

We are deeply concerned by the continued use of the draconian Foreign Contributions Regulation Act (FCRA) to target CSOs, block foreign funding and investigate organisations that are critical of the government. We are further alarmed by the continued judicial harassment of human rights defenders and journalists and the use of repressive security laws to keep them detained. The government has also blocked access to social media content, imposed internet shutdowns as well as restricted and used excessive use of force against protesters. The National Human Rights Commission of India has been neither independent nor effective.

## KEY CONCERNS



### FREEDOM OF PEACEFUL ASSEMBLY

India has experienced mass and local protests in recent years including against the discriminatory citizenship law as well as the farmers protest. Numerous violations were documented of security forces restricting and disrupting these protests with impunity.

Section 144 of the Code of Criminal Procedure allows the authorities to issue orders prohibiting any assembly of four or more persons in a geographical area. It was used to restrict gatherings of people at protest sites and to restrict the freedom of movement.

Protesters were met with excessive force by the police. Dozens were reported killed, while hundreds were injured. Hundreds of protesters were arrested and detained, including HRDs, and there have been allegations of torture and ill-treatment.

The authorities have also criminalised anti-CAA protest leaders using the draconian Unlawful Activities (Prevention) Act (UAPA). Some remain in detention.



### FREEDOM OF EXPRESSION

The authorities continue to use restrictive legislation including the UAPA and sedition to prosecute journalists and critics. Several journalists have been killed and others physically attacked, intimidated or harassed for their work to expose human rights violations or corruption.

There are concerns that the 2021 IT (Intermediary Guidelines and Digital Media Ethics Code) Rules has allowed for greater governmental control, over online content, weakened encryption and undermined privacy rights.

Efforts have also been undertaken by the authorities to take down critical content on social media platforms. In 2021, Twitter was ordered to shut 1,000 accounts during the farmers protest while Facebook temporarily blocked posts with a #ResignModi hashtag.

Internet shutdowns have been another tactic deployed by the authorities to block the flow of information. The authorities have imposed multiple shutdowns in Jammu and Kashmir since 2019.



### FREEDOM OF ASSOCIATION

The FCRA, which regulates foreign funding for civil society, is often used to target critical CSOs. Its broad and vague definitions lend themselves to applications that are disproportionate to its purported goal.

Amendments to the FCRA passed in 2020 added intrusive governmental oversight, additional regulations and certification processes, and a ban on sub-granting, which have further adversely affected CSOs'.

Numerous CSOs have been targeted. Amnesty International halted its work in September 2020 after the government froze its bank accounts again. The The Centre for Promotion of Social Concern (CPSC) was targeted in 2022 for 'portraying India's human rights record in a negative light'.

The authorities have also harassed CSOs in Jammu and Kashmir. In 2020, the houses and offices of several HRDs were raided by National Investigation Agency officials to investigate 'secessionist and separatist' activities.

## THE PATTERN OF VIOLATIONS AGAINST HUMAN RIGHTS DEFENDERS INCLUDE



HRDs have been criminalised on trumped-up charges under the Unlawful Activities (Prevention) Act (UAPA), a counter-terrorism law which allows for long periods of pre-trial detention without bail



Activists, protest leaders and journalists have been targeted for sedition, a provision that is excessively vague and broad



HRDs have also been attacked and killed especially those working on the right to information (RTI) and to expose corruption



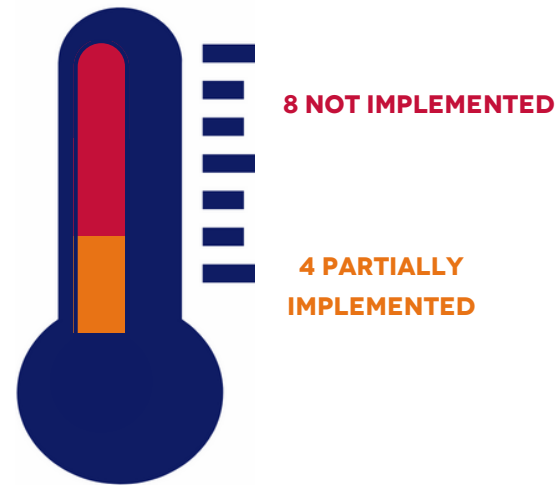
In Jammu and Kashmir, activists have been detained under the Public Safety Act (PSA) which permits administrative detention. There is no provision for judicial review



HRDs been also targeted for surveillance by clients of the Pegasus surveillance spyware

## PREVIOUS UNIVERSAL PERIODIC REVIEW PROCESS

Recommendations related to the space for civil society in 2017:



India did not implement any of the recommendations related to freedom of association



## RECOMMENDATIONS

- 1 Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the freedom of association and lifting sanctions against civil society organisations accused of violating provisions of the FCRA.
- 2 Immediately and unconditionally release all HRDs, including student activists, journalists, academics and others detained for exercising their fundamental freedoms, and review their cases to prevent further harassment.
- 3 Review and amend all restrictive laws so it conforms to international law and standards, including:
  - Foreign Contributions Regulation Act
  - Unlawful Activities (Prevention) Act and sedition provisions in the Indian Penal Code
  - Public Safety Act in Jammu and Kashmir
  - Information Technology (Intermediary Guidelines and Digital Media Ethics Code)
- 4 Ensure that journalists may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- 5 Review and amend existing laws and regulations including section 144 of the Code of Criminal Procedure in order to guarantee fully the right to the freedom of peaceful assembly and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests.
- 6 Take urgent steps to strengthen the independence and effectiveness of the National Human Rights Commission of India and adopt a specific law on the protection of HRDs in accordance with Human Rights Council resolution 27.31.