



A GENDER ANALYSIS OF THE RIGHT TO A NATIONALITY IN MYANMAR

March 2018



Foreword

Many women in Myanmar do not have full access to the rights guaranteed by the applicable domestic and international legal framework. This is partly due to a large portion of the population bearing the burden of an insecure legal identity. According to Census data, almost a third of the population of Myanmar do not have a form of identity document, 54% of those who do not have identity cards are women. In this sense, a common goal of the Norwegian Refugee Council (NRC), the United Nations High Commissioner for Refugees (UNHCR), and UN Women is to improve the protection of women in Myanmar through the recognition of legal identity rights, including access to civil documents and citizenship, and thus improving access to the services that are dependent on a secure legal identity.

Hence, the NRC in Myanmar, UNHCR and UN Women seek to remove legal and practical obstacles concerning access to documents and citizenship, paying attention to the gender dimension of such obstacles. In this context, this report –aims to expand existing knowledge on the gender dimension and the impact that the the current legislation and the factual lack of documentation to confirm citizenship has for women.

Efforts to improve gender equality in citizenship issues are ongoing. The UNHCR has an important presence in Myanmar and plays an essential role in coordinating protection actors. UN Women is promoting gender equality through advocacy, research and other activities. Since June 2012, NRC has been supporting the Myanmar Ministry of Immigration, Labour & Populations (MoLIP) to speed up the issuance of national identity cards to conflict-affected communities in the South East. From the beginning of NRC’s civil documentation activities in 2012 up to February 2017, more than 500,000 persons across the South East have been issued with ID cards, improving the protection environment. More than half of these beneficiaries were women.

Despite such efforts, many women –particularly those belonging to minorities– still face significant difficulties in proving their citizenship status and exercising their rights. The Gender Analysis of Citizenship in Myanmar, undertaken by NRC together with the Seagull and the Statelessness Network Asia Pacific (SNAP) goes into further detail on the practical and normative reasons behind this situation and proposes a way forward. Where there is a will, there is a way: it is important that all national and international actors involved take the matter seriously and take concrete steps towards making Myanmar’s institutions more egalitarian, respectful of gender rights and welcoming of diversity.

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Executive Summary



School children in Loikaw, Kayah State (Jose Arraiza, NRC)

Until 2017, the largest population of stateless persons globally were resident in Myanmar: the Rohingya of Rakhine State, estimated to be a population of approximately 1.1 million. As a result of a series of attacks against police posts on 25 August 2017 by the Arakan Rohingya Salvation Army (ARSA) and the subsequent military clearance operation, within four months almost 700,000 Rohingya refugees fled to and are now residing in Bangladesh. Around half of this refugee population are women, and 14% are single mother households.

Whilst statelessness issues in Myanmar in relation to Rakhine State are well documented, to date there has not been a comprehensive review of the barriers that are experienced by women in acquiring, changing and retaining Myanmar citizenship, as well as conferring citizenship to their children and spouses. This report seeks to provide an initial analysis of such barriers against relevant international standards. The analysis relies on both desk and field research. The field research element of this study involved fifty-five focus group discussions and interviews with 141 women and 64 men of various ethnicities and religions in Yangon city, Mandalay Region (Mandalay city, Meikhtilar, Pyin Oo Lwin and Moegyok), Mon State (Maylamine and Thaton) and Tanintharyi Region (Dawei and Myeik). These were conducted throughout August 2017. Forty interviews with representatives from civil society

organisations, UN agencies and the Myanmar Government's Ministry of Labour, Immigration and Population (MoLIP) and Ministry of Social Welfare were also carried out in these locations throughout August 2017.

The key domestic legislation is the 1982 Citizenship Law and its Procedures, which codifies the acquisition, confirmation and loss of Myanmar citizenship. The 1982 Citizenship Law provides for three types of citizenship – “citizens”, “associate citizens” and “naturalised citizens”. 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 Naturalised Citizenship Scrutiny Card (NCSC), respectively. 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.

As a signatory to the Convention on the Elimination on All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD) Myanmar has committed to upholding international obligations relevant to gender equality, the right to a nationality, the right to birth registration and equal nationality rights between men and women. These obligations have direct relevance to the ability of women to acquire, change and retain Myanmar citizenship as well as the ability to confer citizenship to their children and spouses.

This study focuses on Myanmar's compliance with three international standards, as derived from the abovementioned international obligations: i) the ability of women to acquire citizenship on an equal basis with men, ii) the ability of women to acquire, retain or confer their citizenship following marriage, and iii) the ability of women to confer citizenship to their children.

1) Women's ability to acquire citizenship on an equal basis as men

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. However, the majority of participants in this study explained that they did not have the resources to fulfil even the minimum financial requirements to obtain citizenship documentation, let alone the capacity to pay additional “unofficial fees”.

Populations from remote and hard to reach rural areas reported additional barriers to those experienced by the rest of the population specifically due to their remoteness from relevant authorities and limited knowledge as to the process for applying for citizenship documentation.

Additional to the barriers experienced by both men and women in Myanmar, the research revealed that gender specific barriers operate to disadvantage women's access to citizenship

documentation. These gender specific barriers were said to result from norms in Myanmar as to how women and men interact and participate in Myanmar society. These norms were described as influencing access to information and contacts relevant to obtaining citizenship documentation; the ease in which women can travel in Myanmar to obtain supporting information and file applications; the preference by families for obtaining citizenship documentation for men over women in the household; and the implementation of laws that prohibit polygamy and regulate marriage between Buddhist women and non-Buddhist men. Single mothers and women engaged in commercial sex reported that they face significant discrimination when approaching authorities to obtain citizenship documentation due to the stigma in Myanmar society against them.

2) Women's ability to acquire, retain or confer their citizenship following marriage

A foreign spouse (male or female) can only acquire “naturalised 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 stateless¹ 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.

3) Women's ability to confer citizenship to their children

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. 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.

Based on the findings from this study, a number of recommendations are made with the aim of ensuring compliance with Myanmar's international obligations. Such recommendations include amending the 1982 Citizenship Law and its Procedures and repealing various gender discriminatory laws enacted in 2015 (such as the 2015 Myanmar Buddhist Women's Special Marriage Law and 2015 Population Control Health-Care Law), ensuring universal birth registration and providing practical assistance to female applicants in acquiring and confirming citizenship. The recommendations also suggest implementing initiatives that foster environments conducive to eliminating gender discrimination and the specific barriers experienced by women in acquiring and confirming citizenship. Such initiatives include facilitating information campaigns that seek to address gender inequality and raise awareness on how gender inequality can impact women's access to citizenship documentation.



Acknowledgements



The scope and nature of the research for this project was developed through collaboration between UNHCR, UN Women, NRC, the Statelessness Network Asia Pacific, the Institute on Statelessness and Inclusion, and the Seagull: Human Rights, Peace and Development. The report was written by Davina Wadley, Coordinator of the Statelessness Network Asia Pacific and edited by Nikola Errington, Protection Officer (Statelessness) UNHCR Myanmar and Dr Jean D’Cunha, Head of UN Women Myanmar. Colleagues from NRC (Dr José María Arraiza, Phyu Zin Aye and Hege Mørk), UNHCR (Radha Govil), UN Women (Dr Beatrice Duncan), the Global Campaign for Equal Nationality Rights (Catherine Harrington), the Institute on Statelessness and Inclusion (Amal De Chickera) and the Statelessness Network Asia Pacific (Dr Alexis Wallace) reviewed the report. The fieldwork was conducted by the Statelessness Network Asia Pacific (Davina Wadley), the NRC (Phyu Zin Aye, Dr José María Arraiza, Naw Khin Thu and Yi Yi Soe) and the Seagull: Human Rights, Peace and Development (Suu Chit and Lei Lei Nwe). A validation roundtable on the findings detailed in this report was held in Yangon, Myanmar on 20 November 2017. Thank you to those colleagues who attended the validation roundtable and provided important contributions towards this report. The project was commissioned and funded by UNHCR and UN Women.

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Woman and Buddhist Monks, Launglon, Tanintharyi Region (Jose Arraiza, NRC)

1 INTRODUCTION

This report explores the barriers experienced by women in Myanmar in acquiring, confirming, and retaining citizenship, as well as conferring citizenship to their children.² This involves an exploration of Myanmar's obligations under international law with respect to gender equality, the right to a nationality, the right to birth registration and equal nationality rights between men and women. Myanmar's citizenship legal framework with respect to citizenship and gender equality is also analysed. Finally, Myanmar's compliance with the aforementioned international obligations is considered with respect to three relevant standards: i) women's ability to acquire citizenship on an equal basis with men, ii) women's ability to acquire, retain or confer their citizenship following marriage, and iii) women's ability to confer citizenship to their children.

The methodology for this project involved both desk and field research. The desk research phase of this study considered the relevant laws, policies and procedures with respect to gender and citizenship in Myanmar, information on file with the Norwegian Refugee Council's Information, Counseling and Legal Assistance programme, and publicly available resources that consider gender and citizenship in Myanmar. Although there is extensive publicly available resources on gender in Myanmar (both historical and current), there is limited information publicly available on the citizenship legal framework, including the practical application of the 1982 Citizenship Law and its 1983 Procedures and the civil documentation system.

The desk research informed the development of the questionnaires used throughout the qualitative field research phase of the project. Fifty-five focus group discussions and interviews with a total of 141 women and 64 men of various ethnicities and religions were conducted throughout August 2017 in Yangon city, Mandalay Region (Mandalay city, Meikhtilar, Pyin Oo Lwin and Moegyok), Mon State (Maylamine and Thaton) and Tanintharyi Region (Dawei and Myeik).

Interviewees identified as Bamar Buddhist, Bamar Muslim, Bamar Hindu, Bamar Shan, Burmese Muslim, Pa O Christian, Mon Buddhist, Shan Buddhist, Bamar Shan Buddhist, Kayin

Christian, Pathan Muslim, Tamil Buddhist, Tamil Hindu, Kayin Buddhist, Bamar Kayin Buddhist, Tamil Mon, Indian Hindu, Nepali Hindu, Lisu Buddhist, Chin Christian, Gaw Ra Khar Hindu, Nepali Buddhist, Indian Bamar, and Lisu Christian.

A total of forty interviews with 82 representatives from civil society organisations, UN agencies and the Myanmar Government's Ministry of Labour, Immigration and Population (MoLIP) and Ministry of Social Welfare were also carried out in the abovementioned locations throughout August 2017. Participants for the focus group discussions and interviews were invited to participate through community leaders, civil society organisations and UN agencies.

This study did not include Rohingya interviewees, as their situation as a stateless population has been identified and documented elsewhere. Until 2017, the largest population of stateless persons globally were resident in Myanmar: the Rohingya of Rakhine State, estimated to be a population of approximately 1.1 million. As a result of a series of attacks against police posts on 25 August 2017 by the Arakan Rohingya Salvation Army (ARSA) and the subsequent military clearance operation, within four months almost 700,000 Rohingya refugees fled to and are now residing in Bangladesh. Around half of this refugee population are women, and 14% are single mother households.³



Farmer woman, Thayat Chung, Tanintharyi Region (Jose Arraiza, NRC)

2 INTERNATIONAL OBLIGATIONS

Myanmar has acceded to the Convention on the Elimination on All Forms of Discrimination against Women (CEDAW),⁴ the Convention on the Rights of the Child (CRC)⁵ and the Convention on the Rights of Persons with Disabilities (CRPD).⁶ In acceding to these, Myanmar has committed to fulfil its obligations under these instruments to uphold the right to a nationality.⁷

It must be noted that the CEDAW places an overarching obligation on State parties to eliminate all forms of discrimination against women⁹ and ensure substantive equality between women and men.⁹ Specific to nationality rights, article 9 of the CEDAW establishes that women and men have equal rights with respect to the acquisition, change or retention of nationality and to conferring nationality to their children.¹⁰ The CEDAW also provides that States “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”.¹¹ Article 9 of the CEDAW extends an obligation to ensure equality between men and women in their ability to confer their nationality on spouses.¹²

There are also a number of other articles of the CEDAW that are impacted upon by gender discrimination in nationality laws. State parties are obliged to eliminate such discrimination by ensuring the “full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”,¹³ eliminating prejudices, customs and all other practices that are based on the idea of the “inferiority or superiority of either of the sexes or on stereotyped roles for men and women”,¹⁴ ensuring “understanding of maternity as a social function and recognition of the common responsibility of men and women in the upbringing and development of their



Woman and Child, Maungmagan, Tanintharyi Region (Jose Arraiza, NRC)

children”,¹⁵ suppressing all forms of trafficking in women and “exploitation of prostitution of women”,¹⁶ eliminating “discrimination against women in the political and public life”,¹⁷ ensuring equal rights with men in the fields of education,¹⁸ employment,¹⁹ healthcare,²⁰ and other areas of economic and social life,²¹ ensuring equality before the law,²² and eliminating discrimination against women in “all matters relating to marriage and family relations”.²³

The CRC provides that children shall be registered immediately after birth and have the right to acquire a nationality.²⁴ As a signatory to the CRC, Myanmar is obliged to implement both of these rights in accordance with its national law and “their obligations under the relevant international instruments in this field”, particularly where the child in question would otherwise be stateless.²⁵ Additionally, Myanmar has an obligation to ensure that a child’s right to a nationality and birth registration is free from “discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”.²⁶

Pursuant to the CRPD, persons with disabilities have the right to a nationality on an equal basis with others²⁷ and “without discrimination of any kind on the basis of disability”.²⁸ This includes the right for persons with disabilities “to acquire and change a nationality” and not be “deprived of their nationality arbitrarily or on the basis of disability”.²⁹ Additionally, the CRPD prohibits persons with disabilities being “deprived on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification”.³⁰ The CRPD also provides that “children with disabilities shall be registered immediately after birth” and shall have “the right to acquire a nationality”.³¹

In summary, Myanmar has a number of international obligations regarding gender equality, the right to a nationality, the right to birth registration and equal nationality rights between men and women, specifically including obligations relating to the prevention and reduction of statelessness³² among women, children and persons living with disabilities.³³



Kason Festival, Tanintharyi Region (Jose Arraiza, NRC)

3 Domestic legal framework as to citizenship and gender equality

Citizenship in Myanmar can be acquired automatically by birth or non-automatically by application. The acquisition, confirmation and loss of citizenship is codified by the 1982 Myanmar Citizenship Law (“1982 Citizenship Law”)³⁴ and the 1983 Procedures relating to Myanmar Citizenship Law (“1983 Procedures”).³⁵ The 1982 Citizenship Law, which repealed³⁶ the 1948 Union Citizenship Act³⁷ and the 1948 Union Citizenship (Election) Act,³⁸ introduced three different types of citizenship: “citizens”, “associate citizens” and “naturalised citizens”.³⁹ Whereas previously there had been only one type of citizenship in Myanmar.⁴⁰

Each type of citizenship pursuant to the 1982 Citizenship Law is afforded different entitlements⁴¹ and is evidenced by specific documentation - the Citizenship Scrutiny Card (CSC), Associate Citizenship Scrutiny Card (ACSC) or Naturalised Citizenship Scrutiny Card (NCSC), respectively.⁴² Dual citizenship is prohibited under the 1982 Citizenship Law.⁴³

Eligibility for citizenship in Myanmar primarily follows an ethnicity and *jus sanguinis*, descent-based criteria.⁴⁴ Therefore the ability to acquire or confirm citizenship in Myanmar is usually dependent on the applicant demonstrating their ethnicity and the citizenship of their ancestors.

“Citizenship” (type 1) is acquired automatically via one of six criteria. First, if the person is deemed to be of a specified ethnicity and their ancestors are determined to have “settled” in Myanmar “as their permanent home” prior to 1823 and have since remained in Myanmar.⁴⁵ Persons who meet this criteria are referred to as “Nationals” and are also considered “citizens by birth”.⁴⁶ A list of the “135 recognised ethnic groups” is currently provided for by administrative instruction and is applied with respect to an assessment as to whether a person is a “National”



or not.⁴⁷ Second, children born in or outside of Myanmar to “National” parents (i.e. both the mother and father meet the prior mentioned first criteria for “citizenship”) are “citizens by birth”.⁴⁸ Third, if the applicant was a citizen pursuant to the 1948 Union Citizenship Act or the 1948 Union Citizenship (Election) Act before the enactment of the 1982 Citizenship Law.⁴⁹ Fourth, persons born in or outside of Myanmar whose parents are both “citizens”.⁵⁰ Fifth, persons born in or outside of Myanmar whose one parent is a citizen and the other parent is either an “associate citizen” or “naturalised citizen”.⁵¹ Sixth, persons born in or outside of Myanmar whereby one parent is either a “citizen”, “associate citizen” or “naturalized citizen” and the other parent has at least one set of grandparents who are either both “associate citizens” or “naturalized citizens” or a combination of these.⁵²

“Associate citizenship” (type 2) can only be acquired by application via one of two criteria.⁵³ First, persons who had pending applications for citizenship pursuant to the 1948 Union Citizenship Act at the time of the enactment of the 1982 Citizenship Law but who do not qualify for “citizenship” (i.e. type 1 citizenship), are eligible for “associate citizenship”.⁵⁴ Second, a child whose name is included in one of their parent’s ACSC is an “associate citizen”.⁵⁵ If a child’s name is included in one of their parent’s ACSC, once they have reached 18 years of age they and their parents must make an affirmation in writing that they owe “allegiance to the State”, will “respect and abide by the laws of the State” and that they are aware of the “prescribed duties and rights”.⁵⁶ If an affirmation is not made before or on the date in which the child of the ACSC holder reaches 22 years of age and “sufficient reasons” are not provided, then the child of the ACSC holder loses their “associate citizenship”.⁵⁷

“Naturalised citizenship” (type 3) can only be acquired by application by one of five criteria. First, persons who have entered and resided in Myanmar prior to 4 January 1948 (including their children born within Myanmar).⁵⁸ Second, a person born in or outside of Myanmar to one parent who is a “citizen”, “associate citizen” or “naturalised citizen” and the other parent is a “foreigner”.⁵⁹ Third, a person born in or outside of Myanmar to parents who are a combination of “associate” and “naturalised citizens” or both parents are “naturalised citizens”.⁶⁰ To be eligible for “naturalised citizenship” under the three aforementioned criteria, an individual must also be aged 18 years or over, be able to “speak well one of the national languages”, and be of “good character” and “sound mind”.⁶¹



Counseling session in Palaw, Tanintharyi Region (Jose Arraiza, NRC)



Family in Thayat Chaung, Tanintharyi Region (Jose Arraiza, NRC)

Fourth, a child whose name is included in one of their parent's NCSC is a "naturalised citizen".⁶² Similar to a child whose name is added to one of their parent's ACSC (as discussed above), for a child whose name is included in their parent's NCSC, once they have reached 18 years of age they and their parents must make an affirmation in writing that they owe "allegiance to the State", will "respect and abide by the laws of the State" and are aware of the "prescribed duties and rights".⁶³ Again, if an affirmation is not made on or before the date in which the child of the NCSC holder reaches 22 years of age and no "sufficient reasons" are provided, then the child of the NCSC holder loses their "naturalised citizenship".⁶⁴ Fifth, a non-citizen spouse may acquire naturalised citizenship through marriage to a person with any of the three types of citizenship provided the date of marriage precedes the enactment of the 1982 Citizenship Law,⁶⁵ being 15 October 1982, and the non-citizen had been issued with a Foreigner's Registration Certificate.⁶⁶ Therefore a foreign spouse cannot acquire "naturalised citizenship" on the basis of their marriage to a Myanmar citizen, if the marriage is entered into after 15 October 1982.

There are no other mechanisms in which a foreign spouse can acquire Myanmar citizenship via marriage and the 1982 Citizenship Law provides that "a foreigner shall not acquire citizenship merely by marriage to a citizen".⁶⁷

Additionally, the 1982 Citizenship Law prohibits spouses conferring the different types of citizenship to their citizen spouses. That is, "an associate citizen shall not acquire citizenship merely by marriage to a citizen",⁶⁸ and "a naturalised citizen shall not acquire citizenship or associate citizenship merely by marriage to a citizen or an associate citizen".⁶⁹

Section 15 of the 1982 Citizenship Law provides that a "citizen shall not automatically lose their "citizenship merely by marriage to a foreigner". This is one potential safeguard against statelessness in such circumstances. However, this provision only applies to "citizens" and not "associate citizens" or "naturalised citizens".⁷⁰

The 1982 Citizenship Law and the Procedures also provide another potential safeguard against statelessness in that "citizenship", "associate citizenship" and "naturalised citizenship" may be conferred to any person if it is determined to be "in the interest of the State".⁷¹ Conversely, "citizenship", "associate citizenship" and "naturalised citizenship" can be revoked if it is determined to be "in the interest of the State", except with respect to a "citizen by birth".⁷²

An individual ceases to be a “citizen”, “associate citizen” or “naturalised citizen” when he or she leaves Myanmar “permanently”, or “acquires” or “registers” as the citizen of another country, or “takes out a passport or similar certificate of another country”.⁷³ Individuals in such circumstances may be stateless or at risk of statelessness if they do not acquire another nationality while abroad.

Myanmar does not have an over-arching legal framework that governs its system of civil registration and documentation. Instead there are a number of separate processes and corresponding systems of documentation, which can together sufficiently demonstrate proof of birth, family connections and citizenship. These documents include birth certificates,⁷⁴ household registration lists,⁷⁵ and citizenship documentation such as the CSCs, ACSCs and NCSCs.⁷⁶

At the age of 10, a child who is a “citizen” is eligible for his or her own CSC, and this is renewed at the ages of 18, 30 and 45.⁷⁷ As explained above, a child born in Myanmar who is not eligible to be a “citizen” can apply to be added to their parent’s ACSC⁷⁸ or NCSC.⁷⁹ That child will then be eligible for their own ACSC or NCSC once they reach the age of 10 years and there is a requirement that the ACSC or NCSC is renewed at the ages of 18, 30 and 45.⁸⁰

The review of decisions regarding the acquisition, confirmation and loss of citizenship in Myanmar as well as access to the results of such review, is limited by section 71 of the 1982 Citizenship Law. That is, for an appeal of a decision of the Central Body to the Council of Ministers pursuant to section 70 of the 1982 Citizenship Law, the decision of the Council of Ministers is final and “no reason need to be given”.⁸¹ This restriction may cause there to be limited jurisprudence regarding the review of administrative decisions pertaining to the application of the 1982 Citizenship Law. However, separate to an appeal pursuant to section 70 of the 1982 Citizenship Law, the 2008 Constitution of the Republic of the Union of Myanmar (“2008 Myanmar Constitution”) provides for the judicial review of decisions concerning citizenship whereby the Supreme Court may issue a prerogative writ.⁸²

With respect to gender equality in Myanmar, the 2008 Myanmar Constitution provides that the Myanmar Government shall not discriminate against any citizen on the basis of “race, birth, religion, official position, status, culture, sex and wealth”.⁸³ It further provides that “mothers, children and expectant women shall enjoy equal rights as prescribed by law”.⁸⁴ However, there are number of laws in Myanmar that do not promote gender equality with respect to citizenship. For example, the 2015 Practicing of Monogamy Law, to the extent that it prohibits polygamy, complies with recommendations by the CEDAW Committee.⁸⁵ However, lack of knowledge amongst women and authorities as to the operation of the law may impact women and children’s ability to access documentation.

Additionally, the 2015 Myanmar Buddhist Women’s Special Marriage Law,⁸⁶ and the 2015 Population Control and Health-Care Law⁸⁷ expressly discriminate on the basis of gender and provide restrictions on specific populations of women in Myanmar with respect to marriage and birth.⁸⁸ That is, restrictions as to birth and marriage as provided by the aforementioned laws may impact women’s ability to register marriages and births and therefore make it difficult for women in such circumstances to prove their identity and links to their ancestors and children. Women in such circumstances are therefore likely to face barriers in acquiring or confirming citizenship, or conferring citizenship to their children.

Specifically, the 2015 Practicing of Monogamy Law prohibits polygamous marriages from being entered into on or after 31 August 2015.⁸⁹ Criminal penalties apply to those who are charged and found to have entered into a polygamous marriage on or after 31 August 2015.⁹⁰

The 2015 Myanmar Buddhist Women’s Special Marriage Law regulates the marriages of Buddhist women to non-Buddhist men. Pursuant to the 2015 Myanmar Buddhist Women’s Special Marriage

Law, Buddhist women and non-Buddhist men must apply to a Township Administrative Officer of the Township General Administration Department for permission to marry.⁹¹ Pursuant to section 9 of the Myanmar Buddhist Women's Special Marriage Law, Township Administrative Officers are required to display applications for marriage in a "conspicuous place" in the Township Administrative Offices and notify the parent or guardian of any applicant woman who is under 20 years of age as well as any former spouses of the applicants.⁹² Fourteen days after notice of an "intended marriage" is displayed and relevant parties are notified, the marriage may be solemnised by a Township Administrative Officer unless it has been previously objected to in writing.⁹³ Township Administrative Officers have authority to receive such objections.⁹⁴ If objections are received, "the objector" is referred to a Court in the township where the application for marriage was made.⁹⁵ The objector may then file their grounds for objection with a Court.⁹⁶ Following the consideration of any objections, a Court has the authority to order whether the parties have "the right to contract a valid marriage".⁹⁷

The 2015 Population Control Health-Care Law, in areas where it is implemented, requires married women to have at least a 36-month interval between their children's births.⁹⁸

The extent to which the application of the 2015 Practicing of Monogamy Law, the 2015 Myanmar Buddhist Women's Special Marriage Law and the 2015 Population Control and Health-Care Law as well as the 1982 Citizenship Law and 1983 Procedures may impact Myanmar's compliance with its international obligations regarding gender equality, equal nationality rights, right to a nationality and right to birth registration is considered below with respect to three relevant international standards: i) women's ability to acquire citizenship on an equal basis with men, ii) women's ability to acquire, retain or confer their citizenship following marriage, and iii) women's ability to confer citizenship to their children.



Kason Festival, Nyin Maw, Tanintharyi Region (Jose Arraiza, NRC)

4 Compliance with international obligations

The 1982 Citizenship Law is prima facie largely compliant with Myanmar's obligations under article 9 of the CEDAW relating to the acquisition, change and retention of nationality and the conferral of nationality to children and spouses.⁹⁹ For example, women are not expressly prevented from changing their citizenship or passing on their Myanmar citizenship to their children if the father of the child is a non-national, and citizenship does not automatically cease upon marriage to a foreigner.¹⁰⁰

However, as noted above, the CEDAW places an overarching obligation on State parties to eliminate all forms of discrimination against women¹⁰¹ and ensure substantive equality between women and men.¹⁰²

In contrast, the citizenship law framework in Myanmar expressly discriminates on the basis of ethnicity and this is a barrier for both women and men of specific ethnicities in acquiring, confirming and retaining Myanmar citizenship, as well as conferring citizenship to their children.¹⁰³ There is also the potential that the application of the 1982 Citizenship Law may indirectly discriminate against certain profiles of women in Myanmar in acquiring, confirming and retaining citizenship, as well as in conferring citizenship to their children. This is due to the existence of the three types of citizenship, that are each afforded different rights, as well as the requirement that applicants for citizenship are usually required to provide evidence of the citizenship of their ancestors.

It follows that the CEDAW Committee in its concluding observations in 2008 expressed its concern at the limited information provided by the Myanmar Government as to the entitlements to acquire Myanmar citizenship under the 1982 Citizenship Law.¹⁰⁴ In particular,

the CEDAW Committee noted the limited available information as to the ability of women to acquire citizenship based on their marital status and ability to pass citizenship to their children born outside the country, as well as children with non-national fathers.¹⁰⁵ The Committee called upon Myanmar to “review the 1982 Citizenship Law and repeal or amend it, as appropriate”, in order to bring it into full compliance with article 9 of the CEDAW.¹⁰⁶ The Committee also called on Myanmar to provide more information on “Myanmar citizenship rights, including on birth certificates of children born in Myanmar, in particular children of ethnic groups, in its next periodic report”.¹⁰⁷



Counseling session with IDPs, Bhamo, Kachin State (Jose Arraiza, NRC)

The CEDAW Committee in 2008 also raised concerns regarding the discriminatory application of the 1982 Citizenship Law with respect to the Rohingya and urged Myanmar to grant citizenship to residents “on the basis of their long-standing ties to Myanmar”, particularly women, and allow “the full enjoyment of their human rights”.¹⁰⁸

In 2015 the Myanmar Government submitted to the CEDAW Committee that “women, children and men enjoy equal rights to acquire, change or retain their nationality in Myanmar” and the 1982 Citizenship Law contains “no discriminatory or restrictive provisions against women and their children”.¹⁰⁹ The Myanmar Government further responded that the 1993 Child Law prescribes that “every child shall have the right to citizenship in accordance with the provisions of the existing law”, and women and men have equal rights in acquiring status as “associate citizens” and “naturalised citizens”.¹¹⁰

In 2016, the CEDAW Committee reiterated its previous recommendations from 2008, as detailed above, adding the recommendation that Myanmar amend the 1982 Citizenship Law “in order to grant citizenship to residents” in Myanmar, “in particular women and girls in northern Rakhine State, so they can freely enjoy all human rights”.¹¹¹ The CEDAW Committee also recommended “compulsory birth registration of those born in camps for internally displaced persons in order to protect them from being rendered stateless”.¹¹²

citizenship” in Myanmar and that Myanmar’s citizenship law does not contain a provision which allows for the granting of nationality to children who would otherwise be stateless.¹¹³ The CRC Committee also raised its concerns regarding the “requirement of having both parents as nationals of the country for citizenship”, and that the three types of citizenship may result in some categories of children and their parents being “discriminated against, stigmatised and/or denied certain rights”.¹¹⁴ Concerns were also raised by the CRC Committee as to the fact that “religion and ethnic origin” is listed on identity documentation in Myanmar.¹¹⁵

The CRC Committee recommended that Myanmar address the gaps in the 1982 Citizenship Law that lead to statelessness, accede to the 1954 Convention relating to the Status of Stateless Persons¹¹⁶ and the 1961 Convention on the Reduction of Statelessness,¹¹⁷ amend the 1982 Citizenship Law so that there is only one category of citizenship, and remove any reference to “ethnic origin on identity cards”.¹¹⁸

With respect to Myanmar’s obligations as to birth registration, in 2012 the CRC Committee acknowledged efforts to improve Myanmar’s birth registration system with the establishment of the “Modified Vital Registration System” and other positive actions such as “advocacy and awareness raising” as to birth registration, “the review of the status of a large number of children born of parents who were unable to obtain marriage authorization in northern Rakhine State, with a view to regularisation”, and the 2014 nationwide census (that was in planning at the time).¹¹⁹ However, it highlighted its concerns as to the following issues: the large number of children, including Rohingya children, who remain unregistered “as a result of insufficient awareness-raising as to the importance of birth registration”; the “non-user-friendly system”; the “lengthy process of obtaining birth certificates at the township level”; the “unofficial fees associated with the birth registration system”; the “existence of the local order that restricts marriages for Rohingya people”; and “the practice aimed at reducing the number of their children”.¹²⁰

The CRC Committee recommended that Myanmar: strengthen its efforts to ensure universal birth registration, irrespective of the child’s “origin and without any discrimination”; improve the birth registration system, which would include “greater access to registry services and sensitization and training for registry officials with a view to ensuring that all children” are “registered at birth and provided with birth certificates and identity cards”; “develop a plan to provide birth registration to all children up to 18 years of age who have not yet been registered”; “remove practical restrictions to ensure that all children are registered at birth without discrimination”; and “abolish the local order restricting marriages for Rohingya people and cease practices which restrict the number of children of Rohingya people”.¹²¹

Myanmar is yet to submit its response to the CRC Committee’s recommendations from 2012.

The below analysis considers Myanmar’s international obligations with respect to ensuring gender equality, the right to a nationality, the right to birth registration and equal nationality rights between men and women (including the concerns and recommendations raised by the CEDAW Committee and CRC Committee) focusing on three international standards that derive from these international obligations: i) women’s ability to acquire, retain or confer citizenship on an equal basis with men, ii) women’s ability to acquire or retain their citizenship following marriage, and iii) women’s ability to confer citizenship to their children.



4.1 Women's ability to acquire citizenship on an equal basis with men

Challenges to accessing citizenship documentation for both men and women

This project's findings with respect to the barriers experienced by both men and women in accessing citizenship documentation is explored first, in order to provide context and contrast to the findings as to the specific barriers that are uniquely faced by women.

Throughout the interviews participants reported that the main barrier in Myanmar to accessing citizenship documentation for both men and women is an applicant's religion and ethnicity. This was said to also apply to ethnic minorities that are included within the "135 recognised ethnic groups".

Participants from ethnic and religious minorities, including those within the "135 recognised ethnic groups", reported delays in receiving citizenship documentation when compared to their friends and colleagues who are, in particular, Bamar Buddhists.



Nuns in Bhamo, Kachin State (Jose Arraiza, NRC)



Suu¹²² a woman of Kayin ethnicity has applied to replace her lost CSC. She has attended four scheduled appointments with the MoLIP at the township level and each time the officer has told her that they are “too busy to assist her”. She believes this is because she is an ethnic minority.

When seeking to obtain or replace citizenship documentation ethnic and religious minorities also reported being requested to provide information that is additional to that required of those who are Bamar Buddhists.

Furthermore, Muslim participants of Bamar ethnicity reported difficulties in obtaining citizenship documentation that accurately reflects their religion and ethnicity. A number of participants explained that when they have applied to renew their citizenship documentation with MoLIP, they are provided with replacement documentation that lists their ethnicity and religion as “Bengali Islam” or “Pakistani Islam”. That is despite the fact that they identify as Muslim of Bamar ethnicity, and their previous CSC listed their ethnicity and religion as “Bamar Islam”. Such practice caused concern in the community as they felt this was a policy of increasing exclusion rather than cohesion.

Participants whose parents adhere to different religions reported longer waiting times to obtain citizenship documentation.

It was reported by participants that many of these barriers linked to religion and ethnicity can often be overcome by paying “unofficial fees”.¹²³ However, very few of the participants in this study indicated that they were able to pay such fees.



Fisher women in Maungmagan, Tanintharyi Region (Jose Arraiza/NRC)

(i) Resources

The process for applying for and replacing citizenship documentation requires the applicant to pay fees to MoLIP and attend numerous appointments. Applicants are usually required to provide documentation that not only proves their identity but also provide documentation that proves their ancestor's citizenship. If an applicant was born in a different area in Myanmar, and does not have information or documentation proving their ancestor's citizenship, they are required to return to their village of origin to obtain information to demonstrate this.

Again, the capacity to pay “unofficial fees” to the authorities, was described as the easiest way to obtain citizenship documentation especially where the applicant cannot confirm their ancestor's citizenship.



Sein, a woman living in a remote community in Mon State, explained that a man in her village wished to migrate to Thailand for work. He paid 3,000,000 MMK (approximately USD 2,200)¹²⁴ in “unofficial fees” to an authority at the township level and was able to obtain a CSC in two days, whereas this process usually takes at least two months. Sein explained that her fellow villager “did not have to provide information as to his ancestor's citizenship because of the unofficial fees that he paid”.

As outlined above, marginalised male and female participants explained that they rarely have the capacity to pay “unofficial fees”. In fact, they struggle to find the resources necessary to pay even the required official fees, take time off work to attend the appointments with MoLIP, and travel back to their home villages to obtain information confirming their ancestor's citizenship, as is often required.



Soe lives in Mandalay and identifies as Bamar Buddhist. She lost her CSC over a year ago, but still has not been able to obtain a replacement. Soe is from a remote village, which is about 3 hours' drive from Mandalay. She had to take a week off from work to travel back to her village and then wait for the village township administrator to provide her with evidence as to her parent's citizenship through a "recommendation letter".¹²⁵ Since obtaining the "recommendation letter" she has taken additional days off work to attend various appointments with a MoLIP at the township level in Mandalay, but the relevant officer has cancelled both of their appointments. Soe cannot afford to take further time off work to complete the process and cannot afford to pay "unofficial fees". As a result, she remains undocumented.

Good relationships with MoLIP officers and the capacity to engage "agents" was also described by participants as helpful in overcoming barriers to accessing citizenship documentation. "Agents" were described by participants as persons who negotiate directly with MoLIP on an applicant's behalf regarding an application for citizenship and other documentation. The fees charged by "agents" were reported as being prohibitively expensive for poorer communities in Myanmar.

Participants reported that if their parents and/or grandparents were deceased then this can provide yet another barrier to obtaining proof of their ancestor's citizenship, even if they were able to travel back to their village to obtain a "recommendation letter" from the village head. Participants outlined that this is sometimes because the village head refuses to provide such information.



Maie travelled to the village where she was born to obtain evidence of her ancestor's citizenship. Her parents and grandparents are deceased. The village head refused to provide this information citing the reason that she had been away from the village too long.

(ii) Travel restrictions on undocumented persons

Persons without citizenship documentation are not able to move freely within Myanmar and face the risk of arrest and detention because of their undocumented status. This impacts their ability to travel to their home village to obtain information in support of their applications for citizenship documentation. Undocumented persons can apply for a "travel authorisation" from their local township administrator in order to travel.¹²⁶ However, participants described that process as being at the discretion of the township administrator.



Aye does not have a CSC because she cannot provide evidence of her parent's citizenship. She has tried a number of times to obtain a "travel authorisation" to travel to her village in order to obtain a "recommendation letter" from the village township administrator as to her parent's citizenship. However, this has been refused by the township officer a number of times.

Securing a "travel authorisation" from the township administrator also often incurs "unofficial fees". However, undocumented people in Myanmar are usually paid less than those with citizenship documentation and will therefore have limited capacity to pay "unofficial fees".

Participants reported that travel by public transport in Myanmar also usually requires the provision of citizenship documentation, and such documentation is also required when travelling through checkpoints or to stay at a hotel or guest house.

These findings reveal that lack of documentation is in itself a barrier to accessing documentation in Myanmar.

(iii) Remote and hard to reach rural areas

Populations from remote and hard to reach rural areas reported facing difficulties in accessing citizenship documentation, in addition to those listed above, simply due to their remoteness from relevant authorities. They also often have limited access to information about the process for applying for citizenship documentation.

Interviewees also reported that many of those in remote and hard to reach rural areas are likely to be illiterate, and so may not be able to complete the required written application process for citizenship documentation.



Htay, a young man living in Mandalay, reported that many people in his remote village in Shan State are illiterate and face difficulty in applying for citizenship documentation. “Immigration does not help them to complete the paperwork. So many illiterate people in my village do not have any citizenship documentation”.

(iv) Conflict-affected areas

Participants from conflict areas, or those who have recently returned to conflict areas following displacement, reported specific difficulties in obtaining citizenship documentation. This included the fact that conflict areas often do not have effective records of residents or births from the area. Also, it is often too dangerous for people to return to conflict areas to obtain information demonstrating their ancestor’s citizenship status.



Kay lives in Mandalay and does not have any citizenship documentation. Both of her parents have passed away and she has no siblings. She is from a village in Shan State where there is ongoing conflict. She is unable to travel back to her village to obtain information as to her ancestor’s citizenship. “It is too dangerous to go back to my village, I just have to live with my situation – I cannot do anything about it”.



4.1 : Women's ability to acquire citizenship on an equal basis with men

Transgender Dancer during Tadingyut Festival, Dawei, Tanintharyi Region (Jose Arraiza, NRC)

Challenges to accessing citizenship documentation as a result of gender discrimination

In addition to the above mentioned barriers faced by both men and women in confirming or acquiring citizenship, participants revealed that women face further specific barriers.

Gender norms in Myanmar, that is the standards and expectations to which women and men generally conform,¹²⁷ were described by participants as playing a key role in women's ability to access documentation. They appear to influence factors such as access to information and contacts; ease with which women in Myanmar can travel to obtain supporting information and file applications; the preference by families to obtain documentation for men over women in the household; and the implementation of laws that prohibit polygamy and regulate marriage between Buddhist women and non-Buddhist men. These factors are examined below.

(i). Information and contacts

A number of participants stressed that having a wide network of connections is essential to obtaining citizenship documentation. Representatives from non-government organisations (NGOs) throughout the research locations also explained that women generally do not have as broad a network as men, because of entrenched gender norms in Burmese culture.

For example, it was reported by participants that according to custom in Myanmar men are seen as leaders in the community and are usually listed as the head of the household on the family's household registration list. Participants explained that this role assumes a particular place of authority and influence in Myanmar.

Participants reported that the head of household is usually the one to attend meetings at the township level with other household heads to consider and decide on the issues that are relevant to the governance of the township. Through such interactions, it was reported that men are able to extend their personal networks in a way that women are not.



Access to these sorts of networks was described as also providing only men with the opportunity to learn about the procedure for applying for citizenship documentation and connect with people of influence, who are then able to assist with obtaining citizenship documentation. Women are conversely removed from these sorts of interactions and therefore lack this aspect of empowerment.

If a woman happens to be the head of a household, this is colloquially termed in Myanmar society as an “irregular household” (pye yo phye sin ma hout tae ein tao su). 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 pejorative. Some of the single mothers interviewed, as well as key informants from NGOs, reported that although they are listed as the head of their households they still do not usually attend the township meetings that would be attended by a male in their position. Even if they were to do so it would not be appropriate for them to engage in the discussions at the meeting, or lead any decision making processes regarding the issues discussed. Accordingly, even those women who are the head of a household are precluded from the sorts of networks and interactions that may meaningfully assist in obtaining citizenship documentation. The consequence of this is that they may experience specific difficulties in confirming or acquiring citizenship.

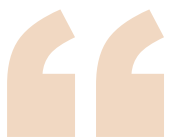
(ii) Ease of travel

Interviewees, both men and women, from marginalised communities reported that men are able to travel in Myanmar more easily than women. They explained that women in Myanmar are extremely vulnerable to gender based violence, harassment and the risk of human trafficking, particularly when travelling alone and/or if they are undocumented.



Thanda does not have a CSC card and is a human trafficking survivor. About five years ago she travelled to Thailand in search of better paid work. During transit she was abducted by the smuggler that she had paid to help her travel to Thailand. She was forced to work for the smuggler before escaping and returning to Myanmar. Thanda explains that if she had a CSC card, she would have been less likely to have been trafficked. “If I had a CSC card I would have been able to travel legally and not rely on a smuggler. There would be less risk if I had a CSC”.

Interviewees explained that men’s ability to move more freely in Myanmar facilitates their ability to travel to their home village to obtain relevant information and connect with relevant authorities. This is often necessary for obtaining required documentation and applying for citizenship.



Thiri has lived in Mandalay city since 1993 but has never travelled outside of Mandalay city because she does not have a CSC card. She is scared of being harassed by officers at the checkpoints, because she is undocumented and female.

(iii) Family preference

Participants outlined that families usually prioritise obtaining citizenship documentation for men in the family.¹²⁸ It was explained by participants that although citizenship documentation enables both men and women in Myanmar to obtain higher paid work, men will usually earn higher wages than women in any respect. Participants reported that families will therefore see it as more financially viable to prioritise obtaining citizenship documentation for the men in the family as opposed to the women. This is particularly the case for poorer families who have difficulty raising the financial resources to cover the fees associated with applying for citizenship documentation, especially if these are to include additional “unofficial fees”.

(iv) Interfaith marriage and polygamy

As detailed above, the 2015 Myanmar Buddhist Women’s Special Marriage Law requires couples, if the female is Buddhist and the male is non-Buddhist, to seek permission from the a Township Administrative Officer of the Township General Administration Department or a Court to marry. Also, as detailed above, the 2015 Practicing of Monogamy Law prohibits polygamous marriages being entered into on or after 31 August 2015 and criminal penalties apply.¹²⁹

The majority of men and women in the focus group discussions had no knowledge that these laws had been enacted or what they prescribed. However, NGO representatives were aware of these laws and expressed their concerns as to how their implementation may impact women and children in Myanmar with respect to access to citizenship documentation.

NGO representatives were concerned that the requirements of the 2015 Myanmar Buddhist Women’s Special Marriage Law may result in Buddhist women and non-Buddhist men living together without marrying to avoid the process of applying for permission to do so, and having their application publicly displayed and potentially scrutinised by a Court. Alternatively, such a couple may not know that the requirement to apply for permission exists. If a Buddhist woman and non-Buddhist man live together without marrying, or marry without registering the marriage first (both of which would be in breach of the 2015 Myanmar Buddhist Women’s Special Marriage Law),¹³⁰ NGO representatives expressed their concern that authorities will refuse to update the household registration list to demonstrate that they are in fact living together.

Similarly, NGO representatives reported that if women are in a polygamous marriage and living with their husband and his other wives (which would be in breach of the 2015 Practicing of Monogamy Law), then authorities may also refuse to update their household registration list.

Alternatively, NGO representatives discussed that women in either or both of the situations above may simply avoid authorities altogether and not apply to update their household registration list (or register births or apply for and update citizenship documentation) if they understand they are living in breach of the 2015 Myanmar Buddhist Women’s Special Marriage Law and/or 2015 Practicing of Monogamy Law.

In all of these situations, without an accurate household registration list it may be difficult for women to obtain or replace their own citizenship documentation at the required ages of 18, 30 and 45, since a household registration list can be required for this process. This may also impact children’s ability to obtain citizenship documentation because this process usually relies on proving the citizenship of the child’s ancestors, as well as the provision of a household registration list.



Focus Group Discussion with Karen women in Thaton, Mon State (Jose Arraiza, NRC)

(v) Single mothers

Interviews with single mothers, some of whom were widows, revealed significant and unique issues regarding their access to citizenship documentation. Those interviewed during this research project reported that single mothers, especially widows, are considered to be of lower status in Myanmar.¹³¹ Participants explained that this often impacts their confidence in approaching authorities to obtain documentation. They also reported experiencing discrimination when dealing with authorities because of their status as single mothers.



Sandar is a widow with two children. She has a CSC and her children have birth certificates, but she has not been able to obtain a CSC for her children. Sandar has a copy of her deceased husband's National Registration Card (NRC),¹³² but MoLIP at the township level will not accept this as sufficient evidence of his identity and citizenship, and the township administrator will not issue her a "recommendation letter" to provide to MoLIP. Suu believes that this is because she is a widow and therefore "is not respected in society".



Yadana is an elderly disabled widow of Kayin ethnicity living in Mon State. She reported that her children and grandchildren do not have any documentation. She has tried to obtain a "recommendation letter" from the village head, so she could obtain a CSC and then obtain citizenship documentation for her children and grandchildren. Yadana explained that the village head refused to give her a "recommendation letter" saying "you are old and a widow, what do you need a document for, do not waste my time". Yadana is worried for her children's and grandchildren's future in Myanmar without citizenship documentation.

The status of single women (particularly widows) in Myanmar society was also described as limiting their work opportunities to the lowest paid jobs, in comparison to other women in Myanmar. This therefore has a heightened impact on their capacity to secure the resources required to obtain citizenship documentation in comparison to other women.





Yu lives in Hlaing Thar Yar in the outskirts of Yangon. She is a widow with three children. She lost her CSC and children's birth certificates in Cyclone Nargis in 2008. She has not been able to replace these documents because she does not have the resources to pay the associated fees or collect the supporting information from her birth village that is needed to replace her card. Without a CSC she is limited in the work she can undertake, and lives week to week working at a food stall in her village.

(vi) Women engaged in commercial sex

Women engaged in commercial sex interviewed throughout this project reported experiencing substantial discrimination when dealing with authorities in Myanmar and the impact that this had on their access to citizenship documentation.



Yadanar is a woman engaged in commercial sex. Her purse (containing her CSC) was stolen by one of her clients, but she did not report this to the police since she is afraid of being arrested by police because of the nature of her employment.¹³³ MoLIP at the township level have advised that to replace her CSC she is required to obtain a letter from the police explaining how she lost her card. Yadanar is too scared to explain this to police for fear of being shamed and also arrested because of her employment. Yadanar remains without citizenship documentation.



Wai is a woman engaged in commercial sex and was arrested by police while at work. The police seized her CSC and have not returned it. Since being released, she has applied to MoLIP at the township level for a replacement. She explains that she has made four appointments with MoLIP at the township level to obtain a replacement CSC. On each occasion she was not seen and advised that the MoLIP officers were too busy. Wai explains that the MoLIP officers "will not help me because of my job".

Participants who are women engaged in commercial sex also explained that they would feel safer at work if they had citizenship documentation. This was predominantly because this would enable them to legally rent hotel rooms to carry out their work.



Yi is a woman engaged in commercial sex in Mandalay. Because she does not have citizenship documentation she cannot hire a hotel room for her work, and has to borrow a friend's CSC. She is worried that one day she will be arrested by the police for using someone else's CSC.

The majority of participants from this cohort also explained that if they had citizenship documentation then they would seek out alternative employment because citizenship documentation would allow them to secure better paid and safer employment.¹³⁴



Zin explains that if she had citizenship documentation she would seek out employment as a "cleaner or office worker" because it is "better paid and with better conditions". She explains, "it is unsafe working as a sex worker in Mandalay, but I have no choice since I am undocumented".



4.2

Women's ability to acquire, retain or confer their citizenship following marriage

As detailed above the 1982 Citizenship Law does not allow a foreign spouse (male or female) to acquire “citizenship” or “associate citizenship” from their spouse.¹³⁵ With the respect to “naturalised citizenship” a foreign spouse is limited to only acquiring “naturalised citizenship” from their “citizen”, “associate citizen” or “naturalised citizen” spouse if the marriage was entered into before 15 October 1982 and the foreign spouse holds a Foreigner’s Registration Certificate.¹³⁶

Additionally, the 1982 Citizenship Law does not allow Myanmar citizens to confer the type of citizenship that they hold on their citizen spouse. That is, “an associate citizen shall not acquire citizenship merely by marriage to a citizen”,¹³⁷ and “a naturalised citizen shall not acquire citizenship or associate citizenship merely by marriage to a citizen or an associate citizen”.¹³⁸

With respect to women’s ability to retain their citizenship following marriage, women who have married or are seeking to marry a foreign husband may be rendered stateless or at risk of statelessness by application of the 1982 Citizenship Law. 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 and her application has not yet been determined, or the application has been refused.¹³⁹ Other situations of concern arise when the husband changes his nationality, is rendered stateless himself, dies, or where the marriage ends in divorce.¹⁴⁰

As discussed above, the 1982 Citizenship Law provides a potential safeguard against a “citizen” automatically losing citizenship merely by marriage to a foreigner.¹⁴¹ However, this potential safeguard does not apply to “associate citizens” or “naturalised citizens”.¹⁴² Additionally, the 1982 Citizenship Law does not require that the loss or renunciation of Myanmar nationality is contingent on the possession or acquisition of another nationality, and there is no provision for women left stateless in such circumstances to reacquire Myanmar citizenship.¹⁴³

The prohibition of dual nationality in the 1982 Citizenship Law also increases the likelihood of statelessness among marriages between Myanmar nationals and foreigners, particularly if the Myanmar national revokes their Myanmar nationality in order to acquire another nationality through marriage but does not in fact acquire another nationality.¹⁴⁴

4.3 Women's ability to confer citizenship to their children

Children born outside of Myanmar

The eligibility criteria for “citizenship”, “associate citizenship” and “naturalised citizenship” under the 1982 Citizenship Law applies equally to individuals born in and outside of Myanmar. That is, a child born outside of Myanmar to Myanmar citizen parents (who are “citizens”, “associate citizens” and “naturalised citizens” or some combination of these) has the same eligibility to Myanmar citizenship as a child born in Myanmar to two Myanmar citizen parents (who are “citizens”, “associate citizens” and “naturalised citizens” or some combination of these).

Additionally, the 1993 Child Law and the 1982 Citizenship Law requires children who are “citizens” by birth and children born to “associate citizens” and “naturalised citizens”, born either in or outside of Myanmar, to have their birth registered.¹⁴⁵ Late registration is also permitted.¹⁴⁶



Interview in Thaton, Mon State (Jose Arraiza, NRC)

As detailed above, the ability to confirm or acquire Myanmar citizenship is usually dependent on the citizenship status of an applicant's ancestors, and birth registration (and birth certificates) provide evidence of the links between a child and its parents. Therefore, birth registration and birth certificates are a vital tool for ensuring women's ability to confer their citizenship to their children.

Children born abroad, and who are registered by foreign authorities, must have their births registered again with the Myanmar authorities when their parents return.¹⁴⁷ For example, returned migrant and refugee interviewees reported that Thai birth certificates are not accepted by the Myanmar authorities as proof of identity or birth. One village leader reported that there were over 30 children in his village that were born in Thailand.

If one of the parents of a child born abroad is not a Myanmar national, the Myanmar national parent in these circumstances was reported to face difficulties in re-registering their child upon

return to Myanmar and obtaining citizenship documentation for them. Conversely, participants reported that if the Myanmar national returns to a rural area with a child born to a foreigner, then they are less likely to face problems in re-registering the birth in Myanmar (or even registering for the first time) as their circumstances are more likely to be known and understood by community leaders in rural areas in comparison to urban areas.

It was also reported that if the mother or father is not of one of the “135 recognised ethnic groups” and the child was born abroad, the family are also likely to face difficulties in registering the child’s birth for the first time as well as re-registering the birth upon return to Myanmar.

In summary, women in any of the abovementioned circumstances may face difficulties obtaining proof of birth for their children from the Myanmar authorities, and if they do, then they will also be hindered in conferring nationality to their children.

Children born to non-national fathers

The 1982 Citizenship Law does not allow for a Myanmar citizen to pass their “citizenship” or “associate citizenship” status on to their child if the child’s other parent is not a Myanmar citizen.¹⁴⁸ If the Myanmar authorities consider a non-national father or mother to be a “foreigner” as per the 1982 Citizenship Law, the child will only be eligible for “naturalised citizenship” if the Myanmar national mother or father is a “citizen” or “associate citizen”.¹⁴⁹ In such circumstances, the child who is eligible for “naturalised citizenship” will be required to fulfil the criteria for “naturalised citizenship” pursuant to section 44 of the 1982 Citizenship Law before acquiring or confirming “naturalised citizenship”. The criteria being that the applicant is eighteen years of age, is able to “speak well one of the national languages” and is of “good character” and “sound mind”.¹⁵⁰ A child who acquires “naturalised citizenship” via this mechanism will not enjoy the same rights that attach to “citizenship” or “associate citizenship”, as enjoyed by their Myanmar national father or mother.¹⁵¹



Fisher woman and child in Maungmagan, Dawei, Tanintharyi Region (Jose Arraiza/NRC)



Preparing the Tadingyut Festival, Thayat Chaung, Tanintharyi Region (Jose Arraiza, NRC)

Alternatively, if the child is born to parents who are combination of a non-national and “associate citizen”, the child may be able to acquire “associate citizenship” if the “Central Body decides” to enter the name of the child into the ACSC of the “associate citizen” parent.¹⁵² If the child’s name is not entered in the ACSC of the parent who is an “associate citizen”, then the child will not become an associate citizen and will only be eligible for “naturalised citizenship” pursuant to section 44 of the 1982 Citizenship Law.¹⁵³

Similarly, if the child is born to parents who are combination of a non-national and “naturalised citizen”, the child may be able to acquire “naturalised citizenship” if the “Central Body decides” to enter the name of the child into the NCSC of the “naturalised citizen” parent.¹⁵⁴ If the child’s name is not entered in the NCSC of the parent who is a “naturalised citizen”, then the child will not become a “naturalised citizen” and will only be eligible to apply for “naturalised citizenship” pursuant to section 44 of the 1982 Citizenship Law.¹⁵⁵

A child born to a non-national father or mother in these circumstances will not be stateless. However, the operation of these provisions with respect to non-national fathers and mothers is detailed in this report in light of the CEDAW Committee’s concluding observations in 2008 and 2016 which noted the limited available information as to the ability of women to pass Myanmar citizenship to their children with non-national fathers.¹⁵⁶

Children born to unknown or absent fathers

An applicant child, as discussed above is usually required to provide evidence of their ancestor's citizenship in order to acquire or confirm citizenship. This may in practice indirectly discriminate against single mothers and their children in situations where the identity of the child's father is not known or he is otherwise absent. That is, children with an unknown or absent father may experience difficulty in providing evidence of the citizenship of both of their parents and they may be rendered stateless or at risk of statelessness as a result.

This is particularly a risk for female human trafficking survivors and their children. Myanmar women are extremely vulnerable to human trafficking and exploitation when migrating abroad for work.¹⁵⁷ For female human trafficking survivors returning to Myanmar as single mothers, if they are unable to provide any evidence of the identity or citizenship of the child's father this can result in the child being stateless or at risk of statelessness.¹⁵⁸

As detailed above, birth registration in Myanmar, including late registration, is a legislated requirement pursuant to the 1993 Child Law and the 1982 Citizenship Law and 1983 Procedures.¹⁵⁹ Standard national procedures for birth registration and the provision of birth certificates are provided by the Ministry of Health and Ministry of Home Affairs, respectively¹⁶⁰. However, interviews with participants revealed that each region of Myanmar has its own process and evidentiary requirements regarding birth registration and the provision of birth certificates. In practice, the varying requirements in different areas of Myanmar can restrict access to birth registration and have consequences with respect to women's ability to confer citizenship to their children where the father is unknown or otherwise absent.¹⁶¹

Participants in Yangon outlined that an applicant for birth registration (and a birth certificate) must provide the name and citizenship documentation identification number for both the child's mother and father. Participants advised that this results in a large number of children



Market in Dawei, Tanintharyi Region (Jose Arraiza, NRC)



Women at the harbor, Myeik (Tanintharyi Region), Jose Arraiza, NRC

being without birth registration because applicants are not able to provide this information if they are without citizenship documentation or are a single parent. This hinders these children's ability to prove their links to their parents and therefore inherit citizenship from their mothers (and fathers).

Since a birth certificate is usually required to attend primary school in Myanmar, single mothers (where the father is unknown or otherwise absent) have reportedly adopted various strategies to ensure that their children obtain a birth certificate.¹⁶² According to NGO representatives in Yangon, male friends sometimes offer their names and citizenship documentation identification numbers to applicant single mothers. Alternatively, single mother applicants list their own father as the child's father (if their father has citizenship documentation).

NGO representatives also reported that there is a growing trend where men (sometimes community or religious leaders) volunteer their name and the identification number on their citizenship documentation, so that single mothers in circumstances where the father is unknown or otherwise absent can register the birth of their children and obtain a birth certificate. One interviewee revealed that he was officially the father of ten children because he has provided his name and citizenship card identification number to a NGO that assists single mothers to obtain birth registration and birth certificates.¹⁶³

In these circumstances, when the child reaches the age of 10 and applies for citizenship documentation, if the person named on their birth certificate as the child's father is no longer available or willing to vouch to be the child's father, then that child will face significant problems proving their father's citizenship (or purported father's citizenship). This will impact their ability to obtain citizenship documentation and for their mother to confer nationality to the child.

In Mon State, participants reported that there is the requirement that both the mother and father's name is listed in the birth certificate. However an applicant is not required to provide

both parent's citizenship documentation identification numbers. Single mothers (where the father is unknown or otherwise absent) reported adding the name of their own father, the name of one of their friends, or making up a name in order to meet the requirements. In practice this results in better access to birth registration and birth certificates. However, children in such circumstances will also face the same difficulties as listed above inheriting their mother's citizenship (and father's citizenship) if they are unable to provide sufficient evidence of the father's citizenship to support their application.

In Mandalay, undocumented parents and single mothers (where the father is unknown or otherwise absent) reported being able to register a birth and obtain a birth certificate without the requirement that both parent's names and citizenship documentation's identity numbers is listed. Although this allows children to access birth registration and certificates more easily, similar to that described above, if they cannot provide evidence of their father's identity or citizenship then the child will have difficulty obtaining citizenship documentation and citizenship. They will also have difficulty inheriting their mother's citizenship.

A religious community leader in Mandalay reported that when a child applies for citizenship documentation at ages 10 and 18, in some cases MoLIP requests an affidavit from both of the parents confirming that they are in fact the birth parents as per the birth certificate. That is especially the case if the parents are from an ethnic or religious minority. When such documentation is requested, children who are unable to obtain an affidavit from the person listed as the father on their birth certificate will face difficulties in obtaining citizenship documentation and acquiring and confirming citizenship. This will also hinder the ability of women to confer citizenship to their children in such circumstances.

Children born in remote and hard to reach rural areas

Participants explained that women and men from this cohort often have little understanding or appreciation of the importance of obtaining birth registration and birth certificates for their children. It was reported that if a child is born in a hospital and the hospital has the required facilities to provide a birth certificate then they are usually, in theory, able to obtain one. However, this is entirely dependent on a request for a certificate by the parents.



Mya explained “when my child was born I travelled to a nearby town from my village for a caesarean. My husband and I did not realise that I could obtain a birth certificate from the hospital and the doctors and staff at the hospital did not explain that I could obtain a birth certificate. None of my children have birth certificates”.

If a child is born in a rural village, rather than a hospital, participants reported facing difficulties registering births and obtaining birth certificates due to limited access to authorities and resources.



Thinzar works on a remote farm in Mon State. She has not been able to register the births of her children because the Government authorities visit her village to register births when she and her husband are working on a farm far from their village. Thinzar and her husband do not have the financial resources to take time off work when the Government authorities visit.

It was also reported that in rural areas authorities often do not accurately update household registration lists to include new born children.

Without registration on the household registration list or a birth certificate, children in these areas

will have difficulty proving who they are or the required links to their parents. They may also have been born to parents who are themselves in a similar situation with respect to not having a birth certificate or being registered on a household registration list.

The above barriers to birth registration and obtaining birth certificates for children born in remote and hard to reach rural areas, will impact both men and women's ability to confer nationality to their children because it may make it difficult or impossible for these children to prove the required links to their parents and their parent's citizenship.

Children born to unauthorised marriages

Unauthorised marriages in Myanmar can arise by virtue of both the 2015 Practising of Monogamy Law and the 2015 Myanmar Buddhist Women's Special Marriage Law. A marriage will be unauthorised where it has not been authorised pursuant to the 2015 Myanmar Buddhist Women's Special Marriage Law,¹⁶⁴ or where it is a polygamist marriage.¹⁶⁵ As detailed above, women who are in such a marriage may fear approaching authorities. This may prevent them from taking the steps necessary to acquire or confirm their citizenship and confer citizenship to their children. For example they may be reluctant to apply for citizenship, to update their citizenship documentation at the required intervals (ages 18, 30 and 45) or register births. Additionally, women in an unauthorised marriage may face discrimination when applying for relevant documentation or the application may itself be refused. Therefore the operation of these laws may result in women having difficulty proving who they are, links to their ancestors and links to their children. This in turn will impact women's ability to confirm or acquire citizenship, as well as to confer citizenship to their children.

Children born in locations subject to the 2015 Population Control Health-Care Law

As detailed above, the 2015 Population Control Health-Care Law, in areas where it is implemented, requires married women to have at least a 36-month interval between their children's births.¹⁶⁶ In areas where 2015 Population Control Health-Care law is enforced, women may be discouraged from registering children who are not born following a 36-month interval.¹⁶⁷ Therefore, the operation of these provisions may provide a barrier to women in passing their citizenship to their children as well as access to birth registration. To date, based on interviews with NGO representatives, this law has not been implemented in any areas of Myanmar.

Children born in conflict areas

Participants reported that during times of conflict there was often no opportunity to register a birth. That is, Government staff usually do not attend villages in conflict areas because of the associated dangers. It was reported that most children born in conflict areas would not have a birth certificate. Kayin women in Mon State who had lived through conflict and been displaced a number of times described that their children's births had been registered via traditional mechanisms. These include inscribing the child's name and date of birth on a piece of bamboo wood that also holds the same details for other family members. Women in such circumstances are likely to face difficulties in conferring nationality to their children without Government records proving the birth of their children and the identity of the child's parents.¹⁶⁸

5 Conclusion



Fish market in Dawei, Tanintharyi Region (Jose Arraiza, NRC)

This analysis has found that there are a number of barriers that women experience in acquiring, confirming and retaining citizenship and conferring citizenship to their children, which are contrary to Myanmar's obligations with respect to eliminating gender inequality, the right to a nationality, the right to birth registration and equal nationality rights between men and women. This may result from gaps in the 1982 Citizenship Law and 1983 Procedures, gender discriminatory domestic laws, barriers to birth registration, as well as gender norms in Myanmar society. Based on the above analysis a number of recommendations have been made that aim to ensure that Myanmar is in compliance with its international obligations. These recommendations include specific amendments to the 1982 Citizenship Law and 1983 Procedures, ensuring universal birth registration, repealing specific gender discriminatory laws enacted in 2015, providing practical assistance to female applicants for citizenship documentation, and fostering environments conducive to eliminating gender discrimination and the barriers experienced by women in acquiring, confirming and retaining citizenship.



6 Recommendations

Based on the above analysis and findings, the following recommendations should be implemented to ensure that Myanmar is in compliance with its obligations to eliminate gender discrimination and uphold the right to a nationality, the right to birth registration and equal nationality rights between men and women.

Recommendation 1: Amend and repeal specific laws and procedures and implement and update relevant policies as follows:

- 1.1 Amend the 1982 Citizenship Law and 1983 Procedures to prevent and reduce statelessness and meet Myanmar's international obligations with respect to gender equality, the right to a nationality, the right to birth registration and equal nationality rights between men and women. This includes:
 - 1.1.1 Allow for the conferral of citizenship on the basis an objective criteria, rather than primarily on the basis of membership of a recognised ethnic group.
 - 1.1.2 Ensure that those who have been identified as stateless are able to acquire citizenship through a facilitated naturalisation procedure.
 - 1.1.3 Allow a foreign spouse (male or female) to acquire Myanmar citizenship on the basis of marriage to a Myanmar citizen, irrespective of the date in which the marriage was entered into.
 - 1.1.4 Provide safeguards to prevent risks of statelessness such as allowing for the automatic reacquisition of Myanmar citizenship if a woman does not acquire and retain her foreign husband's nationality.
 - 1.1.5 Extend the safeguard against a "citizen" automatically losing citizenship following marriage to a foreigner to apply also to "naturalised citizens" and "associate citizens".
 - 1.1.6 Ensure that children who would otherwise be stateless can acquire Myanmar citizenship, including those with one parent who is a Myanmar citizen, therefore removing some of the barriers single mothers face in conferring citizenship to their children, where the father may be unknown or otherwise absent.
- 1.2 Ensure universal birth registration for all children born in Myanmar, irrespective of the citizenship status of their parents or whether the child's application for birth registration includes information only as to one parent.
- 1.3 Ensure birth certificates issued by foreign authorities for children born abroad are recognised by Myanmar authorities, irrespective of the child's parent's ethnicity or religion or whether one of the child's parents is a non-national.
- 1.4 Repeal the 2015 Myanmar Buddhist Women's Special Marriage Law and 2015 Population Control Health-Care Law in accordance with Myanmar's international obligations to eliminate gender discrimination and articles 348 and 351 of the 2008 Myanmar Constitution.



Fisher women cleaning the nets, Maungmagan, Tanintharyi Region (Jose Arraiza, NRC)

Recommendation 2: Provide practical assistance to applicants for citizenship, citizenship documentation, and birth registration. This would include the following:

- 2.1 Facilitate information and public awareness campaigns that support women in Myanmar to learn about and understand the process for applying for citizenship and citizenship documentation, including the importance of obtaining citizenship documentation for women and girls and the impact of not possessing citizenship documentation.
- 2.2 Facilitate information and public awareness campaigns on existing avenues for administrative and judicial redress regarding excessive delays, arbitrary refusals or other decisions affecting a woman's citizenship status and access to documentation, particularly amongst religious and ethnic minorities.
- 2.3 Develop programs that build the capacities of community leaders regarding issues associated with civil documentation and procedures, so they can better assist applicants (particularly female applicants).

Recommendation 3: Foster environments conducive to eliminating gender discrimination and the specific barriers experienced by women in acquiring, confirming and retaining citizenship.

- 3.1 Develop training programs that raise awareness within MoLIP and other relevant authorities as to the specific barriers women may face in accessing citizenship documentation and other relevant documentation.
- 3.2 Facilitate information campaigns that seek to address gender inequality and raise awareness on how gender inequality can impact women's access to citizenship documentation.
- 3.3 Facilitate further research on the ability of women and their children to acquire, confirm and retain citizenship in Myanmar, particularly gender specific barriers. This includes, for example, research as to the linkages between access to documentation and gender based violence, harassment and trafficking risks in Myanmar.

7 End notes

¹ A stateless person is someone “who is not considered as a national by any State under the operation of its law” – see article 1(1) of UN General Assembly, Convention Relating to the Status of Stateless Persons (adopted 28 September 1954, entered into force 6 June 1960), United Nations, Treaty Series, vol. 360, p. 117 <<http://www.refworld.org/docid/3ae6b3840.html>> (1954 Convention Relating to the Status of Stateless Persons).

² The terms “citizenship” and “nationality” are used interchangeably throughout this report.

³ Duniya Aslam Khan, ‘First results of family counting in Bangladesh find every third refugee household vulnerable’ (Press briefing delivered at Palais des Nations, Geneva, 7 November 2017) <<http://www.unhcr.org/news/briefing/2017/11/5a0192138/first-results-family-counting-bangladesh-find-third-refugee-household-vulnerable.html>>.

⁴ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981), United Nations, Treaty Series, vol. 1249, p. 13 <<http://www.refworld.org/docid/3ae6b3970.html>> (CEDAW).

⁵ UN General Assembly, Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990), United Nations, Treaty Series, vol. 1577, p. 3 <<http://www.refworld.org/docid/3ae6b38f0.html>> (CRC).

⁶ UN General Assembly, Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly (adopted 24 January 2007), A/RES/61/106 <<http://www.refworld.org/docid/45f973632.html>> (CRPD).

⁷ In terms of Myanmar’s obligations at a regional level, since Myanmar is a member of the Association of Southeast Asian Nations (“ASEAN”) it must be noted that the ASEAN Regional Plan of Action on the Elimination of Violence against Women (ASEAN RPA on EVAW) and the ASEAN Regional Plan of Action on the Elimination of Violence against Children (ASEAN RPA on EVAC) both acknowledge the vulnerabilities that stateless women and children face with respect to violence. See Association of South East Asian Nations (ASEAN), ASEAN Regional Plan of Action on the Elimination of Violence against Women (ASEAN RPA on EVAW) (2016-2025) <<https://acwc.asean.org/resources/other-documents/asean-regional-plan-of-action-on-the-elimination-of-violence-against-women-asean-rpa-on-evaw/>> p. 7, and Association of South East Asian Nations (ASEAN), ASEAN Regional Plan of Action on the Elimination of Violence against Children (ASEAN RPA on EVAC) (2016-2025) <<https://acwc.asean.org/resources/other-documents/asean-regional-plan-of-action-on-the-elimination-of-violence-against-children-asean-rpa-on-evac/>> pp. iii and 9.

⁸ CEDAW, art. 2.

⁹ UN Committee on the Elimination of Discrimination against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, 5 November 2014, CEDAW/ C/GC/32 <<http://www.refworld.org/docid/54620fb54.html>> para. 4, and see generally Sandra Fredman and Beth Goldblatt, Discussion Paper: Gender Equality and Human Rights, UN Women (No. 4, July 2015) <<http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2015/goldblatt-fin.pdf?la=en&vs=1627>>.

¹⁰ CEDAW, art. 9(1) and (2).

¹¹ Ibid, art. 9(1).

¹² UN Committee on the Elimination of Discrimination against Women, above n 9, para. 59.

¹³ CEDAW, art. 3.

¹⁴ Ibid, art. 5(a).

¹⁵ Ibid, art. 5(b).

¹⁶ Ibid, art. 6.

¹⁷ Ibid, art. 7.

¹⁸ Ibid, art. 10.

¹⁹ Ibid, art. 11.

²⁰ Ibid, art. 12.

²¹ Ibid, art. 13.

²² *Ibid*, art. 15.

²³ *Ibid*, art. 16.

²⁴ CRC, art. 7(1).

²⁵ *Ibid*, art. 7(2).

²⁶ *Ibid*, art. 2.

²⁷ CRPD, art. 18(1).

²⁸ *Ibid*, art. 4(1).

²⁹ *Ibid*, art. 18(1)(a).

³⁰ *Ibid*, art. 18(1)(b).

³¹ *Ibid*, art. 18(2).

³² 1954 Convention Relating to the Status of Stateless Persons, above n 1.

³³ Other important international frameworks include the UN General Assembly, Declaration on the Rights Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Adopted by General Assembly resolution 47/135 of 18 December 1992) <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/Minorities.aspx>> and, UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195 <<http://www.refworld.org/docid/3ae6b3940.html>> .

³⁴ Myanmar Citizenship Law, 1982, 15 October 1982 (“1982 Citizenship Law”) (unofficial translation).

³⁵ The 1983 Procedures includes three different sets of procedures, namely: Procedures relating to Myanmar Citizenship Law, 1983 (1983 Procedures relating to Citizenship) No. 13/83 (“1983 Procedures relating to Citizenship”) (unofficial translation); Procedures relating to Myanmar Citizenship Law, 1983 (1983 Procedures relating to Associate Citizenship) No. 14/83 (“1983 Procedures relating to Associate Citizenship”) (unofficial translation); and Procedures relating to Myanmar Citizenship Law, 1983 (1983 Procedures relating to Naturalised Citizenship) No. 15/83 (“1983 Procedures relating to Naturalised Citizenship”) (unofficial translation).

³⁶ 1982 Citizenship Law, s. 76.

³⁷ Union Citizenship Act, 1948, Act No. LXVI of 1948 (“1948 Union Citizenship Act”) (unofficial translation).

³⁸ Union Citizenship (Election) Act, 1948, Act No. XXVI of 1948 (“1948 Union Citizenship (Election) Act”) (unofficial translation).

³⁹ The Advisory Commission on Rakhine State recommended in August 2017 that the 1982 Citizenship Law be amended to bring the “legislation into line with best practices, including the abolition of distinctions between different citizens”, explaining that “having just one citizenship category is generally preferable” as it “meets the important objective of equal rights for all citizens”. See Advisory Commission on Rakhine State, Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final Report of the Advisory Commission on Rakhine State (August 2017) <http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf> page 31.

⁴⁰ The 1948 Union Citizenship Act and the 1948 Union Citizenship (Election) Act also provided for more inclusive grounds to citizenship in comparison to the 1982 Citizenship Law. For a description of the criteria for citizenship under the 1948 Union Citizenship Act and the 1948 Union Citizenship (Election) Act see José María Arraiza and Olivier Vonk, Report on Citizenship Law: Myanmar (Country Report 2017/14, October 2017) <http://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS_GLOBALCIT_CR_2017_14.pdf?sequence=1> pp. 5-6.

⁴¹ 1982 Citizenship Law, ss. 30(c) and 53(c). “Associate citizens” and “naturalised citizens” do not have the same access as “citizens” to various rights that attach to citizenship in Myanmar, such as political participation, education, health, freedom of movement and property. See Arraiza and Vonk, above n 40, p. 8.

⁴² The cards are differently coloured. The CSC is pink in colour, the ACSC is blue and the NCSC is green.

⁴³ 1982 Citizenship Law, ss. 13, 31 and 54.

⁴⁴ Arraiza and Vonk, above n 40, p. 1.

⁴⁵ 1982 Citizenship Law, s. 3 and 1983 Procedures Relating to Citizenship, s. 5. This provision applies equally to a person born in and outside of Myanmar.

⁴⁶ 1983 Procedures Relating to Citizenship, ss. 5 and 6.

- ⁴⁷ Section 3 of the 1982 Citizenship Law defines “Nationals” as “the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from a period prior to 1185 B.E, 1823 AD. are Burma citizens”. Section 4 of the 1982 Citizenship Law provides that the “Council of the State may decide whether any ethnic group is a national or not”.
- ⁴⁸ 1982 Citizenship Law, s. 5 and 1983 Procedures Relating to Citizenship, s. 6.
- ⁴⁹ 1982 Citizenship Law, s. 6 and 1983 Procedures Relating to Citizenship, s. 7. However, persons who meet this criteria are not considered “citizens by birth”.
- ⁵⁰ 1982 Citizenship Law, s. 7(a) and 1983 Procedures Relating to Citizenship, s. 8(a).
- ⁵¹ 1982 Citizenship Law, s. 7(b) and (c), and 1983 Procedures Relating to Citizenship, ss. 8(b) and (c).
- ⁵² 1982 Citizenship Law, s. 7(d)-(f) and 1983 Procedures Relating to Citizenship, s. 8 (d)-(f).
- ⁵³ 1982 Citizenship Law, s. 23 and 1983 Procedures Relating to Associate Citizenship, s. 3.
- ⁵⁴ *Ibid.*
- ⁵⁵ 1982 Citizenship Law, s. 25 and 1983 Procedures Relating to Associate Citizenship, s. 6.
- ⁵⁶ 1982 Citizenship Law, ss. 24 and 26 and 1983 Procedures Relating to Associate Citizenship, s. 7. These provisions apply to children born in and outside of Myanmar. See 1983 Procedures Relating to Associate Citizenship, ss. 14 and 15.
- ⁵⁷ 1982 Citizenship Law, s. 28 and 1983 Procedures Relating to Associate Citizenship, s. 8(a)(7).
- ⁵⁸ 1982 Citizenship Law, s. 42 and 1983 Procedures Relating to Naturalised Citizenship, s. 3. This residency requirement is exceptionally long and is not usual in other jurisdictions. It is also a requirement that the applicant had not applied for citizenship under the 1948 Union Citizenship Act.
- ⁵⁹ 1982 Citizenship Law, s. 43(a), (c) and (e) and 1983 Procedures Relating to Naturalised Citizenship, s. 5.
- ⁶⁰ 1982 Citizenship Law, s. 43(b) and (d) and 1983 Procedures Relating to Naturalised Citizenship, s. 5.
- ⁶¹ 1982 Citizenship Law, s. 44 and 1983 Procedures Relating to Naturalised Citizenship, s. 4.
- ⁶² 1982 Citizenship Law, s. 47 and 1983 Procedures Relating to Naturalised Citizenship, s. 5.
- ⁶³ 1982 Citizenship Law, ss. 46 and 48 and 1983 Procedures Relating to Naturalised Citizenship, s. 11. These provisions apply to children born in and outside of Myanmar. See 1983 Procedures Relating to Naturalised Citizenship, ss. 18 and 19.
- ⁶⁴ 1982 Citizenship Law, s. 50 and 1983 Procedures Relating to Naturalised Citizenship, s. 12.
- ⁶⁵ 1982 Citizenship Law, s. 45. There is also the requirement that the applicant has reached 18 years of age, is of “good character” and “sound mind”, is the “only husband or wife” and “have resided continuously in the State for at least three years as the lawful wife or husband”.
- ⁶⁶ Pursuant to the Registration of Foreigners Act, 1940, Burma Act VII of 1940, 28 March 1940 (“1940 Registration of Foreigners Act”) (unofficial translation) and Registration of Foreigners Rules, 1948, 4 January 1949 (“1948 Registration of Foreigners Rules”) (unofficial translation), foreigners are required to report to the relevant authority for registration. Foreigner registration is then evidenced by the issue of a Foreigner’s Registration Certificate. See 1940 Registration of Foreigners Act, s. 3, and 1948 Registration of Foreigners Rules, ss. 5 and 6(2).
- ⁶⁷ 1982 Citizenship Law, s. 15(b).
- ⁶⁸ *Ibid.*, s. 33.
- ⁶⁹ *Ibid.*, s. 56.
- ⁷⁰ Section 15(a) of the 1982 Citizenship Law states “a citizen shall not lose his citizenship merely by marriage to a foreigner”. Section 15 is contained within chapter II of the 1982 Citizenship Law that applies only to type 1 “citizenship”. Chapter III applies to type 2 “associate citizenship” and chapter IV applies to type 3 “naturalised citizenship”. Chapters III and IV are both silent as to the loss of citizenship following marriage to foreigners and any safeguard in this respect. Therefore, this safeguard as to loss of citizenship following marriage only applies to type 1 “citizenship”.
- ⁷¹ 1982 Citizenship Law, s. 8(a).
- ⁷² *Ibid.*, s. 8(b).
- ⁷³ *Ibid.*, ss. 16, 34 and 57.

⁷⁴ Birth registration is a legislated requirement pursuant to Child Law, 1993, SLORC Law No. 9/93, 14 July 1993 (1993 Child Law”) (unofficial translation), s. 9(b); 1982 Citizenship Law, ss. 9 and 10; 1983 Procedures relating to Associate Citizenship, ss. 14 and 15; and 1983 Procedures relating to Naturalised Citizenship, ss. 18 and 19.

⁷⁵ A household registration list (also known as a family registration list, household registration card, family household list, Form-66/6 or Form 10) is a compulsory record of the individuals residing in each household in Myanmar, including newborn children.

⁷⁶ National Registration Cards (NRC) were issued to citizens following the enactment of the Residents of Myanmar Registration Act, 1949 (unofficial translation) (“1949 Registration Act”) and the Residents of Myanmar Registration Rules, 1951 (unofficial translation) (“1951 Registration Rules”). See Nyi Nyi Kyaw, ‘Unpacking the Presumed Statelessness of Rohingyas’ (2017) 15(3) Journal of Immigrant and Refugee Studies 274-6. Temporary Registration Cards (TRCs or white cards) were often issued to those who had lost or damaged their NRC cards or to those with pending applications for NRCs. See 1951 Registration Rules, ss. 2 and 13. TRCs were invalidated by a Presidential Notification in February 2015. See President Office Notification no. 19/2015, 11 February 2015. In December 2015, the Identity Card for National Verification (ICNV or “turquoise card”) was introduced as an interim card for the citizenship verification process which sought to address citizenship and documentation issues for minority populations in a number of areas in Myanmar, including Rakhine State. NRC and ICNV holders who have not acquired a CSC, ACSC or NCSC may not be considered citizens of Myanmar by the current Government, as NRCs and ICNVs are resident registration cards issued pursuant to the 1949 Registration Act and the 1951 Registration Rules. See Arraiza and Vonk, n 31, pp. 6, 9 and 10.

⁷⁷ 1983 Procedures Relating to Citizenship, s. 12.

⁷⁸ 1982 Citizenship Law, s. 25.

⁷⁹ *Ibid.*, s. 47.

⁸⁰ 1983 Procedures relating to Associate Citizenship, ss. 8-9, 12-15 and 17 and 1983 Procedures relating to Naturalised Citizenship, ss. 5, 10, 12 and 13.

⁸¹ 1982 Citizenship Law, ss. 70(b) and 71.

⁸² Constitution of the Republic of the Union of Myanmar, 2008 (“2008 Constitution”) (unofficial translation), art. 378. For example, Writs of Certiorari can “cancel an unlawful decision by an executive power”, Writs of Prohibition can “prohibit and prevent an illegal act by an executive power”, Writs of Mandamus can “direct an official to perform their duties or correct an illegal action”, Writs of Habeas corpus can “review the legality of an individual’s detention”, and Writs of Quo Warranto can “prevent a person from carrying out unauthorized acts”. See International Commission of Jurists, Special Economic Zones in Myanmar and the State Duty to Protect Human Rights (February 2017)

<<https://www.icj.org/wp-content/uploads/2017/02/Myanmar-SEZ-assessment-Publications-Reports-Thematic-reports-2017-ENG.pdf>> p. 30.

⁸³ 2008 Myanmar Constitution, article 348. However, non-citizens or foreigners do not benefit from the same constitutional safeguards and the 2008 Myanmar Constitution does not define what constitutes discrimination against women or include any reference to direct and indirect discrimination. See Gender Equality Network, Myanmar Laws and CEDAW – The Case of Anti-Violence Against Women Laws (January 2013) <http://www.burmalibrary.org/docs20/Myanmar_Law+CEDAW-en-red.pdf> p.6.

⁸⁴ 2008 Myanmar Constitution, art. 351.

⁸⁵ Practicing of Monogamy Law, 2015, No. 54/2015, 31 August 2015 (“2015 Practicing of Monogamy Law”) (unofficial translation). The CEDAW Committee in 1994 stated that “polygamous marriage contravenes a woman’s right to equality with men and can have such serious emotional and financial consequences for her and her dependants that such marriages ought to be discouraged and prohibited”. See UN Committee on the Elimination of Discrimination Against Women, CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations, 1994 <<http://www.refworld.org/docid/48abd52c0.html>>.

⁸⁶ Myanmar Buddhist Women’s Special Marriage Law, 2015, No. 50/2015, 26 August 2015 (“2015 Myanmar Buddhist Women’s Special Marriage Law”) (unofficial translation).

⁸⁷ Population Control and Health-Care Law, 2015, 28/2015, 27 April 2015 (“2015 Population Control and Health-Care Law”) (unofficial translation).

⁸⁸ Amnesty International, Myanmar: Briefing to the UN Committee on the Elimination of Discrimination Against Women (July 2016) <<http://www.refworld.org/docid/577e09054.html>> pp. 7-8.

⁸⁹ 2015 Practicing of Monogamy Law, ss. 6, 10 and 12. Therefore, existing polygamous marriages that were entered into before 31 August 2015 are not prohibited by the 2015 Practicing of Monogamy Law. Note, 31 August 2015 is the date the 2015 Practicing of Monogamy Law was enacted.

⁹⁰ *Ibid.*, s. 13. However, before the 2015 Practicing of Monogamy Law was enacted, polygamy was already a criminal offence pursuant to s. 494 of the Penal Code, 1861 (1 May 1981) (unofficial translation). It is important to note that the application of 2015 Practicing of Monogamy Law to polygamous marriages entered into after 31 August 2015 and s. 494 of the Penal Code, generally, is in conflict with Burmese Buddhist Law, Hindu Law and Islamic personal law in Myanmar, which permits polygyny (when a husband takes more than wife). See Melissa Crouch, 'Promiscuity, Polygyny, and the Power of Revenge: The Past and Future of Burmese Buddhist Law in Myanmar' (2016) 3(1) *Asian Journal of Law and Society* 85, 95.

⁹¹ 2015 Myanmar Buddhist Women's Special Marriage Law, ss. 5 and 6.

⁹² *Ibid.*, s. 9(a).

⁹³ *Ibid.*, s. 10.

⁹⁴ *Ibid.*, s. 11.

⁹⁵ *Ibid.*, s. 12.

⁹⁶ *Ibid.*, s. 13(a). Grounds for objection consider the couple's compliance with section 4 of the 2015 Myanmar Buddhist Women's Special Marriage Law. Section 4 of the 2015 Myanmar Buddhist Women's Special Marriage Law states that "a non-Buddhist man, who has attained the age of 18, and a Buddhist woman, who has attained the age of 18, may contract a valid marriage under this Act if the following facts are fulfilled: (a) both parties shall not be of unsound mind, (b) consent to marry shall be voluntary and free from seduction, inducement, coercion, undue influence, fraud or misrepresentation, (c) if the woman has not attained the age of twenty, the consent of the parents, or if they are dead, of the guardian or de facto or of the guardian de jure, if any, shall be obtained; (d) in the case of a women, no valid marriage shall subsist; and (e) in the case of a man, no valid marriage shall subsist."

⁹⁷ *Ibid.*, s. 13(d).

⁹⁸ 2015 Population Control Health-Care Law, ss. 2 and 7, and Amnesty International, above n 88, pp. 7-8.

⁹⁹ Above n 9, para. 59.

¹⁰⁰ 1982 Citizenship Law, s. 15. Note this only applies to "citizens" and not "associate citizens" and "naturalised citizens".

¹⁰¹ CEDAW, art. 2. Additionally, article 2(1) of the CRC places an obligation on State parties to ensure that the rights in the CRC, including the right to nationality and birth registration, are enjoyed without discrimination including discrimination on the basis of race, sex or "ethnic origin". The article 4(1) of the CRPD places an obligation on State parties to "ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability".

¹⁰² UN Committee on the Elimination of Discrimination against Women, above n 9, para. 4, and Fredman and Goldblatt, above n 9.

¹⁰³ Arraiza and Vonk, above n 40, p. 11. The prohibition of ethnic and racial discrimination is a norm of customary international law that is binding on all States. See for example, *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971, p.16, paras 128-132. See also *Case of the Yean and Bosico Children v. The Dominican Republic*, Inter-American Court of Human Rights (IACrHR), 8 September 2005 at para 141, in which the Inter-American Court of Human Rights reasoned that "when regulating mechanisms for granting nationality, States must abstain from producing regulations that are discriminatory or have discriminatory effects on certain groups of population when exercising their rights".

¹⁰⁴ UN Committee on the Elimination of Discrimination against Women, Concluding observations of the Committee on the Elimination of Discrimination against Women: Myanmar, 7 November 2008, CEDAW/C/MMR/CO/3, para. 30.

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*, para. 31.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*, paras. 32 and 33.

¹⁰⁹ UN Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States parties under article 18 of the Convention, Combined fourth and fifth periodic reports of States parties due in 2014: Myanmar, 2 March 2015, CEDAW/C/MMR/4-5 <<http://www.refworld.org/docid/577e06ee4.html>> para. 86.

¹¹⁰ Ibid.

¹¹¹ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fourth and fifth periodic reports of Myanmar, 25 July 2016, CEDAW/C/MMR/CO/4-5, para 33.

¹¹² Ibid.

¹¹³ UN Committee on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention, Concluding observations: Myanmar, 14 March 2012, CRC/C/MMR/CO/3-4 <http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_MMR_CO_3-4.pdf> para. 41.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ 1954 Convention Relating to the Status of Stateless Persons, above n 1.

¹¹⁷ UN General Assembly, Convention on the Reduction of Statelessness (adopted 30 August 1961, entered into force 13 December 1975), United Nations, Treaty Series, vol. 989, p. 175 <<http://www.refworld.org/docid/3ae6b39620.html>>.

¹¹⁸ UN Committee on the Rights of the Child, above n 113, para. 42.

¹¹⁹ Ibid, para. 43.

¹²⁰ Ibid.

¹²¹ Ibid, para 44.

¹²² All names and identifying details of interviewees have been anonymised.

¹²³ Throughout the field research, the term “unofficial fees” (Tayar Mawin Chae) was referred to by participants when discussing bribes paid to Government officials to obtain citizenship documentation and other documentation.

¹²⁴ This is roughly equivalent three years of wages for an agricultural worker in Myanmar. See Sergiy Zorya, ‘Unleashing Myanmar’s agricultural potential’, on The World Bank, East Asia and Pacific on the rise (27 May 2016) <<http://blogs.worldbank.org/eastasiapacific/unleashing-myanmar-agricultural-potential>>.

¹²⁵ “Recommendation letters” can be issued by authorities in Myanmar as a substitute for citizenship or other documentation.

¹²⁶ “Travel authorisations” are issued by township administrators and have a specified timeframe in which a person can travel to and from particular locations.

¹²⁷ United Nations Statistics Division, Gender Statistics Manual – Integrating a gender perspective into statistics (21 May 2015) <<https://unstats.un.org/unsd/genderstatmanual/Glossary.ashx>>.

¹²⁸ Note these findings may not correspond with the 2014 Myanmar Census’ finding that almost a third of the population of Myanmar do not have any form of identity documentation and that there is very little disparity between men and women in Myanmar who are undocumented. The Republic of the Union of Myanmar, 2014 Myanmar Population and Housing Census, The Union Report: Census Report Volume 2 (May 2015) <<http://myanmar.unfpa.org/publications/union-report-volume-2-main-census-report>> pp. 2, 208 and 209.

¹²⁹ As outlined in part 3 of the this report, Rohingya in Rakhine State, Myanmar are subject to specific regulations and policies that require Rohingya couples to seek permission from the authorities in order to marry, and which restricts Rohingya couples from having more than two children. See also Fortify Rights, Policies of Persecution: Ending Abusive State Policies Against Rohingya Muslims in Myanmar (25 February 2015) <http://www.fortify-rights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf> pp. 10, 24, 30-32, and 62-73.

¹³⁰ Article 23(a) of the 2015 Myanmar Buddhist Women’s Special Marriage Law provides that “When a Buddhist woman and a non-Buddhist man have been cohabiting without registering their marriage under this Act, the woman or her parents, guardian, relatives may give such information to a Registrar within whose jurisdiction she resides. The Registrar shall record the information, and it shall be signed by the informant”. Upon receiving the information, the Registrar has the power to summon the couple “who are cohabiting without being registered” to appear before the Registrar on a date fixed by the Registrar. See 2015 Myanmar Buddhist Women’s Special Marriage Law, s. 23(b)(i). The Registrars are the Township Administrative Officers of the Township General Administrative Department. See 2015 Myanmar Buddhist Women’s Special Marriage Law, s. 5.

¹³¹ See also Brenda Belak, Gathering Strength: Women from Burma on their rights, (Muang Chiangmai, Thailand, 2002), p. 49; Hein Ko Soe, ‘A sanctuary for single mothers’, Frontier Myanmar (online), 1 September 2017 <<https://frontiermyanmar.net/en/a-sanctuary-for-single-mothers>> Ei Cherry Aung, ‘Child abandonment cases highlight single motherhood, sex education problems’, Frontier Myanmar (online), 7 June 2016 <<https://frontiermyanmar.net/en/child-abandonment-cases-highlight-single-motherhood-sex-education-problems>>.

¹³² See above n 76.

¹³³ Performing and soliciting for commercial sex is illegal in Myanmar by virtue of ss. 3 and 5 of the Suppression of Prostitution Act, 1949, "The Burma Code", Vol. IV, pp. 156-161 (unofficial translation). See B.K. Sen, 'Women and Law in Burma' (2001) 9 Legal Issues on Burma Journal, p. 30.

¹³⁴ Without citizenship documentation men and women are limited in the type of employment they can obtain. However, undocumented women were reported to have even fewer employment opportunities in comparison to undocumented men. Additionally, undocumented women are generally paid less than undocumented men when they are able to find employment. Without citizenship documentation participants reported that they are unable to obtain loans from the Myanmar Government should they wish to set up their own businesses, or to open a bank account in order to receive a wage.

¹³⁵ 1982 Citizenship Law, s. 15(b).

¹³⁶ *Ibid*, s. 45.

¹³⁷ *Ibid*, s. 33.

¹³⁸ *Ibid*, s. 56.

¹³⁹ UN Committee on the Elimination of Discrimination against Women, above n 9, para. 60.

¹⁴⁰ *Ibid*.

¹⁴¹ 1982 Citizenship Law, s. 15.

¹⁴² Above n 70.

¹⁴³ UN Committee on the Elimination of Discrimination against Women, above n 9, para. 63(e).

¹⁴⁴ *Ibid*, para. 54.

¹⁴⁵ Above n 74.

¹⁴⁶ *Ibid*.

¹⁴⁷ The Republic of the Union of Myanmar, Ministry of Planning and Finance, Manual for the Birth and Death Registration System (July 2017), p. 17.

¹⁴⁸ See 1982 Citizenship Law, s. 7 regarding "citizenship". Chapter III of the 1982 Citizenship Law is silent on this point regarding "associate citizenship."

¹⁴⁹ 1982 Citizenship Law, s. 43. That is, a child with a non-citizen parent is only eligible for "naturalised citizenship", if the other parent is either a "citizen", "naturalised citizen" or "associate citizen". However, if the child acquires the foreign citizenship of their non-national parent, they are prohibited from acquiring Myanmar citizenship since the 1982 Citizenship Law prohibits dual nationality.

¹⁵⁰ *Ibid*, s. 44.

¹⁵¹ See above n 41.

¹⁵² 1983 Procedures relating to Associate Citizenship, s. 6. "A child whose name is included in the parents' certificate of associate citizenship is an associate citizen" pursuant to section 25 of the 1982 Citizenship Law and is required to make an affirmation pursuant to section 24 of the 1982 Citizenship Law. See 1983 Procedures relating to Associate Citizenship, s. 7.

¹⁵³ *Ibid*.

¹⁵⁴ 1982 Citizenship Law, s. 47 and 1983 Procedures relating to Naturalised Citizenship, s. 5.

¹⁵⁵ 1983 Procedures relating to Naturalised Citizenship, s 5.

¹⁵⁶ UN Committee on the Elimination of Discrimination against Women, above n 104 and UN Committee on the Elimination of Discrimination against Women, above n 111.

¹⁵⁷ United States of America Department of State, Trafficking in Persons Report (June 2017) <<https://www.state.gov/documents/organization/271339.pdf>> pp. 105-8; Asian Development Bank, United Nations Development Programme, United Nations Population Fund, and the United Nations Entity for Gender Equality and the Empowerment of Women, Gender Equality and Women's Rights in Myanmar: A situational analysis (2016) <http://mm.one.un.org/content/dam/unct/myanmar/docs/unct_mm_UNWomen_Report_Gender%20Situation%20Analysis.pdf> p. 144.

¹⁵⁸ The requirement that a child must provide evidence of both of their parents' citizenship in order to acquire or confirm citizenship can also place women in the precarious situation where they may be forced to stay with an abusive partner to maintain their child's ability to acquire or confirm citizenship through its parents.

¹⁵⁹ Above n 74.

¹⁶⁰ Key informant interview, Yangon August 2017. A copy of the standard national procedures, in Burmese, are with the authors.

¹⁶¹ The Ministry of Planning and Finance's Manual for Birth and Death Registration does not provide specific guidance on the birth registration process if the father is absent, unknown or is a foreigner. Of note, the birth registration forms listed in the manual (i.e. the Birth Information Form, Birth Register and Birth Certificate) include information about each parent's "race", religion and citizenship status. See The Republic of the Union of Myanmar, Ministry of Planning and Finance, above n 147, pp. 31–33.

¹⁶² Participants reported that parents of children without a birth certificate are sometimes able to obtain a "recommendation letter" from the local township authority that allows a child without a birth certificate to attend primary school. This was described as a more common practice in rural areas than in urban areas.

¹⁶³ There is the potential that such circumstances may render the mother as vulnerable to exploitation by the man listed as the father in the child's birth certificate, due to the power the man wields in the arrangement.

¹⁶⁴ 2015 Myanmar Buddhist Women's Special Marriage Law, s. 6.

¹⁶⁵ 2015 Practicing of Monogamy Law, ss. 6, 10 and 12.

¹⁶⁶ 2015 Population Control Health-Care Law, ss. 2 and 7, and Amnesty International, above n 88, pp. 7-8.

¹⁶⁷ Amnesty International, above n 88, pp. 7-8.

¹⁶⁸ Further analysis and research is required to determine whether traditional mechanisms for birth registration are recognised by Myanmar authorities.

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