**Amnesty International**

**Position paper on India’s Human Rights and civic space**

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**Introduction**

Since 2014, India’s religious minorities have been facing systematic persecution by the government. Driven by the Hindutva ideology that seeks to create Hindu supremacy at the expense of India’s secular fabric, the Bharatiya Janata Party (BJP), India’s ruling political party has been chipping away at the rights to freedom of expression and opinion, association and peaceful assembly, religious belief, and privacy of religious minorities through laws and policies which are passed without any public consultation. Explicit advocacy for violence and hatred by political leaders and public officials towards religious minorities has become commonplace and goes unpunished. This has led a large group of right-wing Hindu nationalists to believe that they can violate the fundamental rights of religious minorities with impunity. Simultaneously, the Government of India is selectively and viciously cracking down on human rights defenders, especially those belonging to religious minorities who raise their voices against injustice. Peaceful protesters are presented and treated as a threat for public disorder which has led to the state using excessive force, arbitrary and prolonged detention against the protesters along with punitive demolitions of their properties.

On 10 November, 2022, India underwent its fourth universal periodic review at the Human Rights Council. At the review, the issues of freedom of expression and religion were raised by multiple states. However, India has not progressed well on the recommendations of its last review in 2017. It is imperative that the international community must hold the Indian government accountable for its treatment of religious minorities and human rights defenders - not least because it reflects so poorly that a member of the Human Rights Council is acting with such impunity.

**Freedom of Expression and Association**

Indian authorities routinely place unlawful and politically motivated restrictions on the rights to freedom of expression and peaceful association.

Overbroad financial laws such as Foreign Contribution (Regulation) Act (FCRA), Prevention of Money Laundering Act, Income Tax Act and Foreign Exchange Management Act are misused to censor dissenting documentation of human rights abuses by independent media outlets, journalists, human rights activists, and civil society. Since 2017, the FCRA licenses of 6,683 NGOs have been cancelled. The licenses of many organisations and premier academic institutions have not been renewed, including OXFAM India. The Income Tax Department of India routinely conducts coordinated raids which are presented as ‘surveys’ at the offices of multiple non-government organisations. In 2019, the Indian government forced Amnesty International India to halt its operations after freezing its bank accounts without notice.

In a similar vein, the authorities relentlessly harass and intimidate human rights defenders including activists, journalists, students, academics amongst others using draconian and repressive laws such as India’s anti-terror law – the Unlawful Activities (Prevention) Act (UAPA). UAPA is characterised by stringent bail provisions and slow investigative processes making it an effective tool in the hands of Indian government to limit dissent.

Thirteen human rights activists continue to be detained in Maharashtra under UAPA without trial. They were arrested between 2018 and 2020 by the National Investigation Agency (NIA), India’s main counter-terror agency, for their alleged involvement in violence during the Bhima Koregaon celebrations near the city of Pune in 2018. While two have been released on bail, one died in judicial custody and the other has been transferred to house arrest due to medical exigencies. At least eight Muslims students, legislators, human rights activists continue to be detained without trial under UAPA for allegedly orchestrating the religious violence in Delhi in February 2020 that killed at least 53 people, mostly Muslims. Renowned human rights defender Teesta Setalvad and former police officials Sanjeev Bhat and RB Sreekumar were arrested and detained by Indian authorities for allegedly committing forgery and fabricating evidence amongst other charges in reprisal of their work with the victims of 2002 Gujarat riots.

**Freedom of Religion and Belief**

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. Despite calls to record hate crimes at a national level, the annual crime statistics published by Indian government does not include them.

Instead of prosecuting the perpetrators of hate crimes, criminal laws are disproportionately used against religious minorities, in particular Muslims. The police routinely arrest Muslims for reportedly promoting enmity between groups and outraging religious feelings for innocuous acts such as offering namaz (prayers), conducting business, consensually marrying Hindu women and eating beef.

So far in 2022, scores of Muslims have been either charged with criminal cases or administrative penalties for offering namaz in public spaces including malls, a university lawn, hospital, railway station, at the Taj Mahal and even their private homes.

In the states of Haryana, Uttar Pradesh, Madhya Pradesh, Kerala and Gujarat, public calls have been made by Hindu right-wing groups for the economic boycott of Muslims following communal violence between Hindus and Muslims. Explicit calls of violence against Muslims including rape and murder of Muslim women have also been made with impunity by Hindu priests in Uttar Pradesh and Delhi.

Despite the Indian Constitution guaranteeing freedom of religion and belief as a fundamental right, several state governments including Karnataka, Madhya Pradesh, Uttar Pradesh, Gujarat, Uttarakhand, Chhattisgarh, Jharkhand and Himachal Pradesh have passed ‘anti-conversion’ laws that give discretionary powers to Indian authorities to arrest religious minorities on the suspicion of forced religious conversions. These laws are routinely misused to crackdown on consensual inter-religious marriages and practice of Christianity and Islam. Specifically, in Karnataka and Uttar Pradesh, where such laws were passed without public or legislative consultation and scrutiny, Christian and Muslim men have faced attacks and violence in the guise of these laws.

**Collective Punishment**

The Indian authorities impose collective punishment measures against those who dare to speak truth to power.

During the months of April, May and June 2022, the houses, and shops of at least 80 Muslim families in Uttar Pradesh, Assam, Madhya Pradesh, Delhi and Gujarat were demolished without following due process by the state governments in alliance with the local police and municipal corporations. In all states, the demolition took place right after violent protests broke out either calling for accountability from the state governments on various issues. Media reports suggest that the houses and shops of many Muslims who were not even present at the protests were also demolished. This has created a fear of reprisal from the government amongst the community to voice their dissent against the incessant discrimination faced by them.

**Unlawful surveillance**

In July 2021, the Pegasus Project, an international investigative journalism initiative, exposed the unlawful and arbitrary surveillance of Indian citizens through the government’s alleged use of Pegasus spyware. 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 (BJP) 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.

On 25 August, the Supreme Court of India refused to make the report of the Technical Committee constituted to investigate the allegations of surveillance of mobile devices of journalists, politicians, scientists, and human rights activists using Pegasus spyware public.

**Internet Shutdowns**

India witnessed 38 government-mandated internet shutdowns during the year. Residents of Jammu and Kashmir suffered the longest internet shutdown on record from 4 August 2019 to 5 February 2021. The region continued to suffer repeated internet shutdowns over concerns for national security and public order. The shutdowns caused economic loss and adversely impacted education and other service provision. They also put human rights defenders at heightened risk of surveillance by government agencies.

**Jammu & Kashmir**

Amnesty International has recorded at least 60 instances of crackdown on journalists and human rights defenders in Jammu and Kashmir since August 2019. Several Kashmiri journalists including Fahad Shah, Aasif Sultan and Sajad Gul were arrested under one law, granted bail by the court, and then re-arrested almost immediately under UAPA, keeping them perpetually detained. In a continuing crackdown on free speech and freedom of movement, journalists Aakash Hassan and Sana Irshad Mattoo were prevented from travelling abroad without any court order, warrant or even a written explanation. Human rights defender Khurram Parvez remained detained under UAPA without trial.

According to the official data, Jammu & Kashmir accounted for the highest number of deaths involving the police in India between April 2020 and March 2022. Media reports suggest that at least 19 civilians were killed in 2022, of which seven belonged to the Hindu minority community including a schoolteacher, shopkeeper, several government employees and a casual daily worker.

**Travel Bans**

Amnesty International also found that in the last three years, at least six individuals including journalists, human rights activists and academics were stopped from travelling abroad (despite having requisite travel documents) in violation of their right to freedom of movement through arbitrary executive actions not backed by any court order or warrant or even a written explanation

In the last year, the Indian authorities routinely used travel bans as a principal tactic to silence independent voices in the country such as Aakar Patel, Rana Aayub and at least two Kashmiri journalists and academics.