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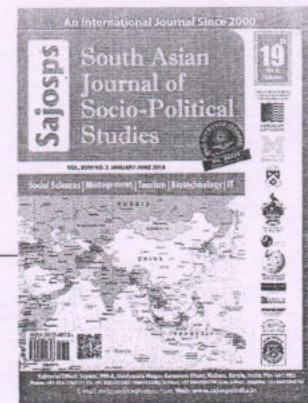


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## Part-I

### Historical Setting

The word 'Rohingya' is a historical name for the Muslim Arakanese. There is still a Muslim village in Akayab (Sittwe) city by the name of Rohingya para. The old name for Rakhine State was Rohang from which the term Rohingya was derived. Today, this terminology (Rohingya) has become politically charged. Two strong blocs in Myanmar have emerged: pro and anti Rohingya. The pro bloc takes the view that the Rohingyas settled in Burma in the ninth century, which, through the ages, have mixed with Bengalis, Persians, Moghuls, Turks and Pathans, in line with the historically pluralistic population of Arakan State. The latter takes the view that the Rohingyas are a modern construct, comprising, principally, of illegal Chittagonian Bengalis that arrived as a by-product of British colonial rule. The term Rohingya however lost its salience since the late 1960s due to the fact that the government uses the term 'Bengali', which implies immigrant status. The Rohingyas — Muslims and ethnically different from the rest ethnic groups in Myanmar — are not recognised as 'citizens' of Myanmar. They are considered as 'resident foreigners'. The Burma Citizenship Law (1982) divided citizens by three different categories: citizens, associate citizens, and naturalized citizens. Citizenship status comes with three colour coded citizenship scrutiny in card pink, blue and green respectively.

The previous parliamentary government (before 1962, the civilian government, headed by Prime Minister U Nu, a social democratic politician) listed 144 ethnic groups in Burma. But General Ne Win put only 135 groups on a short list, and then was approved by his BSPP regime's constitution of 1974. In its census,

Myanmar deliberately excluded Rohingyas from the list of the country's 135 official ethnic groups. One of the most important arguments Ne Win's government put forth in favour of the exclusion is that the citizenship law recognizes citizens those whose families had settled in the country before independence in 1948 (Tran, 2015). In addition, some other events rendered them stateless such as Operation Nagamin which was launched in 1978 (Equal Rights Trust, 2014), when many Rohingyas had their official documentation taken away by inter-agency teams of inspectors. Subsequently, the military regime promulgated the 1982 Citizenship Law (Equal Rights Trust, 2014).

Under section 6 of the 1982 Law, persons who were already citizens at the time the law came into force would continue to be so. The law also provided for "Associate" and "Naturalised" citizenship, the former being for those whose citizenship applications were being processed at the time and the latter being those who are not citizens but can establish that they and their predecessors lived in the country prior to independence (Equal Rights Trust, 2014). Thus, all Rohingyas for whom Myanmar was home should have been able to continue to enjoy/acquire Myanmar nationality either under section 6 of the Act, or as naturalised or associate citizens.

However, while most Rohingyas would be able to trace their ancestry, at least, to the colonial period, the lack of adequate documentation meant that the vast majority have not been recognised as citizens. Those who were qualified for citizenship under the 1948 law, would no longer qualify under this new law. Therefore, they would be considered associate citizens if they had applied for citizenship in 1948 (Human

Rights Watch, 2008). In order to become a naturalized citizen, one has to have evidence that they (applicant or their parents) entered and resided in Burma prior to independence in 1948. Rohingyas were not subjected to any laws such as the Foreigner Act (Indian Act III, 1846), the Registration of Foreigners Act (Burma Act VII, 1940) and the Registration of Foreigners Rules, 1948) related to Registration of Foreigners before or after Burma's independence. Under national quota, Rohingya representatives were elected during colonial administration from North Arakan as Burmese nationals. In 1946, as an indigenous people, General Aung San assured full rights and privileges to Muslim Rohingyas saying that native people should not be divided.

Citizenship is a necessary category condition for claiming full entitlements of rights in a sovereign state. The theoretical constructions of citizenship, according to Bosniak and Bloemraad encompass four primary dimensions of the concept: legal status, rights, political participation and belonging. Establishing mono-religious nationalist ideology may be in the mindset and ethnic cleansing is the way of creating such nation. Implications for the lack of full citizenship are far reaching. They become subject to abuses, including restrictions on their freedom of movement, discriminatory on access to education, forced labour and arbitrary confiscation of property.

In 1942, Japan invaded Burma and Britain retreated, forcing many Rohingyas to flee into East Bengal. Tensions between the government and the Rohingya escalated after Burma became independent and the Burma Socialist Party seized power and dismantled Rohingya social and political organizations in 1962. In 1977, the military registered all