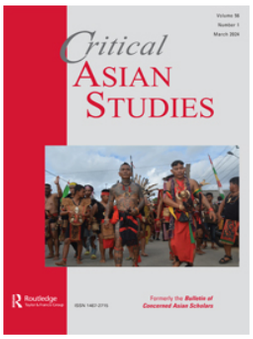
The specter of potential foreigners: revisiting the postcolonial citizenship regimes of Myanmar and India

Rhoads, E.L.; Das, R.



Critical Asian Studies

ISSN: (Print) (Online) Journal homepage: www.tandfonline.com/journals/rcra20

The Specter of Potential Foreigners: Revisiting the Postcolonial Citizenship Regimes of Myanmar and India

Elizabeth L. Rhoads & Ritanjan Das

To cite this article: Elizabeth L. Rhoads & Ritanjan Das (25 Apr 2024): The Specter of Potential Foreigners: Revisiting the Postcolonial Citizenship Regimes of Myanmar and India, Critical Asian Studies, DOI: 10.1080/14672715.2024.2340996

To link to this article: https://doi.org/10.1080/14672715.2024.2340996

Published online: 25 Apr 2024.

CRITICAL ASIAN STUDIES
https://doi.org/10.1080/14672715.2024.2340996

Routledge
Taylor & Francis Group

The Specter of Potential Foreigners: Revisiting the Postcolonial Citizenship Regimes of Myanmar and India

Elizabeth L. Rhoads [a]* and Ritanjan Das [b]*

[a]Centre for East and South-East Asian Studies, Department of History, Lund University, Sweden, Lund; [b]Leiden Institute of Area Studies, Leiden University, Netherlands, Leiden

ABSTRACT

Revisiting the citizenship regimes of Myanmar and India through a comparative lens, this article argues that a specter of the "potential foreigner" is decisive in the adjudication of citizenship in both countries. Citizenship is conceptualized not only on the basis of who is a citizen, but a perennial suspicion towards those who may not be. We frame this argument in the context of increasingly restrictive atmospheres in both countries, epitomized by violence towards the Rohingya in Myanmar and the Citizenship Amendment Act in India. This paper employs an historical perspective, tracing the evolution of citizenship since the partitions of Burma and Pakistan from India. It interrogates the very notion of foreignness that is embedded in these discourses, through a detailed description of the religious, ethnic, racial, and administrative "other" etched in the legislative and socio-political fabric of both countries. In order to develop the idea of potential foreigner as a key element of national identity and citizenship policy, the paper examines crucial legislation over the last three-quarters of a century, and the consequences of linking narrowing definitions of ethno-national belonging to citizenship status.

ARTICLE HISTORY
Received 13 November 2023
Accepted 5 April 2024

KEYWORDS
potential foreigner; postcolonial citizenship; Myanmar; India; partition

Introduction

Contestation around the notion of citizenship has become one of the defining features of South Asian politics in the last few decades. The conventional understanding of citizenship as an institutionalized system of formal and informal norms defining access to membership of a sovereign nation-state is increasingly fraught with "self-imposed national blinders."[1] In fact, with steadily rising rates of global migration, religious and ethnic intolerance,[2] and the concomitant rise in often acerbic forms of othering,[3] the question of who is – or claims to be – a citizen has significant global resonance. In an effort to "strip away such national

CONTACT Elizabeth L. Rhoads Elizabeth.rhoads@ace.lu.se Centre for East and South-East Asian Studies, Department of History, Lund University
*Both authors equally contributed to the article.
[1]FitzGerald 2012, 1726.
[2]Jacobsen et al. 2016.
[3]Schenk 2021.

blinders," contemporary scholars who research citizenship often adopt a comparative lens, as an understanding of how political membership is regulated in different contexts not only leads to learning about citizenship regimes across time and space, but also to a better understanding of how political membership is governed within one's own community.[4]

We use a comparative historical approach to analyze postcolonial citizenship in Myanmar and India, tracing the divergent paths of citizenship in each since the British colonial government administratively separated the province of Burma[5] from British India in 1937.[6] This comparison has considerable relevance for broader discussions of contemporary postcolonial citizenship in both states, especially given the genocidal violence against Rohingya in Myanmar and their resulting statelessness stemming from the 1982 Citizenship Act,[7] and, in India, the Modi administration's contentious Citizenship Amendment Act of 2019 and its increasingly identity-fused understanding of citizenship.[8] More specifically, as the questions of who is and is not a citizen have become increasingly pertinent, we argue that a specter of the potential foreigner shapes citizenship regulations in both Myanmar and India.

Through a close reading of these two states' successive citizenship legislation originating from a common colonial source, we demonstrate how this specter is ingrained in the history and memory of both, and continues to push both states away from an inclusive *jus soli* (birthright) principle towards a more exclusionary *jus sanguinis* (descent-based) definition of citizenship. There are some marked differences in each, as the government of Burma/Myanmar has conceptualized citizenship more restrictively since independence whereas in India legislative changes have gradually narrowed the definition of citizenship. We nonetheless identify clear commonalities that support our argument about the muscular majoritarian-fuelled ideas of citizenship currently on display in both countries.

Our analysis is rooted in the interdisciplinary domain of citizenship studies, which is theory-rich but has not produced a comprehensive definition of citizenship.[9] The most common definition, as membership in a nation-state, and alternative framings about the status and practice of citizenship, all carry certain presumed "conception[s] of politics, culture, temporality, and sociality."[10] Hannah Arendt famously critiqued the universality of human rights by demonstrating how rights are lost when an individual is not a citizen of any state. In Arendt's formulation, the "right to have rights" is the right to membership in a political community, the right to belong, epitomized by the concept and status of citizenship.[11]

Twentieth century scholarship on citizenship tended to "locate the origins of modern notions of citizenship at the conjecture of political, intellectual, and legal currents in early modern Europe."[12] This work was influenced by T.H. Marshall's typology of civil, political, and social citizenship[13] and Hans Kohn's ethnic and civic models of

[4]Vink 2017, 222.
[5]We use "Burma" to refer to pre-1989 Myanmar. The military junta changed the English name for the country in 1989 to match the Burmese language name for the country, "Myanmar." The choice of using Burma/Myanmar is not political but rather to align with contemporary historical sources used in this article.
[6]Guyot-Rechard 2021; Saha 2015.
[7]Brinham 2019; Nyi Nyi Kyaw 2017.
[8]Roy 2022.
[9]Isin and Nyer 2014.
[10]Isin and Nyer 2014, 1.
[11]Arendt 1951.
[12]Chatterji 2012,1049.
[13]Marshall 1949.

nationhood.[14] As Joya Chatterji notes, twentieth century scholars largely assumed that newly independent states derived their citizenship regimes from European models.[15] Later works on citizenship largely persisted with such assumptions, focusing on the differences between procedural and substantive citizenship, and largely took for granted that citizenship of postcolonial states was automatically bestowed on all inhabitants following independence.[16] Yet, as Chatterji's study of "minority citizens" in South Asia reminds us, "the question of whether full formal citizenship was actually extended to all members of these states, and how it was created, qualified, or denied in specific historic locations and circumstances, has not sufficiently been investigated."[17] Recent scholarship attends to Chatterji's question. For example, drawing on Arendt in her study of colonial bureaucracy and partitions in the British Empire, Yael Berda dubs those excluded from the political community via partition, "citizenship's others."[18]

Within recent citizenship studies, citizenship has been defined "as an 'institution' mediating rights between the subjects of politics and polity to which these subjects belong."[19] In the postcolonial context, such an approach has primarily meant understanding how citizenship status becomes contested by investigating practices through which claims are articulated and subjectivities are formed. In doing so, the postcolonial lens offers an understanding of citizenship from the viewpoint of the marginalized, a critique of European experiences, and a re-examination of the liberal constructions of citizenship.[20] In particular, it charts how colonial legacies, nationalism, and majoritarianism in newly independent nations gave rise to legal tensions between citizenship by birth and by descent, and how legal frameworks of citizenship were significantly influenced by struggles over defining a national political identity.[21] As Engin Isin points out:

> [the] enactment of citizenship is paradoxical because it is dialogical. The moment of the enactment of citizenship, which instantiates constituents, also instantiates other subjects from whom the subject of a claim is differentiated. So an enactment inevitably creates a scene where there are selves and others defined in relation to each other … the dialogical principle of citizenship always involves otherness.[22]

This process of othering is acute in South and Southeast Asia, where citizenship is a key aspect of competing demands for membership and the associated imperative of delimiting such demands on the part of the state.[23] Exclusionary mechanisms – especially on religious and ethnic grounds – have become the center of citizenship debates in both India and Myanmar. While agreeing with the criticism of democratic backsliding in both countries, we argue that contrary to popular belief, religious and ethnic discrimination when it comes to citizenship and migration is not recent, but has been part of both countries' citizenship policies since independence.

[14]Kohn 1944/2005.
[15]Chatterji 2012.
[16]Jayal 2013; Chatterji 2012.
[17]Chatterji 2012, 1050.
[18]Berda 2022, 2.
[19]Isin and Nyers 2014, 1.
[20]Sadiq 2017.
[21]Ibid. See also Berda 2022; Rhoads 2023a.
[22]Isin 2008, 18–19.
[23]Othering takes the form of defining the boundaries of exclusion, "shaped by the institutional practices and their underpinning ideological conceptions, which define the paradigm for the allocation of political, social, economic, cultural and symbolic resources, privileges and duties" (Shani 2010, 149).

In the following section, we elaborate on the merits of a comparative analysis of the citizenship regimes in Myanmar and India, starting with two crucial moments in their recent political histories. In the third section, we trace the evolution of citizenship in Myanmar and India through key legislation and demonstrate how the specter of the potential foreigner remains central in both states. In our final section, we document how the bureaucratic and administrative violence[24] meted out to contested claims of citizenship in both countries draws from and feeds into this specter and has become a key tool for state actors to design increasingly exclusionary citizenship policies. We conclude by moving beyond conceptions of the precarious citizen[25] or suspect or doubtful citizens,[26] to elaborate on the idea of the potential foreigner as an important analytical tool in comparative citizenship studies.

Comparing citizenship in Myanmar and India

On February 1, 2021, Myanmar's military Commander-in-Chief Min Aung Hlaing staged a coup d'etat, deposing the democratically elected legislators on the morning of their swearing in and replacing them with a military junta, the State Administration Council (SAC). The coup, despite being a dramatic turn of events that brought Myanmar's decade-long quasi-democratic period to an end, was built on a long history of military control and exclusionary politics. The military ruled the country for more than half a century following a 1962 coup, and has targeted many minority ethnic groups, with armed conflict in pockets across the country.[27]

The military have long considered the Rohingya – a Muslim minority ethnic group from Rakhine state in southwest Myanmar – as foreigners or illegal residents from bordering Bangladesh.[28] The implementation of the current Citizenship Law of the country, enacted in 1982, led to a process of revocation of the Rohingya's civil documentation and citizenship rights over the next three decades[29] and a refusal to recognise the Rohingya as "official" minorities or one of the "national races" of Myanmar, thereby rendering them largely stateless.[30] The Rohingya remained isolated without a political ally, especially against ultra-nationalist Buddhist groups,[31] with intensification in their framing as illegal immigrants from Bangladesh in recent years.[32] Violence targeted Rohingya communities in 2012, leading to deaths and displacement in Sittwe and Central Rakhine State, where more than 150,000 remain internally displaced.[33] Widespread and systematic violence targeting the Rohingya in Northern Rakhine was committed by the military in 2017 under the watch of the quasi-civilian government led by Aung San Suu Kyi,

[24]Graeber 2012; Beaugrand 2011.
[25]Lori 2017.
[26]Dubochet 2023.
[27]Smith 1991.
[28]Alam 2018.
[29]Brinham 2019.
[30]Although Rohingya may apply for naturalized citizenship if they can prove their parents or grandparents lived in Myanmar prior to 1948 or may apply for citizenship as the children of two citizen parents, the 1982 Law restricts claiming citizenship by birth to group membership of one of the 135 "national races," which do not include Rohingya. See Cheesman 2017; Nyi Nyi Kyaw 2017.
[31]Min Zin 2015.
[32]Fink 2018.
[33]UNHCR Myanmar Operational Data Portal https://data.unhcr.org/en/country/mmr (accessed March 30, 2024).

leading hundreds of thousands of refugees to cross the border into Bangladesh, a genocide case against Myanmar at the International Court of Justice, and an investigation into the crime of deportation at the International Criminal Court.

Following the 2021 coup, the question of citizenship returned to the forefront of Myanmar politics.[34] The SAC pledged to repatriate Rohingya refugees from Bangladesh,[35] and the National Unity Government (NUG) – a parallel civilian government formed following the coup by the legislators elected in the unimplemented 2020 elections – issued a "Rohingya Policy," announcing they would revoke the 1982 Citizenship Law and move towards a system of *jus soli* citizenship.[36] These overtures towards the Rohingya raised more questions than answers, as they came from the same military chief who had carried out the violence in 2017, and some NUG members who had previously been silent or even supportive of the military's policies in Rakhine.[37]

Two years before the coup in Myanmar, and after three years of parliamentary scrutiny, India's parliament, controlled by the Hindu nationalist Bharatiya Janata Party (BJP) passed the Citizenship Amendment Act (CAA) on December 11, 2019. This act incorporated religion into the Citizenship Act of 1955 for the first time, providing a pathway to citizenship for Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians who had entered India from Afghanistan, Bangladesh, or Pakistan prior to 2015, but did not extend the same eligibility to Muslims (such as Ahmadiyya from Pakistan or Rohingya from Myanmar).[38] Though ostensibly designed as a benevolent pathway to citizenship for certain religious minorities, the amendment has been widely perceived to violate the secular spirit of the Indian Constitution, precipitating court challenges from political parties, MPs, religious organizations, NGOs, and even the state of Kerala.[39] Some have gone as far as calling it a "stunt by the Hindu political right in India to attempt to strip Indian Muslims of their citizenship rights."[40] The legislation met with significant opposition on counts of being both morally and legally indefensible, with several non-BJP controlled regional governments (West Bengal, Kerala, Tamil Nadu, and Delhi) refusing to implement it, and country-wide protests led by activists and human rights organizations such as Amnesty International India, which described the CAA as a "bigoted law that legitimizes discrimination on the basis of religion."[41] The United Nations Office of the High Commissioner for Human Rights (OHCHR) described the Act as "fundamentally discriminatory in nature."[42] The BJP, however, as Anupama Roy has noted, has repeatedly couched the CAA in terms of righting previous wrongs stemming from partition in 1947 and lack of protection of minorities by Pakistan. The CAA is seen as providing a pathway for "specified religious communities to return 'home' in the fulfilment of a moral claim to obtain the legal protection of citizenship."[43]

[34]Rhoads 2023a.
[35]Westerman 2021; Andrews 2023.
[36]Frontier 2021; NUG 2021.
[37]Zarni 2021. In 2023 the NUG appointed U Aung Kyaw Moe, a Rohingya human rights activist, as a deputy minister in its Ministry of Human Rights.
[38]BBC 2024.
[39]Mandhani 2021.
[40]Chandrachud, 2020: 138.
[41]Amnesty International 2019.
[42]OHCHR 2019.
[43]Roy 2022.

Besides legal and political opposition, from December 15, 2019 to March 24, 2020, India witnessed one of the most evocative popular movements in recent history. Peaceful sit-in protest demonstrations, led mostly by Muslim women, blocked an arterial road for more than three months at Shaheen Bagh, a neighborhood in southern Delhi. Joined by people from a cross-section of society, Shaheen Bagh protestors grew to as many as 100,000, one of the longest peaceful protests of its magnitude in modern India.[44]

Such contemporary events have foregrounded the question of citizenship in both Myanmar and India which, until independence in the 1940s, shared the same legislation governing foreigners, imperial citizenship, and naturalization.[45] Yet, to date, there has been very little research on this shared history, much less in a comparative framework.[46] Although there have been comparisons of citizenship regimes in India and Pakistan,[47] Burma has been largely ignored, despite its political and cultural links with the subcontinent, migrants, refugees, and evacuees on both sides of the border, and a shared colonial past.[48]

The administrative separation of Burma from British India in 1937 – legislated through the 1935 Government of India Act and the 1935 Government of Burma Act that created a bicameral Burmese legislature – was South Asia's first partition.[49] This separation was intended to limit Indian immigration and circular migration to Burma.[50] It was supposed to do so by transforming a nascent embryonic border made of shifting sanitary and other regulations entailing some checks on migrants into a clearly demarcated hard border.[51] But the flow of people between India and Burma did not end with this administrative separation. An Indo-Burmese agreement on immigration was signed in 1941 but was never fully put into practice prior to Burmese independence due to the Japanese occupation of Burma during the Second World War. Nor was it designed to limit all movement between Burma and India.[52] In fact, hundreds of thousands of Indian war-time evacuees were able to return to Burma after 1945.[53] Despite, or perhaps due to such a shared history, Burma's 1947 Constitution conferred citizenship on selected segments of the population and delineated the parameters of citizenship eligibility for others.[54]

The emigration and dispossession of Burma's South Asian communities in the latter half of the twentieth century should not be viewed in isolation from similar debates over citizenship and belonging related to partition elsewhere on the subcontinent. As newly independent states, both the Burmese and Indian governments began reconfiguring their political, social, and economic institutions to redefine their political communities. While during colonial times these institutions were meant to control and regulate

[44]Business Standard 2020.
[45]Myanmar's Constitution came into effect on January 4, 1948, and India's on January 26, 1950.
[46]For recent work on these topics, see Guyot-Rechard 2021; Amrith 2018; Rhoads 2023a and 2023b; Ikeya 2020; Egreteau 2011; Osada 2021.
[47]Sadiq 2009; Saigol 2003.
[48]Saha 2015; Emmrich et al. 2022; Prasse-Freeman 2023.
[49]Guyot-Rechard 2021; Saha 2015.
[50]Amrith 2013; 2018.
[51]Osada 2011.
[52]Khan and Sherman 2021; IOR, 1947.
[53]Egreteau 2014; Greene 1948, 46; GUB, 1953.
[54]Rhoads 2023a. One of the specters of coloniality that continued to be raised after independence was embodied by the "many communities of Asian origin who were considered foreigners who came to the country en masse under the British flag" (Sadan, 2018, 51).

colonial subjects with a racially determined secondary status, at independence the very same institutions had to serve the needs of independent citizens.[55] This required redefining the legal relationship between and responsibilities of multi-ethnic populations – both as individuals and ethnic groups – and their governments.[56]

Some scholars have meticulously traced the contours of this redefinition in the Indian case, where birthright conceptions undergirded the acquisition of citizenship as framed in the 1955 Citizenship Act.[57] But the Burmese experience in the decades following independence has not received similar levels of scrutiny. Faced with a similar task of framing the subject, content, and legal-administrative institutions of citizenship, the postcolonial Burmese government charted a much different path by adopting a more discriminatory citizenship model that overlapped with social conceptions of belonging and non-belonging drawn primarily along racial lines.[58] These legal and status divisions were based on a rhetoric of pre-colonial indigenous nationalities considered to be more "belonging" than those categorized via colonial census and postcolonial rhetoric as "foreigners."[59]

Following independence and what Sunil Amrith has called "the disavowal of migration" in South and Southeast Asia,[60] an increasingly descent-based conception of citizenship emerged in Burma. A racialized conception of citizenship initially led to a slow implementation of naturalization and other policies which conferred citizenship on "non-natives" – with the onus always on the individual to prove citizenship rather than the state to prove foreign status.[61] However, by the 1970s, state policies were increasingly based on more restrictive descent-based principles, eventually codified in the 1982 Citizenship Act, resulting in millions of people made administratively and functionally stateless.[62] In the broader spectrum of South Asian citizenship regimes, this marked divergence – whereby Burma adopted an emphatical descent-based citizenship model from the start with some limited birthright provisions, while India started out as a birthright regime which eroded much more gradually – in spite of originating from a common moment of partition for the two countries, makes a comparative portrayal imperative.

There also are significant overlaps between these two citizenship regimes, both in their historical and contemporary forms. Nativism has been a determinant in the acquisition of citizenship in both countries. In practice this means both distinguishing "natives" and prioritizing them over ethnic/religious others via legislation and the use of discriminatory and often highly discretionary administrative practices designed to parse natives

[55]Jayal 2013.
[56]Sadiq 2017a.
[57]Jayal 2019.
[58]Cheesman 2017; Rhoads 2023a.
[59]Cheesman 2017; Rhoads 2023a; Arraiza *et al*. 2020; Nyi Nyi Kyaw 2015; Prasse-Freeman 2017 and 2023; Sadan 2018; Myint-U 2020; Formichi 2023. The British colonial dichotomy between "native" and "foreign" populations stems from colonial census-taking, in which population categories frequently changed from caste to language to religion in tracking colonial subjects and internal migration patterns (Ferguson 2015), particularly given the circular migration of laborers between India and Burma (Amrith 2013). But it also stems from the everyday experience of colonialism in Burma, which, rather than being marked by European settlers, was experienced as men of Asian origin serving as agents of British colonization, or otherwise seen to be benefiting from it in some way, at the expense of the Burmese (Sadan 2018, 51).
[60]Amrith 2018:107.
[61]Rhoads 2023a.
[62]For more on restrictions on other forms of citizenship such as naturalization, registration and birth right seen prior to 1982, see Aung Ko Ko et al. forthcoming.

from suspected foreigners.[63] An assumption that Burma's ethnic Chinese and Indian citizens were foreigners who potentially were disloyal is evident in 1948 citizenship legislation as well as in the 1982 Citizenship Act. The latter created three categories of citizens: full, associate, and naturalized. However, the act reserves citizenship by birth to "sons of the territory" (*taingyintha*) i.e., those considered to be descended from groups habitually resident within the contemporary borders of Myanmar in 1823, the year prior to the start of the first Anglo-Burmese War.[64] Associate and naturalized citizenship status is for non-natives (non-*taingyintha*) and provide fewer rights. While someone classified as non-native may become a full citizen if certain criteria are met (such as being born of two citizen parents), only *taingyintha* are immune from citizenship revocation.[65]

Similarly, in India, a continuous othering of Muslims, both migrants and citizens, has intensified under the BJP.[66] This suspicion assumes a form of lived experience via administrative and bureaucratic violence, whereby Muslims in India continue to face serious discrimination in accessing civil documentation and citizenship recognition. For example, in implementing a National Register of Citizens (NRC) in the Indian state of Assam, top-down bureaucratic violence was exercised via the disenfranchisement of "doubtful voters," significantly upscaling earlier efforts to denationalize ethnic Bengali migrants by means of quasi-judicial foreigner tribunals.[67] In Myanmar, the sheer lack of judicial remedies in temporary and semi-legal administrative arrangements (such as the issuing of temporary registration cards, known as "white cards") reflect a form of administrative disenfranchisement of targeted minorities.[68]

While we return to these specific issues in the latter parts of the article, our broader argument is that the "disavowal of migration"[69] embedded in the entangled history of the region has led to conceptualizations of postcolonial citizenship in both countries premised on a "constitutive outside,"[70] or the continuous specter of potential foreigners. It is a specter of suspicion and apprehension, one that continues to inform an increasingly narrowing conception of citizenship and belonging in both Myanmar and India. Moreover, as we note above, while Indian citizenship laws have drawn considerable scholarly focus over the years, little attention has been given to the Burmese experience. Given that citizenship questions have simultaneously become central to both countries' politics, a comparative lens that delineates the evolution of, and the contemporary political landscape around, the specter of the potential foreigner has much to offer in making sense of postcolonial citizenship on the subcontinent. It aids us to better understand how colonial legacies continue to inform Myanmar's citizenship regime and provides a more nuanced portrayal of Indian majoritarian ethos.

[63]Mosaic Myanmar 2023; Rhoads 2023a.
[64]*Taingyintha* ("son of the territory") is usually taken to mean "national races" or "ethnic nationalities," referring to Myanmar's eight officially recognized ethnic groups and their so-called sub-groups, amounting to a state-sanctioned list of 135+ groups. See Ferguson 2015; Cheesman 2017.
[65]Except in cases of dual nationality, issuance of a foreign passport or travel document, and leaving Myanmar permanently. See Sec. 16-17 of the 1982 Citizenship Law. See also Nyi Nyi Kyaw, 2015 and 2022.
[66]Jaffrelot 2021.
[67]Singh 2019.
[68]Brinham 2019.
[69]Amrith 2018.
[70]Prasse-Freeman 2023, 693.

Designing postcolonial citizenship in Myanmar and India

According to the Office of the United Nations High Commissioner for Refugees (UNHCR), as of 2021 more than half of the global population of stateless persons were in Southeast Asia, with Myanmar accounting for the largest number.[71] The stateless within and outside of Myanmar's borders are a result of multiple waves of migration, emigration, legislative changes, and armed conflicts, many precipitated by political ruptures like the 2021 coup. In 2017, more than 700,000 Rohingya were displaced to Bangladesh, joining an estimated 300,000 Rohingya already displaced there. Hundreds of thousands of Rohingya had previously crossed the border during immigration raids in 1992 and 1978, after which most were repatriated in the following years via bilateral agreements between the Bangladesh and Myanmar governments.[72] Understanding how Myanmar came to hold the distinction of the largest statelessness caseload in the region and the home state of the largest stateless population in the world (the Rohingya)[73] requires a deep-dive into Myanmar's citizenship regime, migration history, and its colonial incorporation into and subsequent partition from British India.

Parsing citizens from foreigners at independence: taingyintha and "statutory citizens"

The circular nature of migration between British India and Burma, with millions of people circulating between the ports of Calcutta, the Coromandel coast, and Rangoon to work in Burma's rice mills and rice fields and on sugar plantations and docks, greatly impacted early discussions on citizenship even before Burma's partition from India.[74] From 1901 onwards, Indians made up over fifty percent of Rangoon's population.[75] Whether Indians were temporary or permanent residents, and what rights they should be afforded, were continuous points of contention in negotiations between the governments of India and Burma both before and after independence.[76] The postcolonial Burmese government did not automatically grant citizenship to all those resident in Burma at independence, even if they had been born there. Postcolonial Burmese citizenship was framed to include South Asians who had made Burma their permanent home, while excluding those seen as economic migrants or sojourners on Burmese soil. Burma's 1947 Constitution, finalized shortly before independence in 1948, allowed for anyone who had resided in the country for either at least eight years in the decade leading up to independence or the decade prior to the Japanese occupation which began in 1942 to "elect" or choose Burmese citizenship if they were born in a

[71]UNHCR, 2021.
[72]McConnachie, 2021. However, these were not the first immigration raids to result in an influx of refugees crossing the Bangladesh border. In the late 1950s, immigration raids targeting Muslims led to at least ten thousand people fleeing across the border to what was then East Pakistan. At that time the 1951 Refugee Convention only applied to people who had been displaced due to the war in Europe, and UNHCR did not have any involvement. This displacement was treated as a bilateral issue and is generally left out of the historiography of Rohingya displacement.
[73]ISI 2020.
[74]While these are the routes that the vast majority of migrants took, this is not to suggest that people from the subcontinent only entered Burma by sea or from these ports alone. For more on Indian labor migration in colonial Burma, see Amrith 2013; Jaiswal, 2014.
[75]Lowis 1902.
[76]IOR 1941; 1947; 1948.

British crown dominion (Section 11.4).[77] However, in practice, the process was complicated, time consuming, and had a limited application period, with a deadline of just three years following independence.[78] The application process required a hearing before a district magistrate and anyone could object to any application.[79] The Union Citizenship Act of 1948 added an additional category of people who could claim citizenship by birth: anyone who had been born in Burma to parents who were also born in Burma, provided their family had been permanently resident in Burma for at least two generations. By 1955, following legal challenges, citizenship by election was expanded to include naturalized British subjects, allowing ethnic Chinese and others not born in the British Empire to apply.[80]

Without a citizenship law in place on the Indian side, deciding whether to apply for citizenship under the time-limited 1948 Citizenship [Election] Act or to apply for documentation under the 1948 Union Citizenship Act as a citizen by birth, was difficult for many Indian families.[81] Importantly, neither the Indian nor the Burmese governments recognized dual citizenship. This left many South Asians living in Burma in limbo, having to guess which citizenship would be faster to process and most beneficial for them. India did not have a Citizenship Act until 1955, which made it difficult for Indians in Burma after independence to make decisions about citizenship. They did not know if becoming a Burmese citizen would bar them from claiming Indian citizenship in the future. In addition, as a result of partition and evacuee property arrangements between India and Pakistan, they had concerns about whether applying for citizenship in Burma might lead to a loss of property in India.[82] Some people wondered if taking Burmese citizenship would prevent them from remitting money or traveling to India.[83] What further complicated the situation was that although hundreds of thousands of people were entitled to citizenship by birth due to their family's length of residence in Burma, in practice, only *taingyintha* were definitively considered citizens without documentary proof or a favorable court decision. Under the Foreigners Act of 1864, which remained in place in both countries following independence, individuals had to document their residency claims, placing the burden of proof squarely on non-*taingyintha* to substantiate their citizenship claims.[84]

After the Ministry of Immigration was established in 1957, the divide between citizens, foreigners, and those perceived as potential foreigners grew wider. The new ministry

[77]The 1948 Citizenship (Election) Act provided the legislation and procedures for the provision in Sec. 11.4 of the Constitution allowing for people to choose Burmese citizenship based on a specific period of residency prior to independence.
[78]Rhoads 2023a.
[79]Amrith 2018.
[80]The decision in Saw Chain Poon v. The Union of Burma extended eligibility to apply for citizenship by election to those previously naturalized under the 1926 Burma Naturalization Act (the Indian Naturalization Act of 1926 prior to the partition of British Burma from British India in 1937), thereby including those born outside of the British Empire who had previously been recognized as imperial subjects. This was reflected in a 1954 amendment to the Union Citizenship (Election) Act. While the initial application deadline was 1951, those who fell under this category of expanded eligibility were able to apply after the amendment came into effect.
[81]NAI 1955; Rhoads 2023a.
[82]NAI 1955.That the governance of property in India owned by Burmese citizens would be administered differently was not widely understood either.
[83]NAI 1955.
[84]The Foreigners Act (Act. No. III of 1864) applied to both India and Burma, but was replaced by the Indian Foreigners Act in 1946. Section 9 of the Indian Foreigners Act states that if the nationality of a person is not evident, then the onus of establishing whether the person is a foreigner or not lies upon the person and not the state.

could deport foreigners without a court ruling. Nevertheless, Burmese judges repeatedly upheld the rights and status of non-*taingyintha* citizens by birth. The Supreme Court dubbed non-*taingyintha*citizens "statutory citizens," as they qualified for citizenship under statutory law rather than the 1947 Constitution.[85] In a case of detained Pakistanis who immigration officials planned to deport because they "looked Pakistani" and could not speak Burmese or Rakhine, the Supreme Court stated:

> A person descended from ancestors who for two generations have made Burma their permanent home, and whose parents and himself were born in Burma, is a statutory citizen. Today in various parts of Burma there are people who, because of their origin and isolated way of life, are totally unlike the Burmese in appearance … . they are nevertheless statutory citizens under the Union Citizenship Act. The applicants claim they belong to that category. They might be right and therefore the opportunity of proving that they are, should be given to them. To deny them this opportunity would be a violation of their fundamental rights.[86]

Burmese case law from the 1950s and early 1960s provides a glimpse into attempts to regulate citizenship and residency claims and the individuals and families caught up in these processes. Questions of citizenship status often made it to the courts in cases related to property, deportation, and mandatory registration of foreigners.[87] Yet, this recourse to the legal system would not last, and the lines between statutory citizens and *taingyintha* would become more pronounced under Burma's authoritarian governments.[88] After a military coup in 1962, the Burmese government intensified deportation initiatives to further disenfranchise and dispossess non-*taingyintha*, ignoring previous legal rulings.[89]

Potential foreigners under the Burmese way to socialism

After General Ne Win took power in 1962, his Revolutionary Council government instituted a program of nationalization and isolation.[90] In 1963, the Burmese Immigration Department documented 95,000 Indians with Foreign Registration Certificates (FRCs), 85,000 of whom lived in Rangoon.[91] The same year, the Department reported that 8,344 foreigners had left Burma permanently, including 5,911 Indians and 1,499 Pakistanis.[92] Foreigners were banned from certain occupations and trades, were restricted to their district of residence, and could not receive re-entry visas if they went abroad. In addition, any foreigners aged twelve and older were required to pay an annual fee for an FRC.[93] Wholesale businesses and retail shops were nationalized in 1964, followed

[85]Hasan Ali v. Secretary, Ministry of Immigration and National Registration 1959 B.L.R. (S.C.) 187; Meher Ali v. Secretary, Ministry of Immigration and National Registration 1959 B.L.R. (S.C.) 187.
[86]Hasan Ali v. Secretary, Ministry of Immigration and National Registration 1959 B.L.R. (S.C.) 187; Meher Ali v. Secretary, Ministry of Immigration and National Registration 1959 B.L.R. (S.C.) 187, p. 194-195.
[87]For example, see, among others: Peer Mohamed v. Union of Burma (1965) B.L.R. 51 (C.C.); Ko Aung v. Abdul Latiff (1958) B.L.R. 216 (H.C.); Hasan Ali v. Secretary, Ministry of Immigration and National Registration (1959) B.L.R. 187 (S.C.); Kali Mutu v. The Union of Burma (1962) B.L.R. 51 (C.C.).
[88]Rhoads 2023a.
[89]See, among others: Indu Bhai v. The Union of Burma (1963) B.L.R. 348 (C.C.); Tai Yu Han v. The President of the Union of Burma and one (1953) B.L.R. 47 (S.C.); Bishna Lal v. The Union of Burma (1959) B.L.R. 3 (H.C.); Hasan Ali v. Secretary, Ministry of Immigration and National Registration (1959) B.L.R. 187 (S.C.).
[90]Holmes 1967.
[91]*Times of London 1964*.
[92]NAI 1964, 21.
[93]NAI 1964, 21, 37; UKNA 1963.

by the demonetization of 50 and 100 *kyat* notes. In response, the Indian government began to offer a boat service for destitute people of Indian origin who wanted to leave Burma.[94] Between 1963 and 1966, 154,000 people of Indian origin were repatriated from Burma, 115,066 aboard special steamers arranged by the Government of India.[95]

While hundreds of thousands of Indians were eligible for Burmese citizenship, very few obtained citizenship documents. The Indian Embassy in Rangoon estimated that 7,000 persons of Indian origin held Burma citizenship documents by 1965.[96] However, following General Ne Win's nationalization campaign and the imposition of strict controls on remittances, many of them requested assistance from the Indian Embassy to resettle in India.[97] The Indian Embassy in Rangoon relayed the situation in the mid-1960s for persons of Indian origin with Burmese citizenship back to New Delhi:

> The Burmese authorities are extremely frugal in issuing Burmese passports to this category of their nationals. The total number of such passports issued during the year was seventy. For some time, the Burmese government has been issuing Certificates of Identity to persons of this category, which normally is granted under international practice to persons of doubtful nationality. With the approval of the Ministry, we started granting entry visas to India to persons holding these documents as well and as a result, 399 Burmese nationals of Indian origin left Burma for India during the year. It is generally noticed that the Burmese Government are very reluctant even to issue Certificates of Identity to the Burmese nationals of Indian origin for reasons best known to them.[98]

Many of those requesting passports or other travel documents held documentary proof of their Burmese citizenship. However, as a 1964 *Times of India* article describing the circumstances of people of Indian descent marooned in Burma stated, "Citizenship, it appears, is determined by a person's features and not by the papers he holds."[99]

By the mid-1970s the Burma Socialist Program Party's (BSPP) anti-foreign policies had significant impacted daily life, business, and housing for those registered as foreigners. They could not change residence without government permission, and permission was always denied.[100] Wives holding FRCs could not live with their husbands. Movement restrictions curtailed business for petty traders.[101]

By the early 1980s, tens of thousands of people of Indian origin held FRCs, many of whom were effectively stateless as they were not citizens of India. The Indian Embassy in Rangoon estimated that as many as 200,000 people of Indian origin held no documents whatsoever. These were people who "did not fit into either category, but with whom India had historic ties of recognition and responsibility."[102] They were not legally recognized as citizens of either India or Burma.[103]

[94]NAI 1964, 61; Nevard 1964.
[95]NAI 1967.
[96]NAI 1967.
[97]NAI 1967.
[98]NAI 1967.
[99]*Times of India 1964*.
[100]NAI 1977.
[101]NAI 1977. Foreigners were allowed to change residence within their township of residence. People classified as foreigners could apply for a twenty-four hour travel permit from township authorities, which they could then use to go to their local district center and apply for a seven-day travel permit. But sometimes travelling from the township to the district to get this permit took longer than twenty-four hours, making their stay in the district illegal.
[102]Khan and Sherman 2021, 13.
[103]NAI 1982

The BSPP further expanded the category of potential foreigners to legally recognized citizens who allegedly had significant foreign ties, particularly blood ties with neighboring countries.[104] Those who were not legally or administratively classified as foreigners but had one foreign parent, were naturalized citizens, or could not prove that their parents were citizens at the time of their birth found their involvement in government service and elected positions increasingly limited.[105] The 1974 Constitution required members of parliament to be born of two citizen parents. In addition, the minimum age for a seat in parliament was set at twenty-eight, effectively blocking anyone descended frommigrants who moved to Burma in the twentieth century. Dr. Maung Maung, the primary drafter of the 1982 Citizenship Law, clarified restrictions on naturalized citizens in a speech to BSPP party members in Rangoon in 1980:

> There are sometimes those from outside who have been accepted as members of the family for the sake of the interests of the household. They are like naturalized citizens. A stranger is not easily accepted into a family. The unity, peace, and tranquility of the family have to be taken into consideration.[106]

The 1982 Citizenship Law provided a pathway to citizenship for South Asians if, at the time the law came into effect, they were married to a Myanmar citizen and held a FRC, or if they or their ancestors had entered Burma prior to independence in 1948 and had been living in the country ever since. The 1982 Law did not allow naturalization of anyone who entered the country after 1948 or their descendants. Nor did it allow anyone who was granted either "guest citizenship" (associate citizenship) or "permitted citizenship" (naturalized citizenship) to pass citizenship on to their children at birth. Instead, children of associate or naturalized citizens have to apply for citizenship when they turn eighteen.

In summary, the 1982 Law limited citizenship by birth to a single descent-based pathway. The tiered citizenship system the law created is aimed at residents whom the state sees as having filial ties with India, Pakistan, Bangladesh, or China, making this class of citizens not only potentially less trustworthy due to their foreign ties, but potential foreigners themselves.[107] By removing all non-*taingyintha* from the category of natural born citizens, the law created a situation in which those categorized as potential foreigners would have their citizenship status scrutinized by the state before they could obtain documentation or pass on their nationality to their children. Previous BSPP rhetoric linked foreign status, foreign ties, and mixed ancestry to imperialism, black-market trading, and questionable loyalty to the Burmese state and the socialist system.[108] After 1982, with the dissolution of citizenship acquisition by birth for all non-*taingyintha*, a person's degree of "foreign" ancestry became more explicitly linked to a hierarchized citizenship type, legally connecting political fears, social discrimination, and citizenship status.

[104]Nyi Nyi Kyaw 2019; Rhoads 2023b.
[105]Nyi Nyi Kyaw 2019; Roberts 2016; Aung Ko Ko et al. forthcoming; Rhoads 2023a; Taylor 2006, 678.
[106]*The Working People's Daily*, July 4, 1980.
[107]*The Working People's Daily 1982*; Rhoads 2023a and 2023b.
[108]Nyi Nyi Kyaw 2019; Ikeya 2020; *Hanthawaddy* 1974.

Expanding categories and documentation of potential foreigners under military and quasi-military rule

Under both the 1989-1997 State Law and Order Restoration Council (SLORC) and 1997-2011 State Peace and Development Council (SPDC) military juntas, racialized conceptions of citizenship and popular and administrative linkages between race and religion progressively hardened.[109] As Ikeya notes, "ever sharper lines were drawn between 'foreign' and 'indigenous' religions and races,"[110] evidenced in policies related to identity documents and documentation of the population via census-taking.[111]

From the 1990s onwards, military governments portrayed non-*taingyintha* as potential foreigners who needed heavy state scrutiny. This required a new system of citizenship documentation and a new ministry, the Ministry of Immigration and Population. Proof of citizenship following 1982 requires citizenship scrutiny cards (CSCs) which the state began issuing following the 1988 military coup.[112] These cards are color-coded, with pink denoting full citizens, blue associate citizens, and green naturalized citizens. At the time, all residents were instructed to submit their National Registration Cards (NRCs), the previous national identity document, for replacement with CSCs color-coded by citizenship type. However, some people, including most Rohingya, submitted their NRCs and never received replacement CSCs. Instead, they were issued white temporary registration certificates (TRCs) intended for those who have lost their national identity documents.[113] Although Rohingya and other white card holders (including some Hindus, Muslims, and Anglo-Burmese) were permitted to vote in the 2010 elections, white cards were cancelled before the 2015 elections, disenfranchising their holders. Following the mass cancellation of white cards, Rohingya were issued National Verification Cards (NVCs), which classified them as in the process of "national verification," an additional step required only of Rohingya in Rakhine State, before proceeding to "citizenship scrutiny."[114]

Although the 1983 census included identity categories such as Kachin Muslim and Shan Hindu,[115] by the 2000s the idea that one could be Muslim or Hindu and Karen, Shan, Kachin, Bamar, or another *taingyintha* ethnicity, was seen by authorities as increasingly suspect. The state increasingly made use of the term *thway hnaw* (mixed blood) to refer to *taingyintha* who professed Islam or Hinduism.[116] In addition, the Ministry of Immigration and Population generally stopped issuing CSCs to Hindus and Muslims who claimed *taingyintha* identity.[117] Hindu and Muslim applicants must instead select a foreign ethnicity such as "Indian," "Pakistani," or "Bengali" when they apply for a CSC. The result are cards reading, for example, "Pakistan + Pashu Bamar/Pashu + Bamar (Islam)."[118] This type of classification frequently draws comments from cardholders such as, "What will my children's cards say? There won't be any space left!" In the context of long histories of political and social rhetoric that classify religion as

[109]Cheesman 2017; Ikeya 2020; Rhoads 2023b.
[110]Ikeya 2020, 758.
[111]Ferguson 2015; Callahan 2017.
[112]Cheesman 2017.
[113]Brinham 2019.
[114]NVCs are now a mandatory step in obtaining citizenship documentation for most Rohingya in Rakhine State.
[115]Socialist Republic of the Union of Burma Ministry of Home and Religious Affairs, 1987.
[116]Nyi Nyi Kyaw 2015 and 2019.
[117]Nyi Nyi Kyaw 2015; Mawkun 2019; Than Toe Aung 2019; Rhoads 2023a.
[118]For other descriptions of long *lumyo* chains on CSCs, see Nyi Nyi Kyaw 2015; Prasse-Freeman 2023, 690–691.

passed through blood rather than conversion,[119] adding foreign ethnicities to the CSCs of religious minorities ensures categorization of such cardholders and their descendants as non-*taingyintha* and subject to citizenship scrutiny as potential foreigners.[120]

The Muslim Other as the potential foreigner in India

Much has already been written about the "muscular majoritarianism" of the BJP government in India.[121] Not only has it sponsored legislation like the CAA to try to align citizenship rules with its Hindu-right political agenda, it has reignited debates over older legislation such as the National Registrar of Citizens (NRC).[122] The NRC, which was mandated by a 2003 amendment to the 1955 Citizenship Act, is supposed to register all legal citizens. Although no administration has ever seriously attempted a countrywide implementation of the NRC, the introduction of the CAA and its links to the NRC – to identify and grant citizenship to immigrants of all religious faiths other than Islam – has led to renewed anxieties among poor Muslims that the CAA is a step towards rendering stateless those with less than pristine documents.[123] The combination of the NRC and the CAA has created a discriminatory system that violates the secular spirit of the Indian Constitution, demonstrating how religious antagonism works through the guise of ethnicity, nationalism, and security. Sajaudeen Chapparban has called such discursive framings "cartographies of hatred":

> … unwanted citizens – the religious minorities – are projected as "outsiders" or "illegals" and perceived as not just "others" but the obvious other … The idea of "legal" migrants is confined to Hindus and "illegal" migrants are deliberately referred to Muslims" [sic].[124]

Nevertheless, amidst such strong and evolving critiques of the Modi administration's overt attempts to politicize citizenship via an a priori juxtaposition of legality and religious discrimination, scholars and critics have not fully recognized the historically racialized nature of Indian citizenship. In fact, this historical capital has provided a shroud of legitimacy and urgency around the CAA-NRC issues, swaying a significant section of public opinion in their favor.[125]

Over the last decade, a modest but critical body of scholarship has contextualized the constitutional modalities of Indian citizenship during the colonial period, along with the postcolonial demographic and political shifts that have given rise to Hindu majoritarian politics. The crux of this scholarship is to recast the history of citizenship from an individual relationship with the state into a multi-layered relationship, mediated by communities as well as social and political agencies. Niraja Gopal Jayal has traced this transformations in the substantive character of Indian citizenship since 1949 as legal status, a bundle of rights and entitlements, and as a form of identity.[126]

[119]Ikeya 2020; Nyi Nyi Kyaw 2019.
[120]Rhoads et al. Forthcoming.
[121]Chandrachud 2020, 2.
[122]Jayal 2019; Jaffrelot 2017.
[123]Pathak 2024.
[124]Chapparban 2020, 53.
[125]*Times of India 2020*, *The Hindu* 2021.
[126]Jayal 2013, 2016, 2019

The Indian Independence Act of 1947 ended prohibitions against Indian legislators enacting laws that impacted British nationality and sovereignty, which had been put in place by the Government of India Act of 1935.[127] However, this occurred in the context of the partition of the subcontinent, during which approximately fourteen million people were displaced.[128] The Constituent Assembly of India was "suddenly confronted with the importance of arbitrating the various claims to citizenship that would arise as a consequence of these large-scale movements of people … a topic that was barely significant earlier now became contentious and divisive."[129] Not surprisingly, Prime Minister Jawaharlal Nehru observed that drafting the articles related to citizenship had "probably received far more thought and consideration … than any other article contained in this Constitution."[130] Between independence in 1947 and passage of the Constitution in November 1949 by the Constituent Assembly, there existed no way to ascertain who was and who was not an Indian citizen.[131] In fact, given the aftermath of partition, the Constituent Assembly refrained from outlining Indian citizenship requirements, instead providing a framework in Articles 5–11 of the Constitution only for the immediate purpose of defining citizenship when the Constitution came into force in January 1950. The task of legislating for ordinary times was left to parliament, which subsequently passed the Citizenship Act in 1955.

The scholarly consensus is that citizenship status began on a relatively civic note with an inclusive birthright concept, but has shifted to a more exclusionary descent-based system in the last few decades, especially since passage of the Citizenship Amendment Bill of 1985.[132] However, while the 1985 law is indeed a key moment in the history of Indian citizenship, this is a considerably more complicated history than a linear narrative from a virtuous birthright to a less virtuous descent-based principle. Instead, the tension between these two concepts has been present from independence. While the Constitutional Assembly adopted birth as the primary basis of citizenship – persuaded by both its ostensible lineage in the antecedent colonial law as well as its presumed "enlightened modern civilized" character[133] – proponents faced intense opposition from advocates of a descent-based principle on account of returning Muslim migrants from Pakistan.[134] In fact, it was primarily due to this question that the constitutional provisions relating to technical and legal aspects of citizenship took two years to be finalized.[135] Accordingly, the dilution of birthright as the legal basis for citizenship began with the 1947 Constitution, with a:

> … relatively concise specification giving way to a[n] … increasingly detailed account of Indian citizenship, constantly refined with more qualifications yielding new classifications and exceptions, each of these reflecting the primary fault line of religious difference in India, that between the Hindus and the Muslims.[136]

[127]Ashesh and Thiruvengadam, 2017.
[128]Khan 2017. See Gilmartin (2015) for further details.
[129]Jayal 2013, 57.
[130]CAD Volume IX, 398.
[131]Sinha 1962.
[132]Rodrigues 2008; Roy 2010; Sadiq 2009.
[133]CAD Volume I, 424.
[134]Chatterji 2012
[135]Jayal 2013.
[136]Jayal 2013, 52.

Article 5 of the Constitution stipulated that citizenship required domicile in India and fulfilment of one of the following: being born in India; having at least one biological parent who had been born in India; or having resided in India since January 1945. Articles 6 and 7 defined citizenship rights of those who migrated to India from Pakistan before July 1948 (Article 6) and those who migrated to Pakistan from India after March 1947, but wanted to return to India (Article 7). Article 6 was largely uncontroversial as it pertained to Hindu refugees fleeing communal violence in Pakistan, but Article 7 became the most intensely contested article in the Constitutional Assembly, frequently referred to by its detractors as "the obnoxious clause."[137] Indian Muslims who had fled communal violence in India but later returned were referred to by critics as "Muslim migrants" who had abandoned India. As Jayal notes:

> In a shared universe of meaning, the use of the terms refugee and migrant served to conceal the religious identities they encoded … the accommodation of the claims of returning Muslims was a hard-won battle in the constitution-making process … suggesting that there were already discernible elements of *jus sanguinis* in official and judicial decisions.[138]

Similar disagreements surfaced among civil society groups, in the practices of official agencies' discretionary powers to grant resettlement permits to returnees, and in court cases.[139] Overall, albeit broadly inclusive, adjudication of citizenship in the period immediately after partition was characterized by a preoccupation with ascertaining Muslims' loyalty.[140]

The Citizenship Act was finally passed by parliament in 1955. In its original version, Section 3 stated that "every person born in India on or after 26th January 1950 shall be a citizen of India by birth." Children born outside India were considered citizens if their father (later amended to either parent) was an Indian citizen at the time of birth. By and large, the Citizenship Act of 1955 recognized citizenship by birth as well as by descent.

However, since the mid-1980s, the legal basis of citizenship has been gradually transformed by amendments to the Citizenship Act in response to ongoing political developments. The latest amendment in 2019 consolidates restrictive legislation on citizenship based on descent that is usually dated back to the 1985 Citizenship Amendment Bill.[141] The genesis of this shift away from birthright as a basis for citizenship is usually attributed to unfettered immigration from East Pakistan from 1947 to 1971 and then, following the Bangladesh Liberation War, from Bangladesh (and to a certain extent from Nepal). This migration flow led to the enfranchisement of large numbers of refugees/migrants, irrespective of their religion, in the border states of Assam,

[137]Jayal 2013.
[138]Jayal 2013, 58-62.
[139]Chatterji 2012. Besides Articles 6–7, there is a less acknowledged yet distinct fear of potential foreigners elsewhere in the Constitution too, most notably in Articles 102(d) and 191(d), which prohibits anyone who may have inadvertently been eligible for another form of postcolonial citizenship (effectively Pakistan or Burma) from holding elected office in India. Similarly, Myanmar's 2008 Constitution prohibits minorities, particularly ethnic Chinese, South Asians, and Muslims, from running for office.
[140]As Shani points out, "the inclusion of Muslims within the nation required a careful balancing act between different citizenship discourses, each containing barriers to Muslims, preventing them from attaining full membership in the nation state" (Shani 2010,171). The remaining articles were primarily concerned with the rights of persons residing outside India (Article 8); persons voluntarily acquiring citizenship of other countries (Article 9); and the supremacy of the Parliament in regulating all matters related to citizenship (Articles 10–11).
[141]Sadiq 2009, Roy 2010.

West Bengal, and Tripura. It was in Assam that the issue became most politically contentious, when for a local constituency by-election in 1979, the electoral roll was found to be substantially comprised of foreigners. This led to the rise of a powerful nativist movement led by the All Assam Students Union (AASU) between 1979 and 1985.[142] The government responded with the Illegal Migrants (Determination by Tribunal) Act (IMDT) in 1983 and the Assam Accord between the central and state governments in 1985. The IMDT Act created an Assam-specific exception to the 1946 Foreigners Act by removing the onus of proving citizenship status from suspected individuals to their neighbors, who could report the presence of allegedly illegal migrants.[143] While this law was limited in impact, the question of illegal migration of "almost exclusively Muslims" from Bangladesh triggered egregious xenophobia.[144]

The Assam Accord was far more decisive. This agreement specified that (a) all those who had migrated to India before 1966 were considered citizens; (b) those who had migrated between January 1966 and March 1971 could remain in India after registering as foreigners, and would be considered citizens ten years after registration; and (c) those who had entered Assam after March 1971 would be subject to deportation.[145] The 1985 amendment to the Citizenship Act included these provisions in a new section (6A) titled "Special Provisions as to Citizenship of Persons Covered by the Assam Accord." Additionally, Section 3 of the Citizenship Act was amended to specify that anyone born after the Constitution took effect but before July 1987 would be classified as a citizen, but anyone born after that date could only qualify for citizenship if one of their parents was a citizen. This dilution of birthright as the basis for citizenship was further consolidated in a 2004 amendment to the Citizenship Act which states that even if born on Indian soil, a person's citizenship is conditional upon at least one of their parents being an Indian citizen and the other not being an illegal migrant at the time of birth.[146] As Jayal observes:

> … since most of the migrants from Bangladesh were Muslims, this covertly introduced a religion-based exception to the principle of citizenship by birth, undermining the *jus soli* principle. These provisions were a response to the political situation in Assam – where anti-migrant sentiment was at a fever pitch – but already contained the seeds of the politicization and incipient communalization of the issue of migrants.[147]

Changes were also made to the 1955 Citizenship Act, introducing a region-specific exception for Rajasthan and Gujarat to handle migration from Pakistan. The amendment reads:

> In respect of minority Hindus with Pakistan citizenship who have migrated to India more than five years back with the intention of permanently settling down in India and have applied for Indian citizenship, the authority to register … shall be the concerned collector of the district where the applicant is normally resident.[148]

[142]Jayal 2013, 64.
[143]The IMTD Act was struck down by the Supreme Court in 2005.
[144]In 2005, the Supreme Court noted that the Act had resulted in expulsions in less than half a percent of all cases initiated. See Sarbananda Sonowal vs Union of India.
[145]The Assam Accord 1985.
[146]Bangar 2017.
[147]Jayal 2019, 35.
[148]Quoted in Jayal 2013, 67.

This amendment for the first time openly declared the religious identity of migrants as a legal factor for citizenship. Secondly, unlike returning Muslims from Pakistan, Hindu migrants did not require any resettlement permits, nor was their intention to return (expressed through residence of five years) ever questioned.[149] Descent-based elements had therefore considerably infiltrated the birthright principles, with religious identity no longer a matter of covert signalling.[150]

The current CAA-NRC debate needs to be contextualized against this historic and legislative backdrop. It is somewhat simplistic to argue that these developments are an attack on India's "compellingly secular" Constitution.[151] Instead, they solidify a trend that can be traced back to 1985 which reflects aspects of colonial citizenship and the attitudes of some members of the 1949 Constituent Assembly in regard to Muslim migrants. As Jayal remarks on the CAAs positive discrimination towards non-Muslims from Afghanistan, Bangladesh, and Pakistan, "the silent implication is that Muslims from [the named] countries would continue to be treated as illegal immigrants and would not be therefore eligible for the same relaxation."[152]

This overt emphasis conflates the characterization of a potential foreigner with a specific religious identity, legitimizing an insinuation that has been historically ingrained in the constitutional accommodation of communal nationalism and increasingly restrictive citizenship legislation.

Delegitimizing the potential foreigner: Administrative violence in India and Myanmar

Citizenship is actualized in Burma and India through numerous documents and bureaucratic practices.[153] In India, citizenship documentation includes passports, voter cards, ration cards, bank account passbooks, and two different proofs of address establishing residency. Once an individual's "biographical and socioeconomic characteristics are captured … they are targets for a normalized practice of citizenship. Information and artifacts generate the standard citizen, a citizen that the state engages and prefers."[154] It is important to note that the situation may challenge conventional understandings of citizenship, in which rights follow the acquisition of citizenship. In fact, a reverse ordering can also be true, as "people engage in some of the citizenship rights first, then use the documentary products of those to gain citizenship status."[155] Some people may bypass citizenship acquisition procedures and practice citizenship rights via a lease, utility bills, or a letter from a local elite. This creates a veneer of legitimacy in the eyes of the

[149]These amendments were cited by the Modi administration in 2019 when it accused the Congress Party of double standards in opposing the CAA-NRC, as they themselves had backed citizenship for Pakistani Hindus in 2003. See the *Times of India 2019*.
[150]Two other legislative changes similar to the 2019 amendments are important. The Passport Rules Act (1950) and the Orders under the Foreigners Act (1946) were both amended in 2015 to exempt members of persecuted minority religious groups in Bangladesh and Pakistan seeking shelter in India from the requirement of holding valid passports or visas. If indeed the official concern is about religious persecution, it is puzzling why similar provisions were not extended to Ahmadi or Rohingya Muslims, persecuted sects in Pakistan and Myanmar, respectively.
[151]Bhat 2019.
[152]Jayal 2019, 35-36.
[153]Sadiq 2017b.
[154]Saqiq 2017b, 168.
[155]Sadiq 2009, 15; see also Lund 2020.

state that can facilitate eventual claims to citizenship.[156] In Myanmar, however, as citizenship is squarely based on ancestry, such practices or other forms of recognition are far less likely to lead to administrative citizenship.[157]

Conversely, beyond legislative debates, everyday administrative functions are a powerful state tool. In both India and Myanmar, there are numerous accounts of people deprived of citizenship through irregular, discriminatory bureaucratic practices, sometimes resulting from abuse of authority despite existing legal procedures, other times intrinsic to the procedures themselves.[158] These practices are a form of administrative or bureaucratic violence, the intent being to "use … all possible administrative means to de-legitimize the claims to citizenship by anybody feeling some sense of entitlement."[159] As early as 1948, to deal with returning Muslims who sought to reclaim their properties, the Indian government established a permit system called the "Influx from Pakistan (Control) Ordinance." In practice, the permit system proved impossible to enforce, ultimately devolving to haphazard surveillance by petty functionaries such as railway guards and ticket collectors alongside a flourishing trade of counterfeit permits.[160] The permit system was eventually withdrawn, but the question of citizenship in the context of the massive exchange of people across India's post-partition borders continues to plague the process of administrative citizenship. Administrative violence was one of the obvious outcomes, especially when combined with xenophobia, racism, and nativism. In the decades following partition, judges were faced with the unenviable task of deciding upon the evidentiary value of passports, and subsequently, other identity documents like electoral and ration cards. As the question of immigration has become more politicized and controversial, the worth of these documents has become commensurately less in official quarters, even as they constitute key resources for their holders.[161]

The NRC is a particular example of the Indian state's effort to implement administrative citizenship and the resulting administrative-bureaucratic violence. The NRC was originally designed only for Assam during the first census of independent India in 1951, and proposals to update it have been intermittently revived in subsequent years.[162] In a 2003 amendment to the 1955 Citizenship Act, a new clause (14A) titled "Issue of National Identity Cards" was added. This clause states that the central government "may compulsorily register every citizen of India and issue national identity card to him" [sic] and "may maintain a National Register of Indian Citizens."[163] In 2009, an NGO called Assam Public Works petitioned the Supreme Court to order that the names of undocumented migrants be removed from the voter list, and that the NRC be updated. In 2014, the Supreme Court directed the central government and the state

[156]Lund 2020.
[157]Mosaic Myanmar 2023.
[158]Rhoads 2023b; Mosaic Myanmar 2023.
[159]Beaugrand 2011, 234–36; see also Graeber 2012. Arraiza et. al describe this primarily as the deprivation of individual rights by arbitrarily denying official documentation, which eventually leads to the "consideration of groups of inhabitants who are, or arguably descend from, migrants (often regardless of how many generations) as foreigners" (2020, 198). As mentioned earlier, the Indian Foreigners Act (1946) and the Burmese Foreigners Act (1864) derive from the same nineteenth century British Indian legislation, both placing the burden of proof on the individual and not the state, thereby leading to significant arbitrary discrimination.
[160]Zamindar 2007; Chatterji 2012.
[161]Chhotray and McConnell 2018.
[162]Jayal 2019.
[163]The Citizenship (Amendment) Bill 2003.

government of Assam to update the NRC. This process began in February 2015, when every person in Assam who claimed Indian citizenship was required to submit proof of their ancestry (or birth) in the country prior to 1971:[164]

> Various processes, flawed in varying degrees, were put in motion—from the "family tree verification" process to the initial rejection of *gram panchayat* certificates that mostly affected women who had married and changed residence … "illegal" migrants were more likely to be in possession of "documentary citizenship"—papers like ration cards and voter cards—certifying their citizenship, while natives and their descendants might well have no documentation at all. In a society in which the poor typically have few if any documents, this inversion is not surprising.[165]

In the final NRC list published on August 31, 2019, 1.9 million Assam residents were excluded from voting lists, potentially rendering them stateless.[166] Women were particularly impacted, and many families had some members excluded. A significant proportion of those excluded were Hindus, which somewhat dented the BJP's championing of the NRC.[167] Those not on the list were given 120 days to appear before Foreigner Tribunals which would either ascertain or deny their claims to citizenship. Those whose claims were rejected were to be detained and deported. Calling the entire exercise "the biggest mass-disenfranchisement of the twenty-first century," Amnesty International and 124 other civil society organizations condemned this policy:

> … requiring individuals to prove their citizenship by providing documentary evidence dating back over fifty years, and excluding applicants on the basis of not being able to fulfil this evidentiary burden that sits solely on them, is an act of mass-arbitrary deprivation of nationality … [168]

In Myanmar, extensive documentary evidence has been required since independence, and increased with the 1982 Citizenship Law. Non-*taingyintha* applicants are required to submit both their parents' and all four grandparents' citizenship documentation, or otherwise prove that they and/or their ancestors had settled in Myanmar prior to independence in 1948. However, by 1960, only slightly over 20,000 citizenship certificates had been issued, with an estimated 80,000 to 90,000 applications pending in 1982.[169] In other words, to receive documentation under the 1982 Law, non-*taingyintha* were expected to produce documents that the state rarely issued and never required most citizens to hold. Those who are unable to prove that their parents were fully documented citizens are only eligible for associate or naturalized citizenship.

Lack of documentation remains one of the most significant barriers to accessing any of the citizenship categories in Myanmar. Citizenship scrutiny card applicants can claim citizenship based on birth by documenting that their parents were *taingyintha*, but this can be complicated for people who follow a minority religion like Islam. Alternatively, applicants can document that their parents or grandparents possessed a Union Citizenship Certificate

[164]Arraiza et al, 2020.
[165]Jayal, 2019:39.
[166]Approximately 33 million Assam residents were included on voter lists. See *India Today 2019*. Article 1 of the 1954 Convention relating to the Status of Stateless Persons defines a "stateless person" as someone "not considered as a national by any state under the operation of its law." UNHCR 1954.
[167]*Hindustan Times* 2020.
[168]Minority Rights Group 2019.
[169]Rhoads 2023b; UKNA 1982.

issued after 1948 and before the 1982 Act came into effect, but these were not widely issued, particularly as they were not required for citizens by birth. Lastly, records of residence and records of entry into Myanmar can be used to prove residence in Myanmar prior to 1948. But in practice, obtaining these documents is extremely difficult for many reasons, primarily the heavy bombing of Rangoon during the Second World War that destroyed many private and government records. For some, such an impossible task led them to abandon their citizenship applications altogether.

Conclusion

The "institutionalization of suspicion"[170] and the precarious citizenship conditions such suspicion causes[171] have become increasingly recurrent themes in scholarship on citizenship in the subcontinent. A growing body of scholarship explores the everyday vulnerabilities emanating from this suspicion, which Lucy Dubochet describes as the "citizenship of extraordinary political obligation and minimal entitlement."[172] This scholarship resonates with the administrative-bureaucratic violence and rights-based citizenship dilemmas we have discussed in this paper but focuses on everyday precarity.

The specter of the potential foreigner goes beyond the temporal immediateness inherent in such characterizations to provide a much deeper portrayal of the suspicion embedded in the overlapping contours of legal, social, and political history that can be traced back to partition and the colonial era. Despite differences in the evolution of citizenship policies in post-colonial Myanmar and India, in both states citizenship policies are predicated upon a notion of foreignness that can be religious, ethnic, racial, or administrative. This suspicion is a legacy of the subcontinent's two partitions and has become a part of the socio-political fabric of both countries.

Analyzing the legislative evolution of the notion of protecting the nation from potential foreigners in India and Myanmar reveals a critical analytical fulcrum around which postcolonial citizenship has formed. The concept of nationhood presupposes a negative, or even antagonistic, "other."[173] The power relations arising from citizenship claims and suspicions about non-citizen "others" constitute an arena over which different interpretations from various positionalities have historically struggled to gain hegemony. And yet, as the current state of affairs in Myanmar and India indicate, a restrictive interpretation of this construct threatens to gain legitimacy over all other expressions of citizenship and national identity, one that has the specter of potential foreigners at its core.

Acknowledgments

The authors thank Michael Edwards and the Center for South Asian Studies at the University of Cambridge for organizing the "Axes of Difference in the Study of Burma/Myanmar" workshop in

[170]Dubochet 2023, 110; see also Pathan and Jha 2022.
[171]Lori 2017; Punathil 2022.
[172]Dubochet 2023, 107.
[173]Winichakul 1994.

2020, where an early version of this article was presented, and a workshop on "Cyclical Specters of Conflict in Southeast Asia" at Stockholm University in 2024 organized by Tomas Cole and the Department of Anthropology. They also thank the two anonymous reviewers for their detailed comments and feedback on an earlier draft of the manuscript. We would also like to thank Robert Shepherd for his detailed comments, edits, and guidance in the editorial process.

Funding

The archival research on Myanmar for this article was funded by the Swedish Research Council Starting Grant in Development Studies (2022-04861), "Tracing Citizenship and Displacement: New Faces of Statelessness in Myanmar."

About the Authors

Elizabeth L. Rhoads is a researcher and Visiting Senior Lecturer at the Centre for East and South-East Asian Studies, Department of History, Lund University, Sweden. Her current research on histories of citizenship and displacement in and from Myanmar is funded by the Swedish Research Council.

Ritanjan Das is a University Lecturer in contemporary South Asian politics at the Leiden University Institute of Area Studies in the Netherlands. His primary area of interest is the political economy of development in contemporary India and South Asia. His most recent work explores questions of identity, sovereignty, marginalization, and democratic deficits in South Asia.

ORCID

Elizabeth L. Rhoads http://orcid.org/0000-0003-0390-7217
Ritanjan Das http://orcid.org/0000-0002-7030-0565

References

Constituent Assembly Debates (CAD), Vols. I, IX.

Alam, Jobair. 2018. "The Rohingya of Myanmar: Theoretical significance of the minority status." *Asian Ethnicity* 19(2): 180–210.

Amnesty International UK. 2019. "India: Crackdown on Citizenship Act Protests Must Stop." December 19. Accessed July 10, 2023: https://www.amnesty.org.uk/press-releases/india-crackdown-peaceful-citizenship-act-protests-must-stop

Amrith, Sunil. 2013. *Crossing the Bay of Bengal: The Furies of Nature and the Fortunes of Migrants*. Cambridge: Harvard University Press.

Amrith, Sunil. 2018. "Struggles for Citizenship around the Bay of Bengal." In *The Postcolonial Moment in South and Southeast Asia*, edited by Gyan Prakash, M. Laffan and N. Menon, 107–120. London: Bloomsbury.

Andrews, Thomas. 2023. "Bangladesh must suspend pilot project to return Rohingya refugees to Myanmar: UN expert" United Nations Office of the High Commissioner for Human Rights (OHCHR), June 8. Accessed March 30, 2024: https://www.ohchr.org/en/press-releases/2023/06/bangladesh-must-suspend-pilot-project-return-rohingya-refugees-myanmar-un.

Arendt, Hannah. 1951. *The Origins of Totalitarianism*. New York: Harcourt, Brace.

Arraiza, José-María, Phyu Zin Aye, and Marina Arraiza Shakirova. 2020. "Fighting Imagined Invasions with Administrative Violence: Racism, Xenophobia and Nativism as a Cause of Statelessness in Myanmar, the Dominican Republic and Assam (India)." *Statelessness & Citizenship Review* 2 (2): 195–221.

Ashesh, Ashna and Thiruvengadam, Arun. 2017. *Report on Citizenship Law: India*, Country Report No. RSCAS/GLOBALCIT-CR 2017/12, Robert Schuman Centre for Advanced Studies, European University Institute. Accessed April 3, 2024: https://cadmus.eui.eu/handle/1814/47124.

Aung Ko Ko, Elizabeth Rhoads, Nan Tinilarwin, Win Bo Aung, and Yoon Thiri Khaing. Forthcoming. " Beyond federalism? Inclusion, citizenship, and minorities without territory in Myanmar's Spring Revolution" *Journal of Contemporary Asia*, forthcoming.

Bangar, Asha. 2017. *Statelessness in India*, Statelessness Working Paper Series No. 2017/02, Institute on Statelessness and Inclusion. Accessed April 3, 2024: https://files.institutesi.org/WP2017_02.pdf.

BBC. 2024. "CAA: India's New Citizenship Laws Explained," March 12. Accessed March 16, 2024: https://www.bbc.co.uk/news/world-asia-india-50670393

Beaugrand, Claire. 2011. "Statelessness & Administrative Violence: Bidūns' Survival Strategies in Kuwait: Statelessness & Administrative Violence." *Muslim World* 101 (2): 228–250.

Berda, Yael. 2022. *Colonial Bureaucracy and Contemporary Citizenship: Legacies of Race and Emergency in the Former British Empire*. Cambridge, UK: Cambridge University Press.

Bhat, M. Mohsin Alam. 2019. "The Constitutional Case against the Citizenship Amendment Bill." *Economic and Political Weekly* LIV (3): 12–14.

Brinham, Natalie. 2019. "Looking Beyond Invisibility: Rohingyas' Dangerous Encounters with Papers and Cards." *Tilburg Law Review*, 24 (2): 156-169.

Business Standard. 2020. "What is Shaheen Bagh Protest." February 1. Accessed April 16, 2021: https://www.business-standard.com/about/what-is-shaheen-bagh-protest.

Callahan, M. P. 2017. "Distorted, Dangerous Data? Lumyo in the 2014 Myanmar Population and Housing Census." *Sojourn: Journal of Social Issues in Southeast Asia*, *32* (2), 452–478.

Chandrachud, Abhinav. 2020. "Secularism and the Citizenship Amendment Act." *Indian Law Review* 4 (2): 138–162.

Chapparban, Sajaudeen Nijamodeen. 2020. "Religious Identity and Politics of Citizenship in South Asia: A Reflection on Refugees and Migrants in India." *Development* 63: 52–59.

Chatterjee, Partha. 1993. *The Partha Chatterjee Omnibus*. New Delhi: Oxford University Press.

Chatterji, Joya. 2012. "South Asian Histories of Citizenship, 1946–1970." *The Historical Journal* 55 (4): 1049–1071.

Cheesman, Nick. 2017. "How in Myanmar 'National Races' Came to Surpass Citizenship and Exclude Rohingya." *Journal of Contemporary Asia* 47 (3): 461–483.

Chhotray, Vasudha and McConnell, Fiona. 2018. "Certifications of Citizenship: The History, Politics, and Materiality of Identity Documents in South Asian States and Diasporas." *Contemporary South Asia* 26 (2): 111–126.

Dubochet, Lucy. 2023. "Citizenship as Burden of Proof: Voting and Hiding Among Migrants from India's Eastern Borderlands." *Citizenship Studies* 27 (1): 107–123.

Egreteau, Renaud. 2011. "Burmese Indians in Contemporary Burma: Heritage, Influence, and Perceptions since 1988." *Asian Ethnicity* 12 (1): 33–54.

Egreteau, Renaud. 2014. "The Idealization of a Lost Paradise: Narratives of Nostalgia and Traumatic Return Migration among Indian Repatriates from Burma since the 1960s." *The Journal of Burma Studies* 18 (1): 137–180.

Emmrich, Christoph; McQuade Joseph; Aiyar, Sana and d'Hubert, Thibaut. 2022. "Towards a Burma-inclusive South Asian Studies: A Roundtable." *Modern Asian Studies* 57 (1): 283–320.

Ferguson, Jane. 2015. "Who's Counting? Ethnicity, Belonging, and the National Census in Burma/Myanmar." *Bidjdragen Tot De Taal-, Land- En Volkenkunde* 171(1): 1–28.

Fink, Christina. 2018. "Myanmar: Religious Minorities and Constitutional Questions." *Asian Affairs* 49 (2): 259–277.

FitzGerald, David. 2012. "A Comparativist Manifesto for International Migration Studies." *Ethnic and Racial Studies* 35 (10): 1725–1740.

Formichi, Chiara. 2023. "Intersectionality and Belonging: Muslims in the Census of British Asia." *Journal of the Royal Asiatic Society* 33 (1): 1–18.

Frontier Myanmar. 2021. "The NUG's Rohingya policy: 'Campaign Statement' or Genuine Reform?" July 15. Accessed April 3, 2024: https://www.frontiermyanmar.net/en/the-nugs-rohingya-policy-campaign-statement-or-genuine-reform/.
Gilmartin, David. 2015. "The Historiography of India's Partition: Between Civilization and Modernity." *The Journal of Asian Studies* 74 (1): 23–41.
Government of India. 1985. "The Assam Accord." Accessed May 01, 2021: https://peacemaker.un.org/sites/peacemaker.un.org/files/IN_850815_Assam%20Accord.pdf.
Government of India. 2003. "The Citizenship (Amendment) Bill." Accessed May 31, 2021: http://164.100.47.4/billstexts/rsbilltexts/AsIntroduced/XXXIX_2003.pdf.
Government of the Union of Burma (GUB). 1953. *Annual Report of the Immigration Department for the year 1950*. Rangoon: Government Printing and Stationery Office.
Graeber, David. 2012. "Dead Zones of the Imagination: On Violence, Bureaucracy, and Interpretive Labor." *HAU: Journal of Ethnographic Theory* 2 (2): 105–128.
Greene, K. 1948. "Repatriating China's Expatriates." *Far Eastern Survey* 17 (4): 44–47.
Guyot-Rechard, B. 2021. "Tangled Lands: Burma and India's Unfinished Separation, 1937-1948." *The Journal of Asian Studies* 80 (2): 293–315.
Hanthawaddy. 1974. "Illegal Immigrants in Hopong," August 27.
The Hindu. 2021. "Indian-Americans Hold Rally in Support of CAA, NRC." *Business Line*. December 6. Accessed April 19, 2022: https://www.thehindubusinessline.com/news/world/indian-americans-hold-rallies-in-support-of-caa-nrc-in-us/article30394138.ece.
Hindustan Times. 2020. "The CAB-NRC Package is Flawed and Dangerous," August 2. Accessed June 4, 2021: https://www.hindustantimes.com/columns/the-cab-nrc-package-is-flawed-and-dangerous/story-mHB05zOPf20vlcnSydvQdI.html
Holmes, Robert. 1967. "Burmese Domestic Policy: The Politics of Burmanization." *Asian Survey* 7 (3): 188–197.
Ikeya, Chie. 2020. "Belonging Across Religion, Race, and Nation in Burma-Myanmar." In *The Palgrave International Handbook of Mixed Racial and Ethnic Classification*, edited by Zarine L. Rocha and Peter J. Aspinall, 757–778. Switzerland: Palgrave McMillan.
India Office Records. 1941. *The Indo-Burma Immigration Agreement: A Nation in Revolt*. 8024.c.14. London: British Library.
India Office Records. 1947. *Indians Overseas: Indo-Burma Agreement, Unofficial Representations*. IOR L/PJ/8/214. London: British Library.
India Office Records. 1948. *Indians in Burma*. IOR: L/PJ/8/215. London: British Library.
India Today. 2019. "NRC final list: How and where to check your name on Assam's National Register of Citizens." September 14. Accessed May 31, 2021: https://www.indiatoday.in/india/story/nrc-final-list-how-and-where-to-check-your-name-on-assam-national-register-of-citizens-1593695-2019-08-31.
Institute on Statelessness and Inclusion. 2020. "Statelessness in numbers: 2020, An overview and analysis of global statistics." *Institute on Statelessness and Inclusion*, August. Accessed April 3, 2024: https://files.institutesi.org/ISI_statistics_analysis_2020.pdf.
Isin, Engin. F. 2008. "Theorizing Acts of Citizenship." In *Acts of Citizenship*, edited by E. F. Isin and G. M. Nielsen, 15–43. New York: Zed Books.
Isin, Engin. F., and Nyers, Peter. 2014. "Introduction: Globalizing Citizenship Studies." *Routledge Handbook of Global Citizenship Studies*. London: Taylor & Francis.
Jacobsen Georg, Isaksen Joachim Vogt, Skavhaug Gunn Kari O., and Bakkan Hilde Anderssen. 2016. "The Turning Point of Tolerance: Ethnic Attitudes in a Global Perspective." *International Journal on Minority and Group Rights* 23 (1): 80–104.
Jaffrelot, Christophe. 2017. "India's Democracy at 70: Toward a Hindu State?" *Journal of Democracy* 28 (03): 52-63.
Jaffrelot, Christophe. 2021. "From Hindu Rashtra to Hindu Raj? A *de facto* or a *de jure* Ethnic Democracy." In *Routledge Handbook on Autocratization in South Asia*, edited by Sten Wildmalm, London: Routledge, 127-138.

Jaiswal, Ritesh Kumar. 2014. "Indian Labor Emigration to Burma (c.1880–1940): Rethinking Indian Migratory Patterns." *Proceedings of the Indian History Congress* 75: 911–919.

Jayal, Niraja Gopal. 2013. *Citizenship and Its Discontents: An Indian History*. Cambridge, MA: Harvard University Press.

Jayal, Niraja Gopal. 2016. "Citizenship." In *The Oxford Handbook of the Indian Constitution*, edited by Sujit Choudhry, M. Khosla, and P. Mehta, 163–179. Oxford, UK: Oxford University Press.

Jayal, Niraja Gopal. 2019. "Reconfiguring Citizenship in Contemporary India." *South Asia: Journal of South Asian Studies* 42 (1): 33–50.

Khan, Yasmin. 2017. *The Great Partition: The Making of India and Pakistan*. New Haven, CT and London: Yale University Press.

Khan, Raphaëlle. and Sherman, Taylor C. 2021. "India and overseas Indians in Ceylon and Burma, 1946–1965: Experiments in post-imperial sovereignty." *Modern Asian Studies* 56 (4): 1–30.

Kohn, Hans. 1944. *The Idea of Nationalism : A Study in its Origins and Background*. New York: Macmillan.

Lori, Noora A. 2017. "Statelessness, 'In-between' Statuses, and Precarious Citizenship." In *The Oxford Handbook of Citizenship*, edited by Ayelet Shachar, R. Bauböck, I. Bloemraad, and M. Vink, 743–766. Oxford: Oxford University Press.

Lowis, C.C. 1902. *Census of India 1901 Volume 12 (Burma); Part 1 (Report)*. Rangoon: Office of the Superintendent of Government Printing.

Lund, Christian. 2020. *Nine-Tenths of the Law: Enduring Dispossession in Indonesia*. New Haven, CT: Yale University Press.

Mandhani, Apoorva. 2021. "CAA Case Comes up Just Thrice in 1 Year in SC Despite 140 Pleas, Including from UN Body." *The Print*, January 6. Accessed April 16, 2021: https://theprint.in/judiciary/caa-case-comes-up-just-thrice-in-1-year-in-sc-despite-140-pleas-including-from-un-body/579837/.

Marshall, Thomas.1949. *Citizenship and Social Class*. New York: Pluto Press.

Mawkun. 2019. "လူမျိုလိုလူမျိုးပြတ်မှာလား လဝကမျိုလိုလူမျိုးပြတ်မှာလား." ["Will a race disappear by being swallowed by others or by the immigration office?"]. Number 69, November 25.

McConnachie, Kirsten. 2021. "Refugee Policy as Border Governance: Refugee Return, Peacebuilding, and Myanmar's Politics of Transition." *Modern Asian Studies* 56 (2): 661–690.

Minority Rights Group. 2019. "Joint Statement: 124 Civil Society Organisations Condemn the Exclusion of 1.9 Million People from the Assam NRC." Accessed June 10, 2021: https://minorityrights.org/2019/09/09/statement-mass-disenfranchisement-assam/.

Min Zin. 2015. "Anti-Muslim Violence in Burma: Why Now?" *Social Research* 82 (2): 375–397.

Mosaic Myanmar. 2023. *Looking Familiar, Remaining Strangers: The Challenges of Muslims and Other Unofficial Minorities in Myanmar*. Yangon: SFIG.

Myint-U, Thant. 2020. *The Hidden History of Burma: A Crisis of Race and Capitalism*. London: Atlantic Books.

National Archives of India. 1955. *Disabilities of People of Indian Origin in Burma*. Ministry of External Affairs. File No. 48-2/55-BC.

National Archives of India. 1964. *Political Report (other than annual) from Rangoon (Burma)*. Ministry of External Affairs, File No. HI/1012(12)/64.

National Archives of India. 1965. *Annual Reports from Rangoon, 1964*. Ministry of External Affairs. File No. H-I-1011(12)65.

National Archives of India. 1967. *Annual Reports from Rangoon, 1966*. Ministry of External Affairs. File No. H-I-1011(12)/67.

National Archives of India. 1977. *Annual Report, Rangoon, 1976*. Ministry of External Affairs. File No. Hi/1011/(11)/77–I.

National Archives of India. 1982. *Annual Report, Rangoon, 1981*. Ministry of External Affairs. File No. Hi/1011/(11)/82.

National Unity Government. 2021. "Policy Position on the Rohingya in Rakhine State." June 3. Accessed April 3, 2024: https://gov.nugmyanmar.org/2021/06/03/policy-position-on-the-rohingya-in-rakhine-state/.
Nevard, Jacques. 1964. "Uprooted Burma Traders Reach Indian 'Home.'" *The New York Times*, July, 24.
Nyi Nyi Kyaw. 2015. "Alienation, Discrimination, and Securitization: Legal Personhood and Cultural Personhood of Muslims in Myanmar." *The Review of Faith & International Affairs* 13 (4): 50–59.
Nyi Nyi Kyaw. 2017. "Unpacking the Presumed Statelessness of Rohingyas." *Journal of Immigrant & Refugee Studies* 15 (3): 269–86.
Nyi Nyi Kyaw. 2019. "Adulteration of Pure Native Blood by Aliens? Mixed Race Kapya in Colonial and Post-Colonial Myanmar." *Social Identities*, 25 (9): 345–359.
Nyi Nyi Kyaw. 2022. "Citizenship Stripping in Myanmar as Lawfare." *The Citizenship & Statelessness Review* 4 (2): 280–285.
Osada, Noriyuki. 2011. "An Embryonic Border: Racial Discourses and Compulsory Vaccination for Indian Immigrants at Ports in Colonial Burma, 1870–1937." *Moussons: Recherche en sciences humaines sur l'Asie du Sud-Est* 17: 145–164.
Osada, Noriyuki. 2021. "Partitioned Lives: Myanmar-born Indians in the Manipur Borderland." In *Northeast India and Japan: Engagement Through Connectivity*, edited by Mayumi Murayama, S. Hazarika, and P. Gill, 223-237. London: Routledge.
Parashar, Archana and Alam, Joabir. 2019. "The National Laws of Myanmar: Making of Statelessness for the Rohingya." *International Migration* 57 (1): 94–108.
Pathak, Vikas. 2024. "Modi govt modulates CAA line: No mention of NRC, frames law as 'justice for persecuted Hindus.' *The Indian Express*, March 14. Accessed March 31, 2024: https://indianexpress.com/article/political-pulse/caa-modi-list-nrc-bjp-amit-shah-9212517/.
Pathan, Shofiul Alam and Jha, Munmun. 2022. "Miya Muslims of Assam: Identity, Visuality and the Construction of 'Doubtful Citizens'." *Journal of Muslim Minority Affairs* 42 (1): 150–159.
Prasse-Freeman, Elliott. 2017. "The Rohingya Crisis." *Anthropology Today* 33(6): 1–2.
Prasse-Freeman, Elliott. 2023. "Reassessing Reification: Ethnicity admidst 'Failed' Governmentality in Burma and India." *Comparative Studies in Society and History*, 65 (3): 670–701.
Punathil, Salah. 2022. "Precarious Citizenship: Detection, Detention and 'Deportability' in India." *Citizenship Studies* 26 (1): 55–72.
Rhoads, Elizabeth Lugbill. 2023a. "Citizenship Denied, Deferred, and Assumed: A Legal History of Racialized Citizenship in Myanmar." *Citizenship Studies* 27 (1): 38–58.
Rhoads, Elizabeth Lugbill. 2023b. "Property, Citizenship, and Invisible Dispossession in Myanmar's Urban Frontier." *Geopolitics* 28 (1), 122–155.
Rhoads, Elizabeth Lugbill, Natalie Brinham, Kathy Win, and Nan Tinilarwin. Forthcoming. "Civil documentation and modalities of bureaucratic violence in Myanmar." Forthcoming.
Roberts, Jayde Lin. 2016. *Mapping Chinese Rangoon: Place and Nation among the Sino-Burmese*. Seattle: University of Washington Press.
Roberts, Jayde Lin and Elizabeth Lugill Rhoads. 2022. "Myanmar's hidden-in-plain-sight social infrastructure: *nalehmu* through multiple ruptures." *Critical Asian Studies* 54 (1): 1–21.
Rodrigues, Valerian. 2008. "Citizenship and the Indian Constitution." In *Politics and Ethics of the Indian Constitution*, edited by Rajeev Bhargava, 164-188. New Delhi: Oxford University Press.
Roy, Anupama. 2010. *Mapping Citizenship in India*. New Delhi: Oxford University Press.
Roy, Anupama. 2022. *Citizenship Regimes, Law, and Belonging: The CAA and NRC*, Oxford University Press.
Sadan, Mandy. 2018. "Contested Meanings of Postcolonialism and Independence in Burma." In *The Postcolonial Moment in South and Southeast Asia*, edited by Gyan Prakash, M. Laffan and N. Menon, 50–65. London: Bloomsbury.
Sadiq, Kamal. 2009. *Paper Citizens: How Illegal Immigrants Acquire Citizenship in Developing Countries*. New York: Oxford University Press.
Sadiq, Kamal. 2017a. "Postcolonial Citizenship." In *The Oxford Handbook of Citizenship*, edited by Ayelet Shachar, R. Bauböck, I. Bloemraad, and M. Vink, 178–199. Oxford: Oxford University Press.

Sadiq, Kamal. 2017b. "Limits of Legal Citizenship: Narratives from South and Southeast Asia." In *Citizenship in Question*, edited by Benjamin Lawence and Jacqueline Stevens, 165–176. Durham, NC: Duke University Press,.

Saha, Jonathan. 2015. "Is it in India? Colonial Burma as a 'Problem' in South Asian History." *South Asian History and Culture* 7 (1): 23–29.

Saigol, Rubina. 2003. "His Rights/Her Duties: Citizen and Mother in the Civics Discourse." *Indian Journal of Gender Studies* 10 (3), 379–404.

Sarbananda Sonowal vs Union of India. 2006. Accessed May 01, 2021: https://indiankanoon.org/doc/1436100/.

Schenk, Caress. 2021. "The Migrant Other: Exclusion without Nationalism?" *Nationalities Papers* 49 (3): 397–408.

Shani, Ornit. 2010. "Conceptions of Citizenship in India and the 'Muslim Question.'" *Modern Asian Studies* 44 (1): 145–173.

Singh, Bikash. 2019. "Doubtful Voters can Make it to NRC Only if Names Cleared by Foreigners' Tribunal." *The Economic Times*. May 28. Accessed July 4, 2023: https://economictimes.indiatimes.com/news/politics-and-nation/doubtful-voters-can-make-it-to-nrc-only-if-names-cleared-by-foreigners-tribunal/articleshow/69546320.cms?from=mdr.

Sinha. A.N. 1962. *Law of Citizenship and Aliens in India*. Lucknow: Asia Publishing House.

Smith, Martin 1991. *Burma: Insurgency and the Politics of Ethnicity*. London: Bloomsbury Publishing.

Socialist Republic of the Union of Burma Ministry of Home and Religious Affairs. 1987. "Shan State 1983 Population Census." Rangoon: Government Printing Office.

Taylor, Robert H. 2006. "The Legal Status of Indians in Contermporary Myanmar." In *Indian Communities in Southeast Asia*, edited by K.S. Sandhu and A. Mani. Singapore: ISEAS.

Than Toe Aung. 2019. "Integration Should Not Be a One-Way Street." *Frontier Myanmar*, August 3, 2019. https://www.frontiermyanmar.net/en/integration-should-not-be-a-one-way-street/

Times of India. 1964. "Marooned in Burma," May 7.

Times of India. 2019. "Congress Backed Citizenship for Pak Hindus." December 21. Accessed May 1, 2021: https://timesofindia.indiatimes.com/india/congress-backed-citizenship-for-pak-hindus/articleshow/72910461.cms

Times of India. 2020. "154 Prominent Citizens Write to President in Support of CAA, NPR, NRC." February 17. Accessed April 19, 2021: https://timesofindia.indiatimes.com/india/154-prominent-citizens-support-caa-npr-nrc-write-to-president/articleshow/74176834.cms

Times of London. 1964. "Repatriation Demand by Rangoon Indians," April 23.

UNHCR. 2019. "Rohingya Emergency." Accessed April 3, 2024: https://www.unhcr.org/en-au/rohingya-emergency.html?query=Rohingya%20emergency.

UNHCR. 2021. "Identification of Statelessness." Accessed April 3, 2024: https://reporting.unhcr.org/identification-statelessness.

UNHCR. 2024. "Myanmar Operational Data Portal." Accessed March 30, 2024: https://data.unhcr.org/en/country/mmr

United Kingdom National Archives. 1959. "Difficulties between Pakistan and Burma Regarding the Movement of People across Their Common Frontier Have Become Acute." FO/371/144,475. London: The National Archives.

United Kingdom National Archives. 1963. "Attaches memorandum involving restrictions on foreign residents in Rangoon." DB1581/1. London: The National Archives.

United Kingdom National Archives. 1982. "Burmese Citizenship Law." FCO15/3177 London: The National Archives.

United Nations High Commissioner for Refugees (UNHCR). 1954. "Convention Relating to the Status of Stateless Persons." Accessed May 31, 2021: https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf.

United Nations Office of the High Commissioner on Human Rights (OHCHR). 2019. "Press Briefing on India." December 13. Accessed July 3, 2023: https://www.ohchr.org/en/press-briefing-notes/2019/12/press-briefing-india?LangID=E&NewsID=25425.

Vink, Maarten P. 2017. "Comparing Citizenship Regimes." In *The Oxford Handbook of Citizenship*, edited by Ayelet Shachar, R. Bauböck, I. Bloemraad, and M. Vink, 221–245. Oxford: Oxford University Press.

Westerman, Ashley. 2021. "What Myanmar's Coup Means For The Rohingya." National Public Radio, February 11. Accessed August 11, 2023: https://www.npr.org/2021/02/11/966923582/what-myanmars-coup-means-for-the-rohingya.

Winichakul, Thongchai. 1994. *Siam Mapped: A History of the Geo-Body of a Nation*. Honolulu: University of Hawai'i Press.

Working People's Daily. 1980. "Law Commission Chairman explains matters relating to drafting of Citizenship Law." July 4.

Working People's Daily. 1982. "Meeting Held in the Central Meeting Hall, President House, Ahlone Road, 8 October 1982," October 9.

Zamindar, Vazira Fazila-Yacoobali. 2007. *The Long Partition and the Making of Modern South Asia: Refugees, Boundaries, Histories*. New York: Columbia University Press.

Zarni, Maung. 2021. "OPINION – Purge Genocide Culprits from Democratic Leadership: Myanmar." *Andalou Agency*. May 8. Accessed April 3, 2024: https://www.aa.com.tr/en/analysis/opinion-purge-genocide-culprits-from-democratic-leadership-myanmar/2233808.