade (DFAT) refers to Rohingya requested to undergo the citizenship verification process since 2016 being issued National Verification Cards (NVCs),<sup>94</sup> which did not specify religion or ethnicity, had no expiry date and were the identity documentation required for Rohingya by the government. The rights provided by the NVC remained opaque, with NVC holders theoretically permitted to travel anywhere in Myanmar, but in practice limited by the rules and regulations of local areas.<sup>95</sup> In February 2018, the government advised DFAT that a NVC is required by Rohingya in order to access basic services such as health and education. Despite this, most Rohingya remained unwilling to participate in the citizenship verification process and accept NVCs as they feared it may remove their right to remain in

<sup>84</sup> 'Country Report on Human Rights Practices 2016 – Burma', US Department of State, 3 March 2017, Section 2(d), p.32, OGD95BE926875; 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 10 January 2017, par.3.14, p.13, CISED50AD28; 'Myanmar's Citizenship Law: An Analysis', Centre for Diversity and National Harmony, August 2018, p.218, 20190723140406; 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206

<sup>85</sup> Note that the State Counsellor's office is held by Aung San Suu Kyi.

<sup>86</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, A/HRC/34/67, 1 March 2017, pp.3-4, CISED50AD3584; See also: 'Identity Card for National Verification in Rakhine to Return', 27 December 2016, The Republic of the Union of Myanmar State Counsellor Office, 20200804152540

<sup>87</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, A/HRC/34/67, 1 March 2017, pp.3-4, CISED50AD3584

<sup>88</sup> 'Still oppressed: Rohingya policies and restrictions under Myanmar's new government', International Federation for Human Rights, 26 October 2016, p.3, CIS38A80122634; 'Country Report on Human Rights Practices 2016 – Burma', US Department of State, 3 March 2017, Section 6, p.41, OGD95BE926875

<sup>89</sup> 'Country Report on Human Rights Practices 2016 – Burma', US Department of State, 3 March 2017, Section 6, p.41, OGD95BE926875

<sup>90</sup> 'Interim Report and Recommendations', Advisory Commission on Rakhine State, 17 March 2017, p.11, CISED50AD3603

<sup>91</sup> 'Interim Report and Recommendations', Advisory Commission on Rakhine State, 17 March 2017, p.11, CISED50AD3603; 'Still oppressed: Rohingya policies and restrictions under Myanmar's new government', International Federation for Human Rights, 26 October 2016, p.3, CIS38A80122634

<sup>92</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 10 January 2017, par.3.15, p.13, CISED50AD28

<sup>93</sup> 'Man Killed in Buthidaung After Talking to Journalists', The Irrawaddy, 2 April 2017, CXC9040665151. Note that the article is about the Rohingya insurgency movement Arakan Rohingya Salvation Association; the inference appears to be that it is this group who is the 'unknown armed group'.

<sup>94</sup> National Verification Cards were a renaming of the ICNV. 'Towards a peaceful, fair and prosperous future for the people of Rakhine', Advisory Commission on Rakhine State, 24 August 2017, p.27, CISED50AD5441

<sup>95</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206; See also: 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.119, CIS7B839419491

Myanmar long-term, or establish them as a lower class of citizen with fewer rights.<sup>96</sup> As a result of the low uptake rates, the majority of Rohingya remain undocumented (apart from their household registration lists) – or holding receipts for their TRCs – and are effectively stateless, not being recognised as citizens of Myanmar.<sup>97</sup>

**In September 2016, the government established an Advisory Commission on Rakhine State, headed by Kofi Annan and comprising international and national experts.** In August 2017, the Commission produced a report that had wide-ranging findings, including on human rights.<sup>98</sup> The report's recommendations were accepted by the government and international community, and the government claims that the majority of the recommendations have been implemented. A March 2020 report of the UN Special Rapporteur on the situation of human rights in Myanmar, however, indicates that a review of the government's implementation committee's reports suggested that none of the recommendations had been fully implemented, and many had not been implemented at all.<sup>99</sup>

**The Commission's report made a number of recommendations in relation to citizenship verification.** The Commission's report stated that '[f]or the benefit of all communities in Rakhine – and in order to provide clarity on the legal status of all – the verification process should be accelerated'.<sup>100</sup> The report recommended that the government 'establish a clear strategy and timeline for the citizenship verification process'. The strategy 'should be transparent, efficient, and with a solid basis in existing legislation... should be discussed with members of the Rakhine and Muslim communities', and be broadly communicated. There should be 'a clear timeline for the different stages of the process', which should 'be made simpler, and enable individuals to apply for citizenship at the same time as they apply for NVC'. To increase process accessibility, 'the use of an uncle or aunt's documents (or other family members) should be permitted when the parent's documents are missing'. The Commission urged the government to ensure that the process was voluntary.<sup>101</sup>

**The government is reported to have continued to call for Rohingya to apply for NVCs.** The government claims that these cards are necessary to apply for citizenship as well as other government documentation, such as Citizenship Scrutiny Cards. Non-governmental organisation (NGO) reports indicated that Rohingya were pressured or coerced to accept NVCs. Many Rohingya expressed the need for more assurances about the results of the process, with many saying they were already citizens and feared the government would either not affirm their citizenship or would provide a form of lesser citizenship, thereby formalising their lack of rights. Many feared they would not be issued with new documents if they turned in their old documents.<sup>102</sup> In September 2019, it was

<sup>96</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206

<sup>97</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206

<sup>98</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, A/HRC/43/59, 4 March 2020, p.9, 20200326161958

<sup>99</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, A/HRC/43/59, 4 March 2020, p.9, 20200326161958

<sup>100</sup> 'Tow ards a peaceful, fair and prosperous future for the people of Rakhine', Advisory Commission on Rakhine State, 24 August 2017, p.26, CISED50AD5441

<sup>101</sup> 'Tow ards a peaceful, fair and prosperous future for the people of Rakhine', Advisory Commission on Rakhine State, 24 August 2017, pp.27-28, CISED50AD5441; See also: 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.24, 20190418091206

<sup>102</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(g), pp.31-32, 20210331120647; See also: 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Executive Summary, p.1, Section II, pp.18-19, 20210513161123; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, pp.36-40, 20201015140416; 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights', United Nations Human Rights Council, A/HRC/45/5, 3 September 2020, p.12, 20210527175117; 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, pp.21-31, 20190918092732; 'National Verification Cards and the Denial of Citizenship of Rohingya

reported that state policies that imposed and forced Rohingya to accept national verification cards had intensified.<sup>103</sup> In March 2020, the UN Special Rapporteur on the situation of human rights in Myanmar reported that NVCs continue to be imposed, with harsher movement restrictions reportedly on those who continue to refuse to accept them and limited benefits for those who receive them.<sup>104</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that efforts continued to enforce members of the Rohingya community to accept the NVC.<sup>105</sup>

**Rohingya returning to Rakhine State from Bangladesh will be required to undergo the citizenship verification process.** Since 2017, Myanmar and Bangladesh have on several occasions announced they would begin processes to return Rohingya refugees currently in Bangladesh to northern Rakhine State, with the NVC process reported to be envisioned as a major component of the plan.<sup>106</sup> In April 2019, DFAT reported that the repatriation procedures for Rohingya returning from Bangladesh to Rakhine State required Rohingya returnees to undergo the citizenship verification process and accept NVCs.<sup>107</sup> Rohingya refugees are reported to have been hesitant to provide any biometric information to the Bangladesh government, fearing it would be shared with the Myanmar government and used to force them to accept NVCs.<sup>108</sup> In an October 2019 letter to the UN Secretary-General, the Permanent Representative of Myanmar to the United Nations said that in Rakhine State, 'every displaced person returning to Myanmar must undergo verification without fail'. This applied 'to everyone who was repatriated or deported from other countries'. Verified returnees would then receive an NVC. NVC holders who met prescribed requirements would be entitled to apply for citizenship.<sup>109</sup>

**A small number of Rohingya have received naturalised citizenship.** The authorities are reported to have issued citizenship to a small number of Rohingya, but most of these were naturalised, a distinction that afforded them fewer rights than full citizens.<sup>110</sup> In July 2020, it was reported that a Rohingya camp leader at Dar Paing IDPs camp near Sittwe, the capital city of Rakhine, had said that some 100 people had applied for a government-initiated NVC and had recently received naturalised citizenship after waiting for six months.<sup>111</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar, Thomas H Andrews, reported that recent trends indicated that Rohingya were being issued naturalised citizenship even when eligible for full citizenship. The Special

Muslims in Myanmar', Fortify Rights, 3 September 2019, pp.43-62, 20190923110528; Myanmar forces Rohingya to accept cards that preclude citizenship: group, Naing, S, Reuters, 3 September 2019, 20200820191706; DFAT Country Information Report Myanmar, Department of Foreign Affairs and Trade, 18 April 2019, pp.24 & 59, 20190418091206

<sup>103</sup> Detailed findings of the Independent International Fact-Finding Mission on Myanmar, UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.6, 20190918092732

<sup>104</sup> Report of the Special Rapporteur on the situation of human rights in Myanmar, UN Human Rights Council, A/HRC/43/59, 4 March 2020, p.9, 20200326161958

<sup>105</sup> Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.26, 20210526181440; Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights, United Nations Human Rights Council, A/HRC/45/5, 3 September 2020, p.12, 20210527175117

<sup>106</sup> National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar, Fortify Rights, 3 September 2019, p.46, 20190923110528

<sup>107</sup> DFAT Country Information Report Myanmar, Department of Foreign Affairs and Trade, 18 April 2019, p.56, 20190418091206

<sup>108</sup> National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar, Fortify Rights, 3 September 2019, p.47, 20190923110528

<sup>109</sup> Letter dated 16 October 2019 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General, United Nations General Assembly, 28 October 2019, p.16, 20200824181506

<sup>110</sup> Trafficking in Persons Report 2020, US Department of State, 25 June 2020, p.129, 20200703092615; Detailed findings of the Independent International Fact-Finding Mission on Myanmar, UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.20, 20190918092732

<sup>111</sup> Rohingya call for voting rights ahead of Myanmar election, UCA News (UCAN), 22 July 2020, 20200813161712



Rapporteur also reported that citizenship remained inaccessible to almost all Rohingya. The citizenship process continued to lack transparency and involved prohibitively high unofficial fees and burdensome evidentiary and administrative requirements.<sup>112</sup>

### Citizenship 'Smart Card' pilot project (2016/2017)

**A pilot project introducing 'smart' citizenship cards raised concerns among Rohingya.** The Ministry of Labour, Immigration and Population launched a pilot project to replace citizenship cards with electronic Smart Cards in Mandalay and Naypyitaw in early/mid-December 2016,<sup>113</sup> before rolling out the trial in Rakhine State's Sittwe, Maungdaw and Buthidaung townships.<sup>114</sup> Replacing the current paper documents, the Smart Cards were to be issued to *citizens* [italics added] above the age of 18, though the nationwide implementation timeframe for the project was not known.<sup>115</sup> According to Rakhine State's immigration department, residents in the pilot areas were being asked to present their household lists and NRC cards.<sup>116</sup> The director general of Rakhine State's Immigration Department stated that 'people who are involved in the pilot project will be "scrutinised" and only confirmed citizens will be given smart cards'.<sup>117</sup> Some Rohingya expressed concerns that the transition to Smart Cards would consolidate their temporary citizenship status,<sup>118</sup> while some non-Rohingya Muslims expressed concerns that the change to Smart Cards could lead to the revocation of their citizenship status.<sup>119</sup> The government intended to implement the scheme in other states and divisions in Myanmar.<sup>120</sup> More recently, in May 2019, Myanmar's Minister of Labour, Immigration and Population, U Thein Swe, said the government would seek international support for the cost of implementing the Ministry's plan to replace citizenship cards with a digitalised system operated with smart cards in Myanmar.<sup>121</sup>

## Other forms of documentation – household lists and birth certificates

**Household lists are often the only formal documentation available to Rohingya in northern Rakhine State.** Penalties of up to seven days in prison apply to people not registered on a household list.<sup>122</sup> Household lists contain identification of a person's residential status, their address details and personal information including registration number, ethnicity and religion.<sup>123</sup> Myanmar's Ministry of Immigration and Population and the Ministry of Home Affairs issue and update household lists. Unlike the rest of the country, the authorities in northern Rakhine State conduct yearly inspections of

<sup>112</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.31, 20210526181440

<sup>113</sup> 'Govt Pilot Project Introduces Digital ID Cards', The Irrawaddy, 15 December 2016, CX6A26A6E16784

<sup>114</sup> 'Smart ID pilot project rolls out in 4 test areas', Myanmar Times, 13 January 2017, CXC90406610104

<sup>115</sup> 'Electronic ID cards being issued in pilot project areas', Global New Light of Myanmar, 14 December 2016, CX6A26A6E16785; 'Smart ID pilot project rolls out in 4 test areas', Myanmar Times, 13 January 2017, CXC90406610104

<sup>116</sup> 'Smart ID pilot project rolls out in 4 test areas', Myanmar Times, 13 January 2017, CXC90406610104

<sup>117</sup> 'Smart ID pilot project rolls out in 4 test areas', Myanmar Times, 13 January 2017, CXC90406610104

<sup>118</sup> 'Myanmar's Smart Card Move Leaves Rohingyas Bewildered', Rohingya Vision TV, 20 January 2017, CXC90406610105

<sup>119</sup> 'Burma Human Rights Network Monthly Update on Human Rights abuses and religious intolerance in Burma January, 2017', Burma Human Rights Network, 1 January 2017, p.14, CISED50AD4049,

<sup>120</sup> 'Govt Pilot Project Introduces Digital ID Cards', The Irrawaddy, 15 December 2016, CX6A26A6E16784

<sup>121</sup> 'Parliament Pushes for Identity Cards to be Issued to IDPs', The Irrawaddy, 15 May 2019, 20190515160924

<sup>122</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.54, 20190418091206

<sup>123</sup> 'Rohingyas - Insecurity and Citizenship in Myanmar', T. Gibson *et al* (eds.), 1 August 2016, p.99, CIS38A80121535

Rohingya households to update their household list.<sup>124</sup> There were reports that Rohingya who were not at home during the updating exercise might be removed from the list. A person deleted from the list is vulnerable; effectively denied proof of residence, they face heightened risks of arrest and conviction for immigration offences.<sup>125</sup> People who return from abroad after being deleted from their household list risk arrest and conviction for immigration offences.<sup>126</sup> Those fleeing to Bangladesh in the wake of the post-October 2016 security 'clearance operations'<sup>127</sup> were at risk of having their names removed from their household lists, compromising their ability to prove their legal residence should they return.<sup>128</sup> Bribes are reported to be used to prevent deletions from household lists.<sup>129</sup>

### **Household lists are required to obtain services, yet have become harder to obtain since 1988.**

From 1988 onwards, Rohingya experienced many restrictions in obtaining household lists.<sup>130</sup> These included rude behaviour from officials, the necessity to pay bribes, tardy processing times (up to six months), harassment in the form of being required to submit unnecessary documents,<sup>131</sup> expenses required in travelling to the local Immigration and National Registration Department (INRD) office (where applicants had to apply in person), and illiteracy hampering the ability to complete forms.<sup>132</sup> Due to these concerns, Rohingya often use third persons or agents to access their documents for them.<sup>133</sup> From 2000 onwards, new household lists have not been issued for newly married Rohingya couples separating from their parents' households; the children of undocumented parents also therefore do not appear on any household list.<sup>134</sup> From January 2016, a new procedure commenced to insert new-born Rohingya babies onto household lists; the process is so bureaucratically onerous that most children are likely to remain unregistered.<sup>135</sup> Household registration is required for issuance of identity documentation, school enrolment, particularly at the secondary and higher levels, accessing services, including health, electricity and water, marriage and travel permission. Since the expiration of TRCs in 2015, household lists have been the only form of identification for many Rohingya.<sup>136</sup>

<sup>124</sup> ['Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.140, CIS7B839419491

<sup>125</sup> ['Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.141, CIS7B839419491; ['Detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.31, 20190918092732

<sup>126</sup> ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.54, 20190418091206; ['National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar'](#), Fortify Rights, 3 September 2019, pp.57-58, 20190923110528

<sup>127</sup> On 9 October 2016, Muslim insurgents attacked Border Guard Police posts in northern Rakhine State, killing 9 police and making off with weapons and munitions. In response, Myanmar security forces launched a brutal counter-insurgency 'clearance operation'.

<sup>128</sup> ['Report of the Special Rapporteur on the situation of human rights in Myanmar'](#), Human Rights Council, A/HRC/34/67, 1 March 2017, p.15, CISED50A D3584

<sup>129</sup> ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.54, 20190418091206; ['Detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.32, 20190918092732

<sup>130</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.99, CIS38A80121535

<sup>131</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, pp.99-100, CIS38A80121535

<sup>132</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.103, CIS38A80121535

<sup>133</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.103, CIS38A80121535

<sup>134</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, pp.100-101, CIS38A80121535

<sup>135</sup> ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.9, CIS38A80122715

<sup>136</sup> ['DFAT Country Information Report Myanmar'](#), Department of Foreign Affairs and Trade, 18 April 2019, p.54, 20190418091206; ['Detailed findings of the Independent International Fact-Finding Mission on Myanmar'](#), UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.31, 20190918092732

**Authorities ceased issuing birth certificates to new-born Rohingya in northern Rakhine State in the mid-1990s.**

In the mid-1990s, authorities ceased issuing birth certificates to new-born Rohingya children in northern Rakhine State.<sup>137</sup> Respondents to a survey in Rakhine State indicated that until 2005, the regular practice was for birth certificates to be issued to parents at the time of a child's birth.<sup>138</sup> After 2005 however, parents only received a delivery certificate rather than a birth certificate.<sup>139</sup> Midwives and nurses (associated with Sittwe hospital – where some affluent Rohingya women gave birth) were authorised to issue delivery certificates;<sup>140</sup> traditional birth attendants tending to the majority home births were not authorised to do so. Many children born in rural areas post-2005 do not therefore have birth certificates.<sup>141</sup> In urban areas, delivery certificates are required to enrol children in primary school though this may not be the case in rural areas.<sup>142</sup>

**After the issuing of birth certificates ceased, the only registration of birth for Rohingya children in northern Rakhine State was inclusion in household lists.**

In September 2018, it was reported that since the authorities stopped issuing birth certificates to Rohingya children in northern Rakhine in the 1990s, the only registration of birth for Rohingya children in northern Rakhine was their inclusion in household lists.<sup>143</sup> Upon the request of parents, the village administrator or the representative person from the village tract can issue a certificate of proof of birth. The cost of this procedure varies by location and family. Parents then approach the immigration authorities and request that their household list be updated, paying another arbitrary fee.<sup>144</sup> The registration of new-borns in household lists has not been undertaken consistently, and the number of unregistered Rohingya children in Rakhine State remains unknown. Estimates suggest that almost half of the children in Rakhine State remain unregistered.<sup>145</sup>

**The Myanmar government says it is taking steps to issue birth certificates to all residents of Rakhine State born in Myanmar, but Rohingya are reported to face restrictions on their ability to register births.**

In an October 2019 letter to the UN Secretary-General, the Permanent Representative of Myanmar to the United Nations said that the Myanmar government was taking measures to issue birth certificates to all residents of Rakhine State who were born in Myanmar.<sup>146</sup> The US Department of State (USDOS) report on human rights practices in Burma for 2019 indicates that NGOs reported the government had resumed issuing birth certificates to Rohingya newborns in northern Rakhine State, although Rohingya born in the last two decades generally did not have birth

<sup>137</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.112, CIS7B839419491; ['Key issues concerning the situation of stateless Rohingya women and girls in Rakhine State, Myanmar'](#), The Arakan Project, 30 June 2016, p.8, CIS38A80122715

<sup>138</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.106, CIS38A80121535

<sup>139</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.106, CIS38A80121535

<sup>140</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.106, CIS38A80121535

<sup>141</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.107, CIS38A80121535

<sup>142</sup> ['Rohingyas - Insecurity and Citizenship in Myanmar'](#), T. Gibson *et al* (eds.), 1 August 2016, p.107, CIS38A80121535

<sup>143</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.112, CIS7B839419491

<sup>144</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.112, CIS7B839419491

<sup>145</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.113, CIS7B839419491

<sup>146</sup> 'Letter dated 16 October 2019 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General', United Nations General Assembly, 28 October 2019, p.16, 20200824181506

certificates.<sup>147</sup> The USDOS report also notes that most Rohingya faced severe restrictions on their ability to register births, deaths, and marriages,<sup>148</sup> and for the Rohingya community, birth registration was a significant problem.<sup>149</sup> The USDOS report on trafficking in persons for 2020 indicates that during the reporting period, the government had provided documents, including birth certificates, to some undocumented Rohingya.<sup>150</sup> The September 2019 report by the Independent International Fact-Finding Mission on Myanmar also notes that there is a lack of functioning health facilities at the village level in northern Rakhine State. Pregnant women were forced to deliver babies with traditional birth attendees, often in unsafe and unhygienic places, because of movement restrictions and high hospital charges. This left infants and mothers at risk of death and at times unable to have births registered. Newborns were at risk of being excluded from household lists and so of statelessness.<sup>151</sup> In April 2019, DFAT reported that children in Rakhine State were most likely to be unregistered, and local sources reported to DFAT that Rohingya faced difficulties in obtaining birth certificates.<sup>152</sup>

## Rohingya in Yangon

**Yangon hosts an established Rohingya population.** Small numbers of Rohingya have settled in Yangon, the capital of Myanmar, and other places in Myanmar.<sup>153</sup> An established community of Rohingya settled there prior to the early 1990s, before the government imposed stricter restrictions on movement.<sup>154</sup> There is anecdotal evidence that there are approximately 20,000 Rohingya living in Yangon.<sup>155</sup> A February 2011 report refers to a growing number of Chittagonian-Bengali (or Rohingya) religious trust funds and mosques having been spotted throughout the former capital, attesting the increasing presence of Rohingya beyond Rakhine State (as demonstrated by the wealthy Chittagonian Sunni Arkaty Bara Masjid on 30th Street for instance).<sup>156</sup>

**Rohingya living in Yangon generally do not publicise their identity.** The size of the Rohingya population in Myanmar outside Rakhine State is unclear, as these people generally do not publicise their ethnicity.<sup>157</sup> Some Rohingya in Yangon and other large cities in Myanmar reportedly conceal their ethnic identity, including through attempts to identify as Kaman or other Muslim groups.<sup>158</sup> In June 2015, it was reported that most Rohingya in Yangon reside under different identities as the Rohingya identity can draw attention from authorities, Buddhist nationalists and the 969 Buddhist

<sup>147</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.36, 20200312133339

<sup>148</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.36, 20200312133339

<sup>149</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.32, 20200312133339; See also: 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 6, p.39, 20210331120647

<sup>150</sup> 'Trafficking in Persons Report 2020', US Department of State, 25 June 2020, p.129, 20200703092615

<sup>151</sup> 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, pp.51-52, 20190918092732

<sup>152</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.58, 20190418091206

<sup>153</sup> 'Equal only in name: The human rights of stateless Rohingya in Malaysia', Equal Rights Trust & the Institute of Human Rights and Peace Studies, Mahidol University, October 2014, p.5, CISA447F084243

<sup>154</sup> 'Email to DIBP. Re: Information request from the Australian Department of Immigration & Border Protection', Chris Lewa, 13 June 2015, CISEC96CF12736; see also: 'CIS Request No. BUR13329 Rohingya in Yangon', Department of Foreign Affairs and Trade, 15 June 2012, CX289305

<sup>155</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

<sup>156</sup> 'Burmese Indians in contemporary Burma: Heritage, influence, and perceptions since 1988', Renaud Egreteau, *Asian Ethnicity*, vol. 12, no.1, 1 February 2011, p.44, CISD9559B12478

<sup>157</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

<sup>158</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206



radical group.<sup>159</sup> In February 2018, Rohingya in Yangon described Buddhist neighbours and friends increasingly expressing sympathy with the government's approach to the Rohingya in Rakhine State.<sup>160</sup>

**A few Rohingya in Yangon have obtained citizenship status; greater numbers have obtained other forms of identity documentation.** A small number of Rohingya in Yangon have full citizenship and have obtained pink registration cards (CSCs),<sup>161</sup> at times through bribing authorities or falsely registering as Kaman.<sup>162</sup> While it was reported in 2015 that this had become almost impossible in recent years,<sup>163</sup> it was more recently reported in April 2019 that according to local sources, Rohingya can pay bribes to officials to obtain a Kaman identity card.<sup>164</sup> Typically, Rohingya in Yangon are registered as 'Burmese Muslims' or 'Bamar Muslims'.<sup>165</sup> A person willing to record their ethnic group as a Burmese/Bamar Muslim is generally able to access either full, associate or naturalised citizenship, depending on their family history, including national identity cards and residency documents which provide a legal right to a passport.<sup>166</sup> Most Rohingya in Yangon hold an NRC, which remains a valid document. The NRC is, however, not proof of citizenship but rather of identity and of permanent residence.<sup>167</sup>

# Myanmar: Entitlements

## General

<sup>159</sup> 'Email to DIBP. Re: Information request from the Department of Immigration & Border Protection (DIBP)', 29 June 2015, CISEC96CF12735

<sup>160</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

<sup>161</sup> Citizenship Scrutiny Cards

<sup>162</sup> 'Email to DIBP. Re: Information request from the Department of Immigration & Border Protection (DIBP)', 29 June 2015, CISEC96CF12735; see also: 'Country Information Request No: CI141106111333887: Rohingya returnees DFAT Country Information Report No. 14/29', (Australian) Department of Foreign Affairs and Trade, 8 December 2014, CR0596BBF393; 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

<sup>163</sup> 'Email to DIBP. Re: Information request from the Department of Immigration & Border Protection (DIBP)', 29 June 2015, CISEC96CF12735; see also: 'Country Information Request No: CI141106111333887: Rohingya returnees DFAT Country Information Report No. 14/29', (Australian) Department of Foreign Affairs and Trade, 8 December 2014, CR0596BBF393

<sup>164</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

<sup>165</sup> 'Email to DIBP. Re: Information request from the Department of Immigration & Border Protection (DIBP)', 29 June 2015, CISEC96CF12735; 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206; 'Myanmar: Citizenship and issuance of passports for Rohingyas', Danish National ID Centre, 1 September 2020, 20200827145919

<sup>166</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206; 'Myanmar: Citizenship and issuance of passports for Rohingyas', Danish National ID Centre, 1 September 2020, 20200827145919; see also: 'Email to DIBP. Re: Information request from the Department of Immigration & Border Protection (DIBP)', 29 June 2015, CISEC96CF12735; 'Myanmar: Country Information Request: CI160129180242897 Rohingya in Yangon', Department of Foreign Affairs and Trade, 17 March 2016, CX6A26A6E2325. For information on issues faced by Muslim applicants for passports in Myanmar, see: 'Discrimination and Corruption Plague Burmese Passport System', Burma Human Rights Network, 14 June 2018, CIS7B839411615

<sup>167</sup> 'Email to DIBP. Re: Information request from the Australian Department of Immigration & Border Protection', Chris Lewa, 13 June 2015, CISEC96CF12736; For information on various outcomes Burmese Muslims experience when seeking to renew their identity documents, see: 'Access to documentation and risk of statelessness', Smile Education and Development Foundation and Justice Base, December 2017, pp.25-27, CISED50A D8574

**Rohingya face severe restrictions on basic rights, including to travel, access health care, education and livelihoods.** Most Rohingya face severe restrictions on their ability to travel, avail themselves of health-care services, engage in economic activity, obtain an education, register births, deaths, and marriages, freely practice their faith, and participate in political processes.<sup>168</sup> Since the communal violence of 2012, Rohingya Muslims, Rakhine Buddhists, and individuals of other ethnicities and beliefs throughout the state have suffered grievous deprivations of basic rights, including inadequate access to food, water, shelter, education, and health care. They also experience restrictions on freedom of movement; denial of needed humanitarian aid; and limited opportunities to obtain an education or earn a living. At worst, they endure egregious human rights abuses resulting in death, injury, and displacement; and, in the case of Rohingya Muslims, the denial of the right to a nationality and citizenship.<sup>169</sup>

## Travel

### **Rohingya in Rakhine State face extensive restrictions on their freedom of movement.**

Government and security forces in Rakhine State continued to restrict the movement of members of various ethnic and religious groups, particularly Rohingya.<sup>170</sup> All Rohingya living in Rakhine State require official permission to travel between townships, and outside of Rakhine State.<sup>171</sup> Rohingya who live in northern Rakhine State are not permitted to travel outside of northern Rakhine other than for medical emergencies, and restrictions are enforced through curfews and checkpoints.<sup>172</sup> In December 2017, UNHCR reported that the process for obtaining travel permission had become more stringent, with individuals requiring a form of identity card, namely the NVC, NRC or a citizenship document. Previously, alternate travel authorisation procedures were available for those who did not hold documentation.<sup>173</sup> The restrictions on movement for Rohingya prevent access to healthcare, education, and income-generating activities.<sup>174</sup> Where travel is permitted (with the required documentation), some Rohingya will choose not to cross checkpoints due to fear of harassment and extortion.<sup>175</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that the Rohingya remain cut off from livelihoods, education, and basic services due to

<sup>168</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.36, 20200312133339; See also: 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Executive Summary, p.1, Section II, p.12, 20210513161123; 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.15, 20210422095313

<sup>169</sup> 'Suspended in Time: The Ongoing Persecution of Rohingya Muslims in Burma', USCIRF, 13 December 2016, p.2, CIS38A80124348

<sup>170</sup> 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Section II, p.11, 20210513161123

<sup>171</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206

<sup>172</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.26, 20190418091206

<sup>173</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206

<sup>174</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206; 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the Secretary-General', United Nations General Assembly, A/75/295, 14 August 2020, p.10, 20210527181008; 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.29, 20210526181440; 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Executive Summary, p.1, 20210513161123

<sup>175</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206; See also: 'National Verification Cards and the Denial of Citizenship of Rohingya Muslims in Myanmar', Fortify Rights, 3 September 2019, pp.54-55, 20190923110528; 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, pp.29-30, 20210526181440

ongoing, severe movement restrictions. Travel authorisation was exceedingly difficult to obtain, due to onerous administrative and financial requirements.<sup>176</sup>

**There are severe movement restrictions on Rohingya in IDP camps in Rakhine State.** An estimated 600,000 Rohingya still live in Rakhine State, including some 130,000 whom the government has confined to IDP camps in central Rakhine since 2012.<sup>177</sup> Following widespread violence in Rakhine State in 2012, local authorities and the Ministry of Home Affairs moved some communities into camps and implemented severe movement restrictions. Those who remain displaced in camp-like settings in central Rakhine are primarily Rohingya, but also ethnic Kaman Muslims. They remain segregated, restricted to camps and displacement sites, unable to return to their place of origin and without freedom of movement.<sup>178</sup> Rohingya who have attempted to leave the camps are reported to have frequently faced arbitrary arrest and ill-treatment from local authorities.<sup>179</sup> In August 2017, the Advisory Commission on Rakhine State recommended the government establish a plan to close all camps in Rakhine State. Three IDP camps, housing Rohingya, Kaman and Rakhine IDPs were reported to have been closed in 2017. Efforts to close camps, however, have been inconsistent. In Rohingya camps that were closed, IDPs were not relocated or given increased freedom of movement.<sup>180</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that the junta reportedly plans to close IDP camps in Rakhine State, starting with Kyauk Ta Lone. This closure will not allow IDPs to return to their homes or their places of origin. Rather, the authorities will simply move residents to housing at the same location while barring them from work.<sup>181</sup>

**Other Rohingya in central Rakhine, including those in villages or in separate official 'Muslim enclaves' such as Aung Mingalar in Sittwe, also face severe restrictions including on freedom of movement.** Approximately 4,000 Rohingya and Kaman live in the Muslim enclave of Aung Mingalar, which has been guarded by armed police, checkpoints and barbed wire since the violence in Rakhine in 2012. Except for emergency medical treatment, resident movements are restricted to displacement camps and sites in rural Sittwe, where a limited number of people can sometimes access markets and buy food. Residents can only use a shuttle escorted by police, and must pay the police for the transport.<sup>182</sup>

**Access to travel permits is administratively cumbersome.** The authorities require Rohingya to carry special documents and travel permits for internal movement in areas in Rakhine State where

<sup>176</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.29, 20210526181440

<sup>177</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, pp.29 & 32, 20210526181440

<sup>178</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.26, 20190418091206; See also: 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.14, 20210422095313; 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(e), pp.29-30, 20210331120647; '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, pp.41-42 & 44, 20201015140416

<sup>179</sup> '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.52, 20201015140416

<sup>180</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, pp.26-27, 20190418091206

<sup>181</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.15, 20210526181440; See also: 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights', United Nations Human Rights Council, A/HRC/45/5, 3 September 2020, p.10, 20210527175117; '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, pp.131-132, 20201015140416

<sup>182</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206; '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.65, 20201015140416



most Rohingya reside. The township officers in Buthidaung and Maungdaw townships require Rohingya to submit a 'form for informing absence from habitual residence' for permission to stay overnight in another village and to register with the village administrator. Obtaining these forms and permits often involved extortion and bribes.<sup>183</sup> Restrictions on the travel of foreigners, Rohingya, and others between townships in Rakhine State varied depending on township, and generally required submission of a Form 4. This form could only be obtained from the township INRD and only if a person provided an original copy of a family list, a temporary registration card, and letters from two guarantors. Travel authorised under a Form 4 is generally valid for two to four weeks, but is given almost exclusively for medical emergencies, effectively eliminating many opportunities to work or study. The extensive administrative measures imposed on Rohingya and foreigners in Rakhine State effectively prevent persons from changing residency.<sup>184</sup>

**Access to travel permits is costly.** The cost to obtain a Form 4 varied from township to township, with payments to village administrators or the township INRD office ranging from the official amount of 30,000 to more than two million kyats (\$22 to \$1,460).<sup>185</sup> Obtaining travel permits and then using these documents to pass through checkpoints is reported to require the payment of 'informal fees' at every stage, and can include payment in the form of forced labour. The size of informal payments varies and can be linked to the perception of an individual's capacity to pay. Amnesty International reports that in addition to extortion, Rohingya are regularly harassed by checkpoint officers with threats and physical violence.<sup>186</sup>

**Rohingya have traditionally been able to travel between northern Rakhine and Bangladesh with some ease.** Prior to the security operations following the October 2016 attacks, people from northern Rakhine State were able to travel into Bangladesh for trading purposes or to access healthcare services.<sup>187</sup> Myanmar immigration and customs officials issued an official document—known as a 'blue book'—that allowed regularised movements of people, including Rohingya, between Myanmar and Bangladesh.<sup>188</sup> A source understands that blue books are no longer in use. Following the security operations in 2016 and 2017, one-way, irregular people movement from Myanmar to Bangladesh has dramatically increased, but regular movement between the two countries has been restricted.<sup>189</sup> Dozens of Rohingya were reported to have been arrested and charged under immigration laws after returning from Bangladesh informally in June and July 2020 during heightened scrutiny of border crossings because of the COVID-19 pandemic.<sup>190</sup>

**Rohingya also face restrictions in travelling outside of Rakhine State.** Travel permission is only granted to Rohingya holding official identity documents (mostly NVCs, though some still hold NRCs), meaning very few Rohingya are able to travel legally outside of Rakhine State. The process to obtain travel permission from the state government is onerous, and involves submitting a copy of a household list, recommendation letters from the Village or Ward Administrator and township police

<sup>183</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(d), p.27, 20210331120647

<sup>184</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(d), p.27, 20210331120647

<sup>185</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(d), p.27, 20210331120647

<sup>186</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206; 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.62, 20201015140416

<sup>187</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206

<sup>188</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206

<sup>189</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206

<sup>190</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(f), p.30, 20210331120647

station, and permission from the Township Immigration Office. Permission is restricted to 45 days, and requires two 'guarantors' to ensure the applicant returns to Rakhine State before the permission expires. Guarantors are reported to face penalties if this does not occur. Rohingya are reported to have been able to obtain travel permission through the payment of bribes.<sup>191</sup> Stateless persons, particularly Rohingya, were unable to obtain documentation necessary for foreign travel.<sup>192</sup>

### **Rohingya have been imprisoned after travelling outside Rakhine State without authorisation.**

Rohingya face prison terms of up to two years for attempting to travel out of Rakhine State without prior authorisation.<sup>193</sup> In April 2020, more than 800 Rohingya were released from prison by a presidential pardon and transported to Rakhine State, reportedly among nearly 25,000 prisoners released in Myanmar in an attempt to stop the spread of the COVID-19 virus in prisons.<sup>194</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar also reported that as part of a Myanmar New Year presidential pardon in April 2020, the authorities withdrew all charges against Rohingya arrested for travelling without documents and pardoned those convicted of the same charges. Over 880 Rohingya were released from arrest or detention and returned to Rakhine State. Subsequently, it was observed that Rohingya intercepted en route within Myanmar without requisite documentation had been apprehended and then forcibly returned to Rakhine State, but charges were not filed. The Special Rapporteur notes reports that treatment of those apprehended has been inconsistent, ranging from timely release (in line with COVID-19 measures) to prolonged detention in police stations, prison, or quarantine facilities.<sup>195</sup> In October 2020, Human Rights Watch reported that 866 Rohingya who had been detained for travelling and were pardoned in April 2020, were forced to accept National Verification Cards and were returned to Rakhine State on a naval vessel. About 600 were sent to central Rakhine, where they underwent quarantine for COVID-19 before being once again confined in the camps and villages they had attempted to flee.<sup>196</sup> The USDOS report on human rights practices in Burma for 2020 indicates that although a court had dropped illegal travel charges against more than 200 accused persons in April 2020, according to activists, hundreds of Rohingya charged with illegal travel remained in jails and youth detention centres across the country.<sup>197</sup>

## **Employment**

**Rohingya face severe restrictions in pursuing livelihoods.** Most Rohingya face extreme restrictions on their ability to engage in economic activity.<sup>198</sup> The restrictions on movement for

<sup>191</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206

<sup>192</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(d), p.28, 20210331120647

<sup>193</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(d), p.27, 20210331120647

<sup>194</sup> 'Coronavirus: Myanmar ships 800 freed Rohingya prisoners back to Rakhine' Agence France-Presse, 20 April 2020, 20200820190204; 'Scores of detained Rohingya freed in Myanmar as virus fears mount', Agence France-Presse, 9 April 2020, 20200820185252

<sup>195</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.29, 20210526181440; 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the Secretary-General', United Nations General Assembly, A/75/295, 14 August 2020, p.10, 20210527181008

<sup>196</sup> 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.54, 20201015140416

<sup>197</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(d), p.27, 20210331120647; See also: 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.14, 20210422095313

<sup>198</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.36, 20200312133339

Rohingya prevent access to income-generating activities.<sup>199</sup> The Rohingya in central and northern Rakhine have been restricted from accessing fishing areas, including coastal waters and inland waterways, farmlands, markets, or employment outside their immediate areas, which has severely limited their income.<sup>200</sup> The obstacles to accessing livelihood opportunities due to movement restrictions has resulted in a decrease in the food supply and a resulting spike in food prices. Movement restrictions have increased the dependency of Rohingya on humanitarian assistance.<sup>201</sup> The government prohibit Rohingya from working as civil servants, including as doctors, nurses, or teachers.<sup>202</sup> Rohingya individuals are reported to be particularly vulnerable to labour trafficking in Rakhine State, including forced labour perpetrated by government authorities.<sup>203</sup> There were reports that government and private actors practiced anti-Muslim discrimination that impeded Muslim-owned businesses' operations and undercut their ability to hire and retain labour, maintain proper working standards, and secure public and private contracts.<sup>204</sup>

## Health

**Rohingya face severe restrictions on access to health care services.** Movement restrictions impact on the health of Rohingya.<sup>205</sup> Reports note impediments to accessing quality medical care were especially problematic during the COVID-19 pandemic.<sup>206</sup> Health services in Rakhine State are generally of poor quality, with undeveloped transport infrastructure and discrimination in the delivery of services further impeding access to healthcare.<sup>207</sup> There is a lack of functioning health facilities at the village level, forcing residents to rely on traditional healers or to self-medicate. Pregnant women are forced to deliver babies with traditional birth attendees, often in unsafe and unhygienic places, because of movement restrictions and high hospital charges. This leaves infants and mothers at risk of death and at times unable to have births registered. Newborns are at risk of being excluded from household lists and so of statelessness. This exacerbates the already precarious health situation for Rohingya, where the maternal mortality rate is higher than in the rest of the country.<sup>208</sup> Maternal

<sup>199</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206; 'Trafficking in Persons Report 2020', US Department of State, 25 June 2020, p.129, 20200703092615; '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.98, 20201015140416; 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.29, 20210526181440

<sup>200</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, p.131, CIS7B839419491

<sup>201</sup> 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.51, 20190918092732

<sup>202</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.36, 20200312133339

<sup>203</sup> 'Trafficking in Persons Report 2020', US Department of State, 25 June 2020, p.130, 20200703092615; 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, pp.58-62, 20190918092732; 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Section II, p.10, 20210513161123; 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.10, 20210526143929

<sup>204</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 7(d), p.48, 20210331120647

<sup>205</sup> 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.51, 20190918092732

<sup>206</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.29, 20210526181440

<sup>207</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206; '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.69, 20201015140416

<sup>208</sup> 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, pp.51-52, 20190918092732

health outcomes are also reportedly much poorer for Rohingya compared with the ethnic Rakhine population. As well, while official data on Rohingya is not collected, it is reported by sources in Rakhine State that malnutrition rates among the Rohingya population are very high, leading to high stunting rates.<sup>209</sup>

**Rohingya have limited access to medical treatment at Sittwe General Hospital.** Sittwe General Hospital is the highest level healthcare facility in Rakhine State.<sup>210</sup> The hospital does not allow Rohingya access to the general medical services provided to the rest of the population. Hospital access for Rohingya is limited to emergency cases, and treatment is provided in a segregated ward of only 20 beds with lower-standard facilities compared to the remainder of the hospital. Rohingya patients are under continual surveillance by security guards, and all require a female guardian, reportedly due to security concerns, who speaks Burmese or Rakhine language to be admitted. Few Rohingya women speak either language, so families need to pay for a female translator.<sup>211</sup> Sittwe is one of the only hospitals that consistently accepts Rohingya for treatment. Rohingya in other parts of the state are referred to Sittwe Hospital even when their local hospital is closer, because several local hospitals do not accept Rohingya for treatment.<sup>212</sup>

**There are very basic levels of healthcare provided in internal displacement camps.** Even before the onset of the COVID-19 pandemic, access to healthcare in IDP camps was extremely limited.<sup>213</sup> Depending on the camp, clinics are open between one and 25 days per month, during specified hours only. There is a clinic visit to most large camps at least one day per week. There is a small permanent health centre inside the Sittwe camp periphery that can provide some out-of-hours care and emergency referrals to Sittwe Hospital. People in IDP camps are often reluctant to go to hospital, a process which requires a police escort and transportation costs. This means treatment is often delayed, leading to higher death rates. Access to safe water and sanitation facilities is poor, including in IDP camps.<sup>214</sup> In October 2020, Human Rights Watch reported that with poor living conditions, overcrowding, and travel restrictions, health indicators for Rohingya in the camps have in large part worsened over the past eight years.<sup>215</sup>

**On 1 February 2021, the military overthrew Myanmar's civilian government in a coup d'état.** It is reported that the newly formed State Administrative Council (SAC) has imposed additional requirements that have caused difficulties for national and international staff to secure the necessary travel authorisations to enter internment camps in Sittwe. The staff have largely had to rely on local Rohingya staff working under their remote supervision to try and control an outbreak of diarrhoea which started in the camps in April 2021. In May 2021, it was reported that nine infants and young children in the camps had died following the outbreak, and 20 more had been transferred to a rural hospital in Thek Kay Pyin IDP camp.<sup>216</sup> Rohingya who have travelled without travel authorisation to seek medical assistance have been arrested and detained. A 48-year-old Rohingya man from

<sup>209</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206

<sup>210</sup> 'Sittwe Camp Profiling Report', Danish Refugee Council, June 2017, p.72, 20190527110208

<sup>211</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.27, 20190418091206; See also: 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, pp.71-72 & 74, 20201015140416

<sup>212</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, pp.27-28, 20190418091206

<sup>213</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.32, 20210526181440

<sup>214</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, pp.27-28, 20190418091206

<sup>215</sup> 'An Open Prison without End': Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.68, 20201015140416; See also: 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 2(e), pp.29-30, 20210331120647

<sup>216</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.9, 20210526143929



Kyauktaw township who was suffering from a long-standing eye problem was arrested on 10 February 2021 while en route to Bangladesh for an eye operation, and sent to prison in Sittwe.<sup>217</sup>

## Education

**Movement restrictions prevent many Rohingya from attending state-run schools.**<sup>218</sup> Most Rohingya face extreme restrictions on their ability to obtain an education.<sup>219</sup> Rakhine State has one of the lowest primary and secondary enrolment rates in the country, as well as among the lowest adult literacy rates. In most areas, schools remain closed, and where schools are open, children cannot travel or the school administration does not allow Rohingya children to enrol. A September 2019 United Nations report indicates that movement restrictions made access to education beyond primary school for internally displaced Rohingya impossible. According to reliable sources, only 892 Muslim students were enrolled in two high schools across the State in 2018.<sup>220</sup> In October 2020, Human Rights Watch reported that according to data from the Myanmar Ministry of Education, approximately 70 per cent of the estimated 120,000 school-aged Muslim children in central Rakhine State camps and villages were not in school.<sup>221</sup> Authorities generally did not permit Rohingya high school graduates from Rakhine State and others living in IDP camps to travel outside the state to attend college or university.<sup>222</sup>

**University students without citizenship cards are not permitted to graduate, which particularly affects Muslim students.** In a speech to the International Court of Justice in December 2019, Aung San Suu Kyi stated that arrangements had 'been made to enable more Muslim youth to attend classes at universities across Myanmar', and '[w]ith the support of international and local partners, scholarships will also be made available to students from all communities living in Rakhine'.<sup>223</sup> A Rakhine State government university program for Rohingya and Rakhine students, launched during the 2018-2019 school year, allowed students to attend University of Sittwe-administered courses in a limited distance education program. Authorities continued to bar any university students who did not possess citizenship cards from graduating, which disproportionately affected students from religious minorities, particularly Muslim students.<sup>224</sup>

**Education for children in IDP camps is limited.** Access to schools for internally displaced and stateless children is limited.<sup>225</sup> For the approximately 60,000 displaced children in IDP camps in central Rakhine, access to education is limited by a lack of schools, and Rohingya (and Kaman) children in central Rakhine have physical access to only one high school in Thet Kae Pyin, Sittwe Township. University students without CSCs, including Rohingya and some religious minorities, are

<sup>217</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.9, 20210526143929

<sup>218</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206; 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Section II, p.15, 20210513161123

<sup>219</sup> 'Country Reports on Human Rights Practices for 2019 - Burma', US Department of State, 11 March 2020, Section 6, p.36, 20200312133339

<sup>220</sup> 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.51, 20190918092732

<sup>221</sup> '"An Open Prison without End": Myanmar's Mass Detention of Rohingya in Rakhine State', Human Rights Watch, October 2020, p.105, 20201015140416

<sup>222</sup> 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Section II, p.15, 20210513161123

<sup>223</sup> 'Transcript: Aung San Suu Kyi's speech at the ICJ in full', Aljazeera, 12 December 2019, 20191213132847

<sup>224</sup> 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Section II, p.15, 20210513161123

<sup>225</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 6, p.39, 20210331120647

permitted to attend classes and sit examinations, but are unable to graduate and receive qualifications.<sup>226</sup>

## Marriage and children

**Rohingya require permission to marry and face restrictions around the number of children couples can have.** Local authorities in Rakhine State prohibit Rohingya families from having more than two children, although some Rohingya with household registration papers reportedly could circumvent the law.<sup>227</sup> The marriage authorisation procedure reportedly involves Rohingya seeking permission, paying high fees, and making a commitment to use contraception to prevent having more than two children.<sup>228</sup> In Rakhine State, local authorities required Rohingya to obtain a permit to marry officially, a step not required of other ethnicities. Waiting times for the permit could exceed one year, and bribes usually were required.<sup>229</sup> In 2016, additional requirements for marriage permits for Rohingya in Buthidaung Township, northern Rakhine State, were reportedly issued. This included a letter from the district immigration authorities verifying the couple were of legal age to marry; a letter from a station commander showing the couple was free of criminal offences; and a letter from a health assistant assuring the couple was free of communicable diseases. Authorisation has taken up to two years in some cases, and this is reported to have contributed to fewer cases of marriage orders than in the past.<sup>230</sup> Unauthorised marriages could result in prosecution of Rohingya men under the penal code, which prohibits a man from “deceitfully” marrying a woman, and could result in a prison sentence or fine.<sup>231</sup> Any children of a Rohingya couple who marry without official marriage permission risk exclusion from the household list. The *Population Control Healthcare Law* (2015) also allows township officials to organise couples to practice 36-month birth spacing. Rohingya children have also been denied equal access to birth registration.<sup>232</sup>

## Myanmar: Displacement of Rohingya to Bangladesh

### August 2017 crackdown against Rohingya

**More than 700,000 Rohingya fled to Bangladesh following a crackdown by the Myanmar military in 2017.** In August 2017, following attacks by the Arakan Rohingya Salvation Army (ARSA), an insurgent group based in Rakhine State, on a military base and security force outposts across northern Rakhine State, the Myanmar security forces launched a sweeping crackdown against the Rohingya. Thousands of Rohingya were killed and the security forces engaged in targeted and

<sup>226</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.28, 20190418091206; 'International Religious Freedom Report for 2020 - Burma', US Department of State, 12 May 2021, Section II, p.15, 20210513161123

<sup>227</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 6, p.38, 20210331120647

<sup>228</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, pp.28-29, 20190418091206

<sup>229</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 1(f), p.13, 20210331120647

<sup>230</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

<sup>231</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 1(f), p.13, 20210331120647

<sup>232</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.29, 20190418091206

indiscriminate shootings, sexual violence and widespread arson attacks. By August 2018, close to 725,000 people, mostly Rohingya, had fled to Bangladesh. The new arrivals joined more than 200,000 Rohingya already in Bangladesh, who had fled earlier violence and were mostly living in camps.<sup>233</sup> This meant that the majority of Rohingya in Myanmar had been displaced from the country.<sup>234</sup> UN investigators later concluded that the Myanmar military campaign was executed with 'genocidal intent'. Myanmar denies that charge, saying the army was battling the insurgency.<sup>235</sup>

**Rohingya still in Rakhine State are reported to live under highly repressive conditions.** The UN Independent International Fact-Finding Mission on Myanmar released its final report in September 2019, finding that living conditions for the 600,000 Rohingya still in Rakhine State had worsened and they remained under threat of genocide.<sup>236</sup> In March 2020, the UN Special Rapporteur on the situation of human rights in Myanmar reported that crimes against humanity, war crimes and genocide may have been perpetrated against the Rohingya in northern Rakhine in 2016 and 2017. The Special Rapporteur had received information regarding ongoing violence, forced labour, extortion and looting of Rohingya in northern Rakhine, as well as continuing movement restrictions and low access to food, livelihoods, healthcare and education.<sup>237</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that Rohingya in Rakhine State lived under highly repressive conditions that severely limited their ability to move or make a living, or access health care or education for their children. The Special Rapporteur reported that conditions for Rohingya in Rakhine State appeared designed to be destructive to the survival of the community.<sup>238</sup>

**Several factors have been cited as impediments to the repatriation of Rohingya refugees.** The September 2019 report by the Independent International Fact-Finding Mission on Myanmar noted that at that time, Rohingya refugees were not voluntarily returning from Bangladesh to Rakhine State. The Rohingya considered that conditions were not conducive for return owing to several factors contributing to the precarious situation of the remaining Rohingya, including denial of citizenship.<sup>239</sup> In an August 2020 United Nations report on the situation of Rohingya and other minorities in Myanmar, the Secretary-General reported that Rohingya refugees and internally displaced persons cited lack of safety, citizenship and freedom of movement, as well as the inability to return to their places of origin, as key impediments to their repatriation, which was further complicated by ongoing clashes between the military and the Arakan Army.<sup>240</sup> Clashes between the Arakan Army (AA), an ethnic armed

<sup>233</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, pp.18-19, 20190418091206; 'Factbox: Three years on, Rohingya refugees in Bangladesh camps', Reuters, 19 August 2020, 20200820095228

<sup>234</sup> 'BTI 2020 Country Report: Myanmar', Bertelsmann Stiftung, 29 April 2020, p.27, 20200429141448

<sup>235</sup> 'Factbox: Three years on, Rohingya refugees in Bangladesh camps', Reuters, 19 August 2020, 20200820095228

<sup>236</sup> 'Freedom in the World 2020 - Myanmar', Freedom House, 2020, Overview, C. Functioning of Government, 20200522135452; 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, pp.6-7, 20190918092732; '2019 Report on International Religious Freedom: Burma', US Department of State, 10 June 2020, Executive Summary, p.1, Section II, p.5, 20200707104420

<sup>237</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, A/HRC/43/59, 4 March 2020, p.9, 20200326161958; See also: 'Myanmar: Rohingya Await Justice, Safe Return 3 Years On', Human Rights Watch, 24 August 2020, 20200824133430

<sup>238</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.32, 20210526181440

<sup>239</sup> 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.64, 20190918092732

<sup>240</sup> 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the Secretary-General', United Nations General Assembly, A/75/295, 14 August 2020, p.12, 20210527181008; See also: 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights', United Nations Human Rights Council, A/HRC/45/5, 3 September 2020, pp.2-5, 20210527175117



organisation, and security forces in Rakhine State had intensified since November 2018,<sup>241</sup> and in June 2020, the International Crisis Group described the 18 month conflict between the AA and security forces as Myanmar's most intense in years.<sup>242</sup> Following a November 2020 general election held in Myanmar, however, fighting between the Arakan Army and the Myanmar military is reported to have mostly ceased.<sup>243</sup> On 11 March 2021, the military removed the Arakan Army from its list of designated terrorist organisations.<sup>244</sup>

**In 2018, Myanmar's government established an Independent Commission of Enquiry into the events in Rakhine State.** On 30 July 2018, the Myanmar government announced the establishment of an Independent Commission of Enquiry into the events that occurred in Rakhine State.<sup>245</sup> In January 2020, the Independent Commission of Enquiry said that war crimes were likely committed against the Rohingya ethnic minority by Myanmar security forces during counterinsurgency operations. It said in a statement that the killing of innocent villagers took place during an internal armed conflict provoked by Rohingya attacks on police outposts. The commission of enquiry also said that there was insufficient evidence to argue that the crimes committed amounted to genocide.<sup>246</sup> In March 2020, the UN Special Rapporteur on the situation of human rights in Myanmar called for the full report of the Independent Commission of Enquiry to be released and queried some findings.<sup>247</sup>

**In November 2019, The Gambia lodged a case against Myanmar at the International Court of Justice (ICJ), the principal UN judicial body based in The Hague.** The Gambia alleged violations of the Convention on the Prevention and Punishment of the Crime of Genocide (usually known as the Genocide Convention) in Myanmar's treatment of ethnic Rohingya Muslims.<sup>248</sup> It brought the case on behalf of the 57-member Organisation of Islamic Cooperation. The Gambia also asked the ICJ to order provisional measures, the equivalent of an injunction in domestic law, authorising steps to protect the parties' rights pending the case's final adjudication. Hearings dealing with the request for provisional measures were held at the court in December 2019. Aung San Suu Kyi appeared at the hearing as Myanmar's agent, empowered to represent the state and make commitments on its behalf.<sup>249</sup> Aung San Suu Kyi argued that genocide was not committed under definitions of international law during what she said was an internal conflict started by attacks by the Arakan Rohingya Salvation Army.<sup>250</sup> In her speech, she also said there were 'steps taken to improve

<sup>241</sup> 'DFAT Country Information Report Myanmar', Department of Foreign Affairs and Trade, 18 April 2019, p.19, 20190418091206

<sup>242</sup> 'An Avoidable War: Politics and Armed Conflict in Myanmar's Rakhine State', Asia Report No.307, International Crisis Group, 9 June 2020, 20200707114150; See also: 'Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights', United Nations Human Rights Council, A/HRC/45/5, 3 September 2020, pp.2-5, 20210527175117

<sup>243</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.14, 20210526181440

<sup>244</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.6, 20210526143929

<sup>245</sup> 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/39/CRP.2, 17 September 2018, pp.411-412, CIS7B839419491; 'Detailed findings of the Independent International Fact-Finding Mission on Myanmar', UN Human Rights Council, A/HRC/42/CRP.5, 16 September 2019, p.74, 20190918092732

<sup>246</sup> 'Myanmar panel: No evidence of genocide against Rohingya', Deutsche Welle, 21 January 2020, 20200121144726; 'Executive Summary Of Independent Commission of Enquiry', Independent Commission of Enquiry (Myanmar), 21 January 2020, 20200122114147

<sup>247</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar', UN Human Rights Council, A/HRC/43/59, 4 March 2020, pp.12-13, 20200326161958

<sup>248</sup> 'Myanmar at the International Court of Justice', International Crisis Group, 10 December 2019, 20191213163619

<sup>249</sup> 'Myanmar at the International Court of Justice', International Crisis Group, 10 December 2019, 20191213163619

<sup>250</sup> 'Nobel Laureate Suu Kyi responds to Myanmar genocide allegations', Reuters, 11 December 2019, 20200826213106; 'Transcript: Aung San Suu Kyi's speech at the ICJ in full', Aljazeera, 12 December 2019, 20191213132847

livelihoods, security, access to education and health, citizenship, and social cohesion for all communities in Rakhine', such as '[a]ll children born in Rakhine, regardless of religious background, are issued with birth certificates',<sup>251</sup> and scholarships will 'be made available to students from all communities living in Rakhine'.<sup>252</sup>

**The ICJ made orders in relation to provisional measures in January 2020.** The ICJ ordered Myanmar to take all measures within its power to prevent the commission of all acts within the scope of Article II of the Genocide Convention, including killing and causing serious bodily or mental harm to members of the Rohingya group, as well as preserving evidence related to allegations of acts within the scope of Article II of the Genocide Convention. Myanmar was to report back within four months on measures it was taking to implement the ruling. The measures are binding and not subject to appeal, but the court has no means of enforcing them.<sup>253</sup> Myanmar's Ministry of Foreign Affairs said the ICJ ruling presented a distorted picture of the situation.<sup>254</sup> In May 2020, Myanmar submitted its first report on its adherence to measures to protect its Rohingya Muslim minority to the ICJ. The court did not release details of the report. In the previous two months, Myanmar had published presidential directives ordering government personnel not to commit genocide or destroy evidence, and to halt hate speech. Rights groups, however, said no meaningful steps to end atrocities against the Rohingya had been taken.<sup>255</sup>

**A further report by Myanmar on its compliance with the ICJ's provisional measures order was due by 23 May 2021.** In October 2020, The Gambia filed a more than 500-page memorial, which includes over 5,000 pages of supporting material, in its case against Myanmar at the ICJ for the alleged genocide against Rohingya.<sup>256</sup> In January 2021, Aung San Suu Kyi submitted preliminary objections to the jurisdiction of the court and the admissibility of the application to the ICJ in her capacity as designated agent for Myanmar. In doing so, Myanmar sought to have the case against it dismissed. The immediate effect was to suspend proceedings on the merits of the case, and the Gambia was given until 20 May 2021 to make a submission to the court in response to Myanmar's preliminary objections.<sup>257</sup> Myanmar was due to submit a report on its compliance with the ICJ's provisional measures order by 23 May 2021.<sup>258</sup>

**There have been violations of the ICJ's provisional measures order.** In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that from 23 January 2020 to 22 January 2021, at least 33 Rohingya civilians were killed as a result of armed conflict, with at least 39 others injured. According to information received by the Special Rapporteur, in the year following the ICJ's provisional measures order, 19 Rohingya men, women and children were killed as a result of

<sup>251</sup> Transcript: Aung San Suu Kyi's speech at the ICJ in full, Aljazeera, 12 December 2019, 20191213132847

<sup>252</sup> Transcript: Aung San Suu Kyi's speech at the ICJ in full, Aljazeera, 12 December 2019, 20191213132847

<sup>253</sup> International Court of Justice Ruling - Application of the Convention on the Prevention and Punishment of the Crime of Genocide - The Gambia vs Myanmar, International Court of Justice, 23 January 2020, 20200124094316; Myanmar Rohingya: World court orders prevention of genocide, BBC News, 23 January 2020, 20200422131411; No Place for Optimism: Anticipating Myanmar's First Report to the International Court of Justice, Center for Global Policy, 21 May 2020, 2020052511322

<sup>254</sup> Myanmar Rohingya: Government rejects ICJ ruling, BBC News, 24 January 2020, 20200124133232

<sup>255</sup> Myanmar updates U.N. court on 'confidential' Rohingya measures, Reuters, 25 May 2020, 20200526141027;

See also: Situation of human rights of Rohingya Muslims and other minorities in Myanmar - Report of the United Nations High Commissioner for Human Rights, United Nations Human Rights Council, A/HRC/45/5, 3

September 2020, p.7, 20210527175117; Country Reports on Human Rights Practices for 2020 - Burma, US Department of State, 30 March 2021, Section 5, p.36, 20210331120647

<sup>256</sup> Rohingya: Gambia files case against Myanmar at ICJ, Sakib, SM N, Anadolu News Agency, 24 October 2020, 20201026155817

<sup>257</sup> Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures, Burmese Rohingya Organisation UK (BROUK), May 2021, p.1, 20210526143929; See also: Myanmar lodges objections in Rohingya genocide case, Aljazeera, 4 February 2021, 20210205143858

<sup>258</sup> Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures, Burmese Rohingya Organisation UK (BROUK), May 2021, p.5, 20210526143929

targeted or indiscriminate attacks by the Myanmar military; one was killed in a targeted killing by police; ten were killed as a result of landmines or unexploded ordnance; and two were killed in targeted killings by other unidentified armed groups. The 33 killed included 15 children and three women.<sup>259</sup>

**On 1 February 2021, the Myanmar military overthrew the civilian government in a coup d'état.**

The military arrested Aung San Suu Kyi and other senior NLD officials, announced a one-year state of emergency, installed Tatmadaw officials in place of the civilian-led government, and handed power to Senior General Min Aung Hlaing as the head of the newly formed 'State Administrative Council' (SAC). Aung San Suu Kyi remains under house arrest, and faces possible imprisonment on six different charges. In April 2021, a group of NLD parliamentarians elected in November 2020 led the formation of Myanmar's government-in-exile. The National Unity Government (NUG) includes former members of government, leading human rights activists, anti-coup protest leaders, and representatives from ethnic minority groups.<sup>260</sup>

**The military coup complicates the case at the ICJ.** Possible complications resulting from the military coup for the case at the ICJ include that with Aung San Suu Kyi's detention by the military, it appears unlikely she could continue as the agent in the case. As well, the ICJ Statute refers to States and not governments. In a situation where the legitimacy of a government or appointed agent is contested, it is unclear from the court's jurisprudence and legal texts how the ICJ would respond.<sup>261</sup> It is reportedly unclear to what extent the military, or the NUG, will engage with the ongoing case brought by The Gambia against Myanmar at the ICJ.<sup>262</sup>

## Myanmar: Military Coup

### Effect on the treatment of Rohingya

**On 8 November 2020, national elections were held in Myanmar.** The National League for Democracy won an outright majority, winning 396 out of 476 seats, while the military-backed Union Solidarity and Development Party won 33 seats.<sup>263</sup> Almost all members of the Rohingya community, many of whom voted prior to 2015, were disenfranchised and barred from running for office. The government did not permit the right to vote for hundreds of thousands of voting age Rohingya in Rakhine State or in refugee camps in Bangladesh.<sup>264</sup>

<sup>259</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.26, 20210526181440

<sup>260</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, pp.1-2, 20210526143929

<sup>261</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.4, 20210526143929; See also: 'Myanmar lodges objections in Rohingya genocide case', Aljazeera, 4 February 2021, 20210205143858

<sup>262</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.2, 20210526143929; See also: 'Myanmar lodges objections in Rohingya genocide case', Aljazeera, 4 February 2021, 20210205143858

<sup>263</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.2, 20210526181440

<sup>264</sup> 'Country Reports on Human Rights Practices for 2020 - Burma', US Department of State, 30 March 2021, Section 3, p.33, 20210331120647; See also: 'United States Commission on International Religious Freedom Annual Report 2021', United States Commission on International Religious Freedom (USCIRF), 21 April 2021, p.14, 20210422095313; 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.20, 20210526181440; 'Freedom in the World 2021 - Myanmar', Freedom House, 3 March 2021, A2, p.4 & B4, p.7, 20210315190106

**In February 2021, the military staged a coup d'état against the civilian government.** The USDP alleged massive fraud in the November election, and the military argued that alleged irregularities in voter lists could have changed the outcome of the election. On 26 January 2021, a military spokesman warned it would take action if the election dispute was not settled, but on 28 January, the Union Election Commission announced there was no evidence to support the claim of widespread fraud. After talks between the NLD and the military failed, the Myanmar military overthrew the civilian government in a coup d'état on 1 February 2021, the day parliament was due to commence.<sup>265</sup>

**The military has committed human rights violations since the coup.** The Special Rapporteur on the situation of human rights in Myanmar, Thomas H Andrews, reported in March 2021 that since the coup, the military had committed human rights violations, including murder, arbitrary detention, beatings, and probable enforced disappearances. It had instituted laws and policies to suppress freedom of expression, freedom of peaceful assembly and association, and the right to privacy. The coup completely overturned the rule of law in Myanmar. In response to the coup, a nonviolent nationwide civil disobedience movement (CDM) emerged opposing military rule, and there were widespread anti-military demonstrations.<sup>266</sup> The military responded violently to the peaceful protests, and in May 2021, it was reported that at least 810 civilians had been killed and more than 4,200 were detained. Human rights organisations documented enforced disappearances, use of torture in places of detention, sexual violence and other human rights violations.<sup>267</sup> The military's crackdown on peaceful protestors since the coup is reported to have awakened public consciousness to the military's treatment of the Rohingya, prompting apologies from public intellectuals and student unions. Displaced Rohingya in refugee camps in Bangladesh have also expressed their solidarity with the victims of the military's latest crackdown.<sup>268</sup>

**The coup is reported to have made the situation more precarious for Rohingya in Myanmar.**

Following the coup, a United Nations spokesman said the UN feared the coup would make the situation worse for Rohingya Muslims still in Myanmar. The spokesman said there were about 600,000 Rohingya remaining in Rakhine State, including 120,000 people who were effectively confined to camps, could not move freely and had extremely limited access to basic health and education services.<sup>269</sup> In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that in February 2021, representatives of the Myanmar military visited internment camps in Sittwe Township and instructed Camp Management Committees that action would be taken against IDPs who participated in protests. The Camp Management Committees were also instructed to ensure that COVID-19 stay-at-home measures were observed and to prevent outside access to the camps.<sup>270</sup> In May 2021, the Burmese Rohingya Organization UK<sup>271</sup> said in a statement that the military being in power had made the situation even more precarious in Myanmar for the Rohingya,

<sup>265</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, pp.2-3, 20210526181440

<sup>266</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.2, 20210526181440

<sup>267</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.2, 20210526143929

<sup>268</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.5, 20210526143929; 'Junta Brutality Gives Myanmar's Majority a Taste of Ethnic Minorities' Plight', Radio Free Asia, 23 April 2021, 20210426163445

<sup>269</sup> 'Fears for Myanmar's Rohingya after coup, UN Security Council to meet', Nichols, M, Reuters, 2 February 2021, 20210530082226

<sup>270</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.14, 20210526181440; See also: 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.6, 20210526143929

<sup>271</sup> The Burmese Rohingya Organisation UK (BROUK) was established in 2005 by diaspora Rohingya, and is based in London, United Kingdom. The organisation states that it works to highlight the plight of Rohingya internationally and to support the Rohingya community both inside Myanmar and in other countries. See: <https://www.brouk.org.uk/who-we-are/>



with abuse, extortion and humiliation of Rohingya continuing on a daily basis.<sup>272</sup> In another May 2021 report, the Burmese Rohingya Organisation UK said in some disputed areas of Rathedaung township, Rohingya communities reported being under dual administration of both Arakan Army and military village administrators, significantly increasing the burden of restrictions of movement, extortion, and arbitrary taxation for the Rohingya community. The Arakan Army also imposed arbitrary taxation on Rohingya in at least 20 Rohingya villages in Kyauktaw township, where they continued to face restrictions and ill-treatment from the military.<sup>273</sup>

**Repatriation of Rohingya from Bangladesh to Myanmar in the current circumstances appears unlikely.** In March 2021, the Special Rapporteur on the situation of human rights in Myanmar reported that although at a special session of the United Nations Human Rights Council on 12 February 2021, the Myanmar junta claimed they would continue repatriation efforts of the Rohingya from Bangladesh and pursue the return of Rohingya IDPs in central Rakhine State in an “instant manner”, in reality, displaced Rohingya appeared no closer to returning home. The Special Rapporteur also reported that a quick repatriation of Rohingya to Rakhine State under current conditions would likely conflict with the principles of a safe, dignified, voluntary, and sustainable return.<sup>274</sup> In an interview in May 2021, General Min Aung Hlaing was reported to have cast doubt on the return of Rohingya in Bangladesh to Myanmar, and reiterated the view of nationalists in Myanmar that the Rohingya were not one of its ethnic groups. It was reported that although not long after the coup, Min Aung Hlaing said efforts to repatriate refugees from Bangladesh would continue, there had been no sign of progress while the junta had struggled to impose control in Myanmar.<sup>275</sup>

<sup>272</sup> 'UN General Assembly President: World Has 'Not Forgotten Rohingya'', Radio Free Asia, 26 May 2021, 20210527094918

<sup>273</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, pp.7 & 11, 20210526143929

<sup>274</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.15, 20210526181440

<sup>275</sup> 'Myanmar junta leader casts doubt on return of Rohingya Muslim refugees who fled to Bangladesh', Reuters, 24 May 2021, 20210525102111



# Situational Update

## Myanmar

Country of Origin Information Services Section (COISS)

Humanitarian Program Operations Branch

Effective from 31 August 2021

## Myanmar: Military Coup 2021

This update provides information on the situation in Myanmar following the overthrow of the civilian government by the military in a coup d'état on 1 February 2021. The update includes information on human rights violations by the military since the coup, opposition to the coup, the revocation of the result of the November 2020 election in Myanmar, the prosecution of Aung San Suu Kyi, and the effects of COVID-19 and the coup on Myanmar.

### Summary

In November 2020, the National League for Democracy (NLD) won an outright majority in national elections held in Myanmar. On 1 February 2021, the Myanmar military overthrew the civilian government in a coup d'état. The military took control of the legislative, judicial, and executive branches of government, arrested dozens of government officials, including State Counsellor Aung San Suu Kyi and President Win Myint, declared a state of emergency, and announced the creation of a State Administrative Council (SAC), with coup leader Senior General Min Aung Hlaing as chairman.

In response to the coup, a non-violent nationwide civil disobedience movement (CDM) emerged opposing military rule, and there were widespread anti-military demonstrations. The military responded violently to the peaceful protests, and since the coup, police and soldiers are reported to have killed over 1,000 people, forcibly disappeared over 100 persons, and tortured and raped an unknown number in custody. Several thousand people have been arbitrarily arrested and detained, members of the media and medical professionals especially targeted. Opposition to the coup is now reported to have evolved from a non-violent protest movement to an underground resistance. There has also been fighting between the military and ethnic militias since the coup. A shadow administration, known as the National Unity Government (NUG) was formed in April 2021 in opposition to the military regime. People are reported to be still protesting, but in much smaller numbers. The military is reported to have increased online repression, enacting legal amendments to gain access to user data and prosecute prominent opponents. In July 2021, the military regime revoked the results of the November 2020 general election. In August 2021, it was announced that military ruler Min Aung Hlaing was to be the Prime Minister in a newly formed caretaker government. In June 2021, Aung San Suu Kyi went on trial in a junta court, facing a number of charges. The trials of Aung San Suu Kyi and President U Win Myint were adjourned when the military regime imposed a nationwide lockdown on 17 July 2021, in an effort to curb the increasing numbers of COVID-19 cases in Myanmar. Their trials have now been delayed until early September. The combined effect of COVID-19 and the coup has seriously affected Myanmar's already weak health care systems.

## November 2020 Election in Myanmar

On 8 November 2020, national elections were held in Myanmar. The National League for Democracy (NLD) won an outright majority, winning 396 out of 476 seats, while the military-backed Union Solidarity and Development Party (USDP) won 33 seats.<sup>1</sup> The USDP alleged massive fraud in the November election, and the military argued that alleged irregularities in voter lists could have changed the outcome of the election. On 26 January 2021, a military spokesman warned it would take action if the election dispute was not settled, but on 28 January, the Union Election Commission announced there was no evidence to support the claim of widespread fraud.<sup>2</sup> Talks were held between the NLD and the military, in which military representatives allegedly demanded delaying the convening of parliament, the disbanding of the election commission, and the re-examining of votes under military supervision.<sup>3</sup>

## February 2021 military coup d'état against the civilian government

After the talks between the NLD and the military failed, the Myanmar military overthrew the civilian government in a coup d'état on 1 February 2021, the day parliament was due to commence.<sup>4</sup> The military enforced a near-nationwide telecommunications shutdown, took control of the legislative, judicial, and executive branches of government, arrested dozens of government officials, including State Counsellor Aung San Suu Kyi and President Win Myint, detained activists, and placed elected parliamentarians under house arrest in Naypyitaw.<sup>5</sup>

The military declared a state of emergency, announced the creation of a State Administrative Council (SAC), with coup leader Senior General Min Aung Hlaing as chairman, appointed new heads of government ministries, replaced members of the Union Election Commission, amended and instituted new laws, appointed new justices to the Supreme Court, and set out five conditions necessary for stepping down, being reconstituting the Union Election Commission, tackling COVID-19, improving the economy, restoring eternal peace with Ethnic Armed Organizations (EAOs), and holding democratic elections.<sup>6</sup>

The UN Special Rapporteur on the situation of human rights in Myanmar, Thomas H Andrews, reported in March 2021 that following the coup, the military had committed human rights violations, including murder, arbitrary detention, beatings, and probable enforced disappearances. It had instituted laws and policies to suppress freedom of expression, freedom of peaceful assembly and association, and the right to privacy. The coup had completely overturned the rule of law in Myanmar.<sup>7</sup>

## Human rights violations by the military since the coup

<sup>1</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.2, 20210526181440

<sup>2</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, pp.2-3, 20210526181440

<sup>3</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.3, 20210526181440

<sup>4</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, pp.2-3, 20210526181440

<sup>5</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.3, 20210526181440; 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, pp.1-2, 20210526143929

<sup>6</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.3, 20210526181440; 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, pp.1-2, 20210526143929

<sup>7</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.2, 20210526181440



In response to the coup, a nonviolent nationwide civil disobedience movement (CDM) emerged opposing military rule, and there were widespread anti-military demonstrations.<sup>8</sup> The military responded violently to the peaceful protests, and a Human Rights Watch report dated 31 July 2021 indicates that in the six months since the coup, police and soldiers had killed over 900 protesters and bystanders, including about 75 children, forcibly disappeared over 100 persons, and tortured and raped an unknown number in custody. Several thousand people had been arbitrarily arrested and detained.<sup>9</sup> The security forces are reported to have fired on demonstrators who were unarmed and posed no apparent threat.<sup>10</sup> As well, tens of thousands of civil servants and other workers had either been sacked for joining protests or were still on strike in support of a nationwide civil disobedience campaign.<sup>11</sup>

In July 2021, figures provided by human rights organisation, the Assistance Association for Political Prisoners (AAPP)<sup>12</sup> showed that since the coup, at least 22 people had been tortured to death during custody, and 6,990 people had been arrested, of whom 5,442 remained in detention.<sup>13</sup> On 25 August 2021, it was reported that according to the AAPP, the military had killed 1,016 people and arrested 5,937 since the coup.<sup>14</sup>

In some instances, security forces have arrested and detained family members and friends of activists, protesters, and opposition members as a form of collective punishment.<sup>15</sup> The military junta has particularly targeted members of the media for arrest. In July 2021, it was reported that according to the AAPP, since 1 February 2021, the authorities had arrested 98 journalists, 46 of whom were still in detention. Six journalists had been convicted, including five for violating Section 505A of the penal code, a new provision that makes it a criminal offence punishable by up to three years imprisonment to publish or circulate comments that “cause fear” or spread vaguely defined “false news.”<sup>16</sup>

The military junta is also reported to have harassed, arbitrarily arrested, and attacked medical professionals, sometimes as they treated injured protesters. Many healthcare workers were early leaders of the CDM and refused to work in government hospitals as a form of protest.<sup>17</sup> Human Rights Watch reports that since the coup, at least 260 healthcare workers have been attacked while trying to administer medical aid, and 18 killed. The AAPP said 76 remained in detention and up to 600 medical professionals have outstanding arrest warrants against them.<sup>18</sup> Many of them have been forced to work underground in makeshift mobile clinics or have gone into hiding to evade arrest. The UN Country Team in Myanmar has said that the attacks on medical workers have jeopardised Myanmar's COVID-19 response.<sup>19</sup>

It is the view of Human Rights Watch that Myanmar's military junta has committed numerous abuses against the population that amount to crimes against humanity in the six months since the coup on 1 February 2021. Human Rights Watch has also said the offences against those opposed to the military coup have been both a widespread and systematic attack against the population, and the broad-

<sup>8</sup> 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.2, 20210526181440; 'The Battle for Myanmar Six Months After the Coup', Walker, T, Voice of America, 7 August 2021, 20210809102259

<sup>9</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>10</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>11</sup> 'Six months after the military coup, here's what's happening in Myanmar', SBS News, 1 August 2021, 20210802171414

<sup>12</sup> The Assistance Association for Political Prisoners (Burma) describes itself as 'a non-profit human rights organization based in Mae Sot, Thailand', which 'was founded in 2000 by former political prisoners living in exile on the Thai/Burma border'. See: AAPP | Assistance Association for Political Prisoners (aappb.org)

<sup>13</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>14</sup> 'Fighting Seen Intensifying in Myanmar as Junta Deploys Troops to Ethnic Controlled Territories', Radio Free Asia, 25 August 2021, 20210826163044; See also: 'Death Toll Since Myanmar Coup Tops 1,000, Says Activist Group', Reuters, 18 August 2021, 20210819114728

<sup>15</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>16</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>17</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>18</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>19</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

based and frequently consistent nature of the response reflects government policy rather than the actions of individual security personnel.<sup>20</sup>

In July 2021, the Special Rapporteur on the situation of human rights in Myanmar also assessed that one of the patterns that had emerged was the military junta's widespread, systematic attacks against the people of Myanmar, acts that amounted to crimes against humanity.<sup>21</sup> The Special Rapporteur said that the junta's military forces had murdered approximately 900 people; , forcibly displaced hundreds of thousands, tortured many, including torturing people in custody to death, disappeared untold numbers; , and arbitrarily detained nearly 6,000. The junta also continued to stifle freedom of expression, arbitrarily detain thousands of people, and systematically strip away due process and fair trial rights. It had cut off food, water and medicine to those displaced by its attacks on villages.<sup>22</sup>

Thousands of Myanmar nationals have been displaced within Myanmar or have sought refuge in neighbouring countries since the coup. In August 2021, the UNHCR Regional Bureau for Asia and the Pacific (RBAP) reported that since the military takeover on 1 February 2021, there had been an estimated 22,000 refugee movements from Myanmar to neighbouring countries. As well, some 206,000 people had been displaced internally in Myanmar as of the end of July 2021, due to armed conflict and unrest since 1 February 2021.<sup>23</sup>

## Opposition to the coup

The opposition to the coup in Myanmar is reported to have evolved from a non-violent protest movement in the weeks after the coup to an underground resistance.<sup>24</sup> In June 2021, *The Economist* reported that the army's brutal crackdown on protesters following the coup had pushed many Burmese who oppose the coup to change both their objective and their tactics.<sup>25</sup> The resistance would no longer be content merely to reverse the coup, but wanted to tame the army and bring it under civilian control. The tactics had in turn become more ruthless, with people associated with the military government being assassinated in the cities, while in the countryside, newly-formed militias were ambushing security forces.<sup>26</sup> More than 300 bombs were reported to have exploded in police stations, state-owned banks and government offices in Myanmar's cities since February 2021.<sup>27</sup> Myanmar analyst Anthony Davis has commented on the formation of People's Defence Force militias (PDFs) that have risen from beginnings as a few ill-organised groups in Sagaing and Chin state in April 2021 to about 125 separate urban and rural groups by late July. Davis said that the impact of PDFs at ground level 'has been palpable though hardly decisive', and the PDFs' prospects against the better armed and trained Tatmadaw (Myanmar military) depended greatly on how well they could 'work with longstanding ethnic insurgent groups that have fought the Myanmar army for decades'.<sup>28</sup>

Since the coup, there had been fighting between the military and ethnic militias. Two of the oldest and largest rebel groups, the Kachin Independence Army (KIA) and the Karen National Liberation Army

<sup>20</sup> 'Myanmar: Coup Leads to Crimes Against Humanity', Human Rights Watch, 31 July 2021, 20210802145510

<sup>21</sup> 'Special Rapporteur on the Situation of Human Rights in Myanmar Tells Human Rights Council that the International Community is Failing the People of Myanmar', United Nations Office of the High Commissioner for Human Rights (OHCHR), 7 July 2021, 20210805135339

<sup>22</sup> 'Special Rapporteur on the Situation of Human Rights in Myanmar Tells Human Rights Council that the International Community is Failing the People of Myanmar', United Nations Office of the High Commissioner for Human Rights (OHCHR), 7 July 2021, 20210805135339; See also: 'Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews', United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, p.2, 20210526181440

<sup>23</sup> 'Myanmar Emergency Update as of 1 August 2021', UNHCR Regional Bureau for Asia and the Pacific (RBAP), 1 August 2021, 20210806154356

<sup>24</sup> 'Myanmar: The woman who jumped to her death while fleeing police', Head, J, BBC News, 15 August 2021, 20210816114153

<sup>25</sup> 'Myanmar's civil war is becoming bloodier and more brutal', The Economist, 24 June 2021, 20210716150409

<sup>26</sup> 'Myanmar's civil war is becoming bloodier and more brutal', The Economist, 24 June 2021, 20210716150409

<sup>27</sup> 'Myanmar's civil war is becoming bloodier and more brutal', The Economist, 24 June 2021, 20210716150409

<sup>28</sup> 'More Than 1,100 Myanmar Troops Killed in Clashes With Local Militias Over Two Months', Radio Free Asia, 13 August 2021, 20210816153228

(KNLA), had started their attacks in March 2021, seizing army bases and police posts.<sup>29</sup> There had been fighting in several locations in Kachin State, northern Shan State, Karen State and Bago Region.<sup>30</sup> In April 2021, it was reported that in the three months since the coup, only a few of Myanmar's 20 ethnic armed organisations had been assisting pro-democracy supporters, with 'the KIA and the KNLA being the most prominent in their support.'<sup>31</sup> EAO's have provided shelter to people fleeing the army and offered military training to young urban protesters who have gone underground to join the armed struggle against the military dictatorship. Thousands of young people have sought refuge in ethnic areas, mostly in Karen and Kachin States.<sup>32</sup>

A shadow administration, known as the National Unity Government (NUG) was formed in April 2021 in opposition to the military regime. In that month, a group of NLD parliamentarians elected in November 2020 led the formation of Myanmar's government-in-exile. The National Unity Government includes former members of government, leading human rights activists, anti-coup protest leaders, and representatives from ethnic minority groups.<sup>33</sup> In early May 2021, the NUG announced the formation of the People's Defence Force to combat the military and form the kernel of a future Federal Army. Since then, civilian militia groups, some of which were formed before the PDF's establishment, have been set up throughout the country, many taking the name of the PDF and pledging allegiance to the NUG, though in practice often operating independently from it.<sup>34</sup> In June 2021, it was reported that the NUG was trying to knit the disparate anti-regime forces into a standing army. The different ethnic rebels, however, are reported to be wary of one another and of the NUG, which was formed by a Bamar political party criticised before the coup for ignoring the grievances of ethnic minorities.<sup>35</sup> As well, even if the anti-regime forces banded together, their combined total of around 80,000 fighters would be outnumbered by the army's 350,000-odd soldiers. The military has also built up an arsenal of sophisticated weaponry over the past decade and are supplied by Russia and China.<sup>36</sup> According to *The Economist*, '[t]he result is a bloody stalemate. Even as the shadow government struggles to bring Myanmar's multifarious militias together, their fragmented nature also makes it more difficult for the Tatmadaw to root them out. And the Tatmadaw's brutality has turned the entire country against it, says Salai Lian Hmung Sakhong, the NUG's minister of federal affairs. This is the first time that Bamar have joined ethnic rebels in fighting the army since some students took up arms after the brutal suppression of an uprising in 1988'.<sup>37</sup>

The National Unity Government has claimed the military is suffering increasing losses in clashes with local militias. In a report released on 9 August 2021, the NUG said at least 1,130 Myanmar soldiers had been killed and 443 wounded in more than 700 clashes between the military and local militias across the country from 1 June to 31 July 2021. The NUG's Defence Ministry also said that more than 350 civilians had been killed, and nearly 140 wounded, during the same period. The government losses were reported to have occurred during armed clashes and in targeted assassinations of military informants and others working for the military regime.<sup>38</sup> An article in *The Diplomat*, while sceptical about the NUG's figures, indicates at the very least they demonstrate that

<sup>29</sup> 'Myanmar's civil war is becoming bloodier and more brutal', *The Economist*, 24 June 2021, 20210716150409

<sup>30</sup> 'Ethnic Armed Groups Unite With Anti-Coup Protesters Against Myanmar Junta', *The Irrawaddy*, 30 April 2021, 20210503115459

<sup>31</sup> 'Ethnic Armed Groups Unite With Anti-Coup Protesters Against Myanmar Junta', *The Irrawaddy*, 30 April 2021, 20210503115459

<sup>32</sup> 'Ethnic Armed Groups Unite With Anti-Coup Protesters Against Myanmar Junta', *The Irrawaddy*, 30 April 2021, 20210503115459

<sup>33</sup> 'Myanmar's Continued Non-compliance with International Court of Justice Provisional Measures', Burmese Rohingya Organisation UK (BROUK), May 2021, p.2, 20210526143929

<sup>34</sup> 'Myanmar's Anti-Junta Resistance Inflicting Rising Casualties: Report', Strangio, S, *The Diplomat*, 23 August 2021, 20210824103928

<sup>35</sup> 'Myanmar's civil war is becoming bloodier and more brutal', *The Economist*, 24 June 2021, 20210716150409

<sup>36</sup> 'Myanmar's civil war is becoming bloodier and more brutal', *The Economist*, 24 June 2021, 20210716150409

<sup>37</sup> 'Myanmar's civil war is becoming bloodier and more brutal', *The Economist*, 24 June 2021, 20210716150409

<sup>38</sup> 'More Than 1,100 Myanmar Troops Killed in Clashes With Local Militias Over Two Months', *Radio Free Asia*, 13 August 2021, 20210816153228

defending the coup is imposing increasing strains on the Myanmar military.<sup>39</sup> On 10 August 2021, *The Irrawaddy* reported that the military had launched raids in Yangon after a series of bombings and gun attacks against regime targets had occurred in several of the city's townships since late in the previous week.<sup>40</sup> On 25 August 2021, *Radio Free Asia* reported that ethnic leaders had said fighting between the military and ethnic armed groups had increased in August and would intensify as the junta sent reinforcements to rebel-held territories in Kayah, Kayin, and Kachin states.<sup>41</sup>

Credible reports say human rights defenders have been forced into hiding after having arrest warrants issued against them under Section 505(a) of the penal code. The homes of human rights defenders had been raided, their possessions seized, and family members threatened and harassed. Many others had been arbitrarily arrested, including labour rights defenders and student activists. Lawyers representing people detained following the coup had themselves been detained, as had journalists covering the protests.<sup>42</sup>

On 1 August 2021, *SBS News* reported that since the coup, the military had consolidated its position, but people were still protesting, although in nothing like the numbers seen in February and March 2021, when hundreds of thousands took to the streets around the country. Young demonstrators in Yangon were holding regular morning flash mobs, jogging through the streets to chant slogans and sometimes setting off flares, although even these were getting more dangerous, with police informers on the lookout, and protesters having been snatched by plainclothes officers.<sup>43</sup> News reports indicate that activists opposing the coup in Myanmar have to keep moving from place to place to avoid arrest.<sup>44</sup>

The International Crisis Group has reported that after taking power, the Tatmadaw drastically ramped up online repression, enacting legal amendments to gain access to user data and prosecute prominent opponents. It issued daily notices to mobile operators and internet service providers to restrict access to certain websites and virtual private networks (VPNs) that can skirt internet filtering. These responses reflected 'the military's keen awareness of the important role social media plays in spreading information and shaping public opinion; it has grappled with how best to manage the online sphere to support its strategic objectives since the very first hours of the coup'.<sup>45</sup>

The military has enacted changes to Myanmar's penal code, many of which target expression, including online expression. New or amended crimes carry severe penalties for, among other things, expressing opinions critical of the government. As well, internet service providers (ISPs) have come under increased pressure to implement policies that would provide expansive surveillance powers to the authorities'.<sup>46</sup>

<sup>39</sup> 'Myanmar's Anti-Junta Resistance Inflicting Rising Casualties: Report', Strangio, S, *The Diplomat*, 23 August 2021, 20210824103928

<sup>40</sup> 'Myanmar Military Conducts Raids in Yangon as Anti-Junta Attacks Pick Up', *The Irrawaddy*, 10 August 2021, 20210811142946

<sup>41</sup> 'Fighting Seen Intensifying in Myanmar as Junta Deploys Troops to Ethnic Controlled Territories', *Radio Free Asia*, 25 August 2021, 20210826163044

<sup>42</sup> 'Myanmar: Human rights defenders under siege, say UN experts', United Nations Office of the High Commissioner for Human Rights (OHCHR), 19 July 2021, 20210817161711; See also: 'Myanmar military targets lawyers defending political prisoners', Nachemson, A and Hlaing, K H, *Aljazeera*, 28 June 2021, 20210714161446

<sup>43</sup> 'Six months after the military coup, here's what's happening in Myanmar', *SBS News*, 1 August 2021, 20210802171414; See also: 'Military arrests leader of Mandalay protest alliance', *Myanmar Now*, 17 August 2021, 20210818104333

<sup>44</sup> 'Myanmar: The woman who jumped to her death while fleeing police', Head, J, *BBC News*, 15 August 2021, 20210816114153; See also: 'Young political activists warned to evade mass arrests by junta forces in Mandalay', *Mizzima*, 17 August 2021, 20210818095042; 'Military arrests leader of Mandalay protest alliance', *Myanmar Now*, 17 August 2021, 20210818104333; 'No regrets': Myanmar dissidents evade junta with life on the run', *Agence France-Presse*, 17 June 2021, 20210818133808

<sup>45</sup> 'Myanmar's Military Struggles to Control the Virtual Battlefield', International Crisis Group, 18 May 2021, pp.i-ii, 20210805165551

<sup>46</sup> 'Unplugged in Myanmar: Internet restrictions following the military coup', Article 19, 9 July 2021, p.3, 20210804180803; See also: 'Report of the Special Rapporteur on the situation of human rights in Myanmar'.



An August 2021 article published by the Center for Strategic and International Studies indicates that disruptions in the telecommunications sector, combined with the junta's use of military-grade surveillance technology, pointed to Myanmar's acceleration toward a surveillance state. The junta had suspended provisions in the 2017 Law Protecting the Privacy and Security of Citizens, thereby allowing the military to search and seize peoples' belongings and intercept phone call data without warrants. Facebook and Twitter remained blocked unless accessed through a Virtual Private Network, and while social networking sites like WhatsApp, LinkedIn, and Instagram were whitelisted, the junta's omnipresence and disproportionate use of force was conditioning people to censor themselves online.<sup>47</sup>

Some prominent diplomats from Myanmar are reported to have defected or publicly rejected the military junta in the wake of the coup.<sup>48</sup> An August 2021 article in *The Atlantic* notes that the military regime had asked the United States to extradite Kyaw Moe Tun, Myanmar's permanent representative to the United Nations, who had denounced the military coup, to face trial on charges of high treason in Myanmar. The request was not honoured.<sup>49</sup>

In June 2021, *Radio Free Asia* reported that several dissidents who had spoken critically of the coup had died in detention and were given crude autopsies before their bodies were returned to their families, prompting observers to call for a probe into the circumstances surrounding their deaths.<sup>50</sup> A more recent August 2021 *Radio Free Asia* article indicates that two more people had died under suspicious circumstances while undergoing interrogation by security forces in Myanmar, bringing to 32 the total number of such deaths since the military seized power in the coup.<sup>51</sup>

## Revocation of the 2020 election results and prosecution of Aung San Suu Kyi

In July 2021, the military regime revoked the results of the previous year's general election, won by Aung San Suu Kyi's National League for Democracy.<sup>52</sup> The military-appointed Union Election Commission announced the decision, claiming that more than 11.3 million ballots had been discounted due to fraud and other irregularities during the November 2020 election. The announcement drew condemnation from several of Myanmar's political parties who condemned the move as illegal and said they would not honour it.<sup>53</sup>

On 2 August 2021, Myanmar's coup leader Senior General Min Aung Hlaing signed an amendment to the Counterterrorism Law, which introduced harsher penalties for supporting anti-regime activities. Under the amendment, the jail term for "acts of exhortation, persuasion, propaganda and recruitment of any person to participate in any terrorist group or activities of terrorism" was increased from three to seven years.<sup>54</sup> Both the military regime and the NUG had previously designated each other as terrorist groups.<sup>55</sup>

<sup>47</sup> Thomas H. Andrews, United Nations Human Rights Council, A/HRC/46/56, 4 March 2021, pp.10-11, 20210526181440

<sup>48</sup> 'Months After Coup, Myanmar Accelerates Toward Surveillance State', Chen, E, Center for Strategic and International Studies, 24 August 2021, 20210825073945

<sup>49</sup> 'Voodoo dolls' hurled at Myanmar embassy in Canberra amid calls for ambassador to reject military junta', Dziedzic, S, Australian Broadcasting Corporation (ABC) News, 6 August 2021, 20210806075039

<sup>50</sup> 'The Diplomats Without a Country', McLaughlin, T, The Atlantic, 5 August 2021, 20210806134810

<sup>51</sup> 'Myanmar Dissident Deaths in Custody, Unapproved Autopsies Prompt Calls For Probe', Radio Free Asia, 11 June 2021, 20210616155420

<sup>52</sup> 'Two New Deaths in Custody Bring Total to 32 Since Myanmar Coup', Radio Free Asia, 3 August 2021, 20210804102513

<sup>53</sup> 'Myanmar Junta Officially Annuls NLD's 2020 Election Win', The Irrawaddy, 27 July 2021, 20210728103840

<sup>54</sup> 'Myanmar's Junta Annuls 2020 Election Results, Citing Voter Fraud', Radio Free Asia, 26 July 2021, 20210728101836

<sup>55</sup> 'Myanmar Coup Chief Amends Counterterrorism Law', The Irrawaddy, 3 August 2021, 20210804105717

<sup>56</sup> 'Myanmar Coup Chief Amends Counterterrorism Law', The Irrawaddy, 3 August 2021, 20210804105717

Also in August 2021, Myanmar's state media reported that military ruler Min Aung Hlaing had taken on the role of Prime Minister in a newly formed caretaker government. The caretaker government was to replace the State Administration Council, chaired by Min Aung Hlaing, which had run Myanmar since just after the coup. He also repeated a pledge to hold elections by 2023 and said his administration was ready to work with a future regional envoy on Myanmar.<sup>56</sup>

On 10 August 2021, the UN Special Envoy for Myanmar, Christine Schraner Burgener, said senior army general Min Aung Hlaing appeared determined to solidify his grip on power with the caretaker government announcement, the formal annulment of the election result from the previous year and the declaration of the Commander-in-Chief to be Prime Minister of the country. Ms. Schraner Burgener also expressed fear that the National League of Democracy could also soon be forcibly disbanded.<sup>57</sup>

In June 2021, more than four months after she was detained, Aung San Suu Kyi went on trial in a junta court.<sup>58</sup> She had been held under house arrest since the 1 February coup in Myanmar, and little had been seen or heard of her apart from brief court appearances.<sup>59</sup> She was reported to face a number of charges, including corruption, which carries a maximum jail term of 15 years, violating the official secrets act, which carries a maximum jail term of 14 years, violating import-export laws by illegally importing walkie-talkies, which carries a maximum jail term of three years, and violating the telecommunications law by importing walkie-talkies, which carries a maximum jail term of one year. There are also two charges of violating a natural disaster law, carrying a maximum jail term of three years each, and inciting public unrest, which carries a maximum jail term of three years. Human rights groups have condemned Aung San Suu Kyi's trial, describing it as an attempt to stop her running in future elections.<sup>60</sup>

On 13 July 2021, *Reuters* reported that four additional criminal charges against Aung San Suu Kyi, including corruption, had been filed in a court in Mandalay. The previous charges against her had been filed in courts in the capital Naypyitaw and in Yangon.<sup>61</sup> As well, on 17 July 2021, *The Irrawaddy* reported that NLD member U Win Htein had been indicted for sedition by a court inside a Naypyitaw detention cell.<sup>62</sup>

The trials of Aung San Suu Kyi and the also detained President U Win Myint were adjourned when the military regime imposed a nationwide lockdown on 17 July 2021, in an effort to curb the increasing numbers of COVID-19 cases in Myanmar. The lockdown has since been extended until the end of August, and their trials have been delayed again until early September. On 23 August 2021, it was reported that Aung San Suu Kyi's and U Win Myint's lawyers had not met the pair for six weeks.<sup>63</sup>

Also in August 2021, Myanmar's Anti-Corruption Commission filed more corruption charges under Section 55 of the Anti-Corruption Law against Aung San Suu Kyi, U Win Myint, and others in connection with land permits they granted in the capital. A Naypyitaw police station has accepted the cases, which will be heard at the Mandalay Region High Court. The regime claims that more than 14

<sup>56</sup> 'Myanmar army ruler Min Aung Hlaing takes prime minister role, pledges elections', Reuters, 2 August 2021, 20210802080927

<sup>57</sup> 'Myanmar military leaders attempting to legitimize power: UN Special Envoy', UN News, 10 August 2021, 20210811134003; See also: 'Myanmar's Junta Seen Moving to Dissolve NLD to Ensure Grip on Power', Radio Free Asia, 16 August 2021, 20210818102031

<sup>58</sup> 'Myanmar coup: A look back at six months of turmoil', Agence France Presse, 31 July 2021, 20210802152423

<sup>59</sup> 'Aung San Suu Kyi: Trial of ousted Myanmar leader begins', BBC News, 14 June 2021, 20210615101356

<sup>60</sup> 'Aung San Suu Kyi: Trial of ousted Myanmar leader begins', BBC News, 14 June 2021, 20210615101356; See also: 'Myanmar's Junta Seen Moving to Dissolve NLD to Ensure Grip on Power', Radio Free Asia, 16 August 2021, 20210818102031

<sup>61</sup> 'Myanmar's Suu Kyi hit by new charges in Mandalay court', Reuters, 13 July 2021, 20210714142604

<sup>62</sup> 'Myanmar Junta Indicts NLD Patron U Win Htein for Sedition', The Irrawaddy, 17 July 2021, 20210803180046; See also: 'Myanmar's Junta Seen Moving to Dissolve NLD to Ensure Grip on Power', Radio Free Asia, 16 August 2021, 20210818102031

<sup>63</sup> 'Myanmar Regime Delays Trial of Daw Aung San Suu Kyi Until September', The Irrawaddy, 23 August 2021, 20210824102603

billion kyats were lost when the NLD government sold land in the commercial district of Naypyitaw's Dekkhinathiri Township for prices much lower than market rates.<sup>64</sup>

On 6 August 2021, *Reuters* reported that state media had said Myanmar's ruling military was offering to waive charges against some protesters involved in demonstrations or strikes if they came forward to the authorities. There would be no amnesty offered to persons wanted for crimes such as murder, arson or attacks on troops.<sup>65</sup> Surrendering to the military authorities was reportedly dismissed by some of those in hiding and facing charges. According to the Assistance Association for Political Prisoners, since the coup, security forces had arrested more than 7,000 people, while 1,984 warrants were outstanding.<sup>66</sup>

On 2 August 2021, *Radio Free Asia* reported that Myanmar's junta had released jailed political activists and government employees who took part in anti-coup protests, in what observers said was a move meant to appease international critics of its rule.<sup>67</sup> The amnesty came a day after military chief Senior General Min Aung Hlaing declared himself prime minister in a newly formed caretaker government that will rule through 2023. He said he would release all political detainees who had not played a leading role in the Civil Disobedience Movement.<sup>68</sup> Among those released were some prominent critics of the junta. The release came nearly five weeks after the military regime freed 2,296 inmates from various prisons across Myanmar in a move that was greeted with scepticism by critics.<sup>69</sup> The article notes that despite the two amnesties, the AAPP estimated that more than 5,400 people remained in custody on politically motivated charges, including Aung San Suu Kyi, President Win Myint, the chief ministers of various regions, and prominent political activists, as well as CDM employees and other civilians.<sup>70</sup>

On 24 August 2021, the government enacted a new law against genocide, which punishes killings and other offences committed "with intent to destroy, in whole or in part" a national, ethnic, racial or religious group. Opponents of the military regime have expressed concerns the new law may be used against resistance fighters who attack the military and its supporters. Khin Maung Zaw, a lawyer representing Aung San Suu Kyi and Win Myint, did not believe the new law would be used to prosecute members of the military. A military spokesperson said the government had a duty to enact the law under the Genocide Convention, which Myanmar signed in 1949.<sup>71</sup>

## COVID-19

In August 2021, it was reported that according to the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), about 3 million Myanmar people need humanitarian assistance and protection services across various parts of the country. Apart from the chaos and violence resulting from the February coup, the COVID-19 pandemic is affecting the country, with more than 376,000 people infected with COVID-19, a number increasing by over 2,000 cases per day, a likely conservative estimate. Myanmar's military is reported to have centralised all resources for providing medical aid, from vaccines to oxygen and medications. At the same time, medical workers have

<sup>64</sup> 'Myanmar Regime Delays Trial of Daw Aung San Suu Kyi Until September', The Irrawaddy, 23 August 2021, 20210824102603

<sup>65</sup> 'Myanmar military offers amnesty to some protesters in hiding', Reuters, 6 August 2021, 20210809090458

<sup>66</sup> 'Myanmar military offers amnesty to some protesters in hiding', Reuters, 6 August 2021, 20210809090458

<sup>67</sup> 'Myanmar's Junta Releases Jailed Anti-Coup Activists And Government Employees', Radio Free Asia, 2 August 2021, 20210803143215

<sup>68</sup> 'Myanmar's Junta Releases Jailed Anti-Coup Activists And Government Employees', Radio Free Asia, 2 August 2021, 20210803143215

<sup>69</sup> 'Myanmar's Junta Releases Jailed Anti-Coup Activists And Government Employees', Radio Free Asia, 2 August 2021, 20210803143215

<sup>70</sup> 'Myanmar's Junta Releases Jailed Anti-Coup Activists And Government Employees', Radio Free Asia, 2 August 2021, 20210803143215

<sup>71</sup> 'Min Aung Hlaing, who oversaw mass killings of Rohingya, enacts genocide law', Myanmar Now, 26 August 2021, 20210827124748

refused to work for the junta, forming the backbone of the Civil Disobedience Movement.<sup>72</sup> The combined effect of COVID-19 and the coup has stretched Myanmar's already weak health care systems, reportedly to the point of collapse.<sup>73</sup>

An August 2021 research brief based on analysis by Insecurity Insight, Physicians for Human Rights, and the Johns Hopkins University Center for Public Health and Human Rights, as part of the Safeguarding Health in Conflict Coalition, indicates that 252 incidents of violence against or obstruction of health workers, facilities, and transport, mostly attributed to the military, were reported in Myanmar from 1 February to 31 July, 2021.<sup>74</sup> The research brief highlights a range of violence that has affected Myanmar's COVID-19 response. This includes the military confiscating personal protective equipment and oxygen supplies for exclusive use in Chin, Kayah, and Yangon, the military reportedly acting violently against or arresting civilians for transporting or retrieving oxygen, including in one incident in July 2021, security forces opening fire on crowds of civilians queuing in line for oxygen cylinders in Yangon, and the military raiding COVID-19 centres and closing at least two down.<sup>75</sup>

An August 2021 Human Rights Watch report indicates that the escalation of politically motivated arrests since the February military coup had corresponded with a surge in infections in the country's overcrowded and unsanitary prisons, where access to health care was poor.<sup>76</sup> On 8 August 2021, prisoners inside Mandalay's Obo prison had held a protest after the COVID-19 related death of a pro-democracy activist in custody.<sup>77</sup> There was another protest on 23 July 2021 at Yangon's Insein prison due to a worsening coronavirus outbreak there and the death from COVID-19 of Nyan Win, 79, a prominent member of the NLD. As of 9 August 2021, at least 12 inmates at Insein prison had died after having been infected with the virus.<sup>78</sup>

On 2 August 2021, it was reported that aid agencies were warning of a spiralling humanitarian catastrophe in Myanmar triggered by skyrocketing COVID-19 cases and widespread violence in the country. More than 60 per cent of reported deaths from COVID-19 in Myanmar had occurred in the past month, with the number of confirmed cases doubling in the previous two months.<sup>79</sup>

<sup>72</sup> 'Between COVID and the Coup, a Humanitarian Emergency Is Underway in Myanmar', Bociaga, R, The Diplomat, 25 August 2021, 20210826144931; See also: 'COVID and the coup: Myanmar in the grip of double crisis', Bo, M, Deutsche Welle, 26 July 2021, 20210728140053

<sup>73</sup> 'COVID and the coup: Myanmar in the grip of double crisis', Bo, M, Deutsche Welle, 26 July 2021, 20210728140053

<sup>74</sup> 'Violence Against or Obstruction of Health Care in Myanmar February-July 2021', Insecurity Insight, 9 August 2021, 20210813150728; See also: 'At Least 252 Reported Attacks and Threats to Health Care in Myanmar During Six Months of Military's Crackdown', Physicians for Human Rights, 10 August 2021, 20210811155706; 'Myanmar army attacks medics, hampering COVID response, rights groups say', Reuters, 10 August 2021, 20210811092907

<sup>75</sup> 'Violence Against or Obstruction of Health Care in Myanmar February-July 2021', Insecurity Insight, 9 August 2021, 20210813150728; See also: 'At Least 252 Reported Attacks and Threats to Health Care in Myanmar During Six Months of Military's Crackdown', Physicians for Human Rights, 10 August 2021, 20210811155706; 'Myanmar army attacks medics, hampering COVID response, rights groups say', Reuters, 10 August 2021, 20210811092907

<sup>76</sup> 'Covid-19 Surge in Myanmar's Prisons', Maung, M, Noh, M, Human Rights Watch, 16 August 2021, 20210816135654

<sup>77</sup> 'Covid-19 Surge in Myanmar's Prisons', Maung, M, Noh, M, Human Rights Watch, 16 August 2021, 20210816135654

<sup>78</sup> 'Covid-19 Surge in Myanmar's Prisons', Maung, M, Noh, M, Human Rights Watch, 16 August 2021, 20210816135654

<sup>79</sup> 'Surge in Covid-19 plunges Myanmar into humanitarian catastrophe amidst political crisis and conflict', Action Aid, 2 August 2021, 20210803145511; See also: 'How a perfect storm of events is turning Myanmar into a 'super-spreader' COVID state', Simpson, A, Farrelly, N, The Conversation, 30 July 2021, 20210730140925; 'Myanmar Humanitarian Update No. 9', United Nations Office for the Co-ordination for Humanitarian Affairs (OCHA), 30 July 2021, 20210806151512