

# **STATELESS IN ASSAM: PRECURSORS TO GENOCIDE AND CRIMES AGAINST HUMANITY?**

**July 15, 2018**

**COMMON GOOD  
FOUNDATION**

*Dignity Rights Justice*

## INTRODUCTION

1. On June 11, 2018 select United Nations Rapporteurs sent a letter to Her Excellency Sushama Swaraj, Minister for External Affairs of India, requesting more information regarding the National Register of Citizens (NRC) in Assam. The Rapporteurs also requested details on how India will address statelessness which will result from this particular government policy.<sup>1</sup>
2. In response to the letter by the United Nations Rapporteurs The Common Good Foundation evaluates the following:

Given the historical events that have occurred in Assam and the true impact of India's Citizenship policy which will create a *de jure* stateless population to exist within their borders, has India set the stage for genocide and crimes against humanity to occur?

## HISTORY

3. Assam is a state in India with a diverse cultural and political landscape. It has a population of around 30 million.<sup>2</sup> Assam's economy mainly depends on agriculture and the production of tea.<sup>3</sup>
4. Assam has continued to face a number of challenges about how to achieve the desired results regarding its territorial and ethnic problems. In the past, some solutions to these issues have been resolved by the government but many issues still remain unresolved.
5. Mahatma Gandhi visited the conflicted region of Assam some four times, with the final visit occurring in 1946.<sup>4</sup> He assisted the Assam Congress in their recognition and integration into Independent India.<sup>5</sup> Gandhi was determined for the people of Assam's right to inclusion, despite forces coalescing for the partial apportionment of the Assam region to Pakistan.<sup>6</sup>

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<sup>1</sup> OL IND 13/2018

<sup>2</sup> Office of the Registrar General & Census Commissioner, India, Ministry of Home Affairs, Government of India <http://censusindia.gov.in/2011-Common/CensusData2011.html>

<sup>3</sup> Mohammad Iqbal, "Migration Crisis Deepens in the Indian State of Assam: Is another Myanmar Style 'Ethnic Cleansing' Imminent?" School of Global, Urban and Social Studies RMIT University Melbourne, Australia, pp 1, June 18, 2018.

<sup>4</sup> Natwar Thakkar, "Mahatma Gandhi and the Ghandians in the North- East" Dialogue, October – December 2010, Volume 12, No. 2, [http://www.asthabharati.org/Dia\\_Oct%2010/nat.htm](http://www.asthabharati.org/Dia_Oct%2010/nat.htm)

<sup>5</sup> Sangeeta Barooah Pisharoty, "Revisiting Partition: Gandhi's role in Integrating the Northeast with Independent India" August 9, 2017, <https://thewire.in/history/partition-gandhi-northeast-independence>

<sup>6</sup> Id.

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6. Following communal violence, in 1950 both the independent governments of India and Pakistan entered in to the “Nehru - Liaquat Ali Khan Agreement” which ensured equality of citizenship among minorities regardless of religion. India specifically emphasized that this right was guaranteed under its Constitution. The Agreement also had a provision that allowed refugees who fled to come back to Assam.<sup>7</sup>
7. Since the 1950’s, due to the ethnic and religious make-up of the region there has been varying attempts to reduce the Muslim population by fabricating documents and presenting the genuine Muslim residents of Assam as “illegal Muslim immigrants” from Bangladesh.<sup>8</sup> Politicians have also argued that Bangladesh is conducting a "demographic invasion" into India<sup>9</sup> and that political groups may be helping illegal immigration in order to build "vote banks."<sup>10</sup> There is no evidence to support any of these theories pushed forward by political forces in India.

## ASSAM AND CITIZENSHIP ISSUES

8. Citizenship issues since the partition of India remain complicated and politically charged, particularly in Assam. Therefore, it is important to understand these issues as two separate yet parallel tracks.
9. On one track are the laws that discuss *acquiring and granting* citizenship in India, such as the 1955 Citizenship Act. The parallel track is the laws that *revoke* citizenship through mechanisms such as the Foreigners Act and the NRC. It is this second track which is the focus of this submission.

### Citizenship Track

10. In 1955 India passed the Citizenship Act<sup>11</sup> which had a specific stipulation regarding Assam. Section 6A of the Citizenship Act 1955 provides that Bangladeshi immigrants who entered between 1966 and 1971 have to register with the Regional Registration Officer to be added to the NRC.<sup>12</sup>

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<sup>7</sup> Nehru - Liaquat Ali Khan Agreement, April 8, 1950, para E.

<sup>8</sup> Mohammad Iqbal, “Migration Crisis Deepens in the Indian State of Assam: Is another Myanmar Style ‘Ethnic Cleansing’ Imminent?” School of Global, Urban and Social Studies RMIT University Melbourne, Australia, pp 7, (18 Jun 2018)

<sup>9</sup> Lt Gen S K Sinha, "Report on Illegal Migration into Assam" November 8, 1998, para 8, [http://www.satp.org/satporgtp/countries/india/states/assam/documents/papers/illegal\\_migration\\_in\\_assam.htm](http://www.satp.org/satporgtp/countries/india/states/assam/documents/papers/illegal_migration_in_assam.htm). It should be noted that the Governor's report is, by his own admission, based on census figures from 1931 prior to the partition of India. The Governors report does not take into account push-pull factors relating to migration.

<sup>10</sup> Id at 9

<sup>11</sup> India: Act No. 57 of 1955, Citizenship Act, 1955, 30 December 1955, available at: <http://www.refworld.org/docid/3ae6b57b8.html> [accessed 12 July 2018]

<sup>12</sup> Ganesan Seetharaman, “National Register of Citizens in Assam: Issue of illegal foreigners continues to be a major political one”, Economic Times, June 14, 2015, <https://economictimes.indiatimes.com/news/politics-and->

11. On July 15, 2016, the Citizenship (Amendment) Bill was introduced by Shri Rajnath Singh, Minister of Home Affairs during a session of the Lok Sabha. The purpose was to amend the Citizenship Act 1955. This existing act provides for the acquisition and determination of Indian Citizenship.<sup>13</sup>
12. The Citizenship Bill aims to change the definition of illegal migrants and alter the requirement of “continuous stay” from 11 years to 6 years. It provides citizenship for minority communities, namely Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians from Afghanistan, Bangladesh, and Pakistan who were previously considered as illegal migrants under the Citizenship Act 1955.
13. However, the Citizenship Bill left out certain minority groups, specifically Muslim sects like the Shias and the Ahmediyas who also face persecution in other parts of Southeast Asia.<sup>14</sup> Although the Citizenship Bill has not currently become effective and is contentious, the goal of the Bharatiya Janata Party (BJP) is for it to become effective prior to the next election cycle in 2019.

### **Statelessness Track**

14. In 1946, India passed the "Foreigners Act" which extended to all of India and delegated to each Central Government the authority to handle foreign migrants.<sup>15</sup> According to the Act, a foreigner is “a person who is not a citizen of India.”<sup>16</sup> If a foreigner has more than one nationality or an uncertain nationality, they may be treated “as the national of the country with which he appears to the prescribed authority to be most closely connected for the time being in interest or sympathy or if he is of uncertain nationality, of the country with which he was last so connected.”<sup>17</sup> The Act describes a procedure for determination of nationality of foreigners who are recognized as a national by the law of

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nation/national-register-of-citizens-in-assam-issue-of-illegal-foreigners-continues-to-be-a-major-political-one/articleshow/47657561.cms>

<sup>13</sup> Rajnath Singh, “The Citizenship (Amendment) Bill, 2016,” July 15, 2016, [http://www.prsindia.org/uploads/media/Citizenship/Citizenship%20\(A\)%20bill,%202016.pdf](http://www.prsindia.org/uploads/media/Citizenship/Citizenship%20(A)%20bill,%202016.pdf) <sup>14</sup> Debasree Purkayastha, “What is the Citizenship (Amendment) Bill, 2016?” May 26, 2018, <https://www.thehindu.com/news/national/other-states/what-is-the-citizenship-amendment-bill-2016/article23999348.ece>

<sup>15</sup> India: Act No. 31 of 1946, Foreigners Act, 1946, November 23, 1946, available at: <http://www.refworld.org/docid/3ae6b4df4.html> [accessed 12 July 2018]. The 1946 Act has been amended 5 times since 1946. Subsequently more restrictions were imposed through the Foreigners Order of 1948, National Legislative Bodies / National Authorities, *India: Order, No 9/9/46-Political (E. W.) of 1948, Foreigners Order, 1948*, February 10, 1948, available at: <http://www.refworld.org/docid/3ae6b514c.html> [accessed July 12, 2018]

<sup>16</sup> Id., Section 2(a).

<sup>17</sup> Id., Section 8.

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more than one foreign country, or who is uncertain about his/her nationality.<sup>18</sup> The Act was amended in 2004 to include a penalty for contravention of its' provisions.

15. In 1950 Assam passed the Immigrants (Expulsion from Assam) Act which allows for the removal of persons if the person(s) are deemed "detrimental" to the "interests of the general public of India."<sup>19</sup>
16. Subsequently, the NRC was created after the 1951 census to document the names of Indian citizens from the region of Assam. It was updated to include new names from electoral roll up to March 24, 1971 (as agreed in the Assam Accord, discussed below). The data relied on is known as Legacy Data which forms the basis for a claim to be recognized as a citizen. The government claims that it is to be used to identify and remove "illegal immigrants" from Bangladesh.<sup>20</sup> These records were eventually transferred to police.<sup>21</sup>
17. In the 1970s, illegal immigration came to be perceived as a burning issue in India once again due to a considerable number of immigrants obtaining voting rights despite not being able to prove their Indian identity. In response to this turn of events, a movement which would later be known as the Assam Movement or the Assam Agitation was launched by The All Assam Students Union (AASU) working alongside Assam Gana Sangram Parishad (AAGSP) in 1979.
18. The Assam Movement lasted six years during which period the state apparatus failed and the area became ungovernable. These events eventually led up to the "Nellie Massacre" where reports indicate close to three thousand people, mostly Muslim, were brutally massacred on the day of local elections in 1983. The ethnic clashes resulted from continuous discontent with the presence of "illegal immigrants" and by the controversial state elections where 4 - 6 million perceived "foreigners" were given voting rights.<sup>22</sup> Negotiations between the AASU and AAGSP with the Indian government, brought calm to the area, which resulted in the creation of the Assam Accord.<sup>23</sup>

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<sup>18</sup> Id.

<sup>19</sup> The Immigrants (Expulsion from Assam) Act, 1950, available at:

[http://www.assam.gov.in/documents/1631171/0/Annexure\\_2\\_.pdf?version=1.0&t=1444717496068](http://www.assam.gov.in/documents/1631171/0/Annexure_2_.pdf?version=1.0&t=1444717496068)

<sup>20</sup> FE Online, "In-brief: What is Assam's National Register of Citizens updation and how it will impact illegal immigrants", Financial Express, (1 January 2018) <<https://www.financialexpress.com/india-news/explained-in-brief-what-is-assams-national-register-of-citizens-updation-and-how-it-will-impact-illegal-immigrants/997223/>>

<sup>21</sup> Id.

<sup>22</sup> See Robert G. Gosselink, *Minority Rights and Ethnic Conflict in Assam, India*, 14 B.C. Third World L.J. 83 (1994), <http://lawdigitalcommons.bc.edu/twlj/vol14/iss1/5>. See also Ashutosh Varshney, "After the Assam killings" The Christian Science Monitor, March 22, 1983.

<sup>23</sup> Jitendralal Borkakoti, "Demographic Invasion, Assamese Identity and Geopolitics", *Space and Culture, India*, s.29-31, 2013, [https://www.researchgate.net/publication/294117574\\_Demographic\\_Invasion\\_Assamese\\_Identity\\_and\\_Geopolitics](https://www.researchgate.net/publication/294117574_Demographic_Invasion_Assamese_Identity_and_Geopolitics)

19. The Assam Accord was signed in New Delhi on August 15, 1985 between the representatives of the government and those of AASU and AAGSP. Foreign nationals who had entered India from 1951-1961 were to be given full citizenship, which encompassed the right to vote, whereas those who entered from 1961-1971 were excluded from voting for ten years but enjoyed all other citizenship rights. The foreigners who came to India after 1971 were to be deported.
20. Moreover, the Assam Accord stipulated an economic development package for the Assam people and promised legislative and administrative safeguards to protect their cultural, social and linguistic identity, and heritage. Despite the Accord bringing some peace to the area, the lack of implementation by the government regarding important issues rendered a lasting relief from the tension impossible.
21. There have been mechanisms created to give teeth to the Foreigners Act and subsequent orders. The first of these mechanisms was the Illegal Migrants Determination by Tribunals Act in 1983 (IMDT Act). The IMDT Act which created IMDTs nationwide was struck down by India's Supreme Court as illegal and unconstitutional in the case of *Sarbananda Sonowal v. Union of India*. The Court held, "[t]he IMDT Act which contravenes Article 355 of the Constitution is, therefore, wholly unconstitutional and must be struck down."<sup>24</sup> The Court directed "all cases pending before the Tribunals under the Illegal Migrants (Determination by Tribunals ) Act, 1983 shall stand transferred to the Tribunals constituted under the Foreigners (Tribunals) Order, 1964 and shall be decided in the manner provided in the Foreigners Act, the Rules made thereunder and the procedure prescribed under the Foreigners (Tribunals) Order, 1964."<sup>25</sup>
22. Foreigners Tribunals are the successors to the IMDTs. The Foreigners Tribunals were supposed to be more protective of the interests of the state, and operated under a lower standard with respect to "fair, just and reasonable" trial procedure as espoused by the Supreme Court. The Government of Assam established Foreigners Tribunals in 2005, with the Foreigners Tribunal Amendment Order and the Foreigners (Tribunals for Assam). However, a legal challenge was made to the 2005 Order that it was arbitrary and not aligned with the *Sonowal* decision. The Supreme Court agreed with the petitioners and struck down the Order.
23. The Supreme Court then ordered for tribunals to be set up in accordance with what was ordered in *Sonowal*. The current numbers of Tribunals operating are expected to increase, as per a Supreme Court order in 2014,<sup>26</sup> and current statistics project that 90,000 people

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<sup>24</sup> *Sarbananda Sonowal vs Union Of India & Anr* on July 12, 2005, Writ Petition (civil) 131 of 2000, Para 42

<sup>25</sup> *Id* at para 57

<sup>26</sup> Samar Halarnkar, "In Assam, Millions live in Fear of Arbitrary Deportation Drive" October 28, 2017, the quint, <https://www.thequint.com/news/india/millions-try-to-prove-citizenship-in-assam>

in Assam have been declared to be foreigners.<sup>27</sup> The Court is now overseeing the documentation process relating to the NRC and has requested that the final register be published by July 30, 2018.<sup>28</sup>

24. A draft NRC was produced on December 31 2017. It is reported that this draft list contained 1.9 crore names out of 3.29 crore applicants.<sup>29</sup> The full list is to be completed by December 2018. Documents used to prove citizenship include: land and tenancy records, citizenship certificates, permanent residential certificates, and passports. If applicants are born after 1971, they can use documents connected to their ancestors.<sup>30</sup>
25. Concerns have been raised by the first draft which omitted the names of several families.<sup>31</sup> Some of these concerns expressed related to corruption in the process, the specific targeting of impoverished people during citizen sweeps, and disregarding or ignoring documentation provided.<sup>32</sup> In addition, recent report indicates an uptick in suicides by those who may be impacted by the arbitrary application of the law.<sup>33</sup>
26. While the names of the draft NRC are updated, those who are left off the register have been told by Assam Government authorities that they will not have any constitutional rights but would be allowed to live in India until they are expelled.<sup>34</sup> Those who have been deemed to be "illegal" are housed in makeshift detention camps until new detention centres are built.<sup>35</sup> Assam's Union Minister, Kiren Rijju stated,

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<sup>27</sup> Michael Safi, "Assam's list: Indian state preparing to deport tens of thousands of 'foreigners'" the guardian, February 25, 2018, <https://www.theguardian.com/world/2018/feb/26/assams-list-indian-state-preparing-to-deport-tens-of-thousands-of-foreigners>

<sup>28</sup> PTI, "SC extends deadline for Assam NRC final draft to July 30" Times of India, July 2, 2018, <https://timesofindia.indiatimes.com/india/sc-extends-deadline-for-assam-nrc-final-draft-to-july-30/articleshow/64833043.cms>

<sup>29</sup> Id  
<sup>30</sup> Ganesan Seetharaman, "National Register of Citizens in Assam: Issue of illegal foreigners continues to be a major political one", Economic Times, (14 June 2015) <<https://economictimes.indiatimes.com/news/politics-and-nation/national-register-of-citizens-in-assam-issue-of-illegal-foreigners-continues-to-be-a-major-political-one/articleshow/47657561.cms>>

<sup>31</sup> Dr. Pushpita Das, "Publication of the National Register of Citizens: a positive step, but what next", Institute for Defence Studies and Analyses, (4 January 2018) <[https://idsa.in/idsacomments/publication-of-the-national-register-of-citizens\\_pdas\\_040118](https://idsa.in/idsacomments/publication-of-the-national-register-of-citizens_pdas_040118)>

<sup>32</sup> See Halarankar, supra note 26. See also Tarique Anwar, "Assam's NRC Officials 'Fudging' Data to Make People Indian or Foreigner?" NewsClick, July 7, 2018, <https://newsclick.in/assams-nrc-officials-fudging-data-make-people-indian-or-foreigner>

<sup>33</sup> Tarique Anwar, "With Final NRC Draft to be Released in 20 days, Assam Witnessing Rise in Suicides" News Click, July 12, 2018, <https://newsclick.in/final-nrc-draft-be-released-20-days-assam-witnessing-rise-suicides>

<sup>34</sup> Bobins Abraham, "What is National Register of Citizens and Why is Assam Updating it?" India Times, January 3, 2018, <https://www.indiatimes.com/news/india/what-is-national-register-of-citizens-and-why-is-assam-is-updating-it-336900.html>

<sup>35</sup> Michael Safi, "Assam's list: Indian state preparing to deport tens of thousands of 'foreigners'" the guardian, February 25, 2018, <https://www.theguardian.com/world/2018/feb/26/assams-list-indian-state-preparing-to-deport-tens-of-thousands-of-foreigners>

"in order to prevent further illegal migration, the Government has enhanced domination of the borders by security forces, besides erection of fencing, installation of surveillance equipment at the borders etc. The Government has taken up the issue of illegal migration with the neighboring countries during various bilateral meetings."<sup>36</sup>

27. This latter remark is questionable at best. Bangladesh and India have not sorted out how they will deal with those who face deportation. India has stated it faces logistical issues with deportations.<sup>37</sup> Bangladesh has continued to make clear that the issues concerning the people in Assam are an internal Indian matter.<sup>38</sup>

## STATELESSNESS

28. A stateless person is defined as a person "who is not considered as a national by any State under the operation of its laws."<sup>39</sup> The two Conventions which discuss statelessness are the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
29. India has not acceded to or ratified major international treaties such as the United Nations 1951 Convention Relating to the Status of Refugees or the 1954 Convention Relating to the Status of Stateless Persons.<sup>40</sup> However, the definition of statelessness is considered to be part of customary international law.<sup>41</sup>
30. India has a duty derived from custom and treaty obligations to prohibit arbitrary deprivation of nationality, to avoid non-discrimination in matters pertaining to nationality, and to avoid statelessness.<sup>42</sup> India is in violation of these duties and its treaty body obligations, notably those stated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination

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<sup>36</sup> Government of India Ministry of Home Affairs Lok Sabha, "Starred Question No: 22" August 1, 2018, <http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=55816&lno=16>

<sup>37</sup> Home and Political Department of Assam, "White Paper on Foreigners' Issue" October 20, 2012, para 2.5.4 <http://assam.gov.in/documents/1015216/1625130/White%20Paper%2019102012?version=1.0&t=1411128136000>

<sup>38</sup> Madhuparna Das, "If no Bangladeshi settlement in Assam, no question of deportation: Bangladesh minister" The Economic Times, February 21, 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/if-no-bangladeshi-settlement-in-assam-no-question-of-deportation-bangladesh-minister/articleshow/63007354.cms>

<sup>39</sup> Article 1, United Nations 1954 Convention relating to the Status of Stateless Persons, New York, 28 September 1954, 360 UNTS, 117.

<sup>40</sup> While India has not signed these treaties it has been since 1995, it has been a member of the UNHCR Executive Committee since 1995 and Executive Committee member of the International Office of Migration since 2008. *See* Sanjeev Tripathi, "Illegal Immigration from Bangladesh to India: Toward a Comprehensive Solution" Carnegie India, June 29, 2016, <https://carnegieindia.org/2016/06/29/illegal-immigration-from-bangladesh-to-india-toward-comprehensive-solution-pub-63931>

<sup>41</sup> *See* commentary in Alice Edwards and Laura van Waas, *Nationality and Statelessness*, Cambridge University Press, 2015.

<sup>42</sup> Alice Edwards, "The meaning of nationality in international law in an era of human rights" *Nationality and Statelessness*, Eds. Alice Edwards and Laura Van Wass, Cambridge University Press, (2015), pg 25.



of all Forms of Discrimination against Women, and the Convention on the Rights of the Child.

31. There is no question given the situation unfolding in Assam that many people who are left without citizenship will be stateless. In the “White Paper on Foreigners’ Issue” which is a public document accessible on the Government of Assam’s website, the government clearly states that when a Border Guard of Bangladesh refuses to accept a foreigner, then the “person becomes stateless.”<sup>43</sup>
32. As of July 13, 2018, the Assam government has begun talks regarding the “legal status” of those who will be left off the NRC. However, there is no indication that there will be a reversal of the rhetoric that has been continuously been employed by the BJP.<sup>44</sup>
33. As the status quo proves, statelessness is a grotesque violation of human rights and creates the context for mass atrocities to be perpetrated towards vulnerable groups. It allows for governments to manipulate minority groups, to strip them of all basic human necessities such as food and shelter, in addition to restricting access to health services. It also allows for dehumanization and violence to be perpetrated by radical ethnic groups who target minorities with impunity.
34. The situation in Assam closely parallels the situation involving the Rohingya in the Rakhine region of Myanmar, where crimes against humanity began in the late 1970’s, followed by the implementation of a Citizenship law which has culminated into genocide in the most recent decades. Ethnic groups in this region participate in the genocide alongside the Myanmar military in arson, rape, and murder.

## **PRECURSORS TO GENOCIDE**

35. Genocide does not occur on a whim or spontaneously. Based on historical cases there are warning stages or signs that present themselves prior to the commission of genocide. It is when these warning stages are present that the international community is best able to respond in order to save lives. The ten stages of genocide are "classification, symbolization, discrimination, dehumanization, organization, polarization, preparation, persecution, extermination, and denial."<sup>45</sup> The stages do not happen in a linear fashion and may happen simultaneously.

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<sup>43</sup> Home and Political Department of Assam, “White Paper on Foreigners’ Issue” October 20, 2012, para 2.5.3 <http://assam.gov.in/documents/1015216/1625130/White%20Paper%2019102012?version=1.0&t=1411128136000> <sup>44</sup>

Bikash Singh, “Assam deliberates on status of people left out of NRC” Economic Times India, July 13, 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/assam-deliberates-on-status-of-people-left-out-of-nrc/articleshow/64978862.cms>

<sup>45</sup> Dr. Gregory Stanton, "The Ten Stages of Genocide" “Ten Stages of Genocide” was originally written in 1996 at the U.S. Department of State as the “Eight Stages of Genocide,” presented at the Yale University Center for

36. Out of the 10 warning stages, the 5 warning stages currently present in Assam will now be discussed, utilizing Dr. Stanton’s definitions. For those who review this submission it is encouraged that the events highlighted below are further explored, particularly with a focus on how India addressed the needs of the victims.

- a. **Classification** is defined as “perpetuating and distinguishing people from one another.”
  1. Specific groups are outlined for citizenship in the Citizenship Bill. (Referring to paragraph 12 and 13).
  2. Classification is perpetuated at the national government level, particularly by Prime Minister Modi's party, the BJP, who uses these classifications to create an "us v. them" mentality. In his campaign speech in 2014, Prime Minister Modi told people in Assam to have their “bags packed” if he came to power.<sup>46</sup>
- b. **Symbolization** occurs once a group has been classified. Symbols are assigned to those classifications.
  1. The continued labeling of the Muslim minority as "foreigners" or "illegal Bengali immigrants" are strong examples of symbolization that have been present for decades. (Referring to paragraph 7).
  2. The classification of “D voters” (doubtful or dubious) for those people who have perceived lack of credentials to prove citizenship.<sup>47</sup>
  3. The publication of names of those who are “Indian nationals” versus the omission of names from the NRC list of those who do not meet the arbitrary criteria. (Referring to paragraphs 23-26).
  4. The border fence between Bangladesh and India, discussed below, constitutes “nationalist symbols,” and represent “the idea of excluding another population.”<sup>48</sup>
- c. **Discrimination** is defined as “denying the rights of other groups.”
  1. The legislation in the preceding paragraphs creates stateless people, the sole criteria to determine this is religion, and the only

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International and Area Studies in 1998, and revised in 2013, available at:  
<http://www.genocidewatch.org/genocide/tenstagesofgenocide.html>

<sup>46</sup> Biswajyoti Das, “Eleven Muslims killed in sectarian attacks in India’s Assam” Reuters, May 2, 2014,  
<https://www.reuters.com/article/us-india-violence-assam/eleven-muslims-killed-in-sectarian-attacks-in-indias-assam-idUSBREA4104B20140502>

<sup>47</sup> Alok Pandey, “Meet the ‘D Voters’ of Assam’s Us Versus Them Elections” All India, March 7, 2016,  
<https://www.ndtv.com/india-news/meet-the-d-voters-of-assams-us-versus-them-elections-1284716>

<sup>48</sup> Sudha Ramachandran, “The India-Bangladesh Wall: Lessons for Trump” THE DIPLOMAT, February 15, 2017,  
<https://thediplomat.com/2017/02/the-india-bangladesh-wall-lessons-for-trump/>

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state partaking in this endeavor within India is Assam. (Referring to paragraph 31). It should be noted that sexual minorities have also been left out of the NRC process.<sup>49</sup>

2. Pervasive corruption in the NRC process is also indicative that discrimination is rampant. (Referring to paragraph 25).
3. The Assam Police Organization (the only state in India to have such an organization dedicated to “illegal migration”) reportedly has a database containing the names of “D” voters. Those who are D voters, spend time in detention facilities.<sup>50</sup>
4. Multiple stories indicate that the police force uses intimidation and harassment towards the Muslim minority.<sup>51</sup>

d. **Polarization** is defined as “extremists driving the groups apart.” Evidence of polarization can also be gleaned from the facts which support classification, symbolization, and discrimination.

1. The “foreigners” issue is framed as a “plague,” “encroachers,” “invaders,” or “ticking bomb”<sup>52</sup> and these phrases are often used by the BJP and other Assamese tribal groups to garner support of policies and actions which target the Muslim minorities. (Referring to paragraph 7).
2. The mobilization of the BJP on the issue of illegal immigration, which has led to performance initiatives for those who work in the Tribunals to determine there are illegal immigrants in India and the creation of strong IT infrastructure to detect illegal immigrants.<sup>53</sup>
3. While it was also agreed upon in the Assam Accord, under the direction of Prime Minister Modi, the creation of a border fence between India and Bangladesh so that “illegal immigrants” are kept out<sup>54</sup> thus continuing the polarizing mentality of “us vs. them.”

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<sup>49</sup> Scroll.in, “Assam: Transgender people to move SC seeking inclusion of names in the National Register of Citizens” July 14, 2018, <https://scroll.in/latest/886616/assam-transgender-people-to-move-sc-seeking-inclusion-of-names-in-the-national-register-of-citizens>

<sup>50</sup> Ipsita Chakravarty, “Doubtful or dubious: Who will count the D voters of Assam?” Scroll.in, February 21, 2016, <https://scroll.in/article/803173/foreigners-vs-citizens-who-will-count-the-d-voters-of-assam>

<sup>51</sup> Saif Khalid, “‘Harassed, discriminated’: Story of Assam’s Bengali origin people” Al Jazeera, June 23, 2018, <https://www.aljazeera.com/indepth/features/discriminated-story-assam-bengali-origin-people-180620101455019.html>

<sup>52</sup> Rafiul Ahmed, “Anxiety, Violence, and the Postcolonial State: Understanding the “Anti-Bangladeshi” Rage in Assam India” PERCEPTIONS, Spring 2014, Volume XIX, Number 1, pp 56.

<sup>53</sup> Abdul Kalam Azad, “The Struggle of ‘Doubtful Voters’ Has Intensified in BJP’s Assam” THE WIRE, July 12, 2017, <https://thewire.in/law/assam-doubtful-voters-sonowal>

<sup>54</sup> Ramachandran, *supra note* 48.

- e. **Dehumanization** is when “one group denies the humanity of the other group.” In Assam much of present day tensions between groups are a direct result of “anti-foreigner” rhetoric.<sup>55</sup> There are multiple situations involving violence, only some are highlighted here:<sup>56</sup>
1. In 1983 the Nellie Massacre took place.<sup>57</sup> (Referring to paragraph 18).
  2. In 1993, violence between Bodo (Hindu tribe) and Muslims occurred in Bongaigaon district, killing approximately 50 people.
  3. In 1994, violence between Bodo and Muslim ethnic group killed an estimated 100 people in the Barpeta district.
  4. In 2008, approximately 70 people are killed and 100,000 are displaced by violence between the Muslims and the Bodo’s in Udalguri and Darrang districts.
  5. In 2012, clashes between the Bodo and Muslims tribes displace 200,000 people, with homes burned to the ground, and killing approximately 40 people.
  6. In 2014, Bodo terrorists/militants killed approximately 30 people because people had not supported certain candidates in the Lok Sabha elections.
37. Although it is not specifically listed, **denial** is also a warning stage that is clear in some cases described above and in some cases it is not. Given the limited information that India has published regarding its own internal investigations into these matters, it would not be appropriate to make a conjecture regarding denial. However, it should be noted that in most of these cases, India has seemingly allowed rampant impunity to take place.
38. With regards to the NRC, the stage is set for more catastrophic events to occur. Assam is teetering on the brink of genocide and crimes against humanity to take place, this time it will be directly as a result of government policies.

<sup>55</sup> Harsh Mander, “Assam’s tragedy” The Hindu, July 1, 2016,

[https://www.thehindu.com/opinion/columns/Harsh\\_Mander/assams-tragedy/article3820732.ece](https://www.thehindu.com/opinion/columns/Harsh_Mander/assams-tragedy/article3820732.ece)

<sup>56</sup> There are multiple accounts of violence in the Assam region, mainly between ethnic groups. In many cases Indian government has chosen to remain silent with regards to addressing impunity. *See* Bijay Sankar Bora, “The killings fields of Assam” The Tribune, December 28, 2014, <https://www.tribuneindia.com/news/sunday-special/kaleidoscope/the-killing-fields-of-assam/23325.html> . *See also* Sanjoy Hazarika, “Complexity and conflict in Assam’s ‘Bodoland’” Al Jazeera, May 10, 2014, <https://www.aljazeera.com/indepth/opinion/2014/05/complexity-conflict-assam-bodola-20145865624188703.html> . *See also* The Economic Times of India, “A distraught tribal: The genesis of Assam ethnic violence” August 12, 2012, <https://economictimes.indiatimes.com/news/politics-and-nation/a-distraught-tribal-the-genesis-of-assam-ethnic-violence/articleshow/15458830.cms>. *See also* The Citizen Bureau, “Assam’s Cycle of Violence Began in 1979, Politics Continues to Stoke Fires,” December 26, 2014, <http://www.thecitizen.in/index.php/en/newsdetail/index/3/1909/assams-cycle-of-violence-began-in-1979-politics-continues-to-stoke-fires> . *See also* Namrata Goswami, “Violence in the Bodo Areas: Deciphering the Causes” Institute for Defence Studies and Analysis, August 9, 2012,

[https://idsa.in/idsacomments/ViolenceintheBodoAreas\\_NamrataGoswami\\_090912](https://idsa.in/idsacomments/ViolenceintheBodoAreas_NamrataGoswami_090912)

<sup>57</sup> Mander, *supra* note 54.

## RECOMMENDATIONS

39. The Common Good Foundation is grateful for the letter sent by select United Nations Rapporteurs to the government of India asking for more information regarding the NRC and other information relating to the current citizenship process.<sup>58</sup> It is through this process, that groups in Assam can clarify their process and how they are not in violation of international law.
40. It is recommended that the UNHCR, as the mandate holders of reducing statelessness, work with the Indian government, particularly the government of Assam, to ensure that statelessness does not result from the current citizenship process.
41. It is recommended that the Office of the United Nations Special Adviser on the Prevention of Genocide request more information from the Indian government on how they are addressing the warning signs of genocide which continue to appear in the status quo. It is further recommended that the Special Adviser make a statement notifying India that it is monitoring this situation closely given the serious repercussions that may occur.
42. It is recommended that the United Nations Human Rights Council, under the leadership of the United Nations High Commissioner for Human Rights, intervene and take up the matter in a special session of the Human Rights Council and through relevant treaty bodies take up this matter to specifically question India with regards to protections it will put in place to avoid genocide and crimes against humanity from occurring.

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<sup>58</sup> It is noted that groups within Assam did not appreciate the letter or “exercise” and have dismissed it as Bangladeshi propaganda. *See* Northeast Now, “Assam livid over UN Rapporteur’s letter to Sushma over NRC exercise” June 24, 2018, <https://nenow.in/north-east-news/assam-livid-un-rapporteurs-letter-to-sushma-over-nrc-exercise.html>