

INDIA

CIVICUS MONITOR WATCHLIST

OVERVIEW OF RECENT RESTRICTIONS
TO CIVIC FREEDOMS





INTRODUCTION

India's civic space rating remains '[repressed](#)' in the new [People Power Under Attack 2021](#) report by the CIVICUS Monitor in December 2021.

The country's rating was [downgraded](#) in 2019 due to a crackdown on human rights activists, attacks on journalists and civil society groups, and the assault on civic freedoms in Indian administered Jammu and Kashmir. Since then, the civic space situation has continued to deteriorate, with the Narendra Modi government continuing to use a variety of restrictive laws including counter-terrorism legislation, such as the Unlawful Activities (Prevention) Act (UAPA), to silence dissent and keep activists behind bars. Many have been denied bail and have been at risk of contracting or contracted COVID-19 in overcrowded and unsanitary prisons.

Journalists in India continue to be targeted by the government, while the BJP government has also used the draconian Foreign Contributions Regulation Act (FCRA) to stop foreign funding and investigate organisations that are critical of the government. There have also been concerns over the [surveillance](#) of journalists and activists following the Pegasus spyware revelations. Furthermore, the National Human Rights Commission of India (NHRCI), which is tasked with investigating human rights violations, has [failed](#) to address many of these abuses.

In September 2021, Michelle Bachelet, the UN High Commissioner for Human Rights, raised [concerns](#) about the ongoing use of the UAPA throughout India and the human rights violations in Jammu and Kashmir at the Human Rights Council. Despite this, the assault on civic freedoms has continued to escalate in recent months.

RESTRICTIONS ON FUNDING AND HARASSMENT OF CIVIL SOCIETY

The Foreign Contribution (Regulation) Act 1976 and its amendments impose [discriminatory restrictions](#) on civil society organisations' access to funding, making their authorisation procedure onerous, highly bureaucratic and difficult to navigate, under the pretext of limiting foreign influences in India. Over the years, it has been invoked against human rights groups to justify an array of highly intrusive measures, ranging from official raids on NGO offices and freezing of bank accounts to suspension or cancellation of registration.

On 1st January 2022, the FCRA licences of 6,000 groups, including Oxfam India, Azim Premji Foundation and Common Cause, were [revoked](#) and renewal requests rejected. The FCRA licence of Mother Teresa's charitable trust - 'Missionaries of Charity - was also [not renewed](#), but after widespread backlash and international condemnation, the FCRA licence of the trust was [reinstated](#) on 7th January 2022.

On 8th January 2022, the Central Bureau of Investigation of India (CBI) [raided](#) the office of People's Watch - Tamil Nadu in Madurai. The CBI registered a case against the Centre for Promotion of Social Concerns (CPSC), a prominent human rights organisation, and its programmatic unit People's Watch, on charges of violations

ABOUT THE CIVICUS MONITOR

The [CIVICUS Monitor](#), an online platform that tracks threats to civil society in countries across the globe, rates civic space – the space for civil society – in India as "**Repressed**".

The data provides the basis for civic space ratings, which are based on up-to-date information and indicators on the state of freedom of association, peaceful assembly and expression. Countries can be rated as:

CLOSED

REPRESSED

OBSTRUCTED

NARROWED

OPEN



of the FCRA. The group monitors human rights abuses; works with socially and economically marginalised victims of abuses, including by police; and conducts human rights education and training. Acting on a complaint made in July 2014 by the then Director in the Ministry of Home Affairs of India, the CBI's Economic Offences Wing cited the NGO for alleged FCRA violations that surfaced during two inspections conducted by the Ministry in 2012 and 2014.

Civil society organisations say that this is a continued effort by the Narendra Modi government to weaponise the FCRA and use it to silence dissent.

HUMAN RIGHTS DEFENDERS AND ACTIVISTS IN DETENTION

Scores of human rights defenders and activists remain in detention under the draconian Unlawful Activities (Prevention) Act (UAPA) and other laws. The slow investigative processes and extremely stringent bail provisions under the UAPA ensure that those detained under the law are held in pre-trial detention for long periods.

Among those detained include 15 human rights defenders linked to the Bhima Koregaon incident. They have been detained since 2018 on trumped up accusations of having links with Maoist organisations, based on evidence believed to be fabricated. The Bombay High Court [granted bail](#) to human rights lawyer Sudha Bharadwaj in December 2021; however, the others have had their bail pleas rejected. On 30 January 2022, a technical committee, appointed by the Supreme Court of India to investigate the usage of the Pegasus spyware against Indian citizens, [requested](#) that the authorities hand over the mobile phones of seven of the activists whose phones were believed to have been [compromised](#) after being hacked.

At least 13 activists have been [arrested](#) under the UAPA since February 2020 in retaliation for their advocacy work against the discriminatory Citizenship (Amendment) Act (CAA) 2019, and they have remained in detention. They are currently in Rohini, Tihar, and Mandoli jails in New Delhi. Many of them had multiple First Information Reports (FIR) registered against them and were charged with serious offences, including under UAPA. Despite prolonged incarceration, the trial for their case has not yet commenced. On 24th January 2022, one of those detained, human rights defender Sharjeel Imam, was [charged](#) for sedition as well as other provisions. Khalid Saifi, Ishrat Jahan and Gulfisha Fatima have reported custodial violence and torture by the Delhi police.

JOURNALISTS TARGETED AND ONLINE CENSORSHIP

Journalists have continued to be targeted in India for their work in recent months. On 2nd October 2021, the chief editor of news portal Rakesh Pathak was picked up by police from Gandhi Ashram and taken to the Ranip police station where he was [detained for hours](#) on suspicion that he would disturb law and order in the area. Pathak had posted a statement on Facebook in the form of an open letter to the Prime Minister Narendra Modi about the Gujarat government's Ashram redevelopment project and appealed for the heritage building to be left untouched and intact.

In November 2021, the Tripura police registered a case against [two journalists](#) - Samridhi Sakunia and Swarna Jha – who had reported on the violence in Tripura by Hindu right-wing groups targeting the Muslim minority community in the state. They were [detained](#) by the Assam Police at Nilambazaar before they were [released on bail](#). The journalists said they were [intimidated and threatened](#) for their reporting.

Journalists were also [surveilled](#) through the Pegasus spyware, the use of which is currently under investigation by the technical committee appointed by the Supreme Court.



There are also concerns about regulations under the Information Technology Act that will allow greater governmental [control](#) over online content and seriously undermine the rights to privacy and online expression and [pressure](#) including raids on social media companies such as Twitter to take down or block political content critical of the Indian government.

ABUSES IN JAMMU AND KASHMIR

On 22nd November 2021, officials from the National Investigation Agency (NIA), assisted by the local police, [raided](#) the house of human rights defender Khurram Parvez and the Jammu and Kashmir Coalition of Civil Society (JKCCS) office in the city of Srinagar. Parvez is a prominent human rights defender, Coordinator of JKCCS and the Association of Parents of Disappeared Persons (APDP), and Chairperson of the Asian Federation Against Involuntary Disappearances (AFAD).

The raid went on for approximately 14 hours and Parvez's mobile phone, laptop and several books were seized. On the evening of the same day, Parvez was taken for questioning to the premises of the NIA in Srinagar. Parvez faces various charges, including "criminal conspiracy and waging war against the government of India" under the Indian Penal Code as well as "raising funds for terror activities", punishment for conspiracy, and the offence of raising funds for terrorist organisations" under the UAPA. On 12th February, a Delhi Court [extended](#) human rights activist Khurram Parvez's custody period for a further 40 days

Previously in September 2021, following the death of Kashmiri leader Syed Ali Shah Geelani, human rights groups [reported](#) that police and military forces had blocked all roads and other access routes leading to his home in Srinagar. The security forces also prevented media workers from travelling there. The authorities also shut down mobile phone networks and all internet services in the Kashmir valley.

Sajad Gul, a journalist affiliated with the Kashmir Walla, was [arrested](#) on 5th January 2022 and accused of disseminating false information via social media which promoted anti-government sentiment. He was arrested by security forces a day after he posted a protest video by a family of a Lashkar-e-Taiba (LeT) militant who was killed on 3rd January 2022 in a security operation in Srinagar.

On 15th January 2022, the government took control of the premises of the [Kashmir Press Club](#), - the largest independent media body in Indian-administered Kashmir - citing a potential law and order situation, after a futile attempt by a government-based group of journalists to foist a self-styled interim body. Following the raid, the regional administration [declared](#) on 17th January 2021 that the press club had failed to register itself under the Societies Registration Act and now "ceased to exist", with its premises handed back to the government.

In February 2022, at least four prominent TV commentators and [journalists were summoned](#) by the Jammu and Kashmir police in connection with an ongoing investigation into an incident in which a top militant commander was gunned down along with his associates. Local news reports in the region allege that the journalists were questioned for 'incorrect reporting' of the case. A fourth journalist, [Fahad Shah](#), editor of the Kashmir Walla magazine who was questioned on 1st February, was arrested three days later. Shah is being investigated for alleged sedition and making statements causing public mischief, both crimes under the Indian penal code, and for unlawful activities under the UAPA.



RECOMMENDATIONS

To the Indian government:

- Cease unwarranted raids on CSOs and amend the Foreign Contributions Regulation Act (FCRA) law to remove undue restrictions on the ability of CSOs to access foreign funding and bring it into compliance with the International Covenant on Civil and Political Rights (ICCPR).
- Immediately and unconditionally release all HRDs, including student activists, journalists, academics and others detained for exercising their fundamental freedoms, and review their cases to prevent further harassment.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment and conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators to justice.
- Review and amend criminal laws to conform to international law and standards as set out in the ICCPR in particular the Unlawful Activities (Prevention) Act (UAPA) and sedition provisions in the Indian Penal Code.
- Ensure adequate and effective legal remedies are available for people to challenge violations of their human rights linked to surveillance.
- Ensure that the legal framework which regulates communications surveillance meets India's international human rights obligations and establish an independent and effective oversight mechanism with a mandate to monitor all stages of interception of communications.
- Ensure that journalists and writers may work freely and without fear of retaliation for expressing critical opinions or covering topics that the government may deem sensitive and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- End the use of blanket or open-ended internet shutdowns and ensure transparency in the issuance and extension of shutdown orders.

To the international community:

- Call on the Indian government to protect the rights to the freedoms of association, peaceful assembly and expression, and release all those arbitrarily detained for their peaceful activism.
- Take steps through embassies and representations to react to harassment, arbitrary arrests and prosecution of human rights defenders and activists, including by voicing concerns with the authorities, attending trials, issuing statements and visiting activists in detention.
- Make public statements, including at the UN Human Rights Council, raising the concerns outlined above, and initiate more formal Council action if required