

May 31, 2025

To,

Shri Justice V Ramasubramanian

The Chairperson

National Human Rights Commission (NHRC)

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

New Delhi – 110023

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Subject: Urgent complaint and request for investigation into arbitrary detentions, violations of Constitutional and International law, and suspected pushbacks in Assam (May 23–May 31, 2025)

Respected Madam/Sir,

We, the undersigned, representing *Citizens for Justice and Peace (CJP)*, submit this urgent and detailed memorandum concerning a grave humanitarian and constitutional crisis unfolding in the state of Assam. Between May 23 and May 31, 2025, widespread, state-coordinated, and secretive detentions of over 300 persons—predominantly Bengali-speaking Muslims—have reportedly taken place without adherence to the rule of law.

According to ground reports and testimonies documented by the CJP Assam team and endorsed by the Forum For Social Harmony, Assam approximately 150 individuals were released, while at least 145 persons have gone missing, many of whom are suspected (authorities are tight-lipped with relatives and advocates) to have been illegally pushed across the border into Bangladesh, including several who were still litigating for restoration of their Indian citizenship before courts and tribunals.

This operation has involved violations of the Indian Constitution, Indian constitutional court judicial directives, statutory safeguards, and international human rights law. Families —of several of those residing in villages of Assam for over seven to eight decades--were not informed about the whereabouts of their detained members, despite their and our efforts and legal access to advocates was denied.

There is now credible evidence that a systematic "pushback" operation has occurred, veiled in secrecy, instead of following established and lawful procedures for "deportation" (if at all any of these persons is not an Indian citizen) echoing unbefitting of a Constitutional Democracy that is first and foremost accountable to the Indian people. Transparency and due process of law demand that any steps that the state/police authorities may take are not governed by force and secrecy but are in fact backed by well- established legal norms, procedures (outlined below).

I. Nature and extent of the crackdown (May 23–May 31, 2025)

The CJP field team (s), as well as the local and regional media, have recorded the following:

- Nearly 300 individuals were, in all likelihood, picked up across 33 districts in Assam.
- In multiple districts, Border Police vehicles raided homes at night, forcibly detaining men and women without arrest memos, warrants, or grounds of arrest.
- Family members were not informed of the reasons for this sweeping operation nor where their near and dear ones were taken, and legal counsel was denied access, violating core constitutional rights.
- While about 150 individuals have reportedly been released, 145 remain missing (this is an approximate count made possible from community leaders all over the state), with some sources indicating they have been pushed into "no man's land" on the Indo-Bangladesh border.
- These include individuals declared as foreigners by Foreigners Tribunals, those released on bail, and those still litigating their citizenship cases. What needs to be noted is that the law and legal procedure mandates the State to a) abjure from coercive actions such as these until all steps of the legal rights/aid have been exhausted; b) in cases where the State has evidence that the person(s) concerned are foreign nationals (Confirmed Foreign National—CFN), there too, the State is statutorily bound to follow steps mandated for deportation (outlined below).
- Not a single legal deportation order or bilateral repatriation mechanism has been disclosed to either family members, legal counsel or to the public. In fact in one confirmed case of a retired school teacher from Dhubri, Assam (Khairul Islam), his case is still pending in the Supreme Court of India!

The exclusive on-ground report by CJP dated May 29, 2025 is attached and annexed as Annexure A

Note: A matter of great distress and concern was how relatives and advocates of those detained were treated at the Matia Detention Centre on May 26, 2025 and thereafter. This has been detailed in Annexure A.

Besides, a Memorandum sought to be given to the Matia Detention Centre on May 26, 2025 which was not accepted and which has been sent via email and speed post subsequently has been annexed hereto as **Annexure B.**

II. Documented Personal Accounts: Victims of alleged pushbacks

Below are detailed profiles of individuals who were previously in detention, had secured release through legal means, after spending considerable period in detention camp. The team of CJP had provided them with legal aid during the said process of obtaining bails. The process of determination of their citizenship status was made merely on suspicion and there is nothing on record in the proceeding before the tribunal, to suggest that they are from the neighbouring Bangladesh. These persons are now untraceable and are feared to be among those illegally pushed across the Indo-Bangladesh border without due process.

1. Doyjan Bibi

- Resident of Madhusailamari Part II, Dhubri District.
- Declared a foreigner by FT No. 4 in 1998, despite inclusion in NRC and valid ID documents.
- Detained in Kokrajhar Detention Camp in 2019.
- Temporarily released in May 2021 through legal assistance provided by CJP.
- Detention caused severe family hardship; children dropped out of school, and the family was driven to poverty.
- Missing since May 24, 2025; believed to have been forcibly expelled to Bangladesh.

2. Abdul Sheikh

- Senior citizen from Satibargaon, Chirang District.
- Declared foreigner in 2018; detained in Goalpara Camp in 2019.
- Displaced multiple times due to communal violence.
- Temporarily released in April 2021 with CJP's legal aid.
- His detention devastated his large family, forcing the eldest son to become a caregiver.
- Disappeared post-May 24, 2025 raids; family has had no contact since.

3. Mojibor Sheikh

- Daily-wage earner from Shaljhora, Chirang District.
- Detained in November 2021; released in November 2023 via CJP intervention.
- Family sank into debt; minor son forced to work.
- CJP secured his conditional release after navigating administrative delays and legal barriers.
- Reported missing after May 24, 2025, following fresh police operations.

4. Samsul Ali

- 67-year-old from Goraimari village, Chirang District.
- Detained for over three years with his brother.
- Had provided documentary evidence dating back to 1951 NRC.
- Temporarily released in February 2021 through legal assistance provided by CJP.
- Suffers from hearing loss and respiratory issues.
- Unreachable since May 24–25, 2025; suspected to be among those pushed back.

In addition to these four cases, that CJP has confirmed, another individual's illegal disappearance has come to the forefront, which we will take the liberty of sharing with the NHRC once confirmed details are available.

1. Khairul Islam

- Retired government school teacher (Thengsali Khandapukhuri Primary School) from Morigaon.
- Declared a foreigner by FT in 2016; order upheld by Gauhati High Court in 2018.
- Detained in Matia Detention Centre for two years; released on bail in August 2020.
- Filed a Special Leave Petition; case pending before Supreme Court (last hearing: Dec 17, 2024). This case is still pending in the Supreme Court.
- Picked up by Assam Border Police from his home on May 23, 2025.
- Re-arrested and taken to Matia Detention Centre along with 13 others from Morigaon and Jorhat districts, allegedly mal-treated during detention.
- May 27, 2025: Appeared in a video from Kurigram district, Bangladesh, confirming he was pushed across the border at around 4 AM.

The report by Scroll dated May 27, 2025 is attached and annexed as Annexure B

These personal accounts are just examples of a broader administrative purge targeting vulnerable residents under the guise of foreigner detection. They represent individuals who had successfully re-entered the legal fold and were entitled to full protection of law *until this process has been exhausted*, but were stripped of it through stealth and brute force. To reiterate, even in those cases where an individual (or individuals) is/are, according to a process followed and established Confirmed Foreign Nationals (CFN), acknowledged statutory processes for deportation (outlined below) need to be followed.

III. Violations of Constitutional and legal safeguards

A. Constitution of India

- Article 21: Right to life and liberty.
- Article 22(1): Right to be informed of grounds of arrest and consult legal counsel.

B. Supreme Court guidelines

- ***D.K. Basu v. State of West Bengal* [1997 (1) SCC 416]:** Procedural safeguards on arrest and custody.
- ***Joginder Kumar v. State of U.P.* [WP(Crl.) No. 9/1994]:** Rights of arrestees to contact family and lawyers.
- ***Vihaan Kumar v. State of Haryana* [Criminal Appeal @ SLP(Crl.) 13320 of 2024]:** Non-compliance with Article 22(1) invalidates arrest.

C. BNSS / CrPC provisions

- **Section 46 BNSS/ Section 49 (erstwhile) CrPC:** No unnecessary restraint to be used during arrest.
- **Section 47 BNSS/ Section 50 (erstwhile) CrPC:** Person arrested to be informed of grounds of arrest and right to bail.
- **Section 48 BNSS/ Section 50A (erstwhile) CrPC:** Arresting officer must inform a friend or relative of the arrested person, with BNSS adding that such information must also be provided to the designated district police officer.
- **Section 49 BNSS/ Section 51 (erstwhile) CrPC:** Procedure for search of arrested person; BNSS omits the word “whenever” from clause (ii) of subsection (1).
- **Section 55 BNSS/ Section 55 (erstwhile) CrPC:** Procedure when arrest is carried out by a subordinate without warrant.

- **Section 56 BNSS/ Section 55A (erstwhile) CrPC:** Health and safety of arrested person
- **Section 57 BNSS/ Section 56 (erstwhile) CrPC:** Duty to produce arrested person before a Magistrate or officer in charge of a police station.
- **Section 58 BNSS/ Section 57 (erstwhile) CrPC:** Person must not be detained beyond 24 hours; BNSS adds “whether having jurisdiction or not.”
- **Section 38 BNSS / Section 41D (erstwhile) CrPC:** Right of arrested person to meet an advocate of his choice during interrogation.

D. NHRC guidelines on arrest (Published on NHRC website on January 11, 2000)

The National Human Rights Commission (NHRC) itself has comprehensively laid down guidelines to ensure that arrests are made in a lawful, transparent, and humane manner. These include:

- **Pre-arrest safeguards:** Arrest must not be conducted routinely. It should be preceded by a reasonable belief about the suspect's involvement in a cognizable offence. The NHRC emphasizes that arrest should be avoided in bailable offences unless the suspect is likely to abscond or tamper with evidence.
- **Communication of arrest:** The arrested person must be informed immediately of the grounds of arrest in a language they understand. The police must also inform a friend, relative, or other person nominated by the arrestee about the arrest and place of detention. These details must be recorded in a designated register and reported to district/state control rooms.
- **Medical examination:** The arrestee must be medically examined every 48 hours by a doctor on the state-approved panel. Injuries, if any, must be recorded at the time of arrest and at intervals during detention. A certificate of injury status must be issued at the time of release.
- **Access to legal representation:** The arrestee must be informed of the right to consult a lawyer of their choice and must not be denied access to legal assistance. Free legal aid must be made available.
- **Custody records and transparency:** All arrests must be recorded with complete details, including the identity of arresting officers. The place of detention and particulars of the detainee must be conveyed to the District/State Control Room and prominently displayed. Public display or parading of arrested persons is strictly prohibited.

- **Gender-specific safeguards:** Women must not be arrested after sunset and must be searched or examined only by female personnel. Children must not be subjected to force or intimidation, and their arrests must involve neutral observers to ensure dignity.
- **Post-arrest obligations:** Arrestees must be produced before a magistrate within 24 hours. Interrogation should occur only in designated and accessible premises, and the method of interrogation must respect the arrestee's dignity and protection against torture.

These comprehensive guidelines, which are consistent with constitutional protections and Supreme Court jurisprudence, are intended to bridge the gap between law and practice and to prevent abuse of police power.

IV. Violations of international human rights law

India is party to multiple binding international instruments:

1. International Covenant on Civil and Political Rights (ICCPR)

- Article 9(1): Protection against arbitrary arrest or detention.
- Article 9(2): Right to be informed of reasons for arrest.
- Article 13: No one who is lawfully present shall be expelled without due process.
- Article 14: Right to a fair hearing and legal representation.

2. Universal Declaration of Human Rights (UDHR)

- Article 3: Right to life, liberty, and security.
- Article 9: Protection from arbitrary exile or detention.

3. UN Basic Principles on the Treatment of Prisoners

- Principles 1, 2, 3: Human dignity must be respected; arbitrary detention is a human rights violation.

4. Customary International Law

- The principle of non-refoulement prohibits returning a person to a place where they may face harm. Pushbacks without due process violate this.

India is obligated under Article 51(c) of the Constitution to respect international law. These practices undermine its global commitments and risk international censure.

V. Legal Issue: Non-exhaustion of remedies before detention/deportation

The detentions and suspected pushbacks of individuals who were actively engaged in judicial processes to restore or establish their Indian citizenship rights constitute a grave and unlawful denial of legal remedies. These individuals were not fugitives or absconders; rather, they were persons released on bail, awaiting hearings in higher courts, or actively pursuing review or re-verification processes under the law.

All of the victims were forcibly picked up without any prior intimation, and in some cases, without even a final adjudication of their status as non-citizens. In the case of Khairul Islam, his petition against the Gauhati order declaring him a foreigner remains pending before the Supreme Court. In the case of Doyjan Bibi, Abdul Sheikh, Mojibor Sheikh and Samsul Ali, all of whom had been temporarily released under Supreme Court bail guidelines, the legal recourse of approaching the Gauhati High Court for permanent bail was yet to be exhausted.

This constitutes a flagrant breach of:

- The principle of natural justice, which mandates that no person shall be condemned without the opportunity to be heard.
- The right to effective legal remedy, as guaranteed under Article 21 of the Constitution and Article 2(3) of the ICCPR.
- The doctrine of proportionality, which forbids coercive state action—especially one involving deprivation of liberty or removal from national territory—without exhaustion of less intrusive alternatives.

Furthermore, premature detention or removal directly obstructs the appellate or curative processes laid down under Indian law, rendering such judicial forums futile. It usurps the role of the judiciary and amounts to executive overreach, undermining the rule of law and eroding public trust in constitutional governance.

We submit that any action involving deprivation of liberty or cross-border transfer must be preceded by the conclusion of all available legal remedies. Anything short of this is not merely procedural impropriety, but a direct affront to constitutionalism and the sanctity of due process.

VI. Compliance with Supreme Court directives in *Rajubala Das v. Union of India*: Key questions

The Supreme Court, in *Rajubala Das v. Union of India* [W.P.(Crl.) No. 234/2020], critically examined the issue of prolonged detentions under the Foreigners Act and ordered strict adherence to due process before deportation. In that case, the State of Assam was specifically directed to:

- Submit compliance affidavits detailing nationality verification requests (NVRs) sent to the Ministry of External Affairs (MEA);
- Provide information on travel permits issued and actual deportations conducted;
- Justify the continued detention of individuals in the absence of completed deportation formalities;
- Ensure respect for ongoing legal proceedings and the rights of detainees to exhaust judicial remedies.

In its affidavits, the State of Assam revealed that:

- Only 10 individuals had been deported despite 11 having received travel permits;
- 33 of 63 detainees slated for deportation were still contesting their 'foreigner' status in either the Gauhati High Court or the Supreme Court;
- Some deportations could not proceed due to discrepancies in personal data, such as mismatched parental names.

In the present instance of suspected pushbacks affecting up to 145 individuals, it is incumbent on the State of Assam and the Union of India to disclose:

- Whether Nationality Verification Requests were completed for these individuals;
- Whether travel permits were obtained from the destination country;
- Whether the addresses and complete identification documents of those allegedly pushed back are available with the State;
- Whether any bilateral protocols or consular consultations were followed;
- Whether the Ministry of External Affairs was involved in any stage of the process.

If the answer to any of these questions is negative, the State is in direct violation of the Supreme Court's binding orders in *Rajubala Das* and is also liable for contempt and breach of fundamental rights under Articles 14 and 21 of the Constitution.

These questions are especially urgent because the individuals affected had not been legally deported but disappeared from custody without any known due process, effectively amounting to extra-legal expulsions.

We request and urge the NHRC to seek immediate compliance reports from the Government of Assam and Ministry of Home Affairs, specifically addressing the above issues in light of the *Rajubala Das* precedent.

VII. Reliefs and prayers sought

We respectfully request that the NHRC:

1. Disclosure and accountability on detentions and pushbacks

Direct the Government of Assam and the Ministry of Home Affairs to provide within 72 hours:

a) Complete district-wise list of all persons detained between Friday, May 23 and May 31, 2025, including:

- Full Name
- Age
- Gender
- Permanent and current address
- Exact location and time of detention (police station/locality/village)

b) Grounds, legal authority, and orders under which such detentions were made, including:

- Relevant provisions invoked (under BNSS/CrPC/Foreigners Act/etc.)
- Whether written arrest/detention orders were issued
- Identity and designation of officers who ordered and executed the detention

c) Complete list of individuals released from detention between May 23– May 31, 2025, with:

- Full Name
- Age
- Gender
- Address
- Grounds for release and official orders passed (if any)

d) Details of individuals still under detention or alleged to have been pushed back to Bangladesh, including:

- Full Name
- Age
- Gender
- Address
- Detention facility location (if applicable)
- Whether they are held under any specific statute, or on whose verbal/written instructions
- Whether any deportation procedure was initiated, completed, or bypassed

e) Specific disclosure of individuals detained or deported between the said period who were declared foreigners through ex-parte orders by Foreigners Tribunals, including:

- Full Name
- Age
- Gender
- Permanent Address
- Police Station where the case was recorded
- FT Case Number
- Name/Number of the Foreigners Tribunal
- Date of the FT Order

f) Disclosure of all Missing Persons Reports filed between May 23 – May 31, 2025:

- At each police station across the affected districts
- With the SPs/District Police Offices
- At Assam Border Police Headquarters

2. Constitute an NHRC fact-finding and monitoring committee:

- a. To visit Matia Detention Centre and affected villages
- b. To record testimonies of families and survivors
- c. To investigate disappearances and report publicly within 10 days

3. Issue binding guidelines against mass detention without legal process
4. Initiate criminal and disciplinary proceedings against officers found violating law
5. Ensure immediate restoration of liberty to all persons detained without lawful basis
6. Create an NHRC helpline and database for real-time complaints and public tracking of detainee status

This is an unprecedented human rights and humanitarian crisis/ emergency. The Constitution does not permit any government to extinguish liberty, ignore judicial process, and abandon citizens to the peril of statelessness or exile. We urge the NHRC to take strong, immediate, and public action to halt these abuses and restore the rule of law in Assam.

We remain available to provide further documentation, testimonies, and legal support.

Yours sincerely,

Nanda Ghosh (Assam state in-charge, CJP)

Abhijit Chowdhury (Advocate, Assam legal team, CJP)

Harkumar Goswami (Forum for Social Harmony)

Dewan Abdur Rahim (Advocate, Assam legal team, CJP)

Habibul Bepari (Assam team, CJP)

Annexures:

Annexure A- The exclusive on-ground report by CJP dated May 29, 2025

Annexure B- Memorandum sought to be given to the Matia Detention Centre on May 26, 2025 which was not accepted and which has been sent via email and speed post subsequently

Annexure C- The report by Scroll dated May 27, 2025