

COMMENTARY

CITIZENSHIP ADVOCACY IN MYANMAR — WHAT IS THE WAY FORWARD AFTER THE COUP?

U MYO WIN* AND JOSÉ MARÍA ARRAIZA**

TABLE OF CONTENTS

I	Introduction.....	91
II	Pre-Coup Advocacy Efforts to Abolish the 1982 <i>Citizenship Law</i>	93
III	A Policy Shift after the 2021 Coup?.....	94
IV	Avenues for Effective Citizenship Advocacy after the Coup.....	96

I INTRODUCTION

The February 2021 military coup d'état against Myanmar's National League for Democracy ('NLD') government radically changed the political landscape for citizenship and human rights advocates. The fundamental shift in the roles of the military, the democratic opposition and Ethnic Resistance Organisations ('EROs')¹ requires that human rights actors adapt to the current situation and strategise on advocacy in a collaborative manner. The development and promotion of alternative legislation to eventually replace the 1982 *Citizenship Law* ('the Law')² as part of a new federal constitutional model should be a primary objective.³

During the attempted Myanmar transition to democracy (2011–21) the failure to abolish the 1982 *Citizenship Law* or even to acknowledge its discriminatory character was a problematic feature of the NLD and other mainstream forces.⁴ During that period, none of the efforts of international and national human rights

* José María Arraiza (PhD, Åbo Akademi University) is a researcher on the legal identity and land rights of ethnic minorities. He has worked in the humanitarian field, research and peace-keeping since 1998 in conflict and post-conflict contexts such as East Timor, Kosovo, Myanmar and Sudan. The views expressed in this article are personal and do not represent any organisation.

** Myo Win is a human rights activist and civil society organisation leader who has considerable experience with Myanmar and its citizenship challenges. Currently, he is a visiting scholar of the Zarrow School of Social Work at the University of Oklahoma. The views expressed in this article are personal and do not represent the position of any organisation.

1 For more information on Ethnic Armed Organisations, see, eg, Amara Thiha, 'It's Time to Rethink Myanmar's Ethnic Armed Organizations', *The Diplomat* (online, 24 March 2023) <<https://thediplomat.com/2023/03/its-time-to-rethink-myanmars-ethnic-armed-organizations>>, archived at <<https://perma.cc/V9XX-YQ3W>>.

2 *Pyidaungsu Hluttaw Law No 4* [Burma Citizenship Law No 4] (15 October 1982) (Socialist Republic of the Union of Burma).

3 See 'Towards an Inclusive Citizenship in a Federal Democratic Myanmar' (Briefing Paper, Institute on Statelessness and Inclusion, July 2021).

4 See Adeth Maung Thawngmung, "'National Races' in Myanmar", *Oxford Research Encyclopedia of Asian History* (online, 20 April 2022) <<https://oxfordre.com/asianhistory/display/10.1093/acrefore/9780190277727.001.0001/acrefore-9780190277727-e-656?rkey=ShX5tq&result=1>>, archived at <<https://perma.cc/L3Q6-AY4E>>; Erin Bikl and Chris van der Borgh, 'Securitization of Muslims in Myanmar's Early Transition (2010–15)' (2022) 28(2) *Nationalism and Ethnic Politics* 105, 105–6.

actors to expose the fundamental flaws of the Law — designed by a military dictator (then General Ne Win, who ruled between 1962 and 1988) and based on racist assumptions — led to any effective positive change on either the legislative framework or the practices in place.⁵ On the contrary, the fate of stateless persons, especially the Rohingya, continued to deteriorate steadily.⁶

The 2021 coup was not entirely successful and at present, the People’s Defense Forces (‘PDF’), the Civil Disobedience Movement and most of the EROs are fighting the State Administration Council (‘SAC’); the self-styled military government created by the Junta after the coup. At present, none of these parties can claim full control over the country’s territory, in what some of the involved actors see as a so-called ‘Balkanisation’ of the country.⁷ The NLD-led interim government arrangement under the coup, the National Unity Government (‘NUG’), claims to be the sole legitimate representative of the will of Myanmar’s people, and is enacting legislation and issuing executive decisions.⁸ EROs like the United League of Arakan/Arakan Army (‘ULA/AA’), the Kachin Independence Organisation/Kachin Independence Army, the Karenni National Progressive Party and the Karen National Union/Karen National Liberation Army have their own governance, and administrative and judicial bodies in place, in addition to their armed forces.⁹ An end to this multi-layered conflict is still nowhere in sight.

This turn of the screw on an already convoluted scenario has added a layer of complexity to the longstanding citizenship crisis of Myanmar and the objective of human rights actors to end discrimination and mass statelessness.¹⁰ Myanmar is responsible for producing the largest stateless group in the world; the Rohingya of Rakhine State.¹¹ This group progressively lost de jure and de facto citizenship rights through a variety of measures, including unlawful attacks on civilians in 1978 and 1991, which caused mass displacement, and discriminatory

⁵ See, for example, statements and reports by Yanghee Lee, United Nations Special Rapporteur on Human Rights in Myanmar (2014–19): see, eg, *Summary Record of the 32nd Meeting*, UN Doc A/C.3/70/SR.32 (30 November 2015) [39]–[49]. In her final report, the Special Rapporteur called for the citizenship law to be ‘urgently reformed’: *Report of the Special Rapporteur on the Situation of Human Rights in Myanmar*, UN Doc A/HRC/43/59 (29 April 2020) [69].

⁶ See generally Institute on Statelessness and Inclusion, ‘Navigating with a Faulty Map Access to Citizenship Documents and Citizenship in Myanmar’ (Research Paper, October 2021) (‘Navigating with a Faulty Map’).

⁷ ‘Balkanisation’ has been used to describe ‘political and territorial fragmentation in the context of heterogeneity and territorial and border conflicts’: Liridon Lika, ‘The Meaning of the Western Balkans Concept for the EU: Genuine Inclusion or Polite Exclusion?’ (2023) 1(1) *Southeast European and Black Sea Studies* 1,4. See Ta Doh Moo and Salai Thla Hei, ‘ASEAN Must Help Reverse Balkanization of Myanmar’, *Asia Nikkei* (online, 31 January 2023) <<https://asia.nikkei.com/Opinion/ASEAN-must-help-reverse-Balkanization-of-Myanmar>>, archived at <<https://perma.cc/5CJP-NJ4S>>; ‘Myanmar: Post-Coup Crisis and a Flawed Election’, *International Crisis Group* (online, 31 January 2023) <<https://www.crisisgroup.org/asia/south-east-asia/myanmar-post-coup-crisis-and-flawed-election>>, archived at <<https://perma.cc/74PX-9MSN>>.

⁸ UNHRC, *Illegal and Illegitimate: Examining the Myanmar Military’s Claim as the Government of Myanmar and the International Response Conference Room Paper of the Special Rapporteur on the Situation of Human Rights in Myanmar*, UN Doc A/HRC/52/CRP.2 (31 January 2023) [148]–[164].

⁹ See Ashley South, ‘Towards “Emergent Federalism” in Post-Coup Myanmar’ (2021) 43(3) *Contemporary Southeast Asia* 439, 449–51.

¹⁰ See generally Ian Holliday, ‘Addressing Myanmar’s Citizenship Crisis’ (2014) 44(3) *Journal of Contemporary Asia* 404.

¹¹ ‘An Overview of Statelessness’ (Factsheet, Peter McMullin Centre on Statelessness, February 2023) 2.

implementation of the 1982 *Citizenship Law*.¹² In November 2016 and August 2017, allegedly in response to armed actions by the Arakan Rohingya Salvation Army, the *Tatmadaw* (Myanmar army) hit civilians harder than ever and displaced more than 750,000 Rohingya to Bangladesh.¹³ The use of rape, torture, killings and other crimes by the army led to formal accusations of crimes against humanity and genocide as committed against the Rohingya, the latter of which was argued in the International Court of Justice.¹⁴ The situation of the Rohingya who remain in Myanmar is compounded by both the coup and the ongoing conflict between the ULA/AA and the *Tatmadaw*.

II PRE-COUP ADVOCACY EFFORTS TO ABOLISH THE 1982 *CITIZENSHIP LAW*

Commencing in the early 1990s, the 1982 *Citizenship Law* was protested by human rights actors, including Rohingya activists.¹⁵ The arguments used against the Law were diverse. Many Rohingya actors argued their position by using the same logic as the Law; that they were as much a pre-colonial group as the other eight groups referred to in art 3 of the 1982 *Citizenship Law* and deserved to be considered *taingyintha*, and hence citizens.¹⁶ Others criticised the abandonment of both *jus soli* principles in favour of *jus sanguinis* and the need to establish paths to citizenship for all Myanmar inhabitants with a legitimate claim.¹⁷

While United Nations ('UN') human rights bodies were persistent in denouncing the Law and calling for its abolishment, the UN presence in Myanmar did not take this as an objective and opted for a more accommodating role, prioritising access (including humanitarian access and forms of programme-related physical access to the territory of Myanmar by the UN) over international human rights law. The 2017 crisis in Rakhine exposed this soft attitude and led to considerable self-criticism within the UN.¹⁸

¹² Nyi Nyi Kyaw, 'Unpacking the Presumed Statelessness of the Rohingya' (2017) 15 *Journal of Immigrant & Refugee Studies* 269.

¹³ See 'A Sustainable Policy for Rohingya Refugees in Bangladesh' (Report No 303, International Crisis Group, 27 December 2019) 1; UNHRC, 'Report of the Independent International Fact-finding Mission on Myanmar', UN Doc A/HRC/39/64 (12 September 2018) [31]–[89].

¹⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gambia v Myanmar) (Judgment)* (International Court of Justice, General List No 178, 22 July 2022).

¹⁵ See, eg, Human Rights Watch, *The Rohingya Muslims: Ending a Cycle of Exodus?* (Report, Human Rights Watch, September 1996); *Report of the Situation of Human Rights in Myanmar, prepared by Mr Yozo Yokota, Special Rapporteur of the Commission on Human Rights, in accordance with Commission Resolution 1992/58*, UN Doc E/CN.4/1993/37 (17 February 1993); K S Venkateswaran, *Burma: Beyond the Law* (ARTICLE 19 and Open Society Institute of New York, August 1996); *Resolution on the Continued Violation of Human Rights in Burma (Myanmar)* [1995] OJ C 056/110; Anis Ahmed, 'Moslem Arakan in Arms against Alleged Burmese Oppression', *Reuters News* (online, 5 September 1991) (Archived at Dow Jones Factiva); 'UN Official Visits Muslim Villages', *BBC Monitoring Service: Asia-Pacific* (online, 6 April 1992) (Archived at Dow Jones Factiva).

¹⁶ Anthony Ware and Costas Laoutides, *Myanmar's 'Rohingya' Conflict* (Oxford University Press 2019) 88–9.

¹⁷ Elizabeth L Rhoads, 'Citizenship Denied, Deferred and Assumed: A Legal History of Racialized Citizenship in Myanmar' (2023) 27(1) *Citizenship Studies* 41.

¹⁸ Gert Rosenthal, 'A Brief and Independent Inquiry into the Involvement of the United Nations in Myanmar between 2010 and 2017' (Inquiry, 2019) 13.

The victory of the NLD in the 2015 elections raised hope that a reform of the Law was indeed possible.¹⁹ This illusion quickly vanished. The NLD Government's request in 2016 to foreign offices not to use the term 'Rohingya' officially showed the continuing direction of the new democratic government.²⁰ After the 2017 Rohingya crisis, the NLD showed no strong political will to effectively implement the citizenship-related recommendations of the Advisory Commission on Rakhine State.²¹

III A POLICY SHIFT AFTER THE 2021 COUP?

After the coup, within the territory controlled by the SAC, the Ministry of Immigration and Population ('MoIP'), known colloquially by its acronym, *La Wa Ka*, continued to implement the 1982 *Citizenship Law* without any independent scrutiny.²² The motto of MoIP is *Mye-myo-ywe Lu-myo-ma-pyôk Lu-myo-hma Lu-myo-pyôk-mi*, which translates literally to 'a landslide does not submerge a race, but another race does', reflecting a racist ideology developed in the 1930s that imagined the Burmese nation threatened by migration from India and China.²³

Bribery, discrimination and other known malpractices of the MoIP and its officials have continued, business as usual, as they had before February 2021 but have likely worsened by the lack of any scrutiny.²⁴ The continuity of this approach is no surprise to anyone within or outside Myanmar. After the 2015 elections, the NLD agreed to appoint Thein Swe, ex-military and member of the Union Solidarity and Development Party, as Minister, rendering the institution effectively under military control from then onwards.²⁵ Hence, the coup did not bring major changes in the MoIP's composition, structure or way of working in terms of immigration and citizenship documentation.²⁶ Former MoIP Minister, Khin Yi, one of the key architects of the coup, had a leading role in the repression

¹⁹ See, eg, 'Citizenship and Human Rights in Myanmar: Why Law Reform is Urgent and Possible' (Briefing Paper, International Commission of Jurists, June 2019) 4.

²⁰ Feliz Solomon, 'Why Burma is Trying to Stop People from Using the Name of its Persecuted Muslim Minority', *Time* (online, 9 May 2016) <<https://time.com/4322396/burma-myanmar-rohingya-us-embassy-suu-kyi>>, archived at <<https://perma.cc/XW3M-QW42>>.

²¹ Poppy Elena McPherson and Sam Lewis, 'Exclusive: Myanmar Rejects Citizenship Reform at Private Rohingya Talks', *Reuters* (online, 27 June 2018) <<https://www.reuters.com/article/us-myanmar-rohingya-meeting-exclusive-idUSKBN1JN0D7>>, archived at <<https://perma.cc/F82A-D2ZU>>.

²² See 'Myanmar: No Justice, No Freedom for Rohingya 5 Years On', *Human Rights Watch* (Web Page, 24 August 2022) <<https://www.hrw.org/news/2022/08/24/myanmar-no-justice-no-freedom-rohingya-5-years>>, archived at <<https://perma.cc/U89J-SHG2>>.

²³ Nyi Nyi Kyaw, 'Adulteration of Pure Native Blood by Aliens? Mixed Race *Kapya* in Colonial and Post-Colonial Myanmar' (2019) 25(3) *Social Identities* 350, 355.

²⁴ 'A Gender Analysis of the Right to a Nationality in Myanmar' (Report, Norwegian Refugee Council and Institute on Statelessness and Inclusion, 2018) 16–7; Institute on Statelessness and Inclusion, 'Navigating with a Faulty Map' (n 6) 34–5.

²⁵ Alexander Bookbinder, 'Rakhine State, Myanmar's Gordian Knot', *Xchange* (Blog Post, 7 April 2016) <<http://xchange.org/?p=5615>>, archived at <<https://perma.cc/X347-BNUW>>.

²⁶ However, the Ministry is now only covering Immigration and Populations, as a new Ministry of Labour was created on 1 August 2021: *State Administrative Council Order No 150/2021* (1 August 2021) (Myanmar).

of anti-coup protesters and democracy supporters during the early stages of the coup.²⁷

On the side of the NUG, however, there seem to have been some policy shifts departing from the NLD's seeming acquiescence previously to the discriminatory framework. In June 2021, the NUG made a statement in relation to the Rohingya of Rakhine State, in which it recognised their identity and their claims to Myanmar citizenship and called for:

- 1) The provisions to the Rohingya of Myanmar citizenship;
- 2) the abolition of the 1982 *Citizenship Law* and the promulgation of a new citizenship law based on *jus soli* (birth on the territory of Myanmar);
- 3) the abolition of the 'National Verification process', acknowledging its discriminatory character;
- 4) support of the repatriation of the Rohingya as soon as it can be accomplished in a voluntary, safe and dignified manner; and
- 5) acknowledgement of the gross human rights violations inflicted upon the Rohingya by the military and an expression of willingness to give the International Criminal Court jurisdiction over these crimes.²⁸

This statement pointed to a radical policy shift concerning citizenship. Importantly, the change would affect not only the Rohingya, but potentially all other minorities not recognised as native or indigenous under the 1982 *Citizenship Law* framework, who had also faced discrimination in various ways.²⁹

There is, however, caution amongst human rights actors in acknowledging such a move.³⁰ The statement was a response to pressure from a variety of actors, including the United States House of Representatives, on the NUG to clarify its stance on the Rohingya statelessness issue, taking into account both the previous

²⁷ 'Myanmar Junta Minister's Masterminding of Violent Pro-Military Rallies Revealed', *The Irrawaddy* (online, 17 December 2021) <<https://www.irrawaddy.com/news/burma/myanmar-junta-ministers-masterminding-of-violent-pro-military-rallies-revealed.html>>, archived at <<https://perma.cc/L64L-U2VZ>>; Naing Khit, 'Myanmar's Military Chief Staged a Coup. But He Did Not Act Alone', *The Irrawaddy* (Commentary, 13 August 2021) <<https://www.irrawaddy.com/opinion/commentary/myanmars-military-chief-staged-a-coup-but-he-did-not-act-alone.html>>, archived at <perma.cc/5R96-SXPR>.

²⁸ The policy states that '[t]his new Citizenship Act must base citizenship on birth in Myanmar or birth anywhere as a child of Myanmar citizens': National Unity Government of Myanmar, 'Policy Position on the Rohingya in Rakhine State' (Media Release, 3 June 2021) <<https://gov.nugmyanmar.org/2021/06/03/policy-position-on-the-rohingya-in-rakhine-state>>, archived at <<https://perma.cc/636K-A3TM>>; Aman Ullah, 'The Policy Statement of Myanmar National Unity Government', *Rohingya Post* (online, 10 June 2021) <<https://www.rohingyapost.com/the-policy-statement-of-myanmar-national-unity-government-nug>>, archived at <<https://perma.cc/8VJL-3CX3>>.

²⁹ 'The NUG's Rohingya Policy: "Campaign Statement" or Genuine Reform?', *Frontier Myanmar* (online, 15 July 2021) <<https://www.frontiermyanmar.net/en/the-nugs-rohingya-policy-campaign-statement-or-genuine-reform>>, archived at <<https://perma.cc/EF5A-RGBE>> ('The NUG's Rohingya Policy').

³⁰ 'Statement of ARNO on the NUG Policy Position on Rohingya in Rakhine State', *Arakan Rohingya National Organisation* (Press Release, 20 June 2021) <<https://www.rohingya.org/statement-of-arno-on-the-nug-policy-position-on-rohingya-in-rakhine-state>>, archived at <<https://perma.cc/BGZ3-D43T>>; 'The NUG's Rohingya Policy' (n 29); 'Myanmar National Unity Government: Appoint an Ethnic-Rohingya Envoy to Implement New Policy', *Fortify Rights* (online, 3 June 2021) <<https://www.fortifyrights.org/mya-inv-2021-06-03>>, archived at <<https://perma.cc/BGZ3-D43T>>. See also Kallol Bhattacharjee, 'Myanmar's Exiled National Unity Government Cautiously Recognises Rights of Rohingyas', *The Hindu* (online, 1 December 2021) <<https://www.thehindu.com/news/national/myanmars-exiled-national-unity-government-cautiously-recognises-rights-of-rohingyas/article66206424.ece>>, archived at <<https://perma.cc/9EZK-QZG4>>.

NLD position (defending the Myanmar state against the accusation of genocide in the Hague) and widespread public sentiment against the Rohingya being considered Myanmar citizens.³¹ Many have questioned the extent to which the new policy represents a genuine will to reform the citizenship framework, seeing it as a response to Western demands.³²

Also, it is important to consider the implications for citizenship under the Federal Democracy Charter ('the Charter'); a political framework document which was developed collectively by the Committee Representing Pyidaungsu Hluttaw, the NUG, the National Unity Consultative Council and other groups, and presented in March 2021.³³ The Charter pre-dates the previously mentioned Rohingya policy statement and does not include any reference to *jus soli*, or clear references to new rules on citizenship acquisition.³⁴ In essence, it is open both to a restrictive interpretation in line with the 1982 *Citizenship Law*, as well to further reform in line with international standards.

IV AVENUES FOR EFFECTIVE CITIZENSHIP ADVOCACY AFTER THE COUP

Overall, the coup of February 2021 has had a variety of implications for citizenship rights and human rights advocacy more generally in Myanmar. First, human rights defenders and civil society organisations have since been under attack by the Junta. Repression has been, and continues to be, brutal and merciless. On 25 July 2022, the unannounced execution by hanging of four persons — two of whom were opposition leaders — showed the world that the Junta had no intention of appeasing international critics or abiding by the advice of relevant regional organisations, such as the Association of Southeast Asian Nations and its 'Five-Point Consensus'.³⁵

Human rights defenders and advocates within Myanmar are either in hiding, have fled the country or are forced to be extremely cautious so as not to be exposed

³¹ 'NUG Releases Statement Recognising Rohingya's Right to Citizenship', *Myanmar Now* (online, 3 June 2021) <<https://myanmar-now.org/en/news/nug-releases-statement-recognising-rohingyas-right-to-citizenship?page=2>>, archived at <perma.cc/3TWP-GA2W>.

³² The NUG Rohingya Policy (n 29).

³³ *Federal Democracy Charter* (29 January 2022) (Myanmar) <<https://nucc-federal.org/federal-democracy-charter>>, archived at <perma.cc/RHP8-U5RV>. See also 'Myanmar's Federal Democracy Charter: Analysis and Prospects' (Briefing Paper, International Institute for Democracy and Electoral Assistance, 2021) 3–4.

³⁴ However, pt I of the *Federal Democracy Charter* (n 33), as revised on 27–29 January 2022, does make some references to citizenship. The English translation states that '[e]very citizen of the union shall fully enjoy Fundamental Rights of Citizens and Cultural Self-Determination': at ch 4 art 26. In pt II ch 4 art 26(a), it also states that

[t]he Interim National Unity Government shall facilitate the applications for Myanmar citizenship by the people of various ethnic nationalities in exile living overseas because of economic, social, or military oppression under the dictatorship or because of their participation in the efforts to eliminate dictatorship in different eras. In addition, it shall undertake arrangements for their permanent residency in Myanmar.

Interestingly, an earlier version of the *Federal Democracy Charter*, dated 27 March 2021, included art 24, which stated that 'every citizen who has adopted the citizenship of the Union although they are not ethnic nationalities born in the Union, shall have the full rights to fundamental rights of the citizens (citizen rights)'. This article disappeared in the subsequent version, suggesting a certain reluctance to address the citizenship challenges of the non-*taingyingtha*.

³⁵ 'ASEAN Chair Warns of Myanmar Peace Plan Rethink if Executions Continue', *Reuters* (online, 4 August 2022) <<https://www.reuters.com/world/asia-pacific/asean-rethink-peace-plan-if-myanmar-conducts-more-executions-cambodia-2022-08-03>>, archived at <perma.cc/K29F-7EE9>.

to potential detention, imprisonment, torture or death (or similar consequences for their relatives and friends).³⁶ The SAC shows no sign of relaxing its oppression; quite the opposite. Laws and orders have increasingly tightened controls over civil society and the population.³⁷

Within Myanmar, the UN and its various agencies have unsurprisingly taken a cautious approach to any open criticism of the regime in order to maintain their access to visas and to continue their operations (to a minimum). In contrast, the UN Secretary-General has been vocal against the military coup from the outset.³⁸ The Special Rapporteur on the Situation of Human Rights in Myanmar, Tom Andrews, regularly acts as an international whip against the regime.³⁹ Similarly, the UN Office of the High Commissioner for Human Rights works remotely (while based in Bangkok) on matters concerning Myanmar and issues public statements urging actors to respect human rights.⁴⁰

What is a useful advocacy objective at present? This is a difficult question, when most of the country's territory is under the military junta's grip, another portion is under ERO or PDF control, and there are several areas in which neither of those actors can be said to prevail. The NUG has apparently shifted its policy on citizenship towards a *jus soli* framework, which would theoretically accommodate current stateless populations. However, the policy shift needs stronger grounds than public statements alone (eg, in a future federal constitution-making process). Moreover, the NUG does not have effective power over most of Myanmar's population.⁴¹ Only a long-term approach can allow the NUG to address Myanmar's longstanding citizenship crisis.

In this sense, it would be useful for citizenship rights actors to rethink their advocacy approaches to citizenship issues in Myanmar. A useful methodology in such a process would be following the nine questions approach developed by Jim

³⁶ See, eg, Manny Maung, 'Our Numbers are Dwindling': Myanmar's Post-Coup Crackdown on Lawyers (Report, Human Rights Watch, June 2023).

³⁷ For example, through the revised State Administration Council, *Law No 46/2022 'Associations Registration Law'* (28 October 2022) or State Administration Council, *Martial Law Orders Nos 1/2023, 2/2023, 3/2023, 4/2023, 5/2023 and 6/2023* (2 February 2023). See Office of the High Commissioner for Human Rights South-East Asia Regional Office, 'Myanmar: UN Human Rights Office Deeply Concerned by New NGO Law' (Press Release, 28 November 2022) <<https://bangkok.ohchr.org/ngo-law-myanmar>>, archived at <<https://perma.cc/8GRP-DTLZ>>; Grant Peck, 'Military Places Restive Areas of Myanmar under Martial Law', *ABC News* (online, 3 February 2023) <<https://abcnews.go.com/Politics/wireStory/military-places-restive-areas-myanmar-martial-law-96849901>>, archived at <<https://perma.cc/SM48-QQNB>>.

³⁸ 'No Time for Coups in Today's World: UN Chief Tells Myanmar Military', *United Nations News* (online, 22 February 2021) <<https://news.un.org/en/story/2021/02/1085362>>, archived at <<https://perma.cc/E5A4-N9SZ>>.

³⁹ 'Deny Legitimacy of Myanmar's Military Junta, UN Expert Urges', *United Nations News* (online, 31 January 2023) <<https://news.un.org/en/story/2023/01/1133027>>, archived at <<https://perma.cc/2CFC-VEV7>>. See also 'Special Rapporteur on the Situation of Human Rights in Myanmar' *OHCHR* (Web Page, 2023) <<https://www.ohchr.org/en/special-procedures/sr-myanmar>>, archived at <<https://perma.cc/5WVK-DNZA>>.

⁴⁰ 'Military's "Four Cuts" Doctrine Drives Perpetual Human Rights Crisis in Myanmar, Says UN Report', *OHCHR* (Press Release, 3 March 2023) <<https://www.ohchr.org/en/press-releases/2023/03/militarys-four-cuts-doctrine-drives-perpetual-human-rights-crisis-myanmar>>, archived at <<https://perma.cc/RNP3-QGKR>>. See also 'Myanmar', *OHCHR* (Web Page, 2023) <<https://www.ohchr.org/en/countries/myanmar>>, archived at <<https://perma.cc/HYY8-3RYL>>.

⁴¹ 'Effective Control in Myanmar' (Briefing Paper, Special Advisory Council on Myanmar, 5 September 2022).

Schultz.⁴² This way of developing advocacy strategies requires the proponents to ask themselves nine questions, ranging from ‘what do we want to achieve?’ to ‘how do we tell if it is working?’.⁴³ The nine questions are as follows:

- 1) What do we want? (Goals)
- 2) Who can give it to us? (Power-holders)
- 3) What do they need to hear? (Messages)
- 4) Who do they need it to hear it from? (Messengers)
- 5) How can we get them to hear it? (Delivery)
- 6) What do we have? (Resources)
- 7) What do we need to develop? (Gaps)
- 8) How do we begin? (First steps)
- 9) How do we tell if it is working? (Evaluation)⁴⁴

A crucial question to address in the context of Myanmar is question number two: who can give what we want to us? In this sense, we have an illegitimate actor holding its population hostage and implementing an unlawful (in the sense of being against the rule of law) piece of legislation; the 1982 *Citizenship Law*. The SAC is certainly not going to give citizenship advocates what they want (a democratic and human rights-compliant citizenship law), hence, the advocacy focus must be placed on other actors. Radical shift in the political realm should lead to an equally radical shift in strategies concerning citizenship in Myanmar.

After the coup, the targets of advocacy are the NUG, EROs and other Myanmar opposition forces, foreign governments that support democracy and human rights in their external affairs policies and their aid components, UN agencies plus international non-government organisations, civil society organisations, citizens and stateless persons themselves. These actors may deliver results in the longer term.

How such advocacy strategies for citizenship in Myanmar could be safely developed and implemented is a question which deserves reflection and engagement from all actors concerned. Perhaps it is time for a concerted effort at the international level to ensure that, at a minimum, the NUG entrenches its apparent citizenship policy shift with more concrete normative and practical commitments.

In this sense, the development of a model based on sound comparative legal analysis for inclusive citizenship legislation (including a balanced combination of *jus soli* and *jus sanguinis* provisions) within a new federal constitution (as part of an eventual democratic transition) would be useful. Indeed, the symbolic legal recognition of certain constituent peoples or nationalities is present in many jurisdictions around the world, and this does not prevent the use of *jus soli* or simplified naturalisation policies in those contexts.⁴⁵

Moreover, advocates should encourage international actors to utilise all possible avenues to pressure the military junta to refrain from making life worse for stateless and other vulnerable persons in Myanmar, and ultimately to devolve power to

⁴² ‘Nine Questions: A Strategy Planning Tool for Advocacy Campaigns Adapted from Jim Shultz of the Democracy Center’ (Report, National Democratic Institute, 2002) (‘Nine Questions’); Jim Schultz, ‘The Art of Advocacy Strategy’, *Stanford Social Innovation Review* (Blog Post, 6 February 2017) <https://ssir.org/articles/entry/the_art_of_advocacy_strategy>, archived <<https://perma.cc/4XPA-FB9J>>.

⁴³ The United Nations Children’s Fund has followed this approach: David Cohen et al, ‘Advocacy Toolkit: A Guide to Influencing Decisions that Improve Children’s Lives’ (1st edn, United Nations Children’s Fund, Advocacy Guide, 2010) 17–8.

⁴⁴ Nine Questions (n 42).

⁴⁵ The constitutions of Bolivia, Spain, Romania, Hungary, Germany, or Bosnia and Herzegovina are possible examples.

Citizenship Advocacy in Myanmar

legitimate democratic forces through a genuine transition. The contours of an advocacy strategy are vague at the moment and require definition. Which actors could define such a collaborative advocacy effort further, and how and when it could take place are at the moment open and necessary questions. The responsibility of citizenship advocates, in a context of struggle against brutal oppression and gross human rights violations, is to double efforts to provide answers.