

**Mandates of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the human rights of internally displaced persons**

Ref.: AL IND 7/2024  
(Please use this reference in your reply)

25 October 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the human rights of internally displaced persons, pursuant to Human Rights Council resolutions 52/4 and 50/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning an alleged physical attack against Mr. Monohar Pegu and Mr. Ritupan Pegu and their subsequent detention and criminalisation.

Mr. **Manohar Pegu** and Mr. **Ritupan Pegu** are human rights defenders, members of the Greater Kaziranga Land and Human Rights Committee (GKHLRC). The GKHLRC was established in 2021. It is a large group with members in more than 100 villages around the area of Kaziranga National Park and Tiger Reserve, a UNESCO World Heritage Site. The group aims to protect the biodiversity of the park and the land rights of the people living in the vicinity of it, including indigenous Adivasi peoples.

According to the information received:

In September 2023, the Chief Minister of Assam announced the signing of a Memorandum of Understanding with the Hyatt Group to set up the 5-star hotel in Inglay Pathar, at the border of the Kaziranga National Park and Tiger Reserve. In order to provide for the construction of this hotel, common land used by Adivasi peoples for farming, and as a grazing area for wild animals from the Kaziranga National Park and Tiger Reserve, has been claimed by the state and allocated to the Assam Tourism Development Corporation.

On 7 August 2024, Mr. Manohar Pegu and Mr. Ritupan Pegu travelled to Inglay Pathar, in the Golaghat District of the state of Assam, to collect testimonies of families allegedly displaced by land acquisitions made to make way for the construction of the proposed Hyatt hotel. While speaking with affected families, the human rights defenders were set upon by a large group of over 100 persons who threatened them and other members of the GKHLRC, damaged their vehicle in an attempt to prevent them from leaving, and proceeded to attack them and those they were interviewing, leaving two people from the affected families hospitalized.

During these events, two individuals went to Bokakhat police station to alert the police of the actions of the mob. However, the police reportedly refused to take action, and instead detained the two individuals. Mr. Manohar Pegu and Mr. Ritupan Pegu were also detained, by agents from the Kohora police outpost, along with members of the displaced families. No members of the

group who had perpetrated the attack against the human rights defenders were arrested.

On 8 August 2024, all those who had been arrested the previous day were released on bail. A first information report (FIR) was registered against Mr. Manohar Pegu and Mr. Ritupan Pegu and two other individuals, accusing them of criminal conspiracy, assaulting a woman, promoting enmity, extortion, trespass and intimidation. Under their bail conditions, Mr. Manohar Pegu and Mr. Ritupan Pegu are forbidden from visiting the Kaziranga area.

Without wishing to prejudge the accuracy of the above-detailed allegations, we express our serious concern at the alleged physical attack against Mr. Manohar Pegu and Mr. Ritupan Pegu, as well as members of families reportedly displaced in the Kaziranga area. We express further concern at the detention of the human rights defenders, which we fear to be arbitrary, carried out in direct retaliation for their legitimate human rights work. We also express concern at the allegedly fabricated criminal complaint submitted against them, and the potential violations of indigenous peoples' rights linked to the proposed hotel developments in the area, which appear to underly the alleged attacks against the human rights defenders.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information as to the legal and factual basis for the detention of Mr. Manohar Pegu and Mr. Ritupan Pegu on the 7 August 2024 in Inglay Pathar, and how this deprivation of liberty was compatible with India's obligations under international human rights law, in particular article 9 of the International Covenant on Civil and Political Rights (see annex).
3. Please provide information as to any investigation undertaken into the alleged attack against Mr. Manohar Pegu and Mr. Ritupan Pegu and the members of displaced families in Inglay Pathar on 7 August 2024, and steps taken to bring the alleged perpetrators to justice. If no such investigation has been carried out, please explain why and how this is compatible with India's obligations under international human rights law.
4. Please provide information on the measures undertaken to ensure that human rights defenders, and in particular those engaged in the protection and promotion of the rights of indigenous peoples, are able to carry out their legitimate work in a safe and enabling environment, without the fear of intimidation, harassment and violence, in full

respect of their civil and political rights.

5. Please provide information as to how the human rights of local communities, in particular local indigenous peoples, have been protected in the proposed tourist developments in the Kaziranga area. If no such measures have been taken in this regard, please indicate steps that will be taken to guarantee and enforce these rights.
6. Please clarify what measures have been taken or are envisaged to obtain the free, prior and informed consent of any indigenous persons that may have been displaced in the Kaziranga area, and to provide them with protection and assistance, including the steps taken to provide culturally suitable alternative accommodation and ensure access to justice and medical care for victims. Also, please provide information on any steps taken to enable durable solutions to their displacement.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Paula Gaviria  
Special Rapporteur on the human rights of internally displaced persons

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to articles 9 and 19 of the International Covenant on Civil and Political Rights, ratified by India in 1979, which refer to the right to liberty and security of person, including freedom from arbitrary arrest and detention, and the right to freedom of opinion and expression.

Concerning article 9, which guarantees the right to liberty and security of person, the Human Rights Committee, in its general comment No. 35 interpreting the article's scope, has underscored the arbitrariness of any arrest or detention without a legal basis and further held that an arrest or detention may be arbitrary irrespective of its being authorized by domestic law. In the same comment, the Human Rights Committee stated that the notion of "arbitrariness" introduced in article 9 should be broadly interpreted to include elements of "inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality."<sup>1</sup> The Committee also held any arrest or detention carried out as punishment for the legitimate exercise of the rights as guaranteed by the Covenant to be arbitrary.

Article 19 of the ICCPR provides guarantees the right of all persons to freedom of expression, encompassing the freedom to seek, receive information and ideas of all kinds. Any restrictions on freedom of expression must be strictly limited and meet the high threshold set out in article 19 (3) of the Covenant, following which any limitations must be determined by law and conform to the strict tests of necessity and proportionality. As underlined by the Human Rights Committee in its general comment No. 34, attacks on persons because of the exercise of their freedom of expression, including in the form of arbitrary arrest, cannot under any circumstance be compatible with article 19. As highlighted by the Committee, persons engaged in gathering, analysing and reporting on human rights are frequently subjected to such acts of intimidation because of their activities.

We would also like to refer to the fundamental set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders.

In particular, we would like to refer to articles 1 and 2, which state that everyone has the right to promote and to strive for the protection and realization of human rights and that each State has a prime responsibility and duty to protect, promote and implement all human rights.

We would further like to refer to articles 6(b), which states that everyone has the right, individually or in association with others, to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; 6(c), which states that everyone has the right, individually or in association with others, to study, discuss, form and hold opinions on the observance

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<sup>1</sup> Human Rights Committee, *general comment No. 35 – article 9 (Liberty and security of person)*, CCPR/C/GC/35, para 12.

in law and in practice of all human rights and fundamental freedoms and to draw public attention to these matters; and 9(3)(a), which states that everyone has the right individually and in association with others, *inter alia*, to complain about the policies and actions of individual officials or governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means.

Finally, we would like to draw attention to article 12 of the Declaration, and in particular paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

Per the Guiding Principles on Internal Displacement, national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction (principle 3) without discrimination of any kind, including on the basis of religion or belief or ethnic or social origin (principle 4). Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence, and the prohibition of arbitrary displacement includes displacement in cases of large-scale development projects, which are not justified by compelling and overriding public interests (principle 6). Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects (principle 7(1)). The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated (principle 7(1)).

If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with: (a) a specific decision shall be taken by a State authority empowered by law to order such measures; (b) adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation; (c) the free and informed consent of those to be displaced shall be sought; (d) the authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation; (e) law enforcement measures, where required, shall be carried out by competent legal authorities; and (f) the right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected (principle 7(3)).

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty, and security of those affected (principle 8). States are under a particular obligation to protect against the displacement of indigenous people and minorities, *inter alia* (principle 9). Every human being has the inherent right to life, and internally displaced persons shall be protected in particular against genocide, murder, summary or arbitrary executions, and enforced disappearances including abduction or unacknowledged detention, threatening or resulting in death; threat and incitement to commit any of the foregoing acts are also prohibited (principle 10(1)).

Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances (principle 10(2)). Every human being has the right to liberty and security of person, and no one shall be subject to arbitrary arrest or detention (principle 12). Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons. (principle 28)