

USCIRF Hearing on Citizenship Laws and Religious Freedom

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March 4, 2020

Mr. Chairman, Members of the Commission, thank you for organizing this hearing to address the importance of citizenship laws, religious freedom and atrocity prevention. A nexus too often ignored.

I speak to you today as the director of the Simon-Skjodt Center for the Prevention of Genocide, at the United States Holocaust Memorial Museum. At the core of the Center's mission is the belief that timely global action by policymakers, advocates, and concerned citizens can prevent mass atrocities and catalyze an international response when they occur.

As an institution devoted to the memory of the Holocaust, we understand all too well the consequences of failure to respond to warning signs and of inaction in the face of mass atrocities. The US Congress and, in particular, this Commission, have an essential role to play in fulfilling our collective responsibility to prevent and respond to mass atrocity crimes.

This discussion is a reminder of the importance of protecting basic human rights, carefully monitoring vulnerable communities, including religious, ethnic, national and racial minorities, for violations of those rights including the revision, denial or revocation of citizenship, and responding to warning signs of possible genocide and related crimes against humanity.

If there are three things that you take away from today's testimony they are:

1. The denial or revocation of citizenship can be a warning sign of possible future atrocity crimes, including genocide. Denial and revocation can be part of an intentional strategy to create an 'in-group' and 'out-group' where the out-group is not entitled to the same protection under the law. This can also contribute to their further marginalization in society through their vilification as an 'other' and removal from day-to-day society.
2. The revocation of citizenship is contributing to the risk of genocide right now. The case of the Rohingya today is a powerful illustration of how communities face heightened risks of genocide and related crimes against humanity in part as a result of the revocation of citizenship. Two weeks ago, I was in Cox Bazar, Bangladesh, where I met some of the one million Rohingya refugees living there. A 1982 law stripped most Rohingya of their citizenship, and cast them as foreigners in their own country. Rohingya leaders have told us how the stripping of citizenship set the stage for other discriminatory policies that impacted their ability to work, travel, and marry. The most common refrain we heard from Rohingya refugees who fled genocide, was that they wanted their citizenship restored. Why? Because they, as did Jews in Nazi Germany

during the Holocaust, see themselves as citizens of their country—and—because they understand that their future security, and perhaps their very existence, is strongly linked to the myriad of rights associated with citizenship. They know intimately that the discriminatory revocation of their citizenship because of their ethnic and religious identity has diminished the Rohingya's legal standing in Burma, and contributed to their marginalization and an environment in which genocide occurred.

3. Early action taken in response to warning signs can help save lives. Congress and the administration can take certain steps to help prevent mass atrocities, tailoring precise actions to local realities. Congress and the Department of State have an important role and moreover the ability to monitor for changes in the legal status of vulnerable communities, in particular, ethnic and religious minorities.
 - o Notably the Atrocity Early Warning Task Force, an inter-agency mechanism responsible for monitoring for atrocity risks and developing prevention strategies, should be asked to report to Congress annually on their efforts to mitigate against risks of atrocities in specific countries and as such, track discriminatory changes in citizenship rights as a possible indicator.
 - o The [Elie Wiesel Genocide and Atrocities Prevention Act of 2018](#) explicitly calls for: “the Department of State to provide additional training for Foreign Service Officers assigned to a country experiencing or at risk of mass atrocities, such as genocide or war crimes. The training shall include instruction on recognizing patterns of escalation and early signs of potential atrocities, and methods of preventing and responding to atrocities.” This training should be accelerated in its implementation and the warning signs studied should include looking for denial or revocation of citizenship.

With the passage of the Act and the development of training and assessment tools as well as lessons learned from country examples where the US government did act early and speak-out on warning signs, such as Burundi in 2015 and Kenya in 2008, it is clear the US is equipped and has the legislative mandate to do more, do it earlier and lead the international community in prevention of atrocities.

History shows us the dangers of ignoring such warning signs. The Holocaust is a glaring example of how denial or revocation of citizenship on the basis of ethnic or religious identity can help to foster an environment where genocide is possible. The Nazi's sought, starting in 1933, to use the law to curtail the rights of Jews and others, who were deemed racially unacceptable. They did so at first by targeting freedom of speech, assembly and the press. Their efforts to create a "German" identity that was entitled to rights, and "aliens" who were not, were further entrenched in September 1935, by two laws referred to as the Nuremberg Laws: the Reich Citizenship Law and the Law for the Protection of German Blood and German Honor. The laws provided the legal framework for the systematic persecution of Jews in Germany and articulated the racial theories underpinning Nazi ideology. Overnight, over 500,000 Jews were no longer German, rather they were "subjects" of the German state.

My Holocaust Museum colleague Edna Friedberg has noted that as the Holocaust progressed, “citizenship was a life and death factor throughout Europe. Statelessness or citizenship from another country than current place of residence corresponded to significantly lower survival rates for Jews during the Holocaust. The legal status of Jews was often used as a determining factor in selecting people for deportation to killing centers from both Axis-allied and occupied countries.” Thousands of Jews were saved as the result of real, dubious, or phony citizenship papers, such as those provided by Raoul Wallenberg and others.

In the aftermath of the Holocaust governments created institutions and legal norms to protect all human beings, drawing explicitly on the experience of the Holocaust. Central to those efforts, was the protection of the right to nationality and citizenship, enshrined in the article 15 of the [Universal Declaration of Human Rights](#). This right has been codified in numerous treaties from the [International Covenant on Civil and Political Rights](#) to the [Convention on the Rights of the Child](#). Our international legal system has recognized that nationality must be afforded without distinction to race, color, religion, national or ethnic origin.

These legal protections are critical. As the former Special Adviser to the Secretary-General of the United Nations on the Prevention of Genocide, Francis Deng, would often note, in virtually every situation where genocide occurs, there is an explicit effort undertaken to divide communities on the basis of nationality, race, ethnicity and religion. Those who are part of the in-group enjoy the rights and dignity of citizenship, those who are outside are excluded from enjoying fundamental rights and freedoms. We often see that in certain cases, such as Cote d’Ivoire in 2015, the threat of revocation of citizenship is invoked in key moments, such as the run-up of contested elections, to foster division.

Two [influential reports](#) in the last decade created by the American Jewish Committee’s Blaustein Institute and United Nations Office on the Prevention of Genocide, explicitly identified protecting citizenship rights as central to the prevention of genocide. [One of these reports](#) outlines why the right to citizenship/nationality is so critical: “Members of particular groups may be particularly vulnerable to discriminatory measures that take the form of denial of nationality. Such measures may weaken the individual’s right to legal protection through State institutions. Nationality is typically the basis for enjoying the State’s full protection of the rights to establish residence and to move freely within the State; to vote and participate in public life; and, in some cases, to access health services and higher education, to work legally, and to rent or own property.”

The State Department and USAID developed an [Atrocity Assessment Framework](#) in 2015. Using that framework, we see three ways that revision of citizenship laws could be significant:

1. *Identifying potential perpetrators* (described as “key actors [that] currently have or might plausibly develop the motive, means, and opportunity to carry out large-scale, deliberate attacks on civilians”). Removing citizenship rights can indicate that government leaders seek to single out a certain population for expulsion or physical attack.

2. *Identifying civilian groups that might be targeted for large-scale and systematic attack.* Any group whose citizenship rights have been arbitrarily denied should be considered at risk of even more severe persecution or attack.
3. *Identifying potential triggers or windows of atrocity risk.* Arbitrary changes to citizenship laws can turn a fragile situation into a violent crisis. Denying citizenship to members of certain groups can be interpreted by some as a signal to carry out physical attacks.

This assessment tool is one of many resources available to this Commission, Congress, and the Department of State to help identify warning signs and risk factors and develop targeted mitigation strategies.

It is important to underscore that there is no direct causal link, and denial or revocation often occurs in an environment where human rights have already been violated and restricted. It is also important to note, that citizenship rights alone do not prevent genocide. Each situation must be evaluated in its own context to understand the risks, and critically, to develop mitigation strategies.

To summarize our key recommendations:

1. Monitoring changes in citizenship in regards to vulnerable groups is possible and important to track as one of many early warning or risk signs of atrocities and even genocide. The US has the presence, resources, and skills to do this in real-time, at the country level.
2. The US should use its atrocity prevention tools and the legislative mandate to act early to prevent atrocities.
3. The US should work in partnership with others, including through established UN forums, regional organizations, other like-minded donor countries, experts civil society organizations, and the new International Religious Freedom Alliance to prevent mass atrocities. One suggestion would be for the Alliance to establish a working group on mass atrocity prevention.
4. Consider timely incentives as well as punitive measures, to encourage states to refrain from discriminatory citizenship practices and policies, and do so early.
5. Understand that citizenship rights and state policies have a direct link to migration patterns, humanitarian crises, our own national security, and global stability.

In closing, it is important to note that states have a responsibility to prevent atrocity crimes and protect all populations in their borders, not just citizens. Citizenship is a critical right that, when denied, revoked, or revised, can serve as a warning sign of possible future atrocities. Often, those most vulnerable are members of religious and ethnic minority groups.

Those of us here today are fortunate, we take for granted the rights afforded to us through citizenship. For the Rohingya who we just met, this is not a historical matter for academic discussion, this is their lived reality and one that persists. They are asking for their citizenship to be restored. They are asking for their inherent dignity to be recognized. As one Rohingya leader told us, "By denying us citizenship, they are denying our entire existence, our struggle, and our

survival.” We believe that while restoring citizenship alone will not be sufficient to protect them from future genocide and related crimes against humanity, it is a necessary step towards a safer future for them.