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OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS IN NEPAL



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### Concerns about discrimination and the Citizenship Bill

OHCHR-Nepal has written to the Speaker of the Parliament, detailing its concerns regarding the Citizenship Bill currently before the House of Representatives.

“The House of Representatives and the Government are to be commended for their serious deliberations and efforts to provide new legislation on the issue of citizenship, an issue at the heart of what it means to be a Nepali in this new democratic era,” said Lena Sundh, Representative of the UN High Commissioner for Human Rights in Nepal. “However, the importance of the issue only makes it more vital that the legislation in no way provides the basis for discrimination against certain Nepalis. The current Bill is discriminatory on the grounds of gender and could result in discrimination against displaced persons and members of marginalised groups.”

Under international law, it is up to each State to determine by law who qualifies for citizenship. Nevertheless, such legislation must be in accordance with international human rights law protecting the rights of individuals on matters relating to nationality and citizenship. In Nepal, any domestic laws which conflict with international treaties to which it is a State Party are invalid under the Nepal Treaty Act.

The current draft of the Citizenship Bill is discriminatory against women and is therefore in contravention of the Convention on the Elimination of Discrimination Against Women (CEDAW), which requires Nepal as a State Party to embody the principle of gender equality in its national legislation. Section 4 of the Bill sets out provisions which make it more difficult for a child born of a Nepali mother and a foreign father to gain citizenship than for a child born of a Nepali father and a foreign mother. The Bill also sets out provisions which discriminate against a foreign partner of a Nepali woman, in terms of their qualifying for citizenship.

In relation to displaced persons, members of marginalised groups and of the diaspora, OHCHR-Nepal is especially concerned about the provisions of Section 8 of the Citizenship Bill which require the presentation of certain types of documentation in order to qualify for citizenship. These provisions are likely to create major obstacles for many people of Madhesi background, including from Terai Dalit communities and indigenous communities, who for historical reasons do not currently have citizenship or the sort of documentation required. Many displaced persons do not have documents such as land certificates or have not been included in any census or voter lists due to their displacement.

These provisions are contrary to the obligations of Nepal as a signatory of the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

“In recent meetings with representatives from marginalised communities, such as Madhesi, Dalits, women from Terai communities and indigenous communities, I have heard their concerns about the Citizenship Bill. This is an important opportunity for the House of Representatives to enshrine in law the principle of equality and to realise the commitment made by the Government and the CPN-Maoist in the Comprehensive Peace Agreement to end discrimination in Nepal.” said Lena Sundh.

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