



# General Assembly

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## Human Rights Council

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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Written statement\* submitted by Asian Dignity Initiative, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2024]

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\* Issued as received, in the language of submission only.



## **Tibetan Refugee Rights in Nepal Amidst Ever-Growing Chinese Influence**

The Asian Dignity Initiative expresses grave concerns about the precarious state of Tibetan refugee human rights in Nepal. Tibetan refugees in Nepal face constant surveillance and are denied access to fundamental human rights and facilities. Furthermore, the previously issued Refugee Certificate has become ineffectual, leaving Tibetan refugees in a status where their rights seem non-existent.

The report titled "Languishing in Limbo: Tibetan Refugees in Nepal," reveals alarming human rights conditions.<sup>1</sup> Since 1995, Nepal ceased issuing documentation, including Refugee Cards (RCs), to Tibetan refugees and their children due to escalating pressure from Beijing.<sup>2</sup> This absence of documentation has excluded Tibetan refugees, depriving them of essential rights as well as exposing them to arbitrary arrests and detention. Additionally, Tibetan refugees encounter obstacles in pursuing third-country resettlement.

The "One China" policy is a crucial foundation in Sino-Nepali relations. Nepalese leaders often reiterate Nepal's commitment to the policy during official visits to China and vice versa. During the visit of China's Defence Minister to Nepal in 2020, the Prime Minister stressed Nepal's commitment by banning actions in Nepal against Chinese interests, primarily targeting Tibetan activities.<sup>3</sup>

Under the "One China" policy, Nepal recognises Tibet Autonomous Region (TAR), China as an internal issue of China and opts for silence regarding the Chinese regime's violations against Tibetans. Nepal has de facto colluded with China by criminalising "anti-Chinese" activities conducted on its soil. Nepali ruling parties have sought to restrict the rights of Tibetan refugees, including freedom from arbitrary and preventive detention, employment, education, freedom of movement, freedom of expression, freedom of religion and belief, and freedom of assembly and association.

During Xi Jinping's 2019 visit to Nepal, a series of agreements were signed that drew criticism for targeting Tibetan refugees. A 14-point joint agreement included the implementation of a Boundary Management System (BMS) and the signing of the Treaty on Mutual Legal Assistance in Criminal Matters (MLAT) - perceived by many as a prelude to an extradition treaty.

Article 9 of the agreement expressed satisfaction with signing the BMS and MLAT, with the hope for an early conclusion of the Treaty on Extradition. The agreement reiterated Nepal's commitment to the "One China" policy, acknowledging Taiwan (Province of) China and Tibet Autonomous Region (TAR), China affairs as China's internal matters and determining not to allow any anti-China activities on its soil.<sup>4</sup>

Nepali human rights activists and lawyers are concerned that China could use the MLAT to penalize Tibetan refugees. Indra Prasad Aryal, the chairperson of the Human Rights Organisation of Nepal, stated that China intends to seize dissidents from Nepal for punishment, emphasizing the need for cautious handling of the extradition treaty due to Nepal's gentleman's agreement with UNHCR.<sup>5</sup>

Refugees' rights are protected under several international covenants and conventions, including Article 14 (1) of the UDHR, which stipulates the right to seek and enjoy asylum in other countries. The international refugee law framework covers international human rights law, customary international law, international humanitarian law, and the UNHCR guidelines, as well as the 1951 UN Convention relating to the Status of Refugees and its 1967 Additional Protocol.<sup>6</sup> While Nepal is not a signatory to the Refugee Conventions, it is a party to seven international human rights conventions. The 1990 Nepal Treaty Act affirms that international human rights law holds the same validity as domestic laws.<sup>7</sup>

Nepal officially stopped issuing RCs to Tibetan refugees in 1995, with some exceptions in 1995 and 1999.<sup>8</sup> The government claimed that over 4,000 kin and children of early Tibetan refugees were undocumented,<sup>9</sup> but unofficial sources estimate around 9,920 undocumented Tibetan refugees.<sup>10</sup>

Gopal Krishna Shiwakoti, former chairperson of the Asia-Pacific Refugee Rights Network, highlighted the discriminatory treatment of Tibetan refugees compared to Bhutanese refugees of Nepali origin. While many Bhutanese refugees in Nepal were able to move onwards to settle in a third country, Tibetans are not allowed to do so.<sup>11</sup>

The infringement upon human rights extends beyond Nepal; Tibetan refugees face challenges in obtaining authorisation to depart for a third country. In 2007, under pressure from Beijing, the Nepali administration prohibited Tibetan refugees from seeking asylum in the United States of America.<sup>12</sup>

Unemployment among educated Tibetan youths in Pokhara's refugee settlements is increasing. Several Tibetan nurses, despite graduating from India, are ineligible to work in Nepal, resorting to odd jobs in the settlements. A young Tibetan man with an MBBS degree was denied a medical practice licence due to uncertain refugee status.

On the Dalai Lama's birthday in 2022, a Kathmandu Tibetan school was kept under constant surveillance. Police locked in teachers and students to stop them from attending celebrations in the Jawalakhel Tibetan settlement. Many Tibetan teachers, even with RCs, struggle to attend professional development training and workshops by the Central Tibetan Administration in India; Crossing the border involves significant challenges, risking detention by Nepali border police or fines.

During the 2019 visit of Xi Jinping, Nepal imposed unprecedented security measures on Tibetans, deploying thousands of security personnel in Kathmandu.<sup>13</sup> The extensive monitoring led to the mistaken detentions of non-Tibetan Nepali citizens who were merely wearing or carrying merchandise depicting Tibetan slogans or letters.<sup>14</sup>

The Asian Dignity Initiative (ADI), therefore, recommends the following steps:

### **To the Government of Nepal**

- Sign and ratify the 1951 Convention Relating to the Status of Refugees and its 1967 additional Protocol as well as the Convention Relating to Status of Stateless Persons and the Convention on the Reduction of Statelessness.
- Adhere to the principle of non-refoulement, which is enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that Nepal has ratified.
- Honour the terms of the Gentleman's Agreement with UNHCR to allow Tibetan refugees to safely transit through Nepali territory in their onward journey to India.
- Introduce specific legislation and policy on protecting the basic human rights of refugees and asylum seekers.
- Issue Tibetans and their children with refugee documentation that goes beyond merely recognising their existence and provides them with specific rights to live, work, study, and travel outside of Nepal.
- Introduce amendments in the Constitution to ensure that fundamental rights and freedoms are also granted to all persons residing in Nepal, in keeping with Nepal's ratification of key international human rights treaties.
- Allow Tibetan refugees in Nepal to leave the country under the third-country resettlement programs by issuing them required documents such as travel documents or exit permits.

### **To the Chinese Government**

- Cease violating the sovereignty and territorial integrity of Nepal as per the provisions of the UN Charter.
- Stop pressuring Nepali authorities to violate the human rights of Tibetan refugees.

- End all surveillance and espionage activities against Tibetan community leaders and activists living in Nepal.
- Allow the UNHCR and Nepali authorities to provide safe transit to all Tibetan refugees traveling or transiting through Nepal.
- Dismantle military infrastructure along the Tibet Autonomous Region (TAR), China - Nepal border that endangers the safety and security of Tibetan refugees.
- Honour the rights and protection of all refugees as enshrined in the 1951 Refugee Convention and 1967 Protocol, both of which China has ratified.

### **To the International Community**

- Exert concrete pressure on Chinese authorities to stop violating the human rights of Tibetan refugees in Nepal.
- Engage proactively with Nepali authorities to protect and guarantee the human rights of Tibetan refugees, including providing them with refugee documentation.
- Urge Nepal to sign and ratify the 1951 Convention Relating to the Status of Refugees and its 1967 additional Protocol, as well as the Convention Relating to Status of Stateless Persons and the Convention on the Reduction of Statelessness.
- Provide appropriate financial and other assistance to build the capacity and lift the morale of Tibetan refugees, particularly the youth living in remote refugee camps.
- Hold periodic meetings and other engagements with Tibetan community leaders and activists to understand existing and emerging issues and to make representations to the relevant Nepali authorities about promptly addressing these issues.
- Urge the UNHCR, international human rights organisations, and domestic NGOs to prioritise the issues faced by Tibetan refugees in their advocacy efforts.
- Consider ways to provide third-country resettlement opportunities for Tibetan refugees by taking Nepali authorities into confidence.

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Tibetan Center for Human Rights and Democracy (TCHRD), NGO(s) without consultative status, also share the views expressed in this statement.

3 China Lauds Nepal's Pursuit of 'One-China' Policy", The Hindu, 30 November 2020.

4 "Joint Statement between Nepal and the People's Republic of China", Government of Nepal; Department of Foreign Affairs, 21 June 2021.

5 Nepal's Cautious Approach to the Tibetan Question", The Diplomat, 28 July 2021.

6 "Options for Protecting Refugees in South Asia", Harvard Law Journal, <https://harvardilj.org/2019/09/options-for-protecting-refugees-in-south-asia/>.

7 "Country Profile - Nepal", Integral Human Rights Development, <https://migrants-refugees.va/country-profile/nepal/>.

9 "Nepal Preparing to Issue Identification Cards to Refugees Leaving the Country", The Kathmandu Post, 4 December 2021.

10 "Tibetan Refugee Issues in Nepali Press, The Tibet Journal, Autumn/Winter 2018.

12 "Nepal blocks 5,000 Tibetan exit permits", Hindustan Times, 1 November 2007.

13 <https://kathmandupost.com/miscellaneous/2014/03/10/securitybeefed-up-around-tibetan-camps>.

14 <https://kathmandupost.com/national/2019/10/17/nepali-citizens-detained-during-xi-jinping-s-visit-for-tibeta%20n-signage-on-clothes-and-accessories>.