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FOLLOW UP TO THE PREVIOUS REVIEW

1. Since the third Universal Periodic Review of India in 2017, there has been limited progress on the recommendations supported by the government.
2. The government accepted recommendations on preventing discrimination and violence against women and girls,¹ members of religious minorities,² and Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis)³. However, hate crimes against marginalised communities have surged with impunity.⁴ The authorities have also failed to ensure that cases of violence against women and girls are properly registered and investigated.
3. The government committed to carrying out independent investigations in all cases of attacks against journalists.⁵ However, human rights defenders including journalists have regularly come under attack and investigated under anti-terror laws for being critical of the authorities.
4. The government agreed to strengthen efforts for the prevention of religious violence.⁶ Yet, religious differences were amplified and deployed to create tensions amongst the public for electoral gains.
5. The government supported recommendations to take appropriate measures to avoid the excessive use of force by security officers.⁷ However, law enforcement officials used unnecessary and excessive force to curb peaceful protests.
6. The government committed to ratifying the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁸ and accept requests for visits from Special Rapporteurs.⁹ Torture and other ill-treatment in police and judicial custody remain common, and domestic legislation has not been passed to recognize these as crimes.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

International human rights law and standards and domestic legislation

7. India retained laws and passed amendments to existing laws which are not in line with its obligations under international human rights law. The 2019 amendment to the Citizenship Act 1955 discriminates against Muslims,¹⁰ in contravention of the International Covenant on Civil and Political Rights and the International Convention on Elimination of Racial Discrimination.¹¹
8. India expanded the scope of death penalty for aggravated sexual assault on children in 2019.¹²
9. The 2019 amendments¹³ to the Unlawful Activities (Prevention) Act (UAPA) 1967 designate an individual as "terrorist" without fair trial safeguards.¹⁴
10. The 2019 Transgender Persons (Protection of Rights) Act lays out an administrative procedure that requires transgender persons to mandatorily undergo sex-reassignment surgery for the legal recognition of their gender identity.¹⁵
11. The 2020 amendments to the Foreign Contribution (Regulation) Act (FCRA) ban large non-governmental organisations (NGOs) from passing funds received from foreign donors to grassroots NGOs.¹⁶
12. The 2020 Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, passed without necessary public consultation and despite pending litigation in various courts, unduly restrict the right to freedom of expression, violate the right to privacy by enabling censorship on social media, over-the-top and other digital platforms and make it easier for the authorities to perform unlawful surveillance.¹⁷
13. India's national and state-level human rights institutions continued to operate with restricted mandates, limited powers and sometimes with limited capacity and resources.¹⁸ The National Human Rights Commission (NHRC) is prevented from investigating human rights violations committed by members of the armed forces. Several state human rights commissions still do not have permanent chairpersons. A 2019 amendment to the Protection of Human Rights Act makes the NHRC further susceptible to political interference, in contravention of the Paris Principles.¹⁹
14. Since the last review, the government has hosted the Special Rapporteur on rights to water and sanitation²⁰ and accepted the request for a visit from the Special Rapporteur on Environment but is yet to respond positively to 25

outstanding visit requests, including some first requested almost 30 years ago, such as from the Special Rapporteur on torture.²¹

THE HUMAN RIGHTS SITUATION ON THE GROUND

Freedom of expression and assembly

15. Unlawful and politically motivated restrictions continue to be placed on the rights to freedom of expression and peaceful assembly. Independent media outlets, journalists and human rights activists are threatened and intimidated through the misuse of over-broad financial laws and censorship of dissenting reportage.²² In Jammu & Kashmir, journalists have been physically attacked by the police.²³
16. The government continues to use legal provisions to unduly restrict peaceful protests. Peaceful protesters have been charged with offences under the UAPA and the Indian Penal Code, including for sedition,²⁴ hurting religious sentiments,²⁵ and hate speech²⁶. Protesters have also been met with excessive force from the police and violence by non-state actors.²⁷
17. After the Indian government revoked the autonomy of Jammu & Kashmir, guaranteed under the Indian Constitution, they mandated a region-wide communications shutdown.²⁸ In other states too, the government has been shutting down access to the internet and social media apps like Facebook, Twitter and WhatsApp in an attempt to disrupt protests.²⁹ Dissent has been further repressed in Jammu & Kashmir through a new media policy intended to prioritise the government's narrative over independent journalism.³⁰
18. During the nationwide lockdown imposed after the Covid-19 pandemic, more than 50 journalists were arrested or charged under emergency laws for spreading "misinformation" or "fake news".³¹
19. The Indian government continues to misuse the FCRA to silence NGOs. Since India's last review, the FCRA licenses of 6,683 NGOs have been cancelled.³² The licenses of many organisations and premier academic institutions have not been renewed, including OXFAM India.³³ In 2019, the Indian government forced Amnesty International India to halt operations after freezing its bank accounts without notice.³⁴

Human Rights Defenders

20. Human rights defenders continue to face death threats, intimidation, harassment, and attacks by state and non-state actors with impunity.³⁵ Human rights activists are regularly harassed with politically motivated charges and journalists forced to work in unsafe working conditions.³⁶
21. Sixteen human rights activists seeking justice for alleged abuses against the Dalits and Adivasis were arrested between 2018 and 2021 by the National Investigation Agency, India's main counter-terrorism agency, on fabricated terror-related charges.³⁷

Caste-Based and Ethnic Discrimination

22. Hate crimes including violence against Dalits, Adivasis and religious minorities have been committed with impunity. Over 50,000 crimes against members of Scheduled Castes³⁸ and nearly 8,000 crimes against members of Scheduled Tribes³⁹ were reported in 2020.⁴⁰
23. Two-thirds of India's prison population is in pre-trial detention, with Dalits, Adivasis and Muslims being disproportionately represented.⁴¹
24. Members of dominant castes continue to use sexual abuse and violence to punish, humiliate and assert their power over Dalit and Adivasi women and girls.⁴²

Rights to Health, Work and Social Security

25. The Indian government's handling of the Covid-19 pandemic has exposed weaknesses in the public health system.⁴³ Community health care workers have been forced to work long hours in unsafe and poor working conditions without adequate compensation and protection equipment.⁴⁴
26. Since May 2020, many states have suspended the legal protections otherwise afforded to workers, such as regulation of working hours and the right to form and join trade unions.⁴⁵

27. Misinformation that Muslims are spreading Covid-19 resulted in health care services denied to the community.⁴⁶ Other marginalised communities including migrants,⁴⁷ LGBTI people⁴⁸ Dalits and Adivasis⁴⁹ have been excluded from government-sponsored relief schemes.
28. The government has set up the PM CARES Fund to deal with emergency situations including the Covid-19 pandemic. It has collected huge grants from citizens and corporates but remains exempted from independent oversight including the Right to Information Act.⁵⁰

Right to privacy

29. There are concerns over the government's monitoring and interception of private communications. In July 2020, the Pegasus Project, an international investigative journalism initiative, exposed the unlawful surveillance of Indian citizens through the government's alleged use of the Pegasus spyware.⁵¹
30. Facial recognition technology has been used by the authorities to enforce Covid-19 lockdown measures, identify voters in municipal elections and police protests without an adequate data protection law.⁵²

Religious violence

31. The authorities have failed to prevent religious violence across the country. Under the governance of Bharatiya Janata Party (BJP), hate crimes against Muslims and other minorities have surged. Many men have been lynched and many injured by vigilante cow protection groups.⁵³ Despite calls to record hate crimes at a national level, the annual crime statistics published by Indian government does not include them.
32. In 2020, over 53 people were killed, and hundreds displaced, most of them Muslims, during religious violence between members of Hindu and Muslim communities in Delhi.⁵⁴
33. The authorities have also consistently failed to bring to justice police officials and politicians suspected of involvement in large-scale attacks on religious minorities.
34. The Indian and many state governments have passed laws to criminalise consensual inter-faith marriages, transfer of property and possession of beef.⁵⁵ Politicians across parties, particularly the BJP, have contributed to religious tensions by justifying discrimination and advocating for hatred and violence against Muslims in their speeches.⁵⁶
35. Christians and Muslims are continuously harassed with charges of unlawfully converting people to their religion.⁵⁷

Arbitrary Deprivation of Nationality

36. Authorities in Assam state have published the National Register of Citizens from which almost two million people have been excluded, pushing them to the brink of detention and statelessness. The only available remedy available to those excluded from becoming stateless is a quasi-judicial body, where proceedings are arbitrary, and decision-making is discriminatory.⁵⁸

Indigenous peoples' Rights

37. Thousands of people, particularly Adivasi communities, remain at risk of being forcibly evicted from their homes and lands to give way to large industrial projects.
38. National laws still do not fully recognize the rights of Adivasis to free, prior and informed consent on decisions that affect their lives, including on the use of their lands, territories or natural resources.⁵⁹
39. In 2019, the Supreme Court, acting on a petition filed by wildlife groups, ordered the eviction of all forest dwellers in India, after their claims to remain on their traditionally held land were rejected by the states under the Forest Rights Act. According to the Ministry of Tribal Affairs, nearly two million families are under the threat of eviction.⁶⁰

Women's Rights

40. Discrimination and violence against women and girls are pervasive. Over 371,503 crimes of violence against women, including over 28,046 cases of rape, were reported in 2020.⁶¹ The reports are likely to be an underestimate, as stigma and discrimination from police officials deter women from reporting gender-based violence. The Indian government has refused to criminalize marital rape stating that doing so would "destabilize the institution of marriage".⁶²
41. Women continue to be subjected to sexual and domestic violence, including by husbands and other relatives, and sexual harassment in the workplace, while perpetrators continue to enjoy impunity.⁶³

42. In Karnataka state, a state government school-wide ban has been placed on wearing headscarves (hijabs) resulting in continued harassment of Muslim women in the country.⁶⁴

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the Government of India to:

International human rights law and standards and domestic legislation

43. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which India signed in 1997 and committed to ratify in its 2017 review, and ensure that domestic legislation defines torture in line with international standards.
44. Ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and ILO Convention No. 189 concerning Decent Work for Domestic Workers.
45. Endorse the UN Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent.
46. Restrict the imposition of the death penalty to the “most serious crimes”, interpreted as intentional killing, and establish an official moratorium on executions as first steps towards full abolition.
47. Amend the Protection of Human Rights Act to expand the authority of the national and state human rights commissions in order to strengthen their work to promote human rights and ensure they are adequately staffed and resourced and independent from political interference.
48. Strengthen co-operation with the UN Special Procedures and respond positively, without further delay, to requests made by the Special Procedures to visit India, particularly from the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteurs on torture, rights of Indigenous Peoples, right to freedom of expression, and rights to freedom of assembly and association.

Freedom of expression and peaceful assembly

49. Repeal or revise sections 124A, 295A, 298, 153A and 505 of the Indian Penal Code and provisions of other laws that unduly restrict the right to freedom of expression, including Unlawful Activities (Prevention) Act.
50. Ensure that use of any surveillance technologies, including facial recognition, respects the right to privacy and is subject to judicial supervision and review.
51. Stop the practice of slowing down or completely shutting down internet connection and access to social media apps, which is an excessive and disproportionate restriction on the right to freedom of expression.
52. Cease muzzling of press through financial intimidation tactics and immediately release journalists arrested for reporting on sensitive issues across the country.
53. Retract the New Media Policy in Jammu and Kashmir.

Human rights defenders

54. Immediately and unconditionally release all persons detained solely for peacefully exercising their rights to freedom of expression, peaceful assembly, or association, and drop all charges against them.
55. Launch prompt, thorough, independent, and impartial investigations into threats, harassment, intimidation, and attacks against human rights defenders.
56. Repeal the Foreign Contribution (Regulation) Act and ensure the right to freedom of association, which includes the ability of civil society organisations to access foreign funding.

Caste-based discrimination and violence

57. In collaboration with National and District Legal Services Authority and National and State level Judicial Academy, ensure the effective enforcement of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) (SC/ST [POA]) Act, including by providing training to impart knowledge and sensitisation to district-level law enforcement officials, public prosecutors, and judicial officials responsible for the enforcement of the Act.
58. Ensure that all complaints of caste-based atrocities are promptly and voluntarily recorded under the SC/ST (POA) Act by law enforcement officials through first information reports and that law enforcement officials who fail to register FIR, investigate and file chargesheet within stipulated time are subject to legal and disciplinary actions for negligence of duty.
59. Prioritise awareness-raising on the rights of women and girls and ensure protection by allocating adequate and timely compensation and inclusive and sustainable rehabilitation to the victims and survivors through psychosocial and career counselling.

Right to Health, Access Emergency Support and Rights at Work

60. Ensure that all health workers and essential workers are paid fair wages, which reflect the impact of their work on the health and safety of the worker, specific hardships related to the work and the impact on the worker's personal and family life, in line with international human rights law and standards.
61. Develop a plan to ensure that the public health system is adequately funded and staffed, including by increasing budgetary allocations to the health sector, a detailed assessment of the amount of public health spending necessary to ensure that all persons can enjoy the right to health, and options to finance increased public health spending.

Religious violence

62. Enact a new law to prevent and respond to communal and targeted religious violence, which incorporates international human rights principles of superior and command responsibility, remedy and reparation.
63. Take steps to bring to justice, in fair trials and without recourse to the death penalty, all those responsible for human rights abuses - including political leaders, police or government officials - during past incidents of mass violence against members of religious minorities.
64. Establish a comprehensive and adequately resourced victim and witness protection programme at the central and state levels, which is independent of state agencies such as the police.
65. Hold accountable public officials who advocate religious hatred that constitutes incitement to discrimination, hostility, or violence.

Women's rights

66. Direct the central government and all state governments to establish standard operating protocols, codes of conduct and accountability mechanisms for police personnel, in line with international standards, for gender-sensitive handling, registering and thorough and impartial investigation of cases of violence against women, and ensure that officials who fail to do so are held accountable.
67. Remove the exception related to marital rape from the definition of rape in section 375 of the Indian Penal Code.
68. Direct the Karnataka state government to prioritise girls' education and safeguard their right to wear headscarves (hijabs) in government-run educational institutions.

Indigenous People's Rights

69. Amend existing legislation to provide for the duty to consult Adivasis to obtain their free, prior and informed consent in all decisions that affect them, including by amending the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act.

70. Investigate and prosecute human rights abuses suffered by communities due to public and private corporate-led projects and ensure that all victims are provided effective remedy and reparation.
71. Require public and private mining companies to identify, prevent and mitigate any adverse impact on human rights, including by carrying out human rights impact assessments as part of due diligence processes.

Arbitrary Deprivation of Nationality

72. Restore citizenship to people where it can be shown that the deprivation of citizenship constituted a human rights violation.

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review, India*, A/HRC/26/10, 17 July 2017, recommendations 161.51-58 (Portugal, Sweden, Australia, Slovenia, Belgium, Iceland, Namibia, France, Zambia, Lithuania), 161.68 (Mexico), 161.71 (Ireland), 161.96 (Canada), 161.102 (Iceland), 161.159 (Namibia), 161.195 (Argentina), 161.197-203 (Czechia, (Greece, China, Liechtenstein, Japan, Kyrgyzstan, Viet Nam, Bahrain), 161.206-209 (Spain, Spain, Italy, Honduras), 161.214-215 (Brazil, Chile),

² A/HRC/36/10, recommendations 161.72 (United States of America).

³ A/HRC/36/10, recommendation 161.81 (Peru).

⁴ See Rana Ayyub, "What a Rising Tide of Violence Against Muslims in India Says About Modi's Second Term", TIME, 28 June 2019, time.com/5617161/india-religious-hate-crimes-modi/

⁵ A/HRC/36/10, recommendation 161.141 (Lithuania).

⁶ A/HRC/36/10, recommendation 161.100 (Russian Federation)

⁷ A/HRC/36/10, recommendation 161.95 (Greece)

⁸ A/HRC/36/10, recommendations 161.5-9 (Botswana, Norway, Czechia, Bulgaria, Greece, Guatemala, Italy, Lebanon, Montenegro, Mozambique, South Africa, Sweden, Turkey, Ukraine, United States of America); 161.11 (Australia); 161.16-22 (Republic of Korea, Israel, Chile, Burkina Faso, Russian Federation, Denmark, Indonesia)

⁹ A/HRC/36/10, recommendation 161.45 (Latvia).

¹⁰ Section 6 of the Citizenship Act, 1955. The amendment was passed on 10 December 2019 despite opposition from many civil society organisations and citizens of India who staged peaceful protests. The United Nations (UN) High Commissioner for Human Rights stated that the amendments "will have a discriminatory effect on people's access to nationality"; Article 2(1) of the International Covenant on Civil and Political Rights obliges the states "to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or another status"; Article 5 of the International Convention on Elimination against Racial Discrimination obliges the state "to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before law..."

¹¹ On 5 August the President of India Ram Nath Kovind assented to the Protection of Children from Sexual Offences (Amendment) Act, 2019.

¹² Article 6 of the ICCPR states that "sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime". In 2019, the Human Rights Committee in General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life has stated that "the term 'the most serious crimes' must be read restrictively and appertain only to crimes of extreme gravity, involving intentional killing. Crimes not resulting directly and intentionally in death, such as attempted murder, corruption and other economic and political crimes, armed robbery, piracy, abduction, drug and sexual offences, although serious in nature, can never serve as the basis, within the framework of article 6, for the imposition of the death penalty", 3 September 2019, UN Doc. CCPR/C/GC/36, para 35

¹³ The Unlawful Activities (Prevention) Amendment Act of 2019, No. 28 of 2019 (8 August 2019)

¹⁴ In a communication dated 6 May 2020, the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on minority issues; Special Rapporteur on the right to privacy and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 40/16, 42/22, 34/18, 41/12, 42/10, 35/11, 34/6, 27/2 and 40/10 wrote to the Government of India raising concerns in relation to the compatibility of the Unlawful Activities (Prevention) Amendment Act 2019 with India's obligations under international human rights law and in relation to pertinent international standards of counter-terrorism legislation.

¹⁵ The Office of the UN High Commissioner for Human Rights in 2015 recommended that states begin immediately "[i]ssuing legal identity documents, upon request, that reflect preferred gender, eliminating abusive preconditions, such as sterilization, forced treatment and divorce."

¹⁶ Foreign Contribution (Regulation) Amendment Act of 2020, No. 33 of 2020 (28 September 2020)

¹⁷ In April 2016, the UN Special Rapporteur on freedom of assembly and association published a legal analysis arguing that the FCRA was not in conformity with international law, principles and standards: see UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, "Analysis on international law, standards and principles applicable to the Foreign Contributions Regulation Act 2010 and Foreign Contributions Regulation Rules 2011", 20 April 2016 www.ohchr.org/sites/default/files/Documents/Issues/FAssociation/InfoNoteIndia.pdf. In June 2016, the UN Special Rapporteurs on human rights defenders, on freedom of expression, and on freedom of association, called on the Indian government to repeal the FCRA, which they said was "being used more and more to silence organizations involved in advocating civil, political, economic, social, environmental or cultural priorities, which may differ from those backed by the Government". See UN Human Rights Office of the High Commissioner, "UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding", 16 June 2016, <https://news.un.org/en/story/2016/06/532302-un-rights-experts-urge-india-repeal-law-restricting-civil-society-access>. In October 2020, the UN High Commissioner for Human Rights Michelle Bachelet appealed to the Government of India to safeguard the rights of human rights defenders and expressed regret at the tightening of space for human rights NGOs in particular, including by the application of vaguely worded laws like the FCRA that constrain NGOs' activities and restrict foreign funding. UN Human Rights Office of the High Commissioner, "Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India", 20 June 2016, <https://www.ohchr.org/en/press-releases/2020/10/bachelet-dismayed>

restrictions-human-rights-ngos-and-arrests-activists-india

¹⁸ The Rules regulate so-called Over-the-Top (OTT) platforms such as television streaming services, as well as news media platforms. They allow for the blocking and censoring of content without any legislative backing. The introduction of the Rules also mandated the identification of the originator of certain information on social media, effectively breaking end-to-end encryption and violating the right to privacy.

¹⁹ Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee Accreditation Report, November 2017, <https://ganhri.org/wp-content/uploads/2019/11/SCA-Report-November-2017-ENG.pdf>; See, for example, Mahtab Alam, "India's National Human Rights Commission is Defeating Its Own Purpose", *The Wire*, 14 October 2019, thewire.in/rights/nhrca-amit-shah-khushboo-chauhan-human-rights and "India: The National Human Rights Commission not upholding its mandate or protecting the constitution", *Civicus*, 1 October 2020, www.civicus.org/index.php/media-resources/news/united-nations/geneva/4672-india-the-national-human-rights-commission-not-upholding-its-mandate-or-protecting-the-constitution

²⁰ The Protection of Human Rights (Amendment) Act, 2019, No. 19 of 2009 (27 July 2019) egazette.nic.in/WriteReadData/2019/208592.pdf

²¹ It has received requests from the Special Rapporteur on racism (latest in March 2017), the Special Rapporteur on Minority Issues (latest on January 2018), the Special Rapporteur on indigenous peoples (latest in December 2017), the Special Rapporteur on trafficking (latest in June 2018), the Special on toxics and human rights (latest in February 2019), Working Group on discrimination against women and girls (latest in February 2018), the Special Rapporteur on cultural rights (latest in January 2019), the Special Rapporteur on freedom of expression (latest in December 2018), Working Group on people of African Descent (latest in November 2017), the Special Rapporteur on sale of children (latest in November 2018), Independent Expert on International Solidarity (latest in June 2019), the Independent Expert on Sexual Orientation and Gender Identity (latest in January 2020), the Special Rapporteur on leprosy (latest in October 2019), the Special Rapporteur on environment (latest in March 2020), Working Group on business and human rights (latest in February 2020), the Special Rapporteur on human rights and counter terrorism (latest in September 2020), the Special Rapporteur on torture (latest on August 2021), Working Group on disappearances (latest in January 2022), Special Rapporteur on privacy (latest in February 2022), Special Rapporteur on slavery (latest in January 2022), Special Rapporteur on freedom of assembly (latest in November 2021), the Special Rapporteur on extreme poverty (latest in October 2021), Working Group on arbitrary detention (latest in February 2018), the Special Rapporteur on violence against women (latest in October 2021), Independent Expert on domestic international order (latest in October 2021).

²² Since 2017, outspoken journalists like Gauri Lankesh, Shujaat Bukhari, Sudip Datta Bhowmick and Shantanu Bhowmick have been killed for critically reporting on Hindu nationalism, violent political clashes, and conflict in Jammu & Kashmir. Dalit human rights activists, journalists and students have faced threats, arrests and prolonged detention for organizing conferences on caste violence and peaceful protests against Yogi Adityanath, chief minister of Uttar Pradesh state. Independent filmmakers, opposition leaders, journalists and various celebrities have been slapped with sedition charges for criticizing the Indian government's silence on rising hate crimes against marginalised communities, writing social media posts and open letters. News outlets and non-governmental organizations faced raids on alleged charges of tax evasion and diversion of funds for reporting on mass dumping of bodies of COVID-19 victims along Rives Ganges due to high cremation costs and providing relief to victims.

²³ Committee to Protect Journalists, "Jammu and Kashmir police assault journalists covering religious procession", 21 August 2021, cpj.org/2021/08/jammu-and-kashmir-police-assault-journalists-covering-religious-procession/

²⁴ Section 124A

²⁵ Sections 295A and 298

²⁶ Sections 153A and 505

²⁷ Amnesty International India, "India: Citizenship Act protesters tortured in detention – new testimony", 16 January 2020, www.amnesty.org.uk/press-releases/india-citizenship-act-protesters-tortured-detention-new-testimony

²⁸ Al Jazeera, "India revokes Kashmir's special status", 4 September 2019, www.aljazeera.com/news/2019/9/4/india-revokes-kashmirs-special-status

²⁹ Access Now, "Shattered Dreams and Lost Opportunities: A year in the fight to 'KeepItOn'", March 2021, www.accessnow.org/cms/assets/uploads/2021/03/KeepItOn-report-on-the-2020-data_Mar-2021_3.pdf

³⁰ Amnesty International India, "Situation Update and Analysis: Jammu and Kashmir after one year of abrogation of Article 370 and change of status of the region", www.amnesty.be/IMG/pdf/jammu_and_kashmir_after_one_year_of_abrogation_of_article_370.pdf

³¹ During the nationwide lockdown imposed after the COVID-19 outbreak, more than 50 journalists were arrested or charged under emergency laws for spreading "misinformation" or "fake news". See, for example, Danish Raza, "India arrests dozens of journalists in clampdown on critics of COVID-19 response", *The Guardian*, 31 July 2020, www.theguardian.com/global-development/2020/jul/31/india-arrests-50-journalists-in-clampdown-on-critics-of-covid-19-response

³² FCRA Online, Registration Cancel List, https://fcraonline.nic.in/fc8_cancel_query.aspx

³³ "Oxfam India says it's 'severely' hit by ban on foreign funds", *BBC News*, 3 January 2022, www.bbc.co.uk/news/world-asia-india-59856377

³⁴ In a communication dated 21 October 2020 to the Government of India, the special rapporteurs on the rights to freedom of peaceful assembly and of association, promotion and protection of the right to freedom of opinion and expression and on the situation of human rights defenders expressed serious concerns at the freezing of Amnesty International India's bank accounts under the FCRA in retaliation to the organization's outspoken reports on Jammu & Kashmir, as well as the Delhi Riots of February 2020, Reference: AL IND 17/2020, available at spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25633

³⁵ Human rights activists from the Adivasi Indigenous community have been arrested under the UAPA for highlighting human rights violations by state security forces. Many human rights activists and students from various universities across India and many students have faced arbitrary detention under various draconian provisions of the Indian Penal Code and National Security Act for raising their voices against the Citizenship Amendment Act. Special rapporteurs on the situation of human rights defenders, on the promotion and protection of the right to freedom of opinion and expression, on the rights to peaceful assembly and of association, on contemporary forms of racism on freedom of religion or belief, on the promotion and protection of human rights and fundamental freedoms while countering terrorism and on torture and other cruel, inhuman or degrading treatment or punishment called on India to immediately release human rights defenders who have been arrested for protesting against changes to the nation's citizenship laws. United Nations Human Rights Office of the High Commissioner, "UN experts urge India to release protest leaders", 26 June 2020, <https://www.ohchr.org/en/news/2020/06/un-experts-urge-india-release-protest-leaders?LangID=E&NewsID=26002>. Activists protesting against the three farm laws were arbitrarily arrested by the police. Many were also tortured in police custody.

³⁶ Between 2018 and 2021, sixteen human rights activists have been arrested under the Unlawful Activities (Prevention) Act and various sections of the Indian Penal Code for 'waging a war against the country'. All of them have worked with the most marginalised people of India, such as Dalits and Adivasis, and held views opposing the government. While two of them have been released on bail and one has died in custody, rest continue to be imprisoned. Thirteen continue to be jailed in the state of Maharashtra. Eighty-nine-year-old Father Stan Swamy, one of the sixteen died of COVID-19 in the prison waiting for the courts to grant him bail. Eighty-three-year-old Jesuit priest and tribal rights human rights defender Father Stan Swamy was arrested by the National

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Investigative Agency (NIA) under the Unlawful Activities (Prevention) Act for his alleged involvement in the Bhima Koregaon violence and links with the banned CPI (Maoist). Father Swamy suffered from advanced Parkinson's disease and was subjected to extremely pathetic conditions in jail. Despite his deteriorating condition, he was denied bail by the courts. Eventually, he succumbed to COVID-19 in judicial custody. During his imprisonment, NIA had opposed his request for a straw and a sipper considering his inability to drink water due to advanced Parkinson's disease. Joint statement by Amnesty International, CIVICUS: World Alliance for Citizen Participation CSW, FIDH, in the framework of the Observatory for the Protection of Human Rights Defenders, Front Line Defenders, International Commission of Jurists, and International Dalit Solidarity Network "Statement on the death of human rights defender Father Stan Swamy", www.amnesty.eu/wp-content/uploads/2021/07/Statement-on-the-death-of-Fr.-Stan-Swamy-India_FINAL.pdf

³⁷ India ranked at 142nd place in Reporter Without Border's 2021 World Press Freedom Index and was called "one of the world's most dangerous countries for journalists". Reporters Without Borders, World Press Freedom Index, rsf.org/en/india

³⁸ National Crime Record Bureau, "Crime Statistics India 2020", Ministry of Home Affairs, Government of India, Table 7A.2, 10 September 2021 www.ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/TABLE%207A.2.pdf

³⁹ National Crime Record Bureau, "Crime Statistics India 2020", Ministry of Home Affairs, Government of India, Table 7C.2, 10 September 2021, https://www.ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/TABLE%207C.2.pdf

⁴⁰ Certain Dalit communities are identified as Scheduled Castes and certain Adivasi communities as Scheduled Tribes under the Constitution of India.

⁴¹ National Crime Records Bureau, "Prison Statistics India 2020", Ministry of Home Affairs, Government of India, Table 2.10 D and 2.10 C, 24 December 2021, available at <https://ncrb.gov.in/en/crime-india>

⁴² See, for example "Unnao rape case: Indian woman set on fire on way to hearing dies", *BBC News*, 7 December 2019, www.bbc.co.uk/news/world-asia-india-50697139; Geeta Pandey, "Hathras rape case: Prisoners in their own home, lives on hold, a village divided", *BBC News*, 29 September 2021, www.bbc.co.uk/news/world-asia-india-58706861; Zafar Afaaq, "Dalit girl allegedly raped, killed and forcibly cremated in India", *Al Jazeera*, 4 August 2021, www.aljazeera.com/news/2021/8/4/dalit-girl-raped-forcibly-cremated-india-new-delhi; and Rakhi Bose, "Adivasi Women Activists Still Stuck In Cycle Of Rape And Persecution In Maoist-hit Areas", *Outlook India*, 16 March 2022, www.outlookindia.com/national/why-advasi-women-activists-are-stuck-in-cycle-of-rape-and-persecution-in-maoist-hit-areas-news-187129

⁴³ People living in the rural areas were disproportionately affected in terms of total cases and deaths by Covid-19. Lack of beds and oxygen facilities and poor primary healthcare in rural areas exacerbated the crisis. Unreasonable dependence of the government on healthcare privatization without ensuring adequate accountability and oversight hindered effective access to quality health care. Skewed healthcare workers to patient ratio and a consistent shortfall in the numbers of doctors, specialists and surgeons led to an acute failure of public healthcare. Vibha Varshney, "Behind the curve: How COVID-19 exposed India's apathetic rural health infrastructure", *Down to Earth*, 20 June 2021, www.downtoearth.org.in/news/health/behind-the-curve-how-covid-19-exposed-india-s-apathectic-rural-health-infrastructure-77393

⁴⁴ Amnesty International, *Exposed, Silenced, Attacked: Failures to Protect Health and Essential Workers During the COVID-19 Pandemic*, 13 July 2020, www.amnesty.org/en/documents/pol40/2572/2020/en/

⁴⁵ Workers in the informal sector – who constitute more than three-quarters of India's workforce – have faced enormous difficulties due to rampant job losses including the increasing of a workday from 8 to 12 hours. See, for example, Adil Bhat, "Suspension of Indian labour laws to hurt low-income workers", *The Diplomat*, 23 July 2020, thediplomat.com/2020/06/suspension-of-indian-labor-laws-to-hurt-low-income-workers/ and Nilena MS, "India's labour law reforms without social dialogue are of concern: ILO's Corinne Vargha", *The Caravan*, 9 December 2020, www.caravanmagazine.in/labour/india-labour-reforms-is-of-concern

⁴⁶ Instances of hospitals refusing Muslim pregnant women and cancer patients surfaced in April 2020. In the months following the nationwide lockdown of March, social media and WhatsApp groups were flooded with calls for social and economic boycotts of Muslims, alongside fake news stories and other misinformation. See, OXFAM India, "Securing Rights of Patients in India: Lessons from rapid surveys on peoples' experiences of Patient's Rights Charter and the COVID-19 vaccination drive", November 2021, <https://www.oxfamindia.org/knowledgehub/oxfaminaction/securing-rights-patients-india>

⁴⁷ Amnesty International, "India's most vulnerable bear the brunt of COVID-19", 31 March 2020, <https://www.amnesty.org.uk/indias-most-vulnerable-bare-brunt-covid-19>

⁴⁸ Divya Trivedi, "COVID-19 and the plight of the transgender community", *Frontline*, 29 April 2020, <https://frontline.thehindu.com/dispatches/article31463945.ece>

⁴⁹ National Campaign on Dalit Human Rights, "Delayed and Denied: Injustice in COVID-19 Relief", http://www.ncdhr.org.in/wp-content/uploads/2021/05/PMGKY-Inclusion-Assessment_4-states-Ph-II.pdf

⁵⁰ Sakhet Gokhale, "PM CARES Fund Now Has 'Independent Auditor' But Remains Beset by Lack of Transparency", *The Wire*, 19 June 2020, <https://thewire.in/government/pm-cares-fund-now-has-independent-auditor-but-remains-beset-by-lack-of-transparency>

⁵¹ At least 300 telephone numbers of human rights defenders, journalists, lawyers, government officials and opposition politicians were potentially compromised. The spyware, as examined by Amnesty International, enabled government agencies to monitor all phone activity, including emails, files, contact lists, location information and chat messages. It also enabled governments to secretly record audio and video using a phone's built-in microphone and camera. The ruling Bharatiya Janata Party stalled all attempts by opposition leaders in Parliament to initiate an investigation into the allegations. On 27 October, the Supreme Court ordered the formation of a three-member committee to conduct an independent investigation into the use of Pegasus spyware for unlawful surveillance. Amnesty International, *Forensic Methodology Report: How to Catch NSO Group's Pegasus*, 18 July 2021, <https://www.amnesty.org/en/documents/doc10/4487/2021/en/>

⁵² Amnesty International, "India: Hyderabad 'on the brink of becoming a total surveillance city'", 9 November 2021, <https://www.amnesty.org/en/latest/news/2021/11/india-hyderabad-on-the-brink-of-becoming-a-total-surveillance-city/>

⁵³ The Hate Tracker of Amnesty International India recorded 181 incidents of alleged hate crimes in first half of 2019, the steepest rise in such incidents since 2015. Over two-thirds of the victims were targeted because they were Dalits, while 40 of them suffered because of their Muslim identity. In 37 reported incidents, the victims were killed. In 30 cases, victims were raped or sexually assaulted. Between January and June 2019, seventy-two mob attacks were reported. Of the 37 such attacks against Muslims, the victims were lynched in five cases. Dalit victims were lynched in eight of the 28 mob attacks.

⁵⁴ Police officials were often found to be bystanders to the violence against minorities and peaceful protesters or active perpetrators themselves. See, Amnesty International India, "India: Six months since Delhi riots, Delhi Police continue to enjoy impunity despite evidence of human rights violations", 28 August 2020, available at <https://www.amnesty.org.uk/files/2020-08/Delhi%20Report%20Amnesty%20International%20India.pdf>

⁵⁵ Uttarakhand Freedom of Religion Act, No. 28 of 2018 (11 May 2018); Himachal Pradesh Freedom of Religion Act, No. 13 of 2019 (6 November 2019), Uttar Pradesh Prohibition of Unlawful Conversion of Religion Ordinance, No. 21 of 2020 (27 November 2019), Madhya Pradesh Freedom of Religion Ordinance, No. 1 of 2020 (9 January 2020), Gujarat Freedom of Religion (Amendment) Act, Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas (Amendment) Act, No. 17 of 2020 (12 October 2020), The Gujarat Animal Preservation

(Amendment) Act, 2017, The Karnataka Prevention of Slaughter and Preservation of Cattle Ordinance, 2020, The Muslim Women (Protection) of Rights on Marriage Act, No. 20 of 2019 (31 July 2019)

⁵⁶ Amnesty International India, "India: Six months since Delhi riots, Delhi Police continue to enjoy impunity despite evidence of human rights violations", 28 August 2020, available at www.amnesty.org.uk/files/2020-08/Delhi%20Report%20Amnesty%20International%20India.pdf

⁵⁷ The United Christian Forum termed 2021 as the most "violent year" for Christians in India. The organisation recorded 486 cases of violence against Christians. Most of the cases were related to advocacy of hatred against the community for allegedly converting people from other religions into Christianity. Available at <https://www.persecution.org/2022/01/01/2021-ends-violent-year-christians-india/>

⁵⁸ Amnesty International India, "Designed to Exclude: How India's Courts are Allowing Foreigners Tribunals to Render People Stateless in Assam", November 2020, available at http://www.amnesty.be/IMG/pdf/rapport_inde.pdf

⁵⁹ Mayank Aggarwal, "Indian ministries want to limit public consultations that are necessary before approving projects", *Scroll.In*, 30 June 2020, www.scroll.in/article/966004/indias-ministries-are-eager-to-dilute-the-public-consultation-clause-that-brings-accountability

⁶⁰ The Quint, "Amnesty Condemns SC Ruling on Evicting 10 Lakh Tribal Families", 21 February 2019, <https://www.thequint.com/news/india/supreme-court-of-india-tribal-families-eviction-amnesty-statement>. On 28 February 2019, the Supreme Court has since stayed the order and directed states to file affidavits detailing the process adopted in rejecting the claims for ownership rights of tribal and non-tribal dwellers under the Forest Rights Act. After review, the rejection claims have considerably reduced. Press Trust of India, "FRA cases: Review of rejected cases complete, number reduces considerably", 19 June 2019, http://www.ptinews.com/news/10649553_FRA-cases--Review-of-rejected-cases-complete--number-reduces-considerably

⁶¹ National Crime Record Bureau, "Crime Statistics of India 2020", Ministry of Home Affairs, Government of India, Table 3A.2, https://ncrb.gov.in/sites/default/files/crime_in_india_table_additional_table_chapter_reports/TABLE%203A.2.pdf

⁶² The Wire, "Criminalising Marital Rape Will Threaten the Institution of Marriage, Centre Tells Delhi HC", 29 August 2020, <https://thewire.in/gender/criminalising-marital-rape-will-threaten-institution-marriage-centre-tells-delhi-hc>

⁶³ For example, in 2019, Ranjan Gogoi, the then-Chief of Justice of India was accused by a court assistant of sexual harassing her. The procedures laid down in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act were not followed in adjudicating the case. Consequently, she withdrew from the proceedings. See also: Hindustan Times, "Nadia rape: CBI starts probe, victim's father says accused took body at gunpoint", 14 April 2022, <https://www.hindustantimes.com/india-news/nadia-rape-cbi-starts-probe-victim-s-father-says-accused-took-away-body-at-gunpoint-101649876475546.html>. Tomas Chamorro-Premuzic & Avivah Wittenberg-Cox, "How the pandemic increased domestic abuse and sexual violence against women", *Forbes*, 27 March 2021, www.forbes.com/sites/tomaspremuzic/2021/03/27/how-the-pandemic-increased-domestic-abuse-and-sexual-violence-against-women/?sh=6936f4e950a7

⁶⁴ BBC News, "Hijab ban: Karnataka high court upholds government order on headscarves", 15 March 2022, <https://www.bbc.co.uk/news/world-asia-india-60300009>