

INDIA

41st Session of the Working Group on the Universal Periodic Review

UN Human Rights Council

Joint submission prepared by:

Front Line Defenders

FIDH – International Federation for Human Rights

OMCT – World Organisation Against Torture

31 March 2022

Front Line Defenders (FLD) is an Irish-based international organization, founded in 2001, with the specific aim of protecting human rights defenders at risk, people who work, non-violently, for any or all of the rights enshrined in the Universal Declaration of Human Rights.

The **International Federation for Human Rights (FIDH)** is an international human rights NGO that unites 192 member organizations from 117 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).

The **World Organisation Against Torture (OMCT)** is an international NGO that was created in 1985. OMCT works for, with and through an international coalition of over 200 NGOs - the SOS-Torture network - fighting torture, summary executions, enforced disappearances, arbitrary detentions, and all other cruel, inhuman and degrading treatment or punishment

FIDH and OMCT also provide a comprehensive and holistic system of support and protection for human rights defenders, including in the framework of the Observatory for the Protection of Human Rights Defenders and of ProtectDefenders.EU.

Introduction

1. This submission focuses on the situation for Human Rights Defenders (HRDs) and civil society organizations (CSOs) and relevant restrictions on freedom of association and expression in India since the country's third Universal Periodic Review (UPR) in May 2017.
2. During its third UPR cycle, India received a total of 250 recommendations, of which one was specifically related to HRDs and six to freedom of association and civic space.
3. One of the recommendations related to HRDs, which recommended that India introduce a law to protect HRDs (161.134) was not accepted by India and has not been implemented. Six recommendations to amend the Foreign Contributions Regulations Act (FCRA) to ensure freedom of association (recommendations 161.135 to 161.140) were similarly "noted" by India and have not been implemented. In fact, amendments to the FCRA passed in 2020 have worsened the situation for CSOs (see paragraphs 12 to 14).
4. This submission provides an update on relevant legislative developments since 2017, focusing in particular on legislation that has further restricted the work of human rights organizations and HRDs. Secondly, the submission reports on the judicial harassment faced by HRDs in India. Thirdly, the submission analyzes the restrictions placed on CSOs by the government, primarily through the FCRA, and documents cases of CSOs being targeted by the government in recent years. Finally, the submission provides recommendations for India's fourth UPR cycle.
5. This submission is based on information gathered through verified information concerning developments in India since its third UPR cycle.

Legislative developments since India's third UPR

6. Since India's third UPR in May 2017, a number of laws and policies with direct relevance to civil society have been amended to introduce new provisions that further restrict civic space and threaten the work of HRDs.
7. In July 2019, the 1967 Unlawful Activities (Prevention) Act (UAPA) was amended.¹ The amendments drastically increased the reach of the UAPA, primarily by allowing the government to designate individuals, in addition to organizations, as terrorists under Sections 35 and 36 (Chapter VI) of the UAPA. This expansion of the UAPA's reach has enabled the government to use this law to arbitrarily detain HRDs and silence critics, particularly through the UAPA's broad definition of "unlawful activity", which is defined as *"any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or visible representation or otherwise, - [...] (iii) which causes or is intended to cause disaffection against India"* (Section 2(o)).
8. The UAPA is often used in conjunction with the 1980 National Security Act (NSA), which provides for preventive detention of up to three months, renewable for additional periods of three months, indefinitely (Section 3(3)).²
9. On 5 August 2019, the Indian government implemented repressive measures in Jammu & Kashmir to limit the rights to freedom of expression, association, peaceful assembly, and movement, while the Parliament repealed Articles 370 and 35A of the Indian Constitution,

which had conferred a special autonomous status to the state of Jammu & Kashmir.³ Internet communications, and at times telephone lines, were cut or severely restrained for months, preventing HRDs and CSOs from conducting their legitimate human rights activities. Thousands of arbitrary detentions were carried out, including hundreds of detentions under the Jammu and Kashmir Public Safety Act 1978 (PSA), which allows detention for up to two years without charge and has frequently been used against HRDs and political activists in Jammu & Kashmir. The State Human Rights Commission (SHRC) of Jammu & Kashmir was disbanded at the end of October 2019.

10. On 12 December 2019, the Indian government passed the Citizenship Amendment Act (CAA), which provides for a “fast-track” citizenship process for Hindu, Sikh, Buddhist, Jain, Parsi, and Christian immigrants from Afghanistan, Pakistan, and Bangladesh, specifically excluding Muslims. The passage of the law triggered massive protests throughout the country, which were severely repressed by the authorities. Many peaceful anti-CAA activists and protesters were subsequently detained under the UAPA for allegedly contributing to violence during the protests.
11. With regard to the FCRA, in response to a challenge to this law filed by the NGO Indian Social Action Forum, in March 2020 the Indian Supreme Court ruled that while the FCRA was constitutional, the law’s prohibition on organizations of a “political nature” (Section 5) receiving funding could not be used against organizations working on “social and economic welfare of the society.”⁴ However, the court’s ruling has done little to stop abuses under the law, as has been demonstrated by the many cases of the FCRA being used to target human rights organizations.
12. In September 2020, the FCRA was amended,⁵ further increasing the legislation’s reach and the government’s ability to use it to arbitrarily impede the work of CSOs. The amendments add intrusive and undue government oversight, additional regulations and certification processes, and operational requirements, which have adversely affected CSOs’ access to foreign funding and their ability to carry out human rights work.⁶
13. Notably, the amendments now allow the government to suspend a CSO’s authorization to use existing foreign funds or to receive new funds based on a summary investigation, and before a full investigation has been conducted and a judgment rendered (Section 11), which has been used to investigate the work of NGOs critical of the government and to access sensitive information, including the identity of their beneficiaries. The amendments also increased the government’s power to suspend a registration certification from 180 days to 360 days (Section 13).
14. The amendments to the FCRA also include a decrease in the allotted cap of FCRA funds that can be used for administrative expenses (including salaries, travel, utilities, communication costs, and rent) from 50% to 20% (Section 8 of the FCRA), which disproportionately impacts CSOs whose main activities are research and advocacy, particularly on human rights issues.⁷ Amendments also require CSOs to have their primary bank account for foreign grants in a particular branch (Parliament Street Branch) of the State Bank of India. This raises surveillance concerns and poses practical challenges to

CSOs, which are often based hundreds of thousands of miles away from New Delhi and speak a variety of different languages.

Judicial harassment of HRDs

15. Since India's third UPR, HRDs have been increasingly labelled as terrorists, anti-state, and seditious elements, criminalized, and incarcerated in retaliation for their work. Laws used by the authorities to target and persecute HRDs include the FCRA, the Indian Penal Code (IPC), the UAPA, the NSA, the PSA, and the Armed Forces Special Powers Act (AFSPA).
16. The role of investigative agencies, prosecution, and the judiciary in the targeting and persecution of HRDs is critical. Politically-motivated executive action, biased investigations, failure to follow due process during arrest and inquiry procedures, and the lack of judicial checks add to the harm done to HRDs, especially in cases where charges are filed under anti-terrorism laws, such as the UAPA. As of 30 March 2022, there were at least 29 HRDs incarcerated under the UAPA across India.
17. Since June 2018, **16 well known HRDs** have been jailed under the UAPA in the Bhima Koregaon case and denied bail. The case relates to violence that took place in Bhima Koregaon, Maharashtra State, on 1 January 2018. The accused – Sudhir Dhawale, Rona Wilson, Shoma Sen, Mahesh Raut, Surendra Gadling, Sudha Bhardwaj, Arun Ferreira, Vernon Gonsalves, Varavara Rao, the late Stan Swamy (see paragraph 18), Anand Teltumbde, Gautam Navalakha, Hany Babu, Jyoti Raghoba Jagtap, Sagar Tatyaram Gorkhe, and Ramesh Murlidhar Gaichor – are well-known for their commitment to the human rights of the most vulnerable and oppressed, particularly Dalit and Adivasi communities, and have been labeled by the authorities as terrorists, subjected to deliberate misinformation campaigns, and repeatedly denied bail despite their age and the risks posed by the COVID-19 pandemic.⁸ Reports by Arsenal Consulting, a digital forensics consulting company, revealed that the Pegasus spyware was used to plant evidence on the computers of at least two of the accused in the case: Rona Wilson and Surendra Gandling.⁹ As of 30 March 2022, with the exception of Varavara Rao and Sudha Bharadwaj, all those accused were in pre-trial detention.
18. On 5 July 2021, 84-year-old Jesuit priest **Stan Swamy** – incarcerated for nine months in the Bhima Koregaon case - died in custody due to the lack of effective and timely treatment in jail and the routine denial of bail. The death in custody of Stan Swamy would have been preventable if the octogenarian, suffering from advanced Parkinson's Disease, had been given access to timely medical care and proper treatment.
19. The UAPA has also been used against HRDs, especially those from the minority Muslim community, who peacefully protested against the CAA. As of January 2022, 12 of the 18 defenders arrested in 2020 were still in jail. All of those presently in jail are from the minority Muslim community. They have been branded as "terrorists" and falsely charged for instigating the mass violence that broke out in North East Delhi in February 2020. The 12 defenders have been denied bail despite serious lapses in due process and systemic delays.

20. Between December 2019 to February 2020, several HRDs and activists were arrested in Uttar Pradesh State in connection with their opposition to the UAPA. There were allegations of torture and mistreatment against the defenders in custody. All of them were later released on bail.
21. On 22 November 2021, officials of the National Investigation Agency (NIA), India's federal counter-terrorism agency, raided the home and office of Kashmiri human rights defender **Khurram Parvez** in Srinagar, Jammu & Kashmir Union Territory. NIA officials seized several electronic devices and documents, and arrested him on allegations of funding terrorism, being a member of a terrorist organization, criminal conspiracy, and waging war against the state under the UAPA. Khurram Parvez had previously been targeted, along with other Kashmiri HRDs, in counterterrorism raids in October 2020 when several CSOs, activists, and a newspaper faced investigations for their work or for being outspoken about Indian government abuses. His judicial custody was extended for another 50 days by the NIA court in Delhi on 25 March 2022, and his home in Srinagar was raided by NIA officers and local police on 27 March 2022.
22. Journalists in Jammu & Kashmir also continue to be targeted by legal and extra legal means due to their work, and particularly in retaliation for reporting on issues related to human rights and to violations committed by the authorities. In many instances, cases are filed under the PSA, which allows authorities to hold individuals in detention without trial for up to two years. In several of the cases detailed below, individuals were charged under the PSA after being granted bail in relation to charges under other laws, indicating that authorities are essentially using the PSA to overturn decisions to award bail made by the courts.
23. On 4 February 2022, police in Pulwama, Jammu & Kashmir, arrested journalist **Fahad Shah** on allegations of sedition and making statements causing public mischief, and unlawful activities under the UAPA. According to the police, there are three cases opened against Fahad Shah, including the one filed in Pulwama. Two other First Information Reports (FIRs) have been registered against him in Safakadal police station in Srinagar, and Imamsahib police station in Shopian. He was granted bail by a NIA court on 26 February 2022, but was re-arrested the same day in relation to the case filed against him in Shopian. On 5 March, he was granted bail by the Shopian court, and was re-arrested the same day under the case registered against him at Safakadal police station. A day before his bail hearing in this case, he was charged under the PSA to ensure incarceration despite the court's verdict. If convicted, he faces life imprisonment.
24. On 5 August 2021, Jammu & Kashmir police raided the home of **Qazi Shibli**, editor of the news website *The Kashmiriyat*, in Anantnag city in central Jammu & Kashmir, for approximately two hours. Authorities had previously detained Shibli in solitary confinement without trial from July 2019 to April 2020 under the PSA for reporting on the abrogation of Kashmir's special status. In July 2020, Shibli was again detained for 18 days after he was summoned for questioning by the cybercrime division of the Jammu & Kashmir police under provisions of Criminal Procedure Code which allow police to arrest anyone on suspicion of any crime. On 26 January 2021, the police filed another complaint

against Shibli on charges related to abetment and incitement of an offense, after he reported that the India army allegedly compelled students of a religious school in Kashmir to celebrate Republic Day.

25. On 6 January 2021, **Sajad Gul**, a trainee reporter at *The Kashmir Walla*, was arrested on various charges, including criminal conspiracy, for posting a video on Twitter of a family shouting slogans critical of the state, after one of their relatives was killed in a gunfight in Srinagar. On 16 January 2021, a day after being granted bail, he was arrested under the PSA and remains in jail.
26. On 18 April 2020, photojournalist **Masrat Zahra** was charged under the UAPA by the Cyber Police for uploading posts that allegedly glorified “anti-national activities” on social media. The following day, an FIR was filed by the Cyber Police against journalist **Peerzada Ashiq** for an article he had written for the daily newspaper *The Hindu*.
27. On 14 June 2018, unknown assailants shot and killed journalist and editor-in-chief of Srinagar-based newspaper *Rising Kashmir*, **Shujaat Bukhari**.¹⁰
28. According to the India Press Freedom Report 2021 by the Rights and Risks Analysis Group,¹¹ at least 25 attacks on journalists and media organizations occurred in 2021 in Jammu & Kashmir, higher than in any other state or territory in India. Following a raid by a group of journalists supportive of India’s ruling Bharatiya Janata Party backed by armed police on 15 January 2022, the registration of the Kashmir Press Club was suspended. The authorities claimed that the Press Club had failed to register itself under the Societies Registration Act, despite the fact that the re-registration of the Press Club was suspended by the Registrar of Societies on 14 January, citing a report from the Jammu and Kashmir Police’s Criminal Investigation Department.¹²
29. Although journalists in Jammu & Kashmir are particularly at risk, journalists in other parts of India have also been targeted. On 5 October 2021, Journalist **Siddique Kappan** and two of his associates were arrested while they were on their way to Hathras District, Uttar Pradesh State, to report the brutal gang rape and murder of a Dalit girl. They were charged under the UAPA and provisions of the IPC. Kappan and his associates remain in Mathura jail with no access to the 5,000-page charge-sheet filed by the Special Task Force of the Uttar Pradesh police before a Mathura court.
30. Indigenous defenders who campaign on issues related to land rights, environmental rights, and systemic violations against Dalit and Adivasi communities have been targeted with legal action, including arbitrary detention. On 9 March 2021, woman HRD **Hidme Markam** was arrested while participating in an event to mark International Working Women’s Day in Dantewada, Chhattisgarh State, by Chhattisgarh police on a slew of charges, including under the UAPA.
31. On 5 October 2019, woman HRD and teacher **Soni Sori** was arrested by the Dantewada Police under Preventive Sections 151, 107, and 116 of the Criminal Procedure Code. The arrest is believed to be linked to Sori’s public campaign for the rights of persons being detained in jails in Chhattisgarh State. Sori was charged with “failing to obtain the necessary permission to organize a demonstration”. She was released on bail the same day. On 14 March 2022, Sori was acquitted of a case from 2011 that involved charges

under draconian laws, such as the UAPA and the Chhattisgarh Public Safety Act.¹³ The acquittal shows that charges under these laws are often fabricated against HRDs to persecute them.

32. On 16 September 2019, Chhattisgarh police filed an FIR against Soni Sori and fellow HRD **Bela Bhatia**. This FIR is a reprisal against the two HRDs for their participation in a protest and their filing of a complaint in the Kirandul police station demanding that an FIR be lodged against the police and security forces for the killings of HRDs Podiya Sori and Lacchu Mandavi in September 2019.¹⁴
33. On 20 February 2018, human rights lawyer **Upendra Nayak** was arrested in relation to ten criminal cases where he himself had been the defense lawyer; he has been charged with sedition, waging war against the state, and various sections of the UAPA. The 10 criminal cases during which he had acted as defense lawyer were registered between 2009 and 2010, and the defendants were Adivasi individuals who had been arrested under anti-Maoist operations. All the trials ended in acquittals. Nayak is currently out on bail, although the charges against him have not been dismissed.
34. On 14 January 2022, human rights defender **Narendra Mohanty** was arrested by Odisha police officers at Dhinkia, Odisha State. His arrest was due to his support for the peaceful protest by the local community against the forcible destruction of their betel vine plantations. Narendra Mohanty and two community leaders were arrested alongside over 500 villagers from the protest site. Narendra Mohanty was later released on bail but the two community leaders remain detained at the Samagola sub-jail after being denied bail.
35. Labor rights defenders have also come under significant threat since India's third UPR. On 15 December 2020, police arrested woman HRD and labor rights activist **Annapoorna** from her house in Visakhapatnam, Andhra Pradesh State. Although she was not made aware of this at the time of her arrest, Annapoorna's family was eventually told, after repeated inquiries, that she had been taken into custody in relation to an FIR filed against her and several others, on 23 and 24 November, alleging her links to Maoist factions. Annapoorna was also charged under the UAPA and , as of 30 March 2022, remained detained at the Vishakapatnam Central Jail.¹⁵
36. Defenders in the northeast of India continue to face repression and legal reprisals. In April 2020, the Secretary and President of the Youth's Forum for Protection of Human Rights (**YFPHR**), Takhenchangbam Shadishkanta and Khangjrakpam Phajaton, respectively, were arrested under Section 51(b) of the Disaster Management Act of 2005 (refusal to comply with directions given by governing bodies); and under Section 120B of the IPC (criminal conspiracy) in Manipur State. The two HRDs were targeted because of the publication of an article that opposed the government's proposal to set up a COVID-19 quarantine center in a paddy field, as it might have posed a threat to the livelihoods of the residents in that area. On 9 February 2022, the Manipur High Court dismissed the FIR filed by the Porompat Police against them.
37. On 7 April 2021, HRD **Laishram Herojit Singh** was arrested at his home by officers from the Thoubal Police station in Manipur State. Singh was arrested on charges under the UAPA for his alleged membership of a militant group. On 12 April 2021, the court accepted

his bail application, although the charges against him have not been dismissed. The SHRC of Manipur was requested to take action but there has been no progress in the case.

38. On 7 April 2020, HRDs **Soneshwar Narah** and **Pranab Doley** of the organization Jeepal Krishak Shramik Sangha were arbitrarily arrested by officers of the Bokhkhat Police Station in Golaghat, Assam State. The two HRDs were summoned to the police station on the pretext of inquiring into a complaint filed by them on 6 April 2020. Instead, they were arrested based on an FIR filed in June 2018. On 18 April 2020, at the second hearing of their bail application, the Sub-Divisional Magistrate Court of Assam granted them conditional bail, even though the charges against them have not been dismissed.
39. Defenders, including youth and environmental rights activists, speaking out in support of protest movements continue to be targeted with legal sanction. On 13 February 2021, during the farmer protests, activist **Disha Ravi** was arrested from her home. She was released on bail 10 days later by a Delhi court. She was accused of being a “key conspirator” in the dissemination of a toolkit in the form of a Google document on the farmer protests. Mumbai-based advocate Nikita Jacob and engineer Shantanu were accused of making and editing the toolkit with her. In the FIR lodged by Delhi police against the creators of the toolkit, it was alleged that its content made it evident that the 26 January violence in Delhi during a tractor rally by farmers was a pre-planned conspiracy aimed at attacking India’s sovereignty and security.
40. In August 2018, environmental rights defender **Thirumurgan Gandhi** was detained by immigration officials at Bengaluru airport, allegedly on the basis of a Look Out Circular relating to previous cases under which he had been charged. Gandhi was returning to India after attending a United Nations (UN) Human Rights Council session during which he raised killings and mistreatment by the Tamil Nadu police against peaceful protesters denouncing the Sterlite, a copper smelter plant causing environmental pollution in the district. He was previously arrested in May 2017 and charged under the Goondas Act 1982¹⁶ for organizing a candle-light vigil in remembrance for the victims of the armed conflict in Sri Lanka. Gandhi is currently out on bail. Other environmental rights defenders were arrested in Tamil Nadu State for opposing the proposed central government-sponsored and funded Salem-Chennai “green corridor” highway project. **Valarmathi Madhaiyan** was arrested on 19 June 2018 in Achankuttapatti Village in Thanjavur District, and **Piyush Manush** was arrested on 18 June 2018 in Salem District.
41. In May 2018, sixteen activists were killed and several others were injured by police firing in Thoothukudi District in Tamil Nadu State for participating in a peaceful protest against the expansion of a Sterlite plant which was contaminating the region’s environment. In spite of an open investigation by the CBI and an order by the Supreme Court of India to conduct an inquiry into the case, police have not been held accountable.
42. Right to Information¹⁷ activists continue to face various forms of attacks including killings, physical assault, threats, and harassment. Since the implementation of the Right to Information Act in 2005, at least 469 attacks against such activists have been reported.¹⁸

FCRA used as a tool to silence criticism

43. The FCRA fails to comply with India's international legal obligations and constitutional provisions to respect and protect the rights to freedom of expression, association, and peaceful assembly and effectively restricts access to foreign funding, particularly for public servants and smaller non-governmental organizations.¹⁹ A number of UN human rights bodies have expressed concern that the FCRA is vaguely worded and overbroad in its objective, and UN human rights experts have urged the government to repeal the law.²⁰ Particular concerns have been raised, including by the UN Secretary-General, over the use of the FCRA to restrict the work of NGOs cooperating with the UN.²¹
44. Since 2016, the authorities have revoked, suspended, and refused to renew the FCRA license of hundreds of civil society groups, or accused them of evading the law and frozen their bank accounts.
45. According to data from the Ministry of Home Affairs, 20,675 NGOs and associations had their FCRA licenses canceled for violations of various provisions of the FCRA since 2011.²² Between 2017 and 2021, 6,677 licenses were canceled.²³ Between 2016 and 2020, foreign funding licenses of 8,353 NGOs were not renewed,²⁴ while 263 NGOs or associations had their FCRA license suspended.²⁵ From 2019 to February 2022, 2,877 applications were rejected.²⁶
46. Among the organizations that had their licenses revoked, suspended, or not renewed are People's Watch, Indian Social Action Forum, Lawyers Collective, Sabrang Trust, Navsarjan Trust, Anhad, Oxfam India, Greenpeace, the Commonwealth Human Rights Initiative, and Amnesty International India. Groups working on rights of India's most vulnerable populations such as Dalits, religious minorities, and Adivasis, are particularly vulnerable.
47. **Lawyers Collective's** FCRA license was suspended and subsequently canceled in 2016 on allegations of suspected violations of the FCRA regulations on the basis of a Ministry of Home Affairs report. The cancellation order was based on the grounds that Lawyers Collective had allegedly violated the terms and conditions of its registration certificate as well as the provisions of the FCRA, and acted against "public interest." As a consequence, the organization was no longer permitted to receive international funding. Lawyers Collective challenged the cancellation and non-renewal on 25 January 2017 and 31 March 2017, respectively, in the Bombay High Court. In January 2017, the court passed an interim order unfreezing the domestic and non-FCRA bank accounts of Lawyers Collective. The court ruled that while the Indian government had powers under the FCRA to regulate or prevent the acceptance of foreign funds by an association, the Act did not provide for the government "to stifle the very functioning of individuals or associations."²⁷
48. Despite the Bombay High Court's order, on 8 May 2019, a Supreme Court bench headed by Chief Justice of India Ranjan Gogoi issued a notice based on a petition filed on 6 May by an organization called Lawyers Voice. The petition demanded that the government initiate criminal proceedings against Lawyers Collective, and against Lawyers' Collective co-founders **Indira Jaising** and **Anand Grover** for the alleged misuse of foreign funding

under the FCRA. The bench issued the notice despite the fact that the petition did not provide any supporting information.

49. On 13 June 2019, the CBI filed a FIR against Lawyers Collective, Anand Grover, and other representatives of the organization under the IPC on charges of criminal conspiracy, criminal breach of trust, cheating, false statement made in declaration, and various sections under the FCRA and the Prevention of Corruption (PC) Act 1988. The FIR was filed relying solely on the report of the Ministry of Home Affairs that had resulted in the suspension of Lawyers Collective's FCRA license in 2016.²⁸ As mentioned above, the MHA report had been challenged by Lawyers Collective in January 2017 and the case is still under consideration by the High Court of Bombay.²⁹
50. On 11 July 2019, the CBI raided the office of the Lawyers Collective in New Delhi, its other office in Mumbai, as well as the residences of Indira Jaising and Anand Grover in New Delhi in connection with the FIR filed in June 2019.³⁰ The raid started at around 8 am and lasted for several hours. No further developments have been reported in this case since 2019.
51. On 30 September 2020, **Amnesty International India** was forced to halt its operations after the Enforcement Directorate (ED) froze its bank accounts without notice. The organization was forced to lay off all its staff and pause its campaign and research work.
52. On 5 August 2020, Amnesty International India had released an update on the situation of human rights in Jammu & Kashmir. In August 2020, the group had published a briefing demanding accountability for grave human rights violations carried out by the Delhi police and the government during the Delhi riots in early 2020. In a press release, the organization said that the release of the two publications had "provided fresh impetus to the establishment to harass and intimidate Amnesty International India through its investigative agencies."³¹
53. In previous years, acts of harassment against the organization had intensified. On 25 October 2018, a group of ED officers raided Amnesty International India's premises in Bengaluru for 10 hours, during which the staff were not allowed to leave or contact their families.³² The residence of the then executive director Aakar Pater was also raided. Soon after the raid, a smear campaign against Amnesty International India was launched on social media.³³
54. In early 2019, the Department of Income Tax started investigating Amnesty International India, alleging financial irregularities. While no irregularity was found, this affected Amnesty International India's fundraising campaigns. In June 2019, Amnesty International India was denied permission to hold a press conference in Srinagar for the release of a report on the misuse and abuse of the PSA in Jammu & Kashmir.
55. On 15 November 2019, the CBI conducted once again searches at the offices of Amnesty International India in Bengaluru and New Delhi, as well as at the residence of one of its

directors. The raids were conducted on the basis of an FIR filed by the Ministry of Home Affairs over allegations of suspected violations of the FCRA.³⁴

56. On 14 February 2022, the Delhi High Court declined to overturn an order by the government to suspend the FCRA license of the **Commonwealth Human Rights Initiative (CHRI)**. CHRI's FCRA license was initially suspended on 7 June 2021 by the Ministry of Home Affairs for 180 days for allegedly having failed to disclose information in the organization's annual returns. In December 2021, the suspension was extended by another 180 days.³⁵
57. On 8 January 2022, the CBI searched the offices of the NGO **Centre for Promotion of Social Concerns (CPSC)**, and its program unit **People's Watch** in Madurai, Tamil Nadu State. Officers from the CBI entered the group's premises and seized several documents. The CBI officers informed CPSC that they were investigating allegations of fraud and financial irregularities under the FCRA,³⁶ and under Sections 120B (punishment of criminal conspiracy) and 420 (cheating and dishonestly inducing delivery of property) of the IPC. The government also alleged financial irregularities even though the Delhi High Court had previously cleared the group of those charges in 2014 after the organization challenged similar suspensions in 2012 and 2013.
58. This was not the first time that CPSC had been targeted by the authorities via the FCRA. Between 2012 and 2014, CPSC had its FCRA registration suspended on three occasions. In March 2014, the Delhi High Court ruled in CPSC's favor following a writ petition by CPSC, which had challenged the suspension of its FCRA registration. However, on 29 January 2016, the Ministry of Home Affairs rejected CPSC's application for FCRA renewal "on the basis of field reports", which civil society leaders widely believe referred to reports by intelligence agencies or law enforcement personnel.
59. On 7 November 2016, the Delhi High Court held a hearing to review the challenge lodged by the CPSC against the decision to cancel their foreign funding registration under the FCRA. In its petition, the CPSC asked to be provided with the reasons for the refusal to renew their registration. The Ministry of Home Affairs told the court that the group used foreign funding to share information with UN Special Rapporteurs and foreign embassies, "portraying India's human rights record in negative light [...] to the detriment of India's image." The government characterized this as "undesirable activities detrimental to national interest." The case is still pending. The ongoing harassment of CPSC and People's Watch violates their right to freedom of association and access to funding and appears to be aimed at punishing the organization for its human rights activities and at intimidating its staff.³⁷

Recommendations

60. Immediately and unconditionally release all currently detained HRDs, drop all charges against them, and ensure that they are able to carry out their legitimate activities without any hindrance and fear of reprisals in all circumstances.
61. Immediately end all acts of legal harassment HRDs and civil society organizations.
62. Ensure the physical and psychological integrity of HRDs in custody, including by upholding the absolute prohibition of torture.
63. Arrange an official country visit by the UN Special Rapporteur on the situation of human rights defenders.
64. Ratify the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment.
65. Take all necessary measures to protect the right to freedom of association of civil society organizations in India, including by ensuring access to foreign funding.
66. Amend the 2010 Foreign Contributions Regulations Act (FCRA) to bring it in compliance with India's international human rights obligations related to freedom of association, notably by repealing the 2020 amendments.
67. End the use of laws that are inconsistent with India's human rights obligations and that have been frequently enforced to crack down on civil society and amend them to bring them into line with international human rights law, including the FCRA, the Unlawful Activities (Prevention) Act (UAPA), Section 124A on Sedition in the Indian Penal Code, the National Security Act, and the Jammu and Kashmir Public Security Act (PSA).

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- 1 Unlawful Activities (Prevention) Act, 1967, <https://www.mha.gov.in/sites/default/files/A1967-37.pdf>; Unlawful Activities (Prevention) Amendment Act, 2019, No. 28 of 2019, [https://prsindia.org/files/bills_acts/bills_parliament/2019/Unlawful%20Activities%20\(Prevention\)%20Amendment%20Act,%202019.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2019/Unlawful%20Activities%20(Prevention)%20Amendment%20Act,%202019.pdf)
 - 2 National Security Act, 1980, https://www.mha.gov.in/sites/default/files/lsdivII_NSAAct1980_20122018.pdf
 - 3 Their repeal resulted in the split of the state into two Union Territories (UT) – the UT of Jammu & Kashmir and the UT of Ladakh – which come under the direct control and authority of the government in New Delhi.
 - 4 Supreme Court Observer, *Revisiting FCRA Judgment*, 4 June 2020, <https://www.scobserver.in/journal/revisiting-fcra-judgment/>
 - 5 Foreign Contributions (Regulation) Amendment Act, 2020, No. 33 of 2020, https://fcraonline.nic.in/home/PDF_Doc/fc_amend_07102020_1.pdf
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