
CIVICUS: World Alliance for Citizen Participation

CIVICUS UPR Lead, David Kode, Email: david.kode@civicus.org
Ms Renate Bloem, Email: renate.bloem@civicus.org

Partner Organisations UPR Lead

Human Rights Defenders Alert - India (HRDA)

Mr. Henri Tiphagne, Email: henri@pwtn.org

1. **(A) Introduction**

1.1 In this consolidated document¹, CIVICUS and HRDA examine the Government of India’s compliance with its international human rights obligations to promote, protect and fulfill the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination on 24 May 2012.

1.2 During the 2nd UPR cycle, India received a total of 202 recommendations. Of these recommendations, 61 were accepted and 141 were noted. An evaluation of a range of legal sources and human rights documentation demonstrate that the Government of India has not fully implemented most of the recommendations it accepted and noted in relation to the above mentioned rights.

1.3 CIVICUS and HRDA are deeply concerned about unwarranted restrictions on civil society groups, the use of restrictive legislation to de-register organisations and the suspension of the bank accounts of others to prevent them from carrying out their activities. We are

---

¹ TO READ THE FULL JOINT SUBMISSION PLEASE SEE HERE:
alarmed by the attacks, intimidation and judicial persecution of human rights defenders particularly those who challenge actions of the government and call for accountability. We are equally concerned about the brutal assassination of journalists and often violent dispersal of peaceful demonstrations

2. (B) Freedom of association

2.1 During India’s examination under the 2nd UPR cycle at the 21st Session of the Human Rights Council, the government received four recommendations related to the right to freedom of association and creating an enabling environment for civil society organisations. However, as evidenced below, the government has failed to take adequate measures to realise these recommendations. Of the four recommendations on freedom of association, the government has partially implemented two.

2.2 Recommendations

- Repeal or comprehensively amend the FCRA particularly sections that restrict the ability of civil society organisations from receiving funding from foreign sources and the cumbersome reporting and administrative requirements for civil society organisations.

- Stop the practice of suspending bank accounts, and freezing funds of civil society organisations that work on issues that challenge the government.

- Desist from arbitrarily cancelling the registration of civil society organisations and those that have been unduly sanctioned or deregistered should be immediately reinstated.

3 (C) Harassment, intimidation and attacks against human rights defenders and civil society activists

3.1 Under India’s previous UPR examination, the government received 4 recommendations on the protection of human rights defenders and civil society representatives and noted all four. However, as examined in this section, the government has failed to effectively operationalise these recommendations. Of the four recommendations noted on protection of HRDs, the government has not fully implemented any of them.

3.2 Recommendations

- Stop the intimidation harassment and judicial persecution of human rights activists and desist from imposing travel bans on those who intend to engage with the international community on India’s human rights commitments.

- All human rights defenders detained for exercising their right to fundamental rights to freedom of expression, association, assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

- NHRC should lead the process of developing a comprehensive, adequately resourced, well-advertised national and state protection programme for HRDs at the central and state levels and in conjunction with the state human rights commissions and other statutory bodies mandated to protect human rights.

4 (D) Freedom of expression, independence of the media and attacks on journalists
4.1 Under the 2\textsuperscript{nd} UPR cycle, the Indian government received two recommendations relating to freedom of expression, independence of the media and the protection of journalists and noted both. The government pledged to ensure a safe working environment for journalists, and to take measures to address impunity and carry out swift and independent investigations (proposed by Austria). However, as discussed below, the government has not implemented all these recommendations.

4.2 **Recommendations**

- Thoroughly review and amend the antiquated colonial era Indian Penal Code (particularly Sections 499 and 124 A) and the Information and Technology Act (2000) to ensure that they are in line with the best practices and international standards in the area of freedom of expression.

- Take appropriate steps to protect journalists, particularly those who complain about threats to their lives and carry out independent investigations in all cases where journalists have been assassinated with a view to bringing the perpetrators to justice.

- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.

5 **(E) Freedom of peaceful assembly**

5.1 During India’s examination under the 2\textsuperscript{nd} UPR cycle, the government received five recommendations related to the right to freedom of peaceful assembly, of which two were accepted and three noted. Despite these commitments made the government has failed to adequately implement them.

5.2 **Recommendations**

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.

- Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.

- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state