

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

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Questions

- 1. Please provide a brief overview of Nepal-India dual citizenship and residence rights.**
- 2. Please provide information on the Centre for Consolidation of Democracy in Nepal.**

RESPONSE

- 1. Please provide a brief overview of Nepal-India dual citizenship and residence rights.**

A December 2008 Immigration and Refugee Board of Canada research response provides information on Indian/Nepali citizenship. This states: “According to the 2006 Nepal Citizenship Act, citizens of Nepal who obtain citizenship in another country forgo their right to Nepalese citizenship”:

India’s *Citizenship Act, 1955* outlines the eligibility criteria for acquiring Indian citizenship by birth, descent, registration, and naturalization (1 Jan. 1970). In order to become a citizen of India (by naturalization), an applicant must prove

(a) that he is not a subject or citizen of any country where citizens of India are prevented by law or practice of that country from becoming subjects or citizens of that country by naturalisation;

(b) that, if he is a citizen of any country, he has renounced the citizenship of that country in accordance with the law therein in force in that behalf and has notified such renunciation to the Central Government;

(c) that he has either resided in India or been in the service of a Government in India or partly the one and partly the other, throughout the period of twelve months immediately preceding the date of the application;

(d) that during the twelve years immediately preceding the said period of twelve months, he has either resided in India or been in the service of a Government in India, or partly the one and partly the other, for periods amounting in the aggregate to not less than nine years;

(e) that he is of good character;

(f) that he has an adequate knowledge of a language specified in the Eighth Schedule to the Constitution [which includes Nepali (India 26 Jan. 1950)]; and

(g) that in the event of a certificate of naturalisation being granted to him, he intends to reside in India, or to enter into or continue in, service under a Government in India or under an international organisation of which India is a member or under a society, company or body of persons established in India:

Provided that the Central Government may, if in the special circumstances of any particular case it thinks fit,-

(i) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned, for the purposes of clause (c) above, as if it had immediately preceded that date;

(ii) allow periods of residence or service earlier than thirteen years before the date of the application to be reckoned in computing the aggregate mentioned in clause (d) above. (India 1 Jan. 1970, Sec. 6)

According to the Government of India's Ministry of Home Affairs,

Citizenship of India by naturalization can be acquired by a foreigner (not illegal migrant) who is ordinarily resident in India for TWELVE YEARS (throughout the period of twelve months immediately preceding the date of application and for ELEVEN YEARS in the aggregate in the FOURTEEN YEARS preceding the twelve months).... Application shall be made in Form-XII. (India 5 May 2008, emphasis in original)

On its website, India's Ministry of Home Affairs also provides Form XII, which is needed to apply to become a citizen by naturalization (ibid. 7 May 2008). On Form XII, the applicant must complete sections on identity (e.g. name and nationality), residency, family members, financial and legal history, as well as character affidavits (India n.d.). Additionally, Form XII states that advertisements must be published in newspapers in the applicant's district of residence announcing his or her application for citizenship (ibid., 6). Information on whether obtaining Indian citizenship by naturalization differs for Nepalese citizens could not be found among the sources consulted by the Research Directorate.

According to the 2006 Nepal Citizenship Act, citizens of Nepal who obtain citizenship in another country forgo their right to Nepalese citizenship (Nepal 26 Nov. 2006, Art. 10). A *Kathmandu Post* article indicates that the right to dual citizenship is a central concern for the Non-Resident Nepali Association (NRNA) (16 Oct. 2008), an association committed to creating a global network for the Nepali diaspora and to supporting the social and economic development of Nepal (NRNA n.d.). Similarly, an article in *The Hindu* gives information on the Migrant Nepalese Association in India, which began its operations in South India in 1985 and has 13 centres in 23 states (20 Oct. 2008). According to the article, the Association is drafting a memorandum of demands including a request for dual citizenship that will be sent

to both Indian and Nepalese governments (*The Hindu* 20 Oct. 2008) (Immigration and Refugee Board of Canada 2008, ZZZ103008.E – *Nepal/India: Whether Nepalese citizens are able to obtain Indian citizenship; if so, eligibility criteria; process for acquiring citizenship; whether long-term residence leads to legal residency or citizenship rights*, 18 December, UNHCR Refworld website <http://www.unhcr.org/refworld/docid/49b92b3117.html> – accessed 3 April 2009 – Attachment 1).

Research Response NPL31679, dated 14 May 2007, provides information on entrance and residence rights of Nepali citizens in India under the 1950 Treaty of Peace and Friendship (RRT Country Research 2007, *Research Response NPL31679*, 14 May – Attachment 2).

2. Please provide information on the Centre for Consolidation of Democracy in Nepal.

A detailed description of the Centre for Consolidation of Democracy (CCD) was not found in the available information. This response provides the small amount of information found which was collated from various sources. In general, the CCD appears to have been in existence for a number of years, as mentions of the group from 1994 were found. According to information found on the FES-Nepal website, the group has links to the Nepali Congress Party.

The CCD is included on an undated list of Past and present partner organizations of FES-Nepal¹ ('Past and present partner organizations of FES Nepal' (undated), FES-Nepal website <http://www.fesnepal.org/about/partners.htm> – Accessed 7 April 2009 – Attachment 3). An FES Nepal Activity Report from 2000 states that "CCD is an ideological think-tank of Nepali Congress Party and manned mostly by senior political leaders, ministers and office bearers of Nepali Congress":

Center for the Consolidation of Democracy (CCD) organized a series of one-day Workshops on "Dissemination of the Idea of Social Justice in Nepal" in different part of country including in remote areas where such discussions are hardly organized. Venue of the Workshops involved: **Kathmandu** (June 1), **Jhapa** (July 15), **Syangja** (September 24), **Mustang** (October 27), **Sirha** (November 1), **Chitwan** (December 29), **Dang** (December 31). CCD is an ideological think-tank of Nepali Congress Party and manned mostly by senior political leaders, ministers and office bearers of Nepali Congress. **Outcome:** political leaders and decision-makers came to know about different types and forms of social democracy; the context of social justice; development policies of Nepal in the context of social justice; economic liberalization and social justice and how the Nepali Congress as a "social democratic party" ought to resolve the dilemma between social justice and free market economy, etc A book prepared by CCD in cooperation with FES "Social Justice in Nepal's Context" were distributed among the participants for discussion ('FES Activities in Nepal on Democracy, Trade Union Development and Regional Co-operation in 2000' (undated), FES-Nepal website http://www.fesnepal.org/reports/2000/activity_report2000.htm – Accessed 7 April 2009 – Attachment 4).

According to a September 2008 brief the president of the CCD is Bhim Bahadur Tamang ('The Washington Daybook – General News Events' 2008, *Washington Daybook*, 4 September – Attachment 5).

¹ For information on FES-Nepal, see: http://www.fesnepal.org/about/fes_in_nepal.htm.

The CCD is listed as an NGO on the Wiser Earth website² (last updated 2007). This information gives the president as Sushil Koirala. The listing also has the location of the headquarters. It states that the CCD mission is “To promote public awareness and realisation of citizens’ rights and duties” (‘Center for Consolidation of Democracy’, Wiser Earth website, last updated 29 March 2007

<http://www.wiserearth.org/organization/view/27ade11123aed2ebeb6c170bd0230273#> – Accessed 7 April 2009 – Attachment 6).

The CCD is also mentioned in relation to a 1996 research study publication on women in politics:

Women in Politics in Nepal: Their socioeconomic, health, legal and political constraints

Studies carried out by domestic as also external research organizations prove that women representation in the political decision-making process is low in Nepal, be it an autocratic or democratic polity. Apart from political order, there are various socioeconomic and cultural elements responsible for such a disheartening phenomenon. The study makes an attempt, with the limitations of the primary sources of information, to explore the general socioeconomic, health, legal and political problems of women politicians in the kingdom. The study report also identifies the general socioeconomic constraints, as considered by the respondents, that have created hurdles on their participation in the political process in Nepal. It also makes recommendations to meet these problems.

To get a copy write to:

Center for Consolidation of Democracy at GPO Box 979, Kathmandu, Nepal or contact them at these phone numbers:

Tel Phone 977-1-242508

Fax 977-1-242148 (‘Documents’ (undated), Online Women in Politics website

<http://www.onlinewomeninpolitics.org/nepal/nepaldoc.htm> – Accessed 7 April 2009 – Attachment 7).

Other CCD publications found:

- From the FES Nepal website:
Dr. Yagna Adhikari, **Democracy in Nepal: A Question of Social Transformation** (Nepali), Centre for Consolidation of Democracy (CCD), 2001 (‘List of FES Nepal Publications’ 2007, FES-Nepal website
http://www.fesnepal.org/publications/list_publications.htm – Accessed 7 April 2009 – Attachment 8);
- From The Nepal Digest website³:
COALITION GOVERNMENTS AND POLITICAL ACCULTURATION IN GERMANY by Suresh C Chalise (1998, Centre for Consolidation of Democracy) is a

² According to the website, Wiser Earth is “The world’s largest free and editable international directory of non-governmental organizations (NGOs) and socially responsible organizations (110,000 in 243 countries, territories, and sovereign islands)” (<http://www.wiserearth.org/article/About>).

³ “The Nepal Digest (TND) is a publication of TND Foundation, a global not-for-profit information and resource center (registered in New York, USA) committed to promoting issues concerning Nepal. All members of TheNepalDigest.org will get copy of The Nepal Digest (TND). Membership is free of charge and is open to all...The Nepal Digest is the first Nepali electronic magazine in the Internet. The Nepal Digest hopes to create a free and democratic electronic platform -- free of all political views, free of cultural biasness, against prejudices and unjustness of all kinds” (<http://www.thenepaldigest.org/>).

study of stable coalition governments in Germany. It tells how parties with different ideologies, values and norms have come together to successfully run coalition governments. As such it offers lessons to Nepali politicians and political analysts who consider coalition governments to be inherently unstable and ineffective ('The Nepal Digest – June 16, 1999 (3 Ashadh 2056 BkSm)' 1999, The Nepal Digest website, 16 June <http://www.thenepaldigest.org/archive/the-nepal-digest-june%2016-1999.html> – Accessed 7 April 2009 – Attachment 9).

Information on the Asia Society website names Sagar Shumshere Rana as the General Secretary of the CCD in 1994 ('South Asia and the United States after the Cold War' 1994, Asia Society website, 1-4 April http://www.asiasociety.org/publications/saandus_appendix.html – Accessed 7 April 2009 – Attachment 10).

List of Sources Consulted

Internet Sources:

Google search engine <http://www.google.com/>

Databases:

FACTIVA (news database)

BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. Immigration and Refugee Board of Canada 2008, *ZZZ103008.E – Nepal/India: Whether Nepalese citizens are able to obtain Indian citizenship; if so, eligibility criteria; process for acquiring citizenship; whether long-term residence leads to legal residency or citizenship rights*, 18 December, UNHCR Refworld website <http://www.unhcr.org/refworld/docid/49b92b3117.html> – accessed 3 April 2009.
2. RRT Country Research 2007, *Research Response NPL31679*, 14 May.
3. 'Past and present partner organizations of FES Nepal' (undated), FES-Nepal website <http://www.fesnepal.org/about/partners.htm> – Accessed 7 April 2009.
4. 'FES Activities in Nepal on Democracy, Trade Union Development and Regional Co-operation in 2000' (undated), FES-Nepal website http://www.fesnepal.org/reports/2000/activity_report2000.htm – Accessed 7 April 2009.

5. 'The Washington Daybook – General News Events' 2008, *Washington Daybook*, 4 September. (FACTIVA)
6. 'Center for Consolidation of Democracy', Wiser Earth website, last updated 29 March 2007
<http://www.wiserearth.org/organization/view/27ade11123aed2eb6c170bd0230273#>
– Accessed 7 April 2009.
7. 'Documents' (undated), Online Women in Politics website
<http://www.onlinewomeninpolitics.org/nepal/nepaldoc.htm> – Accessed 7 April 2009.
8. 'List of FES Nepal Publications' 2007, FES-Nepal website
http://www.fesnepal.org/publications/list_publications.htm – Accessed 7 April 2009.
9. 'The Nepal Digest – June 16, 1999 (3 Ashadh 2056 BkSm)' 1999, The Nepal Digest website, 16 June <http://www.thenepaldigest.org/archive/the-nepal-digest-june%2016-1999.html> – Accessed 7 April 2009.
10. 'South Asia and the United States after the Cold War' 1994, Asia Society website, 1-4 April http://www.asiasociety.org/publications/saandus_appendix.html – Accessed 7 April 2009.