

An Introduction to Citizenship Card under Myanmar Citizenship Law

Tun Tun Aung

要 旨

ミャンマー連邦の法制度は、コモン・ロー・法システムに基づいている。ミャンマー連邦は「ミャンマー市民権法」を国民のために1982年に成立させた。その法に基づき、ミャンマーは「市民権カード (Citizenship card)」を国民のアイデンティティ・カードとして、国民に発行した。すべてのミャンマー国民は、その法的アイデンティティを証明するために、自分の「市民権カード」を所持する。「市民権カード」には、その国民のあらゆる個人データが明記されている。本稿は、ミャンマーの現行法に従って、その「市民権カード」システムとその機能について紹介しようとするものである。

Keywords: Myanmar Citizenship Law, Classification of Citizens, Citizenship Card System

Introduction

1. The history of Myanmar Laws on Citizenship
2. The Provisions of Myanmar Citizenship Law
 - 2.1 The classification of Citizens and duties of Citizen
 - 2.1.1 Citizenship
 - 2.1.2 Associate Citizenship
 - 2.1.3 Naturalized Citizenship
3. The Current system of National Scrutiny Card and Details of National Scrutiny Card
4. The Legal effects (enforcements) under Myanmar Citizenship Law.
 - 4.1 Crimes violating by national ID card holders
 - 4.1.1 Crimes against national ID holders especially for Citizen violating under this Law
 - 4.1.2 Crimes against national ID holders especially for associate citizen violating under this Law
 - 4.1.3 Crimes against national ID holders especially for naturalized citizen violating under this Law

4.2 Crimes violating to national ID card

Conclusion

Introduction

The Union of Myanmar is geographically situated in Southeast Asia and bordered on the north and northeast by the People's Republic of China, on the east and southeast by the Lao People's Democratic Republic and the Kingdom of Thailand, on the south by the Andaman Sea and the Bay of Bengal and on the west by the People's Republic of Bangladesh and the Republic of India. The total area of Myanmar is 677,000 square kilometers.¹

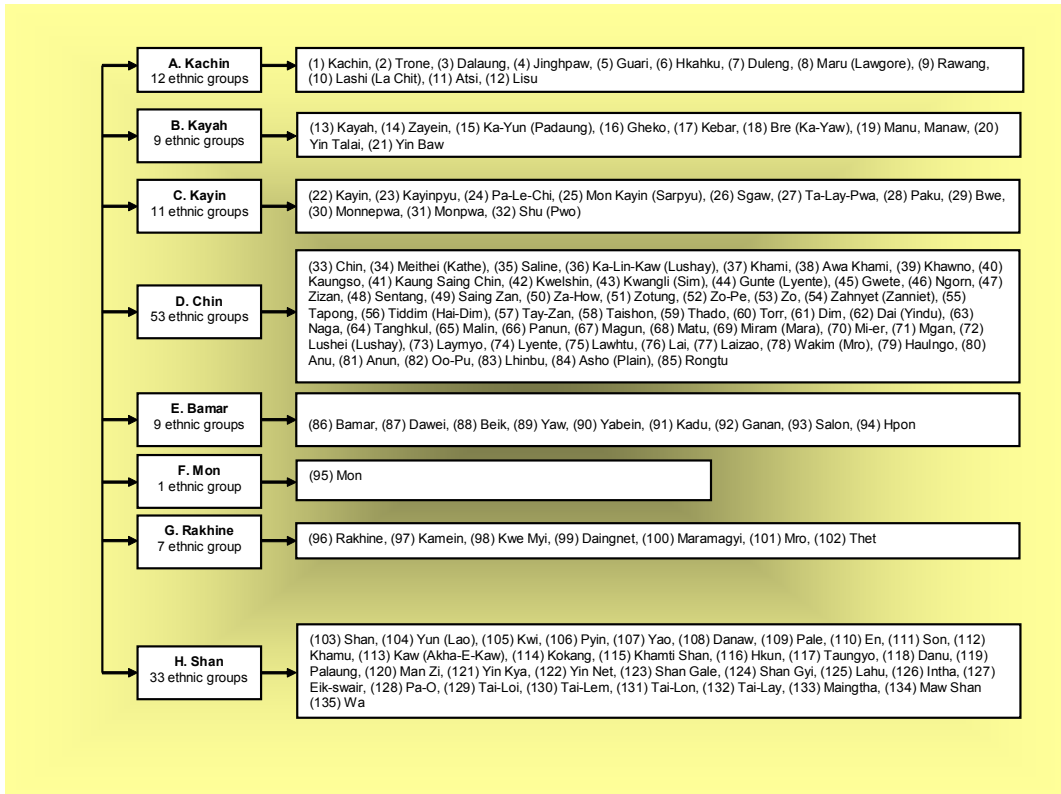
Myanmar composed of 7 states and 7 divisions as *quasi* federal state. Myanmar is made up of 135 national races² of which the main 8 ethnic groups are Kachin, Kayah, Kayin, Chin, Bamar, Mon, Rakhine and Shan. Population of the country is estimated at 52.4 million³ and the population growth rate is 1.84 percent.⁴

Myanmar has many different races, with their own languages, culture and tradition, who live together with peace and harmony for many centuries. The Myanmar Citizenship Law defined her people on the right of citizenship and classifications of citizenship.

According to Myanmar custom, adoption is accepted by her society from the earlier period without any restrictions by law or by society. All the children in a family including natural and adopted had equal rights and society had also recognized for such rights in social matters. As for citizenship, it was enacted by law and defined who has a right of citizenship. In the some proceedings at courts, there was some dispute of citizenship arisen from the ground of adoption.

Under the Myanmar Citizenship Law, it would be comparatively analyzed on *a practical legal question* of citizenship for adoption of non-citizen by citizen parents with both enacted law and by her society.

Chart. 1



Source: Made by Author: *For Names of 8 Major National Ethnic Races and 135 Ethnic Groups*⁵

i. The Legal Question on Citizenship - A Practical Example

Has a mere Adoption of non-citizen by citizen parents been entitled a right of citizenship under the law?

How to resolve the legal question on Adoption of non-citizen which may consider between the view of enacted law and society. (See Chart 2)

Chart. 2

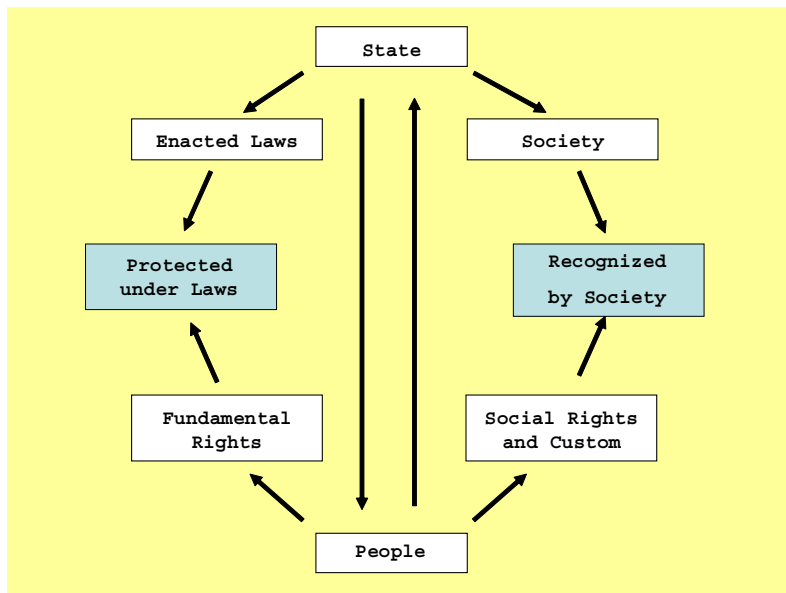
How to resolve the legal question, Adoption of non-citizen, which may consider by means of enacted law and by society

For Enacted Law (The Myanmar Citizenship Law)	For Society (Myanmar Society)
<ol style="list-style-type: none"> 1. Every country enacts the laws for herself and to protect her citizens. 2. The Myanmar Citizenship Law is an enacted law provided for rights and duties of citizens. 3. It does not prohibit for adoption for non-citizen of any other race. 4. It expressly provided who has a right of citizenship or not under this law. 	<ol style="list-style-type: none"> 1. Everyone is socially equal the rights in society. 2. Everyone has entitled the right to adopt or be adopted and also recognized for adoption. 3. Adopted person respects and abides by the laws of the State and discharges the duties prescribed by the laws of the State as citizens do. 4. Adopted person performs all other social duties in the society as same as citizen.
How to be resolved legally for such adoption of non-citizen?	How to be resolved socially for such adoption of non-citizen?

Source: Made by the Author: *According to practical example on Adoption of non-citizen*

ii. State, People, Society and Rights (See Chart 3-1)

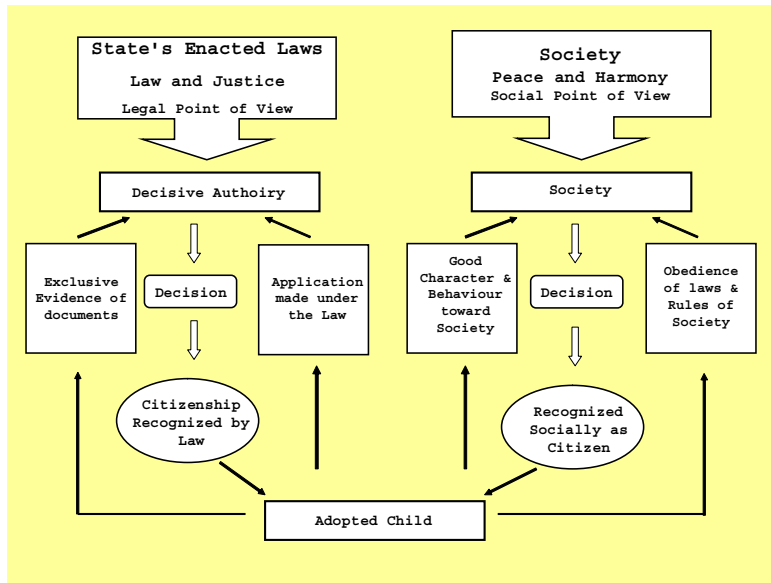
Chart 3-1



Source: Made by the Author: *For State, People, Society and Rights*

iii. Problem solving for Legal Question of Adoption- (See Chart 3-2)

Chart 3-2



Source: Made by the Author: for problem solving on Adoption

iv. Ideology of enacted law and society on such adoption (See Chart 3-3)

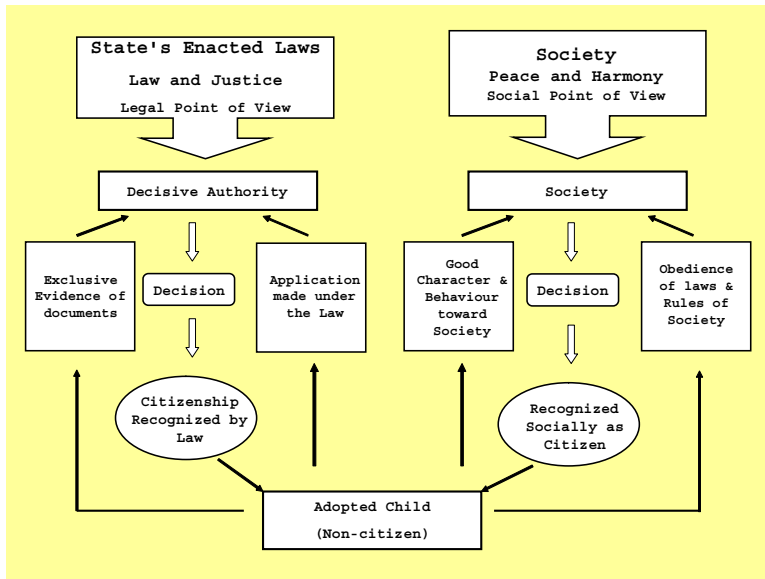
Chart. 3-3

	Enacted Law Ideology	Ideology of Society
For Adoption	It does not prohibit for Such adoption of non citizen.	Adoption must be recognized by Society and Custom.
Rights of Adopted Child	It can be said that all rights are equal except rights provided by any other laws.	All rights are socially equal in society.
Application for Citizenship	Courts have no jurisdiction to decide on citizenship and only specific decisive authority by law has authority to decide.	Social recognition as a citizen is merely public opinion.
Right of Citizenship for Adopted non-citizen	It must be made an application provided in accordance with Law concerned.	It is not decide by society and assumed in public as a citizen by society.

Source: Made by the Author: For problem solving and application of enacted law and Social Ideology.

v. **The Decision Making-** What is the decision to resolve differently by Enacted Law and by Society? (See Chart. 4)

Chart. 4



Source: Made by the Author: *For the decision by enacted law and by society*

vi. **Research of Legal question – Points of decision** - There are many points to consider for deciding for such legal question both of enacted law and of society. (See Chart. 5)

Point of view for resolving a right of citizenship under enacted law and society

For Enacted Law (The Myanmar Citizenship Law)	For Society (Myanmar Society)
1. Every country have the duties to enact the laws for herself and to protect her citizens.	1. Everyone is equal in social rights in society.
2. The Myanmar Citizenship Law is an enacted law provided for rights and duties of citizens.	2. Everyone has entitled the right to adopt or be adopted.
3. It does not prohibit for adoption for non-citizen of any other race.	3. Myanmar society has also recognized for adoption.
4. It expressly provided who has a right of citizenship or not under this law.	4. He or She is raised equally by adopting parents and society in society.
5. Any adopted person may not automatically be conferred for the right of citizenship by means of mere adoption by citizens.	5. Adopted person respects and abides by the laws of the State and discharges the duties prescribed by the laws of the State.
6. He or She must have all requirements provided under laws.	6. Adopted person performs all other social duties in the society as same as citizen.
7. Adopting parents and adopted child must apply for citizenship prescribed under this law.	7. Adopted person have no equal right with citizens in same living society.
8. The State may decide for such application of citizenship of an adopted non-citizen.	8. In the eyes of social justice and society, everyone must be equal.
9. Non-citizen has not entitle to enjoy rights of a citizen with the exception of rights stipulated from time to time by the State.	9. It can be said by such person that fundamental rights are unfair to him.
	10. In society, it is treated such person as same as citizen.

Chart. 5 Source: Made by Author: *For the points to decide*

1. The history of Myanmar Laws on Citizenship

Before promulgation of the Myanmar Citizenship Law, 1982, there were two Acts for citizenship in Myanmar; The Union Citizenship (Election) Act, 1948 and The Union Citizenship Act. Those two Acts were fundamentally enacted on the Section 10, 11 and 12 of the 1947 Constitution of the Union of Myanmar.

According to the Constitution 1947, it was defined the right of citizenship of Myanmar as-

- (a) Any person whose parents belong or belonged to any of the indigenous races of Myanmar;⁶ or
- (b) Any person, born in any of the territories included within the Union, at least one of whose grandparents belong or belonged to any of the indigenous races of Myanmar;⁷ or
- (c) Any person born in any of territories included within the Union, of parents both of whom are, or if they had been alive at the commencement of this Constitution would have been, citizen of Myanmar;⁸ or
- (d) Any person who was born in any of the territories at the time of birth was included within the British colonial dominions and who has resided in any of territories included within Myanmar for a period of not less than eight years in the ten years preceding the date of commencement of this constitution or immediately preceding the 1st January 1942 and who intends to reside permanently there in and who signifies his election of citizenship of the Union in the manner and within the time prescribed by law, shall be a citizen of Myanmar.⁹

Nothing mentioned above in Section 11 of 1947 Constitution shall derogate from the power of the Parliament to make such laws as it thinks fit in respect of citizenship and alienage and any such law may provide for the admission of new classes of citizens or for the termination of the citizenship of any existing classes.¹⁰

Before enacting of the Myanmar Citizenship Law 1982, it was drafted for many times with people's advice being resulted from discussing with peoples. The Chairman of the Council of State on 15, October promulgated the Myanmar Citizenship Law which was approved and passed by the third session of the Third *Pyithu Hluttaw*, People's Parliament.

For the purpose of enactment of Myanmar Citizenship Law, 1982 was fundamentally based on the sections

145 and 146 of 1974 Constitution. According to the Constitution 1974, Citizenship had defined as-

- (a) Any person born of parents both of whom are nationals of the Union of Myanmar is citizen of the Union.¹¹
- (b) Any Persons who is vested with citizenship according to existing laws on the date this Constitution comes into force is also citizen.¹²

Furthermore, for any person in the Union, Citizenship, naturalization and revocation of citizenship shall be as prescribed by law.¹³

2. The Provision of Myanmar Citizenship Law

In 1982, Myanmar promulgated Myanmar Citizenship Law and it contains 8 chapters and 76 sections and repealed old two Acts.¹⁴ It contains Title and Definition, Classifications of Citizens, Decision as such Citizenship, Decisive body, Appeal and Miscellaneous.

The main purposes of the Myanmar Citizenship Law are-

1. Registering for birth of any citizen
2. Registering for death of any citizen
3. Applying for the Citizen Identity card after attaining 10 years old citizen
4. Applying for the Citizen Identity card after attaining 18 years old citizen
5. Informing for reissue of citizenship card for the purpose of loss in accordance with procedure
6. Applying for certified copy of Citizenship card for the purpose of damaged or decayed citizenship card.

Myanmar had recognized her citizens in three classifications as citizenship, associate citizenship and Naturalized Citizenship and has prohibited for dual citizenship for any class of citizens.¹⁵

According to the Myanmar Citizenship Law, it is formed a central body as ministers of Ministry of Immigration and Population as chairman, of Ministry of Defense, of Foreign Affairs and Home Affairs as members and secretary assigned by chairman.¹⁶ It must be applied to Central Body when it is necessary for a

decision as to her citizenship, associate citizenship or naturalized citizenship.

The Central Body has the authorities to decide if a person is a citizen, or an associate citizen or a naturalized citizen; to decide upon an application for associate citizenship or naturalized citizenship; to terminate citizenship or associate citizenship or naturalized citizenship; to revoke citizenship or associate citizenship or naturalized citizenship; to decide upon an application regarding failure as to registration or affirmation for citizenship.¹⁷

The decision of central body is by permitting the applicant the submission of application with supporting evidence; by deciding in accordance with law; and informing its decision to the applicant.¹⁸ Applicant shall be given the right of defense against whom action is taken.¹⁹ It may be appealed by a person dissatisfied with the decision of the Central Body may appeal to the State in accordance with the procedure laid down and decision of the State is final.²⁰

2.1 The classification of Citizens and duties of Citizen

The notable existing law is the 1982 Citizenship Law, which designates three categories of citizens: (1) citizens (2) associate citizens and (3) naturalized citizens. And it is explained on details of Myanmar citizenship in following each sub topics.

2.1.1 Citizenship

Nationals such as the Kachin, Kayah, Karen, Chin, Bamar, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from a period anterior to 1823 A.D. are Myanmar citizens.²¹ The State may decide whether any ethnic group is national or not under this Law.²²

Every national and every person born of parents, both of whom are nationals are citizens by birth as a fundamental right of Myanmar citizenship.²³ A person who is already a citizen on the date this Law comes into force is a citizen. Action however shall be taken under section 18 for infringement of the provision of

that section.²⁴

The following persons born in or outside the State are also citizens:

- (a) persons born of parents, both of whom are citizens;
- (b) persons born of parents, one of whom is a citizen and the other an associate citizen;
- (c) persons born of parents, one of whom and the other a naturalized citizen;
- (d) persons born of parents one of whom is-
 - (i) a citizen; or
 - (ii) an associate citizen; or
 - (iii) a naturalized citizen; and the other is born of parents, both of whom are associate citizens;
- (e) persons born of parents, one of whom is-
 - (i) a citizen; or
 - (ii) an associate citizen; or
 - (iii) a naturalized citizen; and the other is born of parents, both of whom are naturalized citizens;
- (f) persons born of parents one of whom is-
 - (i) a citizen; or
 - (ii) an associate citizen; or
 - (iii) a naturalized citizen; and the other is born of parents, one of whom is an associate citizen and the other a naturalized citizen.²⁵

The State may, in the interest of the State, confer on any person citizenship or associate citizenship or naturalized citizenship. The State may, in the interest of the State revoke the citizenship or associate citizenship or naturalized citizenship of any person except a citizen by birth.²⁶

For birth registration, a child born in the State shall have his birth registered either by the parent or guardian in the prescribed manner, within year from the date he completes the age of ten years, at the organizations prescribed by the Ministry of Immigration and Population.²⁷

Further more, a child born outside the State shall have his birth registered either by the parent or guardian in the proscribed manner within one year from the date of birth at the Myanmar Embassy or Consulate or organizations proscribed by the Ministry of Immigration and Population.²⁸

2.1.2 Associate Citizenship

Central body organized under the Myanmar Citizenship Law has the power to determine upon the application of any person made under the Union Citizenship Act, 1948 as associate citizens.²⁹

Any person who has been determined as associate citizen by such body has to apply the procedures described under Myanmar Citizenship Law as-

(a) that person shall appear in person before an organization proscribed by the Ministry of Immigration and Population;

(b) and shall make an affirmation in writing that he owes allegiance to the State, that, he will respect and abide by the laws of the State and that he is aware of the proscribed duties and rights.³⁰

The Central Body may include in the certificate of associate citizenship the names of children mentioned in the application. The child whose name is so included is an associate citizen.³¹ The child whose name is included under section 25, and who has completed the age of eighteen years shall make an affirmation in accordance with section 24, along with the parents.³²

To explain briefly for an associate citizenship, applicants for citizenship under the Union citizenship Act 1948, conforming to the stipulations and qualifications may be determined as associate citizen by the Central Body, under the Myanmar citizenship law 1982. The Central body may include on the certificate of associate citizenship the names of children mentioned in the application. The child whose name is so included is and associate citizen.³³

2.1.3 Naturalized Citizenship

Any person who has entered and resided in the State anterior to 4th January, 1948, and their offspring's born within the State may, if they have not yet applied under the union Citizenship Act, 1948, apply for naturalized

citizenship to the Central Body, furnishing conclusive evidence.³⁴ Applicant who is born in or outside the State from the date this Law comes into force may also apply for naturalized citizenship:

- (a) persons born of parents one of whom is a citizen and the other a foreigner;
- (b) persons born of parents, one of whom is an associate citizen and the other a naturalized citizen;
- (c) persons born of parents one of whom is an associate citizen and the other a foreigner;
- (d) persons born of parents, both of whom are naturalized citizens;
- (e) persons born of parents, one of whom is a naturalized citizen and the other a foreigner.³⁵

An applicant for naturalized citizenship shall have the following qualifications:

- (a) be a person who conforms to the provisions of section 42 or section 43;
- (b) have completed the age of eighteen years;
- (c) be able to speak well one of the national languages;
- (d) be of good character;
- (e) be of sound mind.³⁶

Moreover, a person married to a citizen or to an associate citizen or to a naturalized citizen, who is holding a Foreigner's Registration Certificate anterior to the date this Law comes into force shall also have the following qualifications to apply for naturalized citizenship:

- (a) have completed the age of eighteen years;
- (b) be of good character;
- (c) be of sound mind;
- (d) be the only husband or wife;
- (e) have resided continuously in the State for at least three years as the lawful wife or husband.³⁷

Any person who has been determined as naturalized citizen by such body has to apply the procedures described under Myanmar Citizenship Law as-

- (a) such person shall appear in person before an organization prescribed by the Ministry of Immigration and Population;
- (b) and shall make an affirmation in writing that he owes allegiance to the State, that, he will respect and abide by the laws of the State and that he is aware of the prescribed duties and rights.³⁸

The Central Body formed under this Law may include in the certificate of naturalized citizenship the name of a child mentioned in the application. The child whose name is so included is a naturalized citizen.³⁹ The child whose name is included under section 47, and who has completed the age of eighteen years shall make an affirmation in accordance with sub-section (a) of section 46, along with the parents.⁴⁰

To be a naturalized citizenship, Persons who have entered and resided in the State prior to 4th January 1948 and their children born within the State may, if they have not yet applied under the Union Citizenship Act 1948, apply for naturalized citizenship to the Central Body Under the Myanmar Citizenship Law 1982 furnishing Conclusive evidence.⁴¹

As for a citizen or associate citizen or a naturalized citizen, it have had duties to respect and abide by the laws of the State; discharge the duties prescribed by the laws of the State; and be entitled to enjoy the rights prescribed by the laws of the State, except a citizen, with the exception of the rights stipulated from time to time by, of State.⁴²

According to Law, Myanmar has not recognized and prohibited on dual citizenship as a citizen⁴³ or an associate citizen⁴⁴ or a naturalized citizen⁴⁵ shall not as well acquire the citizenship of another country. And moreover, a citizen⁴⁶ or an associate citizen⁴⁷ or a naturalized citizen⁴⁸ shall have no right to divest himself of his citizenship during any war in which the State is engaged.

For a Myanmar citizen, it shall not automatically lose his citizenship merely by marriage to a foreigner and vice versa a foreigner shall not automatically acquire citizenship merely by marriage to a citizen.⁴⁹ An associate citizen shall not automatically acquire citizenship merely by marriage to a citizen.⁵⁰ A naturalized citizen shall not automatically acquire citizenship or associate citizenship merely by marriage to a citizen or to an associate citizen.⁵¹

A citizen⁵² or an associate citizen⁵³ or a naturalized citizen⁵⁴ who leaves the State permanently, or who acquires the citizenship of or registers himself as a citizen of another country, or who takes out a passport or a similar certificate of another country ceases to be a citizen. And as for foreigner, mere adoption for foreigner by a citizen or by an associate citizen or by a naturalized citizen shall not acquire citizenship or associate

citizenship or naturalized citizenship.⁵⁵

3. The Current system of National Scrutiny Card and Details of National Scrutiny Card

3.1. Details of Myanmar National ID card

Myanmar Citizenship Law was enacted on 15th October 1982 and procedures on Myanmar Citizenship Law on 20th September 1983. After enacting the Myanmar Citizenship Law Citizenship scrutiny Cards were issued to those residing in the country. Citizenship tasks were introduced on 1st March 1985. Based on the 1982 Myanmar Citizenship Law and the 1983 procedures, the following tasks were conducted from 1st March 1985 -

- (1) Registration birth and death and issuing certificates;
- (2) Issuing age (10) Citizenship Scrutiny card; and
- (3) Issuing age (18) Citizenship Scrutiny card.

According to the Myanmar Citizenship Law 1982, measures have been taken to issue the Citizenship Scrutiny cards to those who are eligible to be Myanmar citizens. Similarly, attention has been given to take measures not to issue Citizenship Scrutiny cards to those who are not eligible to be Myanmar citizens in order to safeguard the Race and Religion of Myanmar.

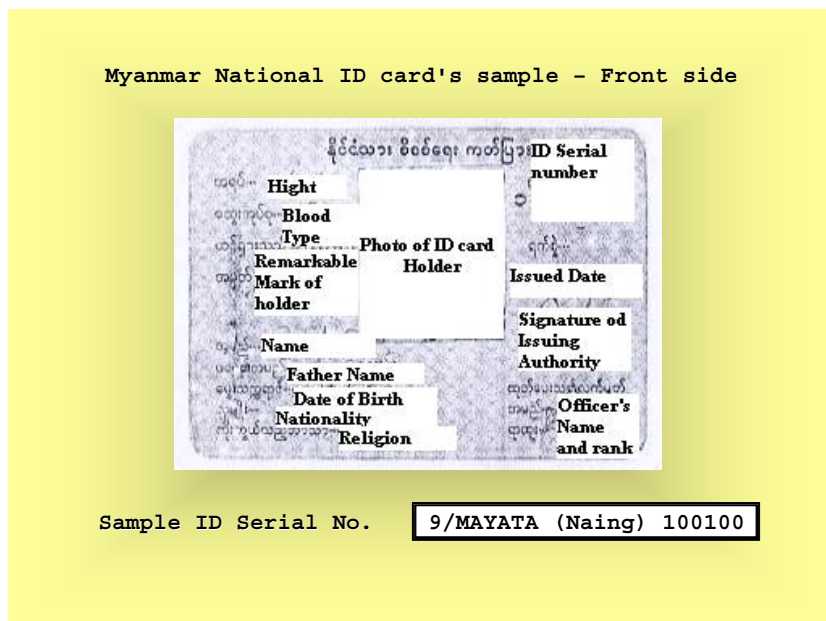


Chart. 6 Source: Made by Author *For the sample of Myanmar National ID card (Front side)*

The Myanmar citizenship card is pink coloured paper card sized with 70mm, 100 mm and 0.5 mm which includes all information of holder of one serial number with a abbreviation of specific issued Township of state or division and issued date, holder's photo with official seal, issuing officer's seal and signature, name, father's name, date of birth, nationality, religion, height, blood group, remarkable mark and holder's signature in the front side of ID card. (See Chart 6)

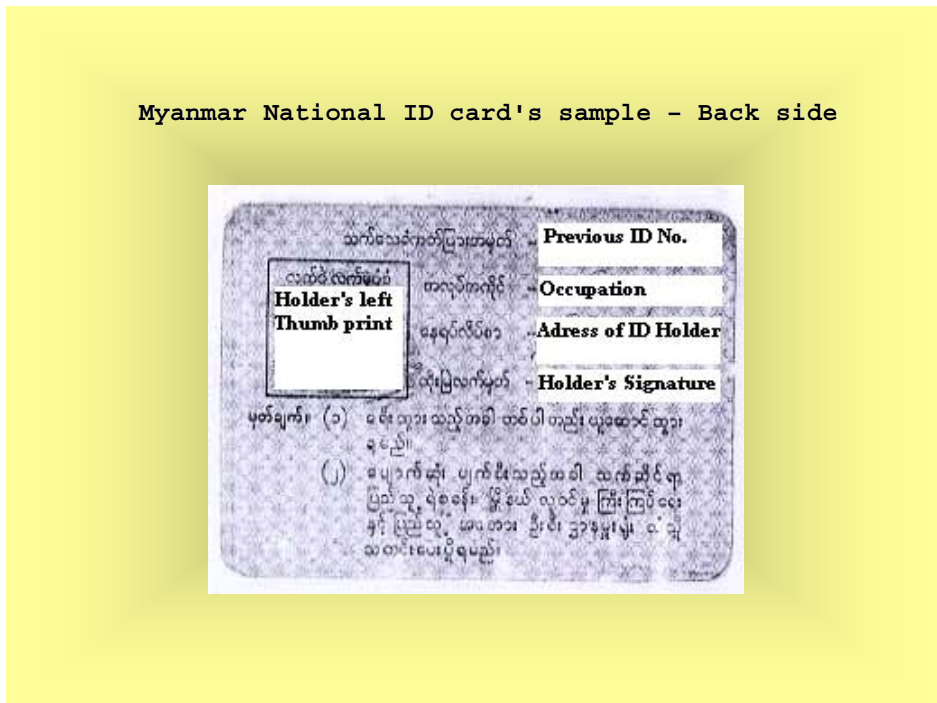


Chart. 7 Source: Made by Author *For the sample of Myanmar National ID card (Backside)*

There are also card holder's previous ID No., occupation, address, fingerprint of left thumb and remarks on back side (See Chart 7) which expressly mentioned for regulations that-

- (a) it must be brought ID card when any person travels; and
- (b) there must be duty to report to police and immigration office when the card is lost or damaged.
- (c) for the of ID card of attaining 10 years, one more regulation is that it must be renewal new ID card of attaining 18 years after attaining 18 years of age.

A sample serial number for ID card is like *9/MAYATA (Naing) 100100*. It must be explained for the details of ID that the first number in abbreviation for national ID which presented for specific State or Division in

Myanmar card as-

1. Kachin State
2. Kayah State
3. Kayin State
4. Chin State
5. Sagaing Division
6. Taninthayi Division
7. Bago Division
8. Magway Division
9. Mandalay Division
10. Mon State
11. Rakine State
12. Yangon Division
13. Shan State
14. Ayeyarwady Division

The Alphabet in abbreviation in national ID card is presented for the residing township name of specific division or state in Myanmar language. And the Myanmar word with bracket means for classifications of citizen or associate citizens or naturalized citizen. The last six digits are for serial number as each residing township registration numbers.

3.2. Procedures for applying of Myanmar National ID card

According to Myanmar Citizenship Law, any citizen must apply for national ID card at his or her residing Township Immigration Office with following procedures. At the same time, it is also registered for each household's registration in the residents' registration at Head office of National Registration and Union Citizenship Division and Township Immigration office which national ID card is applied. For the purpose of residents' registration, compilation of national residents' registration which puts on record name, male or female, age and date of birth, birth place, nationality, residence, marital status is of important.

Any citizen who is attained age of 10 years old has to register for his or her citizenship card in accordance

with all procedures⁵⁶ prescribed in Myanmar Citizenship Law as follows-

1. It shall be informed to residing Township Immigration Office when any person has attained of 10 years old within one year.
2. It shall be shown for birth certificate or any document for such person's birth.
3. It must be brought 3 photos (1 and 1 inch).
4. It must also be brought household residence registration certificate.

Any citizen who is attained age of 18 years old has to register for his or her citizenship card in accordance with all procedures⁵⁷ prescribed in Myanmar Citizenship Law as follows-

1. It shall be informed to residing Township Immigration Office from the day of any person who has attained of 18 years old within one year.
2. It shall be brought Citizenship Card which made up after attaining 10 years.
3. It must be brought 3 photos (1 and 1 inch).
4. It must also be brought household residence registration certificate.

For the cause of loss or damage of Citizenship Card of a citizen shall be applied for issuing new ID cards as-

1. It must be informed to the residing Township Immigration Office.
2. It must be filled up the general form no.4 with the cause of such loss or damage and paid with the fee of 10 kyats.
3. It must be brought 2 photos (1 and 1 inch).
4. It must also be brought household residence registration certificate.
5. On the ground of loss, it must be submitted with the Police certificate of such loss.
6. On the ground of damage, it must be submitted along with such damaged cards.⁵⁸

We can say some disadvantages in Myanmar ID card system as follows-

1. ID card is made by Thick paper which can be easily damaged or torn ;
2. ID cards is not made of highly secured advanced technology as a ATM card; and
3. Only experts can be easily inspected which is genuine or not.

4. Legal Actions on crimes concerning with national ID card

It can be seen that there are two categories of crimes of committing by ID card's holder and of violating the ID cards. It is explained details in following sub-topics.

4.1 Crimes violating by national ID card holders

4.1.1 Crimes against national ID holders especially for Citizen violating under this Law

A citizen who has acquired citizenship by making a false representation or by concealment shall have his citizenship revoked, and shall also be liable to imprisonment for a term of ten years and to a fine of kyats fifty thousand.⁵⁹ A citizen who has committed abetment of obtaining, in a fraudulent manner, a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship for another person shall be liable to imprisonment for a term of seven years and to a fine of kyats ten thousand.⁶⁰

The certificate of citizenship of a person whose citizenship has ceased or has been revoked shall be cancelled. A person holding such a cancelled certificate shall surrender it in the manner prescribed by the Ministry of Immigration and Population. Failure to surrender a cancelled certificate of citizenship or continued use of it or transfer of it in a fraudulent manner to another person shall entail imprisonment for a term of ten years and a fine of kyats twenty thousand. Whoever holds and uses a cancelled certificate of citizenship or the certificate of a deceased citizen shall be liable to imprisonment for a term of ten years and to a fine of kyats twenty thousand.⁶¹

Any citizen who forges a certificate of citizenship or abets such act shall be liable to imprisonment for a term of fifteen years to a fine of kyats fifty thousand. A person whose citizenship has ceased or has been revoked shall have no right to apply again for citizenship or associate citizenship or naturalized citizenship.⁶²

4.1.2 Crimes against national ID holders especially for associate citizen violating under this Law

An associate citizen who has acquired such citizenship by making a false representation or by concealment shall have his associate citizenship revoked, and shall also be liable to imprisonment for a term of ten years and to a fine of kyats fifty thousand.⁶³ An associate citizen who has committed abetment of obtaining in a fraudulent manners a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship for another person shall have his associate citizenship revoked; and shall also be liable to imprisonment for a term of seven years and to a fine of kyats ten thousand.⁶⁴

An associate citizen who has personal knowledge of an offence committed by any person under section 36 or section 37, or as an accomplice who has committed such an act, discloses or admits the offence before organizations prescribed by the Ministry of Immigration and Population within one year from the date this Law comes into force, or within one year from the date of commission of the offence shall be exempted from the penal provisions relating to such offence.⁶⁵

The certificate of associate citizenship of a person whose associate citizenship has ceased or has been revoked shall be cancelled. A person holding such a cancelled certificate shall surrender it in the manner prescribed by the Ministry of Immigration and Population. Failure to surrender a cancelled certificate of associate citizenship or continued use of it or transfer of it in a fraudulent manner to another person shall entail imprisonment for a term of ten years and a fine of kyats twenty thousand. Whoever holds and uses a cancelled certificate of associate citizenship or the certificate of a deceased associate citizen shall be liable to imprisonment for a term of ten years and to a fine of kyats twenty thousand.⁶⁶

Any person who forges a certificate of associate citizenship or abets such act shall be liable to imprisonment for a term of fifteen years and to a fine of kyats fifty thousand. A person whose associate citizenship has ceased or has been revoked shall have no right to apply again for associate citizenship or naturalized citizenship.⁶⁷

4.1.3 Crimes against national ID holders especially for naturalized citizen

A naturalized citizen who has acquired such citizenship by making a false representation or by concealment shall have his naturalized citizenship revoked, and shall also be liable to imprisonment for a term of ten years and to a fine of kyats fifty thousand.⁶⁸ A naturalized citizen who has committed abetment of obtaining in a fraudulent manner, a certificate of citizenship or a certificate of associate citizenship or a certificate of naturalized citizenship for another person shall have his naturalized citizenship revoked, and shall also be liable to imprisonment for a term of seven years and to a fine of kyats ten thousand.⁶⁹

A naturalized citizen who has personal knowledge of an offence committed by any person under section 59 or section 60, or as an accomplice who has committed such an act, discloses or admits the offence before organizations prescribed by the Ministry of Home Affairs within one year from the date this Law comes into force, or within one year from the date of commission of the offence shall be exempted from the penal provisions relating to such offence.⁷⁰

The certificate of naturalized citizenship of a person, who's naturalized citizenship has ceased or has been revoked, shall be cancelled. A person holding such a cancelled certificate shall surrender it in the manner prescribed by the Ministry of Home Affairs. Failure to surrender a cancelled certificate of naturalized citizenship or continued use of it or transfer of it, in a fraudulent manner, to another person shall entail imprisonment for a term of ten years and a fine of kyats twenty thousand. Whoever holds and uses a cancelled certificate of naturalized citizenship or the certificate of a deceased naturalized citizen shall be liable to imprisonment for a term of ten years and to a fine of kyats twenty thousand.⁷¹

Any person who forges a certificate of naturalized citizenship or abets such act shall be liable to imprisonment for a term of fifteen years and to a fine of kyats fifty thousand. A person whose naturalized citizenship has ceased or has been revoked shall have no right to apply again for naturalized citizenship.⁷²

4.2 Crimes violating to national ID card

Furthermore, it had been enacted by other special laws for the crimes which had been violated to national ID

card. It can be summarily seen that-

(1) Any person whoever deletes or alters or amends or forges the national ID card with a fraudulent manner shall be punished with Section 6 of the Registration of Residents Act⁷³, 1949 and Sections 420 and 468 of the Penal Code⁷⁴. Under the section 6⁷⁵ of such law, any person who commits for deleting, altering and amending on national ID card shall be punished with not more than 2 years imprisonment with hard labour, or imprisonment without labour or fine not more than K 500/-or both. Any person whoever cheats to make, alter or destroy the whole or part of National ID shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.⁷⁶ And also whoever commits forgery for cheating shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also liable to fine. ⁷⁷

(2) Any person whoever transfers his ID card to other person or possesses of other person's ID card or possesses more than one ID card shall be punished with Section 6 of the Registration of Residents in the Union of Myanmar, 1949 and Sections 420 and 468 of the Penal Code. The punishment is same as mentioned above.

(3) With accordance with law, it must have only one serial number for one ID card. Whoever registers more than one serial number shall be punished with Section 6 of the Registration of Residents in the Union of Myanmar, 1949 and Sections 420 and 468 of the Penal Code. The punishment is also same as mentioned above.

(4) Whoever forges a certificate of citizenship or abets such act shall be punished under Sections 420, 468 and 471 of the Penal Code. For the purpose of using forged national ID, anyone who fraudulently or dishonestly uses a forged document as genuine shall be punished in the same manner as if he had forged such document. (Section 471 of Penal Code)

(5) Any person whoever fails to surrender such a certificate of deceased person within one month from date of decease to Township office shall be punished under Section 6 of the Registration of Residents in the Union of Myanmar.

According to legal question, adoption is accepted by her society from the earlier period without any restrictions. All the children in a family including natural and adopted had equal rights and society had also recognized for such rights in social matters. As for citizenship, it was enacted and defined who has a right of

citizenship and may not be inherited by means of adoption from adopting citizen parents to adopted non-citizen child under Myanmar Customary Law.

According to legal view, even though adopted non-citizen child obeys the laws and performs all the duties as citizen do, he or she have no right to inherit citizenship which must apply with all procedures provided under the Myanmar Citizenship Law. It will be decided by the decisive authority of state for the right of citizenship. Adoption, merely a family matter, does not create the citizenship in the eyes of law.

On the other hand, as for social view he or she performs all the social and legal rights and duties in community and nothing will be different with other citizens. He or she can be supposed to be a citizen to society and there is no danger for the interest of state or her society. He or she can be accepted socially as citizen in her society.

The Supreme Court held in a case⁷⁸ that Myanmar Customary Law does not define on citizenship. It is not an inheritance from deceased parents to descendant. And citizenship vested by law is also not awards or gift by parents' wish or cannot revoke by parents' wish too. The enacted law overrides the Myanmar Customary Law and prevails to Customary Law. The Customary Law can not fulfill the gap of provision in enacted law.

It is further held that it is not provided under the Citizenship Act that the *Kittima* Adoption⁷⁹ for non-citizen is not automatically created citizenship for adopted child by mean of adoption by adopted citizen parents. Such adoption is merely a matter of family. Adoption is an agreement consented by the parties of adopting parents, parents allow to adopt and adopted child. Citizenship and election of citizenship are a matter concerning with sovereignty of a State. The law is expressly provided on citizenship that what essential qualities should have and who is qualified for the manners of citizenship and election of citizenship. The State is only decisive authority for applying citizenship. The State exercises the discretionary power on such application. If adoption creates the right of citizenship, it will be seem to reduce for exercising power of a state. The enacted law also prohibits doing so.

In Myanmar society, spouse is inheritor. A natural or adopted child is also inheritors. Spouse is predestined to marry for lifelong. Even one's child, it can be said to be separate from parent after his or her marriage. So, a

foreigner can not automatically become citizenship after marriage with citizen. Citizenship must be applied with procedures provided under law and decided by the state in accordance with law.

The dispute on citizenship of accused person arisen from the cause of action in criminal proceeding, the Supreme Court held⁸⁰ that it can not be omitted for deciding justice being based on the relevant facts of the criminal proceeding in the case of citizen or foreigner. It is extrajudicial on conclusive decision of a fact of citizen or foreigner other than decision of justice. Courts have no jurisdiction on deciding citizenship which is relevant to crime. It is noticeable to decide by the courts whether the crime is committed or not, whether burden of proof is dully submitted or not, whether crime may be decided or not. It is the sovereignty of the state on the acceptance or revocation of citizenship applied by non-citizen.

To such legal question to solve with a clear decision⁸¹ by the Supreme Court in 1993 that a criminal proceeding was taken action against accused person from applying by concealing or misrepresenting on the facts of adopting parents as parents in biography of citizenship and holding the citizenship under Section 18 of the Myanmar Citizenship Law.

The Supreme Court held that Ministry concerned on the behalf of State has the right to decide on the citizenship. Courts do not have a right not only to decide but also to assume the citizenship. It can not be said to misrepresent or conceal that the adoption parents are described as his natural parents as previous manner in the biography for citizenship.

It can not be said to misrepresent or conceal by filling up the biography of citizenship for his adopting parents as parents, because he always described his adopting parents as his natural parents through out all the time since childhood, graduation and till employment.

Some of the leading precedents under this law, in one case⁸² Supreme Courts decided on criminal appeal and it is held that Courts have no right to decide on citizenship even assumption in such matter and the concerned ministry have right to decide⁸³. For citizenship⁸⁴, Myanmar Customary Law does not define the citizenship and citizenship is not an inheritance from parents. Citizenship is provided by law and the enacted law, Myanmar Citizenship is superior to Myanmar Customary Law where there is contradict between these two

laws. In such case, the courts must decide in accordance with enacted law, Myanmar Citizenship Law for the citizenship.

As to crimes above, any person accused of such crime, cognizable offence, may arrest without warrant⁸⁵ and it is non-bailable⁸⁶. The trail must be warrant trail⁸⁷ and the Township Immigration officer must prosecute any crime committing under the Myanmar Citizenship Law.

Above explained sub-topics, as my opinions, there can be presumed to commit such categories of crimes which are for concealing the true status and by pretending as citizen, for failing to surrender a national ID of deceased person and holding by another person, for escaping of any crime and for amending the date of birth to attain fraudulently as legal competency or majority of age.

Conclusion

Every country must defines her citizenship and protect her citizen by law. The Myanmar Citizenship law is also aimed other functions of prevention of illegal entry of foreigners and of illegal reentry of her citizens and of collection the demographic data. The collecting demographic data is important not only for population census herself but also for the development of Myanmar.

As for my conclusion of legal question in this article, a matter to decide on citizenship is concerning with the sovereignty. The State has the authority to do in such matter and courts have no jurisdictional authority to decide whether any person is citizen or not. It must be decide by the enacted law and not by social norms. The enacted law prevails and is superior to customary law and her society.

To conclude this article, it can be said that the Myanmar Citizenship law performed for her nationality how to classify citizenship and issues her national ID for each citizens according to law. As the national ID for citizens, there is no such a system in Japan and in this article, it is explained some information on current national ID system and its functions in Myanmar in accordance with her existing laws and procedures.

Endnotes

- 1 Myanmar Facts & Figures 2002, Ministry of Information, Government Printing, Yangon, , 2002, p 1
- 2 See Chart. 1 for details of " *Names of 8 Major National Ethnic Races and 135 Ethnic Groups*"
- 3 Myanmar Population Census, July 2003
- 4 See details in <http://www.mofa.gov.mm/aboutmyanmar/population.html> (last visit: 12 October 2006)
- 5 See in <http://www.myanmars.net/NEWVER/people/ethnic.groups.htm> (last visit: 12 October 2006)
- 6 1947 Constitution, Ch II, FUNDAMENTAL RIGHTS, S. 11. (i)
- 7 *Ibid*, S. 11. (ii)
- 8 *Ibid*, S. 11. (iii)
- 9 *Ibid*, S. 11. (iv)
- 10 *Ibid*, S. 12
- 11 1974 Constitution, Ch XI, FUNDAMENTAL RIGHTS AND DUTIES OF THE CITIZENS, S. 145 (a)
- 12 *Ibid*, S. 145 (b)
- 13 *Ibid*, S. 146
- 14 THE UNION CITIZENSHIP (ELECTION) ACT, Act No. 26 of 1948 and THE UNION CITIZENSHIP ACT, 1948, Act No. 66 of 1948)
- 15 THE MYANMAR CITIZENSHIP LAW, Law No. 4 of 1982, Ss. 13, 31 and 54)
- 16 LAW AMENDING THE MYANMAR CITIZENSHIP LAW, S. 2, *especially amending for S. 67 of THE MYANMAR CITIZENSHIP LAW.*, Law No. 4 of 1997
- 17 *Ibid S. 2 and S. 68*
- 18 *Ibid S.66*
- 19 *Ibid S.69*
- 20 *Ibid S.70*
- 21 *Ibid S. 3*
- 22 *Ibid S. 4*
- 23 *Ibid S. 5*
- 24 *Ibid S. 6*
- 25 *Ibid S. 7*
- 26 *Ibid S.8*
- 27 *Ibid S. 9*
- 28 *Ibid S. 10*
- 29 *Ibid S. 23*
- 30 *Ibid S. 24*
- 31 *Ibid S.25*
- 32 *Ibid S. 26*
- 33 See details in <http://www.modins.net/myanmarInfo/ministry/population.htm> (Last visit 10th October 2006)
- 34 *Supra*, S. 42
- 35 *Supra*, S. 43
- 36 *Supra*, S. 44
- 37 *Supra*, S. 45
- 38 *Supra*, S. 46
- 39 *Supra*, S. 47
- 40 *Supra*, S. 48
- 41 See details in <http://www.modins.net/myanmarInfo/ministry/population.htm> (Last visit 10th October 2006)
- 42 *Supra*, Ss. 12, 30 and 53
- 43 *Supra*, S.13
- 44 *Supra*, S. 31
- 45 *Supra*, S. 54
- 46 *Supra*, S.14
- 47 *Supra*, S.32
- 48 *Supra*, S. 55
- 49 *Supra*, S. 15
- 50 *Supra*, S.33
- 51 *Supra*, S. 56
- 52 *Supra*, S. 16
- 53 *Supra*, S.34
- 54 *Supra*, S. 57
- 55 *Supra*, S.73
- 56 PROCEDURES ON MYANMAR CITIZENSHIP LAW, 1983, See at *Applying National ID cards*
- 57 *Ibid*

- 58 *Ibid*
59 *Supra*, S. 18
60 *Supra*, S. 19
61 *Supra*, S.20
62 *Supra*, S.21
63 *Supra*, S.36
64 *Supra*, S. 37
65 *Supra*, S. 38
66 *Supra*, S. 39
67 *Supra*, Ss. 40 and 41
68 *Supra*, S. 59
69 *Supra*, S. 60
70 *Supra*, S. 61
71 *Supra*, S. 62
72 *Supra*, S.63 and 64
73 THE REGISTRATION OF RESIDENTS ACT, Act No. 41, 1949
74 THE PENAL CODE, Act No. 45, 1860
75 *Supra*, THE REGISTRATION OF RESIDENTS ACT
76 *Supra*, PENAL CODE, S. 420
77 *Supra*, PENAL CODE, S. 468
78 MA WONG SHWE ALIN (A) MA ALIN VS UNION OF MYANMAR , 1970 MYANMAR LAW REPORT 222
79 THE REGISTRATION OF KITTIMA ADOPTION ACT, Act. No. 14 of 1939
80 MA KYIN HMWE VS UNION OF MYANMAR, 1969 MYANMAR LAW REPORT 99
81 UNION OF MYANMAR VS MAUNG KHIN MYO AUNG, 1993 MYANMAR LAW REPORT 56
82 *Ibid*
83 *Supra*, FN 80, MA KYIN HMWE VS UNION OF MYANMAR
84 *Supra*,FN 78, MA WONG SHWE ALIN (A) MA ALIN VS UNION OF MYANMAR
85 THE CODE OF CRIMINAL PROCEDURE, Act No. 5 of 1898, Schedule II, Offences against Other Laws, Column 3, it is provided that "*if punishable with death, transportation for life or imprisonment for 7 years or upwards may arrest without warrant.*"
86 *Ibid*, Column 5, *such crime must be non-bailable.*
87 *Ibid*, Ch. XXI, *OF THE TRIAL OF WARRANT CASES BY MAGISTRATE*, *see details in Ss. 251 to 259*

主指導教員（水谷暢教授） 副指導教員（中村哲也教授・南方暁教授）