

House Foreign Affairs Committee  
Tom Lantos Human Rights Commission

Hearing  
on  
**India: Recent Human Rights Reporting**

March 21, 2024 10:00am  
H – 313, The Capitol

Statement of Carolyn Nash  
Asia Advocacy Director  
Amnesty International USA

On behalf of Amnesty International and our more than 10 million members, activists, and supporters around the world, we submit the following statement for the record expressing our concerns regarding the deteriorating human rights situation of India.

Since 2014, the Bharatiya Janata Party (BJP) – led Indian government has adopted laws and policies without adequate public or legislative consultation that systematically discriminate against religious minorities, in particular Muslims, and human rights defenders. These laws, coupled with communal and divisive speeches that incite violence and discrimination by leaders of the BJP and ideologically affiliated Hindu supremacist groups, have normalized violence and encouraged threats, harassment, and attacks on minority religious communities. Such discriminatory practices have included a failure by the police to impartially and effectively investigate these crimes. Instead, government officials have summarily punished those peacefully protesting such abuses, along with their families and the larger Muslim community as a form of collective punishment, including by violating their rights to education, employment, housing, and violations of their freedom of expression, religion, association and non-discrimination.

Simultaneously, autonomous institutions created to protect human rights, including the National Human Rights Commission (NHRC), have become ineffective due to political appointments. In March 2023, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions decided to defer the review of the NHRC for 12 months (or two sessions).<sup>1</sup> The failure of the Indian judiciary to adequately address human rights violations, characterized by its servility to the ruling government, has further jeopardized the rule of law and weakened India's democratic structure.

The creation of a hate ecosystem has cemented collective behaviors and the appeal of authoritarianism and demonization of religious and political minorities in India.

In this regard, in March 2024, the United Nations High Commissioner for Human Rights, Volker Türk, raised concerns about the increasing restriction on the civic space and discrimination against minorities in India ahead of the country's General Elections.<sup>2</sup> These concerns were further underlined by various UN

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<sup>1</sup> Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), Global Alliance of National Human Rights Institutions, February and March 2023, <https://ganhri.org/wp-content/uploads/2023/04/SCA-Report-First-Session-2023-EN.pdf> (accessed May 31, 2023). Also see, Amnesty International, "Joint NGO Letter: Review of the accreditation status of the National Human Rights Commission of India", 9 March 2023, <https://www.amnesty.org/en/wp-content/uploads/2023/03/ASA2065352023ENGLISH.pdf>

<sup>2</sup> United Nations Office of the High Commissioner of Human Rights, Türk's global update to the Human Rights Council, available at <https://www.ohchr.org/en/statements-and-speeches/2024/03/turks-global-update-human-rights-council>, 4 March 2024

human rights experts sounding the alarm over “attacks on minorities, media and civil society” in the country.<sup>3</sup> India has also constantly been downgraded on various development and human rights indices over the past few years.<sup>4</sup> Despite a pledge by the Indian government to cooperate fully with UN Special Procedures, including by allowing access to India, no such visits have been facilitated since 2017 by any mandate holder. The Indian government is yet to respond to 71 outstanding and reminder visit requests – some requested over 24 years ago – such as from the Special Rapporteur on torture.<sup>5</sup>

My co-panelists and I can provide documentation of the government’s intensifying efforts to weaponize and codify into law intolerance and hate.

As you will hear from others on the panel, of particular concern are the expansion of the government’s abuse of vague and overbroad laws to shut down dissent, the increases in leaders’ use of hate speech and vilification of religious minorities; and the recent roll-out of the Citizenship Amendment Act and its discriminatory citizenship process, which could set the stage for millions to be deprived of citizenship.

It is up to U.S. lawmakers to respond to these efforts – but the situation is worsening quickly; and it would be a mistake to imagine that the U.S., and other concerned governments, are geopolitically constrained from taking action.

As India prepares for elections, we urge the U.S. government, both members of Congress and administration officials to communicate to the government of India that the U.S. will condemn hateful rhetoric, legal harassment of civil society, and targeting of religious and ethnic groups.

The BJP party is eager to demonstrate to their base that they are delivering on supremacist promises. We know the lead up to the election will be a particularly dangerous time.

We also know Prime Minister Modi will be particularly sensitive to messages from other governments, and especially from senior leaders. We urge the U.S. to send those messages in several ways:

- By Congress exercising its oversight role to scrutinize the human rights concerns related to major arms deals with India;
- By the U.S. raising concerns in multilateral bodies: for example, ensuring that the upcoming evaluation report of India by the Financial Action Task Force, of which the U.S. is a member, directly discusses the misuse of purported counterterrorist and anti-money laundering laws to shut down civil society;
- By raising human rights issues directly with Indian officials in all bilateral engagements, including the US-India Global Issues Forum;
- By reiterating that Indian officials will be held accountable for acts of transnational repression within the United States;
- By acknowledging that the U.S. has its own human rights problems, and is willing to have its own record criticized;
- And, in all of this, by coordinating closely with other rights-respecting governments to ensure that concerns are being raised on an international level, not merely by the US.

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<sup>3</sup> United Nations Office of the High Commissioner of Human Rights, India: UN experts urge corrective action to protect human rights and end attacks against minorities in lead up to elections, available at <https://www.ohchr.org/en/press-releases/2024/03/india-un-experts-urge-corrective-action-protect-human-rights-and-end-attacks>, 7 March 2024

<sup>4</sup> India ranks 161 out of 180 countries in the World Freedom Index; India is rated “partly free” in the Freedom in the World report; CIVICUS’ Civic Space Monitor rates India as “repressed”; India is termed as an “electoral autocracy” by the Varieties in Democracy (V-DEM) index; India ranks 130 in the World Press Freedom Index; India is at high risk of misinformation and disinformation according to the World Economic Forum

<sup>5</sup> Office of the High Commissioner on Human Rights, Country visits of Special Procedures of the Human Rights Council since 1998, <https://spinternet.ohchr.org/ViewCountryvisits.aspx?visitType=pending&lang=en>, (last accessed 17 March 2024).

## Adoption of discriminatory laws and policies

In the past ten years, the Indian government has either adopted discriminatory laws or weaponized the existing laws against religious minorities and government critics including human rights defenders, journalists, academics, and students. These include the Citizenship Amendment Act (CAA), 2019, which was operationalized on 11 March 2024 by virtue of the notification of corresponding rules.<sup>6</sup> The CAA is a bigoted law that discriminates based on religion and selectively fast-tracks citizenship pathways for Hindus, Parsis, Christians, Jains and Buddhists from the neighboring countries of Afghanistan, Pakistan and Bangladesh without any reasonable justification.<sup>7</sup> Further, 12 Indian state governments have also passed anti-conversion laws without adequate legislative consultation that effectively criminalize consensual inter-faith marriages.<sup>8</sup>

Despite India's Supreme Court issuing a series of directives to prevent, remedy and punish mob lynching of Dalits and Muslims in the name of cow vigilantism in India, public lynchings continue to take place with impunity to date.<sup>9</sup> These attacks have contributed to a growing sense of insecurity for the marginalized groups, and intensified religious tensions. In the absence of any disaggregated data made available by the Indian government on lynching, Amnesty International analyzed media reports and found that between January and December 2024, at least 32 Muslim men and one woman were killed by vigilantes and radical Hindu groups in the states of Assam, Bihar, Delhi, Haryana, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, and West Bengal.<sup>10</sup>

In addition to enacting or amending legislations, the Indian government has adopted policies or practices that systematically discriminate against religious minorities, encouraging vilification and hatred against them in the country. To illustrate, in 2022, the Karnataka state government imposed a ban on hijab (head coverings worn by Muslim women and girls) in public schools through an executive order.<sup>11</sup> The order effectively forced Muslim girls and women to choose between their rights to freedom of expression and religion, and their right to education, hindering their ability to meaningfully participate in society. Despite heavy criticism, the state's high court upheld the ban and the Supreme Court of India passed a split verdict.<sup>12</sup>

In addition to weaponization of laws and policies, Indian authorities are also resorting to various extra-judicial means to punish Muslims. In this regard, various state governments led by the BJP have adopted punitive demolitions as a de-facto state policy. Initiated often under the guise of applying planning laws and regulations to remedy alleged encroachment, state authorities use demolitions as a form of arbitrary punishment specifically targeted to deter and retaliate against marginalized groups, in particular Muslims, after episodes of communal violence and protests.<sup>13</sup> Amnesty International documented the demolitions of

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<sup>6</sup> Amnesty International, *India: Citizenship Amendment Act is a blow to Indian constitutional values and international standards* (Press Release, 14 March 2024), <https://www.amnesty.org/en/latest/news/2024/03/india-citizenship-amendment-act-is-a-blow-to-indian-constitutional-values-and-international-standards/>

<sup>7</sup> Amnesty International, *India: Citizenship Amendment Act is a blow to Indian constitutional values and international standards* (Press Release, 14 March 2024), <https://www.amnesty.org/en/latest/news/2024/03/india-citizenship-amendment-act-is-a-blow-to-indian-constitutional-values-and-international-standards/>

<sup>8</sup> Arunachal Pradesh, Chhattisgarh, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Madhya Pradesh, Odisha, Odisha, Rajasthan, Uttar Pradesh and Uttarakhand

<sup>9</sup> *Tehseen Poonawalla v. Union of India*, Supreme Court of India (AIR 2018 SUPREME COURT 3354)

<sup>10</sup> In the absence of disaggregated data, Amnesty International collated information on the incidence of lynching in India by analysing news reports on the website of Hindutva Watch which is an aggregator for cases of hate crimes in India, <https://hindutvawatch.org/lynching/>

<sup>11</sup> "Breaking: Karnataka High Court upholds Hijab Ban", *Live Law*, 15 March 2022, <https://www.livelaw.in/top-stories/hijab-ban-karnataka-high-court-muslim-dress-code-head-scarf-islam-fundamental-right-erp-194187>

<sup>12</sup> "Supreme Court Passes Split Verdict In Hijab Case; Justice Sudhanshu Dhulia Sets Aside Karnataka HC Judgment", *Live Law*, 13 October 2022, <https://www.livelaw.in/top-stories/hijab-ban-supreme-court-split-verdict-karnataka-religion-fundamental-right-article-25-211510?from-login=78107913>

<sup>13</sup> Amnesty International, "If you speak up, your house will be demolished": Bulldozer injustice in India (Index: ASA 20/7613/2024) <https://www.amnesty.org/en/documents/asa20/7613/2024/en/>

at least 128 properties, including homes, shops and places of worship, largely belonging to Muslims between April to June 2022.<sup>14</sup> In August 2023, authorities in Haryana state demolished at least 300 structures largely belonging to Muslims after communal violence broke out between Hindus and Muslims. Numerous incidents have also occurred of authorities arresting Muslims for offering namaz (prayers) both publicly and privately.<sup>15</sup> Indian state authorities have also imposed arbitrary bans on sale of meat during Hindu and Jain festivals.<sup>16</sup>

On 5 August 2019, the Indian government unilaterally repealed the critical provisions of Article 370 of the Indian Constitution - which had guaranteed far-reaching powers to the state of Jammu & Kashmir on a wide range of issues except foreign affairs, defense and communication - and extended its control over the region.<sup>17</sup> Until 5 August 2019, Jammu & Kashmir was the only state in India with a majority Muslim population which otherwise constitutes a minority in the country.<sup>18</sup> The revocation was followed by the deprivation of Jammu & Kashmir's statehood and splitting it into two separate union territories governed by the central government.<sup>19</sup> The move was seen as a brutal dismissal of people's protests over the decades against the human rights violations committed by the state and security forces in Jammu & Kashmir and an aggressive gesture to deprive them of their fundamental freedoms. In the three years since 5 August 2019, Amnesty International has documented the Indian government's drastic intensification of the repression of the people of Jammu & Kashmir, including journalists and human rights defenders by subjecting them to multiple human rights violations. These violations include restrictions on rights to freedom of opinion and expression; to liberty and security of person; to movement; to privacy; and to remedy and access to justice. The authorities have committed these violations with absolute impunity.<sup>20</sup>

Amnesty International is also alarmed at the continued and unabated violence that is taking place between ethnic groups in the North-Eastern state of Manipur and the inability of the Indian authorities to protect human rights in the region. Since the start of the ethnic violence on 3 May, more than 250 people have been killed and scores others injured. More than 50,000 people have been forced to flee. Now displaced from their homes, they are living in relief camps across Manipur and in the neighboring north-eastern states. Scores of houses and property have been burned, looted, vandalized. This has left entire

<sup>14</sup> Amnesty International, "If you speak up, your house will be demolished": Bulldozer injustice in India (Index: ASA 20/7613/2024)

<https://www.amnesty.org/en/documents/asa20/7613/2024/en/>

<sup>15</sup> "4 arrested for offering namaz in Lucknow's LuLu Mall: Police", *Hindustan Times*, 19 July 2022, <https://www.hindustantimes.com/cities/lucknow-news/4-arrested-for-offering-namaz-in-lucknow-s-lulu-mall-police-101658233866526.html>; "8 arrested for offering 'namaz' in public in Haridwar", *The Guardian*, 22 July 2022, "Yogi govt to probe video of Namaz at Prayagraj Railway Station | Details", *Hindustan Times*, 22 July 2022, <https://www.hindustantimes.com/videos/news/yogi-govt-to-probe-video-of-namaz-at-prayagraj-railway-station-details-101658499333861.html>; "Four people arrested for offering namaz on Taj Mahal premises", *Zee News*, 26 May 2022, [NDTV, 28 April 2023, <https://www.ndtv.com/india-news/case-against-2-000-people-for-offering-eid-namaz-on-road-in-ups-kanpur-police-3986431>](https://zeenews.india.com/india/four-people-arrested-for-offering-namaz-on-taj-mahal-premises-2467598.html#:~:text=Police%20arrested%20four%20people%20on%20Thursday%20for%20offering,the%20mosque%20in%20Taj%20Mahal%20premises%20on%20Wednesday;Case Against 2,000 People For Offering Eid Namaz On Road In UP: Police)

<sup>16</sup> Areeb Uddin Ahmed and Ratna Singh, "Why Delhi's Ban On Selling Meat During Hindu Festival Is Illegal & Violates India's Constitution", *Article 14*, 8 April 2022, <https://article-14.com/post/why-delhi-s-ban-on-selling-meat-during-hindu-festival-is-illegal-violates-india-s-constitution-624f58d311c54>; "Ghaziabad meat shops ordered to shut shop during Navratri", *Indian Express*, 2 April 2022, <https://indianexpress.com/article/cities/delhi/ghaziabad-meat-shops-ordered-to-shut-shop-during-navratri-7848813/>; Ruhi Bhasin and Tanushree Venkatraman, "Day after Sena calls ban religious fanaticism, BMC lifts its two-day meat ban in Mumbai", *Indian Express*, 12 September 2015, <https://indianexpress.com/article/cities/mumbai/after-petition-filed-in-bombay-hc-civic-body-withdraws-ban-on-slaughter-and-sale-of-meat/>; "UP bans liquor, meat in 10 square km area of Mathura-Vrindavan", *Live Mint*, 10 September 2019, <https://www.livemint.com/news/india/up-bans-liquor-meat-in-this-much-area-of-mathuravrindavan-11631265601889.html>; "Ban On Non-Veg In Ahmedabad & Vadodara, Who's Eating Meat In Gujarat?", *HW News*, 17 November 2021, <https://hwnews.in/news/national-news/ban-non-veg-ahmedabad-vadodara-whos-eating-meat-gujarat/173380>

<sup>17</sup> The Constitution (Application to Jammu and Kashmir) Order, 2019 C.O. 272, 5 August 2019.

<https://cdnbbsr.s3waas.gov.in/s395192c98732387165bf8e396c0f2dad2/uploads/2019/10/20191029100.pdf>

<https://pib.gov.in/pressreleaseshare.aspx?prid=1581391>

<sup>18</sup> Census 2011, Jammu and Kashmir, 28.44% Hindus and 68.31% Muslims, <https://www.census2011.co.in/religion.php>

<sup>19</sup> The Jammu and Kashmir Reorganisation Act, Act No. 34 of 2019, 9 August 2019, <https://www.indiacode.nic.in/bitstream/123456789/12030/1/A2019-34.pdf>

<sup>20</sup> Amnesty International, "We are Being Punished by The Law" – Three Years of Abrogation of Article 370 in Jammu & Kashmir (Index: ASA 20/5959/2022), <https://www.amnesty.org/en/documents/asa20/5959/2022/en/>

communities terrorized and devastated. The state government has also imposed an internet shutdown since the start of the violence.<sup>21</sup>

### **Restriction on freedom of expression, peaceful assembly and association**

The government has enacted and enforced laws that severely restrict the ability of thousands of civil society groups, particularly those that work on human rights or the rights of marginalized communities. By the Indian government's own admission, the licenses granted under the Foreign Contribution (Regulation) Act (FCRA) of over 20,600 non-profit organizations (NPOs) have been cancelled in the last 10 years, with nearly 6,000 of these cancellations occurring since the beginning of 2022.<sup>22</sup> Amnesty International has documented that the crackdown on NPOs under the FCRA takes place in India along three levels:<sup>23</sup>

1. 'Random fire', which includes arbitrarily suspending or cancelling the FCRA licences of grassroots organisations to create an atmosphere of fear and forced deference.
2. Targeting institutions with an established global footprint and coercing them to shut down their Indian operations.
3. Punishing individuals who have spoken out against the ruling government by deploying multiple investigating authorities to audit and raid the NPOs headed by or associated with them.

In April 2016, the UN Special Rapporteur on freedom of assembly and association published a legal analysis asserting that the FCRA did not conform to international law and standards. In June 2016, the UN Special Rapporteurs on human rights defenders, on freedom of expression, and on freedom of peaceful assembly and association called on the Indian government to repeal the FCRA. In October 2020, then-UN High Commissioner for Human Rights Michelle Bachelet said 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." Despite calls from UN authorities for repeal or revision of the law, the Indian government instead amended the FCRA in 2019, further increasing the burden on civil society.

The government has also weaponized central financial agencies to carry out coordinated raids which are presented as "surveys" to harass, intimidate, silence, and criminalize independent critical voices in the country including media organizations such as BBC and non-profit organizations such as Amnesty India, Greenpeace and Centre for Equity Studies. These raids constitute intrusive scrutiny and burdensome administrative requirements, and violate the rights to association and privacy protected under international human rights law, including the International Covenant on Civil and Political Rights, to which India is a party.

Weeks before the General Elections that are scheduled to begin in April 2024, the Indian authorities have escalated their crackdown on political opposition using the Prevention of Money Laundering Act (PMLA). In March 2024, the Enforcement Directorate, the investigating agency under PMLA arrested Arvind Kejriwal, the Chief Minister of Delhi state and member of the opposition party Aam Aadmi Party.

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<sup>21</sup> Amnesty International, *India: Wanton Killings, Violence, and Human Rights Abuses in Manipur* (Index: ASA 20/6969/2023), <https://www.amnesty.org/en/documents/asa20/6969/2023/en/#:~:text=Amnesty%20International%20is%20alarmed%20at,human%20rights%20in%20the%20region.>

<sup>22</sup> Amnesty International, *Weaponizing Counterterrorism: India's Exploitation of Terrorism Financing Assessments to Target Civil Society* (Index: ASA 20/7222/2023), <https://www.amnesty.org/en/latest/news/2023/09/india-government-weaponizing-terrorism-financing-watchdog-recommendations-against-civil-society/>

<sup>23</sup> Amnesty International, *Weaponizing Counterterrorism: India's Exploitation of Terrorism Financing Assessments to Target Civil Society* (Index: ASA 20/7222/2023), <https://www.amnesty.org/en/documents/asa20/7222/2023/en/>, pg. 15

Shortly before, the Income Tax authorities had frozen the bank accounts of the Indian National Congress, the largest opposition party in India.

People who protest or criticize the government or express otherwise officially disfavored views are frequently labeled “anti-national” and the authorities target them by bringing politically motivated criminal cases under the overbroad counterterrorism law, the Unlawful Activities Prevention Act (UAPA) or by alleging financial fraud or irregularities. In May 2020, seven UN special procedures mandate holders wrote to the Indian government raising concerns over UAPA’s incompatibility with India’s obligations under international human rights law. In particular, they raised “serious concerns regarding the designation of individuals as ‘terrorists’ in the context of ongoing discrimination directed at religious and other minorities, human rights defenders and political dissidents, against whom the law has been used.” In October 2020, High Commissioner Bachelet urged the Indian government “to release people charged under the Unlawful Activities Prevention Act for simply exercising basic human rights that India is obligated to protect.” The Indian authorities are wrongfully prosecuting at least 34 human rights defenders under the UAPA. One of the defenders, Stan Swamy, 84, a well-known tribal rights activist, died in July 2021 in custody, prompting the UN Special Rapporteur on human rights defenders to say his death “will forever remain a stain on India’s human rights record.”

In 2023, Amnesty International documented Indian government’s exploitation of the Financial Action Task Force’s (FATF) recommendations to tighten the FCRA, UAPA and PMLA. All three laws have been amended or enacted under the guise of complying with FATF recommendations without carrying out an adequate risk-based assessment as required by Recommendation 8 of FATF. The three laws have been consistently misused against non-profit organizations and human rights defenders including journalists, human rights defenders, academics and students.

## **Privacy and Digital Rights**

Amnesty International is concerned about the expansion of government control over online content through the draconian Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023, which amend the already problematic IT Rules of 2021.<sup>24</sup> Through a notification, the Ministry of Electronics and Information Technology (MeitY) authorized a “fact check unit of the central government” to identify online content “in respect of any business of the Central Government” as “fake or false or misleading”. As a result, online intermediaries, including social media companies and internet service providers, are now required to take down any such content. If intermediaries fail to remove such content, they risk losing their safe harbor protections, and may be held liable in a court proceeding for any third-party information hosted on their platforms. The rules were notified without adequate and meaningful consultation with journalists, press bodies, and civil society organizations.

These arbitrary, overbroad and unchecked censorship powers granted by the 2023 IT rules to the Indian government threaten the rights to freedom of expression and opinion enshrined in the Indian Constitution and under international human rights law. In the guise of combatting online misinformation and disinformation, the Indian government has given itself the power to decide which information posted

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<sup>24</sup> Amnesty International, *India: New Amendment to the Information Technology Rules that threatens press freedoms must be withdrawn* (Index: : ASA 20/6734/2023), <https://www.amnesty.org/en/wp-content/uploads/2023/05/ASA2067342023ENGLISH.pdf>

online is fake, false or misleading – terms that are inherently subjective and lack a clear legal definition. In effect, the government empowers itself to be the sole arbiter of truth on the internet. In March 2023, the Supreme Court stayed the creation of the fact-check unit until the Bombay High Court decides the challenges to the IT rules amendment.<sup>25</sup>

The rules also come at a time when press freedoms, and the safety and security of journalists, are under attack in India and surveillance of journalists and activists continues with impunity. Those targeted with spyware await accountability for past violations. In 2021, following revelations by Amnesty International in the Pegasus Project about the spyware produced by the Israeli company NSO, the Supreme Court of India set up a technical committee to investigate abuses involving the software.<sup>26</sup> In 2022, the committee concluded their investigation, but the court has not made the findings of the report public. The court further noted that the Indian authorities “did not cooperate” with the technical committee’s investigations.

India has also emerged as a global leader of internet shutdowns for five years in a row.<sup>27</sup> In 2022, according to Access Now, it imposed a total of 84 total internet shutdowns in the country of which more than half were imposed in Jammu & Kashmir. The staggering number of shutdowns were imposed to stop protests, control elections and silence populations. Overbroad censorship and internet shutdowns are a violation of the rights to freedom of expression and peaceful assembly.

### **Weakening of Independent Institutions**

In March 2023, the Global Alliance for National Human Rights Institutions’ (GANHRI) Sub Accreditation Committee (SCA) deferred the National Human Rights Commission of India’s re-accreditation by 12 months after considering the NHRCI’s failure to adequately address the escalating human rights violations in India, lack of pluralism in selection and appointments of its duty holders and insufficient cooperation with human rights bodies, amongst others.<sup>28</sup> The NHRCI is mandated to address all human rights violations in India and ensure consistent follow up with state authorities.<sup>29</sup> However, currently, the autonomous commission is riddled with political appointments acting as de-facto extensions for former government servants or parliamentary members associated with the ruling political party.<sup>30</sup> The opaque selection process characterized by diminishing voices has resulted in the appointment of former Chief Justice of India, Arun Kumar Mishra who has delivered several judgements in favor of the government and against the marginalized populations as the NHRCI’s chairperson;<sup>31</sup> seven police officers with checkered record as Special Monitors and former director of the national Intelligence Bureau as a

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<sup>25</sup> Anmol Kumar Bawa, “Supreme Court Stays Centre’s Notification Of ‘Fact Check Unit’ Under IT Rules Till Final Decision By Bombay HC”, *Live Law*, 21 March 2024, <https://www.livelaw.in/top-stories/supreme-court-kunal-kamra-editors-guild-notifying-fact-check-unit-it-rules-2023-252998>

<sup>26</sup> Amnesty International, *India: Damning new forensic investigation reveals repeated use of Pegasus spyware to target high-profile journalists*, 28 March 2023, <https://www.amnesty.org/en/latest/news/2023/12/india-damning-new-forensic-investigation-reveals-repeated-use-of-pegasus-spyware-to-target-high-profile-journalists/>

<sup>27</sup> Access Now, *#KeepItOn: 2022 elections and internet shutdowns watch*, 26 September 2022, <https://www.accessnow.org/elections-internet-shutdowns-watch-2022/>

<sup>28</sup> GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 20-24 March 2023, available at <https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-First-Session-2023-EN.pdf>

<sup>29</sup> GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 20-24 March 2023, available at <https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-First-Session-2023-EN.pdf>, pg.

<sup>30</sup> The All-India Network of NGOs and Individuals, *Analysis of NHRC call for Applications for various positions January 2018 – September 2023*, <https://ainni.in/wp-content/uploads/2023/09/Analysis-of-NHRC-Vanancy-2018-to-2023.pdf>

<sup>31</sup> “Choosing Justice Mishra as new NHRC chief a ‘brazen blow’ to rule of law, human rights”, *Counterview*, June 3, 2021, <https://www.counterview.net/2021/06/choosing-justice-mishra-as-new-nhrc.html?m=1> (accessed June 15, 2021); Alok Prasanna Kumar, “Justice Arun Mishra to Head NHRC: ‘Ignoble’ Record Haunts Chair,” *The Quint*, June 3, 2021, <https://www.thequint.com/voices/opinion/justice-arun-mishra-national-human-rights-commission-head-implications-supreme-court-controversial-judgments#read-more> (accessed June 8, 2021); “Justice Arun Mishra takes over as NHRC chief, Congress leader opposes his appointment,” *Scroll.in*, June 2, 2021, <https://scroll.in/latest/996461/justice-arun-mishra-takes-over-as-nhrc-chief-congress-leader-opposes-his-appointment> (accessed June 8, 2021).



member of the commission.<sup>32</sup> The Intelligence Bureau has been known for targeting civil society organizations for opposing projects that harm the environment and accused them of backing armed groups – accusations that have acted as barriers for organizations to secure funding and operate freely.<sup>33</sup>

The NHRCI has also failed to take any meaningful steps to address the increasing detention of human rights defenders under UAPA, misuse of FCRA to hinder the legitimate human rights work of civil society, the rising violence in Manipur and the intensification of repression of journalists and human rights defenders in Jammu & Kashmir.

## Recommendations

In this context, we appeal to the Commission that it is crucial that both in public statements and in private briefings, the Commission urges the Indian government to end its serious human rights violations and uphold rights for all people in the country, irrespective of their caste, religion, ethnicity, or political belief.

In particular, we encourage you to publicly and privately urge the Indian government to:

- End discriminatory policies and practices against minorities and persons from other marginalized groups. The prime minister should take the lead in publicly condemning any discrimination, hostility or violence against religious minorities and other targeted persons, including by his supporters and party leaders, and call on local authorities to end any bias in investigating and prosecuting such attacks.
- Ensure prompt, impartial, and effective investigations into violence, including gender-based violence, against Dalits.
- Drop charges and immediately release all human rights defenders, journalists, and others held on charges related solely to exercise of their rights to freedom of expression or peaceful assembly.
- Amend the Unlawful Activities (Prevention) Act to conform to international standards.
- Stop harassment of human rights defenders and amend the FCRA so that it does not interfere with the exercise of the rights to freedom of expression, assembly, public participation and association, including the right to seek and receive funding from international sources, and refrain from using it for political reasons to suppress the activities of civil society organizations.
- Release all those arbitrarily detained in Jammu and Kashmir, drop politically motivated charges against critics of the government, and protect people's right to peaceful protest.
- Ensure the National Human Rights Commission and other constitutional authorities can function independently without political appointments and interference and act on their recommendations.
- End broad, indiscriminate internet shutdowns. Ensure any restrictions on internet comply with the requirements of legality, necessity, proportionality and non-discrimination and is limited in temporal scope; publish every shutdown order in line with the Indian Supreme Court directives.
- Repeal the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 along with the 2023 amendment.

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<sup>32</sup> "Post-Retirement, Controversial Top Cop Rakesh Asthana Lands NHRC 'Monitor' Role", *The Wire*, 3 December 2023, <https://thewire.in/government/rakesh-asthana-narendra-modi-nhrc>; Special Monitor, National Human Rights Commission, India, available at <https://nhrc.nic.in/contact-us/special-monitor> (last accessed on 15 March 2024)

<sup>33</sup> Amitav Ranjan and Priyadarshi Siddhanta, "IB report to PMO: Greenpeace is a threat to national economic security," *Indian Express*, June 11, 2014, <https://indianexpress.com/article/india/india-others/ib-report-to-pmo-greenpeace-is-a-threat-to-national-economic-security/> (accessed June 10, 2021).