

27/05/25

To

The Chairperson,

National Human Rights Commission

Manav Adhikar Bhawan, Block-C, GPO Complex, INA,

New Delhi - 110023

Subject: URGENT COMPLAINT regarding the arbitrary re-arrest and deportation of Indian citizens erroneously declared as "foreigners" and detained for years in Assam in violation of fundamental and human rights

Respected Sir/Madam,

We, the undersigned, write to bring to your urgent attention a grave and continuing violation of fundamental and human rights of several individuals in Assam who, despite being Indian citizens or long-term residents, were declared "foreigners" by the Foreigners Tribunals and detained for prolonged periods—often up to a decade — , before being released pursuant to directions of the Hon'ble Supreme Court.

Shockingly, these individuals are now being **re-arrested and detained again as of 23.05.2025**, without any fresh violation or breach of the Supreme Court's conditions for release, and now are being **forcibly deported** - 14 such people have been pushed to No Man's Land between India and Bangladesh - in complete disregard of the Constitution of India and international human rights norms. There are no reports of other detainees who have been picked by Police from across the state.

I. Factual Background

1. From 2010, several individuals in Assam who were declared as "foreigners" by Foreigners Tribunals and were detained indefinitely—many for up to **10 years**—without being granted bail or proper legal representation.
2. **The Hon'ble Supreme Court**, in **Writ Petition (Civil) No. 1045 of 2018** (*Supreme Court Legal Services Committee v. Union of India & Anr.*), passed an order dated **10.05.2019**, directing the conditional release of such detainees who had completed more than **three years** of detention.
3. Subsequently, in **Suo Motu Writ Petition (Civil) No. 1 of 2020**, I.A. No.48215/2020 and I.A. No.48216/2020, vide its order dated **13.04.2020**, the Hon'ble Supreme Court further reduced the mandatory detention period to **two years**, permitting release subject to bond, sureties, and biometric submission.
4. In compliance with the above orders, hundreds of detainees were released. They **complied scrupulously** with the conditions of release, including **periodic appearances before police stations**, and resided with their family members and community in India.
5. However, on **23.05.2025**, Assam Police initiated a **fresh round of arrests and detentions**, taking many of these individuals back to detention centre at Matia, Goalpara, **without any violation** of Supreme Court's conditional release norms. We now fear their **deportation**, despite unresolved nationality claims and absence of due process.

II. Legal and Constitutional Violations

These actions amount to **egregious violations** of the Constitution of India and other binding legal principles:

- **Article 21** of the Constitution guarantees **right to life and personal liberty**. Re-arresting individuals who have not violated any condition of release is an **arbitrary deprivation of liberty**, violating the **Maneka Gandhi v. Union of India (1978)** principle of **due process of law**.
- **Article 14** guarantees **equality before law and non-arbitrariness** in state action. Selective re-arrest without any fresh cause or hearing is manifestly arbitrary.
- **Article 22** guarantees **protection from arbitrary arrest and detention**, which includes the right to be informed of the grounds of arrest and to be defended by legal counsel.
- Under **Section 483 BNSS**, bail once granted by a court of law (or pursuant to Supreme Court orders), cannot be set aside unless specific grounds of violation are shown and fresh proceedings initiated.
- Forced deportation without proper nationality determination and without exhausting remedies under the **Foreigners Act, 1946** and the **Citizenship Act, 1955**, and without any hearing, amounts to **REFOULEMENT**, prohibited under customary **international human rights law**, including the **International Covenant on Civil and Political Rights (ICCPR)**, to which India is a party.

III. NHRC's Previous Actions in Similar Situations

The NHRC has taken suo motu cognizance and proactive steps in similar cases:

- In Case No. 232/3/0/2020, the NHRC issued notices to the Ministry of Home Affairs and the Government of Assam on reports of **inhuman conditions in detention centres and long-term incarceration of declared foreigners**.
- In Case No. 50/3/5/2011-CL, the Commission intervened in cases involving the **detention and deportation of Bangladeshi immigrants** and had emphasized the need for **humane treatment** and compliance with due process.
- NHRC has consistently taken the view that even persons declared as foreigners must be treated in accordance with the **UN Principles on the Protection of All Persons under Any Form of Detention or Imprisonment (1988)**.

IV. Prayer for Immediate Intervention

In view of the above, we most humbly request this Hon'ble Commission to:

1. **Take suo motu cognizance** of the arbitrary re-arrest and detention of Indian citizens and previously released declared foreigners in Assam as of **23.05.2025**.
2. **Issue urgent notices** to the Chief Secretary, Government of Assam, and Director General of Police, Assam, seeking a **status report** on the basis of re-arrest, list of detainees, and legal justification.

3. **Intervene to prevent forced deportation**, without due process and judicial oversight.
4. Direct the Government of Assam to **immediately release** those re-arrested individuals who have not violated any conditions of their earlier release and restore their liberty.
5. Recommend formulation of a **humane and transparent policy** on dealing with cases of disputed citizenship, in compliance with Articles 14 and 21 of the Constitution.
6. Recommend **compensation and rehabilitation** for individuals unlawfully detained for years and again subjected to re-arrest without cause.

We seek the intervention of this Commission in the interest of justice, liberty, and constitutional dignity of those who have long suffered the indignity of statelessness, and are now being subjected to further inhuman treatment.

[Redacted]
Yours faithfully,
A. WADUD AMAN
Fulbright Fellow
Advocate, Gauhati High Court

[Redacted]

Date: 26.05.2025

Place: Guwahati