



# In search of IDENTITY

The Social and Gender Dimensions  
of the Impact of Nepalese Citizenship Policies  
on Lives of Women



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**Alliance Against Trafficking in Women and Children  
in Nepal (AATWIN)**

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# Publisher's Note

Citizenship is an identity of a person. It mediates an individual's relationship with the country and vice versa. In Nepali context citizenship is a pre requisite of a person to enter to the social and economic life. But there are still number of Nepali women who are deprived of this important identity merely because of belonging to a specific community and some other reasons. Facts have proved that citizenship in Nepal is gender biased in the sense that women and men have different and unequal access to it. For this, various discriminatory social, cultural, political and legal practices are responsible.

Proposal passed from the restated parliament through the Janaandolan II, interim constitution and citizenship bill have tried to address the citizenship problem but still there are discriminatory provisions in respect to citizenship to women. Above all, the implementations are yet to be seen.

There has been felt need of authentic research to dig out the in-depth problem of citizenship prevailing among the women. In this regard AATWIN and OXFAM jointly commissioned to make a comprehensive research on the issue. Now it is in the book form.

We are thankful to research team for their tireless effort to come up with such a comprehensive research. Similarly, we would like to extend our gratefulness to the Research Advisory Committee (RAC) for their outstanding contribution for the conceptual clarity on the issues of women and citizenship in various stages of this research.

We are grateful to supportive organizations and individuals and above all to the respondents who made possible to bring the problems into public.

We would like to extend our special thanks to OXFAM- GB Nepal for its financial and technical support for the entire research work. Finally we would like to thank to Mr. Kumar Bhattarai for his effort in translating the research findings in Nepali version.

We believe these findings will be helpful to solve the gender biased citizenship problem.

**AATWIN- Nepal**

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The Research Team would like to acknowledge its special appreciation to Saguni Nepali (Choudhari), Chairperson, Badi Women Group, Ghorahi; Saguni Nepali (Shrestha), Deputy Chairperson, Social Awareness for Education (SAFE), Nepalgunj and community leader at Gaganganj who accompanied us to Dang; Juneli Shrestha, Ganesh Chalise, and Buddhi Maya Syangbo, WOSCC, Hetauda; and Sharada Subba and Indu Koirala, LACC, Kathmandu.

In order to protect the privacy of the personal life of our respondents and their families, we have pseudo-named all of our respondents including those of their family members, including surname wherever it was seemed necessary. We have not, however, pseudo-named those names used in the section on Media Review, because these names are published by the corresponding newspapers already.

Finally, we hope that this small piece of research which is preliminary and exploratory in its nature would be instrumental for feeding information, initiating policy debates, and sparking advocacy for heralding justice to the lives of hundreds of poor and excluded women who have been deprived of getting citizenship yet.

# Acronyms

AATWIN	Alliance Against Trafficking in Women and Children in Nepal
BASE	Backward Society Education
CBO	Community Based Organization
CDO	Chief District Officer
CEDAW	Convention on the Elimination of All Forms of Discriminations Against Women
DNA	Deoxyribonucleic acid (DNA)
NGO	Non Government Organization
RAC	Research Advisory Committee
RT	Research Team
UNDP	United Nations Development Programme
USA	United States of America
USAID	United States Aid for International Development
VAT	Value Added Tax
VDC	Village Development Committee





# Table of Contents

Few words from organizers .....	iv
Acknowledgements .....	vi
Acronyms .....	vii
<b>1. INTRODUCTION .....</b>	<b>01</b>
1.1. Background .....	01
1.2. Objectives .....	02
1.3. Methodology .....	03
<b>2. DESK RESEARCH .....</b>	<b>07</b>
2.1. The notion of citizenship .....	07
2.2. The debates over citizenship .....	08
2.2.1. Feminist critique on debates over citizenship .....	10
2.3. Legal and constitutional review .....	11
2.4. Media review .....	15
<b>3. MAIN FINDINGS AND ANALYSIS OF FIELD RESEARCH .....</b>	<b>19</b>
3.1. Profile of the respondents .....	19
3.2. Citizenship, livelihood and women's coping strategies .....	22
3.2.1. Comments and analysis .....	26
3.3. Problem faced and efforts made regarding citizenship .....	28
3.3.1. The reasons for not having citizenship .....	28
3.3.2. Efforts made to get citizenship .....	36
3.3.3. Comments and discussion on the efforts made .....	40
3.4. The question of identity as embedded in citizenship issue .....	42
3.5. Transfer of responsibility and the victimization of women .....	44
3.6. Nature of exclusion and deprivation of women without citizenship .....	47
3.7. Knowledge, negotiation and resistance .....	50
<b>4. CONCLUDING REMARKS .....</b>	<b>53</b>
4.1. Summary and conclusion .....	53
4.2. Recommendations .....	56

**Bibliography ..... 59**

**Annexes ..... 61**

1. Checklist used for the qualitative in-depth interviews ..... 62  
2. Schedule of research activities ..... 66  
3. News on parliamentary proposal to confer citizenship  
on women’s line ..... 68  
4. Provisions related to citizenship in the Constitution of 1990... .69  
5. List of respondents by their social category and place of  
residence.....71

**List of Tables**

Table 1: Number of respondents by issues and geographical  
location..... 4  
Table 2: Social characteristics of the respondents ..... 20  
Table 3: Marital and family status of the respondents ..... 21  
Table 4: Respondents' status of getting citizenship by  
the nature of their efforts ..... 40

**List of Figure**

Figure 1: Triangle of concepts associated with the notion of  
citizenship ..... 8  
Figure 2: Relationships between the social status and mode of  
living with citizenship .....27  
Figure 3: Ladder of vital events during a life cycle important to  
citizenship ..... 46

**List of Case Studies**

Case 1: Kamala Tamang ..... 34  
Case 2: Premkala Khadgi ..... 38

# 1. Introduction

## 1.1 Background

Citizenship mediates an individual's relationship with the country and vice versa. One meaning of citizenship is membership in a national community. Such membership is ordinarily the precondition for the rights and obligations that confer political personhood to citizens. There has not been single understanding of rights and duties, however. The Western ideas on rights and duties have been shaped by two different political languages (Glenn, 2000). The first is liberalism, which grew out of Locke and other thinkers, argues that citizens are individual rights bearers and the governments are supposed to secure individual rights so as to allow each person to pursue private as well as public happiness. The second is republicanism, which sees the citizens as ones who actively participate in public life, an idea driven by the notion that citizens reach their highest fulfilment by setting aside self-interest to pursue the common good (Glenn, 2000).

But the idea of citizenship, both in practice and in theory, is not that much simple. There are arguments that citizenship as a manifestation of membership carries processes of both inclusion and exclusion. The feminists, in particular, have strongly opposed that the uncritical notion (and practice) of citizenship has fuelled the public-private divide and has promoted the

## **In Search of Identity**

patriarchal value that citizenship is a matter of public sphere where men actively take part.

"Citizenship in Nepal is gendered, in the sense that women and men have different and unequal access to it" (Laczo, 2003:77). In Nepal, citizenship is awarded on blood rights - that is, fathers pass citizenship to their sons and daughters. After the age of 16, both men and women must apply for a certificate of citizenship, to ensure that their citizenship rights are protected. However, this process is relatively straightforward for a young man, it is not so for a woman, whose application must be supported by either her father or her husband (Laczo, *ibid*). The citizenship issue, in its deeper level, appears to have embedded in the process of state formation of Nepal and in the patriarchal value system. While the unitary form of the state as hegemony of the powerful aristocratic people has largely marginalized the citizenship rights of the people with different identities (such as, the people of Terai origin, on the one hand, and especially women, on the other). This research looks at how women are deprived of acquiring and/or conferring citizenship in Nepal and how they are coping with the exclusion that they are experiencing.

## **1.2 Objectives**

In its broadest sense, the main objective of the present research is to "explore the social and gender consequences of Nepalese citizenship policies on lives of women who are marginalized because of their social identity." In other words, the present research is carried out to understand the realities and perspectives of the women who are denied citizenship because of their specific social reality and/or identity. This research is also expected to act as a research informed advocacy tool for policy makers, women's human rights activists, NGOs, civil society, and other researchers: all those wanting to effective change in the current laws related to women's citizenship issues.

### **1.3 Methodology**

This is primarily a qualitative research that aims to unravel the reality as well as to bring the perspectives of the affected women into the forefront of the policy debate. While the present research has attempted to collect secondary information, the findings and conclusions, however, are drawn primarily from the primary source of information derived largely with the help of qualitative in-depth interviews<sup>1</sup> with the affected women in different locations.

Keeping the strong social-embeddedness of the issue of citizenship and its effects into the vastness of the lives of women and men into consideration, efforts have been made to select only a few pertinent issues for inquiry. As a result, not the geographical coverage but the main issues involved have led the research process. Initially, trafficked women, Badi women, women in polygamy, women in squatter area, women living in or around conflict, Deuki, raped women, “untouchable” women from Terai, divorced/separated and/or single women were considered as possible areas of research and then the following four areas were prioritized:

- Trafficking survivors and their citizenship issues,
- Badi women and their citizenship issues,
- Women in polygamy and their citizenship issues, and
- Women living in squatter area and their citizenship issues.

Thus, not the spatial coverage but the issues guided our selection of particular geographical location(s) for the fieldwork. We visited Ghorahi of Dang and Gagangunj of Nepalgunj to inquire into Badi women and their citizenship issues; several locations in Kathmandu to meet trafficking

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<sup>1</sup> See Annex 1 for the checklist used for qualitative in-depth interviews.

***In Search of Identity***

survivors to know their citizenship hardships; Makawanpur to inquire into women in polygamy and its relations to their citizenship question; and finally, squatter settlement of Kathmandu to know the issues of citizenship that the poor women have faced (see Table 1).

**Table 1: Number of respondents by issue and geographical location**

<b>Issue</b>	<b>Field Sites</b>	<b>No. of Respondents</b>
Badi women	Dang and Nepalgunj	6
Women in squatter	Kathmandu	1
Women in polygamy	Mawakanpur and Lalitpur	4
Survivors of trafficking	Kathmandu	3
Abandoned by husband	Makawanpur	1
Total		15

*Source: Annex 4.*

The Research Team (RT) was built purposefully. Two of the three members were female. While the Team Leader was a sociologist engaged in gender and development issues for the last several years, other two members had practicing background. While one of them was a sufferer herself of the citizenship problems, another member came from a strong background of ethnic activism.

In order to monitor the entire research process, to facilitate the discussion required time to time and to take needed decision, a Research Advisory Committee (RAC) was also formed, bestowed with ultimate power to take any decision related to the ongoing research on behalf of the commissioning partners, viz.,

AATWIN and Oxfam. Besides, several rounds of informal sharing, the RAC hold four rounds of formal consultation meetings where the members of RT were also invited to listen and bring their perspectives into the discussion for planning and conceptual clarification.<sup>2</sup>

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<sup>2</sup> See Annex 2 for the schedule of research process.





## **2. Desk Research**

### **2.1 The Notion of Citizenship**

The notion of citizenship is complex. It can be an identity; a set of rights, privileges, and responsibilities, an exclusionary status, a relationship between an individual and state at once. Citizenship is about belonging to a group or community and about the rights, responsibilities associated with such membership. Citizenship can be a relationship with the state and/or a group, society or community. Citizenship is both a status and an identity. As a matter of fact, citizenship is also a practice or process relating to the social world through the exercise of rights/protections and fulfillment of obligations (Meer and Sever, 2004). The concept of citizenship as a membership means that there is space for inclusion and exclusion. Exclusion and marginalization from full citizenship is not only about being an outsider (such as, migrants, squatters) in a geographical sense, some people of specific social category, such as women, ethnic minorities, and the poor (landless, homeless, and people with invisibility) too may fall outside full membership for or of citizenship.

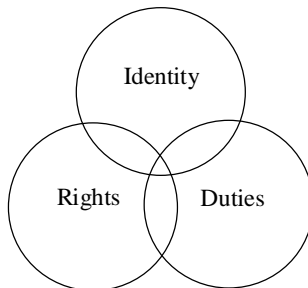
The concept of citizenship has its roots in the Western political thoughts about liberalism and democracy. The central and the original idea in its behind is that each and every member of the community or the state is predisposed with rationality and deserves freedom, equality and protection on the part of state.

Liberal idea of citizenship highlights citizenship as the connector between the individual and the state. Citizenship rights in Western thought were traditionally conceived as civil and political rights that enabled people to engage in political debates and decision-making in the public arena (Meer and Sever, 2004).

## 2.2 The Debates over Citizenship

Citizenship has come out as an emerging area of debate in development field since the last decade of the twentieth century. The focus on "participatory development," the notion of "good governance" and decentralized governance, and the importance accorded to the responsiveness of governments to the needs and priorities of citizens have converged into the concept of "citizenship" in the field of development discourse (Jones and Gaventa, 2002). The unfolding debates on human rights and "rights-based approach to development" have further heightened the importance of the concept of citizenship (Ferguson, 1999, cited in Jones and Gaventa, 2002). Discussions on citizenship often center in one or all of three concepts, viz., rights, duties and identity (see Figure 1).

**Figure 1: Triangle of concepts associated with the notion of citizenship**



**Citizenship and Rights:** Liberal theories promote the idea that citizenship is a status, which entitles individuals to a specific set of universal rights granted by the state (Jones and Gaventa,

2002). Central to the liberal thought is the notion that individual citizens act "rationally" to advance their own interests, and that the role of the state is to protect citizens in exercising their rights (Oldfield, 1990, cited in Jones and Gaventa, 2002). While rights to participate have long been central to liberal thought, these are largely rights to political participation. The civic liberal conceptualization of citizenship inserts social rights to the liberal thoughts on political and civil rights, of which T. H. Marshall is considered to be the central figure (see Marshall, 1950, for example). To the civic liberals, citizens have a right to their minimal social and economic needs, and that this security should be provided by the state. In this way, welfare as a minimum safety net marks one of the central ideas of civic liberals' conceptualization of citizenship. Thus, for the liberalists and the civic liberalists both, not the elimination of inequalities but a reduction in the risks for the poorest citizens is what the citizenship implies for (Jones and Gaventa, 2002).

**Citizenship and Duties:** The communitarians, such as Sandal (1998), criticize liberalists for their over emphasis on "self-interested," "independent," and "rational" individuals. Rather, the communitarians emphasize on the notion of the socially embedded citizen and community belonging, for which they are interested to see how an individual's identity of self is produced through relations with others in the community of which s/he is a part. For them, citizenship is defined through, and seen to develop particular civic virtues, such as respect for others and recognition of the importance of public service. Hence, communitarians bring the obligation aspect of citizenship into the forefront and argue that the civic virtue is the capacity of individuals to negotiate among sometimes overlapping and sometimes conflicting obligations.

**Citizenship and Identity:** Debates of citizenship also center around the concept of identity: how people see themselves as citizens and act upon this, and how this relates to their understanding of themselves in other aspects of life (see Yuval-Davis 1999, for example), particularly when issues of group

belonging and struggles for rights are concerned. The way in which people understand themselves as citizens is likely to have a significant impact on their perception of their rights and obligations. Mouffe (1992, cited in Jones and Gaventa, 2002), for example argues that an individual's sense of identity and sense of citizenship mutually shape each other. Many issues of citizenship that impact on one's own identity centre on social, political, economic inclusion and exclusion.

### **2.2.1 Feminist Critique on the Debates over Citizenship**

Concepts of citizenship have been criticized by a number of feminists, such as Lister (2003), Pateman (1988), Walby (1994), Yuval-Davis (1997) etc. There are two main arguments.

First, gendered exclusion of citizenship hinges on a particular understanding of what is termed as the "public-private divide." "This divide sees women's gender roles and responsibilities as lying in the family, caring and child-rearing and men's gender roles as being to do with decision-making, formal politics, economics and the workplace" (Meer and Sever, 2004:20). The universal ideal of liberalism, from where the prevalent notions of citizenship sprout, implies that "we are all the same." This sameness approach hides the inequalities (Meer and Sever, 2004). Traditionally, it saw men as the holders of citizenship rights on account of their position in the public arena. Men were seen as political agents, and women as being under their protection (Meer and Sever, 2004).

Despite its claims to universalism, citizenship has been a masculine sphere of public life. Lister argues that "(t)he public-private dichotomy, and the male-female qualities associated with it, stands at the heart of the gendered citizenship relationship (2003:5). The continued power of this deeply gendered dichotomy has meant that women's admission to citizenship has been on male terms. It has also meant that much mainstream theorizing about citizenship continues to discount

the relevance of what happens in the private sphere to the practice of citizenship in the public sphere (Lister, 2003). Thus, it ignores the ways in which the gendered division of labour in the private sphere shapes the access of both women and men to the public sphere and to the political, economic and social rights of citizenship.

As Ruth Lister (2003) argues, the starting point for the feminist critique of citizenship was women's exclusion from the full and effective title of citizen. The mainstream theorization of citizenship tended to ignore the ways in which women's gradual achievement of civil, political and social rights often followed a different pattern from men's. Likewise, it tended to dismiss women's earlier exclusion as a historical oddness.

Second, another strong issue for feminist critique of the conceptualization of citizenship is that it ignores the diversity among women. As Yuval-Davis (1997) puts it, citizenship debates have failed to take into account of "women's affiliation to dominant and subordinate groups." The liberal definition of citizenship constructs all citizens as basically the same and considers the differences of class, ethnicity, gender, etc. as irrelevant to this status as citizens. Lister (1997) notes that different groups of women have different relationships to states in respect to citizenship. "Recognizing differences means moving away from universal, homogeneous ideas of women and women's interests to bring in the real experiences of women" (Meer and Sever, 2004:27).

### **2.3 Legal and Constitutional Review**

Although the recent draft of the Interim Constitution of Nepal, 2006 has suggested a very progressive provision that "citizenship may be provided to a person getting citizenship [either] in the names of father, mother or both" (Article 8(3)), the same draft has, however, maintained discrimination with regards to providing citizenship based on matrimonial relationships. For example, a woman of foreign nationality who

has a matrimonial relationship with a Nepalese citizen can acquire Nepalese citizenship (Article 8(1c)).<sup>3</sup> On the contrary, the draft is silent regarding women's rights to conferring Nepalese citizenship to her husband of foreign nationality with whom she has matrimonial relationship. This provision explicitly accords priority to a male sex and discriminates against the female sex, a problem persisting with the entire legal and constitutional framework of Nepal regarding citizenship.

On 30 May 2006, the House of Representative, after being revived from the power of people's historic pro-democracy movement of April 2006, unanimously passed a landmark proposal, which obliges the government to issue a citizenship certificate to an offspring with the mother too.<sup>4</sup> But it has not come into an effect yet, because it "needs to get a legal shape" by amending all existing discriminatory provisions" of the laws.

The current Constitution of the Kingdom of Nepal, 1990 (Nepal Law Book Management Committee, 1990) and the Citizenship Rules, 2049 (1992) are the two active documents, till now, that constitute the legal and constitutional framework related to acquiring and conferring citizenship to the citizens. The Constitution upholds the principle of the "right to equality" (Article 11), and the principle of "non-discrimination" (Article 11(2)) based on caste, class, age, creed, sex, etc. Nepal is a signatory to the Convention for the Elimination of all Forms of Discriminations Against Women (CEDAW), the country is yet to uphold Article 9 (of CEDAW) that countries ratifying the convention "shall grant women equal rights with men, with respect to the nationality of the children." And, in practice, so

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<sup>3</sup> See Interim Constitution Draft Committee, 2006. "The Interim Constitution, 2063 (2006)," a draft in Nepali, Kathmandu.

<sup>4</sup> See Annex 3 for a news report on this and other equally important proposals that the House of Representative passed on the same day.

far as acquisition and conferment of citizenship is concerned, the same Constitution is discriminatory against women.

First, Nepal's citizenship laws state that citizenship based on descent can be provided on the basis of fathers (in case of children) or husbands (in case of married women) only.

Under the present Constitution, 1990, only a child whose father is a citizen of Nepal at the birth of the child shall be a citizen of Nepal by descent and a child found within the Kingdom of Nepal shall be deemed a citizen of Nepal only until the father of the child is traced. It is important to notice that mother is not considered in par with her husband equally entitled to transfer citizenship to her child.<sup>5</sup>

Second, Article 9 of the Constitution of the Kingdom of Nepal, 1990 relating to acquisition and termination of the citizenship provides the following:

"(1): A person who is born after the commencement of this Constitution and whose father is a citizen of Nepal at the birth of the child shall be a citizen of Nepal by descent.

(2): Every child who is found within the Kingdom of Nepal and the whereabouts of whose parents are not known shall, until the father of the child is traced, be deemed to be a citizen of Nepal by descent."<sup>6</sup>

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<sup>5</sup> See Annex 4 for constitutional provisions.

<sup>6</sup> In October 2005, the Supreme Court of Nepal, as per the Article 9(2) of the Constitution of Nepal, 1990, declared invalid a law that said only males could register the birth (or death) of a child and ordered the government to provide birth and citizenship certificates to children whose parents are unknown, at least until the identity of the father can be traced. But the verdict would have been much more significant had



## ***In Search of Identity***

This provision, particularly Article 9(2), discriminates women as their presence as mother is ignored at the cost of reference made to a father, who is (in fact) lost.

Third, a woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen can acquire Nepalese citizenship. On the contrary, Nepalese women who have a matrimonial relationship with a man of foreign nationality cannot transfer their citizenship to their husbands. This provision explicitly accords priority to a male sex and discriminates against female sex, just because of their sexual differences. Hence, just having a female sex has been made a cause for judicial discrimination, which as a matter of fact, directly violets the constitutional principle of the "right to equality" (Article 11), and the principle of non-discrimination (Article 11(2)).

A woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen and who wants to acquire Nepalese citizen may submit an application for that purpose (Rule 4(2) of the Citizenship Rules, 2049 (1992)).<sup>7</sup> However, such a provision is not applicable to a foreigner who has a matrimonial relationship with a Nepalese woman.

Thus, based on the review of legal and constitutional framework regulating citizenship issues in Nepal, we can conclude that Nepalese Constitution and related laws suffer from patriarchal value system that keeps male at the center of public life (such as

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the court decided that such documents could be issued based on mother's identity.

<sup>7</sup> Article 9(5) of the Constitution, 1990 reads, "...a woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen and who has initiated proceedings for renunciation of her foreign citizenship, and any other person who has renounced the citizenship of Nepal and has gone to a foreign country but who has renounced his foreign citizenship, may acquire the citizenship of Nepal."

citizenship) and female as the dependent ones. Hence, women are not granted full citizenship and are treated by state as "second class" citizens. This is fundamentally because, in our country like many Arab countries (see CRTD and UNDP, 2004), the relationship between the state and women has never been a direct one, rather it is arbitrated by a male kinsman, be he a father or husband or brother. Consequently, for woman in Nepal, basic citizenship rights such as the right to vote, to issue an identity card or a passport, to access social protection schemes such as allowance for widow and elderly women, to send their children to school, to marry, to travel, and most relevant to the issue at hand, to acquire and confer citizenship to their children are either lacking or granted through the mediation of a male family member.

After all, it manifests the way power relations between women and men are shaped and constructed in Nepali society where because of unequal power relations between Nepali women have difficulty in taking decision regarding issues related to getting citizenship for her child. It is especially so if the woman in question is experiencing a state of social rejection because of being trafficked, being raped, etc.

## **2.4 Media Review<sup>8</sup>**

Issues of women's citizenship rarely appear in Nepali press. A review of media reporting of the last two years, based on AATWIN's recent news clipping initiatives, reveals that women's citizenship problems are yet to draw attention of Nepalese media. A relatively comprehensive reporting on the issue, however, has been carried out by Nepal, a vernacular weekly news magazine (September 2005), as follows:

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<sup>8</sup> The names in this section are not changed as they are already published in the newspapers.

## ***In Search of Identity***

Sharad Bheshwakar, one of the young and famous cricketers, whose mother is Nepali and father Indian (passed away three years ago), was born in Nepal as his entire family is living in Kathmandu. Now he has been asked to show Nepali citizenship certificate of his late father.

Tulsa Lata Amatya who got married with a Dutch national, has been living in Nepal following her Newari culture with her husband and children. She has now two daughters and a son. But she could not manage to confer her citizenship to her husband with foreign nationality, which has nullified the rights of the children born in Nepal with a Nepali mother from getting Nepali citizenship.

Like Tulsa, Durga Pokharel, former Chairperson of National Women Commission, has a similar fate. Twenty-one years ago she got married with a British national, who has been living in Nepal since then. Her children could not get citizenship certificate as she has a matrimonial relationship with a foreign national.

Sumi Devkota, 39, works in a USAID project in Kathmandu. She got married with a Nepali citizen long ago, but had to divorce. Her first son, now 15, lives with his father. As Sumi felt loneliness, she decided to have a baby through an artificial insemination in overseas. Now she has a second son, 3 years, living with her. But she is terribly worried, as the Municipality asked her to show the father of the boy to get his birth registered.

Mousami Malla, famous actress, got divorced with her husband after having two sons. Now she is living alone, taking care of her two kids. Having divorced with the husband, she tried to replace his family name printed in her citizenship card, but could not succeed. Now her sons are grown up but she could not confer citizenship to them as a single mother. She is demoralized in repeatedly requesting her ex-husband to help the children get citizenship. And, he tried to emotionally blackmail her to send the sons back to him if citizenship is needed.

Mousami says, "I have to pay the school fees of my sons and ironically the bill comes in the name of their father."

Shanti Tamang, 43, and Rajkumar K.C. had a long love affair since 1972. In 1975, they married each other in Pashupati Temple and have two children. Rajkumar, an ex-Deputy-Director of Nepal Rastra Bank, did second marriage in 1980 and started harassing Shanti and Rajendra, the son. Despite the fact that Rajendra has birth certificate from the hospital, educational certificate and recommendation letter from the Municipality, still the District Administration Office refused to issue citizenship card to Rajendra. Shanti mentions that Rajkumar refused to attest the application for citizenship as a father as it might jeopardize his ill intention not to share the property.

Below are some of the news on this matter reported elsewhere:

- In a letter to the editor of Kantipur (9 May 2006), Sanjib Mishra Jha unveils his own grievances. His mother got married with a migrant Maithil Brahmin from Terai in Dadhikot, Bhaktapur. Since 1987, his father has disappeared. Since his mother does not precisely know where the husband was the permanent resident of, they have not been able to make the letter of recommendation from the local political body. Despite the fact that he has birth registration and his mother has her citizenship and land registered in her name, still the Chief District Officer (CDO) refused to issue citizenship card.
- The Supreme Court of Nepal has refused a petition which had claimed that a child born from an unmarried mother be given citizenship certificate. In its interpretation, the Court as justified its decision by claiming that conferring citizenship on the basis of unmarried mother is against the national pride and convention of Nepal (Annapura Post, July 2005).

## *In Search of Identity*

- The Supreme Court of Nepal has issued a directive instruction against the Government of Nepal to provide citizenship card necessarily to those infants who are born inside Nepal but whose paternity is unidentified (Gorkhapatra, August 2006). This directive responds to the severe problem of Badi community, in whose case paternity of a majority of children remains unidentified, one of the issues to be discussed in detail in this report latter.

This brief review of media reveals that women's citizenship issues are widespread. Although media coverage is largely biased towards the issues of urban, upper class, educated and women with voice, at the cost of comfortable silence over the issues of rural, poor, illiterate and vulnerable women from countryside Nepal, still it brings some major issues into the public attention.

To conclude this section, the following are some of the women's citizenship issues, which the media reporting helps us to identify. Conferring citizenship to a child becomes problematic when:

- the child is born out of wedlock with a man of foreign nationality;
- marriage ends in divorce at a time when the child is too young;
- the husband has polygamous marriage, and the marriage in question is not the formal and arranged one;
- the parents had love marriage, not widely socially recognized;
- the baby comes out of an unwanted pregnancy, or incest;
- one of the parents is loiterer;
- the baby comes out of artificial insemination and/or is a test-tube baby;

- the man involved just had the intention of sexual exploitation; etc.

## **3. Main Findings and Analysis of Field Research**

### **3.1 Profile of the Respondents**

Keeping the complicated nature of citizenship issue into consideration, both the RT and the RAC jointly decided, in its planning phase, to narrowing down the focus of the research into a few selected themes. After a careful review of literature and repeated discussions and brainstorming, a consensus was developed that of the several issues of interest, the present research being preliminary in its nature, focuses on citizenship issues of Badi women, women living in squatters, women suffering from polygamy, and the survivors of trafficking. The aim of narrowing down the focus was to allow a deeper level of analysis.

The profile of the 15 respondents<sup>9</sup> of the present research (see Table 2) indicates that most of the women who are denied citizenship rights are relatively the poorer ones and have marginal social position in terms of caste/ethnic belonging. Of the 15 respondents interviewed, slightly more than half (eight)

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<sup>9</sup> See Annex 5 for an idea of respondents' profile.

belongs to Dalit, while the rest to the Hill ethnic groups and none from the so-called "upper caste" groups. Not only the respondents with problems of citizenship are found socially vulnerable, they are also found to be economically poor. Of the 15 respondents we interviewed, almost all (14) falls below the poverty line, with a majority of their source of main income being daily wage (for 11 respondents) (Table 2). As the table shows, the current age of the respondents is 32 years, which ranges from 18 to 60 years. The age at marriage of those ever-married women, however, is 16.8 years, the actual age being from 10 at earliest to 21 years latest.

**Table 2: Social characteristics of the respondents**

<b>Characteristics</b>	<b>Number of respondents</b>
<b><i>Caste/ethnic background</i></b>	
Dalit	8
Janajati	7
<b><i>Level of Education</i></b>	
Illiterate	4
Literate	4
Primary	2
Secondary	5
<b><i>Age</i></b>	
Current age (average)	32 years
Age at marriage	16.8 years
<b><i>Family economy</i></b>	
Deficient	14
Self sufficient	1
<b><i>Source of income</i></b>	
Daily wage only	11
Job/self employed	2
Student/retired	2



### ***In Search of Identity***

It also shows that younger the age widespread is the problem of citizenship. This may also reflect partly that the young girls and women because of their level of education, high mobility (even migration) and wider exposure to organized sector of economy, and increasing aspiration to join public sphere, have started realizing the problem of not having citizenship more than ever before and also more than their elder counterparts. As a result, their citizenship issue has drawn public (at least community) attention, a reason that made the RT identify them as the respondents.

*Table 3: Marital and family status of the respondents*

<b>Characteristics</b>	<b>Number of respondents</b>
<b><i>Marital status</i></b>	
Never married	1
Widow	1
Ever married (or having affair)	13
<b><i>Marriage type</i></b>	
Inter caste marriage (or affair)	7
Intra caste marriage (or affair)	7
Inapplicable	1
<b><i>Family status</i></b>	
Broken family	11
Living together	2
Inapplicable	2

*Source: Fieldwork 2006.*

Looking at from the perspective of marital status of the respondents, 13 respondents are ever married, followed by one never married and another widow and living alone (Table 3). Related to this is that almost half of the respondents has inter-caste marriage and the next half has intra-caste marriage. Our field observation reveals that almost all of the teen-age marriages including all inter-caste marriages of the respondents have not sustained. And, the consequence is that, conjugal life of 11 respondents got jeopardized: divorced, or separated, or simply abandoned by their husbands. Of the 13 ever-married respondents only two were living at patrilocal family of their husbands, and a large majority of them (11) either returned back to their natal home, or living as single mother (mostly) with small babies because of the marriage was dissolved. Thus, all the teen-age marriages, irrespective of the fact whether it is so called "love marriage," or inter-caste marriage, inherently consist of a selfish, self-seeking, and irresponsible behaviour on the part men for "sexual exploitation for the time being" and leaving forever. Thus, teen-age marriage suffers from so many risks and vulnerability, including not having citizenship for the wife (or to the children).

### **3.2 Citizenship, livelihood and women's coping strategies**

The following is the snapshot of the ways our respondents have maintained their livelihood and devised strategies to cope with the circumstances of not having citizenship and the resultant conditions.

Lalmati, a Badi woman in Ghorahi, is engaged in a domestic factory and helps packaging bhuja (snacks), which gives her around Rs. 80/- a day. Couple of years ago the Women Development Program had offered her a small loan from which she has started goat keeping. Her mother owns 12 kattha of land, and the production of this is the third source of their income. Still, for Lalmati, it is difficult to maintain the family and feels unsecured. Couple of years ago, BASE, a local NGO, had offered a job but she loosed it for not having citizenship. A

## ***In Search of Identity***

number of alternatives were sought at that time. Someone suggested that she could apply for citizenship on anyone's name as father, as she does not have birth registered. But she thought why she should apply in other's name as the husband is there. Eventually, she made her mind changed and then applied for citizenship by her grandfather claiming as the father. Having nowhere to live; now she lives in her natal home.

Another Badi respondent from Ghorahi, Tanuja was fully dependent on daily wage labor earlier. Now her husband has started working as khalasi (helper) in a night bus. She also has two pigs and one goat. But Tanuja has recently heard that the Municipality is in the process of prohibiting pigs keeping, as there is fear of spreading encephalitis. Thus, at the moment the income is all right, but the current income source is not sustainable and she does not have citizenship.

For Kalpana, another Badi respondent, the daily wage earning is the only source of her family income. She earns Rs. 80/- a day as daily wage. Sometimes she also assists in grocery shops in Ghorahi, for couple of hours, whenever asked and gets additional Rs. 15/- to 20/- depending upon the volume of work. Daily wage labor is not a regular source. She is living in a rented room for which she has to pay Rs. 300/- per month. Unlike other Badi women, she has not even got pigs or goats to raise, which she thinks is because of her exclusion from Badi themselves for being poorest. Having no land, no home, and no citizenship make her feel the future uncertain. She is one of the poorest women the research team has ever met. For a family of three, she can afford not more than Rs. 20/- to 25/- for the food for a whole day.

Sabala, one of our young respondents from Nepalgunj, lives with six members in the family headed by her mother, and earns Rs. 1,700/- in a month working as a teacher under a non-formal education program operated by a Dalit NGO. She has to pay Rs. 300/- for the rented room and contribute in other household expenses, including costs of her own education. She hopes to

reach up to college education and assist her mother by earning more money, but she could not get citizenship as she was born out of commercial sex work, she is not sure how to proceed. The school has asked her several times the birth registration certificate. Sometimes, teachers on their personal capacities do help in avoiding the requirement of birth certificate; in other times one of them volunteers to put his name as the father. Still in other times, SAFE, a local NGO working among Dalits including Badi, comes forward assures the school that they would bring her birth registration soon. As the school is located in their settlement and everyone knows the case, different coping strategies are working till. "But now I will have to join college, and that would be most difficult and humiliating experience for me," Sabala says.

Balkumari lives in a squatter settlement in Kathmandu and her family is fully dependent on daily wage labour. Her husband gets Rs. 250/- a day while she gets just Rs. 140/- of the similar kind of work. Unfortunately, the husband does not bring the money in and comes drunk, so he has no contribution at all in household expenses. Balkumari has three sons to take care of, one of whom is grown up but does not like to work. Moreover, none of them has citizenship card and there is fear that the Municipality can at any time displace them on charge of occupying public land. To ensure her future, at the most she is making a monthly saving of Rs. 100/- per month with Lumanti, an NGO working mostly with people living in squatter areas.

Sukmaya has started working in a cottage industry in Kathmandu with the linkage of Shakti Samuha where they make paper bags. She earns approximately Rs. 2,200/- per month. When she was alone, the money was just enough to maintain her. But, now she has brought her son back from village. Now she pays Rs. 1,600/- as the rent of the room and at least Rs. 500/- in kerosene. Although Shakti Samuha supports her son's educational expenses, such as copy, pen, etc., again it is really difficult to cover the minimum level of monthly expenses. Although she has got her citizenship, her son does not have even his birth registered. The problem is that, the man

## ***In Search of Identity***

sexually exploited her and escaped irresponsibly after Sukmaya got pregnant.

Having got training for more than three years in Pokhara, Kamala, a trafficking survivor, learnt hairdressing and beauty parlour skills. Now she has started a beauty parlour shop in a suburban area of Katmandu and earns approximately Rs. 5,000/- per month, and says she can save approximately Rs. 1,500/- on monthly basis. Being never married girl living alone, she is happy with the income. Her trouble is that not having citizenship has prevented her from registering her enterprise in the government system, thus has been forced to run it illegal.

Working in a women's NGO in Kathmandu, Subhadra, earns Rs. 10,000/- in a month. Her husband too is making good money. A family of four members, she is maintaining her household relatively easily in Kathmandu. Now she has also got citizenship card after hard struggle and has confidence of living an independent life, serving others if possible. Her problem is giving a common surname to her two babies, who have different fathers and ensuring that none of them have to be deprived of citizenship. Married to a man of Terai ethnic background, but she has put her name in the citizenship card as a higher caste surname to ensure that the children get the same surname.

Deenu lives in Basamadi of Makawanpur and cultivates two-kattha land, which is not enough even to maintain the food. Therefore, she earns cash by making liquor. Living in a shared house with brother-in-law and his family, she is very active in community affairs, but very much worried as her husband has disappeared all of sudden and there is no information about his whereabouts. So long as he does not come back, she would also not get her citizenship, means she would also not be able to transfer the ownership of her part of the land that she is cultivating now.

One of our respondents from Makawanpur, Naramaya is bed ridden due to sickness for the last two years and is completely

unable to work. As her husband is living separately with another wife in the same house and does not take care of Naramaya anymore, the household expenses are being maintained on the wage earnings of her three young and school-age daughters. None of them has got citizenship, neither her daughters have their birth registered.

Still another respondent from Makawanpur, Sabina, who is also a squatter dweller, now earns Rs. 3,000/- at a construction company in Basamadi of Hetauda. For the time being it is all right as she has only a small daughter to support. But the problem is that the company is asking her to show the citizenship card, which she does not have, as her husband has left her after his fourth marriage and none of her parents has got citizenship for themselves.

Premkala, our final respondent, who is a resident of Lalitpur, assists others in washing clothes and earns some money to maintain her livelihood. Living in a shared accommodation at her parental home with the family of her younger sister, Premkala gets occasional supports from the latter. Her son used to earn good money working in a motorbike repair shop. But now he has been imprisoned for alleged physical attack against his father to get his rights including getting citizenship. The father is actually refusing to accept him as the son and Premkala as the wife.

### **3.2.1 Comments and Analysis**

When one looks closely at the livelihood portfolio of these women and the strategies they have devised to cope with the situation, a number of running issues emerge, which we summarized as follows:

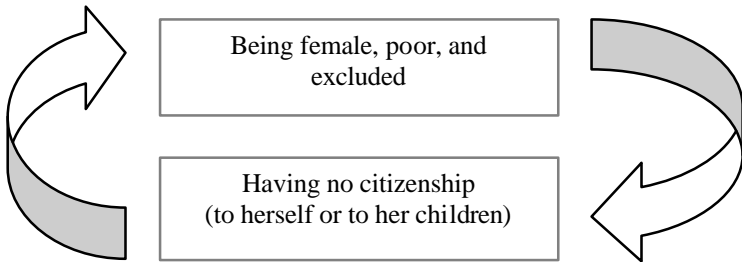
First, except one or two respondents, all the rest comes from a very poor family background. Most of them have wage earning as the main source of livelihood, followed by minor options such as pigs or goat rearing, liquor selling, small farmlands, etc.

## ***In Search of Identity***

A two-way relationship exists between the state of being female, being poor and being excluded with their not having citizenship (see Figure 2), and importantly they are mutually reinforcing to each other. It is not to say that poor and exclusion is the only cause of not having citizenship. See, for example, media review (section § 2.4).

Second, none of the respondent, except one or two, has her male counterpart supporting economically or otherwise. As most of our respondents are abandoned by their husbands (or partners), the formers' social network, support system and social safety net too is weaker. That is why they have been denied from their basic rights of getting citizenship. One of our respondents, for example, could not get citizenship because she could not afford going to Khotang, her original place before migrating to Katmandu, to make the certificate of migration. She is living in squatter.

**Figure 2: Relationships between the social status and mode of living with citizenship**



Third, a majority of respondents are migrants. Even the Badis in Ghorahi are a second-generation migrant. They left their place of origin, mostly due to poverty, followed by social rejection (in case of trafficking survivors), and/or family break down. Their migrant status has been found another cause of not having citizenship, as they do no longer belong to the place of origin and not accepted to the place of destination. Not having citizenship pushes them towards a state of nowhere, and some

people are found to have been like vagabonds, which pushes them towards more unlikely to get citizenship.

### **3.3 Problem faced and efforts made regarding citizenship**

#### **3.3.1 Reasons for not having citizenship**

##### *(a) The question of unequal power relations*

Men are reported of having a tendency of keeping the wives (or partners) avoiding the request of applying for citizenship and eventually leaving the wife (with or without children) altogether. A Badi girl -- whose father is unidentified -- was humiliated by municipal people by asking to come along with father, producing certificate of marriage registration of the parents and certificate of birth registration of themselves.

Badi women are not involved in commercial sex work any longer in its conventional sense. However, in Ghorahi of Dang, where we did our fieldwork, some Badi women are still found having long-term extra affair with the local non-Badi men. A man keeps so many promises with the woman so long as he is happy, such as from a regular financial contribution to getting married and having a durable settled life. When the woman gets pregnant, the situation becomes complicated all of a sudden, and the man withdraws himself from all of the responsibilities (moral, economic and political). On the contrary, because of her "low caste" position, poverty, illiteracy and consequent weak access to local political and administrative system, in most of the cases, the woman has to bear all the responsibilities and consequences alone. One of such consequence is not having marriage registered, not having the birth of the child(ren) registered, and not having citizenship of her own as well as of her child(ren), because in the process of getting all these administrative requirements accomplished, presence and/or attestation of husband as a male head of the household is compulsory.



## ***In Search of Identity***

An extension of the same point is that the male, as the culprit or the sex exploiter of Badi women, by virtue of their "upper caste" and/or high-class position, better access to social network including bureaucracy at the local level, somehow manage to escape themselves from responsibilities and thus push Badi women towards further vulnerability including not having citizenship.

**"The pain of not having citizenship is with us and alone with us. Those who have it can never experience that pain. There is no limit, how much we have cried in our lives... [cries]. People come, ask and go, and soon they forget it. But we cannot forget us because we have the pain [starts crying again]."**

*- A Badi respondent who could not show her father in front of municipal officials to get a letter of recommendation for citizenship*

For a Badi woman, the husband becomes more as a visiting partner at her home rather than a socially recognized and legally binding husband. In this case, the men can avoid themselves from taking any responsibility of the wives as well as of the children. Frequently, men have either thrown the women into street or have moved out elsewhere leaving the women and children abandoned.

### ***(b) Poverty, landlessness and deprivations***

Most Badi women elope at relatively an early age, say, in average around 16 years or so. It has two repercussions so far as citizenship is concerned. First, as poorer they are, the husbands have no opportunity than to migrate elsewhere (mostly India) for wage labour. In that case, there are instances that the men do not come back and keep the wives uninformed about their whereabouts, thus the wives cannot get citizenship until their arrival. Second, the men come back but hide themselves or

marry formally with another women. In this case, the women loose any prospect of getting her rights secured as their marriage is yet to be registered.

In a semi-feudal society like Nepal, land is not only the basis of livelihood, but also a source of power and identity. Those who do not have land are often found to have deprived from getting citizenship, primarily because of their invisibility from the sight of administration and local leadership, both of which are bureaucratic as well as elite biased. Although this point applies to both men and women, women in particular are found to have suffered more attributed largely to their reproductive roles, which make another site of their invisibility in a patriarchal society.

*(c) Migration and the problem of identification and belonging*

It is very recently that Badi have started a sedentary life.<sup>10</sup> Still, some of them are landless and homeless. In such a case, it is found in Gorahi that the municipality or VDC sometimes asks the Badi women who have trouble in getting citizenship to produce a letter of migration from where they had come, and/or a letter of identification of father. Given the social and economic position of most Badi women, crippled in poverty, caste discrimination and patriarchal oppression, it remains beyond their capacity to go to other districts, such as Salyan, for example, and produce such letters, as they did not have permanent settlement in other districts as well. As a result, women in this category are denied from getting citizenship certificate.

Some Badi women, like other poor women, have eloped themselves with an alien men, such as Indian citizen. In this

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<sup>10</sup> Earlier, they were like a group of vagabond (roaming around), while men selling earthen pots and musical instruments, such as madal, and women singing and dancing as entertainers.

## ***In Search of Identity***

case, as the husband cannot produce certificate of Nepali citizenship, after marriage, she too has to face problem. In one such case, a husband of a Badi woman went back to India since September 2005, as she has no idea of where the man comes from, the Municipality has refused to issue the recommendation. Her problem has been further complicated as the citizenship certificate of her father has been damaged in a fire case, one the one hand, and she already has two children, on the other. In such a situation she has, as per the law, no prospect of getting citizenship either from the husband's side or from the father's side

Within one decade or so, they are forgotten at the point of origin, because of their already existing invisibility. Moreover, wherever they migrate, their visibility does not get improved considerable. Therefore, these people suffer from sort of "once in margin, always in margin" syndrome. Their status, as the poor migrant, manifests at a time when they need certification from local political units (VDC or municipality, etc.) attesting their inhabitation and/or migration. This is the critical point most of the poor migrants report as critical time for them for not getting citizenship. So long as having or not having home and/or land is considered to be the proximate proof of inhabitation and/or migration, for landless poor migrants, it makes hard time to put alternative proofs and thus remain deprived from even to approach the CDO to claim for citizenship certificate.

### ***(d) Access to network***

Poor, migrant, and people from the margins of the social life often have a weak social network and invisible identity. In a feudal society like ours, where "afno manche" (one's own people) and "bhan sun" (unofficial reference or persuasion) make a great difference in getting things done, especially in bureaucracy, poor migrants who are placed at the bottom of social hierarchy almost always experience a bitter reality that their "simple and doable tasks as not done." Bureaucrats,

irrespective of their level, have internalized a false sense that their role has been "not to serve the people but to put an obstacle wherever it is possible," the result being that the poor, migrants, women, illiterate, less assertive people are always avoided and victimized. And, this applies in the process of getting citizenship also as reflected so vividly in our fieldwork.

*(e) Masculine value system treating women as sex object*

One of the widely prevailed causes for women's deprivation from realizing independent citizenship is that women are considered as "sex objects" by men at all walks of life. The "macho"<sup>11</sup> tendency of men is found to prevail all around, under which men "exploit women so long as sexual pleasure is there, once risk factor appears, they throw women like an object." The citizenship problem that Badi women are facing is a burning example of men's macho tendency. For eight women, of the 15 we interviewed, the roots of the citizenship problem is because of their male abandoning them, after years of cohabitation and/or marriage. Women who experienced such problems had their age at cohabitation or marriage relatively earlier, say before 15 years of age. Hence, it is apparently logical to argue that women at their teen age are entrapped in romantic dreams, exploited and then abandoned. Three main reasons are noticed for their abandonment:

- "phasing over of the romance of sexual pleasure" (due to age, naive-ness vs. awareness, and pregnancy/delivery cases of or by the girl or woman involved),
- fear that family property has to be shared (in case of polygamy, commercial sex, extra-affair),

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<sup>11</sup> The term "macho," frequently used in feminist literature, generally denotes that under the existing patriarchal value system, men learn an attitude and develop a behaviour governed by the value that women are for their sexual pleasure and women enjoy forceful sex.

### ***In Search of Identity***

- fear of dis-honour (or stigma) (in case the girl or woman comes from the family with low level of economy, caste/ethnicity, prestige).
- Badi women, survivors of trafficking (at their post-trafficking life), inter-caste marriage, and love marriage are often found to have ended in abandonment of the wife. The women once abandoned by their husbands (or partners), in case their marriage or partnership is not socially sanctioned and/or legally registered, may have to face the problem of citizenship to herself as well as to conferring citizenship to her child(ren).

### **Case 1: Kamala Tamang**

*Kamala, lives in a suburban area of Kathmandu and runs a beauty parlour, a skill that she learnt for three years in Pokhara. Originally she is from Dhankuta and comes from a very poor family. His grandfather has already sold all the property they had in Dhankuta and left the district almost a decade ago. Her mother died and the father lives with stepmother. She was trafficked to India where she stayed in a brothel for about two years. Last year, she went to Dhankuta to apply for citizenship. The officials of Dhankuta Municipality gave Kamala a long list of documents to be shown as the proof that she is a bona fide citizen of the municipal area. The list includes, (a) copy of the citizenship card of her father, (b) copy of birth registration of herself, (c) witness of the community members, (d) copy of land registration certificate of father, (e) copy of educational certificate of herself, (f) name of three generations of those who certify her status with copies of their citizenship card, (g) copy of population card, (h) copy of migration registration certificate. As she did not have all these documents and she can never have some of them, she came back and has given up the idea of applying for citizenship altogether. Not having citizenship has hampered her business, as she has not been able to get it registered. She also had got an opportunity to go abroad for further training on beauty parlor, which she had to miss, as she did not have citizenship card to apply for passport.*

#### **(f) The problem of social control in the floating population**

People living along the major roadsides are often traders, transportation workers or the poor/squatter dwellers assembled from different parts of the country in search of opportunity for profit or livelihood. Sociologically speaking, these pseudo-urban settlements have a very weak social control mechanism, as people are often strangers and the relations are either formal or

## ***In Search of Identity***

loose. As a result, the crime rates are often found higher in those societies. Poor, migrant and squatter-dwelling women from this section of population are found to be suffering from the problem of citizenship largely due to men's irresponsible sexual behaviour. Couple of our respondents along the Narayanghat-Pathalaiya corridor in Makawanpur District had similar experience of men keeping them as second, third or fourth wife and leaving altogether when they find some other women to live with. On women's part also, it is not unusual to get second or third marriage choosing more suitable partner. Women of this category face problem in getting citizenship because it is difficult for them to trace out their husband.

### ***(g) Question of bureaucratic hassle and prejudice***

While access to social network matters a lot in getting things done, as discussed earlier, it is very ironic that an employee's personal interest (likeness or dis-likeness) to a particular person too becomes a ground barring her or him from enjoying the constitutional rights.<sup>12</sup> During the course of this research, such a case has been identified from Udayapur District Administration Office, in which a woman, despite her fulfilling every requirement, has been harassed towards getting citizenship based on the ill-intentions and subjective wish of particular personnel of the concerned desk.

Our respondent's individual identity of trafficking survivor and troubles in personal relationship with her father-- that the person knew -- has been made ground for asking her to come along with her father. Eventually, in the fourth year of her

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<sup>12</sup> In the case of Badi, even if a Badi woman asks for citizenship along with her husband, the Municipality asks for documents that are normally not asked for non-Badis. As the local municipal staff are informed of personal life histories of Badi, the latter blame them for unnecessary hassle.

## **Main Findings and Analysis of Field Research**

constant efforts, when she approached Chairperson of Udayapur District Development Committee, and upon his telephone call to the CDO, she was offered citizenship without any delay.

She commented, "Administration is not impartial too, ...civil servants tend to manipulate rules, regulations and the norms at their wish. If I had not fulfilled the requirements of getting citizenship - for which I had been refused for, the last four years regularly - how come a telephone call from the leader turns the situation upside down immediately?"

### **3.3.2 Efforts made to get citizenship**

The following are the snapshots of some of the efforts that our respondents have made (or not made) in order to get citizenship to her or to their children.

After the directional order of the Supreme Court in September 2005 that children of Badi women be provided citizenship without making identification of their father a condition, Badi

**"We do not know you; we do not know who Badis are. Come along with your father and bring marriage registration certificate of your parents."**

**- A staff from Nepalgunj Municipality replying to a 20 years old Badi girl seeking her birth registration, for she could not get school enrollment without it. Her mother could trace who the father is, but could not dare to open the mouth for her being poor, female and more over a "Badi women" from Gaganganj.**

**"I feel that we happened to be in Nepal, but we are not Nepalese. We just became people of this country, not full citizens... When I think this way, I find myself nowhere... I regret, I get depressed...[...cries]."**

*- The same Badi girl with the Research Team*



## ***In Search of Identity***

women went to the office of the CDO at Ghorahi collectively. The officials said that the court decision is yet to arrive at their hands and suggested that upon its circulation, Badi women will be invited to claim their case. But they did not. Later, when one of our respondents went alone, she was not given citizenship without any apparent reason.

The husband of one of our Badi respondents works in India on wage labour. One year ago, she visited the office of the CDO, Gorahi, for citizenship certificate. The officials decided to undertake sarjimin (certification of witness) with seven local people. She also has her father and husband's citizenships with her. Still the officers of the CDO office asked her to produce a letter from Salyan CDO office regarding migration of her parents' generation. Still she made such letter. Now the same officials said that they would ensure -- by verifying with Salyan CDO office -- that she is not attempting to get citizenship twice. Thus, she has not been provided citizenship yet.

Married to an Indian citizen, one of our respondents could not get citizenship card. The husband, who has reportedly gone back to India, has abandoned her since September 2005. And, she has no idea of where he is from. As the citizenship certificate of her father has burnt, she could not claim citizenship from parental side also. She could have second marriage, but who would accept her as a mother of two children. Thus, she is nowhere to go.

Most of our respondents had love marriage at an early age; some of who have their marriage registered while others do not have. All of them, however, have a common problem that their husbands constantly avoided their requests of getting their marriage registered and/or making citizenship cards. Avoidance like this has a serious and life long effect on the life of women. First, they persistently experienced this problem as they could not revolt against husbands' refusal, attributed to their weak fall-back positions and weaker intra-household bargaining capacity. Second, it is serious because avoidance on the part of

husbands is very much a systematic and deliberate effort not to empower their wives with formal entitlements. Finally, in most of the cases, the underlying cause of avoiding wife's request is a manifestation of ill intention on the part of husband not to entitle wife the right of family property.

### **Case 2: Premkala Khadgi**

*Premkala, a Newar woman from an interior part of Lalitpur Sub-Metropolitan City, now 50 years, had cohabitation with Gyan, from Indrachowk, Kathmandu. Initially, Gyan used to come to see her at her own home. Later he took Premkala outside it and they started living together in one of his relative's houses. Premkala lived there for two years, but Gyan never took her to his home, which actually was very near by from the place they lived. Also she knew that he already had a formally married wife at his home, and had kept herself underground as a second wife. She then realized that life is too long to go in that way and decided to get out of this. By that time, she already had a son, named Dhan Bahadur, now 30 years. Although she has had her citizenship card already before, neither had their marriage nor that of her son's birth registered. Therefore, apparently, Premkala could not confer citizenship to her son, Dhan Bahadur. Seven years ago, Dhan Bahadur, who was already a national level football player from one of the reputed sports club in Lalitpur, went to his father seeking support to get citizenship, as he had to go abroad for training. His father not only refused it but also attacked fatally over the son and registered a case in the court claiming an attempted murder on the part of son. The court gave a verdict that although the incident was not a murder attempt it was still a case of "gali bejjatti" (abuse and disgrace) on the part of the son. Then she put another case in the court asking to establish matrimonial relationship with Gyan. He neither accepted Premkala as wife nor Dhan Bahadur as his son. For the last seven years, the case is hanging around the court and Premkala is on the process of claiming a DNA test to establish the relationship. It is Premkala's suspect that Gyan refused to accept her as the wife, under the pressure of his first wife both of whom have a fear whether the huge amount of property that Gyan owns has to be shared with Premkala and Dhan Babadur. Premkala regrets, "if I had relationship with a man with moderate to poor economic status, I would not have to be deprived of basic citizenship rights."*

## ***In Search of Identity***

Two years ago, one of our young Badi respondents from Nepalgunj went to issue letter of recommendation for citizenship. The municipal staff refused to issue any such letter and intentionally asked her to come with father, which she does not have.

One of our respondents who were trafficked to Bombay has citizenship certificate already before. When she was just 14, a mobile citizenship distribution team arrived in her village in Sindhupalchowk District. But she claimed her age to be 18 and got citizenship certificate immediately. Now she has a son, and whose father abandoned her before she delivered the baby. Although, she has taken his birth registration "forcefully," from the VDC she originally comes from, still could not get son's citizenship because the husband deceived her.

Still another respondent went to Dhankuta, the original place of her parental migration, to try for citizenship, but could not succeed, as the municipal people put a long list in front of her as the requirements for getting citizenship in her typical case. She has no hope to produce all the documents asked to her and now she has withdrawn herself from such an effort. One of our elderly respondent living in a squatter settlement in Kathmandu has no option than to go to Khotang, the original place of their inhabitation, to try for citizenship, but she cannot afford it as she has to maintain a four-member family from her daily wage earning.

A young woman from Basamadi, Makawanpur was trying to fulfill a series of paper requirements that the VDC secretary asked her to produce to make citizenship. Her husband disappeared in the meantime and left the home. Now she is not sure what to do. Another young woman who spent several of her joyful teen age working hard in circus in India is now without citizenship as both of her parents passed away upon her return. Once she went to Choughada to make the letter of recommendation from the VDC to the CDO office. First time they asked her names of three generations of her mother.

Second time they asked her for certificate of relations with her father. As his father is no longer alive and her husband has abandoned her already, she too withdrew herself from attempts to get citizenship.

### **3.3.3 Comments and discussion on the efforts made**

Compared to the nature of the problem and effects it has made on to women's lives, efforts that our respondents have made appear to be far less than enough. Based on our field observation, now let us explain and comment on the facts Table 4 has summarized.

First, of the 15 respondents only one has taken the case up to the court and is fighting actively. She has fought in the court for the last seven years or so. In terms of access, she is an exception as she comes from the core of Lalitpur Municipality, although her income and literacy level is comparable to those others (also see Case 2). Looking at this issue from other side of the coin, we can comfortably argue that other respondents are even not in a position to take their issue to the court. Our field observation reveals that most of our respondents hanged around VDC or municipality for getting letter of recommendation, and they could not go beyond that.

*Table 4: Respondents' status of getting citizenship by the nature of their efforts*

<b>Types of efforts</b>	<b>No. of cases</b>	<b>Current status</b>
Fighting in the court	1	Ongoing
Trying for more than two years	1	Succeeded
Trying serially and then left	2	Not succeeded
One slot effort and then left	5	Not succeeded
Have not tried at all	6	Not succeeded

## ***In Search of Identity***

Second, very ironically, a significant number of respondents (six of the 15) have not tried (or are not even in a position to try) for citizenship. They have taken it for granted. Or, to argue from a different side, citizenship card has nothing to herald in their lives, as their life is amidst a mess of poverty, illiteracy, isolation and marginalization.

Third, of the 15 respondents we interviewed, it is only one respondent who tried repeatedly for four years and eventually succeeded to get the citizenship. We have to see what made her to succeed what lessons we can learn. Her life history tells us that she was from relatively a well to do family, now working in women's NGO. It means she is an activist and can afford to try repeatedly, given her level of income and access to information and networking. Our average respondents are not of that capability. Another equally important policy conclusion from this case is that getting citizenship for women whose circumstance does not fulfil all the requirements is very tough.

Fourth, two of our respondents "tried serially and then left" without any fruitful conclusion. One third of the total respondents made "one slot effort and then left" the process altogether. A number of logical conclusions emerge out of this reality.

One immediate conclusion is that given the way of living, hopes and aspirations, some other problems are more urgent and immediate for this group of respondents than getting citizenship. And, based on our field observation, we can confidently mention that it is their hand-to-mouth problem that is severe to citizenship problem. In the context of their extreme poverty, isolation, and illiteracy, it is likely that citizenship certificate cannot be more than a ceremonial paper.

Another equally important conclusion is that individual level efforts on the part of the victims mostly result in failure, also because the victims are already marginal members of society.

Still another conclusion is that citizenship is very much a legal document, whose provisions are mentioned in the constitution itself. Therefore, it is the state not the individual citizens, who should take initiatives and ensure that no one is deprived from his or her constitutional rights. A policy change on the part of state carries power to save thousands of victims from injustice, and may reduce the cost of time, tension and money.

Finally, our field observation reveals that the problem of citizenship is very much widespread and severely biased against people of certain gender, class and identities. Therefore, the problem demands a concerted and collective effort on the part of people. But we did not find a process of collectivization of the problem. Individual citizens fought (or have not fought) against this injustice on their individual capacities and patience. Political parties and civil society actors, the expected stakeholders to politically link common people with the state system, have kept themselves aloof from the problem.

### **3.4 The question of identity as embedded in citizenship issue**

Social identity is characteristic feature of humans as social beings. The way in which individuals and groups are distinguished in their social relations with other is what constitutes the social identity of the persons in everyday life. Identity in its making comprises of an intricate process of two simultaneous qualities, called sameness and differences (Jenkins, 1996). The question of identity and difference is doubly linked with the issues of citizenship. First, a person's identity makes a difference how easily he or she gets citizenship card. Second, a person experiences his or her identity differently whether or not he or she has (obtained) citizenship card.

Badi women who do not have citizenship card, for example, think that their identity is shaped by three inter-related factors so far as community perception is concerned. First, being a Badi

## ***In Search of Identity***

itself makes things different as they are looked down socially. Second, being a Badi woman in particular heralds another set of discrimination and exclusion. Third, a Badi woman without citizenship is apparently looked down as the other.

The manifestation of such an identity in everyday life is that when such a Badi woman walks with someone else, irrespective of her relations with the man, she is immediately suspected of having "bad relationship." One of the Badi respondents said, "When we visit the municipal office the officials over there skew their eyebrows. Why are we looked down?" Thus, compared to the non-Badi service seekers, Badi women are always accorded low priority in government offices.

On the contrary, women from Brahmin, Chhetri and other "high caste" groups may have but fewer hassles as they are relatively educated and aware on matters of legal provisions and official procedures. Also they better know how to deal and negotiate with government officials. They also have relatively a better access to information for their privileged social position in the society. But for those who are illiterate and marginalized, "the tongue of the officials becomes the rule."

Self-confidence is an integral part of social identity. Women without citizenship do widely feel that they have loosened their earlier confidence. "I would have walked with full of vigor and confidence as my colleagues had I got my citizenship card," says a Badi schoolgirl. She further adds, "Whenever I remember that I do not have citizenship, I feel depressed. It is precisely at this point that I find myself inferior to my classmates and colleagues."

The social identity of a trafficking survivor is further pathetic. A trafficked woman is treated very badly, isolated and rejected. The moment their "story" becomes public, they are treated quite differently both at home and in the public sphere. Social rejection of trafficked women is quite intolerable. As a result, when such women try for citizenship card, in case they did not

have already before, they are intimidated at every point. On the contrary, a trafficked woman who could get her citizenship after a repeated effort of long time remarked, "Now I feel sahaj (normal), comfortable, and encouraged and my level of self-confidence has increased."

Being poor, landless, squatter, migrant, ethnic, Dalit, young/elderly and/or illiterate woman make a complex of social identity. Women belonging to this category are treated based on the principles of difference. As a result, these women are considered to be the "other," thus not trustable.

### **3.5 Transfer of responsibility and the victimization of women**

In this research we had attempted to identify junctures of problem that women face frequently in the process of applying for citizenship and seek their perception in this regard. After a careful review of their reality, we have found that women (and, in that respect men also) are victimized all the way as there is an institutionalized system of transferring responsibility. With reference to the case of Kamala, one of our respondents who had applied in Dhankuta Municipality for citizenship, let us have a brief discussion on this matter.

Kumala like anyone was asked the following documents that the Municipality form has clearly mentioned:

- Attested copy of the citizenship of father or person certifying, or in case of marriage that of the husband;
- Attested copy of school certificate with date of birth mentioned;
- Attested copy of the certificate of migration; and
- Duly filled in form.



## ***In Search of Identity***

In addition to this, specific to the case of Kumala, the Municipality has also asked her the following documents:

- Copy of birth registration;
- Recommendation of Tole (lane or cluster);
- Copy of land ownership certificate;
- Name of three generations of the one certifying with copy of his citizenship; and
- Copy of population card (!)

Despite the fact that our respondent had all these documents except the certificate of migration, she was not issued the letter of recommendation for her family had left Dhankuta several years ago selling all the fixed property including the land. She could not apply elsewhere too as she does not have the certificate of migration. Now she is nowhere and the state is not taking her responsibility of addressing the typical cases like this.

Before we identify problem area and respondents' perception regarding who they think is the perpetrator for them not having citizenship, let us first discuss the steps one has to go through towards getting citizenship. The following are the three main steps in their sequence:

*First step* : Getting the prescribed form, and filling it one's own details properly.

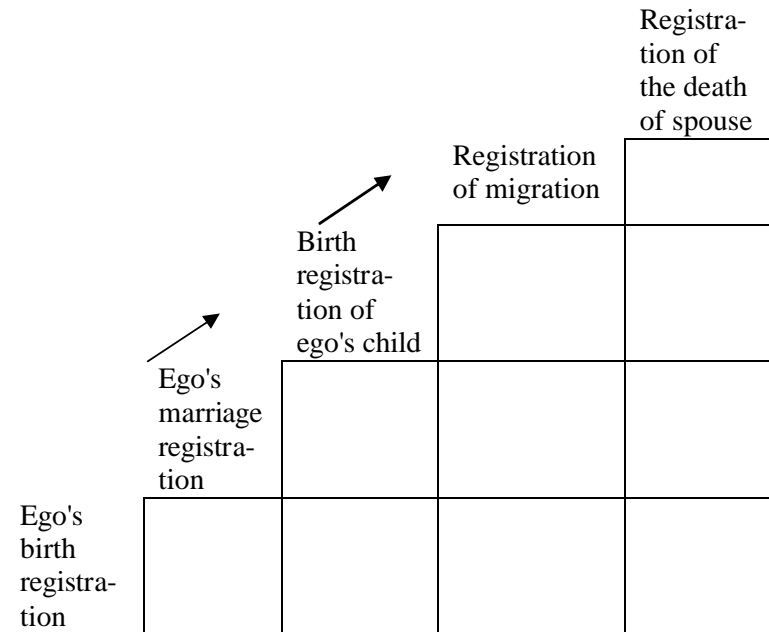
*Second step*: Seeking letter of recommendation from local political units.

*Third step* : Submitting the application to the CDO office and get the citizenship card.

The process is not as simple as this. First, the application form may not be available in remote parts of the district. In order to

get it, one has to go to the district headquarters. It is not possible for every one. Second, getting letter of recommendation is where every one has to struggle hard in some way, as local political units are always reluctant to issue such a letter, for certain reason part of which is genuine. Third, there is a long list of required documents one has to attach with the application. In a country where illiteracy is so high and mass of the population is so poor, registering all the (vital) events (see Figure 3) and keeping documents up-to-dated is another challenge. Finally, one has to go to district headquarters once again for submitting the application to the CDO office formally, which is again not affordable to the common poor and illiterate masses.

**Figure 3: Ladder of vital events during a life cycle important to citizenship issue**



After having the fieldwork for the present research completed, the Research Team arrive at a common feeling that the main

## ***In Search of Identity***

crux of problem of a significant size of Nepalese population still not having citizenship is the institutionalized tendency in the government bureaucracy of not taking responsibility and transferring it to others, ultimately making the common and ignorant people the victim.

**"They become Mayor, take occupy the seat of public position, but do not serve the common people. They do not talk with us; do not address the problem that poor people are facing...Ultimately, what they are there for?"**

*- One of the young respondents, reacting against the Mayor who did not listen to her problem*

Ministry of Home, which is the apex body of distributing citizenship card to the qualified citizens of the country, has delegated its authority to the CDO office in the districts. The CDO office has transferred its duty -- identifying which applicant is genuine and which is not-- to the local political bodies, such as VDCs or Municipalities. The VDCs and Municipalities, in turn, have transferred the same responsibility to the VDC/Municipality members. As there are cases when members recommending a fraud applicant have been penalized, VDC/Municipality members ask for "speaking documents" as a proof of fulfilling all the requirements and revealing that the applicant is a bona fide citizen. Hence, it is eventually onto the applicant himself or herself who should be able to collect, compile and prepare all the proofs.

### **3.6 Nature of exclusion and deprivation of the women without citizenship**

We had asked our respondents a couple of questions regarding a very basic curiosity of the research: why do they need citizenship card? To put in other way, what they are deprived of or excluded from for not having citizenship? First of all, a widely shared problem is that not having citizenship gives them

a sense of crisis: crisis of identity, perceived humiliation, and a sense of intimidation for not being a full citizen vis-à-vis the other who hold it. It has been found that they become more anxious when they find that they have been deprived of citizenship for no genuine but some trivial reasons.

**"To take a bank loan you need citizenship. Without capital how can you run a business? Even for a small job, citizenship is asked. If you do not have a job, any business, or a farmland, people ask 'what do you do then?' Moreover if you are a Badi woman, then they automatically start suspecting over you whether you are continuing your 'purano pesa' (conventional occupation of commercial sex)."**

*- A Badi woman Ghorahi, reacting against people's suspect over her that she must have continued commercial sex for her living.*

Second and one of the equally widely held grievances is that they are remained deprived of economic opportunities simply because they do not have citizenship. For example, a woman (and also men in that respect) is not allowed to open a bank account if she does not have citizenship. This means, she cannot save hard earned money if any and has to depend on their male counterparts or some other relatives. It has undermined the prospect of their economic self-reliance. If a person is not allowed to open a bank account, that means he or she is also not trusted to draw bank loan. This has seriously hampered some of the entrepreneurial respondents, who have idea and confidence to establish a business avenue but do not have capital to invest. Also, quite a few of our respondents have lost opportunities to enter into organized productive sector, such as local level factories, because they could not show citizenship at the time they were offered. To put in a very simple way, poor rural women who have no citizenship are excluded even from one of the popular grassroots level initiatives of enhancing economic safety nets of women through saving and credit program.

## ***In Search of Identity***

Some of the women who do not have citizenship card have also missed opportunities to go abroad, because they could not apply for the passport for which citizenship is a must. For example, Kamala had such an opportunity through Shakti Samuha to participate in a short training on beautician in the USA. Shubhadra too missed couple of such opportunities to participate in workshops and conferences related to issues of trafficking in women. Premkala's son having his butcher caste background had got an opportunity to go to USA for butchering, but could not apply for passport because his father has refused to provide him citizenship.

Even to establish a small business in urban centers such as Kathmandu, one has to register it in the Municipality and VAT office. Citizenship is sought while going through these formal procedures. Kamala, for example, who has been running a beauty parlour shop, could not gain full confidence to upscale it with further investment, only because she does not have citizenship certificate.

Almost all of our respondents had hard times especially during those days when armed insurgency from the Maoists was in its full-fledge. At that time, common people were asked to carry any card that could establish his or her identity. For the poor women in countryside, nothing but only citizenship card reveals their identity. Our elderly respondents from Dang, Nepalgunj and Makawanpur complained that they were harassed several times by security forces (at check points or during patrolling) for not carrying identity card of any kind. As a result, especially women had no option but to restrict their mobility during times of conflict for fear of being caught up in cross firings.

People with extreme destitution hope that they would get some support on the part of state. Balkumari, who is a squatter living in slums of Kathmandu to is expecting that the public land that she is living now might be entitled in her name. Lumanti, a local NGO working in squatter settlements, is lobbying for this. But as she does not have citizenship, nor does her husband has,

it is unlikely that she would be entitled to get such opportunity, even if land already occupied is distributed to the squatters.

Most important to all is community-based exclusion and discrimination that women without citizenship are facing. It is the most shuttle and everyday pain of women who are kept in invisibility at the local level. This is also a matter of disparity between women who are privileged of having citizenship versus those are underprivileged for the same. Our field information is rich in terms of exclusion and discrimination of women by women at the community level. Quite a few of our respondents, namely Tanuja, Kalpana, Manumaya, Purnimaya, Balkumari, and Deenu have the grievances that they have been excluded by other women of their respective community, mainly because they are poor, Dalit, and women without citizenship.

It is widely found that women who have citizenship think that women not having it are not equal to them. The former tend to discriminate the latter in public sphere of their domain. For example, women who do not have citizenship are not invited in community level meetings, are not asked whether they have interest to be part of saving and credit groups, are excluded from the executive committee on the plea that not having citizenship disqualifies the ones during the registration process. At the end of the day, women without citizenship are deprived of access to information, and made a second-class citizen even at the community level.

### **3.7 Knowledge, negotiation and resistance**

Part of our inquiry was devoted to exploring the extent of knowledge the women without citizenship had regarding rules and procedures of getting citizenship, and the way they had been negotiating and resisting with and against the situation.

Given the low level of education and awareness, and virtual confinement of the respondents with community and domesticity, it has been found that a majority of them do not

## ***In Search of Identity***

have knowledge up to the level it is required. Some of them even do not know who is responsible for issuing citizenship. One of our respondents from Makawanpur, for example, appeared to be completely naive when she told that last year she was taken to Kathmandu in connection to making citizenship. Upon verification, later it was identified that she had been there to participate in the "We Can" campaign against violence against women as a testimony and not for making citizenship. One of our Badi respondents, who having got married with a Muslim boy had to stay in Nepalgunj with a complete seclusion and veiling for couple of years, too showed same level of naiveness on issues of citizenship she was deprived of.

Another respondent, who is also a community activist at the local level, however, replied confidently that the CDO office is the responsible government unit for issuing citizenship certificate and that it is either VDC or Municipality where one has to ask for the letter of recommendation. She is also aware of the constitutional provisions discriminating against women in conferring citizenship through mothers' name.

Surprisingly, Badi who did not have sufficient level of knowledge regarding rules, regulations and procedure of getting citizenship, did not leave a ground to oppose the decision of Supreme Court that children of Badi women be provided with citizenship so long their father is unidentified. They argued that taking citizenship with a humiliating comment on it, as "the father not identified" would push them towards further and lifelong stigmatization. As a result none of the Badi women and children, upon whom the Supreme Court decision is primarily targeted, has applied for citizenship in Ghorahi CDO office till the time of this research. It shows how effective local organization and sensitization is despite low level of education of Badi women without citizenship. "So long as my mother is alive, why should I declare myself as 'father unidentified,'" aptly reacted another Badi girl in Nepalgunj.

### ***Main Findings and Analysis of Field Research***

Women are getting organized tremendously at the grassroots level through mothers' groups, women's groups, community groups, local CBOs, or NGOs initiated saving and credit groups. Badi women who are the most deprived of all are found to have been far ahead in getting organized in tole (lane/cluster) improvement groups, Badi Women Group, etc. Badi women proudly report that after having their own organization and revelation of their collective strength, there has been an observable improvement in the way Badi women were looked down by non-Badis. The Badi Women Group also has a good network for lobbying and advocacy at the district level.



## **4. Conclusion & Recommendations**

### **4.1 Summary and Conclusion**

Citizenship has come out as emerging area of debate in development field towards the end of twentieth century with the rights discourse and good governance issues. The genesis of the debate dates back to the Western idea of democracy and liberalism. Rights, duties and identity issues are integrally embedded in the debates and the conceptualization of citizenship. Liberal theory promotes the idea that citizenship is a status, which entails individuals to a specific set of universal rights granted by the state. State's primary role is to "protect" citizens in exercising these rights. Those who reiterate that duties are more important than rights often show interest to see how an individual's identity of self is produced through relations with others in the community. Identity is an important dimension of citizenship. How people see themselves as citizens and act upon and how this relates to their understanding of themselves in other aspects of life is an important ingredient of citizenship. Feminists are however critical to the liberal notion of citizenship and argue that the notion of citizenship has been attached to the public sphere so much that it has excluded women. Also feminists are critical to the idea of "the citizen" and call for moving away from universal, homogenous ideas of women.

Despite the fact that very recently some progressive steps are being taken towards the direction of recognizing women's basic citizenship rights, those proposed by the House of Representatives on 30 May 2006 and the recent draft of Interim Constitution, as they are yet to get their legal shape. Hence, the Constitution of the Kingdom of Nepal 1990, and the Citizenship Rules, 1992 still shape the legal and constitutional framework of Nepal regarding citizenship. There are two main discriminatory practices, as follows:

- Women's rights to get citizenship for themselves are not recognized and they are made dependent on their male counterparts (be it father or husband); thus there is an immense loss of women's independent identity as a sovereign citizen.
- Women's rights to confer citizenship to their children and husbands (in case of matrimonial relations with a citizen of foreign nationality) are not allowed, which is against the principle of non-discrimination that the constitution claims to uphold.
- It has a tremendous impact so far as loss of women as their independent access to vote, to get passport, to register vital events of themselves and of their family members, etc. are greatly obstructed.

The media review reveals that women's citizenship issues are widely problematic and has obstructed women's rights to confer citizenship to the child (a) from a husband of foreign nationality, (b) when there is divorce with the husband, (c) unwanted pregnancy, such as rape and incest, (d) if the child is from artificial insemination, etc. Unlike the issues of women's citizenship that media review has brought in the forefront, the present research reveals that women without citizenship in the countryside Nepal are:

- absolutely poor (mostly dependent on their daily wage earning) with low level of educational attainment,

### ***In Search of Identity***

- mostly come from the marginal social category (ethnic minority or Dalit background),
- having teen-age, inter-caste and love marriage, and
- the consequent result being their marriage divorced/separated and their family broken.

The reasons that women are made deprived of citizenship to themselves or to their children and husbands are many. Some of those that this research has excavated are as follows:

- Power relations,
- Poverty, landlessness and deprivations,
- Migration and the problem of belonging,
- Access to network,
- Masculine value system treating women as sex object,
- The problem of social control in floating population, and
- Bureaucratic hassle and prejudice.

Women without citizenship have made a number of efforts to get citizenship to them and to their children and /or husbands. Yet, these have not been effective compared to the nature of the problem and effects it has on their lives. First, women without citizenship have not got support from any corners of society, so they are fighting almost on individual capacity. As most of their status is already marginal and living in a broken family situation, it has been difficult for them to have a sustained effort. Second, almost half of the respondents are found to have made no efforts (attributed to lack of information, idea, courage, isolation and deprivations); the rest have made "one slot effort" and then left. It is exception to find effective and sustained fight against the situation. State too is yet to realize that it is the duty of the state to ensure that none of its citizens are deprived from their rights of getting citizenship.

The question of identity and the associated level of self-confidence is found to have shaped from being poor, landless, migrant, ethnic/Dalit, young/elderly and illiterate. As women belonging to this attributes are treated based on the principles of difference, women without citizenship are considered to be the "other," and thus not trustable.

A major problem that has made great many women without citizenship a victim is the institutionalized form of transfer of responsibility of verifying genuine-ness of the applicants, thus, ultimately demanding for "self-speaking documents" with the applicants themselves.

The main conclusion: The question of women's citizenship is more severe and widespread than one tends to think. Unlike what law-practioners believe, "legal reform" alone cannot herald justice to the lives of hundreds of women without citizenship. As socio-political forces including gender disparity and masculine ideology are strong at work at the deeper level of the problem of deprivation of women from their rights to citizenship, the issue demands a consorted and multi-layer effort on the part of government and civil society together for the change of attitude and practice regarding gender relations.

## **4.2 Recommendations**

In response to the observations and conclusion set forth in the above sections, the following recommendations are made:

### **The main recommendation:**

Legal and constitutional framework does make things different. Citizenship issue, however, shows class, caste/ethnic and gendered nature of the problem deeper. It is therefore imperative that fight against constitutional discrimination and deprivation of women be combined with fight against poverty and promotion of social inclusion, gender equity and women's empowerment. Considering the extent to which current

## ***In Search of Identity***

women's citizenship problem is part and parcel of an overall socio-cultural tendency to de-prioritize women's rights and realities, this should therefore be aimed at both the local community level and policy levels.

### **Other recommendations:**

- The recent draft of the Interim Constitution of Nepal, 2006 is an important document to shape the fate of Nepalese women for a couple of years to come. Considering that it also has an immense potential of paving the way for the new constitution to be drafted by the proposed Constituent Assembly, women's rights groups need to be very much proactive right at this critical juncture of Nepal's historic transformation. If needed, they should be alert to exert pressure, lobby and advocate ensuring that women's citizenship rights are thoroughly spelled out in the Interim Constitution.
- The proposal of the House of Representative made on 30 May 2006 is a landmark event in the history of women's struggle in Nepal for their emancipation. There should be strong monitoring at different levels to ensure that 33 percent of opportunity is truly allocated for the competition amongst women only. This would have a tremendous impact on the life of a woman to realize her meaningful empowerment.<sup>13</sup>
- Sensitization of media, policy makers, civil servants at the delivery points and the women themselves on women's citizenship issue seems to be very crucial given the male-biased social, cultural, political and economic institutions. Since women's citizenship issues are part and parcel of those super structures, an effective awareness campaign to promote

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<sup>13</sup> It is important to note here that a part of women's movement in Nepal (women activists, organizations, people from political parties including Maoists and their associated wings) are even advocating for equal participation of men and women (50-50) at all levels and sectors.

and educate about the notions of citizenship and women's right to get and confer citizenship is desirable.

- Considering that Nepalese women are a heterogeneous group and that they have different needs and realities, the future initiatives regarding women's citizenship needs to have a clear targeting regarding issues to be raised, groups and geographical locations and social categories to be prioritized. Thus, we recommend that rural poor, ethnic/Dalit, landless, migrant, squatter, trafficking survivors, Badi/Deuki, raped, victims of conflicts, and those living along the roadsides be given the first priority.
- Considering the importance of registration of vital events, including marriage, migration, birth of children, etc. towards getting citizenship, it is strongly recommended that awareness component on this issue be made an integral component by all women's rights activists and groups.
- A large number of women are deprived of citizenship just because they simply do not have idea of the process and procedures of applying for citizenship. Some others are deprived because they need simple legal knowledge to counter the tricks and frauds committed on the part of their male counterparts. Hence, it is desirable that a massive legal literacy campaign be initiated with help desk in each of the Nepal Bar Association, district branch established.
- The institutional transfer of responsibility by those responsible to issue the citizenship and/or letter of recommendation for citizenship is the most harassing experience of women with non-mainstream identities. The Members of Parliament (or the expected Constituent Assembly), the government, and the political parties need be sensitized to ensure that they do not transfer the responsibility and that CDO has the decreative power to issue citizenship to a genuine applicant irrespective of the fact whether he/she has the required documents.
- Advocacy on citizenship rights of women should be linked with other issues, such as, women's basic rights (education,

## ***In Search of Identity***

health, and livelihood), their economic rights (land rights, property rights, equal pay, etc.) and their rights of equal participation in decision making opportunities.

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# **Annexes**

# Annex: 1

## Check List used for qualitative in-depth interviews

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Primary/introductory questions</li><li>2. Differences, Identity, Social Life and Survivors own perspectives</li><li>3. Citizenship and Livelihood</li><li>4. Citizenship and Exclusion</li><li>5. Survival Strategies</li><li>6. Knowledge of Legal and Constitutional Provisions</li><li>7. Aspiration/Expectation, Resistance and Negotiation</li><li>8. Suggestion and Recommendation</li></ol> |
|---|

### 1.0 Primary/Introductory questions

Name of the respondent: .....
District: ..... VDC/Municipality
..... Village/tole/ward: .....
Age: ..... Cast: .....
Education: .....Marital status: ..... Kind of
Family: .....Economic Status: .....

#### 1.1 Please tell us about your marriage.

- When (year) ?
- Kind of marriage (Love marriage, arranged, others)
- Intracast / intercast
- Difference in age
- Within District/ VDCs/Outside
- Relation with birth house, husband and his family

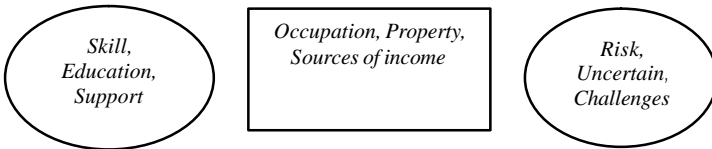
- Marriage registration or relation certificate
- 1.2 How many children you gave birth? Son/Daughter, age, birth certificate, Citizenship?
- 1.2 Whom the children live with ?
- 1.4 Do your husband have Nepali Citizenship ?
- 1.5 Is there any problem to get the citizenship to your 18 years age children?

**2.0 Differences, Identity, Social Life and Survivors own perspectives**

- 2.1 Are you sufferer of getting citizenship? How do you look to yourself?
- 2.2 What is the difference between yourself and you like women in your society?
- 2.3 Do you blame someone guilty/responsible for not getting citizenship? Why?
- 2.4 How do you feel the society has taken your problem? Affectionately/helpfully, ignore/ does not care, negative/neglect/.....?
- 2.5 In your opinion who the women get most trouble to get citizenship? How and why?
- 2.6 In your knowing which economic, ethnicity background women get problem to get citizenship?

**3.0 Livelihood**

- 3.1 What is the basis of your livelihood?



- 3.2 How many months in a year are sufficient of your earning? (Insufficient, sufficient, saving)
- 3.3 If there is saving how you utilize that?
- 3.4 If it is insufficient, what is other alternative way to earn?
- 3.5 How the citizenship issue is connected with your present economic status?

3.6 How you have been deprived of economic opportunity by not having citizenship so far?

- The issue of exclusion be decided up to the Social/community, economic, professional, legal, political level

3.7 What are the effects in your life not having citizenship?

- Individual/Family?
- Social/Community: personality development, identity, prestige, height, economic, professional, legal, political

#### **4.0 Exclusion**

4.1 Having the citizenship problem, have you been to deprived of any privilege, rights, opportunity etc? (Clarify in which aspect, Individual life/family life? Social/community, economic, professional, legal, political and gender)

4.2 Having the same problem of citizenship, what kind of problems do your family members are facing?

#### **5.0 Survival Strategies**

5.1 Currently do you live with your husband or separately? How is the relation with him?

- Cordial, general and cooperative
- Normal
- Troublesome, problem in relation
- No relation

5.2 Do your husband is still helping you? What kind of help?

5.3 How have you been running your house?

5.4 Among the supporters (relatives, natal house, home, friends or groups) whom you find primary and secondary?

#### **6.0. Knowledge of legal and constitutional provisions**

6.1 How long have you been informed regarding the citizenship related existing law, regulations and their provisions?

6.2 Do you feel that you have been discriminated legally being a woman?

6.3 Who is the authority to confer the citizenship? In which legal basis he/she confers the citizenship?

- 6.4 Can you give us some information on your individual and collective efforts to get the citizenship?
- 6.5 If you have tried for the citizenship, how was the response of the government officials on the basis of your past history, family relation and present identity?

**7.0 Aspiration/Expectation, Resistance and Negotiation**

- 7.1 Did you get opportunity to participate in any training or awareness program on the law of Nepal and gender?
- 7.2 Are you associated with the group/organization in your area?  
If so what kind of organization, your responsibility and how many years?  
Is there any discussion on the issue of women's rights in those group or organizations?
- 7.3 Are you affiliated with any political parties? (If so, is there any discussion on this issue in the unit where you are associated?)
- 7.4 Is there any organization to assist/pressurize/inspire you relating to your problem? If so how long they have initiated? Is there only revealing the problem or continuous effort? If you have experience of continuous effort, what are the challenges that you experienced?
- 7.5 Taking the problem of citizenship what kind of organizations have you been seeking the justice?

**8.0 Suggestion and recommendation**

- 8.1 There are many women victimized because of the legal discrimination on delivering the citizenship to women. In your opinion what have to be done to remove the injustice bellowed to the women?  
Probe at what level and what action is needed.
- 8.2 What kind of assistant is appropriate for the solution of your personal problem and you get justice? Which agency/ individual?
- 8.3 Does this procedure be confer with the legal system?
- 8.4 If no what kind of amendment is necessary?
- 8.5 Is citizenship problem related with only the legal or does it have other dimension too? If there are, what are they and how they are responsible?
- 8.6 Finally do you have any suggestion to us and the state through us?

## Annex: 2

### Schedule of Research Activities

Date	Activity
18 May 2006	Meeting with Research Advisory Committee
24 May 2006	Departed from Kathmandu to Nepalgunj. Visited SAFE office in Nepalgunj
25 May 2006	Departed for Dang, Ghorahi and approached Badi community leaders. Interview with 2 respondents.
26 May 2006	Interview with 2 respondents. Discussion in research team.
27 May 2006	Departed for Nepalgunj. Visited Gagangunj and interview with 2 respondents.
28 May 2006	Departed for Kathmandu
29-30 May 2006	Field note preparation.
5 June 2006	Interview with one respondent; Discussion in Research Team Visited AATWIN office
12 June 2006	Meeting of the Research Advisory Committee
16 June 2006	Interview with two respondents in Kathmandu Visited Subigaon, Ramhiti in search of relevant respondents.

17 June 2006	Visited Subigaon, Ramhiti in search of relevant respondents
26 June 2006	Interview with one respondent
27-28 June 2006	Field note preparation
28 June 2006	Meeting with Research Commissioning Body
6 July 2006	Departed for Makawanpur Interview with one respondent in Kamane, HMC- 8
7 July 2006	Interview with one respondent in Basamadi, Makawanpur, with second in Basamadi VDC- 3, Lewat; and third respondent in Thana-bhangyang, Hetauda- 11.
8 July 2006	Visited Padam Pokhari VDC in Makawanpur in search of relevant respondents
9-10 July 2006	Field note preparation
13 August 2006	Interview with final respondent in Lalitpur
15 Aug -14 Sept 2006	Write up of the first draft of the report
15 September	Draft report presentation and discussion



## Annex: 3

News on parliamentary proposal to confer citizenship on women's line

# HOR ONE ON 33 PC STAKE FOR WOMEN

• *Mom's guarantee enough for citizenship • Discriminatory laws to be scrapped*

Hindustan News Service  
Kathmandu, May 30

The Parliament today unanimously passed a proposal which obliges the government to give citizenship to women in certain cases in conformity with the wishes of the mother or father of the child, to guarantee proportional representation in all state institutions including jobs and other opportunities to end all provisions in laws that discriminate against women. For now, it has proposed 33 per cent reservation for women at all levels of state mechanism.

This, however, needs a legal shape, MPs said. The proposal was presented by MP Bidhya Bhandari and backed by

MP NP Saud. Bhandari said the policy includes job reservation for women, including in public service. "There will be competition among women in the 33 per cent reservation even in the public service," she said. The proposal also states that all existing laws that discriminate against women must be scrapped. Earlier, these were a policy of giving 20 per cent reservation for women in certain areas, but there was no law on it.

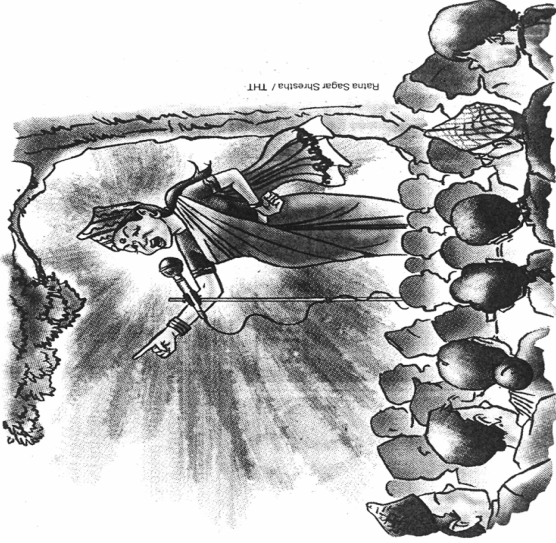
Urmila Aryal, state minister for women, children and social welfare, said: "Thirty-three per cent representation means reservation in jobs and other opportunities." Aryal labelled this as a "victory for Nepali

women who, she said, were facing numerous problems. Now, implementation of the policy's important," she added.

Advocate and women rights activist Suparna Pradhan Malla termed it a historic achievement. She said this was a "foreign and legal commitment" but "needs to get a legal shape" and be "immediately seen by amending all existing discriminatory provisions" of the laws.

"This has indicated that women's voices have been heard," she added.

"This is meant to ensure that all Nepalis get citizenship," MP Jagarath Khatiwada said. He expressed satisfaction that the House passed the proposal unanimously.



Rama Sagar Shrestha / TH1

# Annex: 4

## Provisions related to citizenship in the Constitution of the Kingdom of Nepal, 1990

### Part II of the Constitution

#### 8. Citizenship at the Commencement of the Constitution: At the commencement of this Constitution, the following persons who have their domicile in Nepal shall be deemed to be citizens of Nepal:

- (a) any person who is a citizen of Nepal by virtue of Article 7 of the Constitution of Nepal (1962) or section 3 of the Nepal Citizenship Act, 1964,
- (b) Any person who has acquired naturalised citizenship of Nepal by virtue of section 6 of the Nepal Citizenship Act, 1964.

#### 9. Acquisition and Termination of Citizenship after the Commencement of the Constitution:

- (1) A person who is born after the commencement of this Constitution and whose father is a citizen of Nepal at the birth of the child shall be a citizen of Nepal by descent.
- (2) Every child who is found within the Kingdom of Nepal and the whereabouts of whose parents are not known shall, until the father of the child is traced, be deemed to be a citizen of Nepal by descent.
- (3) Whenever any territory is acquired by way of incorporation into the Kingdom of Nepal, every person having his domicile within such territory shall become a citizen of Nepal, subject to the provisions of existing laws.
- (4) After the commencement of this Constitution, the acquisition of citizenship of Nepal by a foreigner may be regulated by law which may, *inter alia*, require the fulfillment of the following conditions:
  - (a) That he can speak and write the language of the nation of Nepal;
  - (b) That he is engaged in any occupation in Nepal;
  - (c) That he has renounced his citizenship of another country; and

- (d) That he has resided in Nepal for at least fifteen years.
- (5) Notwithstanding anything contained in clause (4), a woman of foreign nationality who has a matrimonial relationship with a Nepalese citizen and who has initiated proceedings for renunciation of her foreign citizenship, and any other person, who has renounced the citizenship of Nepal and has gone to a foreign country but who has renounced his foreign citizenship, may acquire the citizenship of Nepal.
- (6) Notwithstanding anything contained in sub-clauses (b) and (d) of clause (4), the son or daughter or descendant of a citizen of Nepal and who has resided in Nepal for a period of at least two years may acquire the citizenship of Nepal on such terms and conditions as may be prescribed by law: Provided that this clause shall not be applicable in the case of descendants of naturalised citizens.
- (7) The termination of the citizenship of Nepal shall be as determined by law.

**10. Conferment of Honorary Citizenship: notwithstanding anything contained in Article 9, honorary citizenship may be granted to an internationally renowned person.**

## Annex: 5

### List of respondents by their social category and place of residence

#### Annex 5

#### List of respondents by their social category and place of residence

S. No.	Name (pseudo)	Social category	Current place
1.	Mrs. Lalmati Nepali	Badi	Dang
2.	Mrs. Tanuja Nepali	Badi	Dang
3.	Mrs. Kalpana Nepali	Badi	Dang
4.	Mrs. Manumaya Nepali	Badi	Dang
5.	Mrs. Pampha Nepali	Badi	Nepalgunj
6.	Ms. Sabala Nepali	Badi	Nepalgunj
7.	Mrs. Balkumari Rai	Squatter, migrant	Kathmandu
8.	Mrs. Sukmaya Nepali	Trafficking + polygamy	Kathmandu
9.	Ms. Kamali Tamang	Trafficking	Kathmandu
10.	Mrs. Subhadra Tharu	Trafficking	Kathmandu
11.	Mrs. Deenu Thapa	Abandoned	Makawanpur
12.	Mrs. Tripti Rai	Trafficking + polygamy	Makawanpur
13.	Mrs. Naramaya Rai	Polygamy	Makawanpur
14.	Mrs. Sabina Lama Syangbo	Polygamy + squatter	Makawanpur
15.	Mrs. Premkumari Khadgi	Polygamy	Lalitpur

Source: Fieldwork, 2006.

Note: All names used as respondents are changed to protect the privacy and confidentiality of our respondents.