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India: Stop Abusing Counterterrorism Regulations

(London) – The global terrorism financing and money laundering watchdog, the [Financial Action Task Force \(FATF\)](#), should call on the [Indian](#) government to stop prosecuting, intimidating, and harassing human rights defenders, activists, and nonprofit organizations in the country on the pretext of countering terrorist financing, Amnesty International, Charity & Security Network, and Human Rights Watch said today. FATF members are to start their fourth periodic review of India's record on tackling illicit funding on November 6, 2023.

Indian authorities have [exploited FATF's recommendations](#) which aim to prevent terrorist financing as part of a coordinated campaign to restrict civic space and stifle the rights to freedom of expression, association, and peaceful assembly. Draconian laws introduced or adapted to this end include the Foreign Contribution (Regulation) Act (FCRA), the Unlawful Activities (Prevention) Act (UAPA), and the Prevention of Money Laundering Act (PMLA). Their actions have flouted both FATF's standards and international human rights law, the groups said.

"The Indian authorities have weaponized laws to crack down on the human rights work by human rights defenders, activists, and non-profit organizations in the country," said Aakar Patel, chair of board at Amnesty International India. "Authorities are using bogus foreign funding and terrorism charges to target, intimidate, harass, and silence critics, in clear violation of FATF standards."

The FATF, which India joined in 2010, is a 40-member country body mandated to tackle money laundering, terrorist financing, and other threats to the integrity of the global financial system. It advances its work

through a set of [recommendations](#), consisting of 40 international standards, to guide national authorities' implementation of these goals through "legal, regulatory and operational measures."

The task force standards, particularly [Recommendation 8](#), require the scrutiny of only those nonprofit organizations that have been identified through a careful, targeted "risk-based" analysis on factors such as their vulnerability to being used as a front to finance terrorism related activities. In October 2023, the task force further [revised its recommendations](#) leaving "no room for implementation of measures that are not proportionate to the assessed terrorist financing risks and are therefore overly burdensome or restrictive for organisations working in the not-for-profit realm."

During its third FATF review, in 2010, the [Indian government itself recognized the risk](#) posed by the nonprofit sector as "low." However, since the Bharatiya Janata Party (BJP) came to power in 2014, the authorities have used [overbroad provisions in domestic law to silence critics](#) and shut down their operations, including by cancelling their foreign funding licenses and prosecuting them using counterterrorism law and financial regulations.

The Foreign Contribution (Regulation) Act, first enacted in 1976, was aimed at preventing and regulating foreign interference in Indian politics. However, in 2010, the government [repurposed](#) the legislation with a greater focus on nonprofit organizations, while relaxing foreign funding oversight for political parties.

In the last 10 years, the authorities have used this law to [cancel the licenses](#) of over 20,600 nonprofit organizations, including 6,000 in 2022, blocking their access to foreign funding. In July 2022, the Home Affairs Ministry deleted the list of nonprofit organizations whose FCRA licenses had been cancelled without any explanation and stopped publishing this data.

The Indian government has [particularly targeted human rights groups and activists](#) working to protect the rights of the most socially and economically marginalized populations. According to media reports, in 2023, the Home Affairs Ministry revoked the FCRA licenses of a leading research group, the [Centre for Policy Research](#), and a social justice advocacy organization, the [Centre for Equity Studies](#).

Indian authorities have also frequently used the Unlawful Activities (Prevention) Act (UAPA), India's primary counterterrorism law, to [arbitrarily arrest and detain human rights defenders and activists](#). The law was introduced as a reform to the draconian Prevention of Terrorism Act (POTA) in 2004, but the government amended it in 2008, 2012, and 2019 to [include](#) many problematic provisions of POTA. They include its

overbroad definition of a “terrorist act,” reversal of the presumption of innocence, and provisions for prolonged detention without trial or charge.

To satisfy FATF’s membership conditions, India amended the UAPA in 2012 to include threats to economic security and also extended the definition of a “person” liable to be charged under that law to international and intergovernmental organizations. India’s 2019 amendment extended the law’s applicability from organizations and groups to individuals as well.

The counterterrorism funding provisions of the UAPA have been misused against [several student activists](#) who organized protests against the [Citizenship Amendment Act](#). The government accused the students of “orchestrating” the February 2020 Delhi riots that [killed](#) at least 53 people, largely Muslims; and used the law against [16 human rights activists](#), eight of whom have remained detained without trial in the Bhima Koregaon case since 2018.

The counterterrorism financing and other provisions have also been misused to detain [Khurram Parvez](#), a prominent Kashmiri human rights activist who is program coordinator of the Jammu Kashmir Coalition of Civil Society, and [Irfan Mehraj](#), a journalist associated with the coalition.

Despite the increased use of the Unlawful Activities Prevention Act, only [2.2 percent](#) of cases registered under the law from 2016 to 2019 ended in a court conviction. The police closed nearly 11 percent of cases for lack of evidence, while the rest remained pending. The delay in filing charges and several acquittals in these cases show that the government is using the counterterrorism law to keep critics locked up for years and use the judicial process itself as a tool to persecute and punish government critics.

The Indian government also enacted the 2002 Prevention of Money Laundering Act (PMLA) to satisfy membership conditions set by FATF. In recent years, authorities have [used](#) the law to attack, intimidate, and harass human rights defenders, activists, and nonprofit organizations by supplementing the charges under FCRA, seizing their properties, and burdening them with stringent bail conditions. Amnesty International India has been subject to [action](#) under the PMLA through the freezing of its bank accounts in September 2020, putting its work on hold for the past three years, without funds to even secure effective legal representation.

“India’s three laws together have created a dangerous arsenal with debilitating consequences for civil society and human rights activists,” said [Meenakshi Ganguly](#), Deputy Asia Director at Human Rights Watch. “The FATF should not allow the Indian government to exploit the organization’s recommendations for its political purposes – to silence all forms of dissent.”

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