

POLICYBRIEF

November, 2024

Bridging the Identity gap

Policy recommendations for improving documentation and reducing modern slavery risks in Nepal

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Key recommendations:

- **Streamline the issuance of intermediary identity certificates:** Implement and expand local initiatives to issue interim identity certificates, particularly for those lacking complete documentation.
- **Promote public awareness on birth registration and citizenship:** Launch targeted awareness campaigns utilizing local platforms, with clear messaging on costs and economic benefits to encourage timely birth registration and citizenship applications.
- **Advocate for supportive local government policies:** Push for local policies that allow flexible birth registration and the issuance of interim identity documents, ensuring these documents are recognized for accessing essential services.
- **Foster multistakeholder collaboration:** Collaborate with community organizations, financial institutions and local governments to recognize interim documentation for accessing banking, social security, education and legal services.
- **Empower vulnerable groups through targeted support:** Provide financial assistance, free services and specialized support programmes for vulnerable groups, particularly women and children, to reduce the burden of acquiring citizenship and minimize modern slavery risks.

Introduction

There is growing recognition that people who lack official documentation are often unable to access their basic rights and entitlements, contributing to a myriad of complex challenges, including social stigma, economic marginalization and a lack of political representation and legal protection. There is also extensive evidence on the impacts of modern slavery on those being exploited and survivors. Little is known, however, about whether, and if so how, a lack of official documentation can increase modern slavery risks.

To address this evidence gap, the United Nations University Centre for Policy Research, supported by the Freedom Fund, undertook mixed-method, action-oriented research to examine the relationships between a lack of access to official documentation and heightened risks of trafficking and modern slavery. The research was undertaken at the global level and in three focus countries – Brazil, Kenya and Nepal – which were deliberately chosen to represent diverse communities and circumstances. These are countries where there is known to be a high incidence of modern slavery and where the Freedom Fund partners with frontline organizations to deliver community-centred programmes. The findings of the research were

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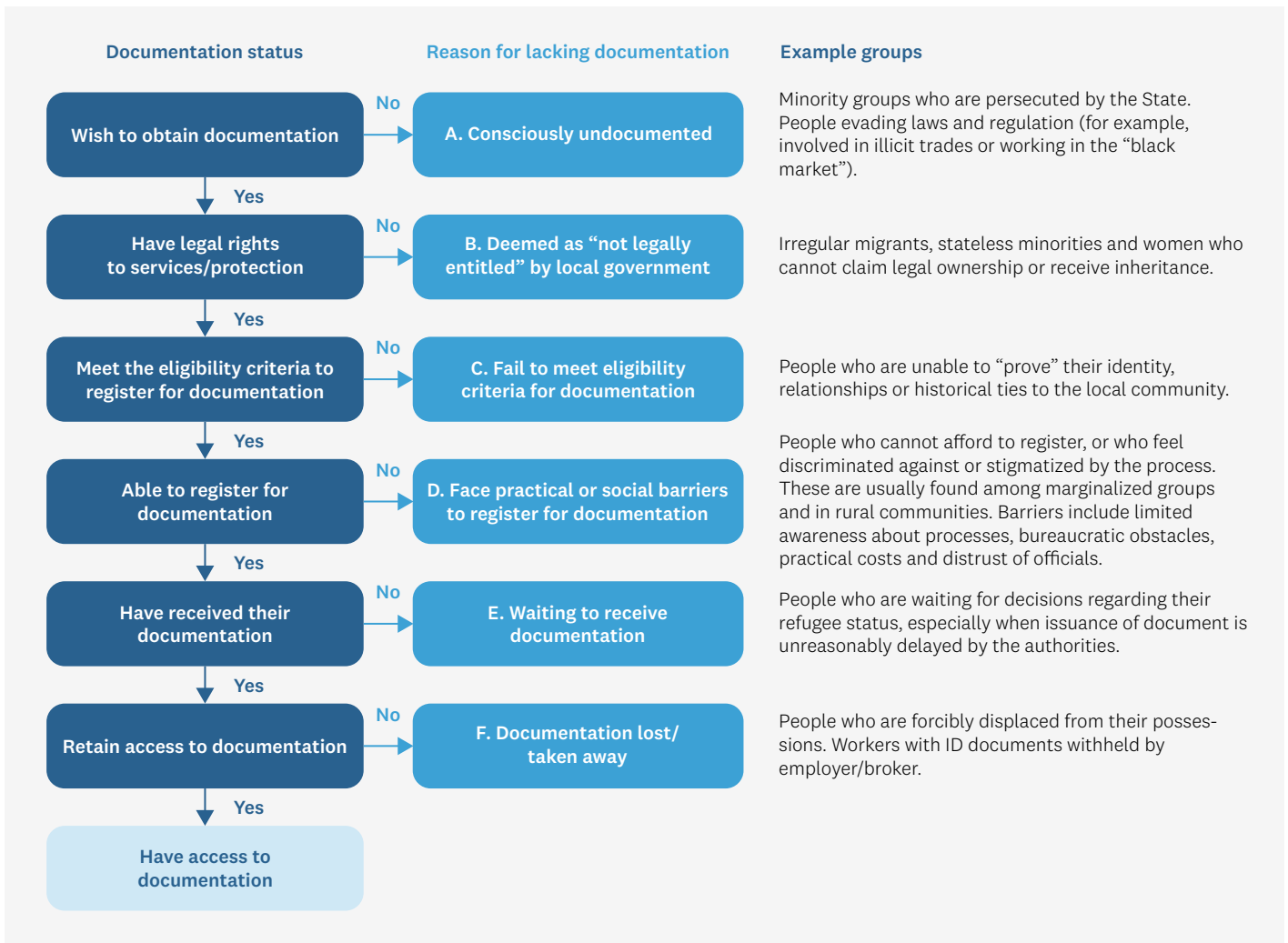
published as a global evidence review¹ and final report, entitled *NO IDENTITY, NO PROTECTION: How lack of documentation drives modern slavery*.²

Research in Nepal focused on a critical evidence gap involving members of migrant communities whose forebears settled in Nepal generations ago. Many of these individuals live in bonded servitude without land entitlements, representing a significant segment of the population facing systemic disadvantages. The research also examined the experiences of their adolescent and adult children, who, as a result of their parents’ lack of citizenship, experience limited access to education, employment, migration and other opportunities. This policy brief identifies practical solutions for policymakers, civil society organizations and donors, informed by the lived experiences of survivors of modern slavery.

Understanding the pathways to a lack of documentation

The existing literature highlights two main reasons for a lack of access to official documentation: (1) barriers to birth registration; and (2) challenges in accessing official documentation for those who migrate or who are forced to leave their countries of birth.³ Our research suggests that the pathways to a lack of documentation are more complex, leading to many, potentially overlapping, categories of people, both nationals and migrants, who lack access to official documentation. These pathways often intersect, reflecting bureaucratic inefficiencies, discriminatory practices, socioeconomic challenges and legal barriers (see Figure 1).

Figure 1: Reasons why people are undocumented: pathways and categories



1 Heaven Crawley, Anita Ghimire, Louis HERN Marcelin, Linda Oucho and Angharad Smith (2024), *Modern slavery risks among people lacking official documentation: A global evidence review* (New York, The Freedom Fund, 2024). Available at: <https://www.freedomfund.org/app/uploads/2024/04/peoplewithoutdocumentation-2024-04.pdf>.

2 Heaven Crawley, Anita Ghimire, Louis HERN Marcelin, Linda Oucho and Angharad Smith, *NO IDENTITY, NO PROTECTION: How lack of documentation drives modern slavery* (New York, The Freedom Fund, 2024). Available at: <https://www.freedomfund.org/news/no-identity-no-protection/>.

3 Heaven Crawley et al., *Modern slavery risks among people lacking official documentation*.

In the Nepali case study, several subgroups were identified as lacking documentation due to various reasons. The primary reasons included: (1) people were not perceived as “legally entitled” by local governments; (2) people failed to meet eligibility criteria; and (3) practical or social barriers prevented people from registering for documentation. The main factors are discussed below.

People not perceived as “legally entitled” by local governments

In Nepal, the research highlighted a critical issue concerning long-standing migrant communities who have been settled in the country for generations. Although some migrants have been granted citizenship by the Nepali Government, this citizenship is often “angikrit” (naturalized), meaning it is not based on lineage and therefore cannot be transferred to children, leaving subsequent generations without citizenship.

Cross-border marriages between Nepal and India are common, but significant gaps exist concerning women’s citizenship issues. Nepali women married to Indian men face a seven-year wait to obtain citizenship. Conversely, Indian women who marry Nepali men face a five-year waiting period and must renounce their Indian citizenship to acquire Nepali citizenship. In these instances, if their relationship ends before the waiting period is satisfied, or if their husbands refuse to cooperate, the women have no recourse for gaining or re-gaining citizenship. Additionally, married women cannot obtain citizenship through their parents but must do so through their husbands. This means Nepali women married to Indian men cannot revert to their parents’ citizenship in Nepal, further exacerbating the risk of statelessness for these women.

Although Nepal’s Citizenship Act 2063 Amendment Bill (Citizenship Amendment Act), enacted in 2022, has provisions for citizenship to be passed to children, this has not been implemented in all the study sites. As a result, women who have citizenship but do not live with their husbands are unable to pass citizenship to their children. Moreover, our research found that there is still no provision for citizenship to be acquired through parents for married women who have separated from their husbands and are living in their maternal homes. Consequently, women who lacked citizenship prior to marriage and are now separated from their husbands are at significant risk of becoming stateless.

People failed to meet eligibility criteria for documentation

In Nepal, eligibility for documentation is closely linked to historical migration patterns between India and Nepal. The decision by King Mahendra (1920–1972) to allocate land to people of Indian origin triggered a massive wave of migration. During this period, citizenship laws were relatively flexible, requiring just a five-year residency for eligibility. However, subsequent land reform acts restricted land ownership and tied it directly to citizenship. This legislative shift has rendered many individuals in the Bardiya, Saptari and Rautahat districts ineligible for citizenship because they do not own land.

Categories of people unable to secure Nepali citizenship:

1. **Absent during distribution:** Individuals who were working in other parts of the country during citizenship distribution campaigns and could not return to their official residence in time.
2. **Unaware of importance of citizenship:** Those who, lacking support from landlords or community leaders, failed to recognize the importance of citizenship or did not have their residence and employment confirmed.
3. **Documentation challenges:** Migrants from India and internal migrants within Nepal who cannot provide the necessary parental documentation as required by law.
4. **Social barriers:** Women and girls who face familial and societal resistance in obtaining documentation, including those disowned due to self-initiated marriages or those whose families refuse to assist in their citizenship applications due to fears of them claiming property rights or addressing gender-based violence legally.

Practical or social barriers to register for documentation

An extensive review of literature and interviews with key informants and survivors of modern slavery highlights a range of challenges that individuals face when attempting to register for official documentation. In Nepal, the registration process is particularly challenging for marginalized communities. These barriers can be broadly categorized as: a lack of awareness and knowledge; bureaucratic obstacles; practical barriers, including costs; and discrimination rooted in social norms.

A major barrier to obtaining documentation is the widespread lack of awareness about its importance and the benefits it provides. This issue is particularly acute in areas with low literacy rates, where there is limited understanding about the value of registration for accessing government services and legal rights. In Nepal, the research identified a sizeable group of people who are eligible but have not applied for citizenship because they have not felt the need to do so or did not understand the benefits. People in this category were mainly young men who worked in brick kilns and migrated seasonally to India, coming home only for certain periods during the year. They reported that since they are always working, they often do not apply for citizenship because they are either unaware of its importance or simply do not feel the need to do so. In such cases, the wives of migrant workers who stay in Nepal are also unable to secure citizenship without a husband’s citizenship certificate.

Bureaucratic obstacles further complicate the registration process. The complexity of the procedures, such as requiring multiple visits to registration offices and the need for additional documents like marriage certificates can deter many from completing the process. There is a notable discrepancy between the stipulations of Nepal’s citizenship laws and their practical application. For example, despite legal provisions under Nepal’s Citizenship Act 2063 Amendment Bill, enact-

ed in 2022, which allows women to pass citizenship to their children, implementation has been inconsistent across various regions, particularly affecting women separated from their husbands.

Practical barriers, including travel and registration costs, also play a significant role. While the cost to apply for a citizenship certificate – in terms of travel cost and costs for a form and photo – are affordable to even the most impoverished people, some people perceive the citizenship process to be expensive and have therefore chosen not to apply for official documentation. This was particularly clear among the Dalit groups in Rautahat District and highlights the need for communication and awareness raising. Others claimed they were forced to pay bribes to government officials and that this left them unable to acquire citizenship documents due to financial constraints.

Finally, discrimination and entrenched social norms create additional hurdles, particularly for women and for marginalized groups, including Dalits and indigenous populations. These groups often face social ostracization and are excluded from the documentation process due to deep-rooted cultural practices. In the Rautahat District of Nepal, the research found that gender norms undermine access to documentation for women, who frequently rely on their husbands or in-laws to obtain documentation. In some cases, in-laws demand bribes or refuse to provide the necessary references, leaving women and their children without citizenship.

Documentation status and modern slavery risks

Economic and employment risks

In Nepal, a lack of access to documentation predominantly forces individuals into the informal sector, perpetuating cycles of poverty and marginalization. Moreover, the absence of citizenship significantly restricts these individuals from seeking employment abroad, particularly in Gulf and South-East Asian countries. Skilled young workers are notably impacted as they are unable to pursue higher-paying job opportunities overseas due to the inability to obtain passports or process foreign employment applications. Discrimination also plays a role: our research found that individuals without citizenship are often underpaid compared to their documented counterparts in formal sectors.

For those without citizenship certificates in Nepal, significant economic challenges arise. People without citizenship cannot acquire assets like land and houses, register businesses or access government employment and social protection schemes. Instances include a respondent who lost his land after a familial dispute, a salon owner in Rautahat who faced police harassment due to his inability to register his business, and a woman in Saptari denied low-interest loans for her farm due to insufficient documentation. Additionally, there was evidence that Indian border police sometimes refuse entry to individuals without citizenship certificates, making life more

difficult and expensive for those reliant on daily cross-border trade for essential goods.

Moreover, children are often unable to access education. According to the Birth, Death and Other Personal Event Registration Act, 2033 (1976), the birth registration process can be completed by presenting evidence of the child's birth, such as a hospital record or a letter from a traditional birth attendant, regardless of the parents' citizenship status. However, in practice, there is evidence that parents without citizenship certificates have been unable to register their children's births. Children without birth certificates are barred from school admission, particularly after pre-primary, resulting in high dropout rates, child labour, early marriage for girls and work in informal jobs. Boys sometimes negotiate with schools to study up to grade 8, but they need birth registration certificates for government board exams. Without these, they drop out and take odd jobs in informal sectors like nearby brick kilns, increasing child labour in risky jobs. All this has contributed significantly to intergenerational poverty and marginalization.

Additionally, access to financial services is severely restricted for those lacking official documentation, exacerbating economic instability. Those without official documents are often unable to open bank accounts, apply for loans or participate in formal financial systems. Community saving groups often exclude those without citizenship documents from becoming members or accessing loans. This exclusion forces them to rely on informal financial mechanisms through which they are vulnerable to predatory lending practices and exorbitant interest rates. Without access to secure financial services, people lacking documents have limited and often costlier options to save money and invest in their future, or even to establish basic financial stability, making them more susceptible to exploitation.

Social factors

Socially, the lack of documentation restricts access to education and employment and disenfranchises individuals from participating in political and legal processes. Key informants in Nepal noted that this results in a lack of political advocacy for their causes, as representatives have no voter-based incentive to support non-citizens. While local leaders in Rautahat and Bardiya have shown support for these communities by advocating on their behalf, it has been due to personal ethics rather than institutional policies. This has not been the case in Saptari, where women seeking citizenship referrals from their in-laws have faced disappointment, as local leaders refused to support them. This exclusion not only undermines their quality of life but also makes them more reliant on exploitative arrangements for survival, thereby increasing their vulnerability to various forms of exploitation and trafficking.

Legal factors

This discrimination extends to public services and legal systems, where undocumented individuals may fear bias or unfair treatment, resulting in social exclusion and a lack of trust in

authorities. This creates an environment where exploitation thrives unchecked, trapping individuals in cycles of abuse and modern slavery. Interviews with key informants in Nepal revealed significant barriers to accessing formal justice mechanisms among those without documents, exacerbating their vulnerability to modern slavery. Respondents indicated that the absence of citizenship certificates precludes individuals from formally lodging complaints with the police or courts. Consequently, these individuals are often forced to rely on informal conflict resolution, mediated by local committees or community leaders. While these local entities strive to provide fair settlements, the undocumented status of these individuals limits their options, compelling them to accept the decisions of these committees without the opportunity to pursue formal legal recourse. This situation often disadvantages them, as opposing parties are aware of their inability to escalate matters legally and may exploit this to negotiate outcomes more favourable to themselves.

Best practices

There is evidence from Nepal that a lack of access to official documentation significantly increases vulnerability to modern slavery. Efforts to improve access to documentation require multifaceted strategies, including legal reforms, community engagement and policy adjustments. Local initiatives and collaborations are particularly effective in alleviating the unique challenges faced by vulnerable groups without documentation.

Community and civil society initiatives have played a crucial role in this effort. A hybrid model in Nepal, involving civil society groups and local government judicial committees, has proven effective for individuals lacking citizenship. These committees, often composed of local community members, attest to the residency of those seeking citizenship. They also oversee cases of justice violations for people without citizenship, coordinating with police and judicial committees to settle disputes and provide access to justice.

Innovative practices by local governments have also made significant strides. In Bardiya, local governments collaborate with schools to issue interim birth certificates, enabling children to enrol in school. In Rautahat, new measures allow for the birth certification of children even if only one parent has citizenship, bypassing challenges faced by women without documentation. Additionally, local governments facilitate cross-border mobility by issuing temporary identity documents recognized by border authorities, supporting the local economy by enabling daily commutes.

However, legislative efforts face challenges. Despite the positive changes introduced by Nepal's Citizenship Act 2063 Amendment Bill (Citizenship Amendment Act), issues in implementation persist, especially concerning gender. Local officials often struggle to align new policies with existing practices, leading to gaps and inconsistencies in issuing official documents. Furthermore, the rollout of digital and civil registration projects is

hindered by systemic issues such as poor coordination among government layers and inadequate training for local officials.

These strategies underscore the importance of local innovations and community-led initiatives in addressing documentation issues in Nepal. They also highlight the ongoing need for refinement and expansion of ID issuance schemes to effectively reduce the risks associated with modern slavery.

Recommendations for addressing documentation gaps and modern slavery risks in Nepal

1. Enhance local government initiatives for issuing intermediary identity certificates

- **Expansion of best practices:** Broaden the successful practices from Rautahat and Bardiya districts to other regions in Nepal. Encourage local governments across the country to adopt similar policies for issuing intermediary identity certificates, particularly in border districts where cross-border movement is frequent.
- **Pilot programmes:** Launch pilot programmes in selected districts to test the effectiveness of digital registration systems and cost-free services, providing valuable data for scaling-up the initiatives nationwide.
- **Monitoring and evaluation:** Establish a robust monitoring and evaluation framework to assess the impact of these initiatives, ensuring they are effectively reducing documentation gaps and associated risks of modern slavery.

2. Intensify public awareness campaigns on birth registration and citizenship

- **Targeted outreach:** Develop targeted outreach programmes that cater to marginalized communities, including indigenous groups, Dalits and those in remote areas, ensuring that all segments of society are aware of the importance and process of birth registration.
- **Cultural sensitivity:** Utilize culturally-sensitive communication strategies, including local languages and scenarios, to resonate more effectively with diverse communities.
- **Mobile awareness units:** Deploy mobile units equipped with information materials and staff to visit hard-to-reach areas, providing on-the-spot education and assistance with the registration process.

3. Advocate for policy reforms at the national and local levels

- **National policy advocacy:** Work with national-level policymakers to advocate for the adoption of flexible birth registration policies, inspired by the successful local initiatives in Rautahat and Bardiya.
- **Inclusion in national development plans:** Push for the inclusion of documentation and citizenship issues in Nepal's broader national development plans, ensuring they receive the necessary political and financial support.
- **Local governance training:** Provide training for local government officials on the importance of interim identity documentation and flexible birth registration policies, enhancing their capacity to implement these reforms effectively.

4. Strengthen multistakeholder collaboration and networking

- **Public-private partnerships:** Foster public-private partnerships to facilitate the recognition of interim documentation by financial institutions, educational institutions and service providers.
- **Community-based monitoring committees:** Establish community-based monitoring committees to oversee the implementation of documentation initiatives, ensuring transparency, accountability and community involvement.
- **Cross-border coordination:** Initiate dialogue with Indian authorities and regional bodies to explore mutual recognition of interim documents, improving cross-border mobility and reducing risks associated with undocumented status.

5. Empower vulnerable groups through targeted support programmes

- **Dedicated support for women and children:** Develop specialized support programmes for women and children, who are disproportionately affected by documentation challenges, ensuring they receive prioritized assistance.
- **Capacity-building for civil society:** Strengthen the capacity of civil society organizations to advocate for and assist individuals facing documentation challenges, providing them with the tools and resources needed to engage effectively with local governments and communities.
- **Long-term social support:** Implement long-term social support programmes that go beyond documentation, offering continuous education, healthcare and livelihood opportunities to ensure that vulnerable groups are fully integrated and protected from modern slavery risks.

Acknowledgement: Fieldwork support, data transcription and report writing were provided by Sunita Bhattarai, while Aakriti Kayastha handled data management, analysis and transcription. Additional field support was provided by Anita Devekota, Dashrath Ram, Geeta GM, Lagan Sada and Sumeeria Paswan. Editorial support was provided by Tess Pilkington.

Disclaimer: The views and opinions expressed in this paper do not necessarily reflect the official policy or position of the United Nations University.

ISBN: 978-92-808-6640-7 © United Nations University 2024.

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Citation: Heaven Crawley, Anita Ghimire and Angharad Smith, “Bridging the identity gap: policy recommendations for improving documentation and reducing modern slavery risks in Nepal”, UNU-CPR Policy Brief (New York, United Nations University, 2024).