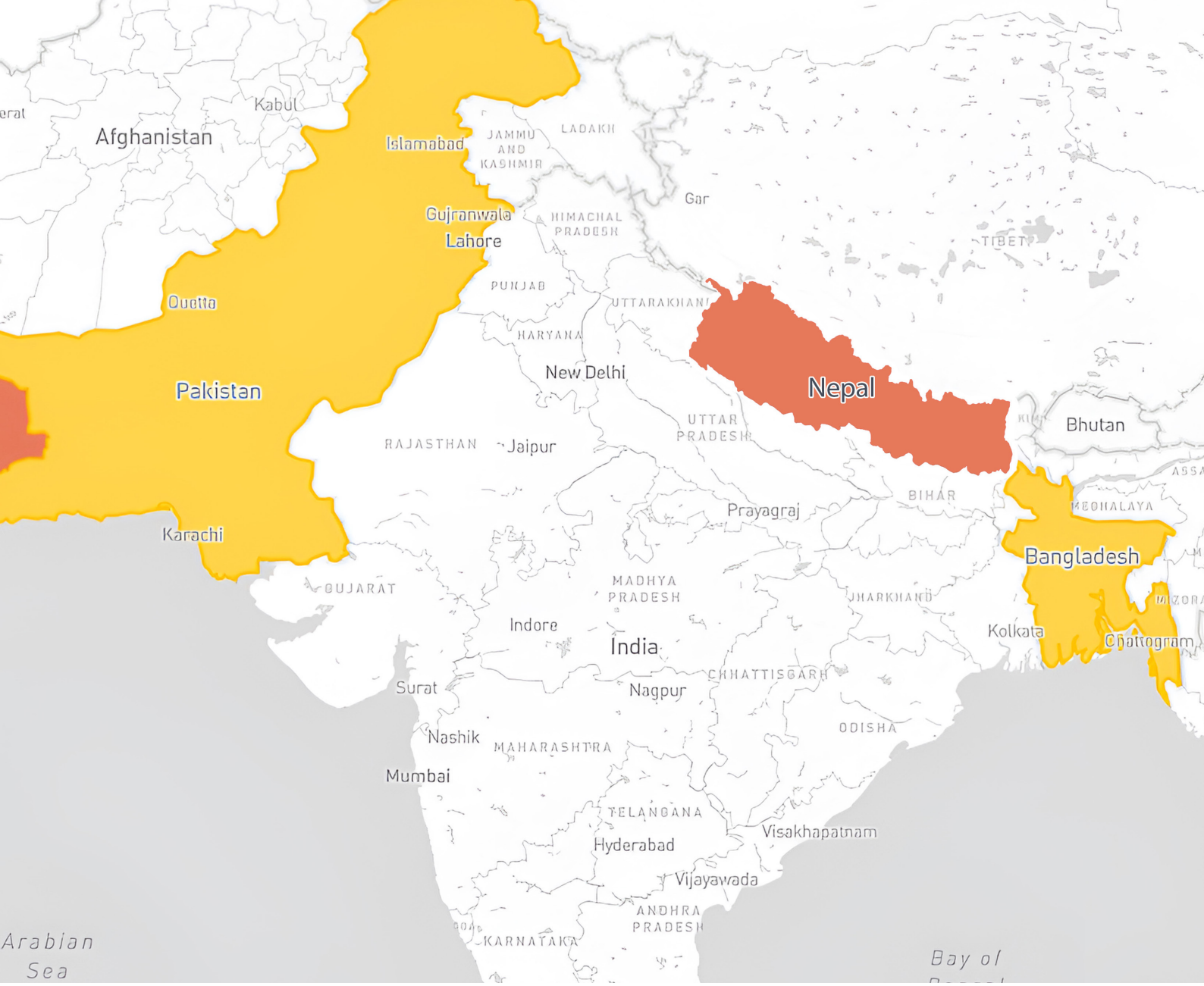

A Situational Analysis

GENDER EQUALITY IN NEPAL'S CITIZENSHIP LAWS 2026

CITIZENSHIP AFFECTED PEOPLES NETWORK

FOR EQUAL AND DIGNIFIED CITIZENSHIP RIGHTS

A Situation Analysis

GENDER EQUALITY IN NEPAL'S CITIZENSHIP LAWS

2026

Published by	:	Citizenship Affected Peoples Network (CAPN)
Key Collaborator	:	Law Lab Nepal
Lead Researchers	:	Advocate Dr. Aastha Dahal and Advocate Samman Humagain
Peer Reviewer	:	Suraj Hazare Dahal, Sagoon Bhetwal, Diwakar Chhetri, Prasanna Nirmal Aryal, Anusha Adhikari
Editor	:	Advocate Neha Gurung
Special thanks	:	Sahayatris: Shanti Tamang and Sajit Hasan Individuals with lived experience (from Solukhumbu, Dhangadi, Kathandu, and Lalitpur)
Special appreciation	:	Global Campaign for Equal Nationality Rights (GCENR), KIOS Foundation, Nansen Award
Year	:	April 2026
Edition	:	First

CHAIRPERSON'S NOTE

It gives me great pleasure to present CAPN's second research undertaking, *A Situation Analysis, 2026: Gender Equality in Nepal's Citizenship Laws.* The successful completion of this research is an important milestone for CAPN and a testament to our commitment to establish research as an integral part of our work. This research is particularly significant because it brings together legal and documentary analysis, the experiences and narratives of citizenship-affected persons, and insights from senior figures within Nepal's judicial and administrative system.

Our first research undertaking provided an important foundation for understanding the gaps between Nepal's legal framework and its implementation. This second study builds on that work and seeks to examine how recent political, legal and regulatory developments have translated into practice, particularly following the September 2025 Gen Z protests. This provides an opportunity to reflect and examine whether the change in political scenario has contributed to meaningful progress towards gender-equal citizenship, and to identify the gaps that continue to require attention.

For CAPN, research is not an end itself. We believe that rigorous and objective research is essential to understanding the complexities of statelessness and citizenship deprivation, identifying the gaps between law and practice, and developing informed and effective advocacy strategies. By engaging with the issue objectively and grounding our advocacy in evidence, we hope to establish a clear roadmap for action and strengthen the collective voices of stateless and citizenship affected people in Nepal.

I hope this publication will contribute to informed dialogue among policymakers, lawmakers, government official, civil society, lawyers, researchers, and most importantly, citizenship-affected and stateless people themselves. We remain committed to ensuring that their experiences and voices are at the core of the conversation.

I would like to express y sincere appreciation to everyone who contributed to this research, particularly the citizenship-affected persons and Sahayatris who shared their experiences, the participants of the focus group discussions, the key informants, and the research team.

This research marks another step in CAPN's continuing journey. We remain determined to use research, advocacy, and collective action to work towards a Nepal where citizenship is not conditional on gender, where every person's identity and dignity are respected, and where no one is left without a legal identity or a secure sense of belonging.

Diwakar Chettri
Chairperson
Citizenship Affected Peoples Network (CAPN)

EXECUTIVE SUMMARY

This research examines the current socio-legal framework of citizenship rights in Nepal, establishing its baseline premise on the ongoing gap between constitutional promises of gender equality and their practical realization. Employing a layered methodology, combining legal analysis, Key Informant Interviews (KIIs), Focus Group Discussions (FGDs), and direct observational fieldwork accompanying affected individuals, this research centres on the lived realities of those affected and navigating the citizenship system.

To evaluate the current citizenship landscape, the research triangulates political shifts, legal reforms, and administrative practices against the lived realities of affected service seekers. Politically, it investigates the transformation following the September 2025 Gen-Z protests, the subsequent historical political shift in the March 2026 elections, and the evolving manifestos and priorities of political parties. Through this lens, the research critically evaluates the policy commitments of Prime Minister Balendra Shah and the ruling Rastriya Swatantra Party (RSP), assessing the implementation, structural gaps, and real-world consequences of their reform agendas.

At the legislative level, the analysis examines recent amendments to the Citizenship Act and their operational consequences. Building upon insights from KIIs with officials from Ministry of Home Affairs (MoHA) featured in CAPN's 2025 report, "Implementation of Citizenship Laws in Nepal," this research highlights the scarcity of institutional capacity-building and administrative training. Evaluating the on-the-ground execution of these statutory changes, the study reveals how this lack of training, combined with the lived experiences of affected individuals, undermines the consistent and uniform application of legal directives across districts. Furthermore, the research assesses the practical implications of the MoHA's decision to devolve naturalization powers to Chief District Offices (CDOs).

On an administrative level, the research investigates the institutional culture of discretionary power within primary implementation bodies, specifically, Ward Offices and District Administration Offices (DAOs). The research details how entrenched bureaucratic resistance, discretionary refusal of documentation, arbitrary delays, and the routine disregard or non-implementation of landmark judicial rulings create pervasive, systemic barriers for service seekers navigating the system. These analyses are further grounded by FGDs and first-hand testimonies, which highlight how bureaucratic friction, institutional neglect, systemic humiliation, and gender-discriminatory provisions impact service seekers, alongside a critical evaluation of the non-implementation of key judicial rulings.

Through this triangulated analysis, the report yields two primary findings: the human cost of denial and the imperative for gender-neutral legal reform. First, qualitative narratives and observational fieldwork demonstrate how administrative obstruction restricts acquisition of citizenship, driving severe social marginalisation, economic disenfranchisement, and profound psychological distress. Group discussions highlight the systemic hostility and harassment service seekers face at administrative counters, a failure tragically illustrated by the 2025 Bardiya incident, where a young woman took her own life following eight failed attempts to secure citizenship at the DAO.

Secondly, drawing on a comparative analysis of international and regional citizenship laws, the research demonstrates that eliminating administrative bottlenecks requires full gender neutrality within the legal framework. Enacting gender-neutral language dismantles arbitrary discretion, upholds constitutional equality, creates dignified pathways for citizenship through mothers, and guarantees equal rights for LGBTQI+ parents to confer citizenship to their children.

Reflecting upon these findings, the research highlights an urgent call to action for both civil society organizations (CSOs) and government stakeholders. It urges civil society actors to pursue multi-pronged advocacy, combining public awareness and constitutional lobbying, and hands-on support to assist local and federal executive bodies in adhering to judicial mandates. Concurrently, the government must prioritize institutional capacity-building by conducting technical training and workshops for administrative officials, strengthening implementation mechanisms, and ensuring full compliance with court rulings. Central to all these efforts is a shared action: reforming the constitution to guarantee true gender-equal citizenship rights in Nepal.

ACKNOWLEDGEMENTS

The Citizenship Affected Peoples Network (CAPN) expresses its profound gratitude to all individuals, experts, organizations, and institutions whose dedication, insights, and support made this research report possible.

This comprehensive study was conducted by Law Lab Nepal in coordination with CAPN, with leadership and core contributions from Advocate Dr. Aastha Dahal and Advocate Samman Humagain. Their rigorous analysis and commitment to legal parity form the backbone of this document.

We are deeply thankful to Advocate Neha Gurung for her thorough editorial oversight and critical feedback. We also extend our sincere appreciation to our esteemed peer reviewers, Mr. Suraj Hazare Dahal, Ms. Sagoon Bhetwal, Mr. Diwakar Chetteri, Advocate Prasanna Nirmal Aryal, and Ms. Anusha Adhikari, whose meticulous insights significantly enhanced the quality and accuracy of this report.

Crucially, this research would not have captured the true gravity of the situation without the active participation of lived experience experts from Solukhumbu, Dhangadhi, Kathmandu, and Lalitpur. We thank them for generously sharing their personal struggles during our focus group discussions; their resilience and willingness to speak out are the true driving force behind this advocacy.

We are deeply indebted to the former Chief Justices, former Home Ministers, and various government officials who contributed their expertise through Key Informant Interviews (KIIs), providing vital institutional perspectives on legal implementation gaps and administrative bottlenecks.

We appreciate the CAPN team members for their invaluable review and oversight, ensuring the research findings accurately reflect ground realities.

We are grateful to our board members for their steadfast belief in our mission and their guidance in steering this work in the right direction.

We extend our sincere gratitude to the Global Campaign for Equal Nationality Rights (GCENR) for their invaluable partnership and support, which made this publication possible.

Finally, we thank all civil society members, legal practitioners, and human rights advocates who continue to champion human security, legal identity, and equal citizenship rights in Nepal.

LIST OF ABBREVIATIONS

CAPN	Citizenship Affected Peoples Network
CDO	Chief District Officer / Chief District Office
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIAA	Commission for the Investigation of Abuse of Authority
CPN-UML	Communist Party of Nepal (Unified Marxist–Leninist)
CRC	Convention on the Rights of the Child
CSO / CSOs	Civil Society Organization / Organizations
DAO / DAOs	District Administration Office / Offices
FGD / FGDs	Focus Group Discussion / Discussions
GCENR	Global Campaign for Equal Nationality Rights
ICCPR	International Covenant on Civil and Political Rights
KII / KIIs	Key Informant Interview / Interviews
LGBTQI+ / LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex+
MoHA	Ministry of Home Affairs
NC	Nepali Congress
NID	National Identity Card
NRN	Non-Resident Nepali
NRs	Nepalese Rupees
RPP	Rastriya Prajatantra Party
RSP	Rastriya Swatantra Party
RTI	Right to Information
UDHR	Universal Declaration of Human Rights
UN	United Nations
UPR	Universal Periodic Review

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CHAPTER

1 INTRODUCTION

1.1 Introduction

A. Political Transition and Reform Window

Nepal's political landscape has recently undergone a profound transformation. Triggered by the youth-led uprising in September 2025 and culminating in the March 2026 general elections, a sweeping wave of public mobilization effectively dismantled the country's old political structures. Across the nation, citizens demanded state accountability, institutional integrity, and a definitive end to entrenched corruption.

The uprising led to the collapse of the previous administration and ushered in an interim government headed by former Chief Justice Sushila Karki, with Advocate Om Prakash Aryal serving as Home Minister. The interim cabinet faced the monumental task of restoring stability while preparing for national elections. This transition was marked by severe administrative disruption. During the unrest, protesters burned down several local and central government offices, including the Office of Ministry of Home Affairs (MoHA). This resulted in the destruction of a large number of non-digitised civil records, such as birth, marriage, citizenship and death certificates.[1] The loss of these archives has left subsequent citizenship applicants in a precarious and uncertain position.

B. Citizenship, Legal Identity, and Administrative Disruption

Amid this fragile transitional period, legal reform seemed briefly within reach. The National Assembly passed long-pending legislation, including the Citizenship (Third Amendment) Bill (hereafter referred to as the 2025 amendments) and subsequent amendments to the Nepal Citizenship Regulations. On paper, these reforms expanded access to citizenship through the maternal line, a critical milestone for gender equality. Furthermore, the Interim MoHA attempted to bypass bureaucratic bottlenecks by delegating direct authority to the Chief District Offices (CDOs) to grant naturalised citizenship to children of Nepali mothers and foreign fathers.[2]

In practice, however, a noticeable gap remains between legislative intent and administrative execution. Officials often operate within a deeply entrenched culture of risk aversion, frequently prioritizing strict procedural adherence as an excuse over the spirit of the law. This rigid approach, combined with limited individual accountability within the administrative hierarchy, creates severe hurdles for applicants seeking to exercise their rights. The human cost of these implementation gaps can be devastating. In November 2025, a tragic incident occurred in Bardiya, where a young woman and her father took their own lives after her citizenship application was repeatedly rejected.[3] This distressing event brought to light the systemic

1. Agrim Adhikari, *How Will the Valuable Data and Archives Burned in the Gen Z Movement Be Recovered?*, Desh Sanchar (Sept. 23, 2025), https://english.deshsanchar.com/how-will-the-valuable-data-and-archives-burned-in-the-gen-z-movement-be-recovered/
2. Nepal Citizenship (Fourth Amendment) Regulation, 2082, r. 4 (2026) (amending r. 7 of the Nepal Citizenship Regulation, 2063).
3. *Home Ministry Forms Probe Committee as Bereaved Bardiya Family Regains Hope for Justice*, Kathmandu Post (Dec. 7, 2025), Kathmandu Post article

obstacles and immense stress that female service seekers navigate within administrative offices. While the interim Prime Minister ordered an immediate investigation into the incident, the findings have not yet been made public, highlighting the critical need for systemic administrative reform.[4]

On March 27, 2026, Nepal officially entered a new political chapter. Balendra Shah, leader of the Rastriya Swatantra Party (RSP), assumed office as Prime Minister following a landslide electoral victory.[5] His cabinet, composed largely of a new generation of leaders, has promised a departure from traditional politics. Today, a rare structural opening for genuine reform seems to exists. Prime Minister Balendra Shah's constitutional reform task force is actively conducting public consultations. Simultaneously, the Ministry of Women, Children, and Senior Citizens is reviewing the statutory frameworks governing child rights and birth registration. Notably, the name of the Ministry has now been changed into Ministry of Women, Children, Gender and Sexual Minorities, and Social Security,[6] reflecting the widening jurisdiction of the Ministry and its formal cognizance of the legal and social stigmas and problems faced by the gender and sexual minorities.

1.2 Aim and scope of the report

This report, building on CAPN's 2025 study, titled "Implementation of Citizenship Laws in Nepal" further examines the trajectory of maternal citizenship rights in the wake of the 2025 youth uprising and the subsequent political realignment. It pursues four interrelated lines of inquiry:

i. It evaluates the scope and limitations of the recent legislative mandates and regulatory changes focusing on how the 2025 amendments and related regulations expand or constrain gender-equal citizenship compared to the previous framework.

ii. It documents the lived experiences of applicants navigating local governments and District Administration Offices (DAOs), highlighting the human cost of denial, delay, and discretionary practices.

iii. It analyses the internal institutional culture of the state bodies responsible for citizenship, drawing on key informant interviews with former senior officials to understand the bureaucratic mindset, incentives, and fears.

iv. It assesses political and policy commitments on citizenship reform in 2026 electoral manifestos and the new government's 100-day agenda and identifies strategic directions for constitutional amendments and comprehensive legal reforms during this critical window of political realignment.

By bringing legal analysis, administrative practice, and lived experience into a single frame, the report seeks to inform evidence-based, gender-just reforms ultimately, strengthening the citizenship rights of Nepali mothers and their children, which can reduce the harm caused to the nation and individuals by a gendered exclusionary citizenship regime.

1.3 Objectives of the study

The study is carried out with the following objectives:

1. Assess the legal and regulatory changes introduced through the 2025 amendments to the Citizenship Act 2006, the Citizenship (Fourth Amendment) Regulations, examining how these changes substantively expand or restrict access to gender equal citizenship, compared to the pre-amendment framework.

4. TRN Online, *PM Karki Directs Home Minister to Study Bardiya Incident,* Rising Nepal (Dec. 6, 2025), Rising Nepal article; Ram Prasad Chauhan, No Action on Probe Report Months After Bardiya Father-Daughter Deaths, Kathmandu Post (Apr. 10, 2026), Kathmandu Post article
5. *Balendra Shah Appointed Prime Minister,* Kathmandu Post (Mar. 27, 2026), Kathmandu Post article
6. Arya Kharel, *Nepal Renames Ministry to Include Gender and Sexual Minorities: What Is the Way Forward?,* OnlineKhabar (June 14, 2026), OnlineKhabar article

2. Explain the administrative impact of the Gen-Z movement in September 2025, including the destruction of civil registration documents and pending application records at ward offices, CDOs, and the MoHA.
3. Discuss the status of the MoHA's devolution of power to grant naturalised citizenship to CDOs analysing its practical implications for service seekers.
4. Document the human cost of citizenship denial, such as the mental wellbeing, economic hurdles, and other human rights violations.
5. Analyse how political parties have addressed gender-discriminatory citizenship provisions in their 2026 election manifestos or commitments and whether the Gen-Z movement's demand for accountability has translated into concrete electoral commitments on citizenship reform.
6. Explore the potentiality and scope of constitutional amendments to achieve gender equality in citizenship rights, particularly through the mother.

1.4 Methodology

This study adopts a socio-legal, qualitative research design to examine how Nepal's citizenship framework operates in practice, especially for those enjoying only conditional or lesser rights while utilizing or accessing Nepali citizenship. It employs a layered research approach that includes legal and documentary analysis of the political commitments, the law, the judiciary and the administration and primary evidence of lived experiences through focus group discussions within a single analytical frame.

Where relevant, researchers also drew on their observation and experiences of accompanying applicants to DOAs as they pursued their citizenship certificate. The research team, which is composed of legal practitioners who have litigated multiple citizenship-related cases, used these observations to contextualize and triangulate participants' accounts.

A. Study Design and Approaches

The research undertakes four main approaches:

1. **Legal and Documentary Review**

   A systematic review of laws, regulations, and amendments was undertaken to understand the formal framework governing citizenship rights and to trace how recent reforms align with constitutional provisions. This was complemented by an analysis of election manifestos of elected political parties and the 100-point commitment of the Balendra Shah–led RSP government to understand how citizenship rights, legal reform, and governance appear in contemporary political agendas.

2. **Narratives of Citizenship-affected Persons**

   This part of the study invited participants to write their personal accounts of navigating procedures to capture the voices and experiences of those directly impacted by delay and/or denial of citizenship. Volunteers were recruited from paralegals (or Sahayatris) within CAPN's paralegal programme called Sahayatri Initiative. Three Sahayatris who agreed to participate received a short orientation on basic narrative structure to ensure general consistency, while preserving their individual voices. These accounts are presented in Chapter 4 with only minimal editing made for grammatical coherence and clarity.

3. **Focus Group Discussions (FGDs)**

   Three FGDs were conducted with citizenship-affected individuals from three geographical regions of Nepal, to capture variation of experiences across Hill, Mountain, and the Terai. The FGDs in Dhangadhi (Sudurpaschim Province) and Solukhumbu (Koshi Province) were conducted online with three participants each. These FGDs were conducted online with the Sahayatris facilitating the logistics of inviting and hosting the participants in a common venue for the online discussion. The FGD organised

in Kathmandu (Bagmati Province) was conducted in-person with seven participants. Each FGD explored experiences with local governments and DAOs, perceptions of administrative behaviour, and the impact of legal reforms on everyday access to citizenship.

4. **Key Informant Interviews (KII)**

   Two in-depth KIIs were conducted with senior actors in Nepal's legal and administrative system: a former Chief Justice of the Supreme Court and a former Minister of Home Affairs. The interviews examined the implementation of Supreme Court judgments, implementation of constitutional and legal changes, and the effects of decentralising naturalisation powers to CDOs for service delivery.

B. Sampling Strategy

Participants for narratives and FGD were recruited through convenience sampling, primarily from CAPN's network. This approach was chosen to reach individuals with direct and recent experience of citizenship application through maternal lines and related pathways. The study does not claim statistical representativeness; rather, it seeks depth of insight into recurring patterns of exclusion and administrative practice. This sampling strategy is appropriate for a situation analysis and for generating evidence-based recommendations. However, we acknowledge that the experiences of some groups of citizenships affected persons may not have been captured. Hence, the findings should be interpreted with this limitation in mind.

Participants and Data Overview

In total, the study drew on written narratives from three Sahayatris (paralegals), three FGDs involving 13 participants across Dhangadhi (Sudurpaschim Province), Solukhumbu (Koshi Province), and Kathmandu (Bagmati Province). Additionally, it included two KIIs with a former Chief Justice of the Supreme Court and a former Minister of MoHA. The qualitative dataset therefore reflects the experiences of citizenship-affected persons from hill, mountain, and Terai regions of Nepal along with perspectives from senior officials responsible for legal interpretation and administrative practice. While not statistically representative, this composition allows the study to triangulate everyday experiences, administrative behaviour, and high-level judicial and policy insights.

Data source	Location / scope	Number of participants	Key characteristics
Narratives (*Sahayatri* paralegals)	CAPN *Sahayatri* programme (multiple districts)	3	Citizenship affected paralegals, mixed gender
Focus group discussion 1	Dhangadhi, Sudurpaschim Province	3	Citizenship affected persons, including Muslim participants, Terai region
Focus group discussion 2	Solukhumbu, Koshi Province	3	Citizenship affected persons from mountain region
Focus group discussion 3	Kathmandu, Bagmati Province	7	Mixed gender; includes Dalit and low income participants, hill region
Key informant interview 1	National (judiciary)	1	Former Chief Justice of the Supreme Court
Key informant interview 2	National (administration)	1	Former Minister of MoHA

C. Data Analysis

Data from narratives, KIIs, and FGDs, were analysed using thematic analysis. Researchers read and coded transcripts and written accounts to identify recurring themes related to legal understanding, administrative discretion, bureaucratic culture, and the human cost of citizenship denial. These themes were then compared with the legal and documentary review to trace convergences and gaps between formal law, political commitments, and everyday administrative practices.

Additionally, researchers' own observation and experiences of accompanying applicants to District Administration Offices have been used to contextualize and triangulate participants' accounts.

D. Ethics and Co-creation

The study adopts a co-creative approach, treating participants as partners in reflecting on collective experiences of citizenship application and access. Incorporating lived realities is viewed as essential for a report aimed at policy reform rather than as a threat to objectivity.

Written consent was obtained for participation in FGDs and interviews where possible. Oral consent was taken where literacy and logistical constraints made written consent impracticable. All personal identifiers that could link data to individual participants have been removed or altered to protect confidentiality.

The research team was attentive to the vulnerability of citizenship-affected persons, particularly women and individuals from historically marginalized communities. Participation was voluntary, and individuals could decline to answer any question or withdraw at any point. The design and analysis were studied by a commitment to minimize harm, respect dignity, and ensure that the findings contribute to more equitable citizenship policies and practices in Nepal.

CHAPTER

2

LEGAL FRAMEWORK: A CRITICAL REVIEW OF CITIZENSHIP RIGHTS IN NEPAL

This section discusses the legal framework governing citizenship in Nepal highlighting how the architecture of citizenship rights as set out in the Constitution of 2015 creates barriers for Nepali mothers seeking to pass citizenship to their children. It outlines key provisions of the Constitution, the Nepal Citizenship Act, 2063 (2006), Nepal Citizenship Regulations 2063 (2007) and their subsequent amendments. In addition to the statutory framework, the section analyzes corrective role of the Supreme Court in interpreting constitutional provisions.

2.1. Constitutional Architecture of Citizenship

The Constitution of Nepal 2015 establishes a formal commitment to gender equality in terms of lineage and citizenship. Under Article 38 on the Rights of Women, every woman is explicitly guaranteed equal lineage rights without gender discrimination. Likewise, Article 18 on the Right to Equality affirms that all citizens are equal before the law and prohibits the state from discriminating against any citizen on the grounds of sex. Together, these provisions create a normative framework in which mothers should be able to confer citizenship on an equal footing with fathers.

However, the chapter on citizenship introduces distinction that, in practice, makes the maternal transmission of citizenship fraught with several conditions and prevent children from acquiring citizenship through their mother, as independently as they can via Nepali father.[7] The following subsections outline the main constitutional pathways for citizenship and their gendered implications.

A. Citizenship by Descent

The primary constitutional route for a Nepali parent to pass citizenship is found in Article 11(2)(b), which stipulates that a person whose father 'or' mother was a citizen of Nepal at the time of the person's birth is eligible for citizenship by descent. The use of "or" signals that either parent's citizenship should be sufficient. On its face, this formulation recognises the mother's independent capacity to transmit citizenship, not merely as an extension of the father.

However, while this Article stands unconditional for Nepali men, the subsequent clauses within Article 11 apply additional conditions when the parent conferring citizenship is the mother. While a Nepali father passes citizenship by descent to his children without any requirement to clarify the status of the other parent, a Nepali mother's ability to confer the same status is often contingent on whether the father is 'unidentified',[8] Nepali, or a foreign citizen.[9] This conditionality has far-reaching consequences because only the children of a Nepali father or an unidentified father can acquire citizenship by descent, that too with several additional conditions.

7. Constitution of Nepal, art. 11(5)–(7) (2015).
8. Constitution of Nepal, art. 11(5) (2015).
9. Constitution of Nepal, art. 11(7) (2015).

B. Provisions for Single Mothers

For children born to Nepali mothers where the father's status is unknown or not traced, the Constitution provides a specific pathway. Article 11(5) states that a person born in Nepal to a Nepali mother and residing in Nepal, but whose father is not traced shall be granted citizenship by descent. This provision intended to prevent the absence or disappearance of the father from becoming an obstacle to acquiring full citizenship status.

Yet even this protection is subject to a conversion caveat. If, at a later stage, the father is identified as a foreign citizen, the child's citizenship by descent must be converted into naturalised citizenship under federal law.[10] The child thus moves from a status of high constitutional permits and a belongingness provided by a lineage citizenship to one that permanently restricts such access with a label of 'naturalised' citizen, solely because of father's foreign nationality. This downgrading of status has no parallel in the case of children of Nepali fathers, highlighting the structural asymmetry between maternal and paternal transmission.

C. Children of Nepali Mothers and Foreign Fathers

The Constitution places stricter requirements on Nepali mothers married to foreign men compared to Nepali fathers married to foreign women. Under Article 11(7), a child born to a Nepali woman married to a foreign citizen may obtain naturalised citizenship, provided the person has not acquired the citizenship of a foreign country and resides permanently in Nepal. That same person can only obtain citizenship by descent if, at the time of the application, both the mother and the father were citizens of Nepal.

Notably, the constitutional framework makes it possible for a foreign woman married to a Nepali man to acquire naturalised citizenship on the basis of marriage,[11] but it does not provide an equivalent path for a foreign man married to a Nepali woman. This asymmetry reinforces the idea that full membership in the polity flows primarily through paternal lineage and marital ties to men, while discriminating access through women's independent status as citizens.

D. Right to Citizenship with Gender Identity

Article 12 provides a significant protection for maternal rights regarding official documentation. It guarantees that any person eligible for citizenship by descent is entitled to a certificate that reflects their identity of descent and gender and specifically allows this certificate to be issued in the name of the mother or the father.

Implications for Citizenship Rights Through the Mother

A critical legal distinction exists regarding the category of citizenship passed by the mother. While a Nepali father passes citizenship by descent unconditionally, a mother's sole ability to pass a "descent" status is often contingent on the father being "unidentified" or a Nepali.[12] This has significant legal consequences under Article 289, which mandates that only those who have obtained citizenship by descent are eligible for the highest constitutional offices, including: the President and the Vice-President; the Prime Minister; the Chief Justice and the Speaker of the House and Chief Minister and Speaker of the Provincial Assembly.

Consequently, the constitutional framework allows mothers to pass citizenship, but the conditional nature of that transmission (potentially resulting in naturalised status if a father is a foreigner) can permanently limit the child's political rights in a way that paternal transmission does not.

10. Constitution of Nepal, art. 11(5) (2015)
11. Constitution of Nepal, art. 11(6) (2015).
12. Constitution of Nepal, art. 11(5), (7) (2015).

2.2. The Nepal Citizenship Act, 2063

Historically, federal citizenship law in Nepal has been more restrictive than the Constitution.[13] Over time, successive amendments have sought to bring the law into closer alignment with what a former Chief Justice of the Supreme Court described as the 'Constitution's liberal order'.

The initial 2063 Act was designed to consolidate citizenship laws following the 2006 democratic movement. In its initial form, mandated under the Interim Constitution of 2063 (2007), it established citizenship by descent if the "father or mother" was a Nepali citizen at the time of birth (Section 3)[14] and allowed citizenship by birth for those born in Nepal before mid-April 1990 (Section 4).[15]

The 2025 Amendment

The 2025 amendment to the Citizenship Act was a significant reform in Nepal's citizenship laws, particularly because the existing framework had long been criticized for discriminating against mothers. Traditionally, while fathers could pass citizenship to their children without conditions, mothers faced additional hurdles. For example, if a child's father was a foreign national or if his/her foreign identity was recorded in official documents, the mother's ability to confer citizenship by descent was often blocked. This created serious administrative and gender-based barriers, leaving many children in legal limbo.

To address these issues, the second amendment introduced Section 3(5a), which opened new pathways for children of Nepali mothers. One of the most important changes is the recognition of situations where a father is 'out of contact', which could mean that the father is either absent, unreachable, or his identity cannot be established as well as cases where the mother is unable to verify the father's identity or whereabouts definitively. In such cases, the law now allows the mother's citizenship to serve as the basis for the child's citizenship by descent.

The amendment also creates a self-declaration mechanism. This means that a mother and child can formally declare that the father is unidentified, and this declaration itself is sufficient to establish eligibility for citizenship. Perhaps the most ground-breaking provision is that this declaration can override existing records. Even if a father's name appears on a birth certificate or school record, the child can still obtain citizenship by descent if they declare that the father cannot be identified or located.

The amendment also sought to reduce the risk of statelessness, particularly for vulnerable children. Section 5(5b) provides that children born abroad to Nepali mothers may obtain naturalised citizenship if the father is unidentified, provided they reside permanently in Nepal and have not acquired foreign citizenship. This provision ensures that children of Nepali mothers are not left without nationality simply because of their birth abroad or the absence of paternal recognition.

In addition, Section 22a introduced the 'Minor's Identity Card'. This card is issued to children of Nepali parents or to foundlings, giving them an official identity even before they are eligible for full citizenship at age 16. The card mitigates risk of statelessness by allowing children to possess legal identity prior to being eligible for citizenship at the age of 16 years.

The 2025 amendments represent a significant legislative step toward the constitutional principle of gender equality by reducing the state's historical reliance on paternal identity, particularly when the father's whereabouts and identity is unknown. This legal guarantee is also extended to children born to Nepali mother in a foreign country, whose father's identity is unknown; except in this situation the child is entitled to acquire a naturalized citizenship as opposed to the citizenship by descent, which is the case

13. Ajay Pradhan, *Nepal's Unequal Citizenship Law,* Nepali Times (Dec. 19, 2020), Nepali Times article
14. Nepal Citizenship Act, 2063, § 3 (2006).
15. Nepal Citizenship Act, 2063, § 4 (2006).

if the child is born in Nepal to an unidentified father. It has also loosened the mandatory requirement to produce a letter from the embassy of one's foreign father stating that the person has not received citizenship from the father's country, down to a signing of self-declaration form stating this fact, in order to acquire a naturalized citizenship via Nepali mother. By formalising a comparatively easier pathway for Nepali mothers, the reform introduces critical procedural relief, most notably through the self-declaration mechanism and the landmark option to exclude paternal names and addresses from official citizenship records.[16] These updates provide essential legal recognition for children born in challenging circumstances, including cases of rape, domestic violence, abandonment or to female migrant workers, who previously faced insurmountable administrative hurdles in attaining legal identity for children conceived and born outside Nepal.

However, this progress is tempered by the fact that maternal transmission of citizenship remains fundamentally conditional. A stark procedural imbalance persists while a child born to a Nepali father automatically acquires citizenship by descent without the need to declare the status or absence of the other parent, a Nepali mother must still navigate a system where her child's status is often predicated on the father's legal status as being a 'Nepali citizen' or 'foreign citizen' or 'unidentified'. This requirement places a unique legal burden on women that is not shared by men.

This conditional framework for Nepali women, in contrast to Nepali men, reinforces the troubling social reality that women's identity is perceived as dependent on men's. Consequently, citizenship 'in the mother's name' is not truly independent of the father's identity. The overall legal framework of citizenship continues to rest on the constitutional proviso that if a father is a foreigner, the child is only eligible for a naturalised citizenship; or if the father is later identified as a foreign national, a child's citizenship by descent must be converted into naturalised citizenship. Furthermore, Citizenship Act even provides a provision of imprisonment and a fine if it is found that the self-declaration was falsely made.[17] This 'downgrading' of status does not apply to the children of Nepali fathers, thereby institutionalising a hierarchy between maternal and paternal lineage. While the 2025 amendments successfully lower administrative barriers for single mothers and vulnerable groups, the substantive inequality embedded in the categories of citizenship ensures that the transmission of rights remains inequitable. Therefore, even where citizenship is formally issued in the mother's name, it ultimately remains grounded in the father's legal identity.

2.3. Judicial Intervention through the Supreme Court

The Supreme Court of Nepal has repeatedly interpreted the Constitution in ways that strengthen the ability of mothers to transmit citizenship to their children. Through its rulings, the Court has intervened to prevent administrative offices from using the 'unidentified father' condition as a means of withholding citizenship.[18] Although the Constitution continues to draw a distinction between maternal and paternal transmission, the Court has affirmed that a mother's right to confer citizenship is a fundamental entitlement, inseparable from her dignity and her equal lineage rights.[19] Moreover, the Constitution of Nepal holds that decisions of the Supreme Court have the same binding force of law.[20]

One of the most important interventions came in *Bhola Nagarkoti v. Government of Nepal* (2014)[21], where the Court examined the wording of the citizenship clauses. It held that the phrase 'father or mother' under Article 11 (2)(b) must be read disjunctively, meaning that either parent's citizenship is sufficient on its own.

16. Nepal Citizenship Act, 2063, § 8A(1), (1A) (2006).
17, Nepal Citizenship Act, 2063, §§ 21 (2006).
18. *Sabina Damai & Others v. Government of Nepal & Others,* Writ No. 2067-WS-0703 (Sup. Ct. Nepal Feb. 27, 2011). The decision is also reported as NKP 2068, vol. 2, Decision No. 8557.
19. Id.
20. Constitution of Nepal, art. 128(4) (2015).
21. *Bhola Nagarkoti v. Government of Nepal,* Writ No. 069-WO-880 (Sup. Ct. Nepal Mar. 14, 2014).

This interpretation established that a mother's independent status is legally adequate to confer citizenship by descent, particularly in cases where the father is absent or has disappeared. By doing so, the Court prevented administrative officials from demanding paternal documentation as if the law required both parents together.

In *Sabina Damai v. Government of Nepal* (2011)[22], the Court went further by linking maternal transmission of citizenship directly to human dignity. It recognized that forcing single mothers to provide details of a father who is 'not traced' imposes a social and legal burden. To remedy this, the Court ordered the MoHA to issue a nationwide circular requiring DAO to process citizenship applications through the mother's name alone, without demanding information about an untraceable father.

The Court also addressed situations where the father is known but uncooperative. In *Ranjeet Thapa v. Government of Nepal* (2010)[23], the father was a Nepali citizen who refused to acknowledge his son or provide documents. The Court ruled that an applicant has an autonomous legal right to choose whether to obtain a citizenship certificate through the permanent address of either parent. This precedent stripped administrative offices of the power to reject applications simply because a known father refused to participate.

These judicial precedents have contributed to shaping the legislative reforms. The 2025 Amendments to the Nepal Citizenship Act incorporated the Court's principles by expanding the category of 'unidentified father' to include fathers who are out of contact,[24] codifying the self-declaration mechanism,[25] and allowing individuals to exclude the name or address of either parent from their citizenship certificate.[26] These changes reflected the Court's emphasis on identity, privacy, and the recognition of maternal authority.

Yet the rulings have not fully eliminated the inequality embedded in the Constitution, and therefore the laws and regulations that flow through the very Constitution. The framework still rests on the proviso in Article 11(5) and 11(7), both of which require that a person whose mother is a Nepali citizen and father is a foreigner or later found to be a foreigner, can only acquire a naturalised citizenship. As a result, while the Court's interventions and subsequent amendments have removed many administrative barriers, a mother's right to confer citizenship remains conditional in a way that a father's right is not. The rulings have corrected the process of obtaining citizenship, but the constitutional hierarchy of status continues to be a point of contention. More importantly there is continued reluctance in the local government and the Ministry of Home Affairs to abide by court rulings. This issue is further discussed in the following chapter.

22. *Sabina Damai & Others v. Government of Nepal & Others,* Writ No. 2067-WS-0703 (Sup. Ct. Nepal Feb. 27, 2011). The decision is also reported as NKP 2068, vol. 2, Decision No. 8557.
23. *Ranjeet Thapa v. Government of Nepal, Office of the Prime Minister & Council of Ministers & Others,* Writ No. 0035 of 2065 (Sup. Ct. Nepal Mar. 2, 2010).
24. Nepal Citizenship Act, 2063, §§ 3(4A), (5A) (2006).
25. Nepal Citizenship Act, 2063, §§ 5(5A), (5C) (2006).
26. Nepal Citizenship Act, 2063, § 8A(1), (1A) (2006).

CHAPTER

3 CITIZENSHIP LAWS IN ACTION FOR AFFECTED PERSONS

We know these cases are not implemented easily, nor are our judgments used as precedents. Issues that we have already settled in our decisions repeatedly return to the Supreme Court.

Former Chief Justice (Anonymous)

This chapter discusses the various facets of how citizenship laws are implemented. Analysis is built through findings from the FGDs, KIIs and the experiences of researchers accompanying affected persons during citizenship applications.

3.1 Citizenship Access in Nepal: Legal Guarantees vs. Implementation Gaps

All cases discussed in the FGDs by affected persons had a central common theme: affected persons struggled to obtain citizenship through matrilineal lines and where the citizenship acquisition depended heavily on the husband or father. There were four typologies of cases that were reported in these FGDs.

1. Cases involving women who had separated from husbands (though not legally divorced) and whose parents were Nepali citizens by descent. In such cases, women were denied citizenship because the state administration claimed that a married woman cannot acquire citizenship through their parents, but only through their respective husbands to confer citizenship.
2. Cases pertaining to citizenship through naturalisation. In these instances, the father of the affected person was either a non-Nepali or did not have citizenship of any state. Notably the mothers of all affected persons were Nepali citizens through descent.
3. Cases pertaining to children struggling to get citizenship through their Nepali mothers who had citizenship through descent. In these contexts, their fathers were absent or uncooperative.
4. Case of foundling whereby some identification of the mother's Nepali origins did not suffice.

A. Citizenship for Married Women

There is no provision in Nepali law that prohibits a married woman from acquiring citizenship through the status of her own parents as opposed to her husband. Yet, local governments and CDOs exercise complete discretion over whether or not to accept an application for citizenship from a married woman if her father (instead of husband or father-in-law) supports it. Participants seeking citizenship as married women in the FGDs reported that either the local government staff or the DAO staff said it is impossible for them to grant citizenship in the absence of the husband's endorsement once a woman is married.

"The CDO asked me, "Do you have a son?" If you didn't have a son we could have issued paperwork saying you are single. Since you have a son we cannot issue citizenship from here [without your husband]. You need to go to court to get an order."

Persons with lived experience (Anonymous)

It is interesting that neither any local body nor any CDO asked the applicant to inquire whether they could submit an application for citizenship from the home district of their respective parents.

It remains unclear whether the administrative perspective that a husband must support a citizenship application arises from deeply held patriarchal norms that a married woman can only gain identity from her husband. Or, whether it is driven by a lack of understanding among staff at DAOs and local governments of Nepal's constitutional and legal framework. It is suspected that it might be a mix of both. The discussions via FGDs, KIIs, stories and the researchers' observation in the field reflected that officials lacked awareness and understanding of what the law permits. There currently exists no training that could provide the foundations of a minimum common standard of comprehension.

B. Citizenship by Descent for Children of Nepali Mothers

Several participants in the FGD had successfully obtained citizenship through their Nepali mothers. Their citizenship was acquired through descent even in the case of unidentified father. However, this achievement did not come easy. Despite several Supreme Court rulings in the past (see chapter 2 above) stating that the children of Nepali mothers have full rights to obtain citizenship through descent, affected individuals reported struggling for years to process their applications. The duration of struggle to get citizenship ranged from 4 to 13 years. One participant reported that 'up until 2023 they kept asking for my father's details'. As another participant highlighted, the emphasis on the father's identity and details is an insult to women. She stated, "For my entire life, my mother was both our provider and protector, doing the work of two parents while receiving the recognition of less than one. It is a profound injustice that an absent father is granted higher legal standing than the mother who stayed, sacrificed, and carried us through everything."

What is particularly striking is that the eventual citizenship certificates were issued under the very same legal framework that had previously been used to deny them. This inconsistency underscores how administrative practice, rather than the law itself, became the barrier to exercising rights (albeit discriminatory) already guaranteed.

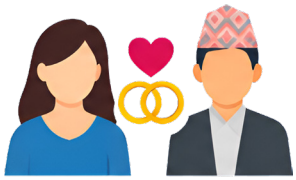
In the years that the affected individuals struggled to get citizenship, they would frequent the office of the local government or DAO (wherever the application was held up) to follow up on progress. They reported visits to be harrowing and traumatising. Responding authorities engaged in a range of behaviour such as ignoring them; making them wait for hours before stating their application cannot be processed further; asking them to come back on different days to simply make them wait with no results. The affected individuals remember the remarks and insults hurled at the mothers as the most scarring of experiences. One respondent remembered:

I thought female staff would understand and be better... but the behaviour of the female staff at the CDO office was even more reprehensible. My mother is from the Dalit community... she is very quiet in nature... the lady said things like, "When you slept with a man you shut your eyes and didn't care who it was... you were able to have a child with him but you were not able to find out where he is from or whether he lives?" Tears rolled down my cheeks and at that point and I said I don't want this citizenship. Neither men nor women understand our struggles.

C. Citizenship through Naturalisation

The 2025 amendment to the Nepal Citizenship Act, 2063 and the Nepal Citizenship Regulations, 2063 (fourth amendment of 2025) have decentralised the administrative power to grant naturalised citizenship. While the Ministry of Home Affairs historically held centralized control over naturalisation, specifically for the children of Nepali mother and foreign father, the current regulations designate the Chief District Officer (CDO) as the primary authority for processing and issuing certificates for the majority of naturalisation categories.

Under Rule 8(1) of the Regulations, the CDO is formally identified as the issuing authority for various classes of citizenship. Specifically, Rule 8(1)(c) mandates that the CDO issue naturalised citizenship certificates for applications filed under the following criteria:



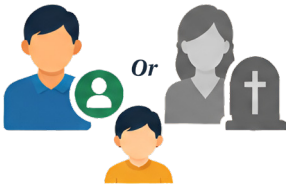
Matrimonial Naturalisation

Foreign women married to Nepali citizens are required to submit their applications directly to the CDO of the district where their husband resides. The CDO is authorized to grant the matrimonial naturalised citizenship certificate upon verification of the marriage and a proof that the woman have initiated the process to relinquish her foreign citizenship.



Children of Nepali Mothers and Foreign Fathers

For individuals born to a Nepali mother and a foreign father, the application process is handled by the CDO. If the individual resides permanently in Nepal and has not acquired the father's foreign citizenship, the CDO is empowered to 'grant' naturalised status.



Children of Citizens by Birth

In cases of children of either parents with citizenship by birth, both parents must be Nepali citizens for that child to acquire citizenship. If one parent has a citizenship by birth and the other does not, or is a stateless, or a refugee, the child cannot acquire Nepali citizenship. However, the recent amendment to Act provides certain flexibility in cases where one parent has citizenship by birth and the other parent is either deceased, or is permanently out of contact. In such case, the child may apply to the CDO for naturalized citizenship.



Children Born Abroad

Under Rule 7(1b), a person born abroad to a Nepali mother whose father is unidentified may obtain naturalised citizenship through the CDO, provided they reside in Nepal and have not taken foreign citizenship.

Citizenship issuance will now rely not only on the documents specified in the regulation but also on a self-declaration, for which a format has been provided.

Furthermore, a critical administrative function now held by the CDO involves the conversion of citizenship status. According to Rule 7(7) and Rule 7(8), if an individual was originally granted citizenship by descent through their mother but their father is subsequently identified as a foreign national, the CDO is responsible for the legal transition of their status. The CDO retrieves the original descent-based certificate and issues a new naturalised citizenship certificate in its place, provided the individual meets the residency and non-foreign citizenship requirements.

It is important to distinguish these categories from honorary naturalisation or naturalisation based on special contributions (such as excellence in science, philosophy, or arts). Under Rule 7(3) and Rule 7(4), the CDO's role in these specific instances remains strictly evidentiary; they collect the application and forward it with a recommendation to the MoHA, which retains the final authority to grant citizenship for special-interest cases.

According to one interview participant, this change was intended to improve efficiency, as the Ministry is burdened with numerous tasks and often delays decisions due to competing priorities. Furthermore, the amendment also introduces ministerial oversight. If a DAO decision is problematic, the MoHA can

review it, whereas earlier corrections to ministerial decisions required court orders. Despite these changes, participants in FGDs reported that they were unaware that applications for naturalised citizenship are now processed at the DAO level.

Conceptually the legal amendment that provides CDOs with the power to issue naturalised citizenship to children where father is a foreigner national. It is expected to increase the efficiency of application processing. However, with 77 District Administration Offices now empowered to make these decisions, the absence of standardized training raises concerns about inconsistencies across districts. Service seekers may encounter uneven practices depending on where they apply.

The new system began in October 2025. The MoHA's written response to the research team's inquiry through a formal right to information (RTI) process revealed that as of 5 June 2026, around 473 individuals have acquired naturalized citizenship in mother's name where father is a foreign citizen, via their respective DAOs. (MoHA's response is attached as Annex II). However, there is still no disaggregated data showing how many applicants for naturalised citizenship through the mother's identity have been denied, ignored, or stalled at the DAO level. Further inquiry will be needed to assess how smoothly the process functions in practice and whether it is more effective at the DAO compared to the MoHA.

Nevertheless, reports from FGDs demonstrate that the struggles to get naturalised citizenship despite having a Nepali mother are still persistent. Some examples as typologies of problems faced are described below:

Case Study

The affected individuals have Nepali mothers who have Nepali citizenship through descent. They have foreign fathers. The affected individuals were born and raised in Nepal. In fact, they 'have nowhere else to go to' but Nepal. In their citizenship application, the administration sought documents from India about their deceased father. The father, in turn, lived in Nepal and either had no ties or had effectively lost all ties with India. It is thus impossible to obtain any records or letters from India. Despite having a Nepali mother, the affected persons are denied citizenship through naturalisation. They state that in Nepal 'there is no meaning to having a Nepali mother'.

D. Citizenship for Foundlings

The legal framework of Nepal provides specific protections and procedural pathways to ensure that foundlings, children found within the country whose paternity and maternity are unknown, can secure their legal identity and citizenship, upon reaching the age at which citizenship can be legally acquired.

Note: While the legal definition of child, in Nepal, covers anyone under the age of eighteen, the legal age to acquire a citizenship is sixteen.

Every child found within Nepal whose father and mother are unknown is constitutionally deemed a citizen of Nepal by descent until their parents are traced.[27] Nepal, a signatory to the 1989 Convention on the Rights of Child, has also operationalised this provision through the Nepal Citizenship Act and its accompanying regulations, which designate the CDO as the authority responsible for issuing the necessary documentation.[28] When a person of unknown parentage reaches sixteen years of age, they must apply for a citizenship certificate using the format prescribed in Annex-1 of the regulations.

27. Constitution of Nepal, art. 11(4) (2015).
28. Nepal Citizenship Regulation, 2063, r. 3(3) (2006).

The evidence required for such an application varies depending on the individual's upbringing. If the applicant was raised in a government-recognised orphanage or a similar institution, they must provide a recommendation from that institution along with a recommendation from the local government level based on the institutional records. In cases where a person was raised under the care of a legal guardian, the application must include the guardian's citizenship certificate, a formal verification statement by the guardian, and a recommendation from the local level. For individuals whose upbringing does not fall into these categories, a recommendation from the local government level serves as the primary evidence for the application.

To provide a legal identity for foundlings who have not yet reached the age of sixteen, the Regulations allow for the issuance of a Minor's Identity Card. An application for this card is submitted to the CDO in the format of Annex-5.[29] This process requires a birth registration certificate and recommendations from either the local level or the institution where the child resides. The Minor's Identity Card, formatted according to Annex-6,[30] serves as a valid identity document until the individual reaches adulthood and becomes eligible for a full citizenship certificate. These provisions aim to ensure that children with unidentified parentage are not left in a state of legal limbo and are granted the full rights associated with citizenship by descent.

However, a critical yet frequently overlooked gender angle embedded within Nepal's foundling framework is the unequal legal consequence if a parent is subsequently identified. Under current provision, a child or person acquires citizenship by descent "only until the father or mother is not traced." The underlying implication is that once either parent is known or traced, the standard citizenship provisions apply. In practice, however, as discussed on previous sections, citizenship in a mother's name remains heavily dependent on the father's legal status.

Case Study

An FGD participant described her prolonged struggle to obtain citizenship. She grew up in multiple shelter homes run by organisations within the same city.

At each local authority where she sought a recommendation letter, required for processing citizenship applications at the DAO, officials refused to issue one. Their reasoning was that she could not demonstrate 'substantial ties' to the locality. In Nepali administrative practice, such ties are typically proven through land ownership records, evidence of parental or family residence, or testimonies from neighbours confirming residency.

Her situation reflects a broader pattern: children without parents, or those raised under shifting guardianship, often lack the documents demanded to establish residence. Yet in practice, the constitutional right to citizenship for foundlings is not treated as the guiding principle. Instead, procedural hurdles, such as proof of residence, are imposed even though they are not required by law. The effect is that safeguarding against statelessness becomes secondary to satisfying administrative checklists, leaving vulnerable children trapped in bureaucratic contradictions.

29. National Identity Card and Registration Regulation, 2077, annex 5 (2020).
30. National Identity Card and Registration Regulation, 2077, annex 6 (2020).

CHAPTER

4 THE HUMAN COST OF CITIZENSHIP DENIAL

"The words they use, they don't think about it seriously until it leads to something dangerous. They kept telling my mother 'Because of your mistake your children are suffering".

- Persons with lived experience (Anonymous)

This chapter documents the experiences of citizenship affected people and the real cost of citizenship denial on their lives.

4.1 The Quest for Citizenship

The human cost of citizenship denial is immense and often invisible to the outside world. For affected individuals, living for years without legal identity—effectively stateless in one's own country—means being denied the fundamental human rights guaranteed by the Constitution and the state. The psychological toll of rejection in the only place one calls home, combined with a total lack of opportunity, is devastating. This condition has driven many to tragic extremes, including human trafficking and suicide.

Case Study: The Bardiya Citizenship Tragedy[31]

The case traces back to around 2017–2018 when Anju Tharu, then a minor at 15 years old, became pregnant following a relationship with Anil Tharu from a neighbouring village in Badhaiyatal Rural Municipality-4, Bardiya. Following a local community assembly (panchayat), Anil married Anju at a temple. On December 10, 2018 (Mangsir 24, 2075 BS), Anju gave birth to their daughter, Anita. However, the marriage was never legally registered with the local government.

Following marital disputes and neglect, Anju returned to her parents' home in late 2019. In January 2020 (Magh 2076 BS), she filed a lawsuit at the Bardiya District Court demanding a share of her husband's ancestral property for herself and her daughter. Anil contested the lawsuit, denying paternity of the child. In November 2022 (Kartik 2079 BS), the Bardiya District Court ruled in Anju's favour. Recognizing the child and the relationship, the court ordered that Anil's property partition be divided into three parts, with two parts legally awarded to Anju and her daughter.

Despite winning her court case, Anju was completely blocked from executing the judgment or claiming the property because she lacked a citizenship certificate, a formal marriage registration, and a birth certificate for her daughter.

Anju and her father, Kanchha Tharu, visited the Badhaiyatal-4 Ward Office repeatedly (estimated between 8 to 10 times). The local ward officials refused to initiate her citizenship process or

31. Suraj Hazare Dahal, माफी माग्न अर्की अञ्जु थारुको आत्महत्या कुरेर बसेकी हुन् प्रधानमन्त्री कार्की? https://www.ukeraa.com/news/detail/168708/.

issue a birth certificate for her daughter, claiming they required the husband's citizenship documents, a marriage registration, or "clearer" court orders.

In early 2025 (Poush 2081 BS), Anju attempted to apply for citizenship through her parents' lineage. The recommendation was briefly signed by the Ward Chairman, but the process was abruptly cancelled and withdrawn by the District Administration Office (DAO) on the grounds that a married woman could not acquire citizenship via her maternal line in that manner.

Exhausted and deeply frustrated after years of navigating courts and facing systemic gatekeeping from administrative offices, 22-year-old Anju Tharu committed suicide at her home on November 7, 2025 (Kartik 22, 2082 BS), leaving behind her seven-year-old daughter. Overwhelmed by grief and the systemic failure to achieve justice for his daughter, her 61-year-old father, Kanchha Tharu, also committed suicide four days later.

Aftermath

Following widespread media coverage, Prime Minister Sushila Karki issued a public apology on behalf of the state. The Ministry of Home Affairs led by the interim Home Minister Om Prakash Aryal, formed a formal high-level investigation committee led by Joint Secretary Suresh Panthi. The committee subsequently submitted a 35-page report highlighting severe administrative lapses and recommending structural reforms to decouple essential public services from rigid citizenship requirements. The investigation report however is not public.

The District Police Office, Bardiya, registered a criminal case of abetment to suicide against Anju's husband, Anil Tharu, who went into hiding and was sought by law enforcement.

In December 2025, weeks after the deaths, local authorities finally issued a death certificate for Anju and a birth certificate for her 7-year-old daughter, Anita, enabling the child's future legal rights to her mother's court-mandated property share.

An informal follow-up with a representative of the MoHA revealed that no departmental action has been taken against staff at the DAO Bardiya. Moreover, there has been no organizational reflection or training introduced to prevent such tragedies from recurring.

4.2 Testimonial Narratives of Affected Individuals

In order to capture the experiences of citizenship affected persons, this study sought to ask them to write their own stories in their own words. These accounts are intended to be at the centre of this report. Volunteers were recruited from members of CAPN's paralegal programme called *Sahayatri*. Three Sahayatris volunteered to provide written narrative accounts of their journeys to get citizenship. The *Sahayatris* were given an initial briefing on the basic structure of writing, via four guiding questions, to ensure a general level of consistency in the accounts. The questions were as follows:

1. Please describe in one paragraph how you would like to introduce yourself.
2. What was your experience dealing with government authorities and officials while trying to obtain citizenship?
3. How did you feel when you faced hurdles during the process of obtaining citizenship?
4. What are the difficulties you are facing due to the lack of citizenship?

Sahayatris wrote in the language they felt comfortable with. One *Sahayatri's* account in English has been presented verbatim with only minor grammatical corrections. The rest of the three narratives written in Nepali have been translated to English. Annex 1 presents the submitted narratives in Nepali, in its original form.

Account of Sahayatri No. 1.

My name is Suraj Hazare Dahal, and I define myself as a stateless person born to a Nepali mother and a foreign father, and I have not been able to obtain citizenship. Although I was born and raised in Nepal and my identity is deeply rooted here, I remain legally unrecognized by the state. This has placed me in a stateless condition, affecting my sense of belonging, access to opportunities, and overall future. I see myself as someone who is continuously struggling for legal recognition, basic rights, and a dignified identity within the country I call home.

When I first approached the Home Ministry in 2013 to inquire about citizenship under the Interim Constitution of [Nepal] 2007, I was told that children born to a Nepali mother and a foreign father were not considered Nepali and should instead obtain citizenship from the father's country. However, there was actually a provision for naturalised citizenship for individuals in my situation. When I pointed this out, the official [from the Ministry] avoided addressing it and instead asked me to provide proof that I had not acquired citizenship from my father's country.

More recently, when we went to my mother's district to obtain a National Identity Card (NID) for her and a birth certificate for me in 2025, the Ward Chairperson told my mother that since she was married, the birth certificate for your children [which is me] could not be issued from here. Then when we went to the CDO to make the NID for her where the officials said as you have married a foreigner, you can't get it.

While facing these challenges during the process of obtaining citizenship, the experience was deeply frustrating and disheartening. There was a strong sense of confusion and helplessness when even government officials seemed unaware of, or unwilling to acknowledge, the legal provisions that applied to my situation. Each interaction felt like hitting a barrier rather than moving closer to a solution. At times, it created feelings of exclusion and invisibility, as though my identity and existence were being denied. Despite this, there has also been a sense of resilience and determination to continue seeking recognition and rightful citizenship.

Due to the lack of citizenship, I face many practical difficulties in my daily life. I am unable to obtain a driving license, open a bank account, or even get a SIM card in my own name. I have to rely on others for basic services that most people take for granted. For example, I drive a scooter that is registered in my mother's name, and whenever there is a traffic check, I feel anxious and sometimes have to avoid it. If I am stopped by the traffic police, I have to repeatedly explain my situation to the authorities to avoid fines or further trouble. These experiences are not only inconvenient but also stressful and humiliating, as they constantly remind me of my lack of legal identity.

Account of Sahayatri No. 2.

I am a Nepali citizen who has struggled for a long time for my identity, rights, and dignity, simply because while mother is a Nepali citizen by descent, my father, who passed away when me and my brother were very young, was a foreign national. I was born and raised in Nepal, and I have always considered myself an integral part of this country. For me, obtaining citizenship was not merely about receiving a legal document, but also about securing my existence, identity, and future in my motherland. Today, through my experience, I want to become a voice for other stateless individuals.

My experience during the process of obtaining citizenship was mixed. Some officials were supportive and responsible, while others unnecessarily prolonged the process, demanded additional documents, and failed to provide clear information. I had to repeatedly visit different government offices, including the Home Ministry. This consumed a great deal of time, financial resources, and mental energy.

While facing numerous challenges during the citizenship process, I sometimes felt frustration, tension, and helplessness. It was deeply painful to struggle to prove my identity in my own country. However, my strong determination to secure my rights continuously motivated me to move forward. Soon after the youth protest in September 2025, when the Citizenship Act Second Amendment was adopted, I was really happy to learn that the authority to grant naturalized citizenship to children of Nepali mother and foreign father is transferred from the Home Ministry to the CDO, I gave my all to use this legal route to secure citizenship for my brother and me through my mother.

However, the opportunities I have lost in the past 28 years, I will never get them back. Without citizenship, I faced major difficulties in accessing basic rights and services such as education, employment, opening a bank account, obtaining a SIM card, travelling, and buying or selling property. This had a serious impact on my social, economic, and personal life. Without citizenship, I often felt excluded and alienated by the state. Today, I live with a feeling of hope that looks like a wounded bird.

Account of Sahayatri No. 3.

I am a single mother to my daughter and a resident of Solu-Dudhkunda Ward No. 5, Likhupike Rural Municipality, Salleri, Solukhumbu. Professionally, I am a teacher. In addition, under CAPN's "Sahayatri" initiative, I have been actively working in Solukhumbu alongside people who seek to obtain citizenship through their mother's name.

They are totally unaware of the new amendment in citizenship laws. Whenever we try to update them about the new provisions, they directly say, "Shut up." So, they are not good listeners. They impose their own authority.

I have faced many challenges during the process of obtaining citizenship. For example, when seeking a recommendation letter from the ward office enclosing the details of three generations, they say that only the father's three generation's lineage can be included, not the mother's, even though we are applying for citizenship through the mother's name. [Government] employees have patriarchal thoughts. Time to time rejection from Ward, CDO Office. Financially broke. Road and transportation are not properly managed. There is also a sense of isolation, as society views people without citizenship differently. People make hurtful remarks and accusations, like questioning what kind of man the child's father was or how was the mother's character. Experiences of difficulties faced due to the lack of citizenship: social discrimination, deprivation of quality education, exclusion from all forms of government quotas, and denial of government services and facilities. Loss of identity, even no future. Everything messed.

4.3 Aftermath of citizenship acquisition

The process does not end with the acquisition of citizenship. For many citizenship-affected individuals, administrative hurdles persist long after they receive their citizenship certificate. Individuals who acquire citizenship through their mother often encounter difficulties when seeking other identity and civil registration documents.

Documents such as passport, NID, driving license, and bank accounts all require citizenship as a prerequisite. However, for many individuals who obtained citizenship through their mother, obtaining these subsequent documents can become an additional challenge. With the increasing digitization of public services, applications are now largely submitted through online systems. In many cases, these systems are designed with a mandatory field requiring the applicant's father's name. As a result, individuals who do not have their

father's details recorded, or whose citizenship was acquired solely through their mother, are often unable to submit the application or proceed to the next stage of the online form. Consequently, technological modernization has, in some instances, replicated and reinforced existing discriminatory administrative practices rather than eliminating them.

These challenges reflect the broader persistence of discriminatory attitudes and inconsistent administrative practices, which continue to undermine the full enjoyment of citizenship rights even after legal recognition has been obtained.

CHAPTER

5 ADMINISTRATION OF CITIZENSHIP

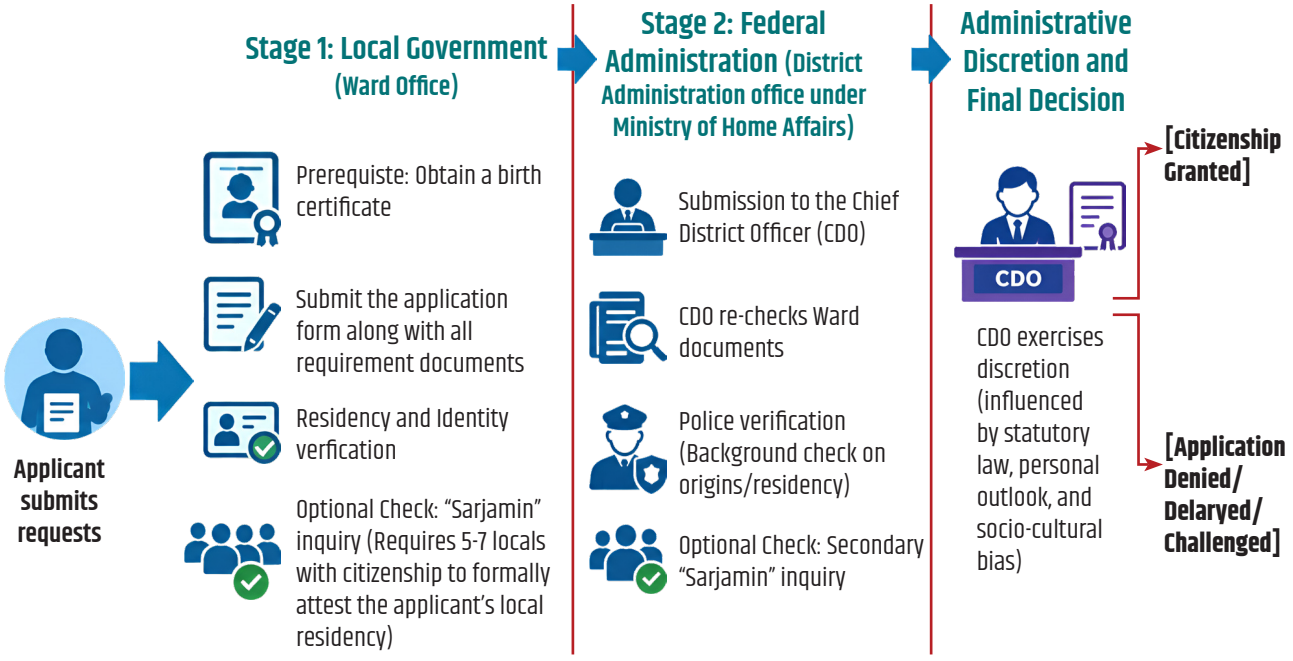
When a Nepali citizen mother stands to support a citizenship application for her child, isn't she a full [Nepali] citizen? No one cares when the mother's name is blank, represented by a dash. But when the father's name is missing, represented by a dash, we are made to feel shame.

Persons with lived experience (Anonymous)

5.1. Citizenship Application Procedure

A citizenship application typically passes through two major stages. At the initial stage an applicant requires the support of the Ward office of the local government to first obtain a birth certificate: a mandatory prerequisite for the citizenship certificate. When the citizenship application is submitted to the Ward Office, it has to confirm that the applicant is a resident of the area and thus Nepali. The Ward may undertake a *sarjamin* to confirm this. The *sarjamin* inquiry process requires five to seven local residents, each holding a Nepali citizenship certificate, to formally attest that the applicant is a genuine resident of the area. Once the Ward certifies that the applicant is eligible for citizenship through its checks, the applicant then takes his/her application to the DAO under the MoHA (federal government). As the head of the DAO, the CDO has authority to recheck the information provided by the applicant and the local Ward. This includes asking the police to confirm that the information about the person's origins and residence in the local area is true. The CDO may also order a *sarjamin* inquiry. Ultimately, the CDO has the authority to decide whether or not to grant citizenship.

Standard Procedure for Citizenship Application



However, in practice, while the authorities are found to have skipped some of these optional procedure when the citizenship application is based on a Nepali citizen father, it is often applied as mandatory check when application is based on Nepali mother's citizenship.

The diagram above shows a summary of how a citizenship application is processed within the governmental system.

The citizenship application process is supposed to be guided by the laws. However, as shown by the findings in preceding chapters, administrative discretion, individual outlook, and socio-cultural narrative determines success of application. The study found several thematic issues relevant to administrative decision-making that will be discussed below:

5.2 Culture of Service Delivery

All participants in the FGDs observed that there is no culture within the DAO or local government that inculcates a sense of sensitivity, empathy and responsibility in providing services to citizenship applicants. This absence is felt most acutely in cases where citizenship is sought through the mother. The interviewed former Minister of Home Affairs confirmed this observation stating that only the 'occasional civil servant will have empathy towards the service seeker', the majority will not 'grasp the hardships faced' by them.

Several participants provided an example of how lack of sensitivity and empathy in delivering cases played out. We present an illustrative example below:

> *What bothers me the most is how they make an example of us. They point at us and tell people who don't know [other service seekers] us what our history is.... Even after we leave, they use our names and talk about us as examples... they point to our case in front of us and laugh publicly.... I will remember their laughter for a long time...*

During the FGDs, participants repeatedly observed that problematic behaviour within government institutions often targeted those perceived as 'hapless service seekers.' By contrast, when service seekers were perceived as belonging to a higher socio-economic class they would speak with the deference of 'hajur', which is a high respect pronoun used selectively. For example:

> *My father earned a living by selling ice cream in a pushcart. He did not have the capacity to talk to government people (FGD participant, Dhangadhi)*

> *My father belongs to the Dalit community and he drinks. They will never entertain him for services. (FGD participant, Kathmandu)*

> *It might be that we are discriminated against because we are Muslim in addition to being children raised by a single mother. (FGD participant, Dhangadhi)*

Similarly, they noted that when affected individuals were accompanied by representatives from civil society organizations or by lawyers, officials tended to behave more appropriately. Respondents noted that these accompanying representatives had the confidence and authority to "argue back" and "stand their ground," which in turn compelled officials to act with greater respect and accountability. Examples of perceptions are provided below:

> *I required a police statement. It was printed on A4. A police officer who reviewed it shouted at me stating it should be on Nepali paper. How would I know this when they issue the document? I was accompanied by a member of CAPN who was not going to take this behaviour. She fought back. And the senior officer at the police apologised to us and took care of the paperwork. I would have never got this treatment if she wasn't with me. (FGD participant, Kathmandu)*

The people at the Ward I went to recently were very nice to me. It may have been because CSO representatives were there with me. (FGD participant, Kathmandu)

Ultimately, these observations highlight a disconnect between the constitutional mandate for a "people-oriented" administration and the lived reality or at least an understanding of it within DAOs and local governments offices. Article 51 of the Constitution directs the state to maintain a public administration that is impartial, transparent, and participatory. Yet in practice, service delivery appears to be shaped less by these principles than by entrenched hierarchies of power.

5.3 Motivation for Service Delivery

The problems underlying the culture of service delivery have been discussed above. In this research, however, we also sought to look more deeply into the factors that create and sustain this culture in the first place.

One KII participant explained that there is a pervasive fear among civil servants of making the wrong decision when it comes to citizenship. They are scared of the Commission for the Investigation of Abuse of Authority (CIAA) which selectively targets and prosecutes government staff. He noted that CIAA targets were governed less by law than the ploy by CIAA commissioners and their group of civil servants to secure their power within ministries. Thus, they hunted opponents. Whilst civil servants prosecuted maliciously may ultimately be acquitted, the burden of being under criminal investigation and trial is so high that civil servants are afraid to take risks to make judgments in more complex cases. Granting citizenship through the identity of the mother, or to married women through the father are seen as risky cases that are not worth engaging in.

This context above is reportedly exacerbated by the fact that CDOs do not stay in one duty location/office (DAO) for more than a year as the Home Ministry's internal policy mandates them to be transferred upon completing a maximum of one year as a CDO.[32] Furthermore, there are no rewards for delivering service well. No one gets recognized or promoted because they provided better services or took risks. On the other hand, the punishment, including from the CIAA, is steep. As a result, CDOs often adopt a cautious approach: keeping files on hold, avoiding decisions, and simply waiting to move on to the next location through departmental transfers.

5.4 Administrative Expertise and Capacity Building

With multiple accounts of administrative hurdles, poor treatment of service seekers and culture of service delivery, it raises an important question: why do these challenges persist?

The KII in particular revealed one of the contributing factor that related to the government's civil service transfer policy. The Government of Nepal requires civil servants to be periodically transferred to provide them with exposure to different geographical regions of the country.[33] Civil servants are subject to mandatory rotational transfers between different categories of geographical regions.

An employee who has served for at least one year and six months in an office in a remote or less developed geographic region ("Ka" or "Kha" category) must be transferred to a developed region ("Ga" or "Gha" category) for a minimum period of two years. Conversely, an employee who has completed at least two years of service in a "Ga" or "Gha" region must serve in a "Kha" or "Ka" category for at least two years.[34]

32. Chief District Officer Transfer/Placement Procedure, 2080, policy 7 (2023).
33. Civil Service Act, 2049 B.S., § 18(1) (1993).
34. Id.

While this policy aims to broaden administrative experience and promote equitable deployment of personnel, it can also result in officials being assigned to specialized functions, such as citizenship administration, without adequate subject-matter expertise or training. This can lead to inconsistent decision-making, procedural delays, and additional barriers for individuals seeking citizenship services.

As reflected in CAPN's 2025 study, *Implementation of Citizenship Laws in Nepal*, a representative of the then Ministry of Home Affairs stated that "CDOs are already experts; otherwise, they would not have been appointed to that position and therefore do not require any training." This perspective is revealing of a broader institutional culture that often assumes competence based solely on position rather than ensuring the continuous development of specialized knowledge and skills. When such views are held by the government agency primarily responsible for citizenship administration, they help explain many of the administrative barriers, inconsistent practices, and dismissive treatment reported by service seekers. The absence of structured training and capacity-building mechanisms can leave officials ill-equipped to address the complex legal and procedural issues surrounding citizenship, erasing institutional memory, ultimately undermining both the quality of public service delivery and the rights of citizenship-affected individuals.

This is further exacerbated by the fact that civil servants may be transferred between Ministries, Departments or Office whose subject matter maybe completely unrelated. Consequently, an officer who has previously served as a Section Officer in agencies such as the Inland Revenue Department or the Department of Transport Management may be posted to a citizenship administration office. In the absence of specialized training on citizenship laws, nationality procedures, and the unique challenges faced by citizenship-affected individuals, such transfers can undermine the quality and consistency of service delivery. Rather than reducing administrative barriers, the lack of subject-matter expertise may contribute to delays, misinterpretation of legal provisions, and additional obstacles for individuals seeking citizenship documents.

5.5 Accountability in Government Offices

The legal framework of Nepal, primarily through the Good Governance (Management and Operation) Act, 2064, and the Constitution, establishes a mandatory requirement for public officials to be accountable and stipulates that the failure to deliver services constitutes a legal transgression.[35] Under these laws, service delivery is transformed from a discretionary act into a statutory duty. Every concerned official is legally obligated to operate administrative work quickly and efficiently to ensure the general public receives results in a timely manner. Furthermore, officials must make decisions within the specific timeframes mandated by law, or within a reasonable time if no such period is defined.[36]

The law specifically categorises the avoidance of responsibility as a punishable offense. Officials are explicitly prohibited from avoiding their duties or performing work with the intention of causing delay. If an official fails to perform their duties within the fixed period or avoids responsibility, they face departmental action based on a lack of efficiency.[37] Significantly, the Act provides a mechanism for compensation: if a service seeker suffers any loss due to an official's failure to provide service as promised in the Citizen's Charter without reasonable cause, the state may be required to provide compensation (up to NRs 5,000) to the victim.

The accountability provisions outlined in the Good Governance Act, however, are seldom implemented and thus are ineffective in holding service providers accountable. This was demonstrated by recurring examples reported by participants whereby 'the DAO staff would refuse to issue citizenship but would just never explain the reasons why'. Or 'the same person who issued the birth certificate at the Ward would later revoke it or refuse to acknowledge jurisdiction for issuing a referral for citizenship, without explaining why'.

35. Good Governance (Management and Operation) Act, 2064, § 8 (2007).
36. Good Governance (Management and Operation) Act, 2064, § 15 (2007).
37. Good Governance (Management and Operation) Act, 2064, § 21 (2007).

It is worth noting that the lack of accountability is not limited to government actors. FGD participants reported it in the private sector, particularly at the hands of lawyers. We provide a case example below.

Case Study

A participant described how her efforts to secure citizenship for her daughter have been obstructed. She is separated from her husband, with whom she has a child. After months of struggle, she persuaded him to register their daughter's birth. However, when she sought citizenship, her husband's family refused to cooperate, insisting she must first divorce him. She later discovered that her husband had already married again, despite Nepali law prohibiting a second marriage without prior dissolvement of the first. Both the husband and the second wife could face criminal liability if convicted.

The Ward Office has refused to issue her a recommendation. The Ward Chairperson stated, *"It won't be enough even if your husband comes here and asks for a recommendation. You need to sign divorce papers. You must show me divorce papers."* She believes officials are coercing her into a divorce because they fear that, without it, they could be held liable for assisting in paperwork connected to an illegal second marriage certificate prepared and signed by themselves under knowledge that the first marriage has not been dissolved. In her view, had the Ward exercised proper due diligence, this situation would not have arisen. She perceives that the Ward is shielding itself while protecting the husband's unlawful actions, and that officials are punishing her by withholding the recommendation for citizenship.

Upon the recommendation of the Ward staff, she consulted a lawyer. Initially the lawyer agreed to help her, quoting very high legal fees. However, later he also said she must get a divorce first.

Coercing a potential client into a divorce is malpractice under the Lawyers' Code of Conduct in Nepal.[38] The FGD participant knows the advice is wrong. However, she does not know where to report it. Even if a report were to be filed it is not clear how far it would go as the regulatory body for lawyers called the Nepal Bar Council has been historically ineffective in holding lawyers accountable for malpractice.

5.6 Accountability through the Courts

The ultimate accountability for decisions made regarding citizenship applications are governed by the courts. FGD participants all reported that they were repeatedly told 'to go to court to get an order to issue citizenship'. A KII participant explained that 'CDOs have no incentive to take risks. With a court order they feel assured that they will not get into trouble personally'.

Although there is no disaggregated data in this respect. It is rare in legal practice for the Supreme Court to deny an application made for citizenship. High Courts can also hear citizenship applications. However, only empirical data can demonstrate the extent of these claims. The consistent pattern of courts granting positive decisions in citizenship cases, denied by the DAOs, illustrates the reluctance of state administrative bodies to take decisions that, under judicial scrutiny, are repeatedly found to be lawful.

Yet, for an applicant, a favourable order by the court to be granted citizenship is only three fourths of the battle won. The text of most judgements granting citizenship use a language that stipulates 'citizenship should be issued as per the law fulfilling the due process'. It is this articulation that creates challenges in implementing court orders. Once an applicant returns back to the DAO with a favourable court order, the staff understand that all processes required to grant a citizenship need to be undertaken again. These include:

38. Nepal Bar Council, *Code of Conduct,* Nepal Bar Council Code of Conduct

- Filling out a new application form
- Getting a recommendation from the ward
- The ward may order to conduct a new *sarjamin*
- The DAO staff may then order to prepare a police report to verify the person's claims.
- It may order another fresh round of *sarjamin*
- The file needs to be presented at a designated meeting presided by the CDO and only then is the decision rendered.

In many ways, an applicant is sent back to where they began the prior unsuccessful process. Even with a court order in hand the DAO staff can delay file processing and subject the applicant to further humiliation in the process. Two lawyers from CAPN and Law Lab Nepal accompanied a citizenship affected person to the DAO to implement a court order to grant citizenship issued by the High Court.

The experience (after the Gen-Z movement) was fraught with challenges and are described below.

The Research Team's Observation:

> *We had won the case at the High Court. We had managed to convince the judges to put language in the decision that stated that the 'citizenship should be granted as soon as possible'. Alas the routine 'as per law' ended the mandamus order. The affected person we accompanied to the DAO has been without citizenship for over 30 years. Before approaching the courts, the affected person's application file remained pending at the DAO without any decision for a period of five years. Despite repeated follow-ups and the submission of all required documentation, the file was neither processed nor resolved, effectively leaving the client in administrative limbo.*
>
> *Before going to court, in his initial application to the DAO, the affected person submitted every required document, including his birth registration, two recommendations from the Ward for citizenship, and repeated sarjamin reports. Nevertheless, DAO officials refused to grant citizenship, insisting that only a final court order would suffice.*
>
> *Copies of the same documents submitted to the DAO were later submitted to the High Court as evidence supporting the petition for citizenship. Within a few months the High Court ruled to grant citizenship. The full text of the decision was issued within a week of judgment (when this process ordinarily takes months) taking into account the urgency of the matter.*
>
> *The affected person went back to the DAO with the court order to ask for citizenship. The affected person was asked to re-fill an application form for citizenship, and to bring a police report ascertaining that he is from the local area. He did as he was told. The police required him to do the sarjamin again based on which they issued him a report. He went to the CDO with all his documents along with the Police sarjamin and report. He was then told to leave his file with the Deputy CDO who promised to study it and get back to him. The affected person never heard back from DAO.*
>
> *Several weeks later the affected person accompanied by lawyers from CAPN and Law lab Nepal went back to the DAO to follow up on the application. We discovered that the file that the Deputy CDO had promised to study had never left the cupboard where one of the DAO staff had kept it and the Deputy CDO had forgotten about it completely. He also quipped to the affected person 'What were you doing after the court order to come here after such a delay?' After we took the file to him he*

said 'I need to study this and you need to come back later'. No dates or timeline given. We insisted that the delays were already unacceptable. Perhaps to avoid a confrontation he told us to take the file to the CDO.

The CDO read through the court order and approved the processing of citizenship applications. However, he refused to tell us what further steps would be undertaken asking us to speak to the Deputy CDO again. The Deputy CDO in turn directed us to speak to his subordinate staff.

The staff with our file already indicated discomfort that we had brought a top-down direction for him to act from the CDO. He started to read every page of the court file, often distracted by the requirement for him to provide services to people who came to his desk. When we asked how long this might take, he gave a non-committal answer of 'I may not finish today so maybe tomorrow or another day' and yet asked us to wait while he will go through the decisions and the documents.' Between studying the file, he made sarcastic comments like how we lawyers did not recognise that the signature from the CDO was not approval of the file. In standard Nepali administrative practice, it was approved. When pressed for a concrete answer we discovered that he had shut our file and stored it away. The reason he did not like how we spoke to him. He stated, "If you constantly ask me such question, I feel pressured, so I can't look into it anymore"

A heated confrontation broke out between us and the DAO staff member. He stated he will not do any work on our file now and we can take a complaint if we like to the CDO. The CDO in turn was at the doorstep when the confrontation was underway. Instead of inquiring about what happened he quickly left the DAO premises. What sits with us is the fact that an affected person who had not been granted citizenship for decades was subject to this. The affected individual had already expressed fear that the DAO may refuse his citizenship and at that moment it looked like even a court order would not stop history from repeating itself.

Owing to our contacts within the Ministry of Home Affairs, we spoke to the Home Minister's Secretariat staff about the humiliation we and particularly the affected person had faced at the hands of DAO staff. The service received from the Secretariat was polite, professional and empathetic. On the other end of the line, we had members of Gen Z responding from MOHA after all.

The Secretariat got in touch with the CDO and asked us to meet him. The CDO in turn gave us a meeting time on a public holiday when he did not plan to be at his office. Once we met the CDO the following day he told us that we should not revisit what had happened in the front of service delivery but assured us that he had directed the processes be taken forward.

A different staff member now started reading our case file. When we asked why so much scrutiny is required when there is a court order, his colleague who was also familiar with this case history piped, 'What do the Courts know? We've also seen the level of these courts; my promotion was unfairly held back by it. We caught people who didn't qualify for citizenship after they brought court orders asking us to grant it to them. Upon flipping through the file, they asked that we bring a letter from the Ward Office that states that the applicant is a permanent resident there. Initially the Ward Chair refused to issue such a letter out of irritation that they have furnished multiple such recommendations in the same case to the CDO in the past. We asked the DAO staff requesting this letter to at least give a call to the Ward

and asked him to issue this letter. But he refused. The Ward, although supportive from the very start, was not willing to issue any more letters as they believed that their previous, sarjamin, letters and referrals should be enough. Trapped between the two administrative stances, we again went to the CDO's room, who, upon our request, called the Ward Chair and convinced him to issue the letter.

The letter indicating proof of residence was essentially a smoke screen for conducting another round of sarjamin inquiry. Seven people with Nepali citizenship had to be called into the Ward Office to attest that the applicant was a local resident of the area. These individuals had already stood and appeared for this case at least five times including the last one that the DAO required.

With a court order in hand, the applicant had to re submit his application from, a police report, a recommendation from the Ward including of residence via a re-sarjamin. The process after the court's decision, required about three months of continuous follow-ups as we all spent hours waiting and being passed on from person to person at the DAO. At the government end, several follow ups were made by the Secretariat of the MoHA to the CDO. Finally, the applicant's citizenship by descent was issued.

The Supreme Court has routinely ruled on similar cases for citizenship over the decades. It has issued directives to MoHA and DAOs to streamline and facilitate service delivery for citizenship applications.[39] Yet when these court orders are waylaid, the judges have paid no attention. A KII participant strongly suggested that those working on citizenship rights issues must start filing applications against government officials for contempt of court. He stated that this will send a strong signal of accountability to both the government and the courts.

Legally in tandem with contempt, it is worth considering two other recourses. These includes:

- Taking a public interest litigation on citizenship to the Supreme Court enlisting the history of problems faced in implementing court judgments. The Court can be asked to issue clear directives on how court mandated citizenship certificates must be issued.
- Exploring litigation (including class-action suits) under tort law to hold only the service providers who act negligently or in omission of their duties responsible. That route, if successful, will provide compensation to victimized service seekers.

5.7 Challenges Following the Gen Z Movement

The Gen Z movement of September 8th and 9th 2025 was a youth-led uprising against corruption, nepotism, and government repression. There were clear messages that service delivery within the government needed to improve. In the FGDs we inquired the extent to which participants noted any change in case handling at government offices. The reactions were mixed. Some participants noted that government staff suddenly were more polite and eager to assist. A few FGD participants got their citizenship that had been stalled for years after the Gen-Z movement. For example, a representative of CAPN noted there was sudden cooperation by the local government in a case that had been held up for 13 years. However, other participants reported that they have not experienced any change in behaviour or service delivery.

39. *Nakkali Maharjan v. Government of Nepal (Office of the Prime Minister & Council of Ministers et al.),* NKP 2065, vol. 11, Decision No. 8035, at 1340.

On September 9th over 440 buildings of the federal government were burnt down. Around 300 provincial and local government buildings were also burnt.[40] The MoHA, the Kathmandu DAO were all set on fire. Along with the buildings, records of citizenship and vital registration were also lost.

From the participants we learned that the government's mechanism for recovering lost records requires individuals to approach the relevant DAO with whatever documents they possess. The office then reconstructs new records on that basis. However, there had been no public announcements about this process, nor any notices specifying which years' records are missing, until recently after more than eight months of the event. On June 1, 2026, the Kathmandu District Administration Office issued a notice in its website stating that all its records, including all original citizenship application forms and the entire registration books had been destroyed by the fire and therefore it is unable to provide any citizenship record of before 9th September.[41] Its further states in the same letter that anyone seeking to acquire citizenship, must take further action considering this letter/announcement. It does not mention anything about the next step or measures that either the DAO has taken or what steps it wants the citizens and applicants must undertake whose records have been destroyed in the fire. This ad hoc system appears likely to operate for years, as people gradually come forward when they need to verify their citizenship or obtain a copy of their certificate. In cases where applicants lack documentation, they risk facing serious difficulties, with little policy guidance on how such situations should be resolved.

The aftermath of the Gen Z movement, coupled with election results that swept aside most of Nepal's established political parties, demonstrates that 'business as usual' in public service delivery will no longer be acceptable to the people. Any continuation of the old administrative culture risks deepening public disillusionment and eroding trust in governance. At the centre of improvements are sensitisation and better service delivery-oriented trainings. As a KII participant noted *'amending judgments or laws in themselves will not deliver the changes we seek.... we need a shift in culture, particularly the bureaucratic culture'.* This perhaps entails what another participant described as 'a reconfiguration of our conceptualisation of nationalism. The construction of a sense of nationalism built on humanitarianism and empathy above all else'. This requires renewed public advocacy and debate to interrogate the existing narrative and create space for a different one. Similarly, it also requires that services providers at the local government and DAO/MoHA are provided training so that their knowledge on legal developments are up to date. Training is also essential to ensure staff are aware of the minimum expectations for service delivery.

However, as per our finding in CAPN's 2025 study on the implementation status of current laws, the representative from the then MoHA stated that *'CDOs are already an expert, otherwise they would not have been in that post, therefore they do not need any training'*[42]. In contrast, in CAPN's experience, while the then MoHA showed reluctance, CAPN's interaction with the local levels has been positive. For instance, the Lalitpur Metropolitan City showed interest and asked CAPN to conduct a training program on the topic of birth registration and citizenship certificate for all 29 of their ward offices. This gave us an opportunity to tailor in-depth workshop for officials from 29 ward offices within the Metropolitan. The trainees sincerely demonstrated genuine interest in addressing their knowledge gaps and acquiring updates in all the laws, amendments and judicial decisions. This contrasts with the reluctance shown by the MoHA about organizing training or workshops for DAO staffs and CDOs about how best to deal with complex cases of citizenship and how best to implement the existing laws without long stalling the service seekers. In our next research, it could be worthy to explore the perspective of the new Home Minister and his office regarding this aspect.

40. *Historical Buildings and Vital National Records Destroyed,* Kathmandu Post (Sept. 10, 2025), Kathmandu Post article; A Third of Buildings Torched in Gen Z Protests Fully Destroyed, Kathmandu Post (Oct. 9, 2025), Kathmandu Post article.
41. *शून्यताको स्थितिमा सरकारी अड्डा* [Government Offices in a State of Emptiness], Naya Patrika (Sept. 11, 2025), Naya Patrika article.
42. Citizenship Affected People's Network, *Report on Implementation of Citizenship Laws in Nepal 2025* (2025).

CHAPTER

6 POLITICAL AND POLICY COMMITMENTS

6.1. Analysis of Current Political Scenario

The newly elected Rastriya Swatantra Party (RSP) government has endorsed a 100-point implementation plan as its central reform agenda targeting delivery within 100 days of its coming into power in March 2026.[43] This plan is designed to transform governance by introducing measurable, time bound commitments across administrative restructuring, service delivery, and digital transformation. It reflects the government's pledge to deliver results within defined deadlines, strengthen accountability, and modernize public services. Within this broad framework, several commitments directly address citizenship and identity documentation, aiming to make these processes more accessible, transparent, and citizen friendly. The relevant proposals are as follows:

The reform agenda places a strong emphasis on transforming how citizenship and identity documentation are managed in Nepal. A central commitment is the integration of services related to citizenship, passports, and national identity cards into a unified digital system. This system is designed to be faceless, timebound, and trackable, thereby eliminating the role of middlemen and ensuring greater transparency.

To improve accessibility, the government has pledged to allow citizens to obtain duplicates of their citizenship certificates and access passport services from any DAO, regardless of where the original documents were issued.[44] This measure is intended to reduce bureaucratic hurdles and make essential documentation more readily available. The plan also elevates the National Identity Card (NID) as the mandatory single identity system for all citizens. In addition, the government aims to introduce a digital signature system linked to the national ID number, thereby expanding its utility beyond identification into secure digital transactions. Another notable innovation is the modernization of the postal service into a Government Courier Service. Within 100 days, this service is expected to deliver citizenship duplicates, passports, and licenses directly to citizens' homes, reducing the need for repeated visits to government offices.[45]

To simplify administrative processes, government systems will be updated to follow the principle of "ask only once." Once a citizen provides their citizenship number to one agency, other agencies will be able to access and use the same data, with autofill features reducing duplication and inefficiency. Citizens will also be able to apply for services through the Nagarik App, which will draw on locally stored or previously provided citizenship data to complete forms for passports and other licenses. This digital integration is intended to make applications more seamless and user-friendly. Finally, the plan introduces a specific policy change in the education sector. Universities are directed to ensure that citizenship certificates are not required for students to pursue studies up to the undergraduate level.[46] This measure is designed to expand access to education and reduce barriers for young people who may face delays in obtaining documentation.

43. Pratipakchya, Pratipakchya.
44. Pratipakchya, supra note 43, pt. 21.
45. Id.
46. Pratipakchya, Instagram (2026), Instagram post.

The 100-point implementation plan promises to modernize citizenship service delivery through digitization, integrated systems, and the home delivery of documents. However, its impact on the longstanding challenge of accessing citizenship through the mother's identity remains indirect. The Constitution, coupled with the orders of the Supreme Court, permits citizenship by descent through either parent. However, it is the duality within the Constitution itself that makes citizenship by descent through mother conditional and dependent on either father or husband's legal status, coupled with the existing administrative barriers and entrenched biases that have prevented many from exercising this right. The plan's emphasis on faceless, trackable, and time-bound processes could reduce discretionary delays and most importantly, the intersectional social biases that often add a layer of hindrance to already existing gender discriminatory legal and administrative laws in relation to citizenship. Regarding the claim that this plan will reduce middleman interference, this may need further analysis and practical application of this law. This plan, once brought to practice may thereby ease access for applicants who rely on their mother's identity without being judged or humiliated with insensitive questions that have been often stripping women and their children of their right to dignity and equal treatment. Similarly, the promotion of the NID as a single identity system and the principle of "ask only once" may help standardize procedures and limit opportunities for discriminatory practices. Yet again, as this particular commitment elicits a central question of who will be left behind while making the NID, and a digitalized single identity system, in an already exclusive ID regime and what kind of consultative process will the government take while bringing this idea to life. However, the plan does not explicitly address the gendered obstacles that have historically undermined constitutional guarantees. Proposed reforms are procedural rather than substantive, meaning that while they may improve efficiency and transparency, they fall short to directly dismantle the legal and structural barriers faced by those seeking citizenship through maternal lineage.

6.2 Elections for Federal Parliament 2026- Manifesto Commitments of Political Parties

This section outlines the commitments made in the manifestos of the political parties that have secured seats in the Federal Parliament. The discussion examines the extent to which these parties demonstrate genuine commitment and provide space for reform, particularly in relation to enabling Nepali women to transfer citizenship to their children on an equitable basis with men.

Going into the elections in March 2026, political parties across the spectrum recognized that questions of identity, documentation, and diaspora rights were central to both governance and public trust. Whilst the manifesto commitments of the RSP are particularly significant given its rise to power, it is equally crucial to examine the stance of opposition parties. Their positions reveal both shared aspirations and divergent approaches to resolving longstanding challenges in citizenship law and administration. The citizenship related provisions in party manifestos are noted below:

A. Rastriya Swatantra Party (RSP) - Manifesto[47]

The RSP manifesto emphasizes modernization of identification systems and the rights of the Nepali diaspora, while also introducing specific measures for border residents.

- **"Once a Nepali, Always a Nepali":** The party embraces this principle for the diaspora, viewing Nepalis abroad as a primary pillar for economic transformation.
- **Dual Citizenship and Property Rights:** While acknowledging constitutional complexities, the RSP commits to supporting property rights for dual citizenship holders and promises to remove administrative hurdles.

47. Rastriya Swatantra Party, *Election Manifesto, RSP Manifesto,* https://rspnepal.org/manifesto?utm_source=chatgpt.com

- **Voting Rights for the Diaspora:** The manifesto pledges to ensure that Nepali citizens living abroad can exercise their right to vote.
- **Integrated National Database:** The party plans to provide National Identity Cards to all residents and create a unified database to underpin social security, service delivery, and governance.
- **Border Identity Cards:** For residents in border areas, the RSP proposes a "Border Identity Card" to ensure access to education, health, and livelihood services.
- **Digital Consular and Administrative Services:** The party commits to paperless passports and certifications, and to fast, transparent birth registrations and essential documentation through digital service points.

B. Nepali Congress (NC) - Manifesto[48]

The NC manifesto echoes the "Once a Nepali, Always a Nepali" sentiment, emphasizing continuity of rights for the diaspora. It highlights inclusivity in identification services and makes explicit commitments to marginalized groups.

- **Diaspora Rights:** Recognition of diaspora contributions and commitment to ensuring their rights remain intact.
- **Inclusive Identification:** Explicit provisions for dignified identity cards for the LGBTQI+ community.
- **Administrative Simplification:** Pledges to make identification services hassle-free and accessible across the country.

C. Communist Party of Nepal – Unified Marxist Leninist (CPN-UML) - Manifesto[49]

The UML manifesto takes a more time-bound approach, promising swift resolution of citizenship issues.

- **Six-Month Timeline:** Commitment to resolve all citizenship-related problems within six months of assuming office.
- **Administrative Efficiency:** Focus on strict deadlines rather than new systems, aiming to eliminate delays in service provision.

D. Rastriya Prajatantra Party (RPP) - Manifesto[50]

The RPP aligns with the shared diaspora sentiment but frames it within a more conservative approach to national identity.

- **"Once a Nepali, Always a Nepali":** Adoption of the slogan to emphasize continuity of rights.
- **Diaspora Engagement:** Recognition of diaspora as an integral part of the nation's identity and economy.

48. Nepali Congress, *Election Documents/Manifestos,* Nepali Congress Documents, https://nepalicongress.org/documents/?utm_source=chatgpt.com
49. Communist Party of Nepal (Unified Marxist–Leninist), *Election Manifesto,* CPN-UML Election Manifesto, https://www.cpnuml.org/en/documents/chunavi-ghoshanapatra?utm_source=chatgpt.com
50. Rastriya Prajatantra Party, *Sankalpa Patra 2082, RPP Sankalpa Patra,* https://rpp.org.np/page/sakalpa-patara-2082?utm_source=chatgpt.com

E. Shram Sanskriti Party – Manifesto[51]

This party's manifesto introduces specific provisions for foreign spouses and inclusivity.

- **Foreign Spouses:** Proposal of a five-year residency requirement for foreign spouses seeking Nepali citizenship.
- **Inclusive Identification:** Commitment to dignified identity cards for the LGBTQI+ community.
- **Hassle-Free Services:** Emphasis on making identification services accessible and transparent.

Taken together, these manifestos reveal both convergence and divergence in party positions. The convergence lies in the shared recognition of diaspora rights, encapsulated in the slogan "Once a Nepali, Always a Nepali." Divergence appears in the tools and timelines: the RSP prioritizes digital infrastructure and border documentation, the UML emphasizes strict deadlines, and the NC and Shram Sanskriti highlight inclusivity for the LGBTQI+ community. The opposition's stance underscores that citizenship remains a contested terrain, with parties balancing constitutional guarantees, administrative feasibility, and political messaging in different ways.

Across the manifestos reviewed, parties emphasize modernization of documentation, diaspora rights, and administrative efficiency. However, they remain largely silent on the most entrenched constitutional challenge: the ability to acquire citizenship through the mother's identity on an equal basis with men (fathers or husbands). The RSP, for instance, prioritizes digital integration, diaspora voting rights, and border identity cards, but does not explicitly address maternal lineage as a pathway to citizenship. Similarly, the Nepali Congress and Shram Sanskriti Party highlight inclusivity in identification services, particularly for marginalized groups such as the LGBTQI+ community, but they do not confront the gendered obstacles faced by women in conferring citizenship to their children. The UML's strict six-month timeline to resolve citizenship issues suggests urgency, yet it frames the problem in terms of administrative backlog rather than structural discrimination.

This silence is telling. While parties recognize the importance of diaspora engagement and technological modernization, they avoid the politically sensitive issue of maternal transmission of citizenship, which has long been contested in Nepal's legal and bureaucratic practice. The absence of explicit commitments on this front indicates that, despite constitutional guarantees, political actors remain reluctant to challenge entrenched patriarchal norms within citizenship law. As a result, the manifestos collectively reinforce a pattern where procedural reforms are prioritized, but substantive gender equality in citizenship rights remains unaddressed.

51. Shram Sanskriti Party, *Election Manifesto*, Shram Sanskriti Party Downloads. https://www.ssparty.org.np/downloads?utm_source=chatgpt.com

CHAPTER

7

ANALYSIS OF JUDICIAL DECISIONS: CITIZENSHIP RIGHTS FOR MARGINALSED GROUPS INCLUDING GENDER AND SEXUAL MINORITIES

The Constitution of Nepal in Article 12 envisages citizenship with identity of descent and gender. Article 18 of the Constitution which guarantees Right to Equality clearly mandates laws to be enacted for the protection, empowerment or development of the citizens belonging to gender and sexual minorities. Despite Constitutional guarantees, individuals belonging to gender and sexual minorities face numerous administrative hurdles and social stigma at each step of the process to attain citizenship through their gender self-identification (also referred to as gender self-determination).

7.1 Self-Identity/Gender Self-Determination

The concept of self-identification allows people to determine their gender and sex based on their gender identity.[52] It is accepted that such self-identification may be realised with the passage of time as an individual becomes more self-aware. Such self-identification is always a personal decision for which medical or judicial recognition is not required.[53] Individuals from the LGBTQI+ community have struggled to assert their rights to self-identity by defining and/or changing their gender on identity documentation.[54]

Without the ability for self-identification, individuals are compelled to use a name and gender that they no longer identify with as part of their legal identity. For example, a person who is biologically male and named as a man may identify as female. However, they have to use their male gender identity in all official documents such as birth registration, citizenship certificates and legal transactions.[55] The discrepancy between the gender in the legal identity documents and the person presenting them has led to members of the LGBTQ+ community facing undue interrogation, harassment, suspicion and mistreatment at government offices.[56]

Moreover, the DAOs in Nepal generally refuse to provide citizenship according to their self-identified gender identity. This has compelled members of the LGBTQI+ community to start their own movement and battle for their constitutional and fundamental rights. One form of the fight has been to sue the DAO and Home Ministry with the objectives to either obtain citizenship as per their gender identity and/or amend their citizenship in accordance with their gender identification.

52. International Commission of Jurists, *The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity (2007)*, Yogyakarta Principles.
53. Human Rights Watch, *"We Have to Beg So Many People": Human Rights Violations in Nepal's Legal Gender Recognition Practices* (Feb. 15, 2024), Human Rights Watch report.
54. Id.
55. *Sunil Babu Pant & Others v. Nepal Government & Others*, Writ No. 917 of 2007 (Sup. Ct. Nepal Dec. 21, 2007).
56. Human Rights Watch, *"We Have to Beg So Many People": Human Rights Violations in Nepal's Legal Gender Recognition Practices* (Feb. 15, 2024).

For example, Rukshana Kapali a Nepali citizen from Lalitpur, requested to change her gender (which used to be defined as "other" for Nepali citizens from the transgender community) to 'female' in her Nepali citizenship.[57] This is because Ruksana identified as a woman (on the basis of gender self-identification). Her application was denied by the DAO. With no other recourse left, she filed a writ petition at the Supreme Court asking for the realisation of her rights under Article 12 and Article 18 of the Constitution. In a landmark verdict, the Supreme Court ruled in her favour issuing a judgment stating self-identification to be the basis for an individual's name and gender.[58]

The Supreme Court took cognizance of the fact that gender self-identification is a matter of personal liberty which has to be respected by the State and such self-identity has to be clearly mentioned in the official state documents. If any documents issued by the State such as birth certificate, citizenship certificate, educational certificate etc. include dead name and gender (the name and gender of an individual assigned at birth which was used until such individual had self-realisation in regard to their gender) contrary to one's self identity, then that person has the legal right to amend such documents fulfilling the 'due requirements'. Following this judgment, Rukshana amended her gender from "others" to female in her Nepali citizenship certificate and changed her name to Rukshana from her previous dead name.[59]

Within the text of its judgment in the Ruksana Kapali case, the Supreme Court acknowledged its earlier landmark decisions with regards to the right to self-identity. The first case cited was *Blue Diamond Society v Government of Nepal, Office of Prime Minister and Council of Ministers et al.* In this 2007 case, the Supreme Court held that a child born as one gender can later identify themself as another gender (different to the gender from that at birth) and change their identity accordingly. When an individual changes their identity based on self-identification, they cannot be ostracized as not being a human being or the citizen of Nepal. The court highlighted that fundamental rights are to be enjoyed equally by citizens of the LGBTIQ+ community akin to heterosexual men and women.[60] The second case referred was that of the 2017 case of *Aanika Rana et al. v Government of Nepal, Office of Prime Minister and Council of Ministers et al.* In this case the Supreme Court decided that the members of the LGBTQI+ community have the right to legal recognition of their gender identity in official documents, including the right to amend one's gender identity in their respective citizenship and other state issued documents and records.[61] Both principles in the aforementioned cases were upheld a few months later in 2017 in the Suman Panta's case.[62]

Rukshana's landmark judgment paved the way for citizens from the gender and sexual minorities community to amend their citizenship as per their self-identification. However, this victory in court has come at an enormous cost which include: time, resources spent, and the compromise with personal dignity and privacy.

In similarity to the cases discussed in Chapter 2 and Chapter 4, although Supreme Court decisions have a binding force as law, administrative practice does not consistently treat earlier decisions as controlling in similar cases, that are filed at the DAO. Furthermore, individuals from the LGBTQI+ community are at risk of being subjected to a fresh set of questioning and mistreatment in the judicial system at the hands of court personnel, prosecutors and at times even judges. Questions asked include, "How can the court change a boy to a girl and girl to a boy?" There have been instances when judges have been reluctant to make inquiries to understand the issue. In such cases, despite the binding precedent of the Ruksana Kapali case, applications for self-identity on citizenship and other legal documents have been denied.

57. *Nepal Supreme Court Grants Legal Recognition to Transgender Woman Without Medical Verification,* JURIST (Aug. 2024), JURIST article.
58. *Ruksana Kapali v. Government of Nepal, Office of the Prime Minister & Council of Ministers et al.,* NKP 2082, pt. 65, issue 3, Decision No. 11406.
59. *Nepal Supreme Court Grants Legal Recognition to Transgender Woman Without Medical Verification,* JURIST (Aug. 2024), JURIST article.
60. *Blue Diamond Society v. Government of Nepal, Office of the Prime Minister & Council of Ministers & Others,* NKP 2065, vol. 4, Decision No. 7958.
61. *Aanika Rana et al. v. Government of Nepal, Office of the Prime Minister & Council of Ministers & Others,* NKP 2074, vol. 9, Decision No. 9875.
62. *Suman Panta v. Ministry of Home Affairs & Others,* NKP 2074, vol. 12, Decision No. 9921.

For example, in the case of *Elin Bhandari v. District Administration Office, Kathmandu et al.,* the petitioner approached the Court to amend her name and gender in her citizenship and educational documents in line with her self-identity and to declare her dead name and gender private under the Right to Privacy Act, 2018. The High Court Patan dismissed the writ petition. The reasoning provided to dismiss the petition was the absence of law enacted by Parliament or decree issued by the Executive government. The judgment in fact acknowledged the Rukshana Kapali judgment but waylaid it as a one off, exceptional case. The High Court then went on to issue a directive order to MoHA and the Ministry of Law, Justice and Parliamentary Affairs to frame a law regarding change in citizenship and other State documents on the basis of self-gender identification. The High Court decision is currently under review at the Supreme Court.

7.2 Implementation of the Judgments

After a Court issues a verdict to amend the citizenship certificate, birth certificate, educational certificates among other documents issued by the State, it takes three to four months for the full judgment to be prepared. As mentioned in Chapter 4 the administrative process to amend the citizenship (among other documents) is back to square one in the DAO office. This time the only difference is the applicant submits the application with additional evidence - the court judgment. Again, the applicant has to face the same bureaucratic hassle, harassment and stigma. Even after a judgement directs the DAO officials to amend the citizenship, one cannot be sure of how many weeks, months or even years it may take to receive the amended citizenship on the basis of self-identity. When service seekers finally achieve this 'mammoth task,' most report feeling numb due to the system's ineffectiveness, lack of empathy towards them.

A. Citizenship Through the Mother

The struggles to obtain citizenship through the mother extends to members of the LGBTQI+ community too. The question of the whereabouts of the father is sought and in the event that the mother and the child belonging to the LGBTQI+ community is unable to prove the father's whereabouts, the DAO refuses to issue the citizenship from the mother's name.

We provide an example of a case where the litigant from the LGBTQI+ community was represented by a lawyer from Law Lab Nepal. A mother (heterosexual female) and daughter (Transgender female) tried their best to amend the daughter's birth certificate and educational certificates on the basis of self-identity. The daughter then sought to get citizenship through the mother using her amended name. Both of them filed an application along with the evidence to amend the documents as well as obtain citizenship from the mother's name. In their application they had clearly mentioned the father is absent and out of contact with his citizenship copy safely with the mother. The DAO did not heed to their request, so they filed an RTI to understand the status of their citizenship application. Even after a year of trying, the DAO did not issue citizenship to the applicant's daughter through her mother. They were ultimately forced to file a writ petition at the High Court Patan. The Court within four months of filing the writ petition ordered the government to amend the daughter's birth certificate and educational certificates as per her gender self-identification and issue citizenship through her mother's name as per her self-identified name and gender.[63]

Though the process at the DAO was difficult, the case was heard by judges who displayed commendable sensitivity in this issue. Even before the oral pleading began the judges acknowledged the issue and inquired about the reason behind the citizenship being stalled. As the DAO had been committing the act of omission (state officials who decline the duties prescribed by law to them) the Court acknowledged the act of gender self-identification to be under the right to personal liberty and sensitive from the perspective of humanness. The judges did not press the applicant's lawyers with too many questions but instead

63. *Tribeni A v. Ward No. 6 Office, Tribeni Rural Municipality, Rolpa & Others,* Case No. 082-WO-0552 (Sup. Ct. Nepal Feb. 22, 2026).

demonstrated their knowledge of the issue including the Rukshana Kapali precedent. The court ordered the issuing of citizenship to the daughter from mother's name and affirmed her right to use her self-identified name and gender.

B. Implications of Obtaining Citizenship from LGBTQI+ Parents

The laws of Nepal enable a child to gain citizenship from their parents regardless of whether or not the parents are married. However, in practice marital status is a significant factor considered when conferring citizenship to women and to children. The Muluki Civil Code, 2017 of Nepal has only legitimised the marriage between heterosexual males and heterosexual females. Marriage between same sex couples, trans couples and inter-sex couples has not been legalised in Nepal. Currently two contrasting cases are sub-judice on this issue of same sex marriage in the Supreme Court of Nepal. One case has been filed to legalise all forms of marriage associated with the LGBTQI+ community.[64] Whilst the other case seeks to criminalise any marriage that is not between a man and woman.[65] The decisions for both these cases awaiting the final judgment in Supreme Court.

Children of LGBTQI+ parents face a significant dilemma in obtaining citizenship because the Constitution and the citizenship laws only recognize transmission of citizenship through the name of the mother or father, with ultimate test being the father's legal status. This framework assumes a heterosexual parental structure and does not account for couples who may both be male, both female, or non-binary (individuals who do not identify themselves exclusively as a man or woman and they might identify themselves as the mix of genders or as an individual not belonging to any gender at all).[66] In the case of same-sex couples, the law fails to recognize one parent's role, since both identify with the same gender. Current administrative practice requires a father's identity when issuing citizenship. If a child seeks citizenship through the mother, both the child and mother must either self-declare that the father is unidentified or obtain a written recommendation from the Ward office confirming this. It is unclear whether the administration will accept self-declarations when the 'father' is present but not a male father. As a result, children of same sex parents look to face a fresh set of uncertainties and hurdles in obtaining Nepali citizenship under the existing legal framework.

Furthermore, the challenge to obtain citizenship for children of non-binary parents is another unchartered territory for the laws and administration of Nepal. As both the parents do not even identify themselves as man or woman, in the current existing legal, administrative and social structure children of non-binary people will remain stateless as the Constitution itself is silent in regard to these facets. To resolve this issue, amendments in the Constitution and the citizenship laws is a required. We discuss this proposition in the next chapter.

64. *Sanjeev Gurung (Pinky Gurung) et al. v. Government of Nepal, Office of the Prime Minister & Council of Ministers & Others,* Case No. 082-WF-0013.
65. *Yubaraj Paudel v. Office of the Prime Minister & Council of Ministers & Others,* Case No. 082-WF-0014.
66. Citizenship Affected People's Network, *Joint Submission to the Committee on the Elimination of Discrimination Against Women.*

CHAPTER

8 CONSTITUTIONAL AMENDMENT

In its foundational sense the framework for the rights of citizenship through the mother are laid out in Article 11(2)(b) of the Constitution. However, this primary right is rendered conditional by the successive Article 11(2)(5) which states that Nepali mothers can only transmit their citizenship if the father is absent or unidentified. This is reinforced by Article 11(7), which generally restricts children of Nepali mothers and foreign fathers to naturalised status unless both parents are citizens of Nepal at the time of the application. In practice although Article 11(2)(b) of the Constitution confers rights to Nepali mothers to transmit citizenship, this provision is eclipsed by other successive Articles that predicate a child's definitive legal standing on the identity of the father. Thus, whilst the Constitution attempts to confer equal citizenship rights to mothers, it still has not. The legal reality creates a gendered hierarchy where maternal transmission is often treated as a secondary or conditional pathway compared to the unconditional rights enjoyed by fathers.

Within the RSP government, a Constitutional Taskforce was created that worked on preparing a paper signalling areas that require Constitutional amendment. One of the researchers from Law Lab Nepal was invited to make a representation to the taskforce. In the consultation session it was observed that there are overwhelming calls from women of different professions to bring constitutional amendments that equalise the status of a mother and father to transmit Nepali citizenship to their children. The current Constitutional review exercise of the government demonstrates that there is scope to lobby for amendments to Constitutional provisions on citizenship.

The Taskforce recently submitted its report to the Office of Prime Minister. As the report has not yet been made public, it is yet to see what amendment proposals have gone into it in terms of gender equal citizenship rights.

In consultation with CAPN, Law Lab sets out below a more radical proposal for amendment, employing gender-neutral language, for consideration.

8.1 Gender Neutrality in Citizenship Acquisition, Retention and Conferal

The idea of gender neutrality is not categorising or stating any individual or people to be of a particular gender. This concept has been receiving traction based on the principle of universal personhood even within the national belonging.[67] In another term gender neutrality means the idea of categorising all kinds of people irrespective of gender. In a nutshell gender neutrality advocates for the use of non-sexist language in both written and expression.

For example, rather than using terminologies such as male and female or father and mother, the term person or individual is used, so that both of them collectively can be referred to as parents/guardians. In the context that the transmission of citizenship through the mother as opposed to the father is fraught with problems, CAPN proposes amending the words 'mother' and 'father' in Chapter 2 (relating to citizenship rights) to a gender neutral 'parent/ guardians who are Nepali citizen'.

67. Yasemin Nuhoglu Soysal, Limits of Citizenship: Migrants and Postnational Membership in Europe 1 (1994).

8.2 Equal Footing of all Nepali Citizens

The citizenship chapter in the Constitution in Article 10 starts with gender neutral terminology and equal footing for all genders stating, 'No citizen of Nepal may be deprived of the right to obtain citizenship'.

Despite this neutral terminology in the first Article (within the Chapter related to Citizenship) that does not categorize individuals on any basis, the Articles following this one, is fraught with gendered terms that allocates different rights, access and citizenship type depending on the gender of its citizens.

The proviso to Article 11(7) adds another condition. If a foreign father renounces his nationality and lawfully acquires Nepali citizenship, and the mother is already Nepali, then the child qualifies for citizenship by descent. The paradox is evident. A child of a Nepali mother and a foreign father with foreign citizenship is limited to naturalisation, while the child of the same father, once he acquires Nepali citizenship, is entitled to descent. These inconsistencies reveal the unresolved tension between gender neutrality and the constitutional framework for citizenship.

A hypothetical example is used to illustrate Article 11(7). A foreign father and Nepali citizen mother have two daughters. The foreign father has not yet relinquished his foreign citizenship. At this point if the first child is to obtain her Nepali citizenship; it will be a citizenship by naturalisation. In the meanwhile, the father relinquishes his foreign citizenship and obtains a Nepali citizenship. At this point the second child as per the provision in Article 11(7) becomes eligible for citizenship by descent. There is a situation provisioned by law where the child of a Nepali mother and a father with naturalised citizenship can obtain a citizenship by descent without any risk of conversion to a naturalisation citizenship. Whereas, the child of a Nepali mother who obtains a citizenship by descent is always at risk of their citizenship being converted to a naturalised citizenship if the father is found to be possessing a non-Nepali citizenship. This legal framework exposes how the father's identity is key in citizenship conferral. In this light, it would be safe to conclude that, in Nepal, citizenship is still provided or acquired only 'Through' the father. This is because, even though citizenship can be acquired by mentioning only mother's name (when father is unidentified or otherwise), the law inevitably makes father's legal identity mandatory and therefore the acquisition is made dependent on the father's identity.

Gender neutral terms are a must if we read out Article 11(7) of the Constitution. In this sub-article it states that a person born through a Nepali mother and a foreign citizen father acquires the citizenship by nationality only if such person is permanently residing in Nepal and has not acquired a citizenship of a foreign country. There are three direct catches in this provision and other major contradictions which have already been discussed in the above paragraph. First, an individual born to a Nepali mother and a foreign father is prima facie deemed to be a person or rather a foreign national and not a citizen. But in the context of a foreign mother and Nepali father, this narrow construction is not prevalent. Second, such individuals born through a foreign father must be "permanently" residing in Nepal. The citizenship laws have not defined the parameter of the term 'permanently' and this provision also does not apply to individuals born to a foreign mother and Nepali father. Third, such individuals should not have acquired citizenship of a foreign country, which does not apply to individuals born through a Nepali father.

8.3 Comparative practice in the context of Gender Neutrality

The proposition for a gender-neutral amendment is not unprecedented. Different countries have endorsed gender neutrality in their citizenship laws. Some countries have incorporated neutrality in the Constitution itself, and some have stipulated it in their legislation. We provide some examples below:

A. Canada

The primary Canadian nationality law is the Citizenship Act, 1976 which came into force from 1977. This Canadian law states father and mother as 'parent' and the individual receiving the citizenship as a person.

For example, Clause 3 (b) of the Act states, 'a person is a citizen if the person was born outside Canada after February 14, 1977, and at the time of his birth one of his parents, other than a parent who adopted him was a citizen'. This enables citizenship to be issued irrespective of whether one of the parents is a father, mother, individual from the LGBTQI+ community and even the parents who identify themselves as non-binary.

B. South Africa

The Constitution of the Republic of South Africa in Article 3 delegates the power to frame the law in regard to acquisition, loss and restoration of citizenship. The South African Citizenship Act, 1995 in Chapter 2 provides for the acquisition of South African citizenship. Clause 2-4 of the Act includes citizenship by birth, citizenship by descent and citizenship by naturalisation respectively. In the context of gender neutrality, it uses the term person for the individual intending to acquire and parents instead of father and mother. For example, sub clause 1(b) of Clause 2 provides for citizenship by birth to any person 'who is born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen'. Similarly, sub clause (2) (a) of Clause 2 states that any person born in the Republic and who is not a South African citizen by virtue of the provision of subsection (1) shall be a South African citizen by birth, if 'he or she does not have the citizenship or nationality of any other country, or has no right to such citizenship or nationality'. This reflects the progressive changes endorsed in the South African citizenship laws which does not just embrace gender neutrality but also protects its citizens born within the country from being stateless.

C. Uganda

The Constitution of the Republic of Uganda in Chapter three enlist the constitutional provisions in regard to citizenship. Citizenship by birth under Article 10 uses gender neutral terms such as person, citizen, parents and grandparents. For example, the sub clause (a) of Article 10 reads out as 'every person born in Uganda one of whose parents or grandparents is or was a member of any of the indigenous communities existing and residing within the border of Uganda as the first day of February 1926 and set out in the Third Schedule to this Constitution' shall be citizens of Uganda by birth.

D. Fiji

The Citizenship of Fiji Act, 2009 is drafted with comparative gender neutrality. For instance, sub clause (1) of Section 8 reads 'a child born outside Fiji may become a citizen by registration on or after the commencement date if, at the time of the child's birth, either parent was citizen'. Similarly, the provisions governing naturalization utilize gender-neutral legal phrasing. For example, Section 11 incorporates gender-neutral terms such as adult applicant (sub clause 1) and person (sub clause 2), regardless of gender.

E. Germany

The Nationality Act of 1913 governs the citizenship laws in Germany. While the Act originated in 1913, it has undergone massive, sweeping amendments over the last decades (particularly in 1974, 1993, 2000, and 2021) to eliminate historical gender discrimination. The current version of the Act predominantly uses the gender-neutral term 'parent' (Elternteil), while using 'father' (Vater) specifically when addressing rules regarding unmarried fathers and the legal recognition of paternity. For example, in Section 4 sub section (1), 'A child acquires German citizenship by birth if one parent has German citizenship. If at the time of the birth only the father is a German national, and if for proof of descent under German law recognition or determination of paternity is necessary, acquisition is dependent on recognition or determination of paternity with legal effect under German law; the declaration of recognition must be submitted or the procedure for determination must have commenced before the child reaches the age of 23.'

This means, under German law, if parents are unmarried, a child automatically acquires citizenship from a German mother, but if only the father is German, the child's acquisition of citizenship requires formal legal recognition or determination of paternity.

F. Australia

The Australian Citizenship Act, 2007 includes gender neutral terms. For example, Section 12 provides citizenship by birth under which such clause (1) (a) states that 'a person born in Australia is an Australian citizen if and only if (a) a parent of the person is an Australian citizen, or a permanent resident, at the time the person is born'. In the context of citizenship by adoption formulated in Section 13, clause (b) mentions a person to be an Australian citizen if the person is 'adopted by a person who is an Australian citizen at the time of the adoption or by 2 persons jointly at least one of whom is an Australian citizen at that time'.

G. China

The Nationality Law of the People's Republic of China which came into force on September 10, 1980, is drafted to be gender neutral.

For example, Article 5 stipulates that *'Any person born abroad whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality. But a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth shall not have Chinese nationality.'*

This law uses the gender-neutral terms such as person and parents (fumu) instead of the terms father or mother.

H. India

An examination of Indian nationality law provides a critical comparative perspective, particularly regarding how India transitioned from a patrilineal framework to a fully gender-neutral system. Historically, Indian citizenship laws mirrored colonial and patrilineal frameworks. Prior to December 10, 1992, citizenship by descent was strictly patrilineal, requiring the father to be an Indian citizen. However, the Citizenship (Amendment) Act of 1992 updated the law to be entirely gender-neutral, establishing that a child could derive citizenship by descent through either the father or the mother.

India law bifurcates citizenship acquisition based on where the individual is born, with specific criteria tied to chronological statutory amendments:

- Citizenship by Birth (within Indian territory):
    - o January 26, 1950, to June 30, 1987: Any person born in India automatically received citizenship by birth, regardless of the parents' nationality.
    - o July 1, 1987, to December 2, 2004: A person born in India was considered a citizen if at least one parent was an Indian citizen at the time of birth.
    - o From December 3, 2004, onward: A person born in India is a citizen if both parents are Indian citizens, or if one parent is an Indian citizen and the other is not an illegal migrant at the time of birth.
- Citizenship by Descent (outside Indian territory):
    - o January 26, 1950, to December 10, 1992: A person born outside India was citizen by descent only if the father was an Indian citizen at the time of birth.
    - o From December 10, 1992, onward: The law was amended to ensure gender neutrality, meaning a person born outside India is recognized as a citizen by descent if either of the parents was an Indian citizen at the time of birth.

Regardless of whether Indian citizens acquire their status via birth or descent, all such citizens possess identical and equal fundamental rights under the law.

An interesting structural aspect of Indian citizenship is that native citizens are not issued a standalone physical 'citizenship card'. Instead, primary proof of citizenship is established through standard national identity documents, such as an Indian passport or a voter identity card.

By contrast, physical certificates are typically reserved for naturalized individuals or registrants, such as foreign spouses or long-term foreign residents who acquire legal status through registration or naturalization rather than birth or descent. The research finds that there is much that Nepal can learn from global progress. Analysing both the developed and developing countries around the world that has gender neutral citizenship laws shows that gender neutrality in citizenship is not merely a legal technicality; it is a fundamental prerequisite for national security, economic vitality, and protection of human rights. By moving away from archaic, patriarchal restrictions and embracing gender-neutral nationality laws, as over 88% of the world has done (this finding is elaborated in the following section), Nepal can prevent the catastrophic social and economic costs of leaving millions of active youths at a risk of statelessness and disenfranchisement.

8.4 Global and Regional Comparative Analysis: Where Nepal Stands

A vast majority of the international community has firmly embraced gender equality in nationality rights. More than 88% of the world's states have long recognised that gender-discriminatory citizenship laws conflict with human rights, economic growth, and holistic national development, prompting them to reform their laws to ensure equal citizenship rights.

Furthermore, international standards explicitly mandate this equity. Under Article 9 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), to which Nepal is a state party without reservation, government are obligated to grant women equal rights with men regarding the acquisition, retention and conferral of citizenship. Globally, progressive milestones continue to reshape the landscape; for example, Malaysia successfully removed itself from the list of nations with discriminatory nationality laws in 2025, after amending its constitution to allow mothers to transmit citizenship to children born overseas.[68] Out of 193 nations worldwide, Only 23 countries still retain laws that deny women the equal right to confer citizenship to their children. These include, the Bahamas, Bahrain, Barbados, Brunei Darussalam, Burundi, Eswatini (formally Swaziland), Iran, Iraq, Jordan, Kiribati, Kuwait, Lebanon, Mauritania, Nepal, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Togo, United Arab Emirates.[69]

Among these lists of countries, Nepal is the only one in South Asian region. This is an irony, because Nepal often ranks favourably on various gender gap and inclusion indices. For instance, according to the Global Gender Gap Index, 2026 published every year by the World Economic Forum, Nepal ranks 120 among 145 countries in terms of gender parity. Although this may not look significant, on a closure look, Nepal is ahead of many countries in South Asia (Bhutan – 121; Sri Lanka – 129; India – 131; and Pakistan – 143).[70] The 2026 report even mentions that Nepal is among ten economies that have moved the fastest towards parity, further finding that the rapid progress trend is not necessarily dependent on income level.[71] This demonstrates that Nepal leads in gender parity progress across multiple social and legal fronts in comparison to other countries in the region and beyond. This also shows that both globally and nationally, Nepal aspires to champion women's empowerment and equity, which it has rightly done so in multiple areas.

68. U.N. High Commissioner for Refugees, Global Report 2024 (2025).
69. U.N. High Commissioner for Refugees, *Background Note on Gender Equality, Nationality Laws and Statelessness 2025* (Mar. 8, 2025).
70. World Economic Forum, *Global Gender Gap Report 2026,* at 12 (2026), World Economic Forum report.
71. World Economic Forum, *Global Gender Gap Report 2026,* at [pinpoint page needed] (2026), World Economic Forum report.

However, while the global community, and the vast majority of nations, have moved towards inclusive legal frameworks that secure human rights and prevent statelessness, Nepal remains uniquely anchored to that restrictive provision. Therefore, one of the consistent recommendations in all four national submissions to the Universal Periodic Review (UPR) and seven CEDAW submissions by Nepal so far is to reform its domestic laws in line with international treaties and human rights obligations. Each time, Nepal has accepted those recommendations fully and completely.[72] For a country striving to be a regional leader in gender equality, moving past this legal barrier is essential to aligning its citizenship laws with its progressive democratic values.

8.5 International Instruments

The various UN treaty bodies implement the concepts of gender equality and gender neutrality based on the respective international treaties and their General Comments/Recommendations. Such interpretations shape the international laws and the relevant provisions. Various international instruments such as Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Conventions on the Rights of the Child (CRC), International Covenant on Civil and Political Rights (ICCPR) and Universal Declaration of Human Rights (UDHR) address the issue of gender neutrality and every child's right to legal identity which we will discuss individually.

A. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The CEDAW was issued with the objective of eliminating all kinds discrimination against women and children persisting in different facets of life in order to ensure equal rights to them. The term "discrimination against women" has been defined in Article 1 which means 'any distinction, exclusion or restriction made on the basis of sex' which as per the article may impair or nullify the women's exercise of human rights and freedoms in the areas of political and social rights among others. In terms of equal rights to citizenship through the mother, Article 9 of the Convention clearly states women shall be granted equal rights to acquire, change or retain their nationality. Sub article 2 of Article 9 directs the State parties to grant women equal rights with men in terms of conferring nationality of their children. However, this provision of CEDAW is breached through the Constitution and citizenship laws of Nepal. A Nepali mother currently cannot grant citizenship on her sole existence without any presence or whereabouts of her father. Also, a Nepali mother married to a foreign citizen father cannot give her child citizenship by descent and instead is forced to provide them a naturalised citizenship.

CEDAW General Recommendations No. 21 and No. 32 are pertinent in regard to the gender equal citizenship. Its General Recommendations No. 21 paragraph 6 states that 'nationality is critical to full participation in society'. Substantiating Article 9 further, CEDAW General Recommendations No. 32 in paragraph 51 comments that the laws around the world are still creating discrimination against women which puts the women and children into the danger of being stateless.

B. Convention on the Rights of the Child (CRC)

Convention on the Rights of the Child which was adopted on 20 November 1989 protects the nationality of the Child. Article 2 provides each child a right against discrimination irrespective of his or her parent's sex and national origin among other factors. In Article 7 of CRC, it mandates the signatory parties to conduct immediate birth registration of the child and among other rights mentioned in sub-article (1), the Child has the right to acquire nationality. Sub-article (2) directs the member states to implement the rights to protect the child from being stateless. In this context the Committee on the Rights of the Child has been vocal

72. U.N. Office of the High Commissioner for Human Rights, OHCHR document 1; U.N. Office of the High Commissioner for Human Rights, OHCHR document 2; U.N. Office of the High Commissioner for Human Rights, OHCHR document 3.

against nationality laws discriminating on the basis of the sex of a parent. CRC General Comment No. 14 of 2013 in page 11 paragraph 14 discusses the right against discrimination and prohibition of discrimination in all forms. This is particularly important in terms of gender neutrality and gender equality when their parents have different legal status which causes discrimination while attaining citizenship through mother.

C. International Covenant on Civil and Political Rights (ICCPR)

International Covenant on Civil and Political Rights adopted on 16 December 1966 provides various rights including the right to nationality. Article 2 of the ICCPR protects individuals including women and children from all forms of discrimination which also includes nationality. Article 3 then ensures equal rights to both women and men in the context of all kinds of civil and political rights. Article 24 prevents all kinds of discrimination against children, which also includes discrimination on the basis of nationality. Sub-article (3) of Article 24 guarantees the child's right to acquire a nationality. Equal protection of law is ensured in Article 26 which also protects an individual from discrimination against his national origin.

In the Human Rights Committee General Comment No. 28, it discusses Article 3 from the equality perspective between male and female where 'State parties should ensure that no sex-based discrimination occurs in respect of the acquisition or loss of nationality by reason of marriage' among others.

D. Universal Declaration of Human Rights (UDHR)

Universal Declaration of Human Rights (UDHR) is not a binding treaty like the above international treaties. It reflects the common and basic values shared by the member states of the UN. Yet, it is one of the powerful international instruments, because most of its provisions have acquired the status of customary international law.[73] In this light, gender equality has been protected through UDHR as well. Article 1 of UDHR considers everyone to be born free and equal in dignity and rights, signifying not even one individual or groups (not even father in the context of conferring citizenship) have the edge over any other individuals in terms of civil, political, social and human rights. Article 2 follows up stating distinction cannot be made in terms of sex, nationality and birth among other factors as everyone enjoy all the freedoms and rights. Article 12 protects the right to a nationality stating that no one can be deprived of their nationality arbitrarily and that they also have the freedom to change their nationality as per their desire. Such protection has been enshrined in the UDHR in order to protect any person from becoming stateless.

All the international instruments advocate for gender equality between men and women in the context of nationality. The best approach to achieve this goal is to amend the citizenship provisions of the constitution and the relevant citizenship laws in line with the principle of gender neutrality. Nationality and citizenship on the basis of either parent, irrespective of their gender, is the only way out for realising the goal of gender equality. For example, just because one parent is a foreign citizen or a stateless person and another parent is a national or citizens of the country, the child should not suffer the legal limbo, denial or a differentiated citizenship status, based on the either parent's nationality or citizenship. When international instruments such as UDHR have been adopting the terminology everyone and all human beings, the domestic application of gender terms have to be amended in favour of gender neutrality. From our understanding and analysis gender neutrality is the path to achieve gender equality, otherwise the remnants of systemic inequality will continue to impact society, women, LGBTIQ+ including non-binary people, and not to mention the country, its development, culture, values, and economy as a whole.

73. Universal Declaration of Human Rights, G.A. Res. 217 (III), art. [relevant article if applicable], U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

8.6 Arguments against Gender Neutrality

A. Nationalism and National Security

(a) The patriarchal myth of national security:

Several arguments are raised against the genuine implementation of gender-neutral citizenship laws. One prominent narrative, highlighted by research participants, centres on nationalism and national security. This perspective fears that if women are granted equal rights as men to confer citizenship to their children, Nepal will be flooded by foreigners, ultimately undermining national language, culture, religion, and social coexistence. This perceived threat is frequently linked to Nepal's open border with India, categorising children born to a Nepali mother and a non-Nepali father as 'foreigners'.

Our analysis reveals that framing the children of foreign fathers as a threat to a national security is a deeply patriarchal construct disguised as nationalism. In traditional Nepali culture, a woman's identity is entirely subsumed by her husband's household after marriage. Her loyalty, duty, and responsibility are expected to lie with her husband, and both she and her children adopt his surname. For her children, their father's home is primary; their mother's home is reduced to a 'mama ghar' (an uncle's home), belonging legally and socially to their maternal uncles rather than their mother. Although property rights laws were reformed long ago, this deeply ingrained cultural mindset persists.

(b) The legal bias

This patriarchal bias is starkly reflected on cross border marriages and citizenship provisions:

- **The male privilege:** When a Nepali citizen son marries foreign citizen, both the foreign spouse and their children are automatically considered citizens of Nepal by descent.
- **The discrimination:** When a Nepali citizen daughter marries a foreign citizen, not only is the foreign spouse denied automatic citizenship, but their children are also classified as foreign at birth. These children are only eligible to apply for a naturalized citizenship, a status entirely dependent on state discretion rather than an inherent right.
- **A common thread:** This same patriarchal principle is applied to all categories of citizenship in Nepal, whether that is citizenship where father is unidentified or in case of citizenship for foundlings – the idea is that the citizenship will be converted to naturalization as soon as the father is proved to be a foreign national.

One research participant recalled being humiliated at a government office. She was told that "If we grant citizenship to children like them, tomorrow we will have to provide citizenship to all *bhanja-bhanjis* from across the border, and this will weaken national security because for them Nepal is only their *mama ghar* and their primary right to home and therefore citizenship lies in their father's country'

Analysing this logic yields no trace to validity. The Constitution of Nepal, 2015, explicitly establishes women's right to equal lineage as a fundamental right for the first time in history. While equal property rights were achieved as a legal milestone in around 1975,[74] lineage rights took much linger to secure. Yet, when finally integrated into the fundamental rights chapter, it failed to translate into the adjacent citizenship chapter, where women are still treated as lesser contributors of a child's genetics and descent.

74. Women's property rights were introduced in Nepali law for the first time in 1975 A.D. through an amendment to the Muluki Ain, 1910.

(c) The one-sided threat

We observed that the burden of safeguarding national security falls entirely on women. No such security threat is perceived from the foreign spouse and children of Nepali men, both of whom are entitled to citizenship by descent. Yet, a severe threat is claimed when a woman seeks the same right. In most household, children spend the majority of their time with their mothers, adopting their behaviour, etiquette, and even mother tongue. It is a profound irony that the society fears children raised by Nepali mother. This analysis does not seek to reverse discrimination, but rather to expose a hypocritical logic rooted in patriarchy masked as patriotism, neither of which has a gender.

(d) Human rights violations

While a nation-state has the right to protect its security and sovereignty, international law dictates that it must do so without violating basic human rights. Nepal's Gender discriminatory citizenship laws fail this standard by delegitimizing women and denying the fundamental rights of millions of children and youths.

(e) The economic cost

Additionally, the economic cost of gendered citizenship is staggering. Denying citizenship for prolonged periods prevents millions of active, productive youths from contributing to the country's GDP, development, and growth. While treating citizens merely as a demographic unit overlooks a critical human rights violation at individual and family level; it also provides a perspective into a critical modern reality – a massive, disenfranchised population of youth unable to work, study, open businesses, or claim a legal belonging to their motherland constitutes a far greater security risk than inclusive citizenship ever could. History consistently shows that the systemic oppression inevitably breeds instability.

(f) Geographic context and administrative solutions

From a geopolitical perspective, Nepal is a member of the Non-Aligned Movement, which means the country is not aligned with any global power bloc. Addressing gender neutrality in the Constitution and citizenship laws therefore is not found to be logically compromising national security.

Moreover, Nepal has already introduced the concept of Non Resident Nepali (NRN) citizenship. This status grants descendants of Nepali citizens and former citizens living abroad a range of social, economic, and cultural rights. They are permitted to purchase property, conduct business, pursue education, and reside in Nepal under conditions prescribed by law. If the legal framework already accommodates cross border identity and participation through the NRN framework without undermining sovereignty, nationalism and national security are certainly not threatened by gender-neutral citizenship provisions for children of Nepali mothers.

B. Society is not ready

When asked to deliberate on the issue of amending the constitution in favour of gender-neutral language, KII participants raised a concern that the proposition is far too progressive and Nepali 'society is not ready for it... it should be a gradual process'. Similarly, a KII participant asked 'whether the amendment to gender neutral language is one that is too abstract to achieve the goals of equality for Nepali women in citizenship matters. Both KII participants emphasised that 'humanity is universal, so the question of causing discrimination and the reluctance to issue citizenship should not exist'.

The nuance of this discourse is worth paying attention to. It appears that even the most liberal and fair-minded people in power have a deep-seated reluctance in accepting a constitutional amendment that truly equalises citizenship rights across genders. The nagging concerns about national security and the acceptance of patriarchy within Nepali society seems to engender hesitation. Interestingly both participants were not able to describe, in detail, empirical concerns about national security or societal readiness.

Neither was there any engagement with the idea that statelessness and discrimination also create threats to national security: for without a sense of belonging an individual has less ties of loyalty to the place they find themselves. In this way, exclusionary provisions do not safeguard national security; they erode it by creating citizens who are treated as outsiders within their own country.

The fundamental premise of a constitutional amendment to include gender-neutral language must be understood in light of the evolving meaning of nationalism. If nationalism is defined by the ability of individuals to participate fully in community life, Nepal's trajectory already reflects this principle. The Constitution has already expanded rights for Non-Resident Nepalis (NRNs), many of whom have relinquished Nepali citizenship, by granting them social, economic, and cultural entitlements. The current RSP government is seeking to further expand these rights. NRNs are permitted to own property, conduct business, pursue education, and reside in Nepal under conditions set by law. This development demonstrates that Nepal's conception of nationalism is shifting toward inclusivity and participation rather than rigid exclusivity. In this context, embedding gender neutrality in the Constitution aligns naturally with the broader, modern understanding of nationalism.

The concept of self-identified gender has already been recognised by the Supreme Court judgment and various judgments of the High Court.[75] And many of those decisions have been implemented resulting in Nepali citizens amending their name and gender on the basis of self-identification. If the society was not ready then why did the judges understand the gravity of these issues? Why did the DAO officials of various districts implement the judgments? The judges and DAO officials are part of the society and it seems they are ready to move forward with the concept of gender neutrality.

75. *Rukshana Kapali v. Government of Nepal & Others,* Writ No. 077-WO-0973 (Sup. Ct. Nepal Nov. 6, 2023).

CHAPTER

9 RECOMMENDATIONS

Based on the analysis of the legal and administrative landscape in 2026, the following recommendations are suggested for Civil Society Organizations (CSOs) to further advocacy work, and for the State to fulfil its commitment to gender equality and national security.

9.1 Recommendations for CSOs

- **Expand Paralegal Accompaniment Programs:** Evidence indicates that officials respond more professionally when applicants are supported by civil society representatives or lawyers. CSOs should expand programs like the "Sahayatri" paralegal initiative to provide direct accompaniment for vulnerable applicants, particularly women and the Dalit community at relevant government offices.
- **Implement School-Based Citizenship Advocacy:** To prevent women from becoming dependent on unsupportive and uncooperative husband/father for documentation later in life, CSOs should pilot citizenship advocacy programs in schools. As CAPN already runs birth registration and citizenship advocacy programs in schools, it could consider piloting initiatives where schools dedicate specific weeks to helping students and families understand their rights and the procedures for citizenship application and acquisition. Such programs would allow students and families to obtain citizenship in large numbers, espeically for girls and women, before marrying later in life, and preventing them from falling through the cracks.
- **Public Awareness:** Many service seekers remain unaware that married women can get citizenship through their parents. CSOs should conduct local awareness campaigns amongst communities to ensure women understand their rights to apply for citizenship through their parents. Similarly, joint information sharing sessions should also be held with government service providers, so they have updated information about making referrals or providing correct information to such service seekers.
- **Lobby for Constitutional Equalisation:** Civil society should leverage the current Constitutional Reform Task Force to advocate for the removal of discriminatory provisos in Articles 11(5) and 11(7) of the Constitution. Lobbying should focus on adopting gender-neutral language that eliminates the hierarchy between paternal and maternal lineage.
- **Advocate for Broadening Digital Reforms:** While the government's 100-point implementation plan focuses on technical digitization, advocacy is needed to ensure these "faceless" systems also address substantive gender barriers. For instance, Nagarik App should facilitate self-declaration for single mothers without requiring paternal data.
- **Expand Systems of Communication to Service Seekers:** Advocate for the creation of citizenship 'hotlines' where government service providers can support and communicate with applicants through the application process.
- **Lobby for the Streamlining of Court Order Execution:** Currently, a favourable court ruling often forces applicants to start the process from "square one" at the DAO. Advocacy should focus on the Ministry of Home Affairs issuing a standardised protocol for enforcement that requires DAOs to honour judicial findings without requiring repetitive paperwork.

- **CSOs must assist local and federal executive bodies to abide by the judiciary's decision:** Where administrative bodies wilfully ignore Supreme Court precedents or mandamus orders, CSOs should lobby the judiciary through class-action suits or contempt of court filings against specific officials. This would assist the executive bodies, both at the local and federal level, to hold their office to accountability across the entire administrative hierarchy.
- **Data Collection and Monitoring:** Official disaggregated data regarding citizenship application is currently lacking in Nepal. Hence, CSOs should engage in independent monitoring and data collection regarding the success rates of matrilineal citizenship applications at the DAO level.
- **Advocate for Training Reform:** Advocacy efforts should target the Public Service Commission (Loksewa) to incorporate mandatory training on empathy, humaneness, and rights-based approach to service delivery. The civil service syllabus should also update on citizenship laws. This is essential to shift the administrative culture from one of risk aversion to one of service delivery. Training material can be developed in partnership with CSOs to include interactive sessions and online training modules. Similar trainings should also be delivered to local governments.
- **Develop Citizenship Focused Training Material:** Collaborate with MoHA and relevant local governments to develop a citizenship focused training module for CDOs and relevant staff at the MoHA. Identify champions within the system to facilitate training sessions so the messaging has legitimacy.

9.2 Recommendations for the State

The State must not focus on punishing or diminishing citizenship rights of one gender, compared to the other, out of fear of foreign intervention. Instead, the state should prioritise:

Legislative Reform

- Amend the Constitution and citizenship laws for full gender neutrality in line with the international commitments of Nepal.

Administrative Reform

- Strengthening border administration and establishing bilateral verification mechanisms to prevent dual citizenship (as Nepal maintains a mono-citizenship policy).
- Regulating entry and exit tracking for foreign nationals.
- Training Chief District Officers (CDO) and local administrative offices on non-discrimination in law enforcement.
- Ensuring an accessible judicial system for appealing nationality questions.
- Ensure that the favourable court decisions are implemented by the responsible authority.

ANNEX I
NARRATIVES OF *SAHAYATRI'S* IN NEPALI

Account of *Sahayatri* No. 2

1. तपाईंले आफूलाई कसरी चिनाउन चाहनुहुन्छ कृपया एक अनुच्छेदमा उल्लेख गरिदिनुहोस्।

म एक नेपाली नागरिक हुँ, जसले आफ्नो पहिचान, अधिकार र सम्मानका लागि लामो समय संघर्ष गरेको छु। मेरो जन्म र हुर्काइ नेपालमै भएको हो, र म सधैं आफूलाई यस देशको अभिन्न अंगको रूपमा महसुस गर्छु। नागरिकता प्राप्त गर्नु मेरो लागि केवल कानुनी कागजात प्राप्त गर्नु मात्र नभई, आफ्नो अस्तित्व, पहिचान र भविष्य सुनिश्चित गर्नु पनि थियो। आज म आफ्नो अनुभवमार्फत अन्य नागरिकताविहीन व्यक्तिहरूको आवाज बन्न चाहन्छु।

2. नागरिकता प्राप्तिको लागि सरकारी निकाय तथा कर्मचारीसँगको अनुभव के-कस्तो रह्यो?

नागरिकता प्राप्त गर्ने क्रममा मेरो अनुभव मिश्रित रह्यो। केही कर्मचारी सहयोगी र जिम्मेवार थिए भने कतिपयले अनावश्यक रूपमा प्रक्रिया लम्ब्याउने, थप कागजात माग्ने, र स्पष्ट जानकारी नदिने गरेका थिए। विभिन्न सरकारी कार्यालयहरूमा पटकपटक धाउनुपरेको थियो। यसले समय, आर्थिक स्रोत र मानसिक ऊर्जा धेरै खर्च गरायो।

3. तपाईंले नागरिकता प्राप्तिको क्रममा चुनौती सामना गर्दा कस्तो अनुभूति गर्नुभयो?

नागरिकता प्राप्तिको क्रममा अनेकौं चुनौतीहरू सामना गर्दा कहिलेकाहीँ निराशा, चिन्ता र असहायता महसुस भएको थियो। आफ्नो देशमै आफ्नो पहिचान प्रमाणित गर्न संघर्ष गर्नुपर्दा निकै पीडादायी लाग्थ्यो। तर अधिकार प्राप्त गर्ने दृढ संकल्पले मलाई निरन्तर अघि बढ्न प्रेरित गरिरह्यो।

4. नागरिकता नपाएको कारणले के-के कुरामा कठिनाई भोग्नुपरिरहेको छ?

नागरिकता नहुँदा शिक्षा, रोजगारी, बैंक खाता खोल्ने, सिम कार्ड लिने, यात्रा गर्ने, सम्पत्ति खरिद-बिक्री गर्ने लगायतका आधारभूत अधिकार र सेवाहरूमा ठूलो कठिनाई भोग्नुपरेको थियो। यसले सामाजिक, आर्थिक र व्यक्तिगत जीवनमा गम्भीर असर पारेको थियो। नागरिकता नहुँदा आफूलाई राज्यबाट अलग पारिएको जस्तो महसुस हुन्थ्यो।

Account of *Sahayatri* No. 3

1. मेरो नाम शान्ति तामाङ हो। म सोलुदुधकुण्ड वडा नं. 5, लिखुपिके गाउँपालिका, सल्लेरी, सोलुखुम्बुकी बासिन्दा हुँ। पेशाले म एक शिक्षिका हुँ। साथै, म CAPN को "सहयात्री" अभियान अन्तर्गत आमाको नामबाट नागरिकता लिन चाहनेहरूको साथमा सोलुखुम्बुबाट सक्रिय रूपमा काम गर्दै आएकी छु।
2. नागरिकता प्राप्तिका लागि सरकारी निकाय तथा कर्मचारीहरूसँगको अनुभव।

   They are totally outdated about new amendment in citizenship law. When we try to say something about new amendment, "ठाडै तिमी चुप लाग" भन्नुहुन्छ। So they are not good listeners. आफैं हुकुमत चलाउनुहुन्छ।
3. नागरिकता प्राप्तिको क्रममा धेरै चुनौतीहरू भोग्नु परेको अनुभव छ। जस्तै, वडा कार्यालयमा तीन पुस्ते खुलाएर सिफारिस लिँदा बाबुको तीन पुस्ते मात्र लेख्न मिल्छ, आमाको मिल्दैन भन्नुहुन्छ, जबकि हामी आमाको नामबाट नागरिकता लिने प्रक्रियामा छौं। Employees having patriarchal thoughts. Time to time rejection from ward, CDO Office. Financially broke. Road and transportation व्यवस्थित छैन। एकलपन नागरिकता विहीनलाई समाजले हेर्ने दृष्टि नै अलगै हुन्छ जस्तै नानीको बाउ कस्तो थियो कि आमा को चरित्र कस्तो थियो कि भनेर अनेक लाञ्छनाहरू लगाउने।
4. नागरिकता नभएकै कारणले कठिनाइहरू भोग्नु पर्ने अनुभवहरू: सामाजिक अपहेलना, गुणस्तरीय शिक्षाबाट वञ्चित, हरेक सरकारी कोटाबाट वञ्चित, कुनै पनि सरकारी सेवा सुविधाबाट नै वञ्चित। Loss of identity, even no future plan. Everything messed.

ANNEX II
MOHA'S RESPONSE TO THE RESEARCH TEAM'S RTI

नेपाल सरकार

गृह मन्त्रालय

(शान्ति सुरक्षा तथा [illegible] नियन्त्रण शाखा)

फोन नं.:०१-४२११२०८
०१-४२११२१४
इमेलःcontrol@moha.gov.np
mohacontrolroom@gmail.com

पत्र संख्याः- शा.सु. ०८२/०८३/१६

प्राप्त पत्र संख्या र मितिः-

च.नं.:- २१९१

सिंहदरबार,
काठमाडौं, नेपाल ।

मितिः २०८३।०२।२२
नेपाल संवत् ११४६

विषयः सूचना उपलब्ध गराइएको सम्बन्धमा।

डा. आस्था दाहाल,
ठेगानाः काठमाडौं म.न.पा.-३४,
मो.नं. ९८४१९४९६७८
ईमेलः **aastha.lawlabnepal@gmail.com**

प्रस्तुत विषयमा तपाईंले मिति २०८३।०२।०७ गते यस मन्त्रालयका सूचना अधिकारीलाई सम्बोधन गरी दिनुभएको निवेदनमा माग गर्नुभएको सूचना तपशिल बमोजिम उपलब्ध गराइएको व्यहोरा मिति २०८३।०२।२२ को सचिवस्तरीय निर्णयानुसार जानकारी गराइन्छ।

तपशिलः

- बुँदा नं. १, २, र ३ सम्बन्धमाः- नेपालको संविधान २०७२ जारी भएपश्चात हालसम्म नागरिकता सम्बन्धी सेवा प्रवाहको सिलसिलामा कुनै पनि प्रमुख जिल्ला अधिकारी (CDO) एवं अन्य तह/क्षेणीका कुनै पनि कर्मचारीलाई यस मन्त्रालयबाट विभागीय कारवाही भएको अभिलेखबाट देखिन नआएको।
- बुँदा नं. ४, ५, र ६ सम्बन्धमाः- नागरिकता वितरण सम्बन्धी कार्यको सिलसिलामा मुद्दा दायरको विषय अधिकार प्राप्त निकायले अनुसन्धान गरी क्षेत्राधिकार रहेको अदालतमा मुद्दा दायर हुने र सम्मानित अदालतबाट मुद्दाको किनारा लाग्ने हुँदा उल्लिखित विषय सूचनाको हकसम्बन्धी ऐन, २०६४ को दफा ३ उपदफा (३) (ख) (ङ) संग सम्बन्धित रहेको।
- बुँदा नं. ७ सम्बन्धमाः- नेपाल नागरिकता ऐन, २०६३ तथा नेपाल नागरिकता नियमावली, २०६३ बमोजिम आमाको नेपाली नागरिकता कायम भएको र बाबु विदेशी भई नेपालमा स्थायी रुपमा बसोबास भएको व्यक्तिलाई उल्लिखित कानूनी व्यवस्था बमोजिम आवश्यक प्रक्रिया पुरा भई आएका ४७६ जनालाई सम्बन्धित जिल्ला प्रशासन कार्यालयबाट अङ्गीकृत नागरिकता जारी भएको केन्द्रीकृत नागरिकता सूचना व्यवस्थापन प्रणाली (CCIMS) अभिलेखबाट देखिएको (२०८२ भदौदेखि हालसम्म)।

०८.३।२।२२

रमा आचार्य (सुवेदी)
उपसचिव
एवम् सूचना अधिकारी

बोधार्थः
श्री राष्ट्रिय सूचना आयोग, त्रिपुरेश्वर, काठमाडौं।

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