

Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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(Please use this reference in your reply)

22 April 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 52/4, 51/8, 54/14 and 52/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the reported deprivation of liberty and enforced disappearance since 2014 of human rights defender Lok Nath Acharya, following his alleged detention in India and extradition to Bhutan, after he travelled to Malbazar in the West Bengal state of India in October 2014 to attend a human rights meeting.**

Mr. **Lok Nath Acharya** is a refugee from Bhutan belonging to the Lhotshampa (Nepalese) ethnic minority, who sought refuge and settled in Nepal after reportedly being forcibly evicted from his home in Bhutan in 1990. Since then and until his detention and enforced disappearance, he worked for the rights of Bhutanese refugees and has been a member of the Human Rights Organisation of Bhutan, based in exile, collecting information on the political and human rights situation in Bhutan with a view to raising awareness at the international level and inside the country.

According to the information received:

In 1990, the Bhutanese authorities reportedly forcibly evicted Mr. Lok Nath Acharya from his home in Bhutan, following a number of public demonstrations that he had organized to protest against the passing of legislation by the Government, including the 1985 Citizenship Act, considered discriminatory against ethnic minorities, including the Lhotshampa.

After his eviction from Bhutan, he settled in Nepal as a refugee with an identification number issued by the United Nations High Commissioner for Refugees (UNHCR). In Nepal, he was reportedly based in the Beldangi II, Sector E3, Refugee Camp in Jhapa.

On 16 October 2014, Mr. Acharya travelled from Siliguri, a town in India, to Malbazar, Jalpaiguri District, in the West Bengal state of India to participate in a human rights meeting. Upon his arrival in Malbazar, he was reportedly apprehended and forcibly returned to Bhutan by plainclothes police officers allegedly members of the Royal Bhutan Police. No arrest warrant nor reason for

the detention had reportedly been provided. Allegedly, the Bhutanese authorities had offered a large reward for information on the whereabouts and travel movements of Mr. Acharya.

From 16 to 18 October 2014, he was reportedly detained in the Army Camp in Sanchi District in Bhutan, before allegedly being transferred on 18 October 2014 to Rabuna Army Jail in Wangdue Phodrang District. Between November and December 2014, he was allegedly brought to a hospital in the town of Wangdue Phodrang for a one-day check-up, escorted by police.

To date, Mr. Acharya's fate and whereabouts remain unknown. His family has reportedly received no official information about his arrest or location, and they have allegedly not been able to visit or contact him since 2014. It is also unknown whether he has been able to access legal assistance, whether he has been brought before a judicial authority, and whether he is facing any charges, or he is awaiting trial, or he has been convicted of any crime.

Without prejudging the accuracy of these allegations, we would like to express our concern about the reported deprivation of liberty and enforced disappearance since 2014 of human rights defender Lok Nath Acharya, following his alleged detention in India and extradition to Bhutan, where he is believed to have been detained. We fear that Mr. Acharya might have been targeted because of his human rights activities in Bhutan and outside the country, and for exercising his right to freedom of expression.

We are particularly concerned about the lack of information about Mr. Acharya's fate and whereabouts, which raises questions about his physical and psychological health, integrity and well-being. We urge your Excellency's Government to conduct thorough, impartial and transparent investigation into the reported enforced disappearance of Mr. Acharya and to take all necessary measures to search for him and establish his fate and whereabouts, in order to provide information to his family about his location and his health condition, to secure his safe return and to prevent any irreparable damage to the life and physical and psychological integrity of Mr. Acharya. We express concern about the chilling effect that the enforced disappearance of human rights defenders has on freedom of expression by instilling fear and self-censorship in those expressing critical views, including activists, journalists, and civil society actors.

We regret the reported lack of arrest warrant and the lack of information about the reasons for Mr. Acharya's alleged arrest and deprivation of liberty, about whether he has been afforded due process and judicial guarantees, and about his current legal status. In this regard, we call on your Excellency's Government to provide information about whether Mr. Acharya had access to legal assistance, whether he was brought before a judicial authority, and whether he is awaiting trial or has been convicted of any crime.

We reiterate that any form of incommunicado detention which places the detainee out of contact with the outside world constitutes an enforced disappearance insofar as State agents or other persons acting with their support or acquiescence, fail or refuse to acknowledge the deprivation of liberty or conceal the fate or whereabouts of the person deprived of liberty. State authorities are obliged to promptly provide accurate information on the detention of persons deprived of liberty and on their place

or places of detention, including transfers, to their family members, to their counsel or to any other persons having a legitimate interest.

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 or comments in relation to the above-mentioned allegations, including information about the circumstances of Mr. Lok Nath Acharya's reported detention, extradition to Bhutan and subsequent enforced disappearance.
2. Please provide detailed information about the measures taken to investigate his reported enforced disappearance and identify those responsible and prosecute them. In case no investigations have been undertaken, please explain why.
3. Please provide detailed information on how India ensures respect to peremptory norms of international law relating to the principle of *non-refoulement*, including the relevant provisions of the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Declaration on the Protection of All Persons from Enforced Disappearance.
4. Please provide information about the health condition of Mr. Acharya including his physical and psychological health, integrity and well-being, as well as about his current legal status and the due process and judicial guarantees that have been made available to him, if any.
5. Please provide detailed information on the measures taken to cooperate with the other States allegedly involved in the detention and subsequent extradition and enforced disappearance of Mr. Archarya and afford one another the greatest measures of mutual assistance with a view to assisting Mr. Archarya and his relatives, and in searching for, locating and, if he is detained, releasing Mr. Archarya.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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 establish the fate and whereabouts of Mr. Acharya and to prevent any irreparable damage to his life and personal integrity, 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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

The case of Mr. Lok Nath Acharya was already transmitted to your Excellency's Government under the humanitarian procedure of the Working Group on Enforced or Involuntary Disappearances ([A/HRC/WGEID/113/1](#)). This communication is without prejudice to the consideration of the case under this procedure.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and the regular procedure.

Please be informed that a letter on this subject matter has also been sent to the Government of Bhutan and a copy was also sent to the Government of Nepal.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Matthew Gillett
Vice-Chair on Communications of the Working Group on Arbitrary Detention

Gabriella Citroni
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant norms and standards under international law and customary international law, as reflected in the Universal Declaration of Human Rights (UDHR), and the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979.

We would like to refer to articles 3, 6, 7, 9, 10, 14, 16, 19, 21 and 22 of the ICCPR, read alone and in conjunction with article 2.3, which guarantee the right to life; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; the right to liberty and security of the person; the right to be recognized as a person before the law; the right to a trial within a reasonable time, to challenge the lawfulness of detention before the courts, to be released subject to guarantees of trial and to be tried fairly and publicly before an independent and impartial tribunal, without undue delay and with the assistance of a lawyer of one's choice; the right to be treated humanely and with respect for the inherent dignity of the human person; the right to freedom of opinion and expression; the rights to peaceful assembly and association; and the right to an effective remedy.

Articles 3 and 9 of the Universal Declaration on Human Rights provide that everyone has the right to life, liberty and the security of person and no one shall be subjected to arbitrary arrest, detention. We remind your Excellency's Government that the prohibition of arbitrary detention is part and parcel of customary law that bears an absolute character and is in fact a peremptory norm (*jus cogens*) of international law and therefore binding upon all States, irrespective of their treaty obligations (A/HRC/30/37, para. 11; A/HRC/22/44, paras. 37-75).

Article 9 of the ICCPR further states that everyone has the right to liberty and security of person, and "no one should be subjected to arbitrary arrest or detention". It also provides that anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and promptly informed of any charges against them. Article 9 also states that those arrested or detained should be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. Incommunicado detention that prevents prompt presentation before a judge inherently violates paragraph 3 of article 9.

An arrest will be arbitrary if it includes elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality (CCPR/C/GC/35 para. 12). Arresting or detaining an individual as punishment for the legitimate exercise of the rights as guaranteed by the Covenant constitutes a violation of article 9 (CCPR/C/GC/35 para. 17).

Equally, the absolute prohibition of enforced disappearances and the corresponding obligation to investigate them have attained the status of *jus cogens*. In fact, enforced disappearance is a particularly aggravated form of arbitrary detention (general comment No. 35, para. 17). It may amount to torture or other cruel, inhuman

or degrading treatment or punishment both with regard to the disappeared and their family members, due to the anguish and uncertainty concerning the fate and whereabouts of loved ones.

The 1992 United Nations Declaration on the Protection of All Persons from Enforced Disappearances establishes that all acts of enforced disappearance shall be offences under criminal law punishable by appropriate penalties which shall take into account their extreme seriousness (article 4), no order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance (article 6). Furthermore, no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances (article 7), and the right to a prompt and effective judicial remedy must be guaranteed as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances (article 9). Additionally, the Working Group on Enforced or Involuntary Disappearances has noted the increasing practice of forced returns by States in violation of article 8 of the Declaration. It further underlined the importance of preventing human rights violations by ensuring procedural safeguards upon detention and during the first hours of deprivation of liberty, including immediate registration, judicial oversight of the detention, prompt notification of family members, and the availability of a defence lawyer of one's choice (A/HRC/48/57).

The Declaration further sets out the necessary protection relating to the rights to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and to the maintenance in every place of detention of official up-to-date registers of all detained persons (articles 10 and 12). The Declaration further establishes that States should take any lawful and appropriate action to bring to justice persons presumed to be responsible for acts of enforced disappearance (article 14), and that the persons responsible for these acts shall be tried only by ordinary courts and not by other special tribunal, notably military courts (article 16); not benefit from any amnesty law (article 18); and that the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

We also wish to recall that the Guiding Principles for the Search for the Disappeared of the United Nations Committee on Enforced Disappearances establish that the search for the disappeared should be undertaken without delay (principle 2); respect the right to participation of the family of the disappeared (principle 5); be considered a continuing obligation (principle 7); and be interrelated with the criminal investigation (principle 13).

In its study on enforced disappearances and economic, social and cultural rights, the Working Group on Enforced or Involuntary Disappearances highlighted the chilling effect of the disappearance of journalists and human rights defenders and called States to “ensur[e] the existence of and respect for cultural diversity and the existence of space where multiple opinions, positions and interpretations of history can find their expression in the public sphere diminishes the level of vulnerability of those questioning in one way or another mainstream ideas and positions, and so prevents

against targeting of human rights defenders” (A/HRC/30/38/Add.5).

In its General Comment on the right to recognition as a person before the law in the context of enforced disappearance, the Working Group noted that when a person deprived of liberty is not acknowledged by the State, the legal rights of this person are placed in a legal limbo, a situation of total defencelessness. The crime of enforced disappearance puts the detainee outside of the protection of the law, denies the person of legal existence and prevents the enjoyment of their rights, including due process rights and judicial safeguards, and other fundamental rights and freedoms (A/HRC/19/58/Rev.1).

In its report on standards and public policies for an effective investigation of enforced disappearances, the Working Group on Enforced or Involuntary Disappearances recommended that States define enforced disappearance as an autonomous crime in national legislation and establish different modes of criminal liability, including abetting, instigating, acquiescing and actively covering up an enforced disappearance, as well as criminal liability for command or superior responsibility; and create mechanisms that can promptly receive and process complaints of enforced disappearances, under the responsibility of authorities who are independent of the institutions to which the alleged perpetrators belong or may be linked. These mechanisms should be empowered to trigger prompt investigations of the complaints received (A/HRC/45/13/Add.3).

Article 19 of the UDHR and article 19 of the ICCPR guarantee the right to freedom of opinion and the right to freedom of expression, which includes the right “to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media”. This right includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend. Any restriction of the right to freedom of expression must be “provided by law” and meet the criteria established by international human rights law. Limitations must conform to the strict tests of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to those purposes. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with article 19 (general comment No. 34 paragraph 23).

In its general comment No. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including “political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para. 11). The Committee further asserts that States Parties to the ICCPR “shall put in place effective measures to protect against attacks aimed at silencing those who exercise their right to freedom of expression” (para. 23). Resolution 12/16 of the Human Rights Council, which called on States to refrain from imposing restrictions that are not consistent with article 19(3) of the ICCPR, including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief,

including by persons belonging to minorities or vulnerable groups (A/HRC/RES/12/26).

We would also like to refer your Excellency's Government to the fundamental principles 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 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We further wish to draw particular attention to the following articles of the Declaration:

- article 6(b) and (c), which guarantees the right to freely publish, impart or disseminate views, information and knowledge on human rights and fundamental freedoms, and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters.
- article 12, 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 their legitimate exercise of the rights referred to in the Declaration.