

**LAW AND STATELESSNESS: A CASE STUDY OF ROHINGYA  
MUSLIMS OF MYANMAR**

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Date: 20/07/18

**DECLARATION**

I declare that the dissertation entitled "LAW AND STATELESSNESS: A CASE STUDY OF ROHINGYA MUSLIMS OF MYANMAR" submitted by me for the award of the degree of Master of Philosophy of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

**Nikita Gehlot**

**CERTIFICATE**

We recommend that this thesis be placed before the examiners for evaluation.

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*DEDICATED TO MY FAMILY AND SUPERVISOR.....*

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### **List of Abbreviation**

GOM	Government of Myanmar
USDP	Union Solidarity and Development Party
NLD	National League for Democracy
IDP	Internally Displaced Persons
BCL	Burma Citizenship Law
RAP	Rakhine Action Plan
KNU	Karen National Union
ARSA	Arakan Rohingya Salvation Army
ASEAN	Association of Southeast Asian Nations
SLORC	The State Law and Order Restoration Council
UNHCR	United Nations High Commissioner for Refugees
UNFC	United Nationalities Federal Council
UNDP	United - Nations Development program
MOLIP	Ministry of Labour, Immigration, and Population

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## **Chapter I**

### **Introduction**

Discrimination and non-acceptance of Rohingya people by the Myanmar and Buddhist people led to the establishment of 1982 Burma Citizenship Law. The 1982 Citizenship Law is the *raison d'être* of Rohingyas persecution which deprives Rohingyas of Burmese citizenship. This citizenship law was based on ethnic division which does not include Rohingyas as part of it, and this law does not acknowledge Rohingyas as one of the eight national races of Myanmar. For getting the full citizenship of Myanmar, the Rohingyas were asked to prove some 'conclusive evidence' of their ancestors, if they were settled before the independence of the Burma in 1948 (Human Right watch: 2013).

The United nation has described the brutal atrocities of Burmese government towards Rohingyas as the ethnic cleaning<sup>1</sup> and due to insurmountable violence the UN had called them as the most persecuted minority group. And the illegitimate means used by Burmese military on Rohingyas includes sexual violence, manslaughter, expatriation and forcible relocation of the population, and persecution.

This study looks at the unexplored area where the questions of discriminatory laws in the state and statelessness grounded by the laws have been adequately discussed. This research focuses on analyzing the role and function of Myanmar's citizenship law of 1982 in producing stateless bare lives of Rohingyas and concentrates on the reasons of ethnic violence caused by the issues of identity and citizenship in Rakhine state of Myanmar.

The first chapter of this thesis makes an effort to study the history and geopolitics of Myanmar to understand the past and present scenario of the country. The second chapter of this thesis analyses laws and statelessness in general and makes an effort to study how statelessness can be the consequence of discriminatory laws of state. The third chapter of this thesis studies the 1982 Myanmar's citizenship law with the intentions to investigate the reasons behind the adoption of 1982 Myanmar's citizenship law by Myanmar; the norms which citizens follow; what are the basis on

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<sup>1</sup>Whereby some dominant powers put those unwanted people to death through illegitimate means whom they call threat to their nation and nationalism

which categorization has been done of the Myanmar's citizens; study of the political dogmas behind the implementation of citizenship law. The fourth chapter of this thesis study analyses the statelessness of Rohingyas and ethnic violence as consequences of citizenship law with a view to emphasizes on the results of citizenship law; how statelessness and ethnic violence became the consequences of implementing citizenship law and how Rohingya Muslims are chiefly affected by the law. The fifth chapter of thesis finally presents the conclusion.

Regarding the research question, the study discusses the four important questions in four different chapters.

- The first question is focused on the factors that led to the establishment of discriminatory laws in the state, in general; which is discussed in the second.
- The second question deals with aforementioned problem but takes Myanmar in particular and discussed in chapter three
- The third question deals with the problems that Rohingyas are experiencing statelessness due to Burma Citizenship Law.
- The final question asks if the Rohingya are specifically chosen soft targets by the Government.

## **1. Defining the terminologies incorporated in the study**

### *1.1 The Geopolitics of Myanmar*

The geopolitics of Myanmar is the most heated discussion of the present time which is boiling with clashes of ethnicity and religion, domination of one faith as supreme and denouncement of other religion and beliefs. In earlier times the Rakhine state of Myanmar was acknowledged as "Arakan" and the individuals who label themselves as "Rohingyas" initially categorized as "Chittogonians" indeed has ancestry in Arakan prior to the influx of British people (Cockett 2015).

Rakhine region is located in the south west region of Myanmar. It shares its borders with the Bangladesh in its northwest and Chin state in north, and Magway and Bogo regions in the east and the western region is the long stretch of coastal land on the Bay of Bengal (Thawngmung 2016:529). The Rohingya are the most deprived,

neglected by the martial law, the most underprivileged of the four main Muslim groups in Myanmar, and begrudged by the dominant Buddhist mainstream community (Selth 2004).

Geopolitics of Myanmar is loaded with ethnic conflicts. Without discussing the Panglong agreement which was the chief cause and implemented disorderly, the geopolitics of Myanmar cannot be comprehended. The Panglong Agreement 1947- The British rule divided Burma into two parts, one was Mainstream Burma and another one was Frontier Burma. Mainstream Burma included the Capital region Yangon and some states which were sharing the boundary with Capital region. The Frontier region included the peripheral area of the country also called hilly area.

The Panglong agreement also played the key role in deciding Myanmar's future. The ethnic conflicts in Myanmar which we see today are also consequences of Panglong agreement. The well-known panglong agreement was signed on 12<sup>th</sup> February 1947. The Panglong agreement was initiated with the Panglong conference. The Panglong conference ought to be represent all the ethnic communities of Myanmar but, it did not. Only Chin, Shan and Kachin delegates attended the Panglong conference. While other minor ethnicities including Mon, Arakanese, Wa, Naga and others were not allowed to participate in the conference because of some irrational reasons

Karen community boycotted the Panglong conference because their demand of independent Karen state was denied by British authorities as well as by AFPFL. Karen community was loyal to British colonial rule, also attained prestigious government posts in British era. Even in the Burmese army Karen were the most in numbers and also they contributed in throwing Japanese back from their homeland but British and AFPFL neglected their demand of autonomy. This made Karen rebellion and led to the formation of Karen National Union (KNU) and they revolted in 1949. Just like KNU, the other alienated ethnicities also formed their rebel groups and then attended The Panglong conference. And agreed on almost all points were also declared the signal of ethnic rebellion. Shan state revolted in 1959 and Kachin state in 1961.

This is how the insurgencies and ethnic conflicts began in Myanmar and the Panglon which was designed to resolve the issue turned out to be a biased agreement (Walton: 2008). 1948-58 to 1960 to 62 has been called democratic era by Nimesh. The period of 1958 to 1960 governments run by Military at the request of Prime Minister U Nu and this government was called caretaker government. Between these two years (1958-60), caretaker government made promises to help democratic government and sought peace and stability in the country.

In 1962 Military 'the Tatmadaw' came with full authority under the General Ne Win regime and Democracy entirely distorted which made the country more unstable. The state is separate or so called isolationist figure of Myanmar was at its peak under the authorization of General Ne Win. This way of working (isolationism) involved hostility, despotism, absolutism and economic totalitarianism in economy which hindered the people in participating state practices and also their needs were not fulfilled (Bradley 1997, Nimesh 2010).

The so called Rohingya muslims which represent ethnic minority group were absent in Myanmar's 2012 census and categorized as Bengali Muslims by government of Myanmar (Yasmin 2017). Without having authorized nationality many of them are compelled to migrate to neighbouring countries, for instance; Bangladesh, Thailand, India, Pakistan, Saudi Arabia and Malasia (Parnini 2013). The mass departure of Rohingya Muslims from western Myanmar due to harassment, maltreatment by government and vigorous ejection by the military produced the environment of anxiety, stress and strain along the border of Myanmar and Bangladesh (Silverstein 1992; Rashiduzzaman 1979; Jha 2008).

The social order of Myanmar is dominated by Buddhism which is a commercial and collective identity of Myanmar that shows the tendency Burmanisation; anyone who wants to be a citizen of Myanmar has to respect Burman traditions and Buddhism customs (Gravers 2015). Current geopolitical scenario of Myanmar marked by such as propaganda of military; Buddhist religious doctrine; rebel activities by different persecuted ethnic minorities et cetera (Pedersen 2008).

Similar incident occurred during the Meiji restoration of Japan when Japanese empire began to dismantle the old Buddhist institutions that were not constructive for

the growth of state and this restoration was to strengthen the support for the Shintoism. As a result of this policy the Buddhist monks were left with only two options either to submit to state or renounce the monkhood, because of this many remained submitted to state and supported the dawn of Japanese imperialism. This change brought significant difference in the thinking of the Japanese people and especially the monks.

That was visible during the Russo- Japanese war (1904-05), when a Buddhist monk spoke in favour of the military campaign of the Japanese Empire. For these monks the war was a conflict or fight is imperative for the preservation of civilization and the restoration of Buddhist Doctrine – “a fight for the world.” This fight for the restoration of Buddhist doctrine was visible during the world war II when Japanese fighter planes were found carrying the images of the Avalokiteshvara, a Buddhist embodiment of compassion (Michael Jerryson: 2017).

### *1.2 Geography of Genocide and ethnic cleansing: Rohingyas*

Genocide and ethnic cleansing involves the mass killing of particular race, tribe, group or community which are not friendly to the state. Religion and cultural driven conflicts talk about the tensions which are ethnically encouraged. “Genocide and mass murder stem from a complex set of circumstances which collectively are used to legitimize violence against a specific group. Despite the claims of ethnic or religious ideologues, inter-group harmony is perfectly possible and in fact has been the norm for most of human history” Ibrahim (2016).

The killing and atrocities against Rohingyas of Myanmar could be studied through the lens of genocide and ethnic cleansing; MaungZarni and Cowley have termed it as “slow-burning genocide” (MaungZarni and Cowley 2014, discussed in Cheesman 2017: 340). Ethnic cleansing and genocide are generally identified as important elements of modern European history, particularly in the first half of the twentieth century. The word Genocide was given by Raphael Lemkin to discuss Nazi policies and it has been widely used after Yugoslavian war of 1990s (Ferrara 2015).

According to Azeem Ibrahim, “Genocide is never the first step, but always follows from less severe forms of repression. The usual precursor is the creation of a racist culture that rationalizes or encourages discrimination, systemic legal discrimination, and abuse of the historical record to construct a narrative in which mass murder becomes desirable or even imperative” (Ibrahim 2016).

Another definition which clearly explains the motive behind the Genocide is given by Lang, as an act of murder committed against individual persons solely because of their identity as members of a group and with the still more basic intent of destroying the group” (Rotberg 2017). Ferrara has also seen that both of these concepts are widely accepted and used by scholar outside Europe to describe the extermination event taken place in twentieth century around the world (Ferrara 2015).

Genocide and ethnic cleansing have undisputed bond with geography. Dahlman (2005:192) has very keenly discussed Genocide and ethnic cleansing in which he has included substantial geographic themes: the framework of identities on spatial scale, the geopolitical perspective of territorial originality, the spatially arranged practices of genocidal crusade, and the creation of international authorities for the legal jurisdiction of genocidal cases and intervention. Forward to this he adds that for making prosecution easier it is necessary to have geographic knowledge and understanding to the spatial epistemology of scale and context, territorial identity and geopolitics which can serve a transparent medium in the jurisdiction and legal approach to the cases . In addition to geography, ethnicity or race , religion, social and ideological element have been politicized and used again and again to identify or categorise population( Ferrara 2015).The atrocities against the Muslim minority group by the state and central government has been termed “statesponsored ethnic cleansing” by the Rohingyas (Kipgen 2013:299).

Genocide and ethnic cleansing are consequences of ethnic politics and an insightful sense of ethnic politics needs a very good observation of ethnic diversity and relation among them (Pedersen 2008). States have the authority take actions on crimes like genocide and ethnic cleansing which are happening within their sovereign territory according to the treaty but if responsibility of such crimes whole and solely left on domestic jurisdiction then results were very poor of the prosecution (Dahlman

2005:188). One thing is evident from world history; that violence and conquest are common thread and they went hand in hand; for instance, in the history of America how black Indians were treated is equal to the holocaust in the Nazi Germany (Anderson 2016).

Similarly, Romanian so called nationalist has used the word “ethnic purification” to signify their agenda of physical exclusion and massacre of ‘non-Romanian’ people (Ferrara 2015). Likely, hundreds of horrific event had occurred in history and also going on today which shows how dangerous today’s world is! The atrocious Holocaust, Armenian and Rwandan genocides had overshadowed all the other dreadful genocide event but the ancient Assyrian and Roman stand nearby their enormity and savagery, so were the German colonizers in their extermination of 80% of Herero and 50% of Nama people in Namibia from 1904 to 1908; Khmer rouge in their extirpation of 1.7 million Cambodian between 1975 to 1979; the killing of more than 20,000 Ndebele in Zimbabwe by the Shona in 1982-1983; the serb in their slaughter of Bosniaks in Balkans from 1992 – 1995 (Rotberg 2017).

### *1.3 Religion and Culture driven conflicts*

Myanmar has the history of ethnic division prior to commencement of colonialism (Behera 2017; Heikkilä-Horn 2009; Cockett 2015). Ethnic division and Persecution of particular set of beliefs lead ethnic conflicts. Presence of ethnic conflicts in every society seems natural but discernible occurrence of conflicts rely more on coercive supremacy of majority and less on religious synchronization (Walton 2008).

Rohingya issue is a definite illustration of religion and culture driven conflicts. Conflicts arise when the aspirations of different social orders are incompatible with each other then this state amplify the fear of endurance of alien faith and extinction of own certainty (Cheesman 2017). Conflicts cannot emerge without a motive or reason. Traditionally there were two main motives of religion and culture driven conflicts, first reason assumes the notion of ‘one faith’, which considers the domination of one and only faith regardless of prevailing different set of beliefs in the state. Second

reason is the willingness of minority to keep alive their religion when hegemony is reluctant and possession of holy places (Stump 2005:151).

In Myanmar the anxiety of being ruled by a foreign belief bifurcating the Buddhist and Muslim mass into two different categories (Holliday 2014). It is indistinct that how much reality religion and culture driven conflicts possess? To clear this blurry and hazy environment of conflicts study of conflicts and cruelty is needed, because these conflicts may own varied interests other than religious and cultural relevance; for instance these (conflicts) may be encouraged by political affairs. For instance; violence may happen by the pressure and involvement of government authorities in order to implement the dominion (Cheesman 2017). The same is applicable in militancy and militarization among refugees, Murshid has stressed that militancy and militarization among refugees crop up only when the state is complicit (Murshid 2014:9).

Specifically in the case of South Asia where refugee crisis looks like a gamble and it would be disastrous for refugees if they involve in militancy without state endorsement. Hence violence and crime cannot be labelled as religious, ethnical or nationalistic but these are the ways to justify crimes on moral basis (Gravers 2015). Religion and cultural driven conflicts are integral part of human society and to deal with these issues we have some international, regional and national frameworks, but who will take these issues into consideration when these frameworks and communities are unenthusiastic; for instance ASEAN {the most ethnically diverse region (Anthony 2015)}, a regional community of South East Asian nations has been infuriating people by turning deaf ear to these conflicts and crimes. The root of this kind of behaviour lies in the policies of ASEAN which include non-interference in international issues of the member states, respect the sovereignty, solidarity and confabulation (Petcharamesree: 2016). Violence in Myanmar can be recognized as declaration of modern statehood, in a country where the business of state formation is far from over (Cheesman 2017:341).

#### *1.4 Identity*

Identity can be defined by the cultural practices which a person holds, by the language he/she uses, by the religion he/she adopts and also by the interpretation of



others. Citizenship refers to the authority of inhabiting to the inhabitants given by the state which makes him/her legal and legitimizes the actions performed by the citizen.

### *1.5 Statelessness*

Statelessness perceived when a person suffers the loss of protection of his own government or state, this situation presents a citizen as illegal on his own territory as well as in another boundaries. A person's identity can be recognized by his/her cultural practices and citizenship but Myanmar's ethnic minorities are defenceless to preserve and exercise their own cultures and values, for instance; language, literature, and faith, all of which are vital to ethnic identities (Pedersen 2008:56).

In this context J. Walton has stressed upon that considerable knowledge about the link should be studied carefully which ethnic identity and national identity share in exploring national unity, which always has been a topic of concern and hard to get hold of in multi-ethnic nation like Myanmar (J. Walton 2008). When a person loses the protection of their government and country then he becomes stateless and citizenship means the affiliation of being citizen of any country given by nation-state to the citizen.

Stateless people (who do not have legitimate citizenship of a country) can be refugees also (UNHCR 2014), which represents an appropriate example in the context of south Asia, this adjoin another level of difficulty (Murshid 2014), it is the duty of state how it decipher the dilemma and resolves the problems (UNHCR 2014).

### *1.6 Citizenship*

In modern nation-state system citizens are reliant to defend their legitimate identity because of discriminating nature of government (Mountz 2009). The Myanmar government has the discriminating nature particularly towards Rohingya Muslims who enjoy no right to be called part of 135 ethnic clusters legitimized by the Burman government (Kipgen 2013). There three categories of citizenship in Myanmar, according to Myanmar's citizenship law 1982, these are citizen, associated citizen, naturalized citizen ( Kipgen 2013: 300). While the full membership, according

to citizenship law 1982, is primarily given to national races, which are considered by Myanmar state to have settled and residing before 1824, the date of occupation of British. Rohingya are living in Myanmar for generations but still they are not able to get full citizenship.

Sykes has made an argument that states have authority to restructure the laws of citizenship to defend the rights of particular races and communities (Sykes 2016). Talking about the difficulties in study of refugees and statelessness becomes more elusive when there is engagement of criminal activities. When production and trade of drugs (which offer an appreciable amount of wealth) coalesces with militancy and insurgency then both these factors play a negative role in state building practice and provide a trouble-free entrance to the anti social elements to maintain the domination (Behera 2017). In addition to this Behera maintained a statement that ethnic revolution and insurgencies used to the profit (to justify ‘national integration’ portrayal of mainstream) of the consecutive government in Myanmar. Behera is looking ethnic minorities to pick their own tactical methods to promote revolution in the result of the reluctance of supreme authority in resolving the several issues of human rights violation (Behera 2017:45).

## **2 Study Area: Myanmar**

The territory of Myanmar is 261,970 square miles, 678,500 square kilometers wide which makes it the biggest of the mainland Southeast Asian states and places Myanmar at the 40<sup>th</sup> number amongst the largest countries in the world (Steinberg: 2013). Myanmar has capability to rise as it is prosperous in terms of resources.

### *2.1 Geography of Myanmar*

Myanmar is naturally gifted by some prominent geographic features like its mountains which maintain Myanmar’s behavior of “isolation”. Along the three sides of Myanmar, Mountains are located and from one side it is covered by sea (Nimesh: 2010).



MAP 1 – Map of Myanmar

Source: Created by Researcher

The Irrawaddy Valley, which is also known as the heart of the Burmese civilisation in central Burma, physically and ethnically linked to the Tibetan region, southwest China and the rest of East Asia. The south (the modern-day Mon and Tanintharyi

provinces) is part of the wider Malaysian Peninsula and has sea links to the south, including Sri Lanka and parts of Indonesia. In fact, this was the original vector for the early spread of Buddhism to Burma (Ibrahim: 2016:33). There are some important rivers in Myanmar which flows from North to South i.e. Irrawaddy, Chindwin, Sittang and Salween river (Steinberg: 2013).

Apart from that Myanmar is blessed with rich fertile soil and contains offshore oil and gas reservoir. It is also distinguished itself as the chief supplier of teak and prime source of jade, pearls, rubies and sapphires. In spite of rich resources, the Myanmar is not able to grow potentially due to the pervasive military rule which remained ignorant toward the economic development that created widespread poverty hence led to low economic development (Burma/ Myanmar Review: 2018). The history of Burma reveals many instances where the lacks of military rule apparent toward economic growth. One such example is the failure of the “Burmese Road to Socialism” the most lauded programme of Burmese military that led to the economic disaster.

One discernible feature of Myanmar is the location of ethnic communities. The majority Bamar reside the lowlands or in core of the country while the ethnic minorities dwell in the frontier areas<sup>2</sup>. Starting from the southwest, they are the Muslim Rohingya, the Chin, the Naga, the Kachin, the Wa, the Shan, the Pao, the Kayah, the Karen, and the Mon. The Myanmar government has identified 135 national races (Rohingyas are not part of it) which are based on 1931 colonial census that includes dialect, culture and language to scrutinize ethnic groups. This approach made the segregation much more complicated (Steinberg: 2013).

## *2.2 Political History of Myanmar*

Theravada Buddhism at the national level and ethnic identity in subnational level are two focal points of politics of the Myanmar. The country is structured in seven region and seven states. Each region and state has its own principal ethnic identity, out of them most ethnicities are represented by some resistance groups and

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<sup>2</sup> Starting from the southwest, they are the Muslim Rohingya, the Chin, the Naga, the Kachin, the Wa, the Shan, the Pao, the Kayah, the Karen, and the Mon.

even by some recognized ethnical political parties. In Myanmar, where some ethnic identities forms majority even then do not have their own states and they have been entitled as Special Administrative Zones. Ahead of state politics minorities are also subjected to be representing by unique political representation within state and regional parliaments (Burke: 2016).

### *2.2.1 British colonial rule: Anti – Indian and anti- Muslim sentiments*

Going back in the history; British defeated Myanmar's king and as a result, in 1885 the country was seized by the British colonial rule. When British came into power possibilities arose of peaceful society but tranquility never appeared in the country which was loaded with ethnic differences. The relationship among ethnic groups under British machination soaked bitterness and country threw itself into endless ethnic tension (Nimesh: 2010). In 1930 and 1938, pronounced anti-Indian and anti-Muslim loathing took place within the country. There are numerous reasons behind this repulsive attitude of Buddhists or Buddhists Barman towards Indian and Muslims but I will introduce two crucial points here.

Firstly, Indians who immigrated to the Myanmar (then Burma) during British control, some people among them called Chettiars were engaged in economic activities i.e. finance business. They used to provide loans to the Myanmarese farmers and took control of their land as caution. They marked as escapee who was not able to return money (Kei Nemoto: 2014). Secondly, in 1947 Rohingya made their own Army and demanded that north Arakan should be merged with East Pakistan, now Bangladesh. But this commencement went in vain. When Myanmar got independence in 1948, again Rohingya filed petition in Constituent Assembly in Rangoon, for assimilation of two important Rohingyas resided district of Myanmar including Maungdaw and Buthidaung into the territory of East Pakistan. This antagonistic approach taken by the Muslim populace of Arakan provided reason to the Burmese regime to develop unpleasant opinion towards Rohingya. This ground was enough to portray Rohingya as anti-Government (Ibrahim: 2016). Illustrations like this shaped anti-Indian attitude in nationalist Buddhists (Kei Nemoto: 2014).

### *2.2.2. End of British rule*

The British rule end in year 1948, soon after the withdrawal of British power the multi ethnic conflict began which snatched the opportunity of Burma growth in a well prosperous state (Hossain: 2018). Almost immediately after getting independence the communist party of Burma launched a military campaign to with an attempted coup to gain the authority. At the meantime British diplomats were still involved in the political affairs of Burma. As British diplomats were trying to encourage the Karen ethnic group, largely Christians, to seize and control the Burmese administration (Ibrahim: 2016). These two diplomatic situations in Burma created a zone of conflict between the Burmese state and its ethnic groups especially at the border regions<sup>3</sup>. One such example is related to Rohingyas, when Japanese invaded Burma in 1942, the Rohingya people remained loyal to British administration. This behaviour of Rohingya community led to a series of inter-communal clashes involving the Rakhine ethnic people (Ibrahim: 2016).

Just after attaining independence brutal clashes arose among various ethnic groups which flamed the country with the fire of ethnic conflicts Nimesh (2010) has introduced Myanmar as “trouble state” due to its never ending ethnic conflicts, favoritism and dictatorial martial domination which still has the power to manipulate government.

### *2.2.3 Military rule in Myanmar*

The ten years after independence (1948-1958) Myanmar enjoyed democratic rule which was collapsed by the military in 1958. From 1958 to 1960 military came into Administration and took power into its hands on the request of the Prime Minister U Nu, to “assist democratic administration”, but once again military government hacked by the democratic powers in 1960.

From 1960 to 1962 Democratic rule came into power which lasts only for two years. Demolishing the democracy military took possession of the country with the

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<sup>3</sup>However, these type of wars are no more apparent in Burma.

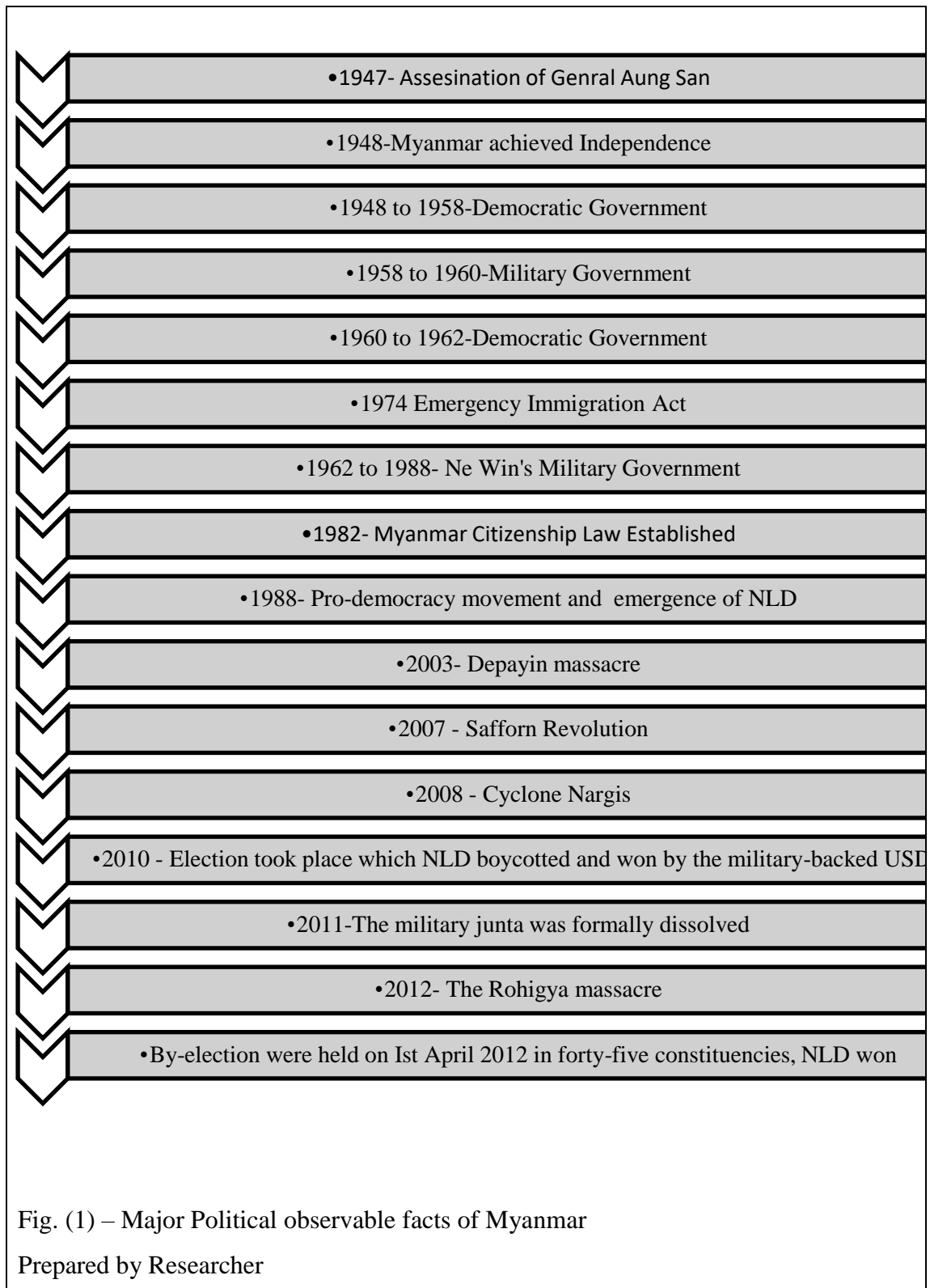
firm belief that the parliamentary democratic system cannot secure nationalism. Hence the period between 1948-1958 and 1960-1962 can be termed as “Democratic Era” in Myanmar which contributed the constitution of 1947 to the country and made several provisions benefitting the democratic rule. The democracy in Myanmar was parliamentary which was made up of two houses- the Chamber of Deputies and the Chamber of Nationalities. The democratic rule also benefitted the marginalized by giving consent to their rights and provided them opportunity to grow (Nimesh: 2010:74).

In March 1962, General Ne Win came into power with the flagship of military rule. The Military used some tools to turn the table. It spread the unknown fear of Buddhism downfall which initiated communal violence. Military very well knew how to generate communal violence and show itself as a mere protector from all evil happenings (Wade: 2017). Military junta made new perception that loyal citizens would be those who are Barman Buddhists and in case who are not Barman should be Buddhists. These transformations affected minorities who are neither Buddhists nor Barman. The most persecuted among the minorities are Rohingya who have lost everything due to Military totalitarianism, reign of terror (Ibrahim: 2016).

When General Ne Win faced criticism and voice of oppressed people began to rise then Ne Win constructed a Revolutionary Council to spread serenity but it was just to betray people. Because that Revolutionary Council was not transparent to ethnic inclusion and also not very keen to provide political freedom to the general public (Nimesh: 2010). In 1973, Ne Win’s Revolutionary Council asked civic opinion for composing a new constitution. The Muslims from then Mayu frontier submitted an application regarding a separate area for them but the plea was rejected (KyawZanTha 1995:6 in Chan: 2005). In the election which held under 1974 Constitutions the Bengali Muslims from the Mayu Frontier Area were deprived of the right to elect their Muslim candidate to the “PyithuHlut-taw” (People’s Congress) (Mya Win 1992: 3 in Chan: 2005).

After the failure of Burmese Road to Socialism that led to massive revolt , the Burmese administration made many changes including the democratic form of

government in Burma. In the very next year a new law was introduced that retained the discriminatory ethnic law of 1974.





After the introduction of this new law, many senior officials of Burmese administration noted that Rohingyas were allowed to vote in the 1990 general election and permitted to stand for political parties. However thing became skewed when National League for democracy party and its allies tried to defame Rohingya parliamentarian, with purpose on the ground that they must have used their fake identity for contesting election. The subsequent two year saw more military attacks on the Rohingya people as result more than 250,000 fled to Bangladesh and Malaysia(Ibrahim: 2016).

In the same year of general election the Burmese military regime annulled the election to retain power as a result the military ruled till year 2008. However in this long period 18 years Burmese people revolted many times for better lifestyle and democracy. The impacts of Nargis cyclone and along with the Saffron revolution made the Burmese regime to make some changes in their

Hence the 2008 constitution of Burma allowed for limited democracy but restricted the definition of citizenship of 1975 again. Apparently this time Rohingyas has no places in the new democratic future of Burma. The general election of 2015 totally demolished the civil rights of Rohingyas as in 2014 census they were forced to choose either being described as Bengali<sup>4</sup> or choose not being able to participate in election(Ibrahim: 2016).

In the year 2011, demand for democratization and economic liberalization gained voice which attained positive and negative impacts. The positive results were the release of political prisoner and the abolition of pre censorship of media which also appealed by international community but as a negative impact the years long ongoing ethnic conflicts again exploded in the country (Kei Nemoto:2014).

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<sup>4</sup> “The first option carried the threat of deportation, the second of being forced into one of the refugee camps that had sprung up after the 2012–13 violence in Rakhine. Even worse, the regime then confiscated the ‘White Cards’ that had been the last form of official documentation held by many Rohingyas” (Ibrahim: 2016)

### 2.3 Insights of Buddhism

The ‘Theravada’ sub branch of Buddhism is prominent in the southern peninsula of South East Asia including Srilanka, Thailand, Laos, Cambodia and Myanmar. Hence because of its southern orientation this branch is also known as “Southern Buddhism” (BBC 2002, 2 Oct). The word “Theravada” is stand for ‘doctrine of the elders’- and here the elders are the senior Buddhist monk. It is also one of the largest sub-branch of Buddhism (BBC 2012, 2 Oct). There are examples in the history that shows Theravada Buddhism have been engaging with other cultures, i.e. The Konbaung Dynasty (1752-1885) was a Burmese empire and it was a plural society. Right from the 18<sup>th</sup> century, the Theravada Buddhists and people from different ethnic backgrounds like Chinese, Indians, Afghans, Persians, Armenians, and Portuguese, and in terms of civilization Hindus, Muslims and Christians, have been living together peacefully in the then Empire(Kei Nemoto: 2014).

According to Michael (2017:6), Buddhism was acknowledged by its practitioners as full-bodied religion hence they defend against consideration of it a just philosophy. Buddhism which was firmly attached to the Burman identity was included into the philosophy of the state as a key feature for creating a sound, secure and perpetual society (Nimesh: 2010:74).

Incorporating Buddhism into the philosophy of the state for creating a sound society reinforced inter-ethnic conflicts with non-Buddhist Barman such as the Christian and the Muslims worrying about the integration of the other cultures to the mainstream culture i.e. Buddhism (Nimesh: 2010:74). Michael Jerryson (2017:4) argues that the trouble lies here in Buddhism and its connotation of being “peaceful Buddhist” flawed. This peaceful depiction of Buddhism is stopping people to realise the ground of violence perpetrated by them and stop comprehending the reality that these forces of this Buddhism dominated country will go to such a vast extent in the name of protecting their religion, whether by way of pistol-bearing priest or self-immolating campaigner. This sub discipline of Buddhism is also dominant in Thailand and Srilanka. And both countries are also associated with communal violence.

Another Assumption that is filled in people mind regarding Buddhism is that it is tolerant toward other forms of religion. But unfortunately this is not the case. In the

case of Theravada Buddhism , those who subscribes it argue to eliminate other religion as they feel that the Buddhism is more safer than other religion ( Ibrahim : 2016:16).

The extreme influential religion Buddhism in Myanmar played vital role in the politics and revolutionized the political structure of Myanmar what we see today. The beginning of the martial rule in the country was the result of the acceptance of Theravada Buddhism by the authority in power. They incorporated the Buddhism ideology into politics to rule the country and used to fund monasteries and monks in the 1970s and 1980s. But again Buddhism turned the tables by demonstrating their rage during the 1988 revolt against the ruling government. Buddhists and students played significant role. As a protest, Student put on the symbol of fighting peacock and Buddhists carried their morning alms bowls in inverted position to display that from now they will not accept funds from military. Partnership between pro-democracy supporters and Buddhists lived despite the fact that Military left no stone unturned to terminate the revolt (Ibrahim: 2016).

#### **2.4 Economy of Myanmar**

In 1987 Myanmar turned into the least developed country. According to Nimesh, the restriction applied on avenues for the political actions, population and negligence towards the economic condition became the instruments for introducing country to bad conditions. In the pursuit of retaining Buddhism as national identity that was dishonorable for other minorities established the grounds of diversion in the political and economic graphs of Myanmar. Between 1962 and 1988 multiple protests, clashes led by monks, students and other socialist workers arose against the Myanmar's authority. Ethnic insurgents never allowed government to sit silently; they continued to confront with the government (Nimesh: 2010).

Burmese road to socialism and the injuries of constant civil war impelled the country economic catastrophe. Populace of Myanmar became furious when General Ne Win demonetize most of the Myanmar currency and only 45 and 90 kyat note remained in the circulation because Ne Win believed that those numbers which are divisible by 90 are only auspicious and will bring prosperity to the country. Ne Win's

this move devastated the savings of people immediately and bulldozed the pillars of economy (people's money) dramatically. The country came across economic crisis (Ibrahim: 2016). Ne Win's stringent hold on country's economic and political system, definitely transformed country into a firm state but also left country under Win's dictatorial rule. The economic failure and political elitism disappointed the populace of Myanmar. As a result Ne Win resigned from his official political post but behind the scene he remained influential (Nimesh: 2010:130).

#### *2.4.1 Burmese Way to Socialism*

In the name of reconstructing the Myanmar, the military junta started a new ideologically mooted programme the "Burmese way to Socialism", the regime restricted all the democratic and political activities. Isolationism became the most important parameter for keeping the system working. Hence the military rule seized all powers in 1962 and established a system of isolationist regime. In this regime they suppressed all opponents including civilians and ethnic armed insurgents through oppressive measures, force and intimidation. Even the Prime Minister Ne Win party used this isolationism tactics as political and economic policy to release the dream of the "Burmese Way to Socialism". This 'Burmese way to socialism' policy envisioned national integrity , and unity along with economic prosperity through the imposition of regimentation of the state over its population, and isolation from the outside world. As a result a strong and pervasive state was created which transformed into a despotic rule in the hands of Ne Win. This pervasive and isolationist state brought economic and political crisis in fact this policy created more repression than it assumed to be solve through the socialism policy (Nimesh: 2010:130)

#### **2.5 Government of Myanmar: Military at the Apex**

In the whole political appearance of Myanmar Military exited in the supreme position. After achieving the independence Myanmar neglected the international relation. Even in the democratic era of Myanmar never seen as an active player in the international dealings. After the occupation of coup d'état in 1962 on Myanmar, Military's position fortified that intended to keep international engagement least

possible. Only those matters which privileged Military gained momentum in Myanmar's external affairs policy (Nimesh: 2010, Ibrahim: 2016).

At every transition point of Myanmar's political episode Military always remained at the apex. When Ne Win resigned people were desperate to see the more liberal nature of the authority and more access to previous cocooned political and economic structure. In year 1998 , the military administration came into power and adopted a new name for it that is the State Law and Order restoration Council ( SLORC), which was renamed in 1997 into the State Peace and development Council ( SPDC). SLORC made many promises to introduce political and economic reforms but few of them took into consideration. In 1990, the military met with electoral fail. Regardless of the failure Military denied to vacate power by making ostensible reasons of establishing peace and order in the country (Nimesh: 2010:131).

### **3. Rakhine State of Myanmar**

Culturally and geographically Rakhine (previously Arakan), have always been in separate position from Myanmar (Burma before 1989). Geographically Rakhine state was separate from Myanmar by the high and inaccessible Arakan Mountains and culturally the people of Rakhine were having more similarities to the Indian culture than Myanmar.

Right from the ancient time Arakan province today Rakhine state was a very poor state. Its people were mainly dependent on subsistence farming and fishing. In the ancient history of Myanmar we seen that many countries were interested in Myanmar and even Myanmar had warfare with the Thailand over the domination of trade routes. But no country was ever shown interest in Arakan province. The Arakan came in light only around 1000 AD when ethnic populace of Arakan which was known as Rakhine started moving to the central Myanmar. Name of Arakan province changed on the basis of these ethnic people

In 1784, the Kingdom of Burma officially took possession of Arakan. This step taken by the Burma put it in the confronting situation with the British who also had keen interest in the region because of rich natural resources i.e. oil and natural gas. In first Anglo-Burmese war (1824-26) Burma was obtained by British and in

1880s British occupied the entire Burma, as a result Arakan province included in colonial Burma and when Myanmar achieved independence it became part of Myanmar also administrative title was changed from Arakan to Rakhine (Ibrahim: 2016).

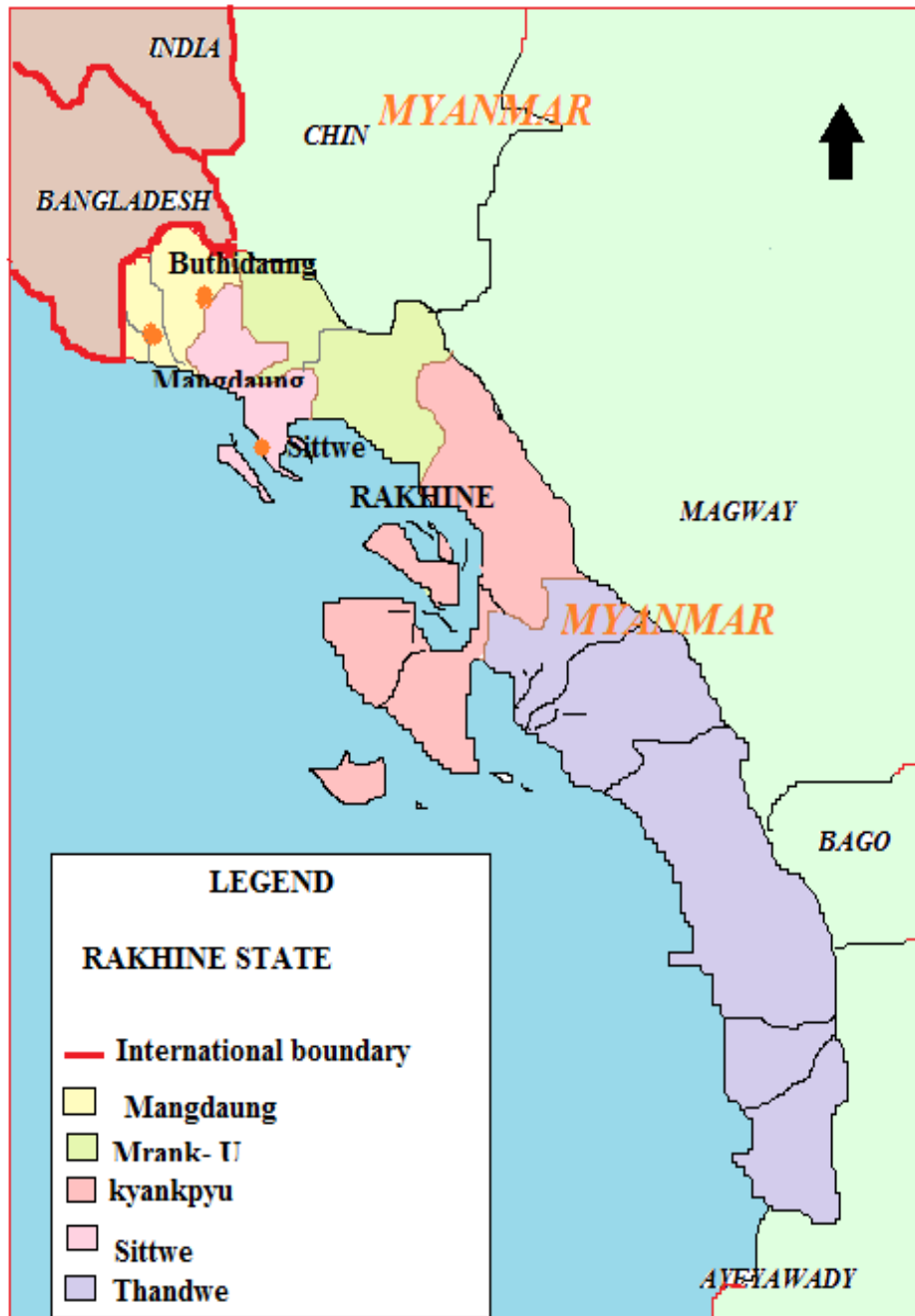


Fig. (c) – Map of Rakhine  
Source – Prepared by Researcher

### *3.1 Politics and administration in Rakhine*

Rakhine state of Myanmar consists of 5 states and 20 townships or sub-townships.

Prior to the British annexation to Arakan in 1826, Rakhine had the same piece of land as Arakan possessed. During the brutal clashes of 1942, the populace of Rakhine and Rohingya divided. At present most of the Rohingyas are living in the northern districts (Maungdaw, Buthidaung and Rathedaung) and around the major port of Sittwe, while the rest of the province is mostly inhabited by ethnic Rakhine.

Ubiquitous poverty has become the recognized feature of the Rakhine state. Rakhine along with chin are the two poorest states and regions of the Myanmar. Rakhine has a poverty rate way below the country's average. The poverty rate of Rakhine stood at 78% when compared to the whole country which is 38 % (Burke:2016: 264).

The 2012 was the year that became the evidence of using ethnic rivalries to satisfy political needs. The bar of rural economy came to the bottom. The cost for labour, harvesting and transportation amplified dramatically which affected rise cultivators and wholesalers. Besides agriculture, fishing industry was also made worse by the exploiters. Between 2000 and 2012 the marine economy along the Rakhine coastline demolished. Local fishermen reported 80 percent decline in fish catch size. Observing the critical situation of marine economy a detested quota scheme was introduced to some contractors by the government which gave the authority to levy several duties on regional fishermen. Provincial fishermen raised objection to this quota system but authority paid no attention even not reformed.

### *3.2 Destruction of Economy in Rakhine*

Being prosperous with natural resources, fishing has been a conventional economic practice in Rakhine state and ethnic Rakhine and Muslim minority both have been engaged in the traditional economic practice for their livelihood. But after arising ethnic tension between the two communities, provincial Rakhine fishermen made allegation that Muslim fishermen violated official contracts. These socio-

political and economic courses gave routs to the avaricious politicians to fulfill their political interest by widening the gap between the two communities. Regional politician aimed to possess the rights from central government and making sure that Muslim minorities should not be able to take part in Rakhine politics (Burke: 2016).

### *3.3 Muslims in Rakhine and Myanmar*

The Muslims residing in Myanmar are Sunni. They make four percent of the entire population of Myanmar. Their largest strength can be found in the northern region of the Rakhine especially in the areas of Buthidaung, Rathendaung, Akyab, Maungdaw and Kyauktaw (Minority Rights Group International: 2017)History of Rohingya in Myanmar is full of persecution. Barman people always took them as illicit immigrants from Bangladesh and India in spite of knowing the certainty of their existence from centuries (BROUK).

History of Rohingya's persecution started when Burma got independence in yeas 1948 from British colonizers. The hatred against the Rohingya was grown gradually in Buddhists. British promoted the culture of labour migration to gain profit. This introduced other ethnicities to Myanmar (then Burma). British here also pursued their divide and rule policy. They secured Rohingya's support by assuring them their distinct land which they called a "Muslim National Area". As a result, during Second World War Rohingya backed British and Myanmar's nationalist sided with the Japanese. In return British honored Rohingya with impressive government positions but did not give them separate land. When Rohingya asked their promised separate land after independence, Myanmar government refuted their demands and also denied them citizenship. They titled them migrant "Bengali" or foreigners. This hatred against Rohingya is still growing (Hossain 2018).

Anti-Indian, anti-Bengali or anti-Muslim sentiments among the populace of Myanmar have its own grounds. During the British rule the Indians who migrated to Burma as rice field workers during the course of time some of them settled their and acquired wealth and power. Many Indian were engaged in the job of finance business. They usually knew as Chettiars. The chettiars had their own terms and conditions to finance business. They used to loan farmers but the interest they applied were quite high, 15 % per annum with security and 60% per annum without security. Chettiars



did not lend money to the peasants who wish to become landowners in the rural areas of Burma. This is how anti-Indians emotions developed and gain strength 1920 when many farmers, who did not have land, demoted to the position of agricultural labours. These sentiments were fueled in Burmese nationalist movement (Kei Nemoto: 2014)

Nemoto also tries to bring attention the developed fear against the Muslim immigrants. He said that the rise of Wahhabism (which is a Islamic doctrine) during 1990s had its impacts on Myanmar also. In Myanmar some Muslims began to show their Islamic culture through their clothing appearance and by other modes i.e. internet, social media that heightened the fear of Muslim in Buddhists. In response Buddhists openly criticized Islam and began to destroy Islamic institutions.

Like this Wahhabism also paved the way to anti-Muslim and anti-islamic sentiments in Myanmar (Kei Nemoto: 2014). In July 2013, Wahhabism was recognized by the European Parliament in Strasbourg as the chief cause of worldwide terrorism (The Telegraph: 2017).

### **3 The Rohingya**

The term 'Rohingya' as a title of Muslim ethnic minority in Myanmar and some other countries have only come in light only after knowing the fact that numerous Muslims in the kingdom of Mrauk-U were dwelling between 15<sup>th</sup> and 18<sup>th</sup> centuries. In 17<sup>th</sup> century Rohingya came to Myanmar and the population of Rohingyas tripled between 1871 to 1911 (Hossain 2018). They were the people who set the stage for the Muslim immigrants who migrated from Bengal now Bangladesh during the British rules in 19<sup>th</sup> centuries. (Kei Nemoto: 2014). Neglecting the fact of Rohingyas inherited culture Burmese always restricted them to call Rohingya and usually entitled them as illegal Bengali immigrants.

Because of Burmese hatred towards Rohingya they are compelled to live in isolating condition and they are afraid of disclosing their personal information. These impelling conditions of isolation evolved them as strong community who take pleasure in firm grouping among its people and enjoy cultural and religious festivals, and they love sports and games (Fike and Androff 2016).

Rohingyas descended from the mix races of chittagonian bengali the Arabic sea traders and Arakanese Buddhist. They speak dialect the little vampire which is different from Bengali that is spoken in Bangladesh but quite similar to it. Many urban and modern Rohingya adopted the Burmese language in their day to day life. Rohingya stayed peacefully in co-existence Arakanese Buddhist before the arrival of British in Burma. The British divided the boundary between India and Myanmar that also lead to the bifurcate of boundary between Arakanese Buddhist and Rohingya. As a result, Rohingya left with no plan and caught between two different countries and the majority of them decided stayed in the newly formed Burma state in 1948. However, the things became quit when Ne win government expelled the thousands of Romania art of Burma during their "Burmese way to socialism" nationalized program in 1960s.

In the year 1978, the Burmese regime followed a mass campaign of ethnic cleansing known as operation Dragon king that led two lakh Rohingyas to leave their home for Bangladesh. This military government has subjected Rohingyas to brutal treatment many time. The people who fled to Bangladesh due to that brutal operation are forced to stay in squalid and shabby locations. After staying for many years in such a condition thousands of Rohingyas died due to lack of food and eruption of communicable diseases after Bangladeshi government refuse to provide humanitarian aid to them. Due to ill treatment of Bangladeshi government most of the survivor Rohingya left to the Myanmar. In year 1983, according to human right watch (2009), the Burmese government conductor the nationwide census which excluded Rohingyas in the counting as a result these ethnic people were rendered stateless through exclusion.

### *3.1 Successive Brutal confrontations between Rakhine and Rohingyas*

Every decade (1960s, 1980s, and 1990s) of Myanmar has the history of violence, before and after independence. Minority Rights Group International has been called it cycle of violence. Military dictatorship, communal violence and rebellion worked together to end civilian rule in Myanmar. Muslim minority were targeted, especially Rohingya, provided reason to millions of Rohingya Muslims to

flee from Myanmar, leaving out behind their savings for life (Minority Rights Group International: 2017, Burke: 2016).

To portray this cycle of violence, research will report two prominent years, 2012 and 2017. In 2012, two consecutive outbreak of violence occurred in the month of June and October. These two Violent outbreak resulted into thousands of death along with loss of livelihood, innumerable displacement and destruction of public property and basic services. These two outbreak affected the local developments in Rakhine. This conflict in Rakhine was fuelled by the amalgamation of various factors including chronic poverty, low economic resources and the tension between the local Rakhine government and the Burmese regime ( UNDP 2015).

According to the Myanmar government reports rape and murder of 26 year old female named Ma ThidaHtwe by three Muslim men on 28<sup>th</sup> May, 2012; ignited the fire of hate

between the two communities; Rakhine Buddhists and Rohingya Muslims. To quench the thirst of revenge a group of approximate 300 Rakhine Buddhists pounced on a bus carrying Muslims through the town of Taungup, west of Ramreeislalnd, on 3<sup>rd</sup> June, 2012. Ten travelers pulled out and slaughtered. Why the Rakhine Buddhists assaulted the passengers and killed them was never come into light. What is more vital to this issue is that those Muslim were not Rohingya, they were not from Rakhine state, in reality they were Muslim Missionaries from Magwe and Ayeyarwady divisions. It can be assumes that after the rape of Buddhist girl, intolerance in Buddhist community towards Muslim blood reached its epitome. Furious Rohingya did not sit in tranquil. Four days later, on 8<sup>th</sup> June, just after closing the Friday morning prayer Rohingya brutally attacked Buddhists properties at Maungdaw in northen Rakhine state.

The second consecutive outbreak of violence arose in the October month of the same year (2012). On 22<sup>nd</sup> October 2012, Buddhists mob set upon Muslim communities in nine townships across Rakhine state. The remarkable point about 2012 massacre is that its origin was not only ethnically inclined but also it was politically organized. In the 1990 election many antagonistic groups backed the national league for democracy but many of them formed their own parties. Arakan League for Democracy (ALD) was one main product of some alliances. A descendant

party of ALD was Rakhine Nationalities Development Party (RNDDP) which played prominent role in 2012 massacre (Ibrahim: 2016).

*The Systematic attacks by ARSA of 25 Aug 2017*

The place in Maungdaw district known as Ael Than Kyaw, close to coast, was one of the first place that Rohingya militant attacked on August 25, 2017 which set off the another round of violence against Rohingya (BBC: 2017). On this particular day the members of Arakan Rohingyas Salvation Army (ARSA), attacked thirty Burmese security forces Outposts in northern region of Rakhine state that killed 12 state officials. In these 12 officials, the 11 members are from Myanmar security forces as cited by government in their telegenic and media reports As a result the Burmese Army launched a direct attack on Rohingyas population rather than attacking the members of ARSA in the Northern Rakhine state. This particular attack conducted on Rohingyas of a Rakhine region is dubbed the systematic, organized, and ruthless (Amnesty International 2017). The Rohingyas militant organized systematic attacks on the thirty outposts of Burmese forces across the Rakhine state. These reports were planned and initiated after the release of the final report of the Advisory commission on Rakhine (Amnesty International 2017).

Arakan is previous name of today's Rakhine state which is positioned at the western part of Myanmar. In 1989 military government changed the name of Burma to Myanmar without having the consent to its citizens but later it was accepted by the United Nations by saying that every member country has the right to name its country according to their wish (Hinic 2016).

In Rakhine state Rohingya muslims are in majority which is causing existence threat to barman Buddhists. Rohingyas are Sunni Muslims living in the Maungdaw district of Rakhine state of Myanmar. They have their own dialect and bearing close resemblance with Bengali culture (Yasmin 2017). The roots of the word 'Rohingya' can be traced back to the ancient nomenclature of the Arakan state 'Rohang', positioned on the Burma's Southern boundary with Bangladesh (Jha 2008). Brooten (2015), has designated them as the most underprivileged people of Asia's most needy nation.

Many historical sources provided the details of Muslims settled in Burma since the the end of the 18<sup>th</sup> century during the era of Burmese Empires. In spite of this, the Buddhist has always memorised them as 'non- indigenous', who came from India and settled in Burma since 1824. As a result they were considered as marginalised in Burma, hence they were regarded a minority groups in comparison to the Burmese language and Theravada Buddhism (Kei Nemoto: 2014)

From the time when Myanmar was struggling for sovereignty, regional disputes and cultural clashes have been part of Myanmar's land (Ray 2017), the well-known Panglong agreement is the notable example. The brutal rape and killing of a Buddhist women by Rohingyas men in Rakhine set the flames of clashes between Buddhists and Rohingya Muslims on 28 May 2012. And this skirmish led to manslaughter of ten Muslims by a groups of Buddhist men on 3<sup>rd</sup> June 2012 in of Rakhine. (Kipgen 2013: 300). This year (2012) was neither starting nor the ending of this Rakhine and Rohingya conflict, before this year and after this year several conflicts occurred. Ethnic conflicts in Myanmar have the roots to the era of British rule.

Theravada Buddhist is the dominant ethnicity of Myanmar who retains the vision of harmony and tolerance (Bradley 1997). Kneebone represents domineering nature of Buddhists in Rakhine state by stating that Rohingyas Muslims share 30% of the entire population of Rakhine state and domineering Buddhists compose 70% who are looking the Rohingyas as trespasser to their territory even though they are living in Rakhine state of Myanmar for generations. These circumstances are compelling them to flee from Rakhine and Myanmar (Kneebone 2016). In Myanmar's 2012 census the Rohingyas Muslims were not present and classified as stateless Bengali Muslims. It shows the discriminating nature of Myanmar Government and its readiness to wipe out Rohingyas from Myanmar (Yasmin 2017).

Rohingyas firmly oppose their Burmanization and desire to discern their Islamic legacy (on which they bear pride) in Myanmar's political representation (Jha 2008). Martial law came into force when military junta overtook power in 1962 that adopted very cruel policies in violation of human rights against the Rohingyas ethnic minorities (Ray 2017). Women and children are bare and easily exploitable targets for the military that use rape and sexual harassment to compel women into sexual slavery,

and equip children with weapons to combat against ethnic minorities (Fike and Androff 2016). In February 2017, A UN report blamed the military for committing crimes against humanity such as mass rapes, killings and burning homes of marginalised people et cetera (Al Jazeera 2017).

Before 1937, there were clear indications of migration from British rule India to the Burmese Nation this migration occurs in four different areas. This migration during the British colonialism initiated by British itself in the form of labour. The first area comprises of Irrawaddy Delta, where Britisher established rice field. An initially this people y imported into Burma for working in the rice field as a Indian labour. Like rice field, rice British established rubber plantation and again imported Indian chief labour in Myanmar in this field.

In Myanmar the third area where the Indian word taken to what is the administration as British favour non-Buddhist in Burma as they are considered loyal to the British colonial administration. At last Indian worker were found dominant in the transportation and docks sector. According to Ibrahim (2016), none of the above-mentioned fields contain any Rohingyas; as a result, these ethnic people remain working as a farmer and fisherman in their own land rather than working in the colonial administration. Ray (2017: 6) observes that Burmese government was always xenophobic toward the Rohingyas as they considered the non -Buddhist culture and ethnicity a threat to the Burmese integrity.

#### **4. Research Methodology**

The research will adopt an interpretive method to analyse the text of law and its social lives to study its implications for larger geopolitical issues. This study adopts qualitative technique as it is more of the narrative. It is intended to use statistical data wherever relevant to support the arguments offered in the work. The study adopts a deductive method as the study intends to go from general understandings to particular details. The research is mainly based on the data derived from both primary and secondary sources. The primary sources such as text of laws, some documents of ASEAN and UNHCR as well as government documents will be consulted, while the secondary sources include books and articles n the themes of Rohingya Refugee Crisis, Myanmar state, Human Rights etc.

Limitations of the Research- unavailability of authenticated information, data and undone field work are the main delimits of this study. Many documents of Myanmar government are mainly in Burmese language that provides troubled comprehension for the naïve of Burmese language.

## **5 Rationale, Scope, and Objective of the study**

This study uses some terms which are vital for the study such as Genocide and ethnic cleansing; Religion and cultural driven conflicts; Identity; Citizenship; Statelessness; Refugees; Camps; and Social Security.

Genocide and ethnic cleansing involves the mass killing of particular race, tribe, group or community which are not companionable to the state. Religion and cultural driven conflicts talks about the tensions which are ethnically encouraged. Identity can be defined by the cultural practices which a person holds, by the language he/she uses, by the religion he/she adopts and also by the interpretation of others. Citizenship refers to the authority of inhabiting to the inhabitants given by the state which makes him/her legal and legitimizes the actions performed by the citizen.

Statelessness perceived when a person suffers the loss of protection of his own government or state, this situation presents a citizen as illegal on his own territory as well as in another boundaries. Refugees are outcome of migration which occurs to reinforce the living of human being or to save their lives from the atrocities of the own government and adopt legal and illegal both methods to migrate in another territory. Camps are temporary shelters for the refugees provided by international communities to fulfil the requirements migrants. Social and human security is multifaceted in nature and contains similar aspects. Social security presents the pecuniary support given by the government to its vulnerable citizens and human security exercises the aspect of providing security to societal inhabitants from the threats like religious and cultural conflicts, war, genocide and ethnic cleansing et cetera.

The study is crucial because it looks at the unexplored area where the questions of statelessness and bare life have not been adequately discussed. Based on

the rationale, the scope of the study is limited from 1982; when Myanmar's citizenship law 1982 was formed.

## **6. Organisation of the research material**

The first chapter outlines the research design. It contains the statement of the purpose; background of the study; draws attention to the history of Myanmar; a literature review of the relevant literature; definition of the vital idea; rationale and the scope of the study; research questions and hypotheses; and research methodology. The chapter concludes by delineating the chapters. The second chapter is named as law and statelessness which try is to examines the fundamental nature of citizenship law in general and argues that among all present causes for statelessness the fundamental nature of the citizenship law plays crucial role and is the *raison d'être* for statelessness.

The third chapter is the establishment of 1982 Myanmar's citizenship law, which intends to investigate the reasons behind the adoption of 1982 Myanmar's citizenship law by Myanmar; the norms which citizens follow; what are the basis on which categorization has been done of the Myanmar's citizens; study of the political dogmas behind the implementation of citizenship law. On other hand the fourth chapter stand for Statelessness of Rohingyas and Ethnic Violence as Consequences of Citizenship Law, which emphasizes on the results of citizenship law; how statelessness and ethnic violence became the consequences of implementing citizenship law; how Rohingya Muslims chiefly affected by the law. And the last chapter provides an analytical summary of the research work.



## Chapter II

### Law and Statelessness

The chapter examines the fundamental nature of citizenship law and argues that among all present causes for statelessness the fundamental nature of the citizenship law plays a crucial role and is the *raison d'être* for statelessness.

#### **1 Introduction**

When millions of people do not adhere effectively to a political society, they are known as stateless, and this is the rising issue of present time (Parekh: 2013). As UNHCR puts it that some people are born stateless, but others become stateless becomes true in the nation-state system. Sovereign nations and their political power enjoy the authority to produce flexibility in laws. It is not only about one country; there are several instances which exhibit that how law becomes a supreme medium where it contributes to escalating 'Statelessness'. Parnini (2017) says that stateless refugees and forced migrants have become a major problem in recent time and she has paralleled these issues with national security. To describe national security, Parnini has come up with three interlinked indeed separate kinds of entitles. According to her, there are three views of national security, i.e. conventional, revisionist and the combination of conventional and revisionist. Conventional or traditional aspect of national security works with the Military dangers arising inside or outside of the country (Nye and Lynn-Jones, 1988 discussed in Parnini 2017).

Revisionist views includes environmental and socioeconomic factors that deal with the natural calamities or dearth of resources. It causes hindrance in supplying of resources to the populace thus affect the firmness of government. One remarkable point here is these particular dangers pertinent to those countries which are down in economic activities and their income is very low for instance Rohingya exodus to Bangladesh which hit the country's resources and made the government unstable and unable to deal with the refugee influx in 1978 which is continued till date.

Conventional and revisionist views of national security come together in making the third view. The third view exhibit national security in three dimensions. The strategic dimension includes the traditional view which deals with the arising military threats internally or externally. The regime dimension engages with the

instability of the authority by the internal conflicts and violence. The structural dimension maintains the equilibrium between populace and resources if it gets disturbed then it affects regime (Parnini 2017). The present situation in Myanmar falls in the third category of national security in which the phenomena are working in three dimensions; the strategic, the regime and the structural. Myanmar is struggling with the arising military threats internally or externally, the instability of the authority by the internal conflicts and violence and also trying to maintain the equilibrium between populace and resources.

Statelessness is not only legal trouble but also a social and individual trouble. The people who are unable to get nationality or citizenship face numerous problems which are basic in one's life i.e. right to education, to job, to marry, to travel, to health care, to vote, to own property etc. Even these people are at risk of facing long time detention in a foreign country when that country is unable to get the citizenship status of that particular individual to repatriate (Batchelor: 1998).

Batchelor (1998) says, though International law introduces some criterion which imparts guidelines on nationality, practice and legislation despite that international community faces problems of statelessness and establishment of nationality. Batchelor adds this state of affairs occurs in the course of state succession and the implementation of nationality law enactment by new institutionalized state. The territories where these are not grounds of statelessness then issues of nationality where ethnic conflicts, nationalism and inability of government to resolve the issues might be reasons for the same. The affected people on that territory involve the ethnic minorities, women and children who do not have any clue of their ancestors but follow their father or husband.

UNHCR defines the minute difference between nationality and statelessness. UNHCR introduces the process of getting nationality which includes two ways; either through parents or by state. In general a person obtains nationality by taking birth in a country that is a geographically marked territory on a map. But there are some circumstances in which a person has to apply for nationality. Now according to UNHCR statelessness is a condition when a person is recognized as a national by its own country. There may be several reasons for statelessness i.e. state succession,

establishment of new state, ethnicity and gender et cetera but lacuna in nationality laws is the most severe ground for statelessness.

Manly and van Waas (2014:5 in Fiddian-Qasmiyeh 2016) argues that there are no studies of statelessness present which has come out of the study of nationality law. The greater part of the academic literature which deals with statelessness only incorporates the views of international law (ibid). If truth be told then it is the present time only when academia has proven itself that it can criticize, praise and confront the official dialogues stemmed by academics and policy-makers (Redclift 2013; Fiddian-Qasmiyeh 2014 in Fiddian-Qasmiyeh 2016).

Parekh (2013) admits that in the boundaries of international law “ethics of admission” are the most significant but she argues that we (the people of nation-state system) should elaborate our philosophical study beyond the “ethics of admission” and for that she incorporates two vital reasons. First ground throws light on de jure and de facto stateless people. De jure stateless people are the people who met the criteria of admission in a country i.e. affiliated for resettlement by UN High Commissioner for Refugees (UNHCR) and de facto are the stateless people who do not meet the criteria of admission but still lost their nationality. Parekh argues that “ethics of admission” mainly works for de jure stateless people and leaves behind those de facto stateless people who are also in need. Arendt (1978:279) has called the de facto stateless people as the ‘core of statelessness’ and she also puts it that the international world mainly focuses on de jure stateless people and neglects the de facto stateless. Second reason which Parekh (2013) defines about the need of the enhancement of the philosophical knowledge about ‘ethics of admission’ is that admission ethics do not pay concern towards those stateless who are living outside the political communality permanently and compelled to live on humanitarian aids. She adds that the harm of stateless for those who are living outside the political community for many years has not yet taken prominently or normative philosopher consider it morally vital. They study the issue of statelessness in more legal manner i.e. loss of nationality and forget to include another dimension which Parekh says ontological harm of statelessness. Parekh (2013) convey that there are two sorts of harm of statelessness; one is political harm of statelessness and another is ontological harm of statelessness. To study statelessness in more prominent manner we have to

put apart these two angles of statelessness so that we can approach the root of statelessness more accurately.

Studying the connection between statelessness studies and nationality law Fiddian-Qasmiyeh (2016) mentions about the Hannah Arendt's criticism about the situation of nonexistence of the "right to have rights" (1951) in regard to recontextualize the concept of statelessness and nationality law. She also incorporates the study of cf. Staples (2012:14-15 in Fiddian-Qasmiyeh 2016) which expands the horizon of the connection between statelessness and political exclusion and inclusion from the viewpoint of political theory. At the same time she also puts Rancière's (2004:299 in Fiddian-Qasmiyeh 2016) critique on Arendt's theorization of statelessness. Rancière (2004:299, cited in Fiddian-Qasmiyeh 2016) argues that the that Arendt's theorization of statelessness offers a structure of explanation and a line of reasoning which would be useful for depoliticizing subjects of authority and oppression. It is able to lock the stateless person in a boundary of rarity which is not political and also we may call it a sacred sphere of anthropology which is ahead of the approach of political demure. Fiddian-Qasmiyeh (2016) herself mentions a remark on the condition of the stateless people that these are the oppressed people and perfect sufferers who are backed by the international assistance to help them survive in the political world and assist them to send in a bubble where they have 'the right to have rights'.

## **2. The Understanding of Statelessness by UNHCR**

1. Lacuna in nationality laws are the utmost important cause of the statelessness. Each and every country has its own rule and regulations that how a national does obtains nationality and how can state withdraw it. Some countries have the system of offering citizenship on the basis of descent that accord those born children as national who have taken the birth in the marked territory of that country.
2. The movement of the people from one country to another makes the issue of statelessness even more complex. If a child takes birth in a foreign country can put their nationality in danger due to the reason that if that country do not offer citizenship on the ground of taking birth alone. In addition if the home country

of the nationals does not allow them to pass on their nationality through family linkage it can also spread statelessness. Furthermore some countries have discriminatory laws that who can and who cannot transfer their citizenship. For example in around 27 countries in world, the citizenship law are biased against women as women are not permitted to transfer their nationality while some countries provides citizenship to definite races and ethnicities for example India and Myanmar.

3. Emergence of new state and transformation in border provide another reason for statelessness. In several cases certain communities or groups have to give up their nationality even though when new state provides citizenship to all ethnic races and minorities but suddenly that state find it difficult to prove the link of those groups to their country. Countries where nationality can be transfer only by descent from a national, statelessness will be passed on to the next generation.
4. Statelessness can also be caused by the loss of citizenship. In some cases citizens can lose their nationality by living outside of the country for long period of time. A country can also be withdraw citizenship by producing some changes in the citizenship laws by using discriminatory criteria like ethnicity and race which can leave whole populace stateless.

### **3. Different Causes of Statelessness**

Different causes of statelessness preserved by different scholars and they have tried to explain the very cause(s) of statelessness. I have formulated some models with insights of scholars to show the diverse grounds of statelessness.

A report of European Policy Centre on “Denial of Citizenship: A Challenge to Human Security” enthralls the attention by defining ‘statelessness’ as ‘denial of citizenship’. According to this report denial of citizenship is the political actions taken by the states willingly that leave people stateless and also this term discuss the causes and roots of statelessness with human security approach (Sokoloff and Lewis: 2005).The report lays down a sketch of four elements which widen disenfranchisement. The elements are –(I) State-building, (II) State-succession, (III) Post-conflict situation and (IV)Discriminatory policies adopted by weak states or failed states. So koloff and Lewis define that denial of citizenship prevails in those

states where (a) state-building course were executed in conjunction with homogenous/monoethnic practices (b) state-succession procedure adopted the different national identity from the previous state without pondering upon the subsequent prospects (c) the circumstances after conflict might lead to denationalization of particular groups or communities which might also be called targeted groups and (d) when fragile states pursue biased policies to handle poor health of society, political or economic system and strengthen national harmony and assemble support for the country's leadership (Sokoloff and Lewis: 2005:5).

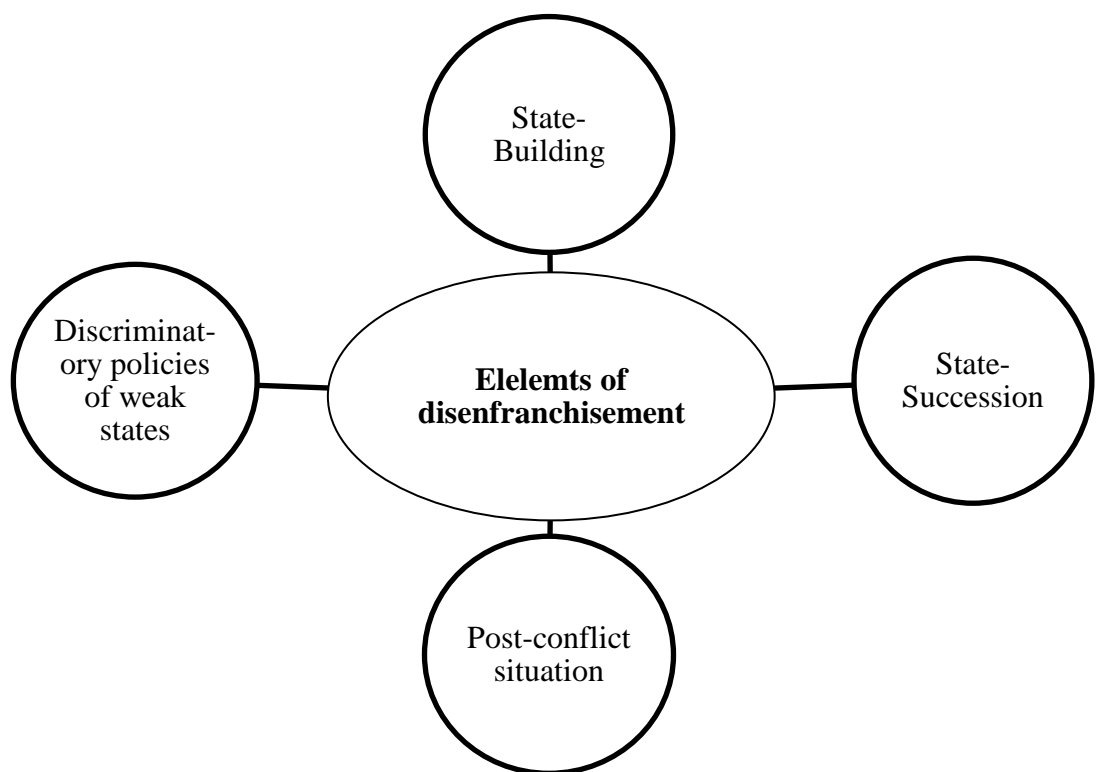


Fig (2) – Elements of Disenfranchisement

Source - Formulated by Author from Sokoloff and Lewis: 2005

In the making of new state the politics plays crucial role. The evolution of every state grows from the naïve in democracy to selectively chosen path of democracy by making the rights of some special communities or groups more sensitive that they find themselves unable to flourish to the full potential under the so called patronage of the government. These methods of selective choosing of the

vulnerable group called by some scholars ‘politicisation of group’ (Sokoloff and Lewis 2005:4) and ‘centralisation of political authority’ (Juss2006). It simply means when culture gardens (Nimesh 2010) or the making of the state selectively develop by the authority vis-à-vis cultural markers such as ethnic groups, language or religious denomination (Sokoloff and Lewis: 2005:4) then the cultures of culture gardens politicized and from here the sense of ‘Political Subject’ arises. These political subjects then experience inclusion and exclusion from the State and society. The politicization of political subjects affects the essence of citizenship or nationality (Sokoloff and Lewis: 2005:4)

This inclusion and exclusion of ethnic cultures and practices give an account of the civil liberties and price respectively. Ethnic identity and cultural markers delineate the course of action for inclusion and exclusion and this phenomenon is called by some scholars like Horowitz (1993) ethnic politics. Horowitz (1993) puts that inclusion might impact the allocation of significant material and nonmaterial goods, counting the status of the diverse ethnic assemblage and the individuality of the state as fit in more to one community than another. In intensely divided society it is propensity to abridge the integration and expulsion according to the nation’s inclination towards the particular community (Horowitz 1993:18).

Now the procedure of exclusion starts from the making of minority groups and larger groups might be produced by pursuing mass migration for instance the Tamilians un Sri Lana and the Turkish Guest worker who are setteld in Germany. There were also instances where the forced migratory group was resettled again in other parts of the world. One such example is the Crimean Tartars were re-settled in Uzbekistan (Blitz 2009). Another example is of Koreans who were deported for Korean peninsula to region near West Asia and Ukraine (Blitz 2009).

#### **4. The Fundamental Nature of Citizenship Laws Raison d’être of Statelessness**

Almost all nationality laws which exist around the world mainly based on two concepts which include 1. Jus Sanguinis (law based on blood), 2. Jus Soli (law based on land) (Beydoun 2006). Countries which are not able to address the rising economic insecurities in the country with the increasing population opt for the Jus Sanguinis, and nations which possess vast areas of land compared to the

inhabiting population go with Jus Soli to grant citizenship to the populace. Countries like Myanmar grant citizenship by Jus Sanguinis (Beydoun: 2005, Edward: 2009, Haque: 2017, Bangar:2017).

When countries select the base of Jus Sanguinis for granting nationality, then it becomes complex and also propels the chances of discrimination, ethnic violence, and statelessness. In Malaysia, Fiji and Trinidad, the upshot of the belief of “sons-of-the-soil” became the reason of marginalization of minority but the intense condition was in Burma, Uganda, Kenya and Sri Lanka, where the Indian immigrants were abruptly excluded (Kanapathipillai 2009: 5).

Article 1(1) of the 1954 Convention describes the definition of a stateless person as “an individual who is not considered as a national by any State under the operation of its law ( Handbook on the protection of stateless Persons). The 1954 convention focus on de jure stateless people but there are uncountable number of de facto stateless person also present (Blitz and Lynch 2011). Blitz and Lynch (2011:5-10) set out some grounds for statelessness, which are as follow:

(a) State Succession - Blitz and Lynch (2011) has mentioned that when people found themselves under new regime which is not faithful towards them then statelessness arises and along with state succession, state restoration can also be a reason for statelessness. The example for State succession is Austro-Hungarian and ottoman Empires and the instance state restoration is Ethnic stateless Russian in Latvia Blitz and Lynch (2011:5-10).

Craven (1998) argued that in ‘the law of state succession’ lack of common agreements became the principle reason when the boundaries of Europe were changing for instance the 'dissolution' of the USSR, Yugoslavia, and Czechoslovakia, and the unification of Germany Craven (1998:144).

(b) Discriminatory and Arbitrary Deprivation of Nationality – Citizenship based on jus sanguine, withdrawal of citizenship, gender based citizenship law are some discriminatory practices which creates stateless person Blitz and Lynch (2011:5-10).

(c) Laws Affecting Children and the issue of Birth Registration

(d) Technical Failings

(e) Other Causes and Sources of Statelessness



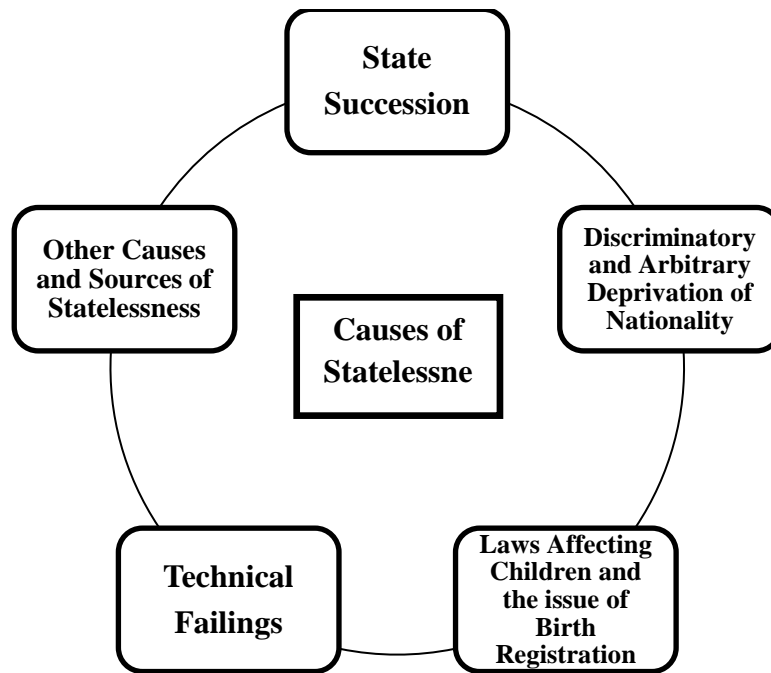


Fig. (3) – Causes of Statelessness

Source : Formulated by Author from Blitz and Lynch (2011:5-10)

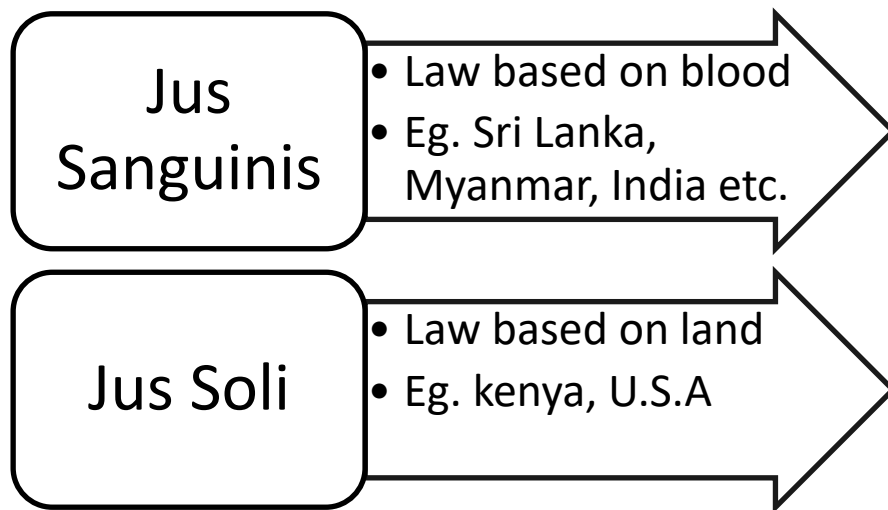


Fig.( 4) – Categories of Law Raison d'être for Statelessness

Source – Prepared by Researcher

## **5. The concept of Statelessness: the discriminatory laws in different regions of the globe.**

The various countries of the world have different forms of law and norms that governs the system of the state. The administration of a particular country has power to decide on the matter of inclusion and exclusion in the legal and political representation of individual in the respective society (Agamben 1998). The life of these individuals becomes bare, devoid of social and political rights, as some people are sidelined on the suspicions of being threats. This contest is quite similar to the concept of statelessness.

### **i) Concept of nationality in Sri Lanka**

The notion of decent best nationality development Sri Lanka at the time of independence the reason behind choosing jus sanguinis concept of nationality to prepare homogeneity amount the populace of nation and also to deprive Tamil of citizenship.

For full feeling the criteria of citizenship a person compelled to store the nationality proof of his father and grandfather; which made the procedure of citizenship very arduous and almost unattainable. Because of this, it has become very tough for Indian Tamilians to show the proof that their fathers were born in Srilanka (Kanapathipillai 2009: 42).

This discriminatory breast shape long was called "Ceylon citizenship act 1948". This act was also discrimination on the gender basis in which father got the right to pass his citizenship to its offspring and his partner where is women is denied of this right. Women were considered as the 'reproducer of nation in Srilanka hence they are encouraged to give birth to Srilanka blood not of aliens or foreigners.

### **ii) Statelessness in India**

Statelessness in India in this context Baungar (2017), argues that "enactment of the Constitution in 1950 and the enactment of the citizenship act 1955 provide a 'legal vacuum'. According to the citizenship act 1955 pharma the Indian citizenship could be acquired by bus, distance registration, neutralization and by incorporation of territory (Asha 2017). Due to this act major influx to Northeast territories of India begin to

appear then Government of India when did the citizenship act of in 1955. The citizenship (amendments) act, 1986 modified the criteria of acquiring Indian citizenship from jus soli (law based on land) to jus sanguinis (law based on blood)

*iii) Statelessness in Lebanon*

Beydeun (2006), a lacuna in Lebanese nationality law Lebanese nationality law does not grant the authorities to pass the citizenship. In Lebanon, only the father is eligible for enough to pass citizenship. Also, this is strange enough that Lebanese authority makes men eligible to pass citizenship to his wife if he marries to an alien/ non-Lebanese woman but on other hand, women are not granted with the same eligibility from authority. So women can't pass citizenship to alien / no Lebanese husband and their legitimate children.

*iv) Statelessness in Bhutan*

Similar to Myanmar and Srilanka, the Bhutanese administration also introduced a new citizenship law in year 1985, which started a programme of providing citizenship of Bhutanese population and sidelining the minority groups, particularly Nepalese communities. In this law under the article 3, the citizenship is provided to that person who domiciled permanently in Bhutan on or before 1958 31<sup>st</sup> December and whose name is registered in the census register maintained by the Ministry of Home Affairs'. This law directly or indirectly created numerous problems especially for those born after 1958.

In year 1988 again, the government of Bhutan conducted a census with a view to count the number of individuals who were able to qualify as Bhutanese citizenship according to 1985 Citizenship Act. But Again individuals were asked to provide proof of residency along with tax receipts dated back to 1958. These new laws restricted the rights of minority, especially the ethnic people.

The marriage act of 1977 permits to prescribe citizenship to children which were born to Bhutanese (need not to have Bhutanese mother) but this rule also changed with the enactment of the citizenship law of 1985 which tightened the law. Under new law, to be a Bhutanese citizen a child now need both parents be Bhutanese citizens by birth. As a result of this new rule, over thousands of Nepali origin individuals were deprived

of their citizenship and are forcefully expelled from the country in early years of 1990s (Refugees International 2005, The Economist 2009 cited in Blitz 2009).

*v) Gender-based discrimination in Jordan*

The citizenship law of many countries is very biased especially against the women. In the case of Jordan, the Jordanian law forbids women from transferring their citizenship to legitimate children or husband. The rule is hard for getting citizenship if a person marries to Jordanian woman. The foreign man married to Jordanian woman, must have to reside for 15 years permanently in Jordan to apply for citizenship, and after application it takes several years to complete the process.

Non- married women may pass citizenship to its children but she needs consent and approval from the Jordanian Council of ministers. In most cases, the children get the citizenship right except in case of the Palestinian father (Southwick and Lynch 2009: 51, cited in Blitz 2009). However the life becomes difficult for those children who are born to Jordanian mother with non-citizen Palestinian father, whether married or not, they are considered stateless and are unable to access basic service (Southwick and Lynch 2009: 51, cited in Blitz 2009)

In case of Jordanian man, a women get citizenship once she get married to Jordanian person. That is that reason, during the different phases of Syrian war; the refugees families staying in camps of Jordan are marrying their daughters including the teenage girls to Jordanian man. Once the daughter gets citizenship of Jordan it becomes easier for family to enter in Jordan (Save the children org 2017).

Blackman (1998) puts it that nationality is a multidimensional aspect which has been pursued differently by the domestic legalized mechanism of nations and nation-state system and also by international law. Blackman (1998) further says that "nationality is dealed by domestic law" and nationality under international law grasped as a mechanism by which a state absorbs individuals as par the nationality law to deal with another state. Kanapathipillai (2009), has blended the concept of citizenship with a keen attention on marginalized people and stateless populace. He has mentioned the instances of Kurds in Turkey and Indian Tamil in Srilanka as stateless people who have lost the right to citizenship. The crux of the both the example lies in the fact that "the exclusion of a minority was a consequence of a

nation-state that progressively contracted its ethnic wealth” (Kanapathipillai 2009: 87).

Similar to above, Brubaker (1992) argues that the extent to which culture, race, ethnicity, and origin ranked over civil populace or vice versa is a matter of concern. Horowitz (1993) here argued that the borderline of nay political community is an area under discussion which puts itself in the response to three basic interrogations, which are as follows:

- 1) “Who is a citizen”?
  - 2) “Among citizen, who has what privileges”?
  - 3) “Whose norms and practices are symbolically aligned with those of the state”?
- (Horowitz 1993: ).

Having these question propounded by Horowitz (1993), the research is approaching towards the next chapter which talks about the citizen law and will try to quench the thrust propelled by the queries which play around borderline of political community.

## Chapter III

### Burma Citizenship Law 1982

This chapter deals with the construction of Burma Citizenship Law 1982 and attempt to critically analyze it with special regards to the Rohingya community.

**Introduction** - The expression “citizenship”, though recognized worldwide but the application of the term is diverse. Citizenship is not only an expression but also a concept propounded by the nation-state system which incorporate different disputing ideologies and follow the framework of inclusion and exclusion. In simple words citizenship is a give and take relationship between person and the state. State gives protection to the person in return individual is obliged to express honesty; honesty towards the discharge of the duties in favor of the nation. Hence essence of the citizenship lies in the fact that citizenship is a model, designed on the basis of relationship a person has with particular race collectively and order in the society (Kanapathipillai 2009:42).

#### 1.1 Introduction to the Structure of Burma Citizenship Law

The Pyithu Hluttaw (House of Representatives) enacted the Burma Citizenship law in its law no fourth (4th) and published via "The Working People's Daily" on 15 October 1982 (online Burma Library). Burma Citizenship Law was first introduced in the year 1948 and then again amended in 1982. It customizes its nationals in three different categories i.e. ‘citizens’, ‘Associate citizens’ and ‘Naturalized Citizens’.

The Burma Citizenship law portrays the ‘Council of State’ as the whole and sole authority which has the right to decide that which ethnic group can be attributed as the citizen of Myanmar and at any point of time in the interest of state it can confer citizenship or associate citizenship or naturalized citizenship on any person or revoke the citizenship or associate citizenship or naturalized citizenship of any person.

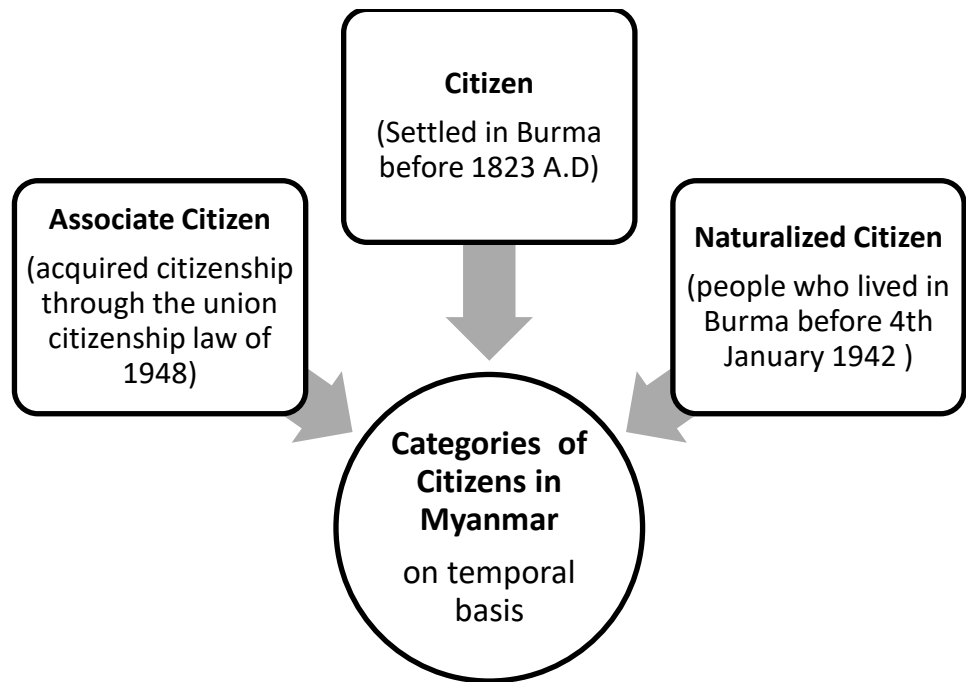


Fig (5). – Categories of citizens in Myanmar

Source - Prepared by Researcher

Haque (2017) says that there is a large volume of published studies describing the role of BCL in spreading statelessness and throwing the light on discriminatory nature of BCL for making the persecuted community victimized and throw the light on the incompatibility the law with the international citizenship law.

One study by Haque (2017) examined the Burma Citizenship Law intentionally and described three main important causes which led to the establishment of 1982 Myanmar citizenship law.

Firstly, Haque assumed that the reflections left by the immigrants such as Indian, Chinese people on the memory of Barman people was the stepping stone for the establishment of BCL. As Nemoto (2014) puts it that during British rule many Indians were immigrated to Burma as rice field workers but many of them returned to India but some South-Asian people i.e. Indians and Chittagonians who were residing in Burma they owned some property and got engaged in business. Especially people of Indian origin were engaged in finance business. These people were called chettiars. Chettiars used to finance farmers but levy heavy interest amount, 15 % per annum with security and 60% per annum without security. In addition chettiars did not lend money to those farmers who wanted to become landowners and those farmers who

were not able to return money they were marked as escapee. This oppressive practice by South-Asian people developed hatred among Burmese which led to the commencement of intense anti-Indian riots in 1938 in Burma.

Secondly, the fear of being dominated by Muslims in the western part of the Burma or country being crowded with Muslims populace filled Burmese with hatred and non-acceptance. Kei Nemoto (2014) has also mentioned about the ‘Wahhabism’ which played the key role in spreading extreme dislike against Muslims.

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

The 1947 Constitution of the Union of Burma viii conferred official status upon eight main group six (sub-divided into 135 “national races”), but excluded “immigrants” like the Muslims, Chinese who are generationally settled in Myanmar. Citizenship law in Myanmar came into effect in 1948 and was amended several times until introduction of the 1982 Burma Citizenship Law, which categorized citizens according to their ethnicity and settlement period (Elaine L.E. Ho and Lynette J. Chua : 2015).

## **1.2 The temporal base of categorization –**

The ‘Citizens’ of Burma are those who resided in the country before 1825 B.E., 1823 A.D., ‘Associate Citizen’ are the individuals who took birth in the colonial period of Burma and have resided for eight years before 1 January 1942 or 4 January 1948. It means that before getting independence the individuals who were residing in Burma and applied for citizenship are associate citizens, the last category is ‘Naturalized Citizens’ which includes the people who applied for citizenship after 1948, when Myanmar achieved independence (Working People’s Daily, Elaine L.E. Ho and Lynette J. Chua, Kei Nemoto : 1982, 2015, 2014).



The Burma Citizenship Law includes the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan national races which are eligible to be called as Citizens of Myanmar (Burma Citizenship Law, Working People's Daily 1982:2). According to Nemoto (2014) the BCL divides people in two Broad categories 'native' and 'immigrant'. Native are those who came to Burma before 1823 and immigrants are those who came to Myanmar after 1924. The most important amendment which was included in Burma citizenship law was the distinction between native and immigrant, which was introduced in 1982 (Kei Nemoto 2014)

### **1.3 The Misconception of '1823'**

Kei Nemoto (2014:3) holds the view that the idea of the chosen year 1823 which affirms the position of Burmese citizen as 'supreme' in Myanmar has been wrongly interpreted so far. The perspective of Kei Nemoto to analyze the particular year '1823' under the historical lens led to the study of early Burmese kingdom 'The Konbaung Dynasty (1752-1885)'. The finding what Nemoto got was the 'harmony' among the various religion i.e. Hindus, Muslims, Christians, living together under the kingship of royal Burmese kings.

The royal authority never categorized the various religions on the basis of ethnicity instead of that they preferred the approach of grouping people in a manner which was able enough to bring close the royal authority and the people. The idea of dividing people on the basis of ethnicity only introduced at the time of British rule in 19th century in Myanmar which became dominant in the independent Burma around 20th century. Every person in the Myanmar knows about the criteria of '1823' which has been introduced in the constitution of Myanmar. The waves of the unity among the Burmese, Burman culture as supreme were also escalated by those educated people who completed their education under the British rule and learned the lessons of ethnicity from their core of heart (Kei Nemoto 2014).

**1.4 Citizen** - A person whose parents are citizen of Burma by birth or an individual who is already a citizen of Burma before enactment of Burma citizenship law is called citizen of Burma. Research would like to denote the three categories of citizens in

Mynamarwith acronyms i.e. Citizen (C), Associate Citizen (AC) and Naturalized Citizen (NC) for better understanding.

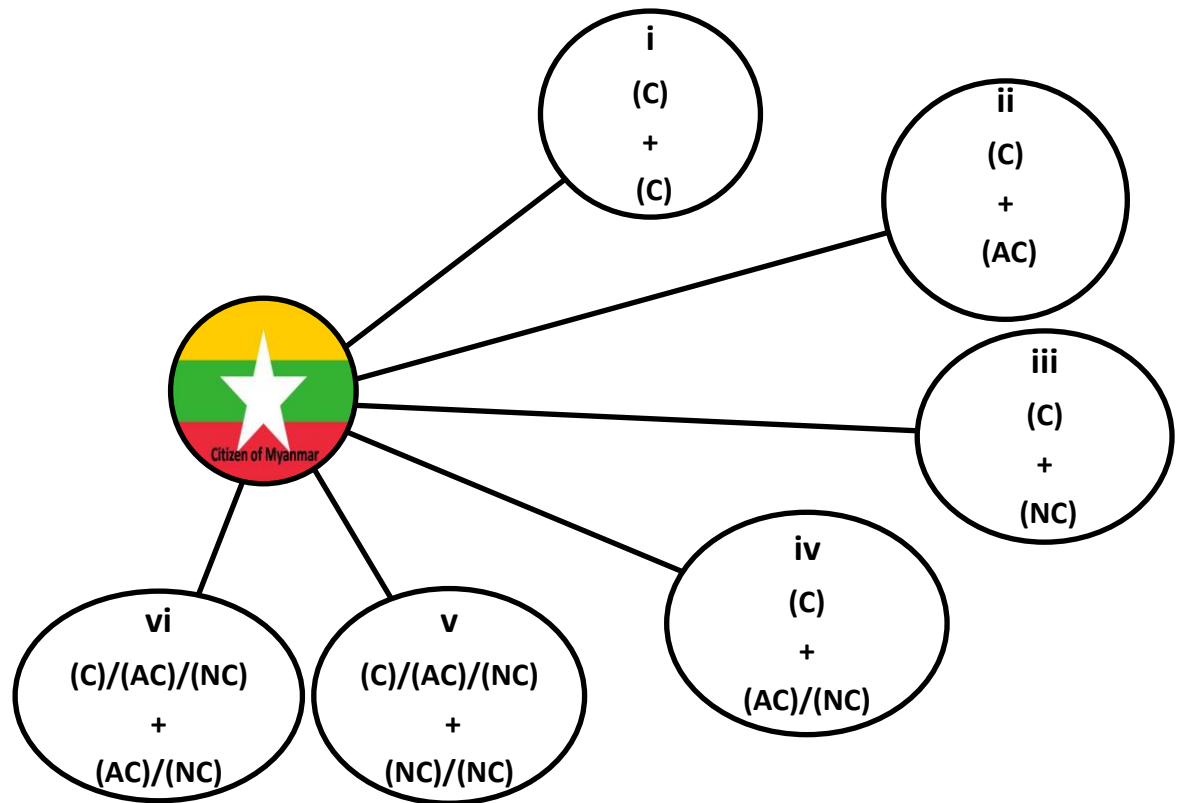


Fig (6). - Combinations of citizens who are eligible to get citizenship of Myanmar for their offspring

Source – Prepared by Researcher

Burma citizenship law creates some categories through which one acquire nationality of Myanmar. First category includes when both the parents are Barman citizens. Second category includes when one parent is citizen and another parent is associate citizen. Third category incorporate one citizen parent and another one is naturalized citizen. Fourth category includes one citizen parent and another parent should be either associate citizen or naturalized citizen. Fifth category incorporate one parent who is citizen or associate citizen or naturalized citizen and another parent might be naturalized citizen. Last category takes one parent as citizen or associate citizen or associate citizen and another parent should be either associate citizen or naturalized citizen.

Now there are some rules regarding birth registration, which is definitely a necessary step and there are some specific procedure in every country for the same. Burmese government says that an individual born within the territories of the state shall have required his birth registered either by the parent or guardian within the ten years from the date he takes birth at the organization recommended by the ministry of Home Affairs. If a person is unable to do so within the prescribed period an application mentioning the valid reasons can be made by the parent or guardian to the organizations prescribed by the Ministry of Home Affairs.

When a person born outside of the country he has to register his birth at the institution recommend by government of Myanmar. A citizen of Burma cannot obtain citizenship of another country and has no right to strip himself off from his citizenship when the country is engaged in warfare with another country. The law does not accord the marriage as the approval of getting Burmese citizenship; foreigner by merely getting married to a Burmese national does not automatically obtain Burmese citizenship and citizen who marries to a foreigner does not lose Burmese citizenship consequently.

An individual who is national of Burma by birth holds the permanent citizenship and his citizenship shall not be withdrawn in any case except the case when he leaves the country permanently or gets citizenship of another country or enrolls himself as a national of another state, or who obtains a passport or alike official document of another country ceases to be a citizen.

An individual whose citizenship has been withdrawn has to got his certificate of citizenship cancelled and submit it in the manner approved by the Ministry of Home Affairs. The person who face failure in doing the same or continue to use it or transfer of it in a falsified approach to another individual shall lead to imprisonment for a term of ten years and a fine of kyats twenty thousand also the person who receives the falsified certificate of citizenship liable for the same punishment. Whoever produce an imitation of the certificate of citizenship or assists such operation shall be liable to imprisonment for a term of fifteen years to a fine of kyats fifty thousand.

The Burma citizenship law terminates all rights of a person who has lost his citizenship and he has no right to apply again for citizenship, associate citizenship or naturalized citizenship (Working People's Daily 1982:2-4).

**1.5 Associate Citizenship** - The Burma Citizenship Law establishes some criteria for associate citizenship which are as follow

Claimant for citizenship under the Union Citizenship Act, 1948, fulfilling the conditions and credentials might be recognized as associate citizens by the Central Body. An individual who has been acknowledged as an associate citizen by the Central Body shall turn up physically before an organization approved by the Ministry of Home Affairs, shall present a confirmation in black and white that he obliges loyalty to the State, that, he abides by and values the laws of the state and he is aware of the prescribed duties and rights.

In the certificate of associate citizenship the central body i.e. state council, might include the names of the children of an associate citizenship hence the children whose name is included becomes associate citizen and he has to make a verification within one year from the date he completes the age of eighteen years appear in person along with his parents before an organization prescribed by the Ministry of Home Affairs. If that person fails at verification process shall be liable to pay a penalty of kyats fifty per year to an organization approved by the Ministry of Home Affairs. If verification is not possible within one year, application may be made, including adequate grounds to the Central Body, through the organizations approved by the Ministry of Home Affairs. If there are no sufficient reasons after the date on which he completes the age of twenty-two years, he shall terminate his associate citizenship.

According to the Burma Citizenship Law the children whose name are included in their parents' certificate of associate citizenship are liable to lose their status of associate citizen if both the parents lose their associate citizenship if they (children) have not completed the age of eighteen years or if completed the age of eighteen years and have not made verification cease to be associate citizens.

In the case when only one parent is an associate citizen and another one is a foreigner i.e. if the mother or father who is an associate citizen loses her or his associate citizenship then children are liable to lose their status of associate citizen if they have

not completed the age of eighteen years or if completed the age of eighteen years, but have not made verification cease to be associate citizens.

According to the Burma Citizenship Law that an associate citizen of the country shall value and comply with the laws of the State, fulfill the responsibilities concluded by the laws of the State, is at liberty to take pleasure in the civil rights approved by the laws of the State with the exception of the rights set from time to time by, the Council of State.

An associate citizen of Burma cannot obtain citizenship of another country and has no right to strip himself off from his citizenship when the country is engaged in warfare with another country. Further an associate citizen shall not obtain citizenship merely by marriage to a citizen certainly.

An associate citizen who leaves the country permanently or gets citizenship of another country or enrolls himself as a national of another state, or who obtains a passport or alike official document of another country ceases to be an associate citizen.

The Central Body may terminate the associate citizenship of an individual if he violates any of the following provisions:

(i) Establishes business dealings or corresponding with rival countries or states engaged with the rival country, or with the nationals or institutions of such countries during warfare in which state is occupied or assisting the similar act, (ii) Establishes business dealings or corresponding with an institution or with the member of such institution which is antagonistic to the country, or assisting the similar act, (iii) Performing actions which are determine to harm the sovereignty, safety and civil harmony or ascending the sensible confidence that he is about to perform such an action, (iv) Presenting unfaithfulness and alienation to the state by any action or verbal communication or else, (v) Uncovering the secrets of states to the any country or countries, or any person or any institution, or engaging in similar act, (vi) Perpetrate an unlawful act involving wicked behavior for which he has been condemned to prison term for one year or to a minimum fine of kyats one thousand.

An associate citizen who has obtained this citizenship by fake representation or by misleading shall have his associate citizenship revoked, and shall also be liable to detention for a term of ten years and to a fine of kyats fifty thousand.

An associate citizen who has involved in a crime of obtaining a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship for another person in a deceitful attitude shall have his associate citizenship invalidated; and shall also be accountable for prison term of seven years and to a fine of kyats ton thousand.

An associate citizen who has personal information of obtaining a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship by any other person, or assisting the person who has performed such an action, reveals or confess the crime before institutions approved by the Ministry of Home Affairs within one year from the date this Law enacted, or within one year from the date of perpetration of the crime shall be excused from the penal provisions pertaining to such crime.

An associate citizen whose citizenship has been ceased has to got his certificate of associate citizenship cancelled and submit it in the manner approved by the Ministry of Home Affairs. The person who face failure in doing the same or continue to use it or transfer of it in a falsified approach to another individual shall lead to prison term for ten years and a fine of kyats twenty thousand also the person who receives the falsified certificate of citizenship liable for the same punishment. Whoever possesses and avails the privileges of a cancelled certificate of associate citizenship or the certificate of a deceased associate citizen in a deceitful approach shall be liable to imprisonment for a term of ten years and to a fine of kyats twenty thousand.

Whoever produce an imitation of the certificate of citizenship or assists such operation shall be liable to imprisonment for a term of fifteen years to a fine of kyats fifty thousand. The Burma citizenship law terminates all rights of a person who has lost his associate citizenship and he has no right to apply again for associate citizenship or naturalized citizenship (Working People's Daily: 1982).

## 1.6 Naturalized Citizenship

An individual who have come and lived in the country previous to 4th January, 1948, and their children born within the State may, if they have not yet applied under the union Citizenship Act, 1948, apply for naturalized citizenship to the Central Body, providing cogent proof.

The following individuals born in or outside the country from the date of this Law legislated may also apply for naturalized citizenship: individuals born of Parents one of whom is a citizen (C) and the other a foreigner (F), (ii) individuals born of parents, one of whom is an associate citizen (AC) and the other a naturalized citizen (NC), (iii) individuals born of parents one of whom is an associate citizen (AC) and the other a foreigner (F), (iv) individuals born of parents, both of whom are naturalized citizens (NC), (v) individuals born of parents, one of whom is a naturalized citizen (NC) and the other a foreigner (F).

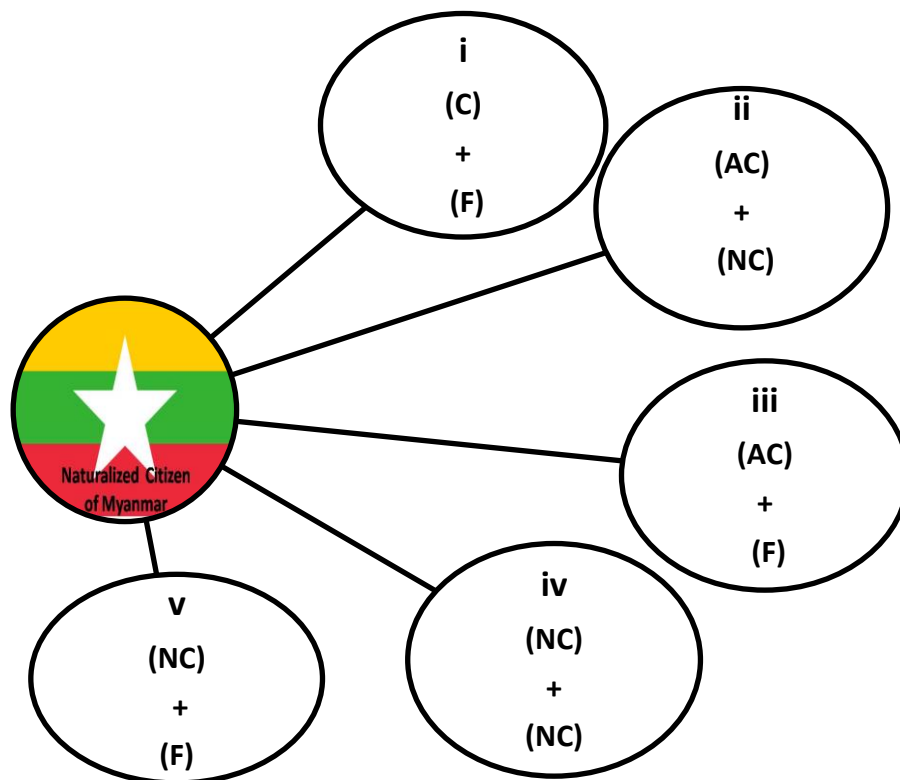


Fig (7). - Combinations of citizens who are eligible to get naturalized citizenship of Myanmar for their offspring

Source – Prepared by Researcher

An aspirant for naturalized citizenship shall have the following credentials: (i) be compatible with aforementioned provisions, (ii) have completed the age of eighteen years, (iii) be able to speak well one of the national languages, (iv) be of good character, (v) be of sound mind.

An individual who is married to a citizen or to an associate citizen or to a naturalized citizen, who is holding a Foreigner's Registration Certificate prior to the date this Law constitutionalized shall have the following credentials to become a valid aspirant for naturalized citizenship:

(i) have completed the age of eighteen years, (ii) be of good character, (iii) be of sound mind, (iv) be the only husband or wife, (v) have dwelled continuously in the State for at least three years is the lawful wife or husband.

A person who has been ascertained as a naturalized citizen by the Central Body shall appear personally before an organization approved by the Ministry of Home Affairs, shall present a confirmation in black and white that he obliges loyalty to the State, that, he abides by and values the laws of the state and he is aware of the prescribed duties and rights.

A person who has been determined as a naturalized citizen by the Central Body and holding a Foreigner's Registration Certificate shall turn up physically before an institute permitted by the Ministry of Home Affairs, and shall convey an authentication in letters that he discards his foreign citizenship, that he obliges loyalty to the State, abides by and values the laws of the state and he is conscious about the recommended responsibilities and civil rights.

In the certificate of naturalized citizenship the central body might include the names of the children of an naturalized citizenship hence the children whose name is included becomes naturalized citizen and he has to turn up personally within one year from the date he completes the age of eighteen years along with the parents before an organization approved by the Ministry of Home Affairs, shall present a confirmation in black and white that he obliges loyalty to the State, that, he abides by and values the laws of the state and he is aware of the prescribed duties and rights. If that person fails at verification process shall be liable to pay a penalty of kyats fifty per year to an organization approved by the Ministry of Home Affairs. If verification is not possible



within one year, application may be made, including adequate grounds to the Central Body, through the organizations approved by the Ministry of Home Affairs. If there are no sufficient reasons after the date on which he completes the age of twenty-two years, he shall terminate his naturalized citizenship.

According to the Burma Citizenship Law the children whose name are included in their parents' certificate of naturalized citizenship are liable to lose their status of naturalized citizen when both the parents lose their naturalized citizenship if they (children) have not completed the age of eighteen years or if completed the age of eighteen years and have not made verification cease to be naturalized citizens.

In the case when one parent is a citizen (C) and another one is a foreigner (F) i.e. if the mother or father who a citizen loses her or his citizenship then children are liable to lose their citizenship if the child has not completed the age of eighteen years or if completed the age of eighteen years, but have not made verification cease to be naturalized citizens.

In the case when one parent is an associate citizen (AC) and another one is a foreigner (F) i.e. if the mother or father who a citizen loses her or his associate citizenship then children are liable to lose their citizenship if the child has not completed the age of eighteen years or if completed the age of eighteen years, but have not made verification cease to be naturalized citizens.

In the case when one parent is a naturalized citizen (NC) and another one is a foreigner (F) i.e. if the mother or father who a citizen loses her or his naturalized citizenship then children are liable to lose their naturalized citizenship if the child has not completed the age of eighteen years or if completed the age of eighteen years, but have not made verification cease to be naturalized citizens.

In the event that an individual married to a citizen or to an associate citizen or to a naturalized citizen, who owns a Foreigner's Registration Certificate prior to the date this Law legislates, makes an application for naturalized citizenship and the husband or wife of such a person passes away or is divorced from such a person prior to obtaining naturalized citizenship then application made by the person refutes.

According to the Burma Citizenship Law that a naturalized citizen of the country shall value and comply with the laws of the State, fulfill the responsibilities concluded by the laws of the State, is at liberty to take pleasure in the civil rights approved by the laws of the State with the exception of the rights stipulated from time to time by, the Council of State.

A naturalized citizen of Burma cannot obtain citizenship of another country and has no right to strip himself off from his citizenship when the country is engaged in warfare with another country. Further a naturalized citizen shall not obtain citizenship merely by marriage to a citizen or to an associate citizen.

A naturalized citizen who leaves the country permanently or gets citizenship of another country or enrolls himself as a national of another state, or who obtains a passport or alike official document of another country ceases to be a naturalized citizen.

The Central Body may terminate the naturalized citizenship of an individual if he violates any of the following provisions:

- Establishes business dealings or corresponding with rival countries or states engaged with the rival country, or with the nationals or institutions of such countries during warfare in which state is occupied or assisting the similar act;
- Establishes business dealings or corresponding with an institution or with the member of such institution which is antagonistic to the country, or assisting the similar act;
- Performing actions which are determine to harm the sovereignty, safety and civil harmony or ascending the sensible confidence that he is about to perform such an action;
- Presenting unfaithfulness and alienation to the state by any action or verbal communication or else;
- Uncovering the secrets of states to the any country or countries, or any person or any institution, or engaging in similar act;
- Perpetrate an unlawful act involving wicked behavior for which he has been condemned to prison term for one year or to a minimum fine of kyats one thousand.

An naturalized citizen who has obtained this citizenship by fake representation or by misleading shall have his naturalized citizenship revoked, and shall also be liable to detention for a term of ten years and to a fine of kyats fifty thousand.

An naturalized citizen who has involved in a crime of obtaining a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship for another person in a deceitful attitude shall have his naturalized citizenship invalidated; and shall also be accountable for prison term of seven years and to a fine of kyats ten thousand.

An naturalized citizen who has personal information of obtaining a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship by any other person, or assisting the person who has performed such an action, reveals or confess the crime before institutions approved by the Ministry of Home Affairs within one year from the date this Law enacted, or within one year from the date of perpetration of the crime shall be excused from the penal provisions pertaining to such crime.

A naturalized citizen whose citizenship has been ceased has to get his certificate of naturalized citizenship cancelled and submit it in the manner approved by the Ministry of Home Affairs. The person who face failure in doing the same or continue to use it or transfer of it in a falsified approach to another individual shall lead to prison term for ten years and a fine of kyats twenty thousand also the person who receives the falsified certificate of naturalized citizenship liable for the same punishment. Whoever possesses and avails the privileges of a cancelled certificate of naturalized citizenship or the certificate of a deceased naturalized citizen in a deceitful approach shall be liable to imprisonment for a term of ten years and to a fine of kyats twenty thousand.

Whoever produce an imitation of the certificate of naturalized citizenship or assists such operation shall be liable to imprisonment for a term of fifteen years to a fine of kyats fifty thousand.

The Burma citizenship law terminates all rights of a person who has lost his naturalized citizenship and he has no right to apply again for naturalized citizenship (Working People's Daily: 1982).

**1.7 Central Body** – The Burma Citizenship Law authorizes central body as the supreme authority to take all essential steps on the matter of citizenship. The central body comprises of the Council of Ministers as follows: Minister Chairman Ministry of Home Affairs, Minister Member Ministry of Defence, Minister Member Ministry of Foreign Affairs(Working People’s Daily: 1982).

The Central Body has the power to:to adjudge if a person is a citizen, or an associate citizen or a naturalized citizen;to adjudge upon an application for associate citizenship or naturalized citizenship;to invalidate citizenship or associate citizenship or naturalized citizenship;to cease citizenship or associate citizenship or naturalized citizenship;to adjudge upon an application about failure as to registration or verification(Working People’s Daily: 1982).

### **1.8 Other Provisions of Burma Citizenship Law**

- “No foreigner shall have right to apply for naturalized citizenship of Myanmar except any provisions included in the citizenship law, from the date this Law constitutionalized.
- An adopted foreigner by a citizen or by an associate citizen or by a naturalized citizen is not eligible for attaining citizenship or associate citizenship or naturalized citizenship in Myanmar.
- All the affairs pertaining (exempting some penal affairs) to the Burma citizenship law shall be adjudged by the only authorized institutions.
- The Council of Ministers who want to bring new provisions to the law, are required to determine essential measures with the consent of the Council of State.
- The following Acts are invalidated by the Burma Citizenship Law 1982:(a) The Union Citizenship (Election) Act, 1948;(b) The Union Citizenship Act, 1948”(Working People’s Daily: 1982).

**1.9 Critical Analysis of Citizenship** – Research critically analyze the law which legitimate some discriminative norms, criteria and pursues some arduous processes to grant citizenship to the people and also try to explain that how Burma Citizenship Law plays crucial role in spreading statelessness at large scale. In order to analyze the

law critically research would explain the aforementioned arguments fuelled with supportive writing.

Research argues that why do only selected ethnic groups are deemed to entitle as nationals? Why does Burma Citizenship Law not incorporate Rohingya in the list of eight groups sub-divided in 135 ethnicities?

The constitution of Burma grants the title of the citizen to only those who have settle in Burma before 1823 A.D. only Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan these seven ethnicities settled in Burma according to the approved year. These ethnicities again divided which includes 135 races. These races are national races which are deemed to be called ‘citizen’. As Myanmar believes that Rohingya are not among the community who settle before 1823 A.D. hence they are deprived of citizenship. Burmese authority does not acknowledge Rohingya Muslims by the name ‘Rohingya’ instead of that they prefer to call them ‘illegal Bengali immigrants’.

Eligibility for citizenship in Myanmar primarily follows an ethnicity and jus sanguinis, descent-based criteria. Therefore the ability to confirm or acquire citizenship in Myanmar generally relies on the applicant sufficiently demonstrating their ethnicity and the citizenship of their ancestors. Each type of citizenship is afforded different entitlements and is evidenced by specific documentation - the Citizenship Scrutiny Card (CSC), Associate Citizenship Scrutiny Card (ACSC) or Naturalized Citizenship Scrutiny Card (NCSC), respectively (CEDAW)

Only “Burma citizens” are entitled to the pink Citizenship Scrutiny Card, whereas the other two groups are given blue cards or green cards. “Associate Citizen” and “Naturalized Citizen” are secondary to “Burma Citizens” since the pink cards confer privileges in government employment, contractual transactions, and domestic travel. Older identification documents still used include the Union of Burma Certificate, National Registration Cards, and Foreigner Registration Certificate (FRC) for “foreigners” who are generationally settled in Myanmar but considered ineligible for citizenship. (Elaine L.E. Ho and Lynette J. Chua : 2015).

Research argues that Burma Citizenship Law puts that the children born out of associate citizen may or may not obtain the associate citizenship; it totally depends

upon the state council, the verification process and the documents which associate citizens are bound to pursue. These all procedures decides that the child is eligible or not to obtain associate citizenship.

According to Burma Citizenship Law if father or mother loses their identity then the child face the risk of becoming a stateless person. This means the citizenship is designed by the Government of Myanmar in a way that there is minimum probability of sustainability of Rohingya or their offspring. To acquire citizenship it is mandatory to present in front of the state council, both the parents and the children who are aspire to hold Myanmar's citizenship.

Populations from remote and hard to reach rural areas reported additional barriers, Additional to the barriers experienced by both men and women in Myanmar, the gender specific barriers operate to disadvantage women's access to citizenship documentation. An applicant for citizenship and citizenship documentation is usually required to provide evidence of the citizenship of both of their parents. This means that children born to fathers who are unknown or otherwise absent face significant difficulties in acquiring and confirming citizenship (CEDAW).

Research argues that parents of children who possess associate citizenship might expose their children to statelessness unintentionally if they lose their associate citizenship if the children has not completed the age of eighteen years or failed in the verification process.

Age criteria also matters till the age of eighteen years a child should get the Barman Citizenship, if the child crosses the age bar or fails at the verification then he/she might lose Barman citizenship. Failing at the verification process might include unable to prove parents' citizenship, missing documents, if mother or father loses the citizenship, unable to reach at the verification venue on time etc.

Research argues if one parent is associate citizen and another one is foreigner then the death of the associate citizen would become the cause of statelessness for his/her offspring.

This is very critical issue. This shows the discriminatory nature of citizenship law. When one parent is an alien and another one is citizen, associate citizen and

naturalized citizen then death of the alien might leave the child stateless. Death of a parent can become the cause of the child's statelessness.

Research argues Burma Citizenship Law does not define properly the term 'be of sound mind'. How will officials of Burma decide that the aspirant of natural citizenship is of sound mind or not and why do the criteria of 'sound mind' not incorporate citizens and associate citizens?

According to Union citizenship Act 1948 any person acquiring a Burma Naturalization Certificate issued under section 5 of the Burma Naturalization Act and whose name is included therein shall be of good character and unless such person is under a disability, he may apply for a Burma Naturalization Certificate, if he declares before the first day of April 1955 (Union citizenship Act 1948). Before the enactment of the law according to the 1948 constitution if a person is under any disability then he might not acquire the naturalized citizenship and after the enactment of the law this disability were replaced with the criteria of 'sound mind'. Burmese government never answer that why this criteria is only applicable to those persons who aspire for naturalized citizenship, why not with the citizens and associate citizens? This clearly shows that Government of Myanmar want to leave minimal eligibility for Rohingya that they could not get the citizenship in any circumstances.

Research argues the process of documentation is so arduous in Myanmar that it compels individuals to fail in obtaining citizenship. Documentation process is very difficult in Myanmar which includes proofing of parents' citizenship, verification process, and among them paying illegal fees for the get verification done. Sometimes official demands the three times more money of the one month salary that poor Rohingya cannot bear. Generally, throughout the field research, the process for applying for citizenship and citizenship documentation was described by both men and women as difficult to comply with and onerous. For example, to apply for citizenship documentation an applicant must pay fees to MoLIP, attend numerous appointments with MoLIP, and provide documentation as to their identity and their ancestor's citizenship. This often requires applicants to travel to their birth village to obtain relevant information as to their ancestor's citizenship. For both men and women the ability to pay "unofficial fees" was described as the most efficient way to overcome all of the abovementioned barriers. (CEDAW)

**1.10 Gender Biased** - The 1982 Citizenship Law does not meet international standards in relation to the prevention and reduction of statelessness and, its application has resulted in the creation of a large stateless population. Also it is gender biased (CEDAW)

A foreign spouse (male or female) can only acquire “naturalized citizenship” on the basis of their marriage to a Myanmar citizen, if the marriage was entered into before 1982 (and the foreign spouse holds a Foreigner’s Registration Certificate).

With respect to women’s ability to retain their citizenship following marriage, women married to or seeking to marry a foreign husband may be rendered stateless or at risk of statelessness by application of the 1982 Citizenship Law, even though the law is gender-neutral.

This can occur in cases where a woman is required to revoke her Myanmar citizenship in order to apply for the citizenship of her husband’s country but her application has not yet been determined, or if the application is refused. Other situations of concern arise when the husband changes his nationality, is rendered stateless himself, dies, or where the marriage ends in divorce.

This also has an impact on women’s ability to confer citizenship to their children. Barriers to birth registration (and obtaining birth certificates) for specific populations, such as women living in conflict areas, were also reported as hindering women’s ability to confer citizenship to their children. This is because birth registration and birth certificates can provide evidence of the links between the child and their parents. It was also reported that birth certificates issued by foreign authorities are not accepted by the Myanmar Government as proof of birth or identity.

If a woman happens to be the head of a household, this is colloquially termed in Myanmar society as an “irregular household”. This may be because they are single mothers and there are no other adult males in the household. Participants explained that the term “irregular household” is derogatory (CEDAW).

**1.11 Dual Nature of Burmese Government** - The article (9) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obliges to all state parties to put a stop on the discrimination on the ground of nationality among



men and women. Women should be given rights to the men. She should be insured with the nationality right and liberated to alter or preserve her nationality. Article (9) also demands the equality of nationality among men and women with respect to their children. In the words of CEDAW-

“CEDAW General Assembly resolution 34/180 of 18 December 1979 Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children”

In response to the abovementioned article (9) which deals with the issue of nationality right of women GOM presented Myanmar combined fourth and fifth Periodic Report 2015 under the article (18) of the CEDAW. The report denied the discriminatory nature of Myanmar Citizenship Law (1982) and affirmed that Women, children and men benefitted from equal rights to obtain, alter or maintain their nationality in Myanmar (CEDAW Myanmar Periodic Report 2015 : 21). Presenting the actual words of the report –

According to the report presented GOM says that it provides equal rights to its citizens and put forward that “The Hluttaw decided to continue exercise the Myanmar Citizenship Law (1982) as it is without amending or repealing (CEDAW Myanmar Periodic Report 2015:21)”. This nature of Myanmar seems to be dualistic, without providing the facilities affirming the status of citizenship law’s right.

“Citizenship (CEDAW Article-9) Implementation”

86. “Women, children and men enjoy equal rights to acquire, change or retain their nationality in Myanmar. The Myanmar Citizenship Law (1982) has no discriminatory or restrictive provisions against women and their children. According to the Child Law (1993), it is prescribed that every child shall have the right to citizenship in accordance with the provisions of the existing law. According to the Myanmar Citizenship Law (1982), (12,140) applicants were granted associate citizen status and naturalized citizen status during the period 2008 to 2013 without any discrimination against women. Women and men have equal rights in acquiring status as associate citizens and naturalized citizens.”

87. “In response to concluding observation no. 31 of the CEDAW Committee, (8) Hluttaw representatives discussed the Myanmar Citizenship Law (1982) at the 5th regular meeting of the first AmyothaHluttaw. The Hluttaw decided to continue exercise the Myanmar Citizenship Law

The analysis of the citizenship law 1982 with the critical glass shows that Government of Burma is taking the every possible way to prohibit Rohingya from acquiring citizenship. The discriminative nature of Burma Citizenship law enlarges the gap between ethnicities which leads to the ethnic conflict. From here research approaches to the next chapter to analyze the ethnic violence as a consequence of Burma Citizenship Law 1982.

## Chapter IV

### **The statelessness of Rohingya and Ethnic Violence as Consequences of Citizenship Law**

This chapter emphasizes the results of citizenship law; how statelessness and ethnic violence became the consequences of implementing citizenship law; how Rohingya Muslims chiefly affected by the law.

**Introduction:** The understanding that strong state means weak society had become evident in the political process in Myanmar (Nimesh: 2010). The consecutive Burmese governments have used the citizenship law to deny citizenship to an estimated 800,000 to 1.3 million Rohingya by eliminating them from the authorized list of 135 national races eligible for full citizenship (Human Rights Watch: 2015, Burke: 2016). This denial of citizenship put limitations on movement and access to education, as well as led to the loss of land holdings which made thousands of Rohingyas homeless, shelterless (Ibrahim: 2016). Ibrahim says the racial categories used in 1982 to deny citizenship to Rohingyas were based on 1948 citizenship law. Burke (2016), clarifies the idea of ethnicities or racial categories originated by the colonial rulers were beneficial for the post-independence rulers in a multi-ethnic state, but till now they have not altered, Burma Citizenship Law still using the old idea of racial categories which is not suitable for present scenario (Burke: 2016).

The year 1974 became evident for some constitutional and legal changes which enhanced the level of violence by the country towards Rohingya and also contributed systematically in fleeing of Rohingya to Bangladesh. The well-known operation Nagamin launched in 1977 with the aim to identify every individual in Myanmar as either a citizen or a foreigner. The operation Nagamin figured out as a tool to commit crimes against Rohingya by the Buddhists community and army in Rakhine state, and they used it as weapon against Rohingya. As a consequence, more than 200,000 Rohingyas fled to Bangladesh for shelter but most of them were repatriated to Myanmar by Bangladesh (Ibrahim: 2016).

Arendt says that repatriation is a tool to reject statelessness which contributes deportation to a country of origin and includes two possible scenarios; either the state can refuse to accept the eventual repatriate as a national, or, on the other side, the nation immediately needs him back for punishment (Arendt 1976:279). Fike and Androff opine that repatriation is not a practical option in Myanmar because voluntary return demands the collaboration of the home government and Myanmar needs considerable political change. Without political revolution repatriation will make the conditions of Burmese refugee worse and leave them bare at the hands of Government which has not shown any sympathy towards them till the date (Fike and Androff: 2016).

### **1.1 Statelessness of Rohingyas**

In the words of the Fiddian-Qasmiyeh (2016), a stateless person is a 'political subject' who is demanding the personal and communal rights (Fiddian-Qasmiyeh 2016). They are stateless people and unwanted. Recent years have been the cruellest on Rohingyas that seven million Rohingyas had to flee to Bangladesh for begging shelter. The Myanmar government have bounded them in the Burma Citizenship Law in a manner that they have lost everything, most importantly their nationality and their right to be called the nation of Burma. Batchelor (1998) says that citizenship is a legitimate linkage between citizens and state which enable the citizen to represent himself/herself and also his/her country at international level and also obliged the state to accord political protection to its citizens. Nationality also symbolises the identities present in the territory of any state (Batchelor 1998:160).

UNHCR accords the number of stateless people as 10 million around the world the stateless people who are denied of citizenship the price of basic needs human society. The vulnerable situations compel them to a life which is the pride of basic needs, the remains as weak, helpless, exposed and defenseless. Agamben calls this life "bare life". This bare life stripes off the political rights of people and leaves them susceptible (Agamben 1995).

According to the report of Amnesty International, Rohingya people who are living in Rakhine are struggling with the unfair situations cropped up biased nationality. In this apartheid condition, the rights of Rohingya are being violated,

which includes the right to citizenship, freedom of movement, right the basic life. The basic standards of an individual's life include,i.e., Freedom of religion, work, education, food health, social life et cetera are neglected (amnesty International 2017-18 Myanmar).

The apartheid condition of Rohingya can be called systematically organized. It can be seen through the glass of history which provides enough examples of Rohingya's persecution for instance government of Burma choose to discriminate Rohingya by replacing the national registration certificate which foreign registration cards (Ibrahim 2016). The next step Government of Burma decided to distinguishRohingya's right was the establishment of 1982 citizenship law. The 1982 citizenship law categorize religion of Myanmar in three categories citizen, associate citizen, and naturalized citizen. This was the primary cause of the eruption of violence. Research intends to look the consequences of the establishment of citizenship law which took the form of ethnic violence.

## **1.2 Ethnic Violence as Consequences of Citizenship Law**

Systematic and organized crimes against the Rohingya community are consequences of multiple issues, but among them, Burma Citizenship Law plays a crucial role. Amnesty International (2017) calls Rohingya ‘targeted community’ in crimes against humanity occurring in Myanmar. Ibrahim (2016) explained another side of the repetitive violence against Rohingya. He conveyed that it is remarkable to note that attacks on Rohingya appeared at the time when the economy of Myanmar was strangulated, and the government wanted to divert the awareness of the populace. Ibrahim has verbalized the condition of Rohingya in the words “target of opportunity” and expressed that Rohingya are the trouble-free and harmless target for the administration because they are not equipped with arms and ammunition.

In 2017 the outburst of violence against Rohingya people erupted due to the systematic attack performed by Arakan Rohingya Salvation Army (ARSA) on 30 military check posts. In the retort military launched mass killing operation against Rohingya which the form of genocide and ethnic cleansing along several violent acts i.e. rape with women and minor girls, systematic burning of villages, encampment of

Rohingya, confiscation of properties of Rohingya, abduction of people, killings of men, women, and children, deportation of Rohingya etc.

In 2008 Government of Myanmar (GOM) submitted a report for the examination of the combined 2nd and 3rd periodic State party Reports (CEDAW/C/MMR/3) to CEDAW and that report was named as ‘The Arakan Project’. In that report GOM stated two prominent causes for the persecution of the Rohingya women, these causes are-

- i. State-sponsored persecution: in this section GOM has reasoned the policies of the Myanmar government for the plight of Rohingya which includes ‘1982 Citizenship Law’ as the main culprit.
- ii. Socio-religious restrictions: in this section GOM has mentioned the Rohingya’s traditional but bad societal practices for making the women more vulnerable. The arrange marriages prevail in the community but forced marriages also exist. The cause of forced marriages might include human trafficking. Rohingya women are not much aware of their reproductive health, and they find themselves unable to stop pregnancy. The birth of boy is considered auspicious, and the birth of girl child is less favourable. The girls who are going to school are taken out in their teenage years (The Arakan Project 2008).

## **1.2 Crimes against Humanity**

Crimes against humanity are prohibited, but instead of that, it has been committed around the globe. “The Rome Statute of the International Criminal Court” defines crimes against humanity in Article 7. The words of the Rome Statute are as follow-

“For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack...”<sup>11</sup> Article 7(1) lists 11 crimes, or “acts,” including “[m]urder”; “forcible transfer of population”; “[t]orture”; “[r]ape”; as well as “[p]ersecution against any identifiable group” on any “grounds that are universally recognized as impermissible under international law.” (Amnesty International 2017)

## 1.2 (i) Genocide and Ethnic Cleansing

United Nations has said the persecution (of Rohingya) " bear all the hallmarks of genocide" birth government of Myanmar denied the allegations made by United Nations and said the military performed the attacks in the response of the brutal attacks done by Rohingya on 30 military checkpoints. It is worth to note here that many essential parts of the Rakhine state are unapproachable journalists, NGOs Human right activists (Doherty 2018).

The deliberate killings of the masses called as genocide. The term genocide might pursue some state, political or religious interest. The term 'genocide' supports the terminologies like 'organized attack,' 'systematic attack,' 'mass murder.'

Al-Jazeera (2017), reports that due to the mass killing of Rohingya the United Nations has accused Myanmar military of committing crimes against humanity. Amnesty International (2017), mentioned the interview of "Foyzullah (32)", who told Amnesty International "military came to our village and started firing; I heard the noise came out from my home. The military open fire I took my family with me and when towards the hill. We came across the military came across. People work getting hit by the bullets. My brother's wife and my daughter got hit by the bullets we had to run, but we came back when the military was left. I with my brother dug a hole to bury our relatives. But we did not have enough time to bury them properly."

Fortify Rights (2017), interviewed many people who were eyewitness of the mass killings performed in the three villages located in Maungdaw, Buthidaung, and Rathedaung Townships respectively. The mass killing in these villages were occurred due to the second wave of violence starting in August 2017.

"N. Islam, (51)", told that mass killing happened at the Purma riverbank. They were killing everyone including children; some of them were on breastfeed. They threw small children aged between three to five years old, in river and those were half alive they chop them off." (Fortify Rights 2017).

Evidences are enough to get the perpetrators sanctioned with proper penal actions but when the authority is culprit one cannot do anything. Only for the first

time Myanmar authority accepted that security forces of Burma committed 10 unlawful killings in Inn Dinn Village near Maungdaw (BBC 2018).

Government of Myanmar arrested two Reuters reporter “Wa Lone and Kyaw Seo Oo” on 12 December 2017 for revealing country’s secret related to Rakhine state and charged them with the allegation of disobeying the country's Official Secrets Act. But the reporting agency says that the reporters were arrested due to discovery of the secrets of massacre of 10 people in Inn Din village (The Guardian 2018).

The world report 2018, produced by the Human Rights Watch condemned the “2013 Telecommunication Act” for restricting free reporting and criminalising some broad categories of online speeches (Human Rights watch 2018).

### **1.2 (ii) Brutal Burnings of Villages**

To clean the villages of Rohingya military force set them ablaze. Rohingya people lost everything in the burnings, their belongings, property, beloved ones and most important their memories.

A displaced women name Zubairia said to reporters of the guardian “that she recently visited her home in Myin Hlut and she was shocked to see the empty village. Most of the houses were burned. I found nothing there, even not a single leaf” (The Guardian 2018). Another man who told his story to Al-Jazeera that "They burned my home and went around raping women in our village, they burn my shop," says Shafiq (Al-Jazeera 2017).

### **1.2 (iii) Visible Religious Hate**

Religious hate is widespread in Myanmar. Burmese do not want that Muslim culture flourish in the country. Human Rights Watch (2009), reported that the military destroyed the mosques and ordered to get them emptied and propelled the prevalent religious differences (Human Rights Watch 2009). “Shafiq” says that-

"They hate any marks Islam, my beard, my cap, my dress," says Shafiq (Al-Jazeera 2017).



In 2001, mob attacked 28 mosques and religious schools; they destroyed each and every building but state securities did not do anything rather they joined them and demolished the all mosques (Yale Law School 2015).

#### **1.2 (iv) Population Control and Restriction on Marriage**

The Government of Burma have tried to put barrier on Rohingya every aspect of life. They have chosen the tools to restrict the Rohingya population which conflict their religion and faith. Rohingya people are now compelled to get the marriage license before getting married.

A report of Yale Law School (2015), reveals the fact that for Rohingya to get a marriage license it is necessary to take a picture which should be without 'beard' for men and without 'Hijab' for women. Beard for Muslim men and Hijab for Muslim women represents their culture and keep faith in it. NaSaKa makes it essential to give pregnancy test for women before issuing license for marriage and also NaSaKa officials demands illegal fees to process the documents. Then it becomes difficult for them getting the marriage license and follows the official procedures.

#### **1.2 (v) Forced Labour**

In spite of signing a memorandum on 16<sup>th</sup> March 2012, to put a stop on forced labour under the government of Thein Sein in 2011, Rohingya are compelled to work and forced into labour job. The practice of forced labour is ongoing in Rakhine state. Security forces have conscripted Rohingya to force labour i.e. sanitary duties, cleaning of roads and some camp related jobs (Yale University School 2015)

Human Rights Watch says that human rights violation of Rohingya includes forced labor controlled movement religious persecution illegal homicide land seizure by the military and by the government for developing mega structures for foreign multinational companies (human Rights watch 2009).

#### **1.2 (vi) Confiscations of Land and Property**

Human Rights Watch (2009), the Government of Myanmar is keeping the Rohingya people to the outskirts of the SPDC's ministry for development of border

areas national races. The Na Ta La administers the new village project. For keeping an eye on the Rohingya people government keep them on the outskirts.

The village constructed on seized land for the ethnic Burmese people and Arakanese settlers. Rohingya compelled to live near the towns so that settlers can monitor them. Human Rights Watch (2009) mentions that settlers violate the human right of Rohingya.

### **1.2 (vii) (c) Barriers on Free Movement**

The one reason behind the stagnant growth of Myanmar is the limitations on the free movement of Rohingya people. When movement without barriers is denied, then it shuts the doors of the business, development, education, employment et cetera. Rohingya are bound to take permission before travel (Human Rights Watch 2009).

### **1.2 (viii) Inadequate Medical Facilities**

In the apartheid condition, the Rohingya people are mainly dependent on international humanitarian help which is also obscure by security forces. In Feb 2014, the government expelled the only global medical care "Medacine Sans Frontiers (MSF)," from Rakhine charging them from the allegations of being biased towards the Rohingya by the government. The step, taken by the government deprived the Rohingya of the only medical care they could access.

In March 2014, many international governmental organisations offices what damage and looted by the security forces. The security forces displaced more than 300 humanitarian workers and disturbed medical Services which was available for the vulnerable Rohingya.

**(a) In Camps** - Al-Jazeera (2017) report about balukhali camp, Bangladesh where many Rohingya people without proper medical facilities. The so-called 'local doctors' say that they are trained doctors local medical Assistant and family planning planet (LMAF), which is not a qualified degree under the therapeutic medication. Al-Jazeera (2017), reports that Rohingya refugees have been living in Bangladeshi camps since 1917 the number of Rohingya refugee in Bangladesh very three lakh to 5 lakh.

**(b) In Rakhine** - In February 2014, the government expelled the international non-governmental organisation Medecins Sans Frontieres (MSF) from Rakhine state, charging their staff with a bias toward the Rohingya, and depriving as many as one million Muslims of the only medical care they had access to. Then in March 2014, the offices of the United Nations and more than a dozen other nongovernmental organisations in Sittwe, the capital of Rakhine state, were looted and damaged by armed mobs, displacing more than 300 humanitarian workers and hampering health services for hundreds of thousands of vulnerable and displaced Rohingyas.

**(c) In IDP Camp** - Rohingya People compelled to live a life in poor condition. The apartheid condition of camps is unbearable and intolerable. There is no facility for toilets, no facility of proper sanitation which is making people diseased and sick. Rohingya people Compelled to live in unhygienic conditions making their children ill. This condition is very susceptible for infants.

### **1.2 (ix) Barrier in Humanitarian Aid**

In the prevailing weak economic condition in Myanmar get worse when military prohibits the international humanitarian aid. In 2008 when more than 2 million Myanmarese people were struggling with the distressing circumstances at that time military-led government blocked the ASEAN-led international humanitarian help (letter to Dr. Surin Pitsuwan, Secretary-General of ASEAN from Nisha Varia Deputy director of women rights division and Elaine Pearson deputy director of Asia division, Human Rights Watch; 25 Feb 2009).

The high profile diplomatic visits of leaders to the displacement sites obscure the delivery of Humanitarian aid on time. In 2013 president Thein Shein visited displacement sites near Sittwe and Rakhine. It was high profile visit in the overcrowded squalid camps (Human Rights Watch 2013).

### **1.2 (x) Forcible Transfer**

Article 2 of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide includes in its definition “the forcible transfer of children” from

one group to another if done with “a commitment to destroy, in whole or in part, a national, ethnical, racial, or religious group.” (JACOBS 2016).

Under the protection of international law, the state may pursue these steps- it can call the convict to the domestic courts, hand over the offender to the willing state party and lay down the perpetrator in front of the international court (Amnesty International 2017).

### **1.3 (ii) The Disobedience of Women Rights**

Edward (2009), puts that gendered discrimination spoils the rights of women and girls. It can become the cause the displacement of women and girls. Discrimination against women can also happen during movement which includes departure, stay and restoration.

Women in Myanmar suffer a variety of issues which includes societal, legal, cultural etc. Women in Myanmar cannot access the rights which are determined for them. Under the brutality and unfriendliness behaviour of the Burmese ethnicities and government, women are compelled to live a persecuted life. Norwegian refugee council et al. (2018), present a report which conveys the shocking figures of the women who are enjoying the legal right.

Almost 33% people of Myanmar do not possess any side door identity card and shockingly among them 54% of women who do not have any proof of citizenship. Till now 7 lakh Rohingya people have fled Bangladesh and residing there. Among them, 14% ask single mother household, and half of the refugee population represent women (NRC et al. 2018).

### **1.3 The Rakhine Action plan (RAP) – A discriminatory Policy**

The Rakhine action plan was result of international and domestic pressure upon Government of Myanmar but unable to satisfy the demands of Rohingya minority. It is a discriminatory policy in favour of Rohingya people. The RAP includes six prime elements to improve the prevailing condition of Myanmar.

- 1) Security, Stability, and Rule of Law;

- 2) Rehabilitation and Reconstruction;
- 3) Permanent resettlement;
- 4) Citizenship assessment of Bengalis;
- 5) Socio-economic development; and
- 6) Peaceful coexistence.

The first “element security, stability and Rule of law” deals with the security of nation which emphasize on the immigration policy to make the nation more secure; stability tends to look at the present disturbing condition of the Rakhine state of Myanmar, and commit to improve the present condition of Rakhine and its people and bring tranquillity; rule of law section intends to bring more organised governance.

“Rehabilitation and Reconstruction” deals with the relocation issues of displaced persons and to create more suitable place for them where they can live comfortably; reconstruction emphasize on developing new telecommunications systems for them. Apart from that RAP introduces more advanced IT structure, empowered school structure for improving education, fulfilling the basic need like water, electricity, food, health care, employment et cetera.

A critical point of RAP is permanent resettlement of aliens which means the displaced person will relocate to new places and then for their whole life and upcoming generation they will be living to that given place only. This element violates the right to free movement which enables a person to go any place and to reside anywhere he/she wants.

The fourth element “Citizenship assessment of Bengalis” denounces the identity of Rohingya by calling them Bengalis and force them to get registered in the citizenship of Myanmar with the title of Bengali not as Rohingya. That approves a citizenship for alien not for citizens. According to RAP the Rohingya will be approved as naturalized citizens not as citizens or associate citizens.

The fifth element “Socio-economic development” highlights the improvements in society and economy. Improvement in ‘fisheries’ and development of tourism are main features of fifth element.

The last and sixth element of RAP is “Peaceful coexistence” demands peace in all religions and enhancement in the qualification of teachers who belongs to different religions. Ultimately, RAP emphasize on the peace in society, which is the need of an hour in Myanmar.

**1.4 Establishment of “Peaceful coexistence” in Myanmar** - An understanding of the relationship between ethnic identity and national identity (mainly when the two are not necessarily the same) is necessary for identifying why national unity remains an elusive concept in multi-ethnic nations like Burma. (Walton 2008).

Leider (2014), put that" Myanmar perceives ethnic identity as a fixed concept which cannot be altered, modified and rediscovered." In the present scenario, the ethnic arrangement has accredited the negotiation which wishes for a political agreement between government and ethnic communities. Hence, one can conclude that racial order is outcomes of this unity and difference.

Jarryson (2017), argues that " there is no culture which has a monopoly on violent people, not any religion exists which has a greater inclination towards violence." He quotes that" brother social circumstances and disturbances,i.e., Poverty, induce violence and violent behavior regardless of religion." When people sense that the world is changing around them, they turn towards their religion to understand the thing and changing society. In this sense, religion gives them to the opportunity to follow one’s place in the community,and the world former also it gives them the pleasure of inheritance and shows them the duty and responsibility towards society Jarryson (2017).

#### **1.4 Aung San Suu Kyi – A Political leader without Political Power**

Aung San Suu Kyi is a Nobel prize winner, and she has been at house arrest nearly for 20 years, from 1989 to 2010. Aung SanSuu Kyi worked determinedly to keep alive her party National League for Democracy. Her philosophy for democracy does not rely on pure democracy. Indeed it is a hybrid democracy which has some impact on Buddhism, so it may be called Buddhist Democracy.

Suu Kyi lived on minimal food because she did not have sufficient money to purchase food. Her every move was monitored, and she was not allowed to go outside

without prior permission. She suffered a lot in Depayin massacre which was occurred on 30<sup>th</sup> May 2003. It was the most heinous bloodshed done by the support of senior military official at several levels but none of them ever arrested. Several people were hired from far places to spread violence and kill NLD workers. They were ordered to kill Suu Kyi, but fortunately, she remains alive due to the bravery of her driver. All the injured people were shifted to Insein prison near Yangon where they were treated very harshly. No good food and medicine were provided. Only three doctors were appointed to address all the injured people. Because of the poor condition nearly all the prisoners were suffering from diphtheria, malaria, and HIV. The driver who drove SuuKyi car was kept in detention cell where he was tortured inhumanly.

Being a daughter of Aung San she had some privileges that she provided a separate room with a wooden bed. She was cut from the entire world. She had no access to news from the outside world. When international pressure increased about her whereabouts, then Myanmar government released a statement that she has been kept safe as her life is in danger. (Pederson: 2015)

Aung San Suu Kyi joined the politic official in 2012 as a member of lower house of the parliament. She advised to terminate all cruel acts and proposed re-assessment of Citizenship Law of 1982. These move of Suu Kyi was appreciated by people especially those who were victims of citizenship law. Suu Kyi stressed to redetermine the definition of citizen in the citizenship law and also the categorization of Burmese citizens (Kei Nemoto: 2014). In the present position of NLD in military-supported government, it becomes tough to amend the existing citizenship law (Nimesh: 2010:198).

In September 2017, Suu Kyi broke her silence for the first time she said that Myanmar is not afraid of international scrutiny. On her Statement amnesty International retorted that is not afraid of international investigation then it should allow United Nations investigators to Myanmar and also in Rakhine State (The Guardian 2017). Many illegal activates going in Myanmar today the government backs some, and some are by insurgent groups.

## 1.5 Problems in Myanmar

**Insurgency** – Insurgency is a big issue in Myanmar. The wave of violence which erupted in 2017 was because of the ARSA (Arakan Rohingya Slavation Army). ARSA is an insurgency group in Myanmar that demands separate land for Rohingya. This is also a prime reason behind the hate of Burmese who do not want to divide their land, and do not want to give their piece of land to the Muslims.

Insurgent groups in Myanmar are not well equipped with modern weapons; they use their traditional weapons to defend themselves. The persons who joins the ARSA does not get anything in return; i.e. money, they pledge to fight for the Rohingya voluntarily.

**Drug Business** - Today Myanmar has become the hub of the drug business. Myanmar and Afghanistan are producing drugs on a massive scale. Recently Myanmar has achieved the title of narco-state business the citizens of Myanmar becoming addicted to drugs. This growing drug economy is catering to the needs of the insurgent groups (Behera 2017).

Arashpuor and Roustaei (2016) have recommended that “to take the condition under control the international community should use their rights and intervene. ‘The theory of responsibility to protect’. Arashpuor and Roustaei further say that it was fundamentally an action to deliver an answer to the opacity of intervention that the international community was faced in the 1990s. This creed which in 2005 was stretched to the acceptance of the world's countries officials, the chief accountability to defend persons against the four major crimes, including genocide, war crimes, crimes against humanity and ethnic cleansing is in charge of the government of each country” Arashpuor and Roustaei (2016: 387).

The complex Rohingya issue can be answered by providing Social and human security. Social and human security is multifaceted and contains similar aspects. Social security presents the monetary support given by the government to its vulnerable citizens, and human security exercises the perspective of protecting societal inhabitants from the threats like religious and cultural conflicts, war, genocide



and ethnic cleansing et cetera. Anthony has defined community security as a subset of human security (Anthony 2015).

Parnini has linked the Rohingya crisis with human security and stated that this tragedy is ground-breaking which has come out of disturbed supremacy control and ethnic differences and require international intervention (Parnini 2013). When the persecution of targeted racial groups approaches beyond the limit, then distressed people insist for different response and look for security (Cheesman 2017).

On 25 February 2009, in a letter written to Dr. Surin Pitsuwan, the then Secretary-General of ASEAN from Nisha Varia Deputy director of women rights division and Elaine Pearson deputy director of Asia division, human rights watch said that we counsel ASEAN member states to:

- Ratify the 1951 Refugees Convention (which is the focus of international refugee protection today) and its 1967 Protocol without delay.
- Include the international refugee definition into domestic law.
- Initiate asylum course of action compatible with international principles that will provide asylum seekers with adequate opportunity to represent their demands and defend them while their refugee claims are waiting.
- Admit rights to dwell, certification, and employment.

Domestic asylum law and appropriate guidelines are essential. It enables individuals that they can challenge the reasons for their expatriation. In the absence of a domestic asylum modus operandi in Myanmar leaves no prospect for UNHCR to monitor them to ascertain if they are asylum seekers or refugees. According to the United Nations High Commissioner for Refugees 'A person who is looking for protection under the umbrella of the international community and whose refugee standing has not been governed so far known as an asylum-seeker (UNHCR: 2016).

1951 Refugee Convention is the outcome of the Universal Declaration of human rights 1948 which acknowledge the entitlement of an individual to seek refuge

from oppression in another sovereign state in its Article 14. The 1951 Refugee Convention became operational on 22 April 1954. In the beginning, it was restricted in range to persons fleeing events taking place before 1 January 1951 and within Europe.

In 1967 some new dimension added to the 1951 Refugee Convention by eliminating geographical and temporal boundaries which enhanced the flexibility of the convention and made it comprehensive (UNHCR: 2010).

The statement made by Ibrahim (2016) that Myanmar is not on a clear road to democracy gains support from the words of Yanghee Lee who was the UN Special Rapporteur on the condition of human rights in Myanmar. Lee is in strong favour that human rights violation is occurring in Myanmar. The government in power must be held accountable who is not intervening and stopping the oppression.

Furthermore, in her report to the Human Rights Council which she delivered in Geneva, she mentioned that the offensive actions performed in Rakhine State on 25 August 2017, and 9 October 2016, was indefinable and bear the characteristics of genocide. She further mentioned that this must be now the duty of the international community to bring tranquillity, constancy and democratic system in Myanmar (ONHCR 2018).

Nimesh (2010) has attributed Myanmar with a distinct characteristic of isolationism. He mentions that due to this ideology Myanmar segregated itself from the populace of the nation by ignoring their needs and demands as well as remained in the cocoon without interacting with the international community.

The matter is not that there is no chance of imposing pressure on Myanmar by international powers but the piece of information is either statedo not feel willing upon putting pressure by hegemonic powers or the hegemony or regional powers do not care. Now, the matter of the fact behind the disagreement on applying international pressure relies on the fact that global approach always remains critical and judicious. States may or may not be agreed upon it, but it is our concern that

which subject is essential and what strategy suits best to determine the obscurity cropped up by the incomprehensible actions of the sovereign states.

## 1.6 Human and Community Security

Sokoloff and Lewis (2005), Opines that to search solution of human rights, peace, development and good governance one must include the concept of human security which deals with the economy, security, health, education, conflict, management and migration issues.

Anthony (2015) has dealt with human and community security very interestingly. Anthony perceives community security as one of the critical elements of human security. Some studies prefer to define community security as societal security. Community security talks about the maintenance of the integrity by finding solutions to the problems within and outside of the state which leads to the division of communities. I prefer to call these problems ‘Elements of Separation’ or ‘EoS’. These EoS have been attempted to control by international as well as regional communities by spreading awareness and recommending some solutions.

A broad and conclusive vision of community security shown by UNDP, that merges individual safety and collective security while directing freedom from fear. UNDP includes some EoS which harms the personalsafety and cooperative security; these are as follow-

‘Elements of Separation’ or ‘EoS’ which harm the individualsafety and collective security	
EoS emerging from the state	Physical torture, war crimes
EoS emerging from other states in the case of war	Loss of life, statelessness
EoS emerging from other groups of people	Ethnic tension
EoS emerging from individual or gangs	Loss of Basic Rights
EoS threatening women	Sexual violence and Domestic Violence

EoS threatening children	Child abuse
EoS threatening individual	Suicide, Drug use
Source - (UNDP, 2009, pp. 13–14 in Anthony 2015)	

These EoS ultimately lead to the division in communities which introduces failure in maintaining normal relations and morals(UNDP, 1994, pp. 31–32 cited in Anthony 2015).

If one looks back at the history to investigate the reasons behind the failure of state and origin of war crimes, genocide, homicide and statelessness, then according to Ibrahim (2016) the reasons are;

- a. When few states did not pay heed (Turkey in 1915, the USSR in 1941–3)
- b. Isolation of the countries(Nazi Germany after 1942)
- c. The reluctance of the international community to realize its responsibilities (Rwanda) (Ibrahim 2016:147).

Ibrahim (2016), says that states and international community refrain itself by committing those mistakes again.

Myanmar is a country that is experiencing transition; in politics, people and state. This is the time when Myanmar needs to change the principals to maintain the society. Because when Darwin’s natural selection works for living things then it also works for the non-alive things, i.e. ‘state’. This imparts that the fittest state will win the battle. From here research approaches to conclusion that emphasize on lacunae in Myanmar’s domestic politics, lack of international interest, some solution and recommendation which can improve the devastating situation of Myanmar.

## **Chapter V**

### **Conclusion**

In the concluding chapter attempts have been made to provide a summary to the argument rising out of the various chapters in the process of answering the research questions. The research has attempted to study Burma Citizenship Law 1982 with special regard to the Rohingya Muslims, which is an ethnic minority in Myanmar. Rohingya Muslims are the most persecuted people on the globe today.

Rohingya people are living in Myanmar from centuries but according to citizenship law 1982 if Rohingya Muslims want to acquire citizenship of Myanmar then they have to prove their ancestry. Burma citizenship law 1982, victimize the Rohingya Muslim community specifically. The Government of Myanmar categorizes the populace into three different categories i.e, 'citizen', 'associate citizen' and 'naturalized citizen'. People who settled in Myanmar before 1823 A.D. are entitled as the citizens of Myanmar, those acquired citizenship through the union citizenship law of 1948 are the associate citizens and people who lived in Burma before 4 January 1942 are naturalized citizens.

The rights and privileges accorded by the citizenship law vary according to the categories of citizens. The citizens of Burma are the most privileged class they are known as indigenous people. They are allowed to pursue higher education, run businesses, participation in politics and representation at the international and regional platform. But unfortunately, associate citizens and naturalized citizen do not enjoy the above-mentioned advantages.

The Burma citizenship law of 1982 has been designed in a manner that it discriminates between the rights of citizens and associate citizen and naturalized citizens. One perilous norm of the law states that to achieve naturalized citizenship the

aspirant should be of 'sound mind' but law does not clarify the concept of sound mind. Another fact about the law is it leaves people at the risk of statelessness if any parent from both the parents loses the citizenship either citizen, associates citizen, naturalised citizen then offspring of the parent might experience statelessness.

Any foreigner cannot acquire the citizenship of Myanmar without proving his/her close ties with his/her relatives. The Myanmar citizenship law is gender biased also, when a man married to a woman he can transfer his nationality to his partner, if she applies for the citizenship of Myanmar, on the other hand if a woman married a foreign man then she cannot transfer her nationality to her partner. The citizenship law might leave a woman stateless. In order to obtain the nationality of husband's country, she has to revoke Burmese citizenship but situation get worse if she has revoked the citizenship and has not obtained nationality of husband's country, in this condition the woman might experience statelessness.

The documentation process of acquiring citizenship is very arduous. To obtain Burmese citizenship one has to prove ancestry of parents and for this one has to go through verification process. The people who are living at the remote places might have to travel long distances. Some people are so poor that they cannot afford to travel long distance voyages; this category also includes women, children, old and weak people. Women and children are much more prone to the critical situations, for example, it would be difficult for a woman to get registered her child's birth if there is a disturbance in the surrounding area.

Hence, it shows the discriminatory nature of Burma Citizenship Law 1982 and proves the hypothesis that “The 1982 Citizenship law violates the civil rights of Rohingya people in the modern political system”.

This intrigues to enquire the foundational basis of the discriminatory nationality laws around the world. Research attempts to explain that ‘The nature of citizenship law, migration, national insecurities and ethnic politics are the major reason for the establishment of discriminatory laws in the state, in general. Nature of citizenship law describes the grounds on which an individual acquires nationality.

There are two ways through which a person can obtain citizenship of a nation; *jus soli* (nationality by birth) and *jus sanguinis* (nationality by descent). The criterion

of Jus sanguinis is problematic because every individual cannot prove his or her ancestry. A foreigner cannot acquire Burmese nationality without proving his/her close family ties because Burma adopts jus sanguinis basis for the Burmese nationality.

Migration is another basic issue which plays a crucial role in the establishment of discriminatory laws. When alien people go to other countries it causes many problems i.e. pressure on resources, economic security, food security, job security, education security et cetera. These issues come under national security. Hence, when the feeling of national insecurities arises it results in discrimination. Ethnic politics is another prominent reason for discrimination. The concept of ethnic politics includes identity, inclusion, exclusion, favouritism and securitization of collective identity.

Politicisation is a political behaviour which is bound to political norms of the state but securitization is not bound by any rules and regulations. It is an act which goes to extreme politicisation. Extreme politicisation does not abide by laws hence it can alter the Laws in the process of immunization of certain ethnicities, culture, races which ultimately leads to conflicts.

All these aforementioned features are visible in Myanmar, which represents the Burmese culture as their collective identity. Burmese government immunize the Burmese culture and in this process the Government of Myanmar has established the Burma citizenship law 1982. Above all homogenization of Burmese culture is a significant ground for the establishment of biased laws. To achieve homogenisation in the country Burmese government exclude other cultures from the list of indigenous races. The government of Myanmar has included 130 ethnicities as national races but the government has expelled the Rohingya Muslim community completely along with the people of Chinese origin and Indian origin are ignored.

This analysis shows the validity of the hypothesis that The 1982 Citizenship law of Myanmar was an instrument of producing majority domination in Myanmar.

There is a need of scope for future research in Rohingya's study. It is a complex issue to understand and provides ample opportunity to understand the ethnic politics and ethnic conflicts.

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