Report on

IMPLEMENTATION OF CITIZENSHIP LAWS IN NEPAL



Citizenship Affected People's Network

2025

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List of abbreviations

Abbreviation / Acronym	Full Form
CDO	Chief District Officer
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CRC	Convention on the Rights of the Child
CSO	Civil Society Organization
DAO	District Administration Office
DNA	Deoxyribonucleic Acid
Et. al	Et alia / And others
FGD	Focus Group Discussion
ICCPR	International Covenant on Civil and Political Rights
KII	Key Informant Interview
MOHA	Ministry of Home Affairs
NKP	Nepal Kanoon Patrika (Nepal Law Journal)
NRN	Non-Resident Nepali
SDG	Sustainable Development Goals
UDHR	Universal Declaration of Human Rights
v.	Versus (used in case law to denote legal opposition)

Acknowledgement

We extend our sincere gratitude to all the individuals who participated in this study. Their insights and experiences formed the foundation of this research. We are especially thankful to the government officials from the Ministry of Home Affairs (MoHA) and the District Administration Office, Lalitpur (DAO) and the ward-level representatives who contributed their time and perspectives through the Key Informant Interviews (KII).

This report has been prepared with a people-centered approach, ensuring that the voices and lived realities of individuals remain at the heart of the findings and analysis.
The research team behind this report comprises:

- Lead Researcher : Dr. Aastha Dahal
- Research Associates : Prasiddhy Koirala, Shiwanee Shree Pant
- Editor : Adv. Prasanna Nirmal Aryal, Adv. Neha Gurung

Their collective effort, commitment, and expertise have been instrumental in bringing this report to fruition.

Through this report, Citizenship Affected People's Network (CAPN) reaffirms its commitment to advocating for gender-equal citizenship laws in Nepal. We hope this research serves as a powerful advocacy tool for necessary legal and policy reforms to ensure that citizenship rights are equitable, inclusive, and just for all.

Message from the Chairperson

I am pleased to present this research report on the implementation of Nepal's citizenship laws. Citizenship is a foundational aspect of state–citizen relations, and its effective implementation supports social stability, inclusion, and national development.

This study seeks to contribute constructively to ongoing national efforts by providing evidence-based observations from communities and individuals navigating existing procedures. Our intention is to support policymakers, implementing agencies, and stakeholders by offering insights that can strengthen current practices and make the system more accessible, efficient, and responsive.

We sincerely acknowledge the Government of Nepal's continued commitment to improving service delivery and expanding access to legal identity. CAPN remains ready to collaborate with relevant authorities, civil society partners, and community actors to advance practical solutions that benefit both citizens and the state.

I extend my appreciation to the research team and to all participants who generously shared their experiences. Their contributions will help guide future dialogue and collective action.

Diwakar Chettri
Chairperson, CAPN

Executive Summary

Citizenship certificate is amongst the most important documents in Nepal. It is required to access basic services such as employment, banking, education, travel and welfare programmes from the government like allowance for senior citizens, disability benefits or allowances for single women. However, access to this vital document remains unequal particularly for Nepali women and children who seek to acquire citizenship from Nepali mothers.

The Constitution of Nepal (2072) 2015 made notable progress in equalising the access to citizenship through a mother. The Citizenship Act 2063 (2006), which provides a detailed legal framework to implement the Constitution, was amended in 2022 to align with the spirit of constitutional provisions. Yet legal changes have had limited power as applicants still face significant obstacles to accessing citizenship.

The process of acquiring citizenship requires a service seeker to obtain approval from the local government at the Ward level and Federal Government at the district level - through the District Administration Office under the Ministry of Home Affairs. This paper is a small-scale study that explores the implementation status of citizenship laws after the 2022 amendments at both levels of government. To this end the research was carried out in Godavari Municipality, Bagmati Province amongst service seekers who are struggling to get citizenship. To illustrate a fuller picture of the challenges and practices pertaining to citizenship processing, views were also obtained through Focus Group Discussions (FGD) and Key Informant Interviews (KII) from representatives of local government and the MoHA.

Discussion with the service seekers showed that the biggest challenge to obtain citizenship continues to be in instances where individuals seek to acquire citizenship from a Nepali mother in the absence or non-cooperation of a father. Married Nepali women are unable to access citizenship without their husband's support. Children found within the territory of Nepal, whose parents and family cannot be tracked, face serious obstacles to accessing citizenship.

In exploring the views of representatives of local government and federal government on these challenges participants highlighted that their hands were tied because of gaps in the citizenship laws. They suggested various areas where details in laws could facilitate their daily work of processing citizenship applications.

The research however found that in areas identified as legal gaps by participants, the Supreme Court of Nepal, through its decisions, has provided legal direction. In fact, court judgments have routinely granted citizenship through the Nepali mother and stipulated that it is not mandatory for a married woman to get her husband's support to obtain citizenship. It has further directed the District Administration Office to make citizenship procedures accessible.

The legal analysis revealed that challenges in obtaining citizenship are rooted in both the law and the broader systems that implement it. While certain legal provisions themselves are unequal, for instance, allowing children to obtain citizenship through the mother only when the father is deemed “unidentified”, these shortcomings are further compounded by systemic, administrative, and bureaucratic barriers. This report focuses on several systemic issues, factors such as the prevailing culture of service delivery, inadequate accountability mechanisms, insufficient coordination and trust between local and federal authorities, and the limited training of personnel responsible for processing citizenship applications.

Lastly, the report furnishes some key recommendations

INTRODUCTION

In Nepal, the promise of equal citizenship rights remains elusive for many women and their children despite constitutional provisions and international treaty obligations. This report discusses the findings of a small-scale empirical examination of the practical realities of Nepali citizenship law implementation, particularly as it pertains to women's ability to transmit citizenship to their children. Through a methodology involving desk reviews, KII, and FGD with stakeholders ranging from service seekers to government officials, this study aims to shed light on the systemic challenges that persist.

The Constitution of Nepal 2072 (2015), while heralding progress in some areas, has yet to fully establish gender equality within Nepal's citizenship framework. This report explores the gap between legal intent and lived experience, highlighting the procedural and social barriers that continue to impede women's equal access to citizenship rights. The focus is particularly sharp on situations where a father's identity is unknown or contested, scenarios that reveal the stark contrast in treatment between children born to Nepali fathers and those born to Nepali mothers.

Beyond a matter of legal equity, the status of women's citizenship in Nepal directly impacts the nation's ability to achieve its Sustainable Development Goals (SDGs). Specifically, the unequal practices that hinder women's ability to confer citizenship undermine SDG 5, which calls for gender equality and the empowerment of all women and girls, and SDG 16, which promotes inclusive societies and access to justice. By restricting women's ability to secure citizenship for their children, Nepal perpetuates cycles of marginalization and impedes progress toward a more just and equitable society.

This report is presented in three parts. The first part describes the national and international legal framework of citizenship rights in Nepal. It highlights how there are disparities in the law pertaining to women's rights to access and transmit citizenship. The second part presents an empirical analysis of the status of implementation of citizenship laws in 2024. It highlights the major concerns reported by stakeholders including service seekers and government representatives. The third part discusses factors: legal, cultural and organisational that appear to explain why disparities, along the lines of gender, persist in the implementation of citizenship laws. Finally, the report concludes with recommendations to address challenges.

This report seeks to offer a deeper look at not just legal but social and organisational factors that may be affecting decisions to grant citizenship. Therein lies its unique contribution in lending additional perspective to the important corpus of studies carried out and recommendations made by other civil society organisations working in this area. Finally, the report concludes with recommendations to address challenges.

METHODOLOGY

This study is a modest attempt to assess the status of the implementation of citizenship laws. This report is an outcome of data collected from key stakeholders engaged in the process of obtaining or granting a citizenship certificate. These included service seekers, representatives of local governments, representatives of the MOHA at the ministerial level and the District Administration Office (DAO). The following were the key steps undertaken:

a. **Desk Review:** Laws, policies, reports, newspaper articles and case law pertaining to citizenship were collected and studied. Cases decided by the Supreme Court of Nepal have been instrumental in complementing citizenship related laws. These judgments, on the one hand, provide interpretation to existing legal provisions lending clarity in areas where the language of the statute is unclear. On the other hand, court decisions contain orders issued to the executive government about service delivery. In this report Supreme Court case law has been discussed in areas identified as challenges to implementing the citizenship related legal provisions by the research participants. Case law was selected according to their relevance to the subject matter. Only cases decided after the promulgation of the Interim Constitution of Nepal 2063 (2007) were studied. This is because the provisions in the 2063 (2007) Constitution and the Constitution of Nepal 2072 (2015) are similar in terms of rights to citizenship.

b. **Focus group discussions (FGDs):** Field visits were conducted in two wards of Godavari Municipality in Bagmati Province. Godavari Municipality was selected as a site for field research as Citizenship Affected People's Network (CAPN) has been working with these local governments. Whilst this research site will not depict the complexities of citizenship across Nepal, particularly in the Madhesh province, it will highlight some major challenges faced in the hill areas of Nepal.

   In each ward, two FGDs were conducted. The first FGD was with service seekers, most of whom are struggling to obtain their citizenship or birth certificates at the time of research. There were also some representatives from civil society organizations. Following the FGD with service seekers, a FGD with the officials of the Ward was conducted in each Ward. The logic of sequencing FGDs firstly with service seekers and then with service providers was to enable the research team to understand responses to 'real ongoing problems' discussed by the service seekers. In the four FGDs conducted in the two wards there were 32 participants. Participants were selected on the basis of purposive sampling: CAPN and Ward representatives used their experience and familiarity in the area to identify participants who would be able to speak about the issue of citizenship and birth certificates.

c. **Key Informant Interviews (KII):** Following the FGDs, KII were conducted with government officials working at different levels of the MoHA. The findings from the FGDs and the literature review informed the interview questions. In depth interviews were conducted with three staff members of MoHA. Participants were selected on the basis of purposive sampling.

   Consent to participate in the FGD and KII was taken in written form where possible and otherwise orally from participants. To ensure confidentiality, all identifiers that may link the data to the respective participant have been anonymized in this report.

PART-I
LEGAL FRAMEWORK FOR RIGHTS TO CITIZENSHIP

Brief Outline of the Citizenship Laws in Nepali Constitutions

The Nepali state has operated under seven constitutions since 1950, and provisions related to citizenship under different citizenship laws[1] enacted between 1854 – 2006. For over a century the consistent legal provision under Nepali citizenship laws has been that a Nepali man, holding a Nepali citizenship certificate can transmit his citizenship to his child and his wife. Nepali women however have had muted rights. For example, a foreigner who marries a Nepali woman can never acquire citizenship through his wife's citizenship status. Furthermore, the ability of Nepali women to transmit citizenship to their children has been inconsistent across different constitutions and generally curtailed by supporting citizenship laws. For example, the pre- Panchayat Citizenship Act of 1952 and the Constitution of Nepal 1962, promulgated during the Panchayat era, provided a progressive provision allowing either the mother or father to transmit their citizenship to their children. However, the subsequent Nepal Citizenship Act 1964 stipulated that only fathers can transmit citizenship to their children. The Constitution of Kingdom of Nepal 1990, which heralded the advent of democracy in Nepal, regressed in essentially stating that a Nepali child cannot acquire citizenship without the father. The mother was an ancillary, recognized by law but incapable of transmitting her citizenship to her children. Through advocacy from civil society organisations, feminists, human rights groups and lobbies within the membership of political parties the constitutions enacted under the new republic in 2006 and 2015 made some attempts to equalise women's standing in citizenship. Both constitutions provide that under specified conditions women can confer citizenship to their children: Nepali men in turn are not subject to these conditions.

Legal Framework for Nepali Citizenship Under the 2015 Constitution

The Constitution of Nepal 2015 prohibits conditions amounting to statelessness of an individual by stating that citizenship is a right of every Nepali[2]. The Constitution provides four categories of citizenship: i. citizenship by descent; ii. citizenship by naturalisation; iii. honorary citizenship; iv. citizenship for non- resident Nepalis. The category of citizenship by birth[3] seen in the Interim Constitution of Nepal 2063 (2007) has been removed.

The following are the key stipulations pertaining to citizenship in the 2015 Constitution. It is worth noting that the impediments continue around women's right to citizenship.

Citizenship by descent

Citizenship by descent is rooted in the principle of jus sanguinis (citizenship through bloodline). Citizenship by descent in Nepal ensures that children of Nepali parents automatically inherit citizenship.

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[1] Muluki Ain, 1910 (1854); Nepali Citizenship Act, 2009 (1952); Nepal Citizenship Act, 2020 (1964); Nepal Citizenship Act, 2063 (2006).

[2] Constitution of Nepal, 2072 (2015), Preamble, Article 10 states "No citizen of Nepal shall be deprived of the right to obtain citizenship".

[3] Citizenship Act, 2063 (2006) included a "Citizenship by Birth" provision. This granted citizenship to anyone born in Nepal before April 13, 1990, regardless of their parents' nationality, provided they were permanent residents. Intended to reduce statelessness, particularly among Madheshis, this provision became highly controversial due to fears it would primarily benefit Indian immigrants.

Citizenship by descent holds the highest status under the Nepali constitution. This is because only those holding this type of citizenship are eligible for the nation's most prominent positions, including President, Vice-President, Prime Minister, Chief Justice, Speaker of the House of Representatives, Chief of Province, Chief Minister, Speaker of a Provincial Assembly, and the heads of Nepal's security forces (Nepal Police, Nepal Army, and Armed Police Force)[4]. The following are the key provisions pertaining to citizenship by descent

- A child found within the territory of Nepal whose parents' identity is unknown will as a default be granted Nepali citizenship by descent. If the child's father turns out to be a foreigner, then the child's citizenship will be converted to citizenship by naturalisation. Conversely the law is silent about what will happen if the child's father remains unknown but the mother turns out to be a foreigner. Notably if the child's father turns out to be a Nepali but mother a foreigner the child retains the citizenship by descent.
- A Nepali woman and a Nepali man can both transmit citizenship by descent to their children. The caveat applicable for Nepali women in this respect is that in order to transmit a Nepali citizenship by descent to their child, the woman's husband/the child's father must be a Nepali citizen.

Citizenship through Naturalisation

Principally, citizenship through naturalization is a process that allows non-citizens to become full members of a country. Citizenship by naturalization, granted primarily to foreigners; is not a right but a discretionary provision of the government, and although it integrates an individual as a member of the state, it remains limited in scope, restricting access to high-ranking positions in the government[5].

The constitutional framework for a naturalised citizenship includes:

- A foreign woman married to a Nepali citizen man is eligible to apply for naturalized citizenship. The foreign spouse can obtain a Nepali citizenship through her Nepali husband. Conversely, a Nepali woman cannot transmit citizenship to her foreign spouse. The said foreigner is eligible for naturalised citizenship in the same manner as any other foreigner who seeks this status[6]. In other words, unlike for a foreign spouse of a Nepali man, the marriage to a Nepali woman makes no difference for the application of citizenship through naturalisation.
- If a Nepali woman marries a foreign spouse, her child, if resident in Nepal, is only eligible for citizenship by naturalisation. This is in contrast to the children of Nepali fathers and foreign mothers who are eligible for citizenship by descent.

Honorary Citizenship

- The government can grant honorary citizenships to any individuals as a mark of distinction[7]. The criteria for honorary citizenship must be stipulated in federal laws.

Non- Resident Nepali Citizenship

- Nepalis living outside South Asia are eligible to apply for non-resident Nepali citizenship. Notably, the exclusion of individuals living in South Asia limits the rights of migrant workers.

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[4] Constitution of Nepal, 2072 (2015), Article 289 (1).

[5] Ibid

[6] Citizenship Act, 2063 (2006), Section 5(4) states that to qualify, applicants must meet several criteria, including language proficiency, long-term residence in Nepal, renunciation of previous citizenship, good conduct, and eligibility for reciprocal citizenship under the laws of their home country.

[7] Citizenship Act, 2063 (2006), Section 6.

Recent Amendments to Citizenship Laws

The Constitution establishes the framework for citizenship, while the specific laws define the rights associated with citizenship and the procedures for obtaining it. The Citizenship Act 2006 was enacted under the Interim Constitution of Nepal 2006. This law, with its regulatory framework (vis the Citizenship Regulation 2006) was not amended to align with the present constitution of 2015, until 2022. The amendments proposed in 2018 met with political debate and backlash resulting in several incidences of amendment-tabling and amendment-withdrawal. In 2022, some significant amendments to the law were passed followed by amendments to its supporting Regulations. This breakthrough[8] was heralded by the champions of women and minority rights as a step in the right direction on several fronts.

- It paved a legislative way for children of individuals who obtained citizenship by birth before 1990 to acquire citizenship by descent, closing a legal loophole that affected an estimated 190,000 people.[9]
- It made provisions for children born to Nepali mothers and unidentified fathers to obtain citizenship by descent. This would require only a self-declaration by the mother stating that the father is unidentified/his whereabouts are unknown. Interestingly, and what most women rights advocates/activists point out to be a regressive step, if a mother and her child is found to have misrepresented the identity/whereabouts of the father in their self-declaration, both mother and the child would face a criminal sanction of between one-three years of imprisonment and/or Rs. 100,000- 300,000 fine. The law does not require a similar declaration from a Nepali father if the mother's whereabouts is unknown.
- It included the provision to have both the mother and father's name indicated on a citizenship certificate. It also provided space for the indication of the wife's name. Historically citizenship certificates only included the names of the father and the husband.
- It allowed for the gender identity to be amended in the citizenship certificate. This targeted the transgender population who sought to have the gender they identified within the citizenship certificate.
- It introduced a pathway for NRNs residing outside South Asia to acquire Nepali citizenship, although without political and administrative rights.
- The amendments also included progressive provisions allowing an applicant to choose the surname of either parent.
- It made legal provisions for children found in the territory of Nepal, whose parents' identity/ whereabouts is unknown, to acquire citizenship by descent.

Nepal's Obligations under International Human Rights Treaties

Nepal has legal obligations to confer citizenship through the women on an equal basis as men and prevent statelessness as part of its obligations under international human rights law. While Nepal has not ratified the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness, it has made significant commitments through other international treaties. Critically, Nepal has ratified both the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) without reservations. These treaties provide a robust legal framework for gender equality in nationality laws and the prevention of childhood statelessness.

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[8] For instance, in July 2022, the bill to amend the Citizenship Act 1964 was passed by both Houses of Parliament and sent to President Bidya Devi Bhandari for ratification. The following month, August 2022, President Bhandari returned the bill to the Lower House, led by Prime Minister Sher Bahadur Deuba. In September 2022, Parliament passed the bill again without changes, but President Bhandari allowed the ratification deadline to lapse, effectively voiding the bill due to a lack of formal authentication. In March 2023, Ram Chandra Poudel succeeded Bhandari as President. Finally, in May 2023, President Poudel authenticated the bill on the recommendation of the Council of Ministers.

[9] Anil Giri, Everything You Need to Know About New Amendment to the Citizenship Act, KATHMANDU POST, July 25, 2022

The Universal Declaration of Human Rights (UDHR), 1948, serves as a cornerstone of international human rights law. Article 15(1) of the UDHR asserts that "everyone has the right to a nationality," a principle, Nepal, as a signatory, is obligated to uphold. The UDHR underscores that nationality is fundamental to individual dignity and access to other rights.

Article 9 of CEDAW explicitly states that "States Parties shall grant women equal rights with men to acquire, change or retain their nationality" and "States Parties shall grant women equal rights with men with respect to the nationality of their children." Similarly, Articles 7 and 8 of the CRC affirm a child's right to acquire a nationality and to preserve their identity, including nationality.

The Treaty Act, 1990, Section 9(1) of Nepal's domestic law plays a critical role in elevating the status of international human rights law. This act stipulates that "In case of the provisions of a treaty, to which Nepal or the government of Nepal is a party upon its ratification, accession, acceptance or approval by the Parliament, is inconsistent with the provisions of prevailing laws, the inconsistent provision of the law shall be void for the purpose of that treaty, and the provisions of the treaty shall be enforceable as good as Nepalese laws." This means that CEDAW and CRC, once ratified, should take precedence over conflicting national laws.

Despite its commitments under international human rights law Nepal remains one of 24 countries globally that discriminate against women in their ability to confer nationality on their children on an equal basis with men.[10] Furthermore, it is among over 60 countries that deny women equal rights with men to acquire, change, or retain their nationality, and to confer nationality on their non-national spouses[11], directly contravening Article 9(1) of CEDAW.

CEDAW further reinforces these principles, imposing significant obligations on Nepal to ensure gender equality in nationality rights. Article 2 of CEDAW mandates that states embed gender equality in their national legal frameworks, eliminating discriminatory practices. General Recommendation No. 21 of CEDAW emphasizes that nationality is essential for full participation in society and calls for the elimination of laws that deprive women of their nationality due to marital status. Additionally, General Recommendation No. 32 of CEDAW highlights the gendered dimensions of statelessness, particularly affecting women and girls.

The CRC also plays a crucial role in protecting children's rights. Article 7 of the CRC ensures a child's right to acquire a nationality, emphasizing the need to prevent statelessness. Joint General Comment No. 4 (2017) by the Committee on Migrant Workers and General Comment No. 23 (2017) by the Committee on the Rights of the Child further address the rights of children in the context of migration and statelessness, calling for the repeal of discriminatory nationality laws.

The International Covenant on Civil and Political Rights (ICCPR), 1966, and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 1965, provide additional layers of protection. Article 24(3) of the ICCPR affirms a child's right to nationality, while Article 26 ensures equality before the law without discrimination. CERD, particularly through General Recommendation No. 29, addresses caste-based discrimination, which is relevant in Nepal's context.

Overall, while Nepal has made significant international commitments, its national laws and practice (as discussed in part II) are not fully in alignment with these obligations.

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[4] U.N. High Comm'r for Refugees, *Background Note on Gender Equality, Nationality Laws and Statelessness 2015 (Mar. 6, 2015)*, https://www.refworld.org/docid/54f8369b4.html.

[11] Inst. on Statelessness & Inclusion, *Nepal: Joint Submission to the Human Rights Council at the 23rd Session of the Universal Periodic Review (2015),* https://files.institutesi.org/NepalUPR2015.pdf

The Importance of Citizenship Certificate

In Nepal, the citizenship certificate is arguably the most important documentation. The 2015 Constitution guarantees 31 fundamental rights, encompassing civil, political, and socio-economic rights. However, of these, only 14 are accessible to non-citizens; the remaining 17 rights are exclusively for Nepali citizens. Although there is no explicit logic presented in the law of how these rights are divided, it appears that only citizens have rights pertaining to social welfare such as education, healthcare, food, employment and housing. Moreover, the right to equality and adult franchise is only enjoyed by citizens.

Constitutional scholars propose that the fundamental premise of the Nepali constitution is one of 'limited government'.[12] The power to limit government is conferred to citizens as opposed to non-citizens. The Supreme Court tested this issue in an older case of *Benjamin Peter v. Ministry of Home Affairs et al*.[13] The court's ruling determined that the legal provisions for a foreign husband of a Nepali citizen woman need not be equivalent to those for a foreign wife of a Nepali citizen man. This decision effectively established citizenship as an exception to the right to equality, granting the government total authority over the administration of non-Nepali citizens within Nepal's borders.

The exemption from the rights to equality for non-citizens is crystallised by the stipulation in Article 18 of the Nepal's constitution (2015). This provision has far reaching consequences beyond exempting foreigners with identities of other countries. It works to exclude hundreds of thousands of people within the territory of Nepal, who are essentially Nepali but do not hold citizenship certificates, from accessing essential services.

In Nepal, lacking citizenship severely restricts daily life. Individuals without it cannot enrol in universities, access health insurance or social programs (like disability allowances), secure employment, pay taxes, open bank accounts, obtain a driver's license, transact assets like land/shares, or obtain a passport for international travel.

Meanwhile it is worth noting that, for the most part, an individual is not required to produce a citizenship certificate to bring lawsuits amounting to civil or criminal action. The Muluki Civil Code 2017 that provides provisions on matters of family, divorce property, lending, transactions, contracts within its 21 chapters allows citizens and noncitizens to bring lawsuits. Contrary to popular belief, legally a person without a citizenship certificate can file a case for property inheritance.[14] Whilst an individual without a citizenship can be awarded property titles, s/he will ultimately require a citizenship to own property.

The Muluki Civil Procedural Regulations 2018, which is the supporting regulations of the Muluki Civil Code, lays out detailed procedure required to give effect to rights and duties established by Nepal's civil law requires proof of identity. The following are the areas in which documents that prove the identity of a person are required. The law states that this may be citizenship or any other proof of identity.

- To register a deed of financial transaction in court.[15]
- If a court declares someone deceased or missing, and that person is later found alive, they must provide identification to overturn the court's previous ruling.[16]
- To conclude a rental agreement.[17]

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[12] BIPIN ADHIKARI, SALIENT FEATURES OF THE CONSTITUTION OF NEPAL, 2015 (Nepal Consulting Lawyers Inc., 2016).

[13] *Benjamin Peter v. His Majesty's Government, Ministry of Home Affairs & Others*, N.K.P. 2048, Sec. 11, at 749 (S. Ct. Nepal 1991).

[14] Cases for divorce can be brought without a marriage registration in Nepal.

[15] Muluki Civil Procedural Regulations, 2075 (2018), Rule 6(11).

[16] National Civil Procedure Regulation, 2075 (2018), Rule 60(2), Annex 22.

[17] Muluki Civil Code, 2074 (2017), Sec. 386

A citizenship certificate is mandatory for the following:

- To register a marriage. Citizenship certificates along with birth certificates are mandatory for this.
- To certify documents establishing someone as a carer (i.e., a person with custody or guardianship of an individual requiring care). The carer must submit their own citizenship along with the birth certificate and other identities of the person receiving care.[18]
- To apply for employment in any government or public office. Moreover, Nepali labour laws stipulate that employees must hire Nepali citizens as first priority. Employers require special permission to hire foreigners. Thus, private sector employers also require proof of Nepali citizenship.
- To grant power of attorney. The person assuming power of attorney must furnish their citizenship number.[19]

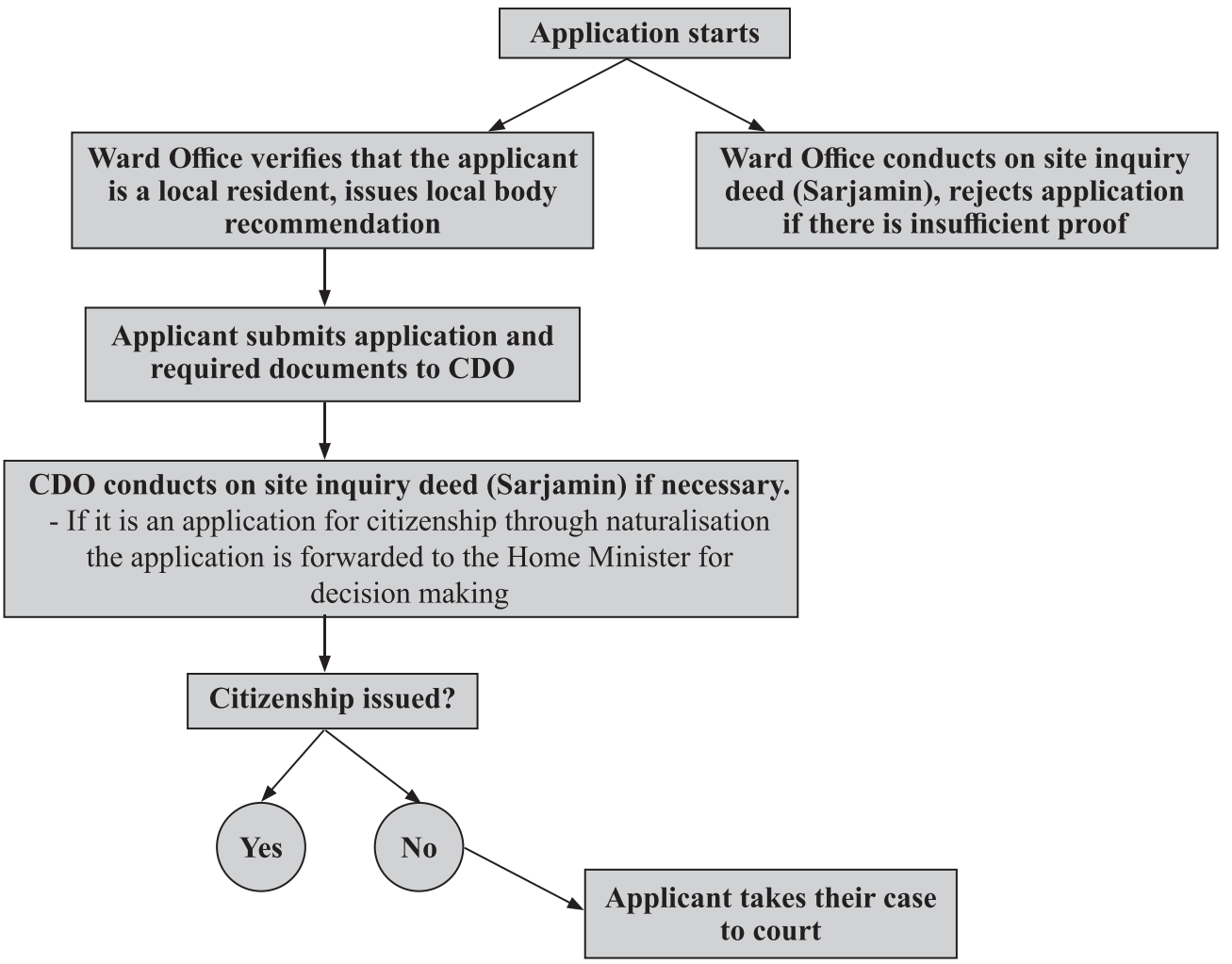
[18] *See supra* note 12.

[19] Id., Rule 65(1), Annex 45.

PART II
IMPLEMENTATION OF CITIZENSHIP LAWS

Following a description of the legal framework in part I, this part will turn to discuss the empirical findings about the status of implementation of citizenship laws. As will be discussed in this section, applicants for citizenship face barriers and challenges in different stages of citizenship processing.

In the application for a citizenship certificate an applicant must submit several documents, namely: a citizenship application form, citizenship certificates of the mother and father, parent's marriage certificate,[20] applicant's birth certificate, and certificates from the applicant's school or educational institution. 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 firstly 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. 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). The head of the DAO – the CDO has authority to recheck the information provided by the applicant and the local Ward. Ultimately, the CDO has the authority to decide whether or not to grant citizenship. For applications for citizenship through naturalisation the decision is made by the Home Minister instead of the CDO.



The section will now turn to discuss the various types of citizenship applications, and the complexities associated with them.

[20] Although this is not a requirement under law, applicants are asked to furnish this document.

Citizenship Conferred Through a Nepali Father in Possession of a Citizenship Through Descent

There was consensus in the FGD and KIIs that obtaining citizenship via a father who holds a Nepali citizenship through descent is a straight-forward undertaking. In cases where the father supports the child's citizenship application, representatives of the local government felt confident to provide the required endorsements and recommendations for one to get a citizenship certificate. Similarly, once the father showed up physically at the DAO to certify that the applicant child is his, the CDO was comfortable in issuing the citizenship certificate. While Nepali citizenship certificates require both parents' names, if an applicant lacks documentation for their mother, that information is simply left blank on the certificate. This omission of information about the mother does not prevent the citizenship certificate from being issued.[21]

Children born abroad to Nepali fathers automatically acquire Nepali citizenship by descent, irrespective of the mother's identity. However, children born abroad to Nepali mothers whose fathers are unknown face a legal gap. According to a participant representing the MoHA, Nepali law currently provides no pathway to citizenship for these children, a situation disproportionately impacting female migrant workers in the Middle East who are victims of sexual violence. These women endure immense trauma stemming from abuse. Additionally, their children face the ongoing hardships of statelessness.

Citizenship Through a Nepali Mother

The ease with which citizenship certificates are issued to children of Nepali fathers is a stark contrast to the difficulty with which citizenship through the mother is obtained. This section of the report will discuss the key scenarios, highlighted by participants, in which service seekers have struggled to get citizenships. The discussion will also be supplemented by the views of government authorities where relevant.

Citizenship through a mother when a father's identity is unknown

Representatives of the local government and MoHA had a uniform understanding that a child can only get citizenship from the mother if the identity or whereabouts of the father is unknown. This view overlooks the stipulation in Article 11(2)(b) of the Constitution that renders 'any person whose father or mother was a citizen of Nepal at the birth' eligible for a Nepali citizenship'.

In cases where the citizenship application has to proceed through the mother's details due to the inability to track the father, participants said they followed legal procedures to process applications. The Citizenship Act (2063) 2006 provides that the mother should submit a self-declaration that she does not know the whereabouts of the father. However, the difficulty emerges as Nepali law does not define or provide clear guidelines about the criteria needed to ascertain that an individual's status is 'whereabouts unknown'. A representative of the MoHA identified the two most common scenarios pertaining to an 'unknown father':

i. The woman does not know who the father is.
ii. The woman knows the identity of the father, but he has been out of contact at some stage of the child's life and now his whereabouts are unknown. This scenario may occur due to a variety of reasons such as the father cutting contact, going to a foreign country and being unreachable, maintaining a distance with the mother of the child due to animosity between the couple, amongst others.

[21] In fact documents like driver's licenses and banking documents make it mandatory to include the father's name. There are no provisions in these documents to include only the mother's name even if the citizenship certificate has been obtained through the mother.

In both cases there are official procedures undertaken by the local government and DAO to ascertain that the woman is telling the truth. This process called the *sarjamin* involves verifying the woman's status through inquiry in the local community where she is resident. For the *sarjamin* local residents of the area are assembled to testify that the whereabouts of the father of the citizenship applicant is truly unknown. Reportedly the number of local witnesses participating in the *sarjamin* have varied with between two to seven local residents signing the deed. All signatories were required to produce a certificate of Nepali citizenship. If the Ward office under the local government is convinced by this undertaking it will certify on the citizenship application that the father's whereabouts are unknown.

The CDO then has full discretion on whether or not to accept the woman's proclamation that she does not know the whereabouts of the child's father. In case the CDO does not accept the application it may:

- Request the Ward to carry out another *sarjamin*
- Order that the police ascertain through inquiry with the locals that the woman is telling the truth. Therefore, the police undertake another *sarjamin*.

A Ward representative cited the following example to justify why they exercised heightened caution in accepting the *sarjamin.*

> *'There was a case of relationship verification where a woman claimed to be the wife of a man and performed his final rites. This act led the local community to believe her claim, and they agreed to serve as witnesses in the sarjamin report. However, it was later discovered that the woman was not the man's actual wife and had pretended to be so in an attempt to acquire his property.'*

Notably it is unclear whether the local residents who signed the first verification document are at all eligible to sign verifications re-ordered by the CDO. Participants in the study could not give a clear answer in this respect and indicated it depends on the discretion of the personnel authorising the *sarjamin*. Moreover, if different residents are required, it immediately flags a logistical problem of finding people who know the applicant and are willing to vouch for her.

Socially the undertaking of inquiry in the woman's area of residence can be damaging to the privacy of the woman and her child. Within Nepal's patriarchal value system, a single woman, outside the protection of her husband, is already vulnerable. The public revelation of the fact that a child's father is unknown can lead a community to think that a woman is of loose moral character. It may deem a child illegitimate and thus compromise his/her standing in society. Moreover, the woman may also incur more risk of unsolicited advances from other men owing to her status of singlehood.

Legally it is interesting that the DAO goes to lengths to ascertain that a woman is telling the truth. This is in light of legal provisions that do not place liability on a CDO that believes the woman, provided procedure has been followed. Rather, the Citizenship Act 2063 (2006) holds the woman who might be misrepresenting the whereabouts of the child's father criminally liable.

The Complexity of the Birth Certificate

A birth certificate is a mandatory requirement for obtaining a citizenship certificate. As enshrined in Article 39 of the 2015 Constitution, under the rights of children, birth registration is a fundamental right in Nepal. This registration process is handled by the Ward offices of local governments.

The National Identification and Civil Registration Act, 2020, in Section 18 mandates birth registration at the local ward office within 35 days of the child's birth. This notification must be provided by the parents or, if they are unavailable, by a family member over 18 years old. The 2021 Regulation of the corresponding Act in Regulation 16 (2) further stipulates that a guardian or curator can act as the informant (*suchak*) if no such relatives are available. In the case of an orphan without a guardian or curator, the ward chairperson can fulfil this role and register the birth.

Representatives of the local government stated that the birth certificate needs to be issued from the permanent address of the father and mother. If local bodies had to choose, they would prefer the address of the father. Even when issuing a birth certificate through the mother, the legal requirements remain stringent. The ward office on the mother's side must verify that the child has not already been registered in the father's ward if the parents are divorced[22]. In cases where the father is unidentified, the mother must provide a police report affirming the same, placing an additional administrative burden solely on her[23]. The process of issuing a birth certificate from the permanent residence of parents requires travel to the said location for many people whose livelihood is based outside such permanent address. Travel costs can be prohibitive:

> *They told me to bring my birth certificate from the place I was born. My parents and my husband's family are all squatters. The birth certificate needs to be processed in Simara [Bara district, Madhesh province], but I cannot afford to travel there.*

Birth certificates through the mother's permanent address are only issued as a last resort, especially in the case of divorce. Even in this situation, the administrative burden increases: the local ward office of the mother must actively confirm with the father's ward office that the birth has not been previously registered there. This mandatory cross-validation is notably not required when the father registers the birth at his permanent address in the case of divorced parents. If the birth certificate is issued at the father's address but the mother moves her residence to another address, there are additional challenges posed to acquire further documentation because of lack of clarity in the law to govern this scenario.

A FGD participant explained the birth certificate issuance process as follows. Parents are generally required to bring their marriage certificate and hospital records to the ward office. However, if they lack a marriage certificate, they can still obtain a birth certificate by visiting the ward office and affirming their parentage. In these cases, hospital records and vaccination cards suffice. While only one parent needs to collect the certificate, information about both parents is mandatory for record-keeping. If the father's identity is unknown, the ward office may request a police investigation through *sarjamin* to verify the provided information. This verification process is not initiated if the mother is absent.

This legal framework fails to adequately address situations involving void marriages (e.g., incest, rape, child marriage and polygamy) where the biological father is known, but the marriage is invalid. In such instances, the mother is legally prevented from registering the birth at her permanent address because the situation does not qualify as divorce or a case of an unknown father, ultimately forcing the child's registration to occur at the father's ward office, even against the mother's wishes or needs.

However, a circular issued on 5 April 2023 by the Department of National ID and Civil Registration attempted to remedy some of these gaps. The circular clarified that the mother's surname at the time of childbirth and her own address should be used for registering the birth of children in such complex situations. The circular further states that children living with their divorced mothers, as well as children born to women serving prison sentences, must be allowed to obtain citizenship using the mother's address at the time of birth[24]. Despite this corrective measure, practical implementation remains inconsistent, and many mothers continue to face barriers when attempting to register their children independently.

Another unique complication identified during the KII and FGDs with Ward representatives and MoHA officials revealed that birth registration becomes complicated when the father's identity is in question. They noted that including the father's name on the birth certificate necessitates the father's endorsement of the child's citizenship application later on. If the father is absent from the child's life and his whereabouts are unknown, the CDO has the discretion to accept or reject the mother's declaration of the father's unknown status. A MoHA official explained this as follows:

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[23] National Identity Card and Civil Registration Rules (2077), Rule 16 (9).

[23] National Identity Card and Civil Registration Rules (2077), Annex 10

[24] *Government revises circular on Birth Registration after public criticism*, THE KATHMANDU POST, April 9, 2023

The woman may have indicated just the first name of the father on the birth registration certificate. Or the man may have lied about his name, his identity and this appears on the birth certificate. Once the father's name is on there we will try and find him. We will correspond with the local government; we may send the police to search for him. This process of trying to locate the father is up to the discretion of the CDO. Some may engage in it. After ascertaining the father cannot be found they may issue a citizenship through the mother. Others won't bother and so the child will not get citizenship.

In contrast, officials stated that it was comparatively easier for a child to get citizenship through the mother if the father's name does not appear on the birth certificate. However, as a participant explained removing a father's name has legal obstructions:

The National Identification and Civil Registration Act, 2076 only allows a period of one year from issue for the birth certificate to be amended. If the father has gone out of contact after a few years of the child being born, the law will not permit the mother to make an amendment to the birth certificate and remove the father's name.

The findings of the FGDs showed that women do not have the authority to decide to name or not name a father on the birth registration certificate. If she withholds information about the father, yet his name has appeared on other official documents such as a divorce petition or lawsuit, she can be held criminally liable for misrepresentation and fraud. Moreover, government officials providing service may refuse to issue a birth certificate without a father's name. A respondent in the FGD explained this as follows:

If anyone comes for birth registration and does not wish to include the father's name in the birth certificate, I refuse to proceed with the registration. I was even transferred [implying she faced some disciplinary action from her line Ministry] due to one such case. In my view, every child has the right to have their father's name included in their birth certificate. This ensures that they can easily receive citizenship certificates and also claim the rights to partition share in their father's property in the future. I believe disputes between a husband and wife, even in cases of separation, should not affect the child's rights. Moreover, if I omit the father's name from a child's birth certificate and the father later demands an explanation (as it is his right), I cannot take accountability for it.

Therefore, the inclusion of the father's name on a birth certificate creates a critical complication for a child's subsequent citizenship application, as it legally necessitates the father's endorsement, trapping the child in an uncertain process reliant on the discretionary effort of a CDO to locate an absent father. At the same time, the mother is legally obstructed from later removing the father's name or deciding whether to include it in the first place. Mothers are instead faced with potential criminal liability for fraud if they attempt to do so and encounters resistance from officials who believe including the father's name is necessary to protect the child's future rights to citizenship and property.

Citizenship from a Mother When the Father Refuses to Support the Application

This study found that there are cases where the father's identity is known yet he refuses to support his child's application for citizenship. In these cases, Ward officials stated that they would try their best to convince the father to appear for the citizenship procedure. If the father was non-compliant both the Ward officials and MoHA representatives explained they could seek assistance from the police to bring a non-cooperative father to the Ward office and/or DAO. Relatives of the father such as his brothers could also come in lieu of the father and provide the needed attestation of the child's paternity.

As there is a total emphasis on granting citizenship certificates through the father, it is a requirement that children process citizenship applications at the address of their father. This practice however becomes prohibitive because of travel costs, particularly for applicants with disabilities and/or from disadvantaged socio-economic backgrounds. A participant explained this below:

A 23-year-old with an intellectual disability… the Ward issued a document that mentions her date and country of birth. We know that she is originally from Doti, however, for someone who is scared of climbing up the stairs on her own, taking her to a place so far away to issue her identifying documents seems near impossible.

A MoHA representative explained that when the father is not cooperating to support a citizenship application, the child is legally entitled to acquire Nepali citizenship through the mother. However, the CDO has sole discretion in deciding whether to accept a citizenship application based on the mother's address, through engagement by her side of the family to fulfil procedural requirements. Oftentimes, maternal relatives in lieu of paternal ones to attest paternity are seldom accepted. Even in instances where the paternity is stipulated in court documents such as divorce papers, the CDO may/may not allow the citizenship application to go through in the absence of the father.

The prevailing official interpretation that Nepali citizenship can only be inherited from a Nepali father subverts a constitutional provision (Article 11(2)(b))) that clearly stipulates that citizenship can be equally transmitted from Nepali mothers. This stance of government authorities to subvert the maternal line in the citizenship processes is insensitive towards the needs of women and children who may wish to maintain separation from the father due to serious reasons such as abuse or violence. The requirement to mandate the presence of the father to issue citizenships consolidates a deeply patriarchal view that a father's identity and approval is indispensable for the identity of the child and the mother's role is secondary.

Citizenship Status of Nepali Women with Foreign Spouses

Nepal's citizenship laws reflect deeply rooted gender disparities, particularly in cases involving Nepali women married to foreign nationals. The citizenship provisions within the Constitution of Nepal and the Citizenship Act are not applied equally to men and women, resulting in systemic discrimination.
Under existing laws, foreign women who marry Nepali men are eligible to acquire Nepali citizenship through naturalization. Furthermore, Nepali men are permitted to confer their citizenship not only to their foreign spouses but also to their children, without significant legal or procedural obstacles. In contrast, Nepali women married to foreign men are not granted the same rights. Foreign men do not qualify for citizenship through marriage to Nepali women and must instead pursue naturalized citizenship through a residence-based process. This unequal treatment highlights the patriarchal underpinnings of the legal framework, where men's identities are prioritized in the transmission of citizenship.

The inequality is further evident when examining the citizenship status of children born to Nepali women and foreign fathers. According to Article 11(2(b)) of the Constitution of Nepal, a person whose father or mother is a citizen of Nepal at their birth is entitled to citizenship by descent. However, children born to Nepali fathers and foreign mothers are granted citizenship by descent, while children born to Nepali mothers and foreign fathers are relegated to naturalized citizenship, which carries fewer rights and privileges. This distinction undermines the principle of gender equality and effectively creates a hierarchy of citizenship based on the parent's gender.

The Citizenship Act mirrors these constitutional inconsistencies. While under Section 3 it states that a person whose either parent is Nepali shall be eligible for citizenship by descent, it also explicitly excludes children born to Nepali mothers and foreign fathers from this category under Section 5(2). As a result, despite the mother's Nepali nationality, her children are not considered eligible for citizenship by descent solely due to the father's foreign status. Similarly, while the Act allows foreign women married to Nepali men to apply for naturalized citizenship, no such provision exists for foreign men married to Nepali women, reinforcing the gender bias in the law.

These legal provisions not only violate the constitutional guarantee of equality but also perpetuate the marginalization of Nepali women and their families. The inability of Nepali women to fully transmit their nationality to their spouses and children reinforces their secondary status under the law and has far-reaching consequences for their dignity, identity, and access to rights.

Access of Married Women to Citizenship

In Nepal if a woman is married and does not have citizenship the official position is that the husband is required to support her application for citizenship. This is even if the woman's parents are both Nepali citizens.

The Citizenship Certificate Distribution Procedure Directives 2006 in Section 4(5) imposes extensive requirements for married women seeking citizenship in Nepal. These women must submit documents, such as a marriage registration certificate, their husband's or father-in-law's citizenship certificate, and letters of support from family members. While marriage registration formally requires the prior presentation of a citizenship certificate, in practice ward officials have been found to issue the marriage certificate and the wife's citizenship simultaneously when the husband's citizenship is presented. Additionally, they may also need to produce the citizenship certificate of their own father, mother, or brother. In practice, however, if the husband accompanies his wife with his proof of citizenship and supports her application the citizenship application is processed without difficulty.

In cases where the husband or father-in-law is unwilling to support the woman's citizenship application, she will face significant hindrances in obtaining a citizenship. This is even though there is nothing 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. A study participant explained how an absent husband in case of a married woman's citizenship application is deemed as a risk by officials:

> *A few days ago there was a case where we issued a recommendation to a married woman through her maternal parents' home, having her birth parents as the witness. However, we find such cases to be risky in case anyone comes here demanding why we issued a recommendation for citizenship certificate.*

This discretionary power, coupled with a prevailing, though undocumented, practice within MoHA, often creates a barrier for women. This customary practice, which isn't formalized in any official MoHA circular, was corroborated by a local government representative:

> *The DAO has verbally instructed us that, in cases where the applicant is a married woman, recommendations for citizenship should only be issued from her husband's address and not her maternal home address.*

Tying a married woman's citizenship certificate to her husband's consent forces women to remain in potentially abusive and violent marriages. This requirement also severely undermines women's independence, as lacking their husband's support effectively blocks their access to citizenship, which in turn limits their opportunities for employment, financial independence and participation in public life.

Citizenship for a woman married to a foreign man

The practice that a married woman requires the husband's support for citizenship has particularly worrisome consequences for women married to foreign spouses. If a Nepali woman does not have a citizenship certificate and is then married to a foreigner, she will not be able to get a Nepali citizenship. The status of her lineage being Nepali will have little significance for the purposes of her citizenship.

Citizenship for Children Found in the Territory of Nepal

In order to prevent statelessness of Nepali children, Article 11 of the Constitution provides that until their parentage is ascertained, children found in the territory of Nepal can get Nepali citizenship by descent. This provision is an important safeguard in preventing children from falling through the cracks of administrative and legal systems, ensuring their access to fundamental rights such as education, healthcare, and other public services.

Participants in KIIs explained that in order to get citizenship for a child without known parentage the child must possess a birth certificate issued by the Ward where s/he is resident. When the child turns 16 s/he must submit an application for citizenship to the DAO with the recommendation of the Ward. In these applications, in place of parents, the organisation that took custody of the child provides endorsements. Supplemental police reports, documents from the organisation that had custody of the child, an investigation report (sarjamin) from the area where the child is resident are required. Even though the Constitution establishes citizenship as a right for foundlings, practically, the CDO exercises discretion over whether to grant citizenship to an applicant child.

In the FGDs representatives of CSOs working in the areas of child rights highlighted several problems that arise in children getting citizenship. Firstly, Ward officials rely on school records of a child to ascertain their residence in the area. School records are deemed useful sources to determine the date of birth and any parentage/guardianship of the child. However, problems emerge if the child is not enrolled in school. In these instances, in order to establish that the child does not have parents the Ward will conduct a local level investigation (*sarjamin*).

Participants further reported that Ward officials are not always aware of how to go about issuing a birth certificate for such children. In these instances, unless people with expertise are consulted by the Ward the child risks being denied a birth certificate. Participants explained:

> *The Ward had no idea that some children would be eligible to get their birth certificate if the Ward Chairperson would be the informant (suchak) for them. This is a practice that other Wards have been partaking in.*

> *Previously, documents for rescued children could be issued with the organization as the informant (suchak) but this is not possible now. The organization publishes a notice in the newspaper to see if any family members of the child will identify themselves. And the Ward Chairperson is the informant… the advertisement in the newspapers needs to come out of the pocket of the applicant or the supporting organisation. These are expensive.*

From the FGDs, it appeared that the local Wards verified and endorsed citizenship applications of children raised in organisations or in the homes of informal guardians. However, the CDOs refused to grant citizenship:

> *Our organisation looks after children abandoned by their families who have no way of identifying their relatives. We have presented an application to address the issue of accessing identifying documents such as birth certificates and citizenships for these children with the National Child Rights Council but there has not been any progress. When we can't find the parents, the organization tries to fill in as a guardian for the children when applying for their birth certificates. The Ward has provided us with recommendation letters (sifaris) on multiple occasions to be granted citizenship, however, there is a lack of cooperation from the CDO. We don't have the funds to fight a legal battle, and we are constantly worried that these children will go down the wrong path because without citizenship they don't have access to education or employment in most places.*

Representatives of the MoHA explained that a key document missing in applications submitted for citizenship of children found in the territory of Nepal are the police report. According to MoHA representatives it is not enough for the organisation with custody of the child to endorse his/her citizenship application. They require a police report from the time when the child was found and handed over to the organisation. However, in many cases this police report does not exist for several reasons. Firstly, children may be rescued directly by the organisation. As there is no clear stipulation in Nepali law that mandates such processes to involve the police, such reports may not exist. Secondly, police officers will not always write up reports about a child being handed over to an organisation.

Moreover, in the Nepali context children found without parents or families are not always placed in formal organizations. They may be cared for by individual households through informal, unregistered social arrangements. These arrangements often remain informal due, in part, to the lack of clear legal guidance on guardianship (outside of adoption) until 2017. Even with the 2017 laws (in the Muluki Civil Code 2074 (2017)), procedures remain ambiguous, and organizations like the Child Rights Council or local governments are not always equipped to provide adequate guidance. Children then raised in the homes of legal guardians are unable to get citizenship as there is no police report of the household taking custody of a child.

Another issue that emerged in the FGDs is that organizations are reluctant to register as guardians for children in the citizenship certificates. This hesitancy stems from the fear that such registration might jeopardize the child's inheritance rights should they reconnect with their family later in life. There was a pervasive belief amongst representatives of local government and MoHA that if the name of the child's parent is not written on the citizenship certificate the child will lose her/his entitlement to parental property.

The inability of children without families to obtain citizenship in Nepal has devastating consequences for their futures as they are unable to access essential services. Additionally, even more alarming is the discovery during this research that neither Ward officials nor MoHA representatives would support the citizenship claim of a child (with an unknown family) rescued from India. In order to circumvent refusal by government offices, organisations supporting the citizenship application of such children omit any mention of India from the child's records. Given Nepal's persistent human trafficking problem, many children rescued from India are likely trafficking victims in dire need of state support for rehabilitation and reintegration. Denying these children citizenship represents a profound failure of the state's duty to protect its most vulnerable members.

PART III
DISCUSSION OF FINDINGS

This part presents a discussion of the empirical findings discussed in part II. It begins with a description of key judgments from the Supreme Court of Nepal to demonstrate how there is additional legal support provided through case law to provide citizenships in contexts discussed in part II. However, as the empirical findings show, obtaining citizenship, especially through maternal lineage, continues to be difficult for applicants, the section turns to consider reasons why. For this the report draws from the discussions with participants to offer some analysis of factors contributing to this problem.

Supreme Court Judgments

Numerous individuals denied Nepali citizenship have pursued legal action. Whilst a dedicated study is required to assess the success rate of these court cases, there is public perception that the Supreme Court has generally granted citizenship. In fact, its rulings have time and again iterated that citizenships can be transmitted solely from the mother, if required. It has also given repeated directive orders[25] to MoHA, DAOs and CDOs to ensure the process of administering a citizenship application is simplified and accessible to service seekers. This section of the report will start by describing some key Supreme Court interpretations of citizenship law. For ease of navigation the description of judgments has been grouped into several themes.

A Nepali mother is sufficient for a child to get a citizenship:

In line with the constitutional provision that states that a child can acquire citizenship from either a mother or a father, the Supreme Court has portrayed this right as non-drogable. In *Bhola Nagarkoti v. Government of Nepal*[26], the Court emphasized the deliberate use of the disjunctive "or" between "mother" and "father," signifying a clear choice. The Court has further elaborated that even if the applicant cannot produce the citizenship certificate of the father in the application, the applicant should be granted citizenship through documentation of a Nepali mother.[27] Therefore, if either parent is a Nepali citizen, their child is entitled to a Nepali citizenship certificate. This ruling directly contradicts the seemingly common misconception reported by MoHA officials during this study, that a child can only derive citizenship through their mother if the father's identity or whereabouts are unknown.

The Supreme Court's ruling in *Bhani Maiya Shakya (Bhikchhu) v. Government of Nepal*[28] made a powerful statement regarding citizenship through the mother. While the petitioner, who had a child out of wedlock, ultimately obtained citizenship for her child through her own status, the MoHA initially listed the child's grandfather's name in the father's field. This practice reflected a patriarchal bias within MoHA, suggesting that a paternal identity was essential for citizenship. The Court, however, ordered the removal of the grandfather's name, unequivocally affirming that the mother's identity alone is sufficient for citizenship.

Furthermore, the Supreme Court has decreed that Nepali law permits granting citizenship through the mother if the father is unidentified or his whereabouts are unknown. In *Bipana Basnet v. Government of Nepal*,[29] the Court specified several circumstances under which a child may obtain citizenship through his/her mother: (1) if the Nepali father has had no contact with the child or has disappeared; (2) if the father refuses to support the child's citizenship application; or (3) if the child wishes to obtain citizenship through the mother but retains the father's surname. The Court affirmed a child's right to choose their surname, provided they can adequately document the reasons for the change. The Court has also issued clear directive orders to the MoHA to circulate instructions to all CDOs nationwide, ensuring equal treatment for applicants seeking citizenship through either parent.

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[26] *Bhola Nagarkoti and Others v. Government of Nepal*, NKP 2070, 069-WO-0880 (SC Mar. 14, 2014).
[27] *Id*.
[28] *Bhani Maiya Shakya (Bhikchhu) V. Government of Nepal*, NKP 2074, 074-WO-0161 (SC Jan. 8, 2018).
[29] *Bipana Basnet V. Government of Nepal*, NKP 2071, 071-WO-0903 (SC Apr. 4, 2016).

In case of father unidentified, in *Kristina Maharjan v. Ministry of Home Affairs*[30], the Supreme Court articulated an important clarification: merely knowing the existence of a biological father cannot, by itself, serve as a lawful ground to compel a child to accept him as a parent. Through this interpretation, the Court introduced a significant refinement in the legal understanding of parental recognition. It further stated that a person who has never taken any responsibility for the child, whose face the child has never even seen, shall also be deemed "unidentified." Accordingly, the burden of establishing oneself as an "identified father" lies solely on the alleged biological father or his relatives, and until such identification is lawfully established, the biological father shall be regarded as "unidentified."

In a subsequent case of A*rjun Kumar Shah v. Government of Nepal*,[31] the Supreme Court established that a child of a Nepali mother, born and raised in Nepal can get citizenship through the mother even if the father has no citizenship of any country. Nepali, citizenship law does not provide explicit provisions of what might happen if the child's father is stateless. The Supreme Court appears to have taken the logical legal route of transmitting Nepali citizenship via the mother to ensure the child of a Nepali woman is not stateless. The Court has additionally ruled that applicants may apply at the DAO in their mother's place of residence, provided they can demonstrate that they also reside there.[32]

Marriage certificates are not required to obtain citizenship:

Findings from the FGD showed that citizenship applicants were asked to submit their parents' marriage or divorce certificate. This is despite the fact that the information about the parents is listed under 'spouse' on the respective parent's citizenship certificate or the applicant's birth registration certificate itself. This practice contradicts the Supreme Court's ruling in *Bobby Thapa v. Government of Nepal*[33], which explicitly stated that marriage registration certificates are not required for citizenship applications by descent.

Moreover, in the case of *Nakkali Maharjan v. Office of the Prime Minister and the Cabinet of Ministers et al*.,[34] the Supreme Court ruled that a married woman can obtain citizenship through her father or mother. The Court issued an order to the Kirtipur Municipality to not discriminate between genders on the basis of marital status.

Citizenship certificates cannot relinquish a child's right to property inheritance:

In FGDs and KIIs respondents expressed an understanding that if the name of the father is not written on the citizenship certificate, this will relinquish a child's right to claim property from the father. Supreme Court decisions, in contrast, have stated that the DNA is amongst the most reliable evidence to establish the paternity of a child[35]. This pronouncement contradicts the understanding that citizenship is what establishes paternity. Moreover, the Court has underlined the right to inheritance of property as a birth right of a child.[36] According to the Court, the right to inherit property can only be relinquished through one route: if the heir voluntarily relinquishes his/her inheritance.[37] What this means is that the lack of indication of parental identity on the citizenship certificate will not affect a child's right to inheritance from his/her parents.

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[30] *Kristina Maharjan V. Government of Nepal*, NKP 2080, 078-WO-0853 (SC Aug 8, 2023).

[31] *Arjun Kumar Shah V. Government of Nepal,* NKP 2074, 074-WO-0518 (SC Sept. 13, 2018).

[32] *Laxmi Lama V. Government of Nepal*, NKP 2070, 070-WO-0817 (SC Aug. 29, 2016).

[33] *Bobby Thapa V. Government of Nepal*, NKP 2074, 074-WO-0508 (SC Apr. 16, 2018).

[34] *Nakkali Maharjan V. Office of Prime Minister and Cabinet of Ministers*, NKP 2063, 063-WS-0089 (SC Apr. 16 2008).

[35] *Ram Shahi V. Prem Kumari Shahi*, NKP 2079, 067-CI-0215 (SC Jul. 20, 2022).

[36] *Shamsher Bahadur Gharti Chhetri V. Bhmjung Chhetri* NKP 2077 073-CI-0147 (SC Feb 9 2020), *Tri Ratna Tuladhar et al. V. Loksang Nangyal*, NKP2048, Decision Number 4467 (SC May 21 1992).

[37] *Riyana Thapa V. Sunil Thapa and Others*, NKP 2075, 071-CI-1496 (SC Nov. 24, 2018).

Service delivery needs to be accessible

In terms of service delivery, the MoHA has been repeatedly directed by the Supreme Court to simplify the citizenship application process to the greatest extent possible and to provide necessary assistance to applicants.[38] Moreover the Court has ruled that in a matter as serious as citizenship, small procedural obstacles should not be used as reasons to deny a citizenship certificate.[39]

Legal Gaps

Citizenship laws in Nepal are framed more as principle as opposed to detailed rules. One of the reasons that laws tend to be less detailed is to allow implementing bodies to exercise discretion on a case-by-case basis. In other words, every possible scenario that requires a citizenship application cannot be imagined by law-makers. Thus, they tend to place trust on the executing local governments and MoHA to do the 'right thing'. This study in tandem with longstanding practices around citizenship in Nepal shows the absence of detailed rules, rather than facilitating issuance, often results in the denial of citizenship. For example, participants pointed to the lack of explicit procedure that held them back from granting citizenship through the mother in areas identified below. This list however is not exhaustive.

- Citizenship for children (foreign citizen fathers) born to Nepali mothers outside the territory of Nepal.
- Citizenship for children born to Nepali mother and non-citizen father who are stateless or refugees.
- The number of people required in the local level investigation (*sarjamin*).
- The requirement/non requirement of police reports in issuing citizenship to children with unidentified parents found within the territory of Nepal.
- The criteria for determining a father's status as unidentified or of unknown whereabouts.
- The procedure to issue citizenship for married women through the names of their father as opposed to the husband or father-in-law.

It is interesting that the aforementioned areas perceived as 'legal gaps' by the participants have points where the Supreme Court has intervened. In its judgments it has offered interpretations to resolve ambiguities and provide clear legal direction. The Court has repeatedly emphasized that a Nepali mother can legally transmit citizenship to her child. Procedural blocks in granting citizenship in such instances are deemed unconstitutional.

There is always credence in the argument highlighted by participants that 'they operate only according to the letter of the law.' In fact, this stance calls for enactment of detailed rules that are flexible to constant updating so they capture various scenarios around citizenship application. The route of rule-making though has to be undertaken with some level of scepticism. This is because Nepal's experience shows that legal texts, even constitutional amendments, have limited power to drive change. It thus becomes imperative to dig deeper and identify some of the systemic issues linked to citizenship.

Perceptions of Authorities

Discussions with MoHA participants showed a significant discrepancy between their understanding of citizenship and its constitutional articulation. The constitution envisions citizenship as a safeguard against statelessness and a vehicle for citizen welfare. However, the research team observed that no government representative brought up concerns about statelessness. This omission may perhaps be explained by MoHA's prevailing view of citizenship as primarily a mechanism for safeguarding Nepali territory. As one respondent stated.

[38] *Supra* note 22.

[39] *Nikki Kumari Jha V. Government of Nepal*, NKP 2080, 078-WO-1201 (SC Nov. 24, 2023).

The citizenship certificate is not just a piece of paper. It gives rise to many important rights. It is linked to the rights to property and ownership. This is why we are very careful about issuing citizenships.

Historically, property rights in Nepal were largely the domain of men. Only in the past two decades has an incremental transition begun marked by the gradual acquisition of land titles by women. According to the data of 16th National Plan (2024/2025- 2028/2029), in the year 2022/23, the status of households having registered houses or lands or both in the name of a woman was 23.8%. For the year 2028/29, Nepal has set a target to increase land ownership of women to 35%.[40] This change has come about because laws have given women rights to inherit parental property in the same way men have done through generations.

In this context, the idea of protecting property is inextricably linked to the idea of protecting the property of the men/fathers. This appears to be a reason why MoHA emphasizes the presence of the father in citizenship applications. It is a mechanism the state administration employs to ensure men's property does not go to the wrong heir.

Fears and Apprehensions of Authorities

In tandem with the responsibility felt to protect property there was pervasive apprehension expressed by Ward and MoHA officials alike that 'any step beyond the precise stipulation of the law in issuing citizenship' would, they believed, trigger criminal prosecution against them. This could potentially result in incarceration and dismissal from their jobs. For example:

if I issue a birth certificate/ citizenship without putting the name of the father…. then think many years down the line the father shows up and asks us why he wasn't listed. I will be disciplined. I'll lose my job.

When asked to provide examples of cases where citizenship applicants made a misrepresentation to them, the most frequently cited example was the one of applicants either lying about their date of birth, or asking them to authorise a wrong date of birth. A participant explained as follows:

A school in this area opens admissions in grade one. Children have to be six years old to qualify for this admission. We have queues of people outside our office during the admission period asking us to modify the age of their children so that it is six years…. The birth certificate indicates one date of birth; they want us to change it… or they don't understand why we cannot certify a different date of birth, usually one that makes them younger in age, on the citizenship application.'

Interestingly when participants from the local government or MoHA were asked whether they faced legal repercussions due to a complaint about issuing a citizenship they all said they had not faced any trouble so far. In fact, they confirmed that they had never had anyone even inquire about anybody's citizenship status in the area. Everybody however had 'heard of colleagues' who had been prosecuted. Insofar as they had information most colleagues who were prosecuted had been acquitted by the courts. It is instructive that no participant cited the protection of civil servants stipulated in section 43 of the Good Governance (Management and operations Act) Act 2064 (2008). This provision states that acts carried out by civil servants in good faith will be protected from legal liability. Only further research of cases of prosecution will establish concrete facts about the extent to which the fear of criminal charges is a myth or a real risk. However, this belief system was seen to be the strongest reason used to justify the denial of citizenship. When the perceived danger of criminal liability and the risk of job loss was presented to service seekers, they neither have the tools to present legal or moral counter arguments thereby having no option but to acquiesce.

[40] The Sixteenth Plan (Fiscal Year 2024/25 2028/29), Table 1.6.2.

Culture of Service Delivery

In any organisation the culture of service delivery is shaped by the shared values, beliefs, norms, and behaviours within an organization. It encompasses the overall approach, attitudes, and practices that shape the type of service that is delivered. The research indicated that cultures of service delivery within MoHA particularly appears to be informed by patriarchal norms underscored by a sense of responsibility to protect the property of Nepali men; and the aversion to taking any risk in granting citizenships through the mother.

Moreover, responses indicated that the culture of service delivery is not very amenable to change. It is a system of practice set by the behaviour of individuals currently in office and their predecessors. It is not a culture necessarily set by the requirements stipulated in formal law. Several examples that emerged during the research suggest this. They are described below.

Example 1: During the FGDs and KIIs representatives of local government and MoHA were asked about why there is a reluctance to comply with court orders issued by the Supreme Court. Specifically, they were asked why Court decisions that allow citizenship through the mother in various circumstances (as discussed in above) are not used as the legal grounds to grant citizenship. Participants gave a consistent answer:

> *The Supreme Court decisions need to be practical. We are only bound to follow decisions if they are practical… Moreover, the decisions of the Supreme Court are only relevant to the particular case in which it is pronounced. We do not see it as binding us to make decisions in any other subsequent case.*

This view coming out of MoHA and the local government rejects the fundamental premise of the Nepali legal system: that all precedence pronounced by the Supreme Court is binding law.[41]

Example 2: Service seekers were told that their local investigation reports (*sarjamin*) done by the local government would only be valid for about 35 days. If the service seeker did not submit his/her application to the DAO within 35 days of conducting the *sarjamin*, the DAO would ask for another one to be undertaken. No respondent could show which provision in Nepali law, regulation procedure or standing orders of the government stipulated a rule that *sarjamin* would expire in 35 days. They, in fact, either stated they did not know from where this practice derived legal authority or speculated laws that are inaccurate. However, all participants accepted that this system of limiting the validity of a *sarjamin* to 35 days was sensible practice. A participant explained:

> *It is like how photographs are not accepted for official purposes if they are more than six-month old. This practice that documents need to be current and updated is the understanding. It must be in the Muluki civil code…*

Example 3: A participant discussed that owing to the constitutional framework that permits granting of citizenship through a Nepali mother, it is 'quite a straightforward legal route to issue citizenship through the mother'. However, the respondent stated that oftentimes individual will and understanding, in this respect, is insufficient to issue citizenship in the office. The participant stated that *'subordinate staff refuse to comply with directives from seniors when they view such decisions to be different from what they are used to practicing within the organisation.'*

Example 4: An experience of a service seeker was suggested during the FGD whereby a service seeker's citizenship application has not been processed because s/he has not been able to produce a certificate from an educational institution attended. The MoHA representatives clarified that letters of enrolment or documents from schools or educational institutions are only used to verify age. However, legally, they are not mandatory if the applicant has never attended an educational institution.

[41] Constitution of Nepal 2072 (2015), Article 128(4).

Accountability for Service Providers

This research showed that decision-makers faced no clear accountability for denying citizenship without legal justification. One method of denying citizenship was by rejecting applications in writing. The other practice, reported by participants, was the refusal to accept and register applications altogether. This refusal would effectively mean that there is no record of an applicant attempting to obtain citizenship in the first place. Without proof of formal applications being submitted it becomes challenging for service seekers to seek redress from courts as they tend to require evidence that a person has attempted to apply for citizenship and exhausted all remedies before pursuing the court.

The Good Governance (Management and Operation) Act 2008 provides a legal framework to hold civil servants accountable for poor service delivery. However, this law is seldom enforced. A participant in the KII stated that there is a complaint section within MoHA where service seekers can lodge grievances about poor service delivery. However, there are no published and transparent procedures about how this grievance mechanism functions. No service seeker, who participated in the FGD, indicated knowledge about this grievance mechanism. Moreover, without transparent processes of grievance handling such mechanisms will suffer from lack of faith amongst members of the public.

Training and Knowledge Sharing

In organisations, training and guidance play a crucial role in establishing a minimum standard of service delivery. Responses in the KII showed that there is no mandatory training on citizenship provided to MoHA staff. There is however, some interactions with CDOs across the country through zoom meetings for occasional discussions that may include citizenship as one area of concern.

Respondents also stated that there are no detailed or specific guidelines in addition to existing laws, regulations and procedures enacted that might assist CDOs and their staff navigate difficulties around citizenship applications. The staff in MoHA answer calls from CDOs to give advice on citizenship decisions. Whilst this support system appears to be a step in the right direction, it may only work effectively if the parties providing advice from MoHA are also trained on minimum standards of service delivery.

Amidst the inquiry about training a concerning finding was the perception that training was not necessary:

> *The legal framework provides sufficient guidance and no further training is needed…These are CDOs... they are capable people… that's how they become CDOS. They don't need training.*

This opinion may well be a reflection of individual perception as opposed to an organisational view on the matter as the Federal Government has always included needs for training and capacity development in its planning and strategies. Moreover, during this research it was evident that some staff of MoHA had a clearer understanding of citizenship laws, accumulated more experience in delivering services and as a result were less apprehensive about processing applications where citizenship was transmitted through the Nepali mother. The lack of training and opportunities for knowledge exchange hinders MoHA to learn from and institutionalise best practices of such members of staff.

Co-ordination in the Federal System

The procedure for obtaining citizenship in the first instance requires the involvement of the relevant Ward office under the elected local government. The Ward office issues the birth certificate; a prerequisite for citizenship. It certifies the applicant's address, relationships to family members or local organisations. The Ward additionally conducts the local investigation, (sarjamin) as it is the authority assumed to have the best know-how of the local residents within its jurisdiction. Following Ward's support for the citizenship application, the process then moves to the DAO. The person through whose status the citizenship is being transmitted: i.e. from the father to the child, needs to be present at the CDO office to verify that the

relationship stated in the application form is in fact true. If citizenship is obtained through organisations that house children, the representative of the organisation needs to be physically present at the DAO for the verification process. The CDO, then, exercises discretion on whether or not to grant citizenship.

The aforementioned procedure for granting citizenship provides authority to the DAO to essentially accept or reject documents and recommendations for citizenship made by the Ward office. Responses during the FGD and KII showed that the authority exercised by the CDO to reject recommendations for citizenship emerged out of perceptions that the local body is a subordinate office to the MoHA. A participant's observation illustrates this view:

> *We [MoHA] are a higher authority as we are the representation of the federal government.*

This view of subordination is accepted by the local government representatives who repeatedly referred to the MoHA as a 'higher authority' relative to them.

This view that the CDO, a civil servant in the Nepali government, is a higher authority than elected members of the local government is unaligned with the federal structure of the Nepali state. Constitutionally, local and federal governments are separate bodies. The Nepali model of federalism is one of cooperative federalism.[42] In this model different tiers of government are supposed to work together in good faith through coordination and mutual assistance for public interest.

The findings of this study show that the good faith that is pivotal to the success of the cooperative model of federalism is yet to be cultivated amongst the federal and local government on the issue of citizenship. This was demonstrated by an observation made by a participant:

> *We are unsure why they [DAO] act in this manner. In fact even after we issue a recommendation letter for citizenship the DAO still requires family members to physically go to this office to verify that they are related to people… facts we have already checked. The DAO makes it seem like [to service seekers] that all kinds of impossible documents can be issued by the ward office.*

Furthermore, the study found that elected ward members expressed a desire to assist their service seekers:

> *Because we know these people [service seekers] and are aware of their problems we feel bad for them even though we can't necessarily help them. That is our biggest pressure point.*

In this respect some assistive practices of the Wards as reported by service seekers included:

- Issuing letters stating that a person who is struggling to get a citizenship certificate is a resident of the ward. This letter has been crucial in allowing people without citizenship to secure employment.
- Issuing letters to school to allow pupils to continue studying even in absence of a birth certificate.

Whilst these letters were no substitutes for identity documents like a citizenship or birth certificate they acted as practical temporary measures to allow people access essential services. It is instructive that even such practices were not consistent across the two Wards indicating that there is little communication amongst locally elected bodies within the same municipality.

[34] Constitution of Nepal 2072 (2015), Article 232.

The cooperative model of federalism under the Nepali constitution conceptualises a synergetic relationship whereby the political will of local government, to serve their constituents, combines with the procedural expertise of the federal civil service to combat denial of citizenship rights to Nepalis. Yet, formal mechanisms and communication channels to institutionalise such cooperation are missing. Nonetheless, there is reportedly some communication between the DAO and the Ward whereby the DAO sends letters back to the Ward indicating which document is insufficient or needs to be verified. Some staff members of the Ward seek guidance from the DAO to assist their decision making about the application. However, these are ad hoc communications which are dependent upon individual staff as opposed to institutionalised mechanisms.

CONCLUSION

This report seeks to provide an evidence-based analysis of the challenges faced by Nepali women in transmitting citizenship. By illuminating the lived experiences of those directly affected and by critically examining the legal and institutional frameworks, this study aims to contribute to a deeper understanding of the complexities surrounding citizenship rights in Nepal. Methodologically this is a small-scale exploration concentrated within a district. Its scope therefore is limited in terms of capturing the full range of issues faced by women in accessing citizenship that might for instance be seen across the seven provinces of Nepal. Nevertheless, the challenges faced in the implementation of citizenship found by this study would persist across Nepal in scenarios identified in this study.

Ultimately, this report calls for urgent and sustained efforts to align national practices with international standards, ensuring that all Nepali citizens, regardless of gender, can fully exercise their fundamental rights. To this end it proposes some recommendations below.

RECOMMENDATIONS

Service Providers (MoHA and local government)

- Develop guidelines on the minimum standard of service delivery and ensure all DAO staff are trained on it. The MoHA could consider collaborating with the Nepal Administrative Staff College and CSOs working in this area to develop and deliver such modules.
- Develop an online repository of materials relevant to citizenship applications that can be accessed by MoHA and Ward staff. The goal of such a repository would be to assist decision makers access relevant and updated information in making decisions about citizenship applications. This repository can include necessary laws, procedures, circulars of the government and Supreme Court decisions pertaining to citizenship and identity documents.
- Strengthen the MoHA's grievance mechanism to hear any complaints on troubles service seekers face in the processing of citizenship applications. This mechanism should have publicly accessible rules of procedure governing how one should submit a complaint and the processes (including timeline) by which it will be addressed within the Ministry.
- Establish grievance mechanisms at the municipality levels of the local government to hear any complaints from service seekers on the processing of applications of identity documents such as birth certificates and citizenships.
- On the websites of the local government, MoHA and all DAO including their respective social media handles, upload videos that provide step-by-step guidance on how to apply for a citizenship.
- Create positions (through temporary contracts) to hire legal advisors in Ward offices who can advise on citizenship applications.
- The Federal Government and local government should collaboratively enact a policy on citizenship that details how both levels of government should work in coordination and mutual partnership on the issue of citizenship.

Judiciary

- The courts should proactively rule on cases whereby there is non-compliance with their decisions and orders including using contempt of court proceedings against those who are responsible.
- In the interest of disposing citizenship cases quickly the Supreme Court should consider constituting a special bench dedicated to citizenship claims at least once every two weeks.

Legislator

- In order to equalise the status of women in Nepali society, amend the 2015 Constitution to equalise the status of men and women in conferring and obtaining citizenship. Consider substituting the language of ‘mother/ father’ in the law with ‘Nepali citizen’.
- Urgently undo the understanding that a Nepali woman can only transmit citizenship to her children if the father's whereabouts is unknown through a set of clear legal provisions that capture the spirit of the Constitution. Enact clear detailed laws specifying in what scenarios a citizenship can be granted through the mother. Provide accountability measures within the law on citizenship for not just service seekers violating its provisions but also government representatives who are in violation both as deliberate acts against the law or inaction to do what the law mandates.
- Bring clear guidance in procedural laws relevant to citizenship on issues such as but not limited to: criteria for declaring someone of unknown whereabouts; the number of people required in the

sarjamin including any demographic details they might require, the term of validity of a sarjamin and citizenship status of children born to Nepali mothers and stateless or refugee fathers.

- Expressly indicate what documents are required for a child found in the territory of Nepal to access citizenship. Remove requirements such as submitting police records from decades ago to demonstrate handover of a child. This is because any further exploration of human trafficking during the course of citizenship application for such children renders them re-victimised by the state systems.
- Enact provisions in the law that allows citizenship certificates to be issued in the absence of family members, that allows the family member (also from maternal side) to verify the relationship to the child, that allows the applicant to acquire citizenship by producing the citizenship details (such as citizenship number or photocopy of citizenship) of the parent in the application. The onus to verify citizenship should be on the DAO and not the applicant.
- Amend citizenship laws to remove discrimination against women through extensive engagement and consultation with CSOs working in this area including service seekers and individuals with lived experience of navigating the complex citizenship application procedure.

Civil Society Organisations

- Create a collective repository of resources on citizenship such as reports, articles, relevant judgments, circulars of the Ministries on a single platform accessible to all CSOs working on citizenship.
- Create a common referral mechanism to sign post affected service seekers to essential services such as legal services, employment, educational, psycho-social and others.
- Create an advisory body that can work with the government when required on citizenship related matters. Such bodies may include academics and experts who are encouraged to think about restructuring institutions that process citizenship applications.
- Invest in fundraising efforts to provide financial and livelihood services to those individuals who are struggling or unsuccessful in getting citizenship.
- Work in consultation and leadership of individuals who have personally navigated or continue to navigate the complex citizenship acquisition process with intention to center their voices, experiences and needs that effectively informs the solution, policy making, and high-level decisions.
- Build networks to develop strategies and plans of action on bringing members of government who are illegally denying citizenship to account.
- Raise awareness about the issue of citizenship particularly as a state sanctioned subordination of Nepali women within schools, internationally in the Nepali diaspora and beyond. For this end create a network of journalists, academics and advocates who will speak on these issues when required.

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