



INDIA:

DEMOCRACY THREATENED BY
GROWING ATTACKS ON CIVIL SOCIETY

NOVEMBER 2017

CIVICUS

Who We Are

CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS strives to promote marginalised voices, especially from the Global South, and has members in countries throughout the world.

Published by CIVICUS, November 2017

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Executive summary

India, which celebrated 70 years of democratic governance in 2017, is often described as the world's largest democracy, and as such remains a source of inspiration for peoples' struggles for freedom and human rights around the world. India boasts an active and vibrant civil society, with over three million civil society organisations (CSOs) and social movements fostering socio-economic, political and cultural development, and playing a major role in promoting, protecting and strengthening human rights. CSOs are working to hold the government to account for its decisions and actions and to advocate for policies that advance human rights and challenge exclusion.

Although civil society has been playing these essential roles ever since India's struggle for independence, the space for civil society - civic space - is increasingly being contested. The quality of democracy and the ability to engage in democratic dissent have shrunk drastically since Prime Minister Narendra Damodardas Modi won power on 26 May 2014. In the years since, many CSOs and activists who speak truth to power and shed light on the actions of politicians and public officials have found themselves targeted by government authorities.

The government uses such tactics as restrictive legislation to deny CSOs their right to register, and in some cases suspends or withdraws CSO permits to operate. Resourcing of CSOs is also being targeted: some CSOs have been prevented from receiving funding from external sources, and some have had their bank accounts suspended, stopping them from accessing funds to carry out their activities.

It has become common for human rights defenders and those who expose government malpractice to be threatened and attacked, with the aim of silencing them and intimidating others. Some have been assassinated. Indian authorities have also used the media to demonise human rights defenders and their organisations, particularly when they are engaging with international human rights mechanisms. Activists have been subjected to smear campaigns and accused of promoting anti-nationalist agendas or of being the agents of western powers.

India has traditionally enjoyed a vibrant and active media. Most independent media agencies continue to seek to hold government authorities to account, but when journalists report on government excesses or failures, they risk intimidation, harassment and deadly attacks. The authorities also use laws to restrict freedom of expression and online freedoms, while independent bloggers are being targeted by both state and non-state actors. This difficult environment created by restrictions and attacks on CSOs, human rights defenders and journalists has caused many to self-censor.

As a result of recent restrictions, India is now classed as having an obstructed civic space by the [CIVICUS Monitor](#), an online platform that tracks civic space in every country. The obstructed category indicates that power holders contest civic space, undermine CSOs and constrain the fundamental civil society rights of association, peaceful assembly and expression.

In response, this policy action brief calls on the Government of India to uphold democratic values and foster a safe, respectful and enabling environment for civil society. Among other recommendations, the government should initiate moves to amend laws that restrict the freedoms of association, peaceful assembly and expression, promote a culture of diverse and meaningful political dialogue, improve protections for human rights defenders, and refrain from censorship of conventional and social media. This brief also calls for India's National Human Rights Commission to become more proactive in investigating attacks on human rights defenders and enabling their protection.

1. Associational rights - guaranteed in the constitution but repressed in practice

India has a vibrant civil society with more than [three million CSOs](#) working in a range of roles, including delivering services to excluded groups, exercising accountability over government actions and promoting human rights., Indian civil society has played these roles throughout the [seven decades](#) since independence, helping to make the country the world's largest democracy, and a beacon of inspiration for many other struggles for human rights and democracy in the global south. However, although Article 19 of [India's constitution](#) guarantees all citizens the right to form associations, in recent years the Indian government has increasingly used a series of measures to target CSOs and curtail their activities. Activist Anil Chaudhry, of the Indian Social Action Forum, notes that:¹

India's changing political climate over the past few years presents a serious challenge, clearly fostering an aggressive and intolerant public sphere wherein existing democratic space is fast shrinking, akin to what was experienced and witnessed during the time of emergency. A dangerous discourse legitimised by both state and several non-state actors has gained credence, a discourse that alleges that anyone working to ensure justice and dignity for victims of past and ongoing violations and abuses, for already-marginalised, discriminated and struggling populations and communities, constitute a serious threat to the 'national interest.' Some recent instances demonstrate that those strong dissenting voices have found the freedom of expression, association and assembly of not just human rights defenders, but also of writers, artists and certain sections of the media are severely curtailed or threatened.

The registration of CSOs is one area where restrictions are commonly made. In [some cases](#), the licenses of CSOs have been revoked or suspended, and applications submitted for the renewal of many others have been [rejected](#). As discussed below, many CSOs have seen their ability to receive funding from international sources restricted. In general, the most often targeted CSOs are those providing legal aid and support to excluded groups and groups who experience human rights violations, including women, Dalits, tribal people, minorities, survivors of torture, workers and human rights defenders. Overall, the government's regulatory regime for CSOs is [disproportionate](#), as well as discriminatory, as regulations for CSOs are far more strict than those that apply to businesses.

Some CSOs experience restrictions because they engage with international human rights mechanisms and highlight civil society and human rights conditions in India. Despite a [request](#) on 26 September 2014 by Maina Kiai (then United Nations (UN) Special Rapporteur on the rights to freedom of peaceful assembly and of association) to visit India and examine issues pertaining to his mandate, the Indian government did not allow a mission to take place. This indicates a defiance by the Government of India of international human rights norms and safeguards.

2. The Foreign Contributions Regulations Act 2010

Of particular concern for civil society is the [Foreign Contributions Regulations Act 2010](#) (FCRA), which replaced the Foreign Contribution (Regulation) Act 1976. According to the Act, all CSOs defined as non-governmental organisations (NGOs) that intend to receive funding from foreign sources must obtain such funds through designated banks and keep separate books of accounts on the receipt and disbursement of the funds. The Act, introduced at the same time that the government is making it easier for foreign money to flow to the Indian private sector, makes it compulsory for all NGOs that receive foreign grants to re-register every five years and empowers the Union Ministry of Home Affairs (MHA) to suspend, cancel or

¹ Unless otherwise indicated, all quotations are from recent responses by contacts of Human Rights Defenders Alert – India.

freeze the FCRA account of an organisation if it is determined that the organisation violated any provision of the FCRA.

In December 2015, the MHA published [amendments](#) to the FCRA rules. The amendments increased the reporting requirements for CSOs and made it compulsory for all registration applications to be made online. Under the amended rules, all organisations that receive funding from foreign sources must also publish annual audit statements of the funds, stating what the funds were used for, on their official website or a website specified by the central government. The statements must include details of the donors, amounts received and dates donations were received. In addition, Indian banks are compelled to report any funds received from foreign sources within 48 hours.

These provisions make it easy for the authorities to target organisations critical of government policies. [Maina Kiai noted](#) that the suspension and involuntary dissolution of an association are the severest types of restrictions on freedom of association. As a result, suspension and dissolution should only be applied when there is a clear and imminent danger resulting from the flagrant violation of national law, and should be in compliance with international human rights law. However, Indian authorities have suspended the registration of CSOs because they carry out human rights activities, including engaging with international human rights mechanisms.

On 29 October 2016, the MHA refused to renew the registration of the [Centre for the Promotion of Social Concerns](#) (CPSC), a registered charitable trust that has operated in India for 35 years. Following a request by the Delhi High Court to give its reasons for refusing to renew registration, the MHA submitted that the Executive Director of People's Watch, a programme unit of CPSC, provided information to UN special rapporteurs and foreign embassies that portrayed India's human rights record in a negative light. The FCRA registration of the [Indian Social Action Forum](#) (INSAF) was also not renewed in October 2016. INSAF is a national-level membership-based forum of organisations that include grassroots groups, human rights movements and trade unions that resist globalisation and communalism - the stoking of ethnic and religious conflict - and defend democracy.

On 1 June 2016, the MHA suspended the registration of [Lawyers Collective](#) (LC), a human rights organisation, for six months, on the grounds that it had violated the FCRA. The Ministry accused LC of authorising reimbursements to two of its founding members, Indira Jaising and Anand Grover. LC was also [accused](#) of spending foreign contributions on activities not related to social issues and spending foreign contributions on advocacy with media and members of parliament. LC was given a month to provide an explanation to motivate why its registration should not be permanently cancelled. In response to the suspension, a group of UN [human rights experts](#) called on the Indian government to repeal the FCRA, stating concerns that the Act was being used to "silence organisations in advocating civil, political, economic, social, environmental and cultural priorities which may differ from those backed by the government." LC won a court battle to unfreeze its assets in [January 2017](#), with the court ruling that the government's use of the law to stifle the functioning of particular CSOs was unwarranted.

Before that, on 9 April 2015, the MHA instituted an order to freeze the bank accounts of [Greenpeace India](#) to prevent the organisation from receiving funds from abroad. The Indian government accused Greenpeace India of engaging in activities that were against India's economic interests, threatening national security and inciting protests. It accused Greenpeace India of [spending 50 per cent of foreign donations](#) on administrative costs between 2011 and 2013 without prior approval. On 27 May 2015, the Delhi High Court granted Greenpeace India a temporary relief for some of its funds. Its FCRA registration was renewed in 2016 but the renewal was revoked in November 2016 by the MHA, which stated that there had been an oversight. The MHA's decision to revoke Greenpeace India's FCRA registration has since been stayed by the Madras High Court. Similarly, the FCRA approvals of the [Navsarijan Trust](#),

which works on caste issues, and Anhad, which works for secularism and against communalism, were revoked.

Between 5 May and 9 June 2015, the MHA cancelled the registration of [4,470 CSOs](#) for violating the FCRA. It justified its decision on the grounds that the CSOs had not complied with the FCRA and had failed to submit tax returns. This action was followed by the cancellation of the licenses of [9,000 CSOs](#) in April 2016 for FCRA violations. The authorities also indicated that they had handed notice to 10,343 CSOs to submit tax returns between 2009 and 2012 and only 229 had responded to this request.

A major challenge is the uncertainty and inconsistencies surrounding the process of renewing foreign funding licenses and other licenses. For example, some CSOs have been informed that their licenses have been renewed only for the authorities to tell them subsequently that their licenses have in fact been revoked, because the initial renewal was mistaken. Many CSOs have effectively been left [in limbo](#), unable to receive funding while waiting for their licences to be renewed.

Vrinda Grover, an advocate and human rights defender, sums up how the restrictions enabled by the FCRA combine with other challenges experienced by human rights defenders:

The targeting of human rights defenders in India is a cause of serious concern, as it vitally affects the very functioning of Indian democracy. We are witnessing the systematic use of FCRA law and criminal law by the government to harass HRDs, as a coercive measure to obstruct their work. HRDs seeking accountability from the government for egregious violations are also facing vicious attacks in the media, on social media and directly, by groups operating with the overt or tacit support of the state.

The targeting of CSOs using provisions in the FCRA has far-reaching consequences not only for those involved, but also for the groups and individuals that these CSOs represent and support. Such actions severely curtail the ability of CSOs to obtain redress for human rights violations and increase their vulnerability to further restrictive actions by state and non-state actors, including those described below.

3. A climate of intimidation and fear for human rights activists

India is a dangerous environment for human rights activists as they are often subjected to intimidation, harassment and attacks for defending the rights of others, including victims of human rights violations. Human rights defenders have, for example, been targeted for working on environmental issues and for engaging with international human rights mechanisms. It has become increasingly common for those who criticise the state, its policies, and actions, and the ruling Bharatiya Janta Party and its various wings, to be labelled as anti-nationalist or as the agents of western powers.

Human rights defenders risk being subjected to smear campaigns, judicial harassment, torture, enforced disappearances and killings. While most of these acts are perpetrated by the police and security forces, non-state actors, including state-sponsored vigilante groups, armed gangs, sections of communities and private sector interests have also violated the rights of human rights defenders.

In one recent example of an attack indicating the connections between state and non-state actors, on 23 January 2017, a group of 30 villagers in Pandripani, Chhattisgarh state, stormed the house of human rights defender [Bela Bhatia](#), intimidated her and threatened to burn down her house if she continued to stay in the village. The villagers accused her of sympathising with Maoists after she exposed two incidents of sexual assault perpetrated by members of the Indian security service during campaigns against Maoists, assisted the victims in submitting

formal complaints to the police and helped the independent investigation team of the National Human Rights Commission (NHRC) to determine facts regarding 17 cases of sexual violence by security forces.

There are numerous instances of human rights defenders being targeted for their work to protect victims of human rights violations. [Teesta Setalvad](#) has been subjected to judicial persecution, harassment and intimidation since March 2013 for her human rights activities, and has been accused of engaging in 'anti-nationalist' propaganda abroad. On 26 June 2015, Teesta and her colleague Javed Anand were referred to the Central Bureau of Investigation (CBI) by the MHA. On 14 July 2015, the CBI raided their house and office, and on 31 December 2016, filed a charge against them for violating the FCRA.

On 20 February 2016, unidentified assailants attacked human rights defender [Soni Sori](#) on her way from the city of Jagdalpur to her home in the town of Geedam in Chhattisgarh. Her attackers threw a chemical substance at her, causing her to be admitted to hospital. At the time of the attack, she was working on a case of extrajudicial killings in which the police were implicated. During the attack, her assailants [threatened](#) that they would attack again if she continued working on the case. Soni Sori advocates for the land rights of indigenous people in Chhattisgarh and focuses on women's rights.

A disturbing new trend witnessed in the last few years is the targeting of human rights defenders who make use of Right to Information Act.² On 10 August 2015, human rights defender and right to information activist [Jawahar Lal Tiwary](#) was kidnapped in the city of Muzaffarpur, Bihar state. His mutilated body was discovered four days later. He was assassinated because of his campaigns for accountability over funds that were disbursed for victims of floods in Bihar in 2012. He was a member of Sahebganj Vikas Manch, an organisation created after the floods in the Sahebganj district.

Right to information activists are targeted by government officials, members of local and village councils, politicians and business interests because they seek information on issues related to local governance, illegal mining, corruption, the accountability of government officials and the use of funds for socio-economic initiatives. On 5 April 2015, activist [Laxman Thakur](#) was threatened by members of the village council for submitting a Right to Information application to the Pavel Forest Department's Office. His submission requested details on forest land in his community. He was fined 5,001 Indian rupees (approximately US\$75) and threatened with expulsion from the community.

4. Curtailing the freedom of expression and attacks on journalists

Article 19 of the Indian Constitution guarantees all citizens the right to the freedom of speech and expression, and India boasts a vibrant and diverse media that scrutinises government officials and politicians and questions the actions of the authorities. But this scrutiny of officials often elicits reprisals against media houses and journalists, sometimes with devastating consequences. As a result, India is now ranked at 136 out of 180 countries in the [World Press Freedom Index](#).

Government authorities use restrictive legislation against those responsible for print and digital content which the authorities determine to be offensive. Journalists, bloggers and media agencies are targeted on spurious grounds, such as the prevention of communal unrest, or during politically sensitive periods such as elections. For example, after the elections in 2014, [at least 18 people](#) were arrested and interrogated for publishing information about Prime

² Data compiled by the [Commonwealth Human Rights Initiative](#) shows that Maharashtra has recorded the highest number of attacks (60) on right to information activists since the law was passed in 2005, followed by Gujarat (36), Uttar Pradesh (25) and Delhi (23). Gujarat and Uttar Pradesh each have six recorded murders of such activists, followed by Bihar and Karnataka with four murders each.

Minister Modi online. In addition, bloggers in particular have been targeted by non-state as well as state actors.

The Indian authorities have used restrictive provisions of the [Indian Penal Code](#) (IPC) (1860) to curb the freedom of expression. Section 499 of the IPC criminalises defamation, which it defines as the utterance or publication of information with the intent to harm the reputation of a person or an association. It states that:

...whoever by words either spoken or intended to be read, or by signs, or by visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person is said, except in cases hereinafter excepted, to defame the person.

Section 500 of the IPC proposes a fine and two-year prison sentence for those found guilty of defamation. Individuals, non-state actors, businesspeople and corporations take advantage of the IPC to target journalists who write critical and investigative articles about them.

IPC provisions on sedition are also used to target the freedom of expression. Section 124 A states that:

...whoever by words either spoken or written, or by signs, or visible representation, or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite dissatisfaction towards the government established by law in India, shall be punished with imprisonment for life to which a fine may be added or with imprisonment which may extend to three years, to which a fine may be added or with fine.

The broad wording of the law gives the authorities scope to characterise speech that is critical of government actions, including shared via social media, as [sedition](#). Other excessively and vaguely worded laws, such as those on criminal defamation and hate speech, are used to harass and prosecute those expressing dissenting, unpopular, or minority views. In [June 2017](#), on the grounds of investigating corruption and money laundering, CBI raided the offices of New Delhi TV (NDTV) and the home of its founder. NDTV is a private media channel that has helped exert accountability over the government.

The Information and Technology Act (2000) is used to target online activism. Section 69 A of the Act empowers the central government to impose blackouts on a website or censor it for the “sovereignty and integrity of India,” “security and defence” and “public order.” Those who do not comply with the government’s request to block websites are liable to a sentence of seven years in prison or a fine. The Act also authorises the government to monitor and intercept online communications.

There are growing instances of Indian authorities blocking access to mobile internet services in different regions, especially during social or political unrest. For example, [MediaNama](#) has tracked 13 blanket bans on mobile internet services in India since September 2015, while the [Software Freedom Law Centre](#) has tracked 30 incidents of the internet being cut off since 2013. In Kashmir, which has experienced unrest and violent protest since Indian security forces killed a militant leader in July 2016, access to 22 social media platforms and websites, including the most commonly-used social media channels, was [banned](#) in April 2017.

In 2011, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, [Frank La Rue](#), said that he considered such action, regardless of the justification provided, to be disproportionate and thus a violation of article 19 of the International Covenant on Civil and Political Rights.

Those who cover corruption and expose government wrong-doing are particularly at risk. Journalists in India regularly face the threat of being assassinated for the work they do, and reprisals have forced journalists to either leave areas they are working in or stop reporting on particular issues. Others have been victims of assassinations simply for having views that are critical of the government.

On 5 September 2017, Gauri Lankesh, journalist, writer and editor of the Gauri Lankest Patrike, a weekly tabloid, was [assassinated](#) by unidentified assailants in front of her home in the city of Bangalore.

On 13 May 2016, unidentified gunmen shot and killed journalist [Rajdev Ranjan](#), who at the time was the Bureau Head of the *Hindustan* newspaper in Siwan, Bihar. He had worked as Bureau Chief of the newspaper for around seven years and reported on political developments, politicians and crime. He had received death threats before he was assassinated and his family noted that he was targeted for his critical reporting. A day before, on 12 May 2016, another journalist, [Indradev Yadav](#), also known as Akhilesh Yadav, was assassinated by unidentified individuals as he returned to his home in Sadar market area in Chatra district, Jharkhand state. He worked as a correspondent for Taaza TV, a Hindi news channel based in the city of Kolkata. His assailants fled the scene immediately after shooting him.

On 3 October 2015, journalist [Hemant Yadav](#), a reporter for TV 24, was shot dead close to his home in Chandauli district in Uttar Pradesh state. His assailants shot him from a motorcycle as he made his way home from a local market, fleeing the scene following the shooting. Before that, on 18 June 2015, journalist [Prasanta Kumar](#), a correspondent for the Assamese paper *Asamiya Pratidin*, was shot by unidentified individuals on his way home. His assailants blindfolded him after he was shot and forced him into a car before pushing him out. He was left needing hospital treatment.

As well as affecting those directly involved in attacks, the concern among civil society is that increasing restrictions are fuelling a climate of self-censorship. As Rohit Prajapati, of CSO Paryavaran Suraksha Samiti, expresses it:

There is powerful well-thought alliance between state, government, non-state actor and various types of reactionary forces which have occupied the democratic space of the ordinary people... It is worrisome because these forces have not just occupied these spaces in various institutions but also occupied the spaces in the mind of many people. These forces have created a situation where not just ordinary people but progressive people think twice before raising their voice collectively or individually.

5. Freedom of peaceful assembly

Although Article 19 of the Constitution guarantees the right of citizens to assemble peacefully without arms, increasingly, public spaces are being rendered off-limits for peaceful protests. One of the key means through which peaceful assembly is restricted is through the frequent and excessively broad application of laws such as Section 144 of the Code of Criminal Procedure, which is routinely used to prevent peaceful public gatherings and criminalise dissent. Section 144 prohibits any assembly of five or more people in an area.

The authorities also often demand that protest organisers obtain prior police permission or clearance before their activity, while the [Code of Criminal Procedure](#) gives authorities powers to impose curfew. In April 2015, peaceful [protests](#) organised by the Kanhar Bandh Virodhi Sangharsh Samiti CSO and the All Indian Union of Forest Working People were forcefully dispersed by security forces at the site of the construction of Kanhar dam in the Sonbhadra district of Uttar Pradesh. The protesters were opposing the acquisition of land for the

construction of the dam and calling attention to the impacts this would have on the livelihoods of villagers. At least eight protesters were seriously injured.

In conflict-affected areas, notably Jammu and Kashmir, the authorities have used excessive force against anti-government protests. As a consequence of the government's response to the protests, often violent, that have raged in [Kashmir](#) since July 2016, over 100 [protesters](#) have been killed and thousands more injured. According to local media reports, more than 15,000 people have received eye injuries as a result of security forces using pellet guns to disperse protests. The federal paramilitary unit, the Central Reserve Police Force, told the Jammu and Kashmir High Court that it had used 1.3 million gun pellets in 32 days, [admitting](#) that "it was difficult to follow the standard operating procedure given the nature of the protests." Indian security forces have been using pellet guns as a supposedly non-lethal option for crowd control in Kashmir since 2010. There have also been [reports](#) of security forces using civilians as human shields against missiles thrown by protesters and live ammunition being fired into crowds. Lethal force was also used against a farmers' protest in the city of Mandsaur in Madhya Pradesh in [June 2017](#), resulting in five deaths and eight injuries, while in [October 2016](#), at least four people were killed when security forces opened fire on a protest against a planned coalmine in the city of Hazaribagh, Jharkhand.

People from excluded groups who try to protest may particularly be targeted. On 13 June 2013, for example, the Indian authorities arrested Anuradha Kapoor and 12 other women human rights defenders as they attempted to hand over a memorandum denouncing the rape of two students at Barasat and Krishnagani in Nadia district in West Bengal state. They had assembled at the residence of the Chief Minister of West Bengal and carried placards condemning the rape before they were arrested by security officers. They were accused of violating the Criminal Procedure Code. They were released on bond the same day but refused access to lawyers for the duration of their detention. All those arrested are members of Maitree, a women's network based in Kolkata, West Bengal.

6. Limited protection for human rights defenders

The National Human Rights Commission (NHRC) is tasked with investigating human rights violations or the failure of the state to prevent human rights violations. The Commission has not been effective in investigating several violations of human rights and needs to be completely reformed. The National Focal Point on Human Rights Defenders at the NHRC is a staff member of the commission who fills this role as an additional responsibility alongside other duties, and who has no specific powers to act on human rights defenders cases. All complaints follow the usual route of being looked into by the chairperson and members of the Commission. The NHRC has not provided redress in a single human rights defender case out of 225 cases filed by Human Rights Defenders Alert - India since January 2015, meaning that no prosecution of an offender or compensation to a human rights defender has been recommended.

India does not have a special law to protect human rights defenders. During India's third Universal Periodic Review (UPR) at the UN Human Rights Council, held in May 2017, the Government of India did not accept any recommendation concerning human rights defenders or the freedoms of association, peaceful assembly and expression. The inference that can be drawn is that there is low political priority accorded to the protection of human rights defenders.

The communication from the UN High Commissioner for Human Rights to the Government of India highlighting concerns over the NHRC speaks volumes about the need for immediate reforms in the NHRC to ensure that it is independent and autonomous. The UN High Commissioner [wrote](#) to the Indian government on 12 April 2017 with recommendations to strengthen the NHRC so it can effectively protect and promote human rights. He called on the government of India to ensure that the selection of the members of the governing body is done in a transparent manner to guarantee representation from all sections of Indian society

and that the NHRC be given powers to investigate human rights violations perpetrated by the armed forces in India.

7. Conclusion

India's vibrant associational life and its media are threatened by the actions of the government of Prime Minister Modi, which severely limit the social and economic contributions of civil society and leave victims of human rights violations exposed without recourse to justice. With millions of Indian CSOs working on a range of issues, it is time for the government to review its response to civil society and recognise the contributions civil society makes to Indian communities, human rights and democracy.

The judiciary has an important role to play in ensuring that the government does not use restrictive legislation such as the FCRA to target CSOs that exert accountability over government actions, advocate for human rights and support victims of human rights violations. For this to be done, the first step would be for the judiciary to look into and finalise all cases brought to court by CSOs affected by the implementation of the FCRA. This should be followed by a call from the judiciary to the executive to review all restrictive provisions in the FCRA and have them amended or annulled.

The public vilification and demonisation of CSOs, human rights defenders and journalists only empowers state and non-state actors, including members of the private sector, vigilante groups and some sections of communities, to attack those who stand for human rights. This climate of demonisation comes from the top. If the Prime Minister and senior government officials, rather than attacking civil society publicly, condemned attacks from non-state actors, high levels of self-censorship would reduce and the environment in which civil society operates would greatly improve.

Those who attack CSOs, human rights defenders and journalists do so with impunity because in most cases, they are not held accountable for their actions. The prosecution of perpetrators of human rights violations would deter others. The promulgation of a law on human rights defenders, and its effective implementation, would ensure that human rights defenders are protected and provide them with an opportunity to seek justice if their rights are violated. It would also provide human rights defenders with the recognition they deserve.

8. Recommendations

a. Recommendations for the Government of India

Regarding the freedom of association

- Take measures to foster a safe, respectful and enabling environment for civil society, including through removing unwarranted legal and policy restrictions that limit the right to association.
- Repeal or comprehensively amend the FCRA, and particularly its sections that restrict the ability of CSOs to receive funding from foreign sources, and the cumbersome reporting and administrative requirements for CSOs.
- Stop the practice of suspending the bank accounts and freezing the funds of CSOs that criticise government policies and actions.
- Desist from arbitrarily cancelling the registration of CSOs and reinstate those that have been unduly sanctioned or deregistered.

- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others.

Regarding the protection of human rights defenders

- Provide civil society members and human rights defenders with a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation, and bring perpetrators of such offences to justice.
- Desist from targeting human rights defenders and their families and carry out independent investigations into all cases involving physical attacks and abuse of human rights defenders with a view to bringing perpetrators to justice.
- Immediately and unconditionally release all human rights defenders detained for exercising their fundamental rights to the freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn the harassment and intimidation of civil society activists and CSOs.

Regarding the freedom of expression, independence of the media and access to information

- Review and amend the IPC (particularly Sections 499 and 124 A) and the Information and Technology Act to ensure that they are in line with international best practices and standards regarding the freedom of expression.
- Take appropriate steps to protect journalists, particularly those who experience 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.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Ensure that people's access to social media is not restricted and people are not prosecuted for being critical of the government and its policies on social media.
- Refrain from censoring social and conventional media and ensure that the freedom of expression is safeguarded in all arenas, including the arts.

b. Recommendations for the NHRC

- For all complaints submitted to the Focal Point on human rights defenders at the NHRC, dealing with human rights defenders and with a special reference to women human rights defenders, the NHRC should undertake an independent investigation, using the services of its Special Rapporteurs, members of the NHRC NGO Core

Group and Special Investigation teams appointed from time to time.

- The NHRC should ensure that its Focal Point on human rights defenders is a member of the Commission, with a dedicated team, and should themselves be a human rights defender in order to understand fully the challenges faced by defenders.
- The NHRC should lead the national process of advocating for a law on the protection of human rights defenders, with an emphasis on women human rights defenders facing greater risks, developed in full and meaningful consultation with civil society and informed by technical advice from relevant UN entities and a review of existing human rights defenders laws in other countries.
- The NHRC should lead the process of developing a comprehensive, adequately resourced, well-advertised national and state-level protection programme for human rights defenders at the central and state levels, in conjunction with the State Human Rights Commission and other national State human rights institutions.
- In all cases where the rights of human rights defenders are violated, compensation should be provided, and the NHRC should develop the practice of ordering the prosecution of the perpetrator of violations and also obtaining an apology and an assurance of non-recurrence from those responsible.
- The NHRC should also play a role to advocating for restrictive legislation to be revised and assisting victims of human rights violations to access justice.
- To enable this, the capacity of the NHRC should be increased so that it can respond effectively and in a timely manner to cases referred to it by CSOs.

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