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**Submission by Human Rights Watch
United Nations Human Rights Committee Review of India**

June 2024

We write in advance of the Committee’s review of India to highlight some areas of concern regarding India’s compliance with the International Covenant on Civil and Political Rights (hereafter “the Covenant”).

We call on the Committee to urge the government of India to address the following key issues under the Covenant.

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

India has witnessed a serious deterioration in human rights in the last decade. The Bharatiya Janata Party (BJP)-led government has escalated its crackdown on peaceful dissent, press freedom, civil society, and religious minorities. Indian authorities have increasingly used federal laws to target their political opponents and civil society groups on allegations of financial irregularities. In multiple instances, authorities have used the country’s draconian anti-terrorism law against journalists, activists, and academics. There has been a significant increase in hate speech by officials and ruling party leaders, incitement to violence against marginalized groups, and attacks against religious minorities, even as authorities have failed to take adequate action against those responsible.¹

The Indian government has persisted with policies that discriminate and stigmatize religious and other minorities. This has led to increasing incidents of communal violence in many parts of the country, including in Manipur state, where hundreds were killed in ethnic clashes.²

The police in several Indian states failed to properly investigate crimes against minorities while administrative officials responded by summarily punishing victim communities, including those who protested such abuses. Constitutional authorities like the National Human Rights Commission, and those

¹ Human Rights Watch, *World Report 2024, India: Events of 2023*, <https://www.hrw.org/world-report/2024/country-chapters/india>

² Meenakshi Ganguly, “Indian Government Finally Responds to Violence in Manipur,” commentary, Human Rights Dispatch, July 21, 2023, <https://www.hrw.org/news/2023/07/21/indian-government-finally-responds-violence-manipur>; Meenakshi Ganguly, “Ethnic Violence Spirals in India’s Northeastern Manipur State,” commentary, Human Rights Dispatch, June 30, 2023, <https://www.hrw.org/news/2023/06/30/ethnic-violence-spirals-indias-northeastern-manipur-state>; “India: Investigate Police Bias Alleged in Manipur Violence,” Human Rights Watch news release, May 30, 2023, <https://www.hrw.org/news/2023/05/30/india-investigate-police-bias-alleged-manipur-violence>

designed to protect the rights of children, women, religious minorities, tribal groups, and Dalits, did not function independently.³

The government promoted the use of a digital public infrastructure to expand the delivery of social and economic services. However, in recent years, India shut down the internet more than any other country, with the authorities frequently using internet shutdowns to stem political protests and criticism of the government, violating domestic and international legal standards.⁴

Indian authorities have also applied significant formal and informal pressure on tech companies, both to suppress critical speech and to keep online speech by government-aligned actors that would otherwise violate platforms' policies.⁵

In a concerning change in India's approach to national security, governments have accused Indian intelligence agencies of targeting terrorism suspects and separatist leaders for assassination in Canada, the United States and Pakistan. Indian authorities' repeated failure to hold police and security forces accountable for rights violations, including extrajudicial killings and torture, has deepened the culture of impunity and also cast doubts over accountability for these latest allegations of killings on foreign soil.⁶

The authorities are also imposing visa restrictions on foreign critics, including those of Indian origin who are often forced to self-censor because they need to enter the country for family ties.⁷

B. Specific information on the implementation of articles 1-27 of the Covenant, including with regard to the previous recommendations of the Committee

1. Non-discrimination (arts. 2 and 26)

India's Constitution bans caste-based discrimination. The Protection of Civil Rights Act, 1955, prohibits compelling anyone to practice manual scavenging. In 2013, the Indian parliament enacted The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act (the 2013 Act) outlawing all manual excrement cleaning. The 2013 Act also recognized a constitutional obligation to correct the historical injustice and indignity suffered by these communities by providing alternate livelihood and other assistance.

In March 2014, the Supreme Court of India ruled that manual scavenging violates international human rights law. Despite an official ban on "manual scavenging" — the degrading and dangerous practice of manually cleaning human excrement from private and public dry toilets, open defecation sites, septic tanks, and open and closed gutters and sewers — continues across the country, leading to deaths and injuries. Mostly Dalits and caste groups customarily relegated to the bottom of the caste hierarchy are forced to do this work.⁸

³ "India: End Bias in Prosecuting Delhi Violence," Human Rights Watch news release, June 15, 2020, <https://www.hrw.org/news/2020/06/15/india-end-bias-prosecuting-delhi-violence>

⁴ Human Rights Watch, "No Internet Means No Work, No Pay, No Food": Internet Shutdowns Deny Access to Basic Rights in "Digital India" (New York: Human Rights Watch, 2023), <https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic>

⁵ "India's General Elections, Technology, and Human Rights Questions and Answers," Human Rights Watch Q&A, April 8, 2024, <https://www.hrw.org/news/2024/04/08/indias-general-elections-technology-and-human-rights-questions-and-answers>

⁶ "India: Investigate Alleged Overseas Murder Plots," Human Rights Watch news release, December 15, 2023, <https://www.hrw.org/news/2023/12/15/india-investigate-alleged-overseas-murder-plots>

⁷ "India: Authorities Revoke Visa Privileges of Diaspora Critics," Human Rights Watch news release, March 17, 2024, <https://www.hrw.org/news/2024/03/17/india-authorities-revoke-visa-privileges-diaspora-critics>

⁸ "India: Caste Forced to Clean Human Waste," Human Rights Watch news release, August 25, 2014,

Crimes against Dalits and Adivasis have also increased. In 2022, the National Crime Records Bureau reported 57,582 cases of crimes against Dalits, an increase of 13.1 percent from the previous year. Crimes against Adivasi communities increased by 14.3 percent, at 10,064 cases. Dalit and Adivasi women remain especially vulnerable to violence, including sexual violence. They continue to face discrimination, caste-based beatings, sexual violence and other abuses, and are often excluded from proper access to education and livelihood despite ostensible government commitments.⁹

In a landmark September 2018 ruling with global significance, India's Supreme Court decriminalized consensual adult same-sex relations.¹⁰ In 2022, in an important ruling toward advancing the rights of lesbian, gay, bisexual, and transgender (LGBT) communities and women, the Supreme Court widened the definition of family to include same-sex couples, single parent, and other households considered "atypical," saying family benefits under the law should be extended to them.¹¹ However, in 2023, the Supreme Court declined to legalize same-sex marriages, instead accepting the government's offer to set up a panel to consider granting certain benefits associated with marriage to same-sex couples.¹²

In 2014, the Indian Supreme Court in *NALSA v. India* ruled that transgender people should be recognized as a third gender and enjoy all fundamental rights, while also being entitled to specific benefits in education and employment. A Delhi High Court ruling in October 2015 laid out the intrinsic link between the right to legal gender recognition and other rights.

But in 2019, the Indian government enacted the Transgender Persons (Protection of Rights) Law, 2019, which remains inadequate on several fronts and violates the court rulings. The most serious flaw in the new law is the procedure it mandates for legal gender recognition — the process by which trans people can change their documents to reflect their identity.¹³

The new law sets up a two-step process. First, it requires an individual to apply for a "transgender certificate" from the District Magistrate where they live. This can be done on the basis of a person's self-declared identity. Then, a certificate holder can apply for a "change in gender certificate," which signals to authorities to change their legal gender to male or female. However, this second step requires the person to provide proof of surgery, issued by a hospital official, to the District Magistrate for a second evaluation, and the official must be "satisfied with the correctness of such certificate."¹⁴

This sets an extraordinary amount of power with one government office to arbitrate which trans people "qualify" to be recognized as who they are. It also coerces people into medical procedures they might not want — a fundamental rights violation that Indian and international jurisprudence condemns.

<https://www.hrw.org/news/2014/08/25/india-caste-forced-clean-human-waste>

⁹ "Crimes in India, 2022," National Crime Records Bureau, Ministry of Home Affairs, Government of India, <https://ncrb.gov.in/uploads/nationalcrimerecordsbureau/custom/1701607577CrimeinIndia2022Book1.pdf> (accessed May 8, 2024).

¹⁰ "India: Supreme Court Strikes Down Sodomy Law," Human Rights Watch news release, September 6, 2018, <https://www.hrw.org/news/2018/09/06/india-supreme-court-strikes-down-sodomy-law>

¹¹ Satya Prakash, "Supreme Court expands definition of family; says it may take form of domestic, unmarried partnerships or queer relationships," *The Tribune*, August 29, 2022, <https://www.tribuneindia.com/news/nation/supreme-court-expands-definition-of-family-says-it-may-take-form-of-domestic-unmarried-partnerships-or-queer-relationships-426570> (accessed May 22, 2024).

¹² Human Rights Watch, *World Report 2024, India: Events of 2023*, <https://www.hrw.org/world-report/2024/country-chapters/india>

¹³ "India: Transgender Bill Raises Rights Concerns," Human Rights Watch news release, July 23, 2019, <https://www.hrw.org/news/2019/07/23/india-transgender-bill-raises-rights-concerns>

¹⁴ Kyle Knight (Human Rights Watch), "India's Transgender Rights Law Isn't Worth Celebrating," commentary, *The Advocate*, December 5, 2019, <https://www.hrw.org/news/2019/12/05/indias-transgender-rights-law-isnt-worth-celebrating>

Human Rights Watch recommends that the Committee call on the government of India to:

- Immediately undertake a complete assessment and audit of all current schemes for ending manual scavenging and all schemes relevant to rehabilitating manual scavengers with attention to overcoming existing barriers to implementation.
- Ensure prompt, independent, and credible investigations into violence, including gender-based violence, against Dalits and Adivasis.
- Amend the Transgender Persons (Protection of Rights) Act to in line with international standards and global medical best practices to separate legal and medical procedures regarding gender transition.
- Ensure LGBT persons enjoy all fundamental rights, without discrimination.

2. Violence against women and harmful practices (arts. 2, 3, 6, 7, 8 and 26)

Following the gang-rape and murder of Jyoti Singh Pandey, a young woman in Delhi in December 2012, the Indian government strengthened laws addressing sexual violence.¹⁵ The Criminal Law (Amendment) Act, 2013 (the 2013 amendments) includes several provisions to safeguard the rights of women and girls, including those with disabilities and facilitate their participation in investigative and judicial processes.¹⁶ Even before these amendments, India witnessed several legislative reforms governing sexual offenses. For instance, following years of deliberation with rights groups across India, in June 2012 the Indian government introduced the Protection of Children from Sexual Offences Act (POCSO), legislation that aims to deal with child sexual abuse in a comprehensive manner.¹⁷

However, poor implementation of these laws means rape survivors continue to face significant barriers in accessing justice and critical support services.¹⁸ Women and girls who survive rape and other sexual violence often suffer humiliation at police stations and hospitals. These obstacles to justice and dignity are compounded by inadequate health care, counseling, and legal support for victims during criminal trials of the accused. These hurdles are even more severe for women and girls from socially and economically marginalized communities, especially if the accused belongs to a dominant caste, is economically stronger or politically connected.

For instance, a Delhi court in May 2024 finally framed charges of sexual harassment and criminal intimidation against a member of parliament from the ruling BJP and former president of the Wrestling Federation of India, Brij Bhushan Sharan Singh. But this only happened after months of protest by athletes.¹⁹

In April 2023, six women and a child filed complaints of sexual abuse with the police against Singh. However, the police only initiated an investigation after the complainants filed a petition in the Supreme Court. In May 2023, police forcibly tackled and temporarily detained athletes protesting the delay in justice, including two Olympic wrestlers.²⁰ In June that year, the police finally charged Singh with sexual

¹⁵ Criminal Law (Amendment Act), No. 13 of 2013, <http://indiacode.nic.in/acts-in-pdf/132013.pdf> (accessed May 22, 2024).

¹⁶ Human Rights Watch, *“Everyone Blames Me”: Barriers to Justice and Support Services for Sexual Assault Survivors in India*, (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/11/08/everyone-blames-me/barriers-justice-and-support-services-sexual-assault-survivors>; “India: Remove Hurdles to Justice for Women with Disabilities,” Human Rights Watch news release, April 3, 2018, <https://www.hrw.org/news/2018/04/03/india-remove-hurdles-justice-women-disabilities>

¹⁷ The Protection of Children from Sexual Offences Act, 2012, No. 32 of 2012, June 19, 2012, <http://indiacode.nic.in/amendmentacts2012/The%20Protection%20of%20Children%20From%20Sexual%20Offences%20Act.pdf> (accessed May 22, 2024).

¹⁸ Human Rights Watch, *“Everyone Blames Me.”*

¹⁹ “Olympics: Act on Sexual Abuse Complaints by Indian Athletes,” Human Rights Watch news release, June 7, 2023, <https://www.hrw.org/news/2023/06/07/olympics-act-sexual-abuse-complaints-indian-athletes>

²⁰ Ibid.

harassment, assault, and stalking. The case highlighted barriers to justice for sexual assault survivors in India, especially when the accused is powerful.

Women and girls with disabilities who survive sexual violence also face high barriers to access the justice system. India's criminal justice system has largely failed to implement the 2013 amendments, such as providing police and judicial training to create an enabling, supportive environment for survivors with disabilities.²¹ Some states have adopted good practices, but they are exceptions, not the norm.

Human Rights Watch found that few police officers have the training or expert support needed to handle these cases. Our research in 2018 found that some cases, police excluded women and girls with disabilities from specific assistance guaranteed by the 2013 amendments because of survivors' inability to certify a disability. In other cases, police failed to include needed details in their First Information Report (FIR). Police also rarely provided information on the right to free legal aid or legal aid services to survivors or their families.²²

The Indian government has also failed to properly enforce the 2013 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, leaving millions of women in the workplace exposed to abuse without remedy. While women in India are increasingly speaking out against sexual abuse at work, in part due to the global #MeToo movement, many, particularly in the informal sector, are still constrained by stigma, fear of retribution, and institutional barriers to justice. The central and local governments have failed to promote, establish, and monitor complaints committees — a central feature of the sexual harassment law — to receive complaints of sexual harassment, conduct inquiries, and recommend actions against abusers.²³

Human Rights Watch recommends that the Committee call on the government of India to:

- Develop, adopt, and implement binding regulations providing standard operating procedures for all police, forensics experts, and the judiciary in dealing with violence against women.
- Enforce the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, by creating effective oversight, carrying out inspections and investigations, sanctioning employers who fail to comply, and ensuring remedies for survivors.
- Ratify and implement ILO Convention on Domestic Workers, 2011, No. 189 and the ILO Convention on Violence and Harassment, 2019, No. 190 paying special attention to sectors with heightened risk of violence and harassment.
- Fully implement laws and policies to protect rights in cases of sexual violence against women and girls with disabilities.

3. Counter-terrorism and security measures and accountability for serious human rights violations (arts. 2, 6, 7, 9, 14 and 26) & liberty and security of person, administration of justice and fair trial

The government is increasingly using the counterterrorism law, Unlawful Activities Prevention Act (UAPA), to target journalists, human rights defenders, activists, and critics. The law defines terrorism in a vague and overbroad manner, reverses the presumption of innocence, allows for prolonged detention

²¹ Human Rights Watch, *Invisible Victims of Sexual Violence: Access to Justice for Women and Girls with Disabilities in India* (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/04/03/invisible-victims-sexual-violence/access-justice-women-and-girls-disabilities>

²² Ibid.

²³ Human Rights Watch, "No #MeToo for Women Like Us," Poor Enforcement of India's Sexual Harassment Law (New York: Human Rights Watch, 2020), <https://www.hrw.org/report/2020/10/14/no-metoo-women-us/poor-enforcement-indias-sexual-harassment-law>

without trial or charge for up to 180 days, including up to 30 days in police custody, and creates a strong presumption against bail.²⁴

Over 5,000 UAPA cases were registered between 2018 and 2022, according to the government.²⁵ In October 2020, UN High Commissioner for Human Rights Michelle Bachelet raised concerns over the use of the UAPA against human rights activists saying that the act is “indeed actually being used to deter or punish NGOs for human rights reporting and advocacy that the authorities perceive as critical in nature.”²⁶

The Indian government has used the UAPA to arrest 16 prominent activists who promoted the rights of India’s most marginalized communities, accusing them of inciting violence that occurred during a Dalit meeting in January 2018 in Bhima Koregaon in Maharashtra state. Over the years, six activists were granted bail after courts cited a lack of evidence.²⁷

However, one of them, the 84-year-old tribal rights activist Stan Swamy, died in detention in 2021 prompting the UN special rapporteur on human rights defenders to say his death “will forever remain a stain on India’s human rights record.”²⁸ The courts have repeatedly questioned the evidence against them. According to reports by the US-based forensic firm Arsenal Consulting, malware was used to surveil and plant evidence on the computers of at least three accused in this case.²⁹

Indian authorities have also been accused of bias in investigations involving arrests of activists in cases related to the February 2020 violence in Delhi following peaceful protests against the discriminatory Citizenship (Amendment) Act. Police arrested 20 student leaders and activists, most of them Muslim, under the UAPA law. Six have been granted bail by various courts, which noted that the police failed to produce any evidence. In some cases, judges called the police investigations “shoddy” or “callous.”³⁰

²⁴ “India: Arrests of Activists Politically Motivated,” Human Rights Watch news release, September 6, 2020, <https://www.hrw.org/news/2020/09/16/india-arrests-activists-politically-motivated>; “India: Government Raids Targeting Critics,” Human Rights Watch news release, September 17, 2021, <https://www.hrw.org/news/2021/09/17/india-government-raids-targeting-critics>; “India: Counterterrorism Raids Targeting Peaceful Critics,” Human Rights Watch news release, October 30, 2020, <https://www.hrw.org/news/2020/10/30/india-counterterrorism-raids-targeting-peaceful-critics>

²⁵ Press Trust of India, “701 sedition, 5023 UAPA cases registered in 2018-22: Govt,” *The Hindu*, February 6, 2024, <https://www.thehindu.com/news/national/701-sedition-5023-uapa-cases-registered-in-2018-22-govt/article67817517.ece> (accessed May 9, 2024).

²⁶ “Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India,” Office of the High Commissioner for Human Rights news release, October 20, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26398&LangID=E> (accessed May 17, 2024).

²⁷ Meenakshi Ganguly, “Indian Court, Finding Lack of Evidence, Grants Bail to Activist,” Human Rights Dispatch, April 9, 2024, <https://www.hrw.org/news/2024/04/09/indian-court-finding-lack-evidence-grants-bail-activist>; “India: Activists Detained for Peaceful Dissent,” Human Rights Watch news release, April 15, 2020, <https://www.hrw.org/news/2020/04/15/india-activists-detained-peaceful-dissent>

²⁸ “India: Death in custody of priest Stan Swamy is devastating – UN expert,” Office of the High Commissioner for Human Rights news release, July 15, 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27313&LangID=E> (accessed May 17, 2024).

²⁹ Niha Masih and Joanna Slater, “Evidence found on a second Indian activist’s computer was planted, report says,” *Washington Post*, July 6, 2021, <https://www.washingtonpost.com/world/2021/07/06/bhima-koregaon-case-india/> (accessed May 18, 2024).

³⁰ “India: End Bias in Prosecuting Delhi Violence,” Human Rights Watch news release, June 15, 2020, <https://www.hrw.org/news/2020/06/15/india-end-bias-prosecuting-delhi-violence>; Human Rights Watch, “*Shoot the Traitors*: Discrimination Against Muslims under India’s New Citizenship Policy,” (New York: Human Rights Watch, 2020) <https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>

The Delhi High Court, while granting bail in June 2021 to three activists booked under UAPA, stated that “in its anxiety to suppress dissent, in the mind of the State, the line between the constitutionally guaranteed right to protest and terrorist activity seems to be getting somewhat blurred.”³¹

Authorities have also used the counterterrorism law against journalists. In October 2023, police raided the office of the news website *NewsClick*, which has been critical of the Narendra Modi government, and the homes of several of its journalists and writers on allegations that the website got illegal funds from China, a charge it denies. The police also raided the homes of activists and comedians in Delhi as part of coordinated raids at 30 locations. In Mumbai, the police raided the home of activist Teesta Setalvad, who has been repeatedly targeted for fighting for justice for the Muslim victims of the 2002 riots in Gujarat state and has written articles critical of the government for *NewsClick*. Soon after the writer Arundhati Roy spoke out at a protest that followed the raids, authorities said they would prosecute her and a Kashmiri academic for allegedly “promoting enmity between different groups,” “causing disharmony,” and “public mischief” for a speech Roy had made in 2010. A case was also registered under the counterterrorism law, the UAPA, against them.³²

Indian authorities continued to restrict free expression, peaceful assembly, and other rights in Jammu and Kashmir.

Kashmiris are facing repression after the government revoked the state’s special constitutional status and split it into two federally governed territories in August 2019, with many detained. The government regularly shuts down the internet in the Muslim-majority region. There are growing restrictions on media, a number of journalists and human rights defenders have been arrested on spurious terrorism charges, and authorities regularly harass critics, including through use of counterterrorism raids.³³

Reports of extrajudicial killings by security forces have continued. Government data shows a rising number of UAPA cases in Jammu and Kashmir, from fewer than 60 annually until 2015 to 255 cases in 2019.³⁴

Prominent Kashmiri human rights activist Khurram Parvez was detained in November 2021 on accusations of terrorism, and further charged in March 2023 on allegations of financing terrorism under the UAPA. In March 2023, Irfan Mehraj, a journalist formerly associated with Parvez’s human rights organization, was also arrested in the same case.³⁵ UN human rights experts have repeatedly called for

³¹ Livelaw News Network, “‘Right To Protest Not ‘Terrorist Act’ Under UAPA’ : Delhi High Court Finds No Prima Facie Case Against Asif Iqbal Tanha, Natasha Narwal & Devangana Kalita, *LiveLaw*, June 15, 2021, <https://www.livelaw.in/top-stories/right-to-protest-not-terrorist-act-uapa-delhi-high-court-asif-iqbal-tanha-natasha-narwal-devangana-kalita-175736> (accessed May 18, 2024).

³² “India: Arrests, Raids Target Critics of Government,” Human Rights Watch news release, October 13, 2023, <https://www.hrw.org/news/2023/10/13/india-arrests-raids-target-critics-government>

³³ “India: Basic Freedoms at Risk in Kashmir,” Human Rights Watch news release, August 6, 2019, <https://www.hrw.org/news/2019/08/06/india-basic-freedoms-risk-kashmir>; “India: Abuses Persist in Jammu and Kashmir,” Human Rights Watch news release, August 4, 2020, <https://www.hrw.org/news/2020/08/04/india-abuses-persist-jammu-and-kashmir>;

³⁴ Safwat Zargar, “‘For anything and everything’: UAPA cases are rising in Kashmir,” *Scroll.in*, April 9, 2021, <https://scroll.in/article/991077/for-anything-and-everything-uapa-cases-are-rising-in-kashmir>; In Jammu and Kashmir, United Nations expert mandates repeatedly raised concerns over enforced disappearances, arbitrary detentions, harassment and arrest of journalists and activists, and the “broader pattern of systematic infringements of fundamental rights used against the local population.” Letter from five UN expert mandates to the Indian government, March 31, 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26181> (accessed May 17, 2024).

³⁵ “India: Kashmiri Activist Held Under Abusive Law,” Human Rights Watch news release, November 25, 2021, <https://www.hrw.org/news/2021/11/25/india-kashmiri-activist-held-under-abusive-law>

Parvez's release and condemned the use of the UAPA to target civil society and human rights defenders.³⁶

Human Rights Watch recommends that the Committee call on the government of India to:

- Immediately drop the charges and release all human rights defenders, journalists, and others held on politically motivated charges.
- Amend the Unlawful Activities (Prevention) Act to conform to international standards.
- Release all those arbitrarily detained in Jammu and Kashmir, drop the politically motivated charges against critics, and protect people's right to peaceful protests.

4. Right to life and prohibition of torture and other cruel inhuman or degrading treatment or punishment, liberty and security of person (arts. 6, 7, 9 and 14)

India continues to impose the death penalty in violation of international law. An eight-year unofficial moratorium on executions in India ended with the hangings on November 21, 2012, of Mohammad Ajmal Kasab, a Pakistani convicted of multiple murders in the November 2008 attacks in Mumbai, and on February 9, 2013, of Mohammad Afzal Guru, convicted for the December 2001 attack on the Indian parliament.³⁷

In July 2012, 14 retired Supreme Court and High Court judges asked then President Pranab Mukherjee to commute the death sentences of 13 inmates they said were erroneously upheld by the Supreme Court over the previous nine years. This followed the court's admission that some of these death sentences were rendered per incuriam (out of error or ignorance). In November the Supreme Court ruled that the "rarest of rare" standard for capital punishment had not been applied uniformly over the years and the norms on the death penalty needed "a fresh look."³⁸

Since then, the number of prisoners on death row have only increased annually. By the end of 2023, there were 561 prisoners on death row, the highest in two decades.³⁹

Despite pledges, India has not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the International Convention for the Protection of All Persons against Enforced Disappearance.

Allegations of torture and extrajudicial killings persist, with the National Human Rights Commission registering 152 deaths in police custody, 2,200 deaths in judicial custody, and 81 alleged extrajudicial killings in 2023.⁴⁰ The government also failed to properly implement police reforms directed by the Supreme Court in 2006 and to ensure accountability.⁴¹

³⁶ "UN experts urge Indian authorities to stop targeting Kashmiri human rights defender Khurram Parvez and release him immediately," UN Human Rights Council Office of the High Commissioner news release, December 22, 2021, <https://www.ohchr.org/en/press-releases/2021/12/un-experts-urge-indian-authorities-stop-targeting-kashmiri-human-rights> (accessed May 17, 2024).

³⁷ "India: Secret Hanging a Major Step Back," Human Rights Watch news release, February 2013, <https://www.hrw.org/news/2013/02/09/india-secret-hanging-major-step-back>

³⁸ "India: Stop Executions," Human Rights Watch news release, August 21, 2013, <https://www.hrw.org/news/2013/08/21/india-stop-executions>

³⁹ "Death Penalty in India: Annual Statistics Report," *Project 39A*, 2023, <https://www.project39a.com/annual-statistics-report-2023> (accessed May 18, 2024).

⁴⁰ "Human Rights Cases Statistics", National Human Rights Commission, India, May 6, 2024, <https://nhrc.nic.in/complaints/human-right-case-statistics> (accessed May 18, 2024).

⁴¹ "*Prakash Singh v. Union of India*," Supreme Court of India, 2006, <http://indiankanoon.org/doc/1090328/> (accessed May 18, 2024).

Security forces are shielded from accountability by Indian laws. All government officials and members of security forces are protected under section 197 of the Criminal Procedure Code, which provides that no court can recognize any offense (with the exception of sexual offenses) alleged to have been committed by a public servant in the discharge of an official duty without the approval of the central or state government. Such approval to prosecute is seldom granted.

Soldiers are provided immunity when internally deployed under the Armed Forces Special Powers Act (AFSPA).⁴² The government dismissed both the 2018 and 2019 reports by the Office of the United Nations High Commissioner for Human Rights on Jammu and Kashmir, which raised serious concerns over security force abuses.⁴³

In March 2023, the Indian government reduced the number of districts under the Armed Forces (Special Powers) Act (AFSPA) in some northeast states.⁴⁴ However, it remained in effect in Jammu and Kashmir and at least 43 of 90 districts in four northeastern states, providing effective immunity from prosecution to security force personnel, even for serious human rights violations.⁴⁵

The Indian government frequently invokes the Jammu and Kashmir Public Safety Act (PSA) because it permits detentions without trial for up to two years on vague grounds of preventing the suspect “from acting in any manner prejudicial to the security of the State or the maintenance of public order.” Basically, the authorities use the PSA to arbitrarily detain people without evidence.⁴⁶

The Border Security Force frequently used excessive force along the Bangladeshi border, targeting Indian residents and irregular immigrants and cattle traders from Bangladesh.⁴⁷

People with intellectual and psychosocial disabilities continue to be arbitrarily detained in government and privately owned mental hospitals and institutions where they face unsanitary conditions, risk physical and sexual violence, and experience involuntary treatment, including electroshock therapy.⁴⁸

Human Rights Watch recommends that the Committee call on the government of India to:

- Declare an official moratorium, commute all existing death sentences to life in prison, and then work towards abolishing the death penalty once and for all.
- Remove immunity granted under the Criminal Procedure Code in cases of violations of fundamental rights including torture and extrajudicial killings.

⁴² Human Rights Watch, *Getting Away With Murder: 50 Years of the Armed Forces (Special) Powers Act*, (New York: Human Rights Watch, 2008), <https://www.hrw.org/legacy/backgrounder/2008/india0808/india0808web.pdf>

⁴³ “Kashmir: UN Reports Serious Abuses,” Human Rights Watch news release, July 10, 2019, <https://www.hrw.org/news/2019/07/10/kashmir-un-reports-serious-abuses>

⁴⁴ “Government of India under visionary leadership of Prime Minister, Shri Narendra Modi in an important step, reduces disturbed areas under Armed Forces Special Powers Act (AFSPA) in Nagaland, Assam and Manipur after decades,” Press Information Bureau, Ministry of Home Affairs, Government of India, March 31, 2022, <https://pib.gov.in/PressReleasePage.aspx?PRID=1811909> (accessed May 18, 2024).

⁴⁵ Press Trust of India, “AFSPA now applicable fully only in 31 districts of 4 Northeast states,” *Business Standard*, April 1, 2022, https://www.business-standard.com/article/politics/afspa-now-applicable-fully-only-in-31-districts-of-4-northeast-states-122040100307_1.html (accessed May 18, 2024).

⁴⁶ Meenakshi Ganguly, “Kashmiri Journalist Detained Under Draconian Indian Law,” Human Rights Dispatch, March 24, 2022, <https://www.hrw.org/news/2022/03/24/kashmiri-journalist-detained-under-draconian-indian-law>

⁴⁷ “India: Investigate Alleged Border Force Killings,” Human Rights Watch news release, February 9, 2021, <https://www.hrw.org/news/2021/02/09/india-investigate-alleged-border-force-killings>

⁴⁸ Human Rights Watch, “Treated Worse than Animals”: Abuses against Women and Girls with Psychosocial or Intellectual Disabilities in Institutions in India (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/12/03/treated-worse-animals/abuses-against-women-and-girls-psychosocial-or-intellectual>; “India: End Lifelong Warehousing of People with Disabilities,” Human Rights Watch news release, January 28, 2024, <https://www.hrw.org/news/2024/01/28/india-end-lifelong-warehousing-people-disabilities>

- Implement police reform as recommended by the Supreme Court, including establishing a complaint mechanism against police abuse.
- Ratify the Convention against Torture and its Optional Protocol and the International Convention for the Protection of All Persons from Enforced Disappearance.
- Repeal the Armed Forces (Special Powers) Act.
- Repeal the Jammu and Kashmir Public Safety Act and the National Security Act.
- Create and implement a national de-institutionalization policy with a time-bound action plan, based on the values of equality, independence, and inclusion for persons with disabilities, and shift progressively to voluntary, community-based mental health and independent living services.
- Establish guidelines and monitoring mechanisms to improve conditions and prohibit arbitrary detention and involuntary treatment in mental hospitals and state and organization-run residential care institutions.

5. Treatment of aliens, including refugees and asylum seekers (arts. 7, 9, 13 and 24(3))

Although India is not a party to the 1951 UN Refugee Convention or its 1967 Protocol, the international legal principle of nonrefoulement is recognized as customary international law binding on all countries. Nonrefoulement prohibits countries from returning anyone to a country where they may face persecution, torture, or other serious harm.

Since October 2018, Indian authorities have threatened to deport Rohingya Muslim refugees to Myanmar despite the risks to their lives and security, and have already repatriated over a dozen.⁴⁹

Indian authorities have also detained hundreds of Rohingya refugees in New Delhi, Jammu, Manipur, and Assam for immigration-related offenses. An estimated 40,000 Rohingya are in India, at least 20,000 of whom are registered with the UN Refugee Agency (UNHCR). Many of the detained Rohingya say they hold identity documents issued by UNHCR and that they feared for their safety in Myanmar.⁵⁰

Rohingya Muslim refugees in India face tightened restrictions, arbitrary detention, violent attacks often incited by political leaders, and a heightened risk of forced returns.⁵¹

India has also failed to adequately protect the rights of other, non-Rohingya refugees from Myanmar fleeing renewed fighting between the Myanmar military and armed groups, which also include member of parliament, civil servants, military and police officials, and civil society and human rights activists.⁵²

Human Rights Watch recommends that the Committee call on the government of India to:

- Provide fair asylum procedures and immediately release detained asylum seekers from Myanmar.
- Uphold international legal obligations by scrupulously respecting the principle of nonrefoulement, by ratifying the 1951 Refugee Convention and its 1967 Protocol, by incorporating the provisions of that convention in domestic law and establishing full and fair

⁴⁹ "India: Halt All Forced Returns to Myanmar," Human Rights Watch news release, March 10, 2021, <https://www.hrw.org/news/2021/03/10/india-halt-all-forced-returns-myanmar>

⁵⁰ "India: Rohingya Deported to Myanmar Face Danger," Human Rights Watch news release, March 31, 2022, <https://www.hrw.org/news/2022/03/31/india-rohingya-deported-myanmar-face-danger>; "India: 7 Rohingya Deported to Myanmar," Human Rights Watch news release, October 4, 2018, <https://www.hrw.org/news/2018/10/05/india-7-rohingya-deported-myanmar>

⁵¹ Ibid.

⁵² Human Rights Watch, "India: Release Detained Myanmar Asylum Seekers," Human Rights Watch news release, July 28, 2021, <https://www.hrw.org/news/2021/07/28/india-release-detained-myanmar-asylum-seekers>

asylum procedures, and, in the meantime, by working with the UN refugee agency to ensure prompt access to international protection mechanisms.

6. Right to privacy (art. 17)

In August 2023, the Indian government adopted a personal data protection law, which fails to protect citizens from privacy violations, and instead grants the government sweeping powers to exempt itself from compliance, enabling unchecked data collection and state surveillance.⁵³ In particular, large amounts of government-held personal data are being made available to the ruling BJP, which potentially allowed the party to develop targeted campaigns during the 2024 general elections.⁵⁴ Indian authorities have also been implicated in using the Israeli-produced spyware Pegasus to target activists, journalists and political opponents.⁵⁵

India has developed an extensive digital public infrastructure through which Indians access social-protection programs. At the heart of this is “Aadhaar,” the world’s largest biometric identity database, which is required to access all government programs.⁵⁶

In recent years, there have been instances of Aadhaar data being made publicly available due to weak information security practices, which can have serious implications for privacy and misuse in the context of elections.⁵⁷ For example, in 2019, the personal data of over 78 million residents in two Indian states was misused to build a mobile app for Telugu Desam Party, a regional political party with influence in the states of Andhra Pradesh and Telangana. This data reportedly included voters’ Aadhaar number, demographic details, party affiliation, and beneficiary details of government schemes, among other information.⁵⁸

Human Rights Watch recommends that the Committee call on the government of India to:

- Create adequate safeguards, including meaningful, non-biometric alternatives, to ensure that an Aadhaar registration and usage requirement does not prevent poor and marginalized people from getting essential services that are constitutionally guaranteed such as food and health care, and also provide sufficient safeguards relating to storing and protecting centrally stored data under Aadhaar.
- Ensure that the data protection law is in line with international standards on safeguarding the right to privacy, including by ensuring that it applies to government actors, and is accompanied by surveillance reform.

⁵³ “India: Data Protection Bill Fosters State Surveillance, Human Rights Watch news release, December 22, 2022, <https://www.hrw.org/news/2022/12/23/india-data-protection-bill-fosters-state-surveillance>

⁵⁴ “India’s General Elections, Technology, and Human Rights Questions and Answers,” Human Rights Watch Q&A, April 8, 2024, <https://www.hrw.org/news/2024/04/08/indias-general-elections-technology-and-human-rights-questions-and-answers>

⁵⁵ “India: Spyware Use Violates Supreme Court Privacy Ruling, Human Rights Watch news release, August 26, 2021, <https://www.hrw.org/news/2021/08/26/india-spyware-use-violates-supreme-court-privacy-ruling>; “India’s Digital Governance ‘Model’ Fails on Rights,” commentary, *Just Security*, September 6, 2023, <https://www.hrw.org/news/2023/09/06/indias-digital-governance-model-fails-rights>; Apar Gupta, “An Act to Cement Digital Authoritarianism,” *The Hindu*, August 17, 2023, <https://www.thehindu.com/opinion/lead/an-act-to-cement-digital-authoritarianism/article67202493.ece> (accessed May 10, 2024).

⁵⁶ “India: Top Court OK’s Biometric ID Program,” Human Rights Watch news release, September 27, 2018, <https://www.hrw.org/news/2018/09/27/india-top-court-oks-biometric-id-program>

⁵⁷ Aman Sethi, “AADHAAR Seeding Fiasco: How To Geo-locate By Caste and Religion In Andhra Pradesh With One Click,” *HuffPost India*, April 25, 2018, https://www.huffpost.com/archive/in/entry/aadhaar-seeding-fiasco-how-to-geo-locate-every-minority-family-in-ap-with-one-click_in_5c1075d9e4b0a9576b5279dc (accessed May 18, 2024).

⁵⁸ U Sudhakar Reddy, “TDP app keeps Aadhaar information on Amazon cloud,” *Times of India*, March 5, 2019, <https://timesofindia.indiatimes.com/city/hyderabad/tdp-app-keeps-aadhaar-information-on-amazon-cloud/articleshow/68263120.cms> (accessed May 18, 2024).

7. Freedom of conscience and religious belief, non-discrimination, and prohibition of advocacy of national, racial and religious hatred (arts. 2, 18, 20 and 26)

The BJP government has adopted laws and policies that discriminate against minority Muslims and Christians. These laws, coupled with communal and divisive speeches by BJP leaders, including many officeholders, have normalized violence and encouraged ultra-nationalist Hindu groups to threaten, harass, and violently attack members of minority religious communities, especially Muslims and Christians. Such bigotry has infiltrated independent institutions like the police, who fail to properly prosecute these crimes, perpetuating further abuses.⁵⁹

Increasingly, India's Hindu festivals are being used by the BJP to rally voters, leading to an increase in violence. These mobs are emboldened by a sense of political patronage that affords them impunity.⁶⁰

The consecration of a controversial Hindu temple in Uttar Pradesh state on January 22, 2024 by Prime Minister Narendra Modi led to sectarian clashes as well as incidents of vandalism, threats, and assault against Muslims and other religious minorities in several parts of the country. The most concerning incidents occurred in Maharashtra state, where a coalition government that includes the BJP took office in June 2022. In the Mira Road suburb of the state capital, Mumbai, arguments between Hindu men participating in a temple procession and Muslim residents soon flared into violence. The police arrested 13 men allegedly responsible for the violence.⁶¹

Muslim witnesses said that in the evening before the temple inauguration, brawls broke out when Hindu mobs chanted slogans while brandishing sticks and swords in front of a mosque. When a militant Hindu mob returned to the same area on January 23, pelting stones and attacking shops, the police did little to control them. After the Mira Road violence, the municipal authorities brought in bulldozers to demolish alleged illegal structures, most of them belonging to Muslims, that had been standing for decades.⁶²

Such violence against minorities and then discriminatory police action, seemingly intended as collective punishment against Muslims have increased. For instance, on July 31, 2023, communal violence began in Nuh district in Haryana and swiftly spread to several adjoining districts. It was triggered after a video by a member of a BJP-affiliated group, accused of murdering two Muslim men, who had been in hiding to evade arrest, said he would join the procession. This led some Muslim men to target the procession, and in the ensuing violence several mosques were targeted and six people were killed, including a Muslim priest and two members of the security forces. Following the violence, as part of a growing pattern, the authorities retaliated against Muslim residents by illegally demolishing hundreds of Muslim properties and detaining scores of Muslim boys and men. The demolitions led the Punjab and Haryana High Court to ask the state whether it was conducting "ethnic cleansing."⁶³

⁵⁹ "India: Government Policies, Actions Target Minorities," Human Rights Watch news release, February 19, 2021, <https://www.hrw.org/news/2021/02/19/india-government-policies-actions-target-minorities>

⁶⁰ Meenakshi Ganguly, "India's Hindu Festivals Bring Increasing Anti-Muslim Violence," commentary, Human Rights Dispatch, <https://www.hrw.org/news/2023/04/05/indias-hindu-festivals-bring-increasing-anti-muslim-violence>

⁶¹ "India: Violence Marks Ram Temple Inauguration," Human Rights Watch news release, January 31, 2024, <https://www.hrw.org/news/2024/01/31/india-violence-marks-ram-temple-inauguration>

⁶² Tabassum Barnagarwala, "'They saw a Muslim name and attacked': How Hindutva mobs ran amok in Mira Road," *Scroll.in*, January 27, 2024, <https://scroll.in/article/1062772/they-saw-a-muslim-name-and-attacked-how-hindutva-mobs-ran-amok-on-mira-road> (accessed May 16, 2024).

⁶³ "Discriminatory Policies Trigger Religious Violence in India," commentary, Human Rights Dispatch, August 3, 2023, <https://www.hrw.org/news/2023/08/03/discriminatory-policies-trigger-religious-violence-india>; Zafar Aafaq, "Collective punishment?"

In April 2022, communal clashes broke out when processions of Hindu men celebrating a religious festival shouted offensive slogans outside mosques. Instead of attempting to stop such incitement or investigate these incidents, BJP authorities in Madhya Pradesh and Gujarat responded by summarily demolishing Muslim properties. In October, during another Hindu festival, police in Madhya Pradesh responded to communal clashes by demolishing the homes of three Muslim men accused of throwing stones. Police in Gujarat publicly flogged Muslim men.⁶⁴

Violence like this is often provoked during Hindu religious processions led by BJP-affiliated groups in which some brandish swords and weapons and chant anti-Muslim slogans. Police action is blatantly biased, with government supporters protected from prosecution, risking a breakdown in the rule of law in the country.

In June 2022, three United Nations special rapporteurs wrote to the Indian government raising serious concerns over the arbitrary home demolitions against Muslim communities and other low-income groups for alleged participation in inter-communal violence. They said that “authorities reportedly failed to investigate these incidents, including incitement to violence and acts of intimidation that contributed to the outbreak of the violence.”⁶⁵

The Citizenship (Amendment) Act passed in December 2019 discriminates against Muslims, making religion the basis for citizenship. The Citizenship Amendment Act, coupled with the Indian government’s push for a nationwide citizenship verification process through a National Population Register and a proposed National Register of Citizens, aimed at identifying “illegal migrants,” has heightened fears that millions of Indian Muslims could be stripped of their citizenship rights and disenfranchised. In Assam, India’s first state that completed the National Register of Citizens, the process has left nearly two million people at risk of arbitrary detention and statelessness. Human Rights Watch found that the process in Assam lacked standardization, leading to arbitrary and discriminatory decisions by officials, and put undue hardship on poorer residents and women who do not have access to identity documentation — dating back for decades — to establish citizenship claims.⁶⁶

Throughout the country, Indians of all faiths protested peacefully against the law, singing songs, reciting poetry, and reading aloud from the constitution, which commits to secularism and equality. However, in many cases, BJP-affiliated groups attacked protesters and the police did not intervene. In BJP-governed states in December 2019, police used excessive and unnecessary lethal force, killing at least 30 people during protests and injuring scores more. In Delhi in February 2020, some policemen actively participated in the mob attacks on Muslims.⁶⁷

Demolitions in Haryana’s Nuh spanned at least 50 km,” *Scroll.in*, <https://scroll.in/article/1054263/collective-punishment-demolitions-in-haryanas-nuh-spanned-at-least-50-km> (accessed May 19, 2024).

⁶⁴ “India: Surge in Summary Punishments of Muslims,” Human Rights Watch news release, October 7, 2022, <https://www.hrw.org/news/2022/10/07/india-surge-summary-punishments-muslims>

⁶⁵ “Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief,” UN Human Rights Office of the High Commissioner news release, June 9, 2022, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=27324> (accessed May 14, 2024).

⁶⁶ “India Activates Discriminatory Citizenship Law,” Human Rights Dispatch, March 15, 2024, <https://www.hrw.org/news/2024/03/15/india-activates-discriminatory-citizenship-law>

⁶⁷ Human Rights Watch, “*Shoot the Traitors*”: Discrimination Against Muslims under India’s New Citizenship Policy, April 2020, <https://www.hrw.org/report/2020/04/09/shoot-traitors/discrimination-against-muslims-under-indias-new-citizenship-policy>

The Office of the United Nations High Commissioner for Human Rights called the law “fundamentally discriminatory.” In February 2020, UN Secretary-General Antonio Guterres said he was concerned about the future of religious minorities in India after the enactment of the citizenship amendment law, saying “there is a risk of statelessness.”⁶⁸

Over 230 petitions have been filed in the Supreme Court contesting the constitutionality of the amended citizenship law. In March 2020, the UN High Commissioner for Human Rights filed an intervention application as *amicus curiae* (third party) in the Supreme Court, urging it to take into account international human rights law, norms, and standards in the proceedings related to the Citizenship Amendment Act. The Indian government criticized the application saying the citizenship law was an “internal matter” and “no foreign party has any locus standi [grounds to sue] on issues pertaining to India’s sovereignty.”⁶⁹

Following the Covid-19 outbreak, Indian authorities said the citizenship verification plans had been indefinitely postponed. However, nearly five years later, authorities framed the rules to implement the law in March 2024. According to these rules, documents have to be uploaded online along with an eligibility certificate from a locally empowered institution, including a temple priest, attesting that person follows one of the six faiths permitted under the law.⁷⁰

At least 10 states in India forbid forced religious conversion, but in fact misuse the laws to target Christians, particularly from Dalit or Adivasi communities. They are also used to harass and arrest Muslim men in relationships with Hindu women. BJP leaders and affiliated groups have long portrayed minority communities, especially Muslims, as a threat to national security and to the Hindu way of life. They have raised the bogey of “love jihad,” claiming that Muslim men lure Hindu women into marriages to convert them to Islam, labeled Muslims illegal immigrants or even extremists.⁷¹

States in India use laws against cow slaughter to prosecute Muslim cattle traders even as BJP-affiliated groups attack Muslims and Dalits on rumors that they killed or traded cows for beef. Since May 2015, at least 50 people have been killed, mostly Muslims, and hundreds injured in attacks by these so-called cow protection groups that claim affiliation to the BJP. Police have often stalled prosecutions of the attackers, while several BJP politicians have publicly justified the attacks.⁷²

Since May 2023, India’s northeast Manipur state has been wracked by ethnic violence between the majority Meitei community (mostly Hindu) and the Kuki tribal groups (mostly Christian). More than 200 people have been killed, over 60,000 displaced, hundreds of homes and churches destroyed. The authorities also shut down internet access in the state, restoring only fixed-line access after 84 days, and

⁶⁸ Special Correspondent, “Citizenship Amendment Act may leave Muslims stateless, says U.N. Secretary-General António Guterres,” *The Hindu*, February 19, 2020, <https://www.thehindu.com/news/national/citizenship-amendment-act-may-leave-muslims-stateless-says-un-secretary-general-antonio-guterres/article30863390.ece> (accessed May 20, 2024).

⁶⁹ Ananthakrishnan G, “No stay on CAA Rules, Supreme Court tells Govt to respond to pleas,” *Indian Express*, <https://indianexpress.com/article/india/supreme-court-cao-citizenship-act-rules-9222005/> (accessed May 20, 2024).

⁷⁰ Vijaita Singh, “Who will benefit from the new CAA Rules?” *The Hindu*, March 17, 2024, <https://www.thehindu.com/news/national/who-will-benefit-from-the-new-cao-rules-explained/article67957924.ece> (accessed May 20, 2024).

⁷¹ Hannah Ellis-Peterson, India’s Christians living in fear as claims of ‘forced conversions’ swirl,” *Guardian*, October 4, 2021, <https://www.theguardian.com/world/2021/oct/04/india-christians-living-in-fear-claims-forced-conversions> (accessed May 19, 2024); Geeta Pandey, “‘Love jihad’: What a reported miscarriage says about India’s anti-conversion law,” *BBC*, December 17, 2020, <https://www.bbc.co.uk/news/world-asia-india-55314832> (accessed May 19, 2024).

⁷² Human Rights Watch, *Violent Cow Protection in India: Vigilante Groups Attack Minorities*, (New York: Human Rights Watch), February 2019, <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities>

mobile internet, used by the majority population, was finally restored in December after seven months. Prime Minister Modi responded to the violence after nearly three months, only after a video emerged on July 20 showing a Meitei mob stripping and parading two Kuki women on May 4.⁷³

Civil society activists alleged that BJP's Chief Minister N. Biren Singh has fueled divisiveness in Manipur with political patronage to violent groups in the Hindu-majority Meitei community. Singh accused the Kuki tribal group of being involved in drug trafficking and providing sanctuary to refugees from Myanmar. Kuki community members have accused the police of siding with the Meitei community, alleging they did not protect them, and at times, even joined the mobs. The Manipur police have denied any bias. The Supreme Court said that the state police had "lost control over the situation," and ordered special investigation teams to investigate the violence in Manipur, including incidents of sexual violence.⁷⁴

In September 2023, over a dozen United Nations experts raised concerns about the ongoing violence and abuses in Manipur, saying the government's response had been slow and inadequate.⁷⁵

Human Rights Watch recommends that the Committee call on the government of India to:

- Repeal or amend the Citizenship Amendment Act, anti-conversion laws, and laws banning cow slaughter, to comply with India's international human rights obligations.
- Fully prosecute those responsible for inciting discrimination, hostility or violence and for attacking religious minorities, including government supporters and party leaders.
- Implement Supreme Court directives on preventing communal violence and ensuring that individuals responsible for mob attacks are held accountable.
- Ensure prompt and impartial investigation and prosecution of the perpetrators and instigators of communal attacks and investigate alleged police inaction in responding to vigilante violence, including by so-called cow protection groups.
- Discard any plan for a nationwide citizenship verification project until there are public consultations to establish standardized procedures and due process protections ensuring the process is not discriminatory and does not impose undue hardship on poor, minority communities, and women.

8. Freedom of Expression, Peaceful Assembly, Association (Articles 19, 21, and 22)

Indian authorities have harassed and at times prosecuted activists, lawyers, human rights defenders, and journalists for their criticism of government actions and policies. Laws prohibiting sedition, hate speech and terrorism are frequently used to chill peaceful expression.⁷⁶ Foreign funding regulations are used to target nongovernmental organizations critical of the government.

⁷³ Meenakshi Ganguly, "Indian Government Finally Responds to Violence in Manipur," commentary, Human Rights Dispatch, July 21, 2023, <https://www.hrw.org/news/2023/07/21/indian-government-finally-responds-violence-manipur>; Meenakshi Ganguly, "Ethnic Violence Spirals in India's Northeastern Manipur State," commentary, Human Rights Dispatch, June 30, 2023, <https://www.hrw.org/news/2023/06/30/ethnic-violence-spirals-indias-northeastern-manipur-state>; "India: Investigate Police Bias Alleged in Manipur Violence," Human Rights Watch news release, May 30, 2023, <https://www.hrw.org/news/2023/05/30/india-investigate-police-bias-alleged-manipur-violence>

⁷⁴ Meenakshi Ganguly, "Indian Government Finally Responds to Violence in Manipur," commentary, Human Rights Dispatch, July 21, 2023, <https://www.hrw.org/news/2023/07/21/indian-government-finally-responds-violence-manipur>

⁷⁵ "India: UN experts alarmed by continuing abuses in Manipur," UN press release, September 4, 2023, <https://www.ohchr.org/en/press-releases/2023/09/india-un-experts-alarmed-continuing-abuses-manipur> (accessed May 17, 2024).

⁷⁶ Sedition law, Indian Penal Code

(IPC), sec. 124 A; Criminal defamation law, IPC, sec. 499, Human Rights Watch, *Stifling Dissent: The Criminalization of Peaceful Expression in India*, (Human Rights Watch: New York, 2016), <https://www.hrw.org/report/2016/05/24/stifling-dissent/criminalization-peaceful-expression-india>

Journalists face increasing pressure to self-censor due to threats of legal action, smear campaigns and threats on social media, and even threats of physical attacks.

Indian authorities are increasingly using draconian laws such as sedition to crack down on dissent. Sedition has been used against cartoonists, students, activists, and journalists among others for protected speech and activities ranging from peaceful protests to cheering for a rival team during a cricket match or refusing to stand in a movie theater during the national anthem. The police have failed to abide by Supreme Court rulings that incitement to violence is a necessary element for the sedition law to be applied.

Between 2018 to 2022, at least 701 cases of sedition were filed. Sedition cases increased by 28 percent under the Modi government.⁷⁷ Since 2014, Indian authorities have filed more than 500 sedition cases involving more than 7,000 people. At least 149 people have faced sedition charges simply for making remarks about Modi that were considered critical or derogatory.⁷⁸

While the courts ultimately dismiss most sedition cases, the process itself becomes the punishment. In one example, three Kashmiri Muslim students spent nearly six months in jail for allegedly celebrating Pakistan's win over India in a cricket match in October 2021.⁷⁹

Rampant misuse of sedition led the Supreme Court in May 2022 to effectively halt all use of the law in an interim ruling.

Successive Indian governments have also failed to prevent private actors from abusing laws criminalizing expression to harass individuals expressing minority views, or to protect such speakers against violent attacks by extremist groups. Too often, officials have given in to interest groups who, for politically motivated reasons, say they are offended by a certain book, film, or work of art. The authorities then justify restrictions on expression as necessary to protect public order, citing risks of violent protests and communal violence.⁸⁰

Since 2018, India has shut down the internet more often than any other country in the world. According to one estimate, India was responsible for the most shutdowns in 2023, for the sixth consecutive year, with 116 shutdowns out of 283 globally.⁸¹ The authorities contend the shutdowns are needed to prevent violence fueled by rumors circulated on social media or mobile messaging applications.⁸² These shutdowns not only restrict fundamental freedoms but in the age of "Digital India," also

⁷⁷ Press Trust of India, "701 sedition, 5023 UAPA cases registered in 2018-22: Govt", *The Hindu*, February 6, 2024, <https://www.thehindu.com/news/national/701-sedition-5023-uapa-cases-registered-in-2018-22-govt/article67817517.ece> (accessed May 18, 2024).

⁷⁸ Kunal Purohit, "Our New Database Reveals Rise In Sedition Cases In The Modi Era," *Article 14*, February 2, 2021, <https://www.article-14.com/post/our-new-database-reveals-rise-in-sedition-cases-in-the-modi-era>; Linda Lakhdhir and Jayshree Bajoria, "Sedition law: Why India should break from Britain's abusive legacy," *Scroll.in*, July 18, 2022, <https://www.hrw.org/news/2022/07/18/sedition-law-why-india-should-break-britains-abusive-legacy> (accessed May 16, 2024).

⁷⁹ Human Rights Watch, *Stifling Dissent: The Criminalization of Peaceful Expression in India*, (Human Rights Watch: New York, 2016), <https://www.hrw.org/report/2016/05/24/stifling-dissent/criminalization-peaceful-expression-india>

⁸⁰ Ibid.

⁸¹ "Shrinking Democracy, Growing Violence: Internet Shutdowns in 2023," Access Now, May 2024, <https://www.accessnow.org/wp-content/uploads/2024/05/2023-KIO-Report.pdf> (accessed May 28 2024).

⁸² Human Rights Watch, "No Internet Means No Work, No Pay, No Food" *Internet Shutdowns Deny Access to Basic Rights in "Digital India"* (New York: Human Rights Watch, 2023), <https://www.hrw.org/report/2023/06/14/no-internet-means-no-work-no-pay-no-food/internet-shutdowns-deny-access-basic>; "India's General Elections, Technology, and Human Rights Questions and Answers," Human Rights Watch Q&A, April 8, 2024, <https://www.hrw.org/news/2024/04/08/indias-general-elections-technology-and-human-rights-questions-and-answers>;

disproportionately hurt communities living with poverty that depend on the government's social protection measures by denying them access to food and livelihoods.⁸³

Increasingly, the government has also issued orders to social media platforms to block online content critical of them. The government's legal authority for blocking the internet and other online content comes mainly from the Information Technology Act and related rules. Journalists and online critics are increasingly at risk of prosecution under this law and the IT Rules of 2021 for content critical of the authorities.⁸⁴

In February 2024, the Global Government Affairs team at X (formerly Twitter) stated that the Indian government issued "executive orders" requiring them to take down specific accounts. Most of these accounts, including some barred on Facebook, belong to journalists reporting on the protests, farmers union leaders, and others supporting the farmers' actions.⁸⁵

The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, ostensibly aimed at curbing misuse of social media, including to spread "fake news," in fact enhance government control over online platforms. In April 2023, the government amended the 2021 IT rules, authorizing the authorities to set up a "fact checking" unit with arbitrary, overbroad, and unchecked censorship powers to order online intermediaries to take down content deemed false or misleading about "any business" of the government. The Ministry of Electronics and Information Technology established the fact-checking unit on March 20, 2024. However, the Supreme Court put the fact-checking unit on hold until the Bombay High Court decides its constitutionality.⁸⁶

India is obligated under international human rights law to ensure that internet-based restrictions are provided by law and are a necessary and proportionate response to a legitimate aim.⁸⁷

Indian authorities have also used excessive force to disperse peaceful protests against government policies such as against the Citizenship Amendment Act and those by farmers in 2020 and 2024.⁸⁸

Indian authorities have increasingly used the Foreign Contribution Regulation Act (FCRA), used to regulate foreign funding for nongovernmental organizations, to target human rights groups and organizations critical of the government.⁸⁹

⁸³ Human Rights Watch, *"No Internet Means No Work, No Pay, No Food."*

⁸⁴ "India's General Elections, Technology, and Human Rights Questions and Answers," Human Rights Watch Q&A, April 8, 2024, <https://www.hrw.org/news/2024/04/08/indias-general-elections-technology-and-human-rights-questions-and-answers>

⁸⁵ "India: Protect Farmers' Right to Peaceful Protest," Human Rights Watch news release, February 29, 2024, <https://www.hrw.org/news/2024/02/29/india-protect-farmers-right-peaceful-protest>; "India: Laws Misused to Crack Down on Peaceful Dissent," Human Rights Watch news release, February 8, 2024, <https://www.hrw.org/news/2024/02/08/india-laws-misused-crack-down-peaceful-dissent>

⁸⁶ "India: Protect Farmers' Right to Peaceful Protest," Human Rights Watch news release, February 29, 2024, <https://www.hrw.org/news/2024/02/29/india-protect-farmers-right-peaceful-protest>; "India: Laws Misused to Crack Down on Peaceful Dissent," Human Rights Watch news release, February 8, 2024, <https://www.hrw.org/news/2024/02/08/india-laws-misused-crack-down-peaceful-dissent>

⁸⁷ UN Human Rights Committee on International Covenant on Civil and Political Rights, General Comment No. 34, Article 19: Freedoms of opinion and expression, U.N. Doc. CCPR/C/GC/34 (2011), para. 43 <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> (accessed May 28, 2024).

⁸⁸ "India: Protect Farmers' Right to Peaceful Protest," Human Rights Watch news release, February 29, 2024, <https://www.hrw.org/news/2024/02/29/india-protect-farmers-right-peaceful-protest>

⁸⁹ "India Should Stop Using Abusive Foreign Funding Law," Human Rights Watch news release, January 18, 2022, <https://www.hrw.org/news/2022/01/18/india-should-stop-using-abusive-foreign-funding-law>

Since 2016, the authorities have routinely revoked or suspended FCRA licenses, and have accused nonprofit organizations of evading the law, freezing their bank accounts. As of May 2024, the Home Ministry has canceled 20,702 FCRA licenses, according to official data. Among those denied funding are numerous groups that have long promoted human rights and democracy.⁹⁰ These include the Indian Social Action Forum, Lawyers Collective, Sabrang Trust, Navsarjan Trust, Anhad, Oxfam India, Greenpeace, and Amnesty International India.

Groups working on rights of India's most vulnerable populations such as Dalits, religious minorities, and Adivasis are particularly vulnerable.⁹¹

Over the years, a number of United Nations bodies have expressed concerns over the use of the Foreign Contribution Regulation Act to silence dissenting voices. In 2016, three UN human rights experts urged the government to repeal the law, stating that it was being used to "obstruct" access to foreign funding and that it "fails to comply with international human rights standards."⁹² In October 2020, the High Commissioner for Human Rights Michelle Bachelet said in a statement that the overbroad and vaguely formulated FCRA provisions are "open to abuse" and that the Act is "indeed actually being used to deter or punish NGOs for human rights reporting and advocacy that the authorities perceive as critical in nature."⁹³

Yet, in 2020, the Indian parliament passed amendments to the law, adding intrusive governmental oversight, additional regulations and certification processes, and operational requirements, which have further adversely affected civil society groups' access to foreign funding and their ability to carry out human rights work.⁹⁴

In February 2024, the Tamil Nadu Social Service Society, a Christian charity, lost its FCRA license for alleged violations that remain unclear. In January, the think tank, Centre for Policy Research (CPR) lost its license after the authorities claimed that the research institution diverted foreign donations to allegedly fund "protests and legal battles against developmental projects" to "affect India's economic interests." In a statement, CPR denied the allegations and called the move "incomprehensible and disproportionate."⁹⁵

The authorities also canceled the license of World Vision India, a Christian charity that has functioned in the country for over 60 years, primarily focusing on humanitarian support to children in poor

⁹⁰ Dashboard, Ministry of Home Affairs, Government of India, May 20, 2024, https://fcraonline.nic.in/fc_dashboard.aspx (accessed May 20, 2024)

⁹¹ "India: Arrests, Raids Target Critics of Government," Human Rights Watch news release, October 13, 2023,

<https://www.hrw.org/news/2023/10/13/india-arrests-raids-target-critics-government>;

"India: Increased Abuses Against Minorities, Critics," Human Rights Watch news release, January 11, 2024,

<https://www.hrw.org/news/2024/01/11/india-increased-abuses-against-minorities-critics>;

"India: Laws Misused to Crack Down on Peaceful Dissent," Human Rights Watch news release, February 8, 2024,

<https://www.hrw.org/news/2024/02/08/india-laws-misused-crack-down-peaceful-dissent>

⁹² "UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding," UN Human Rights Council Office of the High Commissioner news release, June 16, 2016, <https://www.ohchr.org/en/press-releases/2016/06/un-rights-experts-urge-india-repeal-law-restricting-ngos-access-crucial?LangID=E&NewsID=20112> (accessed May 20, 2024).

⁹³ "Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India," Office of the High Commissioner for Human Rights news release, October 20, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26398&LangID=E> (accessed May 20, 2024)

⁹⁴ "India: FCRA Amendment 2020 will undermine the work of Civil Society", International Commission of Jurists, 2020, <https://www.icj.org/wp-content/uploads/2020/09/India-FCRA-Amendment-Statement-20202-ENG.pdf> (accessed May 20, 2024)

⁹⁵ "India: Laws Misused to Crack Down on Peaceful Dissent," Human Rights Watch news release, February 8, 2024, <https://www.hrw.org/news/2024/02/08/india-laws-misused-crack-down-peaceful-dissent>

communities. In a statement, World Vision said it was “profoundly disappointed,” and that the decision will only cause harm to “many vulnerable people across the country in the coming years.”⁹⁶

The suspension of FCRA licenses has often been followed by raids by tax authorities. On February 2, 2024, India’s national investigation agency, the Central Bureau of Investigation (CBI), raided the home and offices of Harsh Mander, a prominent human rights activist, and filed a police investigation. The authorities raided his home after a Home Ministry official filed a complaint alleging financial irregularities under FCRA by the Centre of Equity Studies, a research organization that Mander heads. The complaint also links other nonprofit organizations to the alleged misconduct, including Aman Biradari Trust, Oxfam India, and Action Aid Association. In June 2023, Indian authorities had temporarily suspended the FCRA license of the Centre for Equity Studies because Mander had allegedly violated the law by becoming a frequent columnist for various national newspapers and independent publications.⁹⁷

Human Rights Watch recommends that the Committee call on the government of India to:

- Stop harassment of human rights defenders and amend the Foreign Contribution (Regulation) Act so that it does not interfere with basic freedoms of association and assembly and cannot be misused to prevent the protected activities of civil society organizations.
- Repeal sedition, criminal defamation and other criminal laws frequently misused to silence peaceful dissent.
- Drop all pending charges and investigations against those who are facing prosecution for the exercise of their rights to freedom of expression, association, and assembly.
- End broad, indiscriminate, and indefinite internet shutdowns and improve transparency around shutdown orders.
- Ensure any restriction on internet-based communications is lawful, necessary, proportionate, and limited in scope, and in compliance with international law.

⁹⁶ “India: Laws Misused to Crack Down on Peaceful Dissent,” Human Rights Watch news release, February 8, 2024, <https://www.hrw.org/news/2024/02/08/india-laws-misused-crack-down-peaceful-dissent>

⁹⁷ “India: Laws Misused to Crack Down on Peaceful Dissent,” Human Rights Watch news release, February 8, 2024, <https://www.hrw.org/news/2024/02/08/india-laws-misused-crack-down-peaceful-dissent>; The Wire Staff, “FCRA License of Harsh Mander’s Think Tank CES Suspended Because He Is a News Columnist,” *The Wire*, June 20, 2023, <https://thewire.in/rights/fcra-harsh-mander-think-tank-ces-suspended-columnist> (accessed May 20, 2024).