



General Assembly

Distr.: General
7 October 2020

English only

Human Rights Council

Forty-fifth session

14 September–2 October 2020

Agenda item 4

Human rights situations that require the Council's attention

Written statement* submitted by Action pour la protection des droits de l'homme en Mauritanie, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 August 2020]

* Issued as received, in the language(s) of submission only.

GE.20-13146(E)



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Numerous incidents of human rights violations in Assam during the past twenty or more years

There have been numerous incidents of human rights violations in Assam during the past twenty or more years. India, a self-proclaimed largest democracy in the world, has a consistently poor record in terms of human rights violations in Assam. The place where people have been tortured, maimed and killed by the Indian army, paramilitary forces, and the police on numerous occasions.

World has also witnessed this brutality through the prism of United Nations (UN) experts. In a critical letter to the Government of India, five senior officials of the United Nations have expressed regret at the lack of response from the government on previous communiques where they had highlighted concerns about instances of human rights violations taking place during the processes and procedures related to the update of the National Register of Citizens (NRC) in Assam.

The letter is written by Leigh Toomey (Vice-Chair of the Working Group on Arbitrary Detention), David Kaye (Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression), Fernand de Varennes (Special Rapporteur on minority issues), E. Tendayi Achiume (Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance) and Ahmed Shaheed (Special Rapporteur on freedom of religion or belief) which shows the true face of so called largest democracy of the world.

Mincing no words, they have raised concerns about “the rising tide of bigotry, stigmatization and scapegoating of all those perceived as “foreigners” and “infiltrators”, most of whom belong to racial, ethnic, religious or linguistic minority groups in India. Furthermore, UN officials refer to their previous communications dated June 11, 2018 and December 13, 2018 and say, “We deeply regret that to date your Excellency’s Government has not yet responded to these communications, and therefore it has not provided us with any additional information and/or clarification to the substantive observations and questions.” They point out the Indian government’s callous attitude to the human rights crisis saying, “We deeply regret your Excellency’s Government absence of engagement in a dialogue with our mandates on a process with significant implications for the human rights and legal status of millions of individuals, and in particular of those belonging to minorities and living in remote and marginalized areas, most of whom may face statelessness, prolonged detention and forced return to countries in which they may have never lived in the past.”

There communique highlighted numerous international laws and conventions which are being violated by the Indian government’s failure to prevent a crisis in Assam. These include, article 27 of International Covenant on Civil and Political Rights (ICCPR), ratified by India on 10 April 1979. This establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, “to enjoy their own culture, to profess and practice their own religion, or to use their own language”. They also referred to article 19 of the ICCPR that guarantees “the right of “everyone” to seek, receive and impart information of all kinds, through any media and regardless of frontiers. In this connection, we highlight that the right to access to information constitutes a fundamental component of the right to freedom of expression.”

It further says, “We would furthermore like to appeal to your Excellency’s Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).”

It also reminds the head of the Indian government of certain obligations due to international conventions ratified by them, saying, “We would like to remind your Excellency’s Government of its obligation under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified by India on 3 December 1968. Article 1 (1) defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of

nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

The Bharatiya Janata Party (BJP) government following Hindutva supremacist ideology excluded Muslims in the Citizenship (Amendment) Act and UN experts raised the question by saying “We would also like to draw the attention of your Excellency’s Government to the right to nationality as enshrined in various international legal instruments ratified by India. The right to nationality entails the right of each individual to acquire, change and retain a nationality. Article 5 (d) (iii) of ICERD is particularly relevant as it explicitly obliges States parties to guarantee the right of everyone to equality before the law, including in the enjoyment of the right to nationality, without discrimination on any prohibited grounds. In this connection, the Committee on the Elimination of Racial Discrimination has reiterated that the deprivation of citizenship on the basis of race, colour, descent or national or ethnic origin violates States parties’ obligations to ensure non-discriminatory enjoyment of the right to nationality.”

The Assam authorities published its National Register of Citizens in August from which almost two million people were excluded pushing them to the brink of statelessness. The only available remedy available to those excluded from becoming stateless was through the Foreigners Tribunals, a quasi-judicial body where, in many cases, proceedings were arbitrary, and decision-making biased and discriminatory, particularly against women who were less likely to have access to identity documents to prove their status. The Tribunals, chaired by members with limited judicial experience, frequently declared individuals as “irregular foreigners” as a result of clerical errors like minor differences in spellings of names or date of birth on electoral rolls. Over 1000 declared foreigners were detained in one of the six detention centers in Assam which are rife with overcrowding and lack of segregation between under trials, convicts and the detainees. Amnesty International India has also documented the deteriorating mental and physical health of detainees. The construction of ‘India’s largest detention center’ was underway in Goalpara, Assam which is estimated to hold around 3000 people who have been declared to be foreigners.

Besides, on January 10, Assam’s prominent academic Hiren Gohain, activist Akhil Gogoi, and journalist Manjit Mahanta were arrested in Guwahati and charged with sedition for their comments during a protest against the Citizenship (Amendment) Bill. Gogoi was later arrested on December 10 while protesting the enacted Citizenship (Amendment) Act; his case was referred to the National Investigation Agency for sedition, criminal conspiracy, unlawful association, and assertions prejudicial to national integration.

In late April, BJP Party workers in Assam allegedly attacked journalists in the Nalbari, Tinsukia, and Jorhat Districts when the journalists were covering the national elections. On May 6, Trinamool Congress Party workers in West Bengal allegedly attacked journalists covering elections in several locations. On May 28, Assam Border Police arrested 52-year-old Mohammed Sanallah, 2017 army retiree, and put him in Goalpara detention center for illegal immigrants after declaring him a foreigner following Assam’s National Register of Citizens (NRC) exercise.

Our organization urge UN Human Rights Council to call to the Indian government to “take specific steps to end statelessness, by putting an end to the practices and policies identified that render persons stateless and in doing so, make them vulnerable to extreme human rights violations”.