

# The biggest mass-disenfranchisement of the 21<sup>st</sup> Century

## Joint Statement: 125 Civil Society Organisations condemn the exclusion of 1.9 million people from the Assam NRC and call for urgent action to protect everyone's right to a nationality

On 31 August 2019, after a long-drawn out process, the final version of the Assam National Register of Citizens (NRC) was published. 31,121,004 residents of Assam were included in the NRC and therefore recognised as citizens, whereas 1,906,657 residents – approximately 6% of the population of Assam - were excluded, pushing them to the brink of statelessness.

Further to a 2014 Supreme Court Order, in 2015, the Assam state government announced it would initiate a process of updating the NRC, requiring every person in Assam who claimed Indian citizenship, to submit proof of their ancestry (or birth) in the country pre-dating 1971, the year that Bangladesh was formed. This process arose out of a history of xenophobia and discrimination against both Indian and non-Indian migrants of Bengali ethnicity, with Muslim Bengalis being the most disproportionately impacted. Women who are less likely to be literate or have documentation due to societal prejudices and norms and their children have also been excluded. The immense pressure that this process has placed on individuals and their families, including the cost of applying and appealing, the loss of work, the strain on family life, the emotional and psychological impact, the loss of liberty through detention and the rise in hate-crimes and hate-speech, is extremely worrying. Local NGOs have reported that the NRC process has already claimed the lives of a number of people who have died by suicide.

The failure to implement adequate procedural safeguards and the consequent arbitrariness of the NRC process has also been a significant concern. Further, while India claims that those excluded from the NRC are not yet stateless, they are undeniably at extreme risk of imminent statelessness, as they have effectively been stripped of their citizenship, with a 120-day window to appeal. International law prohibits the arbitrary deprivation of nationality and obligates states to avoid statelessness, while guaranteeing the right of every child to acquire and preserve their nationality and to be protected from statelessness.

Despite mounting evidence that this process would result in a human rights and humanitarian catastrophe and repeated calls to action by UN human rights mechanisms, including a number of special procedures mandate holders, the failure of the international community over the last two years, to exert sustained pressure on India to reverse the process, shows that little has been learnt from the Rohingya crisis or the many crises before.

### Signatories:

Advocates for Non-Discrimination and Access to Knowledge (ANAK) (Malaysia)  
African Centre for Justice and Peace Studies (ACJPS)  
Agora Society (Malaysia)  
All India Union of Forest Working People  
Alliance for Social Dialogue - Social Science Baha (Nepal)  
Amnesty International  
Anti-Discrimination Centre Memorial  
Asia Pacific Refugee Rights Network (APRRN)  
ASKV Refugee Support (Netherlands)  
Association des jeunes formateurs (AJFACE)  
Baghdad Women's Association  
Benet Lobby Group (Uganda)  
Beyond Borders (Malaysia)  
Borneo Komrad (Malaysia)  
Boston University International Human Rights Clinic  
Botswana Labour Migrants Association  
Canadian Centre on Statelessness  
Caribbean Institute for Human Rights (ICADH)  
CEDESOU (Republica Dominicana)  
Center for Justice and International Law (CEJIL)  
Centre de Développement Soutenable (CEDESOU) (Haiti)  
Centre for Advancement of Development Rights (CEADER)  
Centre for Peace and Justice, BRAC University (Bangladesh)  
CF "Right to Protection" (Ukraine)  
Clínica Jurídica de Migrantes y Refugiados, Universidad Diego Portales  
Coalition de la Société Civile Ivoirienne contre l'Apatridie  
Conscience International Sierra Leone  
Conseil National des Femmes de Madagascar (CNFM)  
Consonant (UK)  
Council of Minorities (Bangladesh)  
Cross Cultural Foundation (Uganda)  
Defence of Human Rights and Public Services Trust (Pakistan)  
Development and Justice Initiative (India)  
Development of Human Resources for Rural Areas (DHRRA) (Malaysia)  
East Forum Foundation  
Elom Empowerment  
European Network on Statelessness  
FACES Pakistan

The finalisation of the NRC coincided with the halfway mark of UNHCR's iBelong Campaign to end statelessness by 2024. It came just 37 days before state representatives are to congregate at the High-Level Segment on Statelessness in Geneva, to make further pledges towards ending statelessness. We call on all states and institutions of the international community to use the platform provided by the High-Level Segment to call out India's arbitrary and discriminatory actions and to recapture the spirit in which the right to nationality was first included in the canon of human rights – as a safeguard against inhuman horrors.

Although the lives and years lost can never be reclaimed, it is still not too late to reverse what now seems an inevitable outcome of mass-disenfranchisement. But it will require extraordinary political leadership within Assam, India and globally, particularly in a context in which the politics of demonization are taking centre stage. It is for the people of the world to provide moral direction to their representatives and demand better of them. And so, as members of the global community, we join our voices to demand better of states and of the UN. The international human rights standards that bind us together by protecting us all, demand that governments and multilateral institutions take bold action. The exercise of collective responsibility in defence of human rights is critical to averting a crisis manufactured by one country, which has global significance and resonance. In particular, we urge the international community to exert pressure on India to:

1. **bring this process to a closure in a non-discriminatory and non-arbitrary manner, with full regard to due process rights and a commitment to protect the right to a nationality and to avoid statelessness of all long-term residents and their children;**
2. **prevent detention, deportation, degrading treatment, incitement to violence, collective punishment, and other forms of human rights abuses;**
3. **ensure justice for those victimised by the arbitrary and discriminatory procedure;**
4. **facilitate a process of dialogue and community building; and**
5. **assist individuals affected by the NRC process through support to legal aid providers, humanitarian assistance, and other measures.**

5 September 2019

Families of Victims of Involuntary Disappearance (FIND)  
FAWE (Madagascar)  
Focus Development Association (Madagascar)  
Foreign Spouses Support Group (FSSG) (Malaysia)  
Forum for Women In Development (FWID)  
Foundation for Access to Rights (FAR) (Bulgaria)  
FTMF Fikambanan'ny Tanora Mandala fahamarinana mba ho fampandrosoana ny Firenena  
Fundación Cepaim Acción Integral con Migrantes  
Geneva Council for Rights and Liberties  
Global Campaign for Equal Nationality Rights  
Greek Forum of Refugees  
Haki Centre Organization (Kenya)  
Halina Nieć Legal Aid Center (Poland)  
Hazards Centre (India)  
Human Rights Defenders Association (India)  
Human Rights Research and Education Centre, University of Ottawa (Canada)  
INHURED International  
Institute for Human Rights and Development in Africa  
Institute on Statelessness and Inclusion (ISI)  
International Commission of Jurists  
International Detention Coalition  
International Federation for Human Rights (FIDH)  
International Human Rights Clinic, Inter-American University of Puerto Rico  
International Justice Mission  
International Observatory of Human Rights  
International Refugee Rights Initiative (IRRI)  
Kenya Human Rights Commission  
KMF/CNOE- Fanabeazana Olompirenena - Comité National d'Observation des Elections- Educations des Citoyens  
Law Center of Advocates (Republic of Moldova)  
Lawyers for Human Rights (South Africa)  
Lawyers for Liberty (Malaysia)  
Liberty 32 (Madagascar)  
Maastricht Center for Citizenship, Migration and Development (MACIMIDE)  
Malaysian Association of Integrated Traditional Indian Medicine (PEPTIIM)  
Maragoli Community Association (Uganda)  
Minority Rights Group International  
Minority Rights Organization (Cambodia)  
Mother Association for Rights and Development (MARD)  
Mouvement Ivoirien des Droits Humains (MIDH)  
Movimiento Reconoci.do (Dominican Republic)  
Namati  
Naripokkho (Bangladesh)  
Observatory Caribbean Migrants (OBMICA)  
Odhikar (Bangladesh)  
ONG Ravintsara  
Open Society Justice Initiative  
Our Journey (Malaysia)  
Parivartan (Golaghat Assam, India)  
Peace Centre (South Africa)  
People's Legal Aid Centre (Sudan)  
Persatuan Penasihat Pengguna (Malaysia)

# Further information and analysis

## Background

The Indian state of Assam, with its strong indigenous culture, has experienced immigration throughout its history, with large Bengali populations being moved as labour under the colonial period, as well as mass migration during partition in 1947. Post-independence, migration between East Bengal (now Bangladesh), West Bengal and Assam continued, with a significant number of persons seeking refuge in Assam during the Bangladesh liberation war in 1971. With migration and the alleged dilution of indigenous Assamese culture dominating the state's politics, violence and discrimination against the Bengali minority sparked the Nellie massacre of 1983. A relative peace was achieved through the striking of the subsequent Assam Accords of 1985, which committed to the identification and deportation of foreigners.

## Discrimination and dehumanisation

The intersectional discrimination evident in the NRC process, which contravenes Indian and international standards of non-discrimination and equality before the law, are of deep concern. Muslims of Bengali descent have been disproportionately impacted. Undocumented women and their children were compelled to rely on 'panchayat (village council) certificates' to establish their citizenship. While these certificates were more readily accepted in the case of ethnic Assamese applicants, minorities were required to produce additional documentation. This reflects discrimination between those deemed 'original' and 'non-original' inhabitants that has characterised the NRC process, with the latter subject to differential criteria and arbitrary rejections on a mass scale.

Contributing to these concerns is the wider context of rising Hindu nationalism and anti-Muslim sentiment. This has been reflected by rhetoric of senior government officials, including references to 'infiltrators' and 'termites'. The controversial Citizenship Amendment Bill also remains a government priority which, if passed, would avail non-Muslims left off the NRC list an expedited pathway to citizenship, while excluding Muslims.

## Evidentiary burden

Requiring individuals to prove their citizenship by providing documentary evidence dating back over 50 years, and excluding applicants on the basis of not being able to fulfil this evidentiary burden that sits solely on them, is an act of mass-arbitrary deprivation of nationality, contrary to Article 15 of the Universal Declaration of Human Rights. At best, it is an act of bureaucratic malpractice that renders the right to a nationality a hollow promise. Everyone's nationality would be vulnerable to review and revocation by this standard, particularly in a state like Assam, where about 30% of the population is illiterate and lives below the poverty line.

Citizens and residents who lack documentation due to state failures to provide documents they are entitled to, have been doubly penalised through their consequent exclusion from the NRC. Most significantly, historically poor birth registration rates, despite an obligation under Article 7 of the Convention of the Rights of the Child to immediately register every birth, denied numerous applicants of a critical piece of evidence to establish their citizenship. Similarly, many people who possessed the required documents, have nonetheless been penalised due to the administrative errors

Peter McMullin Centre on Statelessness, Melbourne Law School  
Popular Education and Action Centre (India)  
Pusat Komus (Malaysia)  
Red Comun N  
Rencontre Africaine des Droits de l'Homme (RADDHO)  
Restless Beings  
Rights Now Pakistan  
Rights Realization Centre  
Rohingya Human Rights Network (Canada)  
Rural Consumer Organization (RCO)  
Ruwad alHoukouk FR  
Sabah Human Rights Centre (Malaysia)  
Salam for Democracy and Human Rights  
Save the Children South Africa  
Scalabrini Centre of Cape Town  
SMILE Myanmar  
Society for Human Rights & Prisoners Aid (SHARP) (Pakistan)  
South Asia Collective  
Southern Africa Litigation Centre  
Southern African Nationality Network  
Statelessness Network Asia Pacific (SNAP)  
The 50/50 Group of Sierra Leone  
The Brunei Project  
Tirana Legal Aid Society (TLAS) (Albania)  
Together 4 Good  
Transparency International - Initiative Madagascar  
Union of Stateless Malaysians (USTMY)  
United Stateless (USA)  
University of Liverpool Law Clinic Staff  
West African Refugees and Internally Displaced Persons Network  
Woman Welfare & Consumer Association Malaysia  
Women's Refugee Commission  
World Council of Churches, Commission of the Churches on International Affairs  
Yayasan Chow Kit (Malaysia)  
Zimbabwe Lawyers for Human Rights  
Zimbabwe National Council for the Welfare of Children

of state officials in preparing these documents. Spelling mistakes and discrepancies in documents have been the basis on which many applications were denied.

### **Foreigners Tribunals**

Those excluded from the list must appeal within 120 days to Foreigners Tribunals (FT), a quasi-judicial institution mandated to determine citizenship and detect 'illegal migrants'. In essence, this implies that the state already considers those excluded from the NRC to be foreigners, and not Indian citizens who are challenging a miscarriage of justice. The number of FTs in operation has increased exponentially in response to the NRC process, with hundreds more being established to process the anticipated mass appeals. As a result, the standard criteria of legal experience and expertise required for members of these bodies has been lowered, a deeply worrying phenomenon, given the life-altering decisions these institutions will make. Further, the FT's historical bias, well-documented track record of poor and arbitrary decision making and failure to adhere to procedural standards, is particularly worrying.

### **An all too familiar story**

The Assam NRC process is not an unfamiliar one. Seemingly bureaucratic processes have cloaked and facilitated racist, xenophobic and discriminatory motivations and actions throughout the world and over history. The resultant disenfranchisement and exclusion of entire communities and the human rights deprivations faced by millions, has destabilised societies, undermined economic progress, escalated conflict and caused immeasurable pain and suffering.

We have witnessed and responded to the fallout of such 'bureaucratic processes' with regard to the Rohingya in Myanmar, the Dominicans of Haitian descent, the Lhotshampa of Bhutan, Kenyan minorities forced to undergo 'vetting', Syrian Kurds and the erased of Slovenia (to name but a few). In every situation of manufactured statelessness, individuals and minority communities have faced the brunt of the impact. However, in no such situation has a state benefited. Mass disenfranchisement does not bring with it economic progress, development or peace. Narratives of blame, fear and scapegoating are being propagated for short-sighted political gain in Assam. Arbitrary deprivation of citizenship is a human rights violation in itself, which also hugely undermines the enjoyment of fundamental human rights of those affected and their ability to participate fully in society.