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INDIA: G20 LEADERS MUST HOLD INDIAN GOVERNMENT TO ACCOUNT FOR ITS HUMAN RIGHTS VIOLATIONS AND POLITICAL PERSECUTION

The member states and other countries invited to attend the G20 summit hosted this year by India must speak out about the deteriorating human rights situation in the country characterized by the persecution of minorities, a shrinking space for dissent and weakening of autonomous institutions and take effective measures to hold Indian authorities to account.

The 2023 G20 summit is scheduled to be held on 9-10 September in Delhi, India. The member states and other invited countries must take the Indian authorities to task and ensure that they uphold their national and international human rights obligations and commitments.

Women-led Development:

Women-led development features prominently on India's G20 Agenda, despite the Indian government's failure to provide justice to victims of gender-based violence.¹ In July 2023, a video of a mob of dominant Hindu Meitei men assaulting and parading two women belonging to the ethnic Kuki community naked to gang-rape them surfaced on social media. Even though the video was captured on 4 May, it came out two and a half months after the ethnic violence began in Manipur and amidst a prolonged internet shutdown eliciting condemnation from the Supreme Court and the National Human Rights Commission.² The United Nations High Commissioner for Human Rights Volker Türk has said that the Indian government should "respond to the situation [in Manipur] quickly, including by investigating and addressing root causes of the violence in line with their international human rights obligations."³ In September 2023, multiple United Nations special rapporteurs raised concerns regarding the "slow and inadequate response by the Government of India, including law enforcement, to stem physical and sexual violence and hate speech in Manipur".⁴ However, suspected perpetrators still have not been brought to justice and sexual and gender-based violence against women belonging to marginalized communities continue to take place with impunity.

In 2022, the government of the state of Karnataka imposed a ban on women and girls wearing headscarves (hijab) in public schools.⁵ The ban was upheld by the High Court of Karnataka and the Supreme Court issued a split verdict referring the case to a larger panel of judges.⁶ Meanwhile the ban has remained in place, resulting in ongoing

¹ X, Amnesty India, "The media reports based on a video emerging out of Manipur allegedly showing a mob of Meitei men assaulting and parading two tribal Kuki women naked to gang-rape them is a shocking reminder of the scale and severity of the ongoing impunity in the state.", 19 July 2023, <https://twitter.com/aiindia/status/1681711697395085313?s=46&t=13z7nWAmYdMQKXL1bhJcA>

² Times of India, 'Violence of unprecedented magnitude': SC's strong remarks on horrific Manipur video, 31 July 2023, <https://timesofindia.indiatimes.com/india/violence-of-unprecedented-magnitude-scs-strong-remarks-on-horrific-manipur-video/articleshow/102272954.cms>; Hindustan Times, NHRC issues notice to Manipur govt over viral video of women disrobed, gangraped on May 4, 20 July 2023, <https://www.hindustantimes.com/india-news/manipur-violence-viral-video-women-gangraped-paraded-naked-national-human-rights-commission-notice-101689866690938.html>

³ OHCHR, Türk: "There should be a UN Human Rights Office everywhere.", 24 May 2023, <https://www.ohchr.org/en/statements/2023/05/turk-there-should-be-un-human-rights-office-everywhere>

⁴ OHCHR, India: UN experts alarmed by continuing abuses in Manipur, 4 September 2023, <https://www.ohchr.org/en/press-releases/2023/09/india-un-experts-alarmed-continuing-abuses-manipur>

⁵ Indian Express, Karnataka: 58 girls suspended from college for wearing hijab, holding protest, 20 February 2022, <https://indianexpress.com/article/cities/bangalore/58-girls-suspended-from-college-in-ktaka-for-wearing-hijab-holding-protest-7781580/>

⁶ Amnesty India, "Karnataka High Court's judgment upholding a government school-wide ban on women wearing hijabs is deeply concerning. The order will have a damning effect on the continued harassment of Muslims in India.", 15 March 2022, <https://twitter.com/aiindia/status/1503732076456992778?s=46&t=13z7nWAmYdMQKXL1bhJcA>

harassment of Muslim women and girls and hindering their meaningful participation in society. The G20 nations must hold the Indian government accountable for women's rights violations and crimes under international law, demanding effective remedy and reparation for women facing gender-based violence.

Digital Transformation:

The G20 agenda on digital transformation focuses on how “digital infrastructure, 5G services, data sharing and localization will, among other things, define the coming decade,” while India continues to be known as the global leader in suspension of internet services over the past decade.⁷ The Indian government has used emergency laws to shutdown internet services in different parts of the country 84 times in 2022⁸, 106 times in 2021⁹, and a total of 230 times in 2019 and 2020¹⁰ with the highest number of shutdowns imposed in Kashmir. In recent years, government-imposed blanket internet shutdowns have become commonplace for people exercising their right to freedom of expression in India. Human Rights Council Resolution 44/20 on peaceful protests calls on states to refrain from ordering blanket internet shutdowns and from blocking websites and platforms during protests or key political moments.¹¹ However, the Indian government has imposed internet shutdowns around protests over the discriminatory Citizenship (Amendment) Act and farm bills. More recently, the state of Manipur has seen a government enforced disruption of services.¹² Such blanket internet shutdowns provide impunity for horrendous crimes and blatantly deny people the right to access information and communication.

Since digital transformation is one of the crucial agenda items, leaders of participating G20 nations and international organizations must highlight the need for protection of digital and privacy rights and their relationship to freedom of expression. The Indian government has expanded its control over online content through the draconian Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 which were amended in 2023. The Rules do not meet the tests of legitimate aim, legality, necessity, and proportionality, and run contrary to India's obligations under international human rights law. They authorize 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.”¹³ Online intermediaries, including social media companies and internet service providers, will be required to take down any such content.¹⁴ 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 platform.¹⁵ The Rules grant the government arbitrary, overbroad, and unchecked censorship powers that threaten the rights to freedom of expression and opinion enshrined in the Indian Constitution and under international human rights law. Three UN human rights experts have said that the rules do not conform with international human rights law.¹⁶

⁷ Access Now, “Weapons of control, shields of impunity: Internet shutdowns in 2022”, 24 May 2023, <https://www.accessnow.org/internet-shutdowns-2022/>

⁸ Access Now, “Weapons of control, shields of impunity: Internet shutdowns in 2022”, 24 May 2023, <https://www.accessnow.org/internet-shutdowns-2022/>

⁹ Access Now, “The Return of Digital Authoritarianism – Internet Shutdowns in 2021”, pg. 3, April 2022, <https://www.accessnow.org/wp-content/uploads/2022/05/2021-KIO-Report-May-24-2022.pdf>

¹⁰ Access Now, “Targeted, Cut off, and Left in Dark”, pg. 1, 24 February 2020, <https://www.accessnow.org/wp-content/uploads/2020/02/KeepItOn-2019-report-1.pdf>; Access Now, “Shattered Dreams and Lost Opportunities”, pg. 6, 3 March 2021, https://www.accessnow.org/wp-content/uploads/2021/03/KeepItOn-report-on-the-2020-data_Mar-2021_3.pdf

¹¹ UN General Assembly, Resolution on the promotion and protection of human rights in the context of peaceful protests, UN Doc. A/HRC/RES/44/20, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/189/78/PDF/G2018978.pdf?OpenElement>

¹² Amnesty International, “India: Wanton killings, violence, and human rights abuses in Manipur”, 12 July 2023, <https://www.amnesty.org/en/documents/asa20/6969/2023/en/>;

¹³ Amnesty International, “India: New Amendment to the Information Technology Rules that Threatens Press Freedoms must be Withdrawn”, 2 May 2023, <https://www.amnesty.org/en/wp-content/uploads/2023/05/ASA2067342023ENGLISH.pdf#:~:text=The%20IT%20Rules%2C%202023%2C%20grant%20the%20government%20arbitrary%2C,right%20to%20freely%20seek%2C%20receive%2C%20and%20impart%20information.>

¹⁴ Amnesty International, “India: New Amendment to the Information Technology Rules that Threatens Press Freedoms must be Withdrawn”, 2 May 2023, <https://www.amnesty.org/en/wp-content/uploads/2023/05/ASA2067342023ENGLISH.pdf#:~:text=The%20IT%20Rules%2C%202023%2C%20grant%20the%20government%20arbitrary%2C,right%20to%20freely%20seek%2C%20receive%2C%20and%20impart%20information.>

¹⁵ Amnesty International, “India: New Amendment to the Information Technology Rules that Threatens Press Freedoms must be Withdrawn”, 2 May 2023, <https://www.amnesty.org/en/wp-content/uploads/2023/05/ASA2067342023ENGLISH.pdf#:~:text=The%20IT%20Rules%2C%202023%2C%20grant%20the%20government%20arbitrary%2C,right%20to%20freely%20seek%2C%20receive%2C%20and%20impart%20information.>

¹⁶ OHCHR, Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the right to privacy, OL IND 8/2021, 11 June 2021, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26385>

Inclusive Growth:

While the G20 Presidency prioritizes inclusive growth, the Indian government has adopted laws and policies that systematically discriminate against minorities and have normalized violence and encouraged threats, harassment, and attacks on minority religious communities including violations of their economic, social and cultural rights.¹⁷ In its report to the UN, the Indian government has claimed, “it is firmly committed to the promotion and protection of human rights,” despite the fact the activists who have spearheaded campaigns for minority rights are languishing in jail or facing trial.¹⁸

State officials in India have summarily punished those peacefully protesting human rights violations and abuses, along with their families and the larger Muslim community as a form of collective punishment, including by forcibly evicting them and unlawfully demolishing their properties.¹⁹ Dalits and Adivasis, India’s indigenous people continue to face widespread discrimination, with hate crimes including violence against Dalits and Adivasis being committed with impunity. More than 50,000 suspected crimes against members of Scheduled Castes and more than 9,000 crimes against Adivasi people were reported in 2021. More than three-quarters of India’s prison population were in pretrial detention, with Dalits, Adivasis and members of other disadvantaged groups being disproportionately represented.²⁰ The international community must use the eighteenth G20 summit in India as an opportunity to affirm its commitment to human rights as a central tenet of sustainable and inclusive development. It must call on the Indian government to immediately stop all forced evictions that have continued to take place with impunity, including as part of the preparations for the summit itself²¹, against people from marginalized religious group, particularly Muslims.

The situation in Jammu & Kashmir remains concerning with the Indian government holding a near-total control over the information coming out of the region.²² UN’s Special Rapporteur on minority issues said in a statement that the G20 was “unwittingly providing a veneer of support to a facade of normalcy” when human rights abuses, political persecution, internet shutdowns, travel bans, and illegal detention and arrests were escalating in Kashmir.²³ Instead of playing along with the Indian government’s whitewashed narrative on Kashmir, G20 leaders should use the 2023 Delhi summit as an opportunity to stand up for the brave activists, journalists and academics whose genuine commitment to human rights has cost them their freedom.

C20 Civil Society Forum:

The C20 India 2023 civil society forum is supposed to provide “a platform for Civil Society Organizations (CSO) around the world to voice people’s aspirations to the world leaders in G20.”²⁴ With the G20 hosts arresting, detaining, or ‘surveying’ most of its own activists, the only domestic organizations present in the C20 are government organized non-governmental organizations (GONGOs) used to conceal Indian government’s dire human rights record.²⁵

The Indian authorities have been using central agencies to clamp down on independent organizations such as the ‘surveys’ conducted by the Income Tax Department of India at multiple locations, including the premises of Oxfam India, Independent and Public-Spirited Media Foundation (IPSMF) and the Centre for Policy Research.²⁶ The raids at the offices of the BBC and the subsequent probe launched against the media house is the latest example and comes after the BBC released ‘India: The Modi Question’, a two-part documentary critical of the Indian Prime Minister.²⁷ At the same time many human rights defenders including Umar Khalid and Khurram Parvez remain imprisoned under

¹⁷ Amnesty International, “India 2022”, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/>

¹⁸ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/463/20/PDF/G2246320.pdf?OpenElement>

¹⁹ Amnesty International, “India: Authorities must stop apparent unlawful demolitions of largely Muslim-owned property”, 14 April 2022, <https://www.amnesty.org/en/latest/news/2022/04/india-authorities-must-stop-apparent-unlawful-demolitions-of-largely-muslim-owned-property/>

²⁰ Amnesty International, “India 2022”, <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/>

²¹ Hannah Elis-Peterson, “In newly gleaming Delhi, Modi hopes G20 will cement India as a major global player”, *The Guardian*, 6 September 2023, <https://www.theguardian.com/world/2023/sep/06/in-newly-gleaming-delhi-modi-hopes-g20-will-cement-india-as-a-major-global-player>

²² Amnesty International, “We are being punished by law – Three years of abrogation of Article 370 in Jammu & Kashmir”, ASA 20/5959/2022, India: “We are Being Punished By The Law” - Three Years of Abrogation of Article 370 in Jammu & Kashmir - Amnesty International

²³ X, United Nations Special Rapporteur on Minority Issues, 15 May 2023, <https://twitter.com/fernanddev/status/1658026322772336640>

²⁴ <https://civil20.net/c20-india-2023/about/>

²⁵ <https://civil20.net/>

²⁶ Amnesty International, “India: Authorities must stop weaponizing central agencies to clamp down on civil society”, 8 September 2023, <https://www.amnesty.org/en/latest/news/2022/09/india-authorities-must-stop-weaponizing-central-agencies-to-clamp-down-on-civil-society/>

²⁷ Amnesty International, “India: Tax raids on the BBC are an ‘affront to free speech’”, 14 February 2023, <https://www.amnesty.org/en/latest/news/2023/02/india-tax-raids-on-the-bbc-are-an-affront-to-free-speech/>

India's counter-terrorism law along with the sixteen human rights activists in connection with the Bhima Koregaon-Elgar Parishad case.

The Indian government has also 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. Several have been shut down using the Foreign Contribution Regulation Act (FCRA), and others forced to stop their work due to lack of funding.²⁸ 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 human rights law.²⁹ 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."³⁰ Despite calls from UN authorities for repeal or revision of the law, the Indian government instead amended the FCRA in 2019, prohibiting the transfer of foreign contribution by FCRA registered NGOs to other registered organizations, restricting public servants from receiving foreign funds and putting a 20% cap on administrative expenses.³¹ It also required all NGOs registered under FCRA to maintain their bank account in one specified branch of State Bank of India (SBI), India's national bank in Delhi and NPO officeholders to produce AADHAAR cards, further increasing the burden on civil society organizations.

Amnesty International calls on the G20 nations to urge the Indian Government to meaningfully commit to respecting the human rights of everyone and protecting media and civil society organizations' independence and freedom of action and ensuring that journalists, researchers and academics are able to do their work freely and without the fear of persecution.

Reformed Institutions and Multilateralism:

The Indian G20 Presidency prioritizes the need for reformed 21st century institutions and "effective multilateralism to deliver solutions to pressing challenges" as one of the 2023 agenda points. However, autonomous Indian institutions established to protect human rights, including the National Human Rights Commission (NHRC), have become ineffective due to political appointments that are partisan and sympathetic to the ruling party. This is evidenced in the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions deciding to defer the review of the NHRC for 12 months (or two sessions).³²

When India presented its candidacy to the Human Rights Council in 2021, it pledged to "cooperate with special procedures," and "accept requests for visits and respond to communications." But their past record paints a different picture. Not a single Special Procedure country visit has been facilitated since November 2017, despite a large number of requests from relevant mandates including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the right to privacy, and the Special Rapporteur in the field of cultural rights. 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.³³

²⁸ Amnesty International, "India Should Stop Using Abusive Foreign Funding Law", 19 January 2022, <https://www.amnesty.org/en/latest/press-release/2022/01/india-should-stop-using-abusive-foreign-funding-law/>

²⁹ OHCHR, Analysis on International Law, Standards and Principles Applicable to the Foreign Contributions Regulation Act 2010 and Foreign Contributions Regulation Rules 2011 by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association Maina Kiai, 20 April 2016, UNSR-FOAA-info-note-India.pdf ([freeassembly.net](https://www.ohchr.org/en/press-releases/2020/10/bachelet-dismayed-restrictions-human-rights-ngos-and-arrests-activists-india?LangID=E&NewsID=26398))

³⁰ OHCHR, "Bachelet dismayed at restrictions on human rights NGOs and arrests of activists in India", 20 May 2020, <https://www.ohchr.org/en/press-releases/2020/10/bachelet-dismayed-restrictions-human-rights-ngos-and-arrests-activists-india?LangID=E&NewsID=26398>

³¹ The Foreign Contribution (Regulation) Amendment Act, 2020, 28 September 2020, https://fcraonline.nic.in/home/PDF_Doc/fc_amend_07102020_1.pdf

³² Global Alliance of National Human Rights Institutions (Ganhri), Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), February-March 2023, <https://ganhri.org/wp-content/uploads/2023/04/SCA-Report-First-Session-2023-EN.pdf>

³³ View Country visits of Special Procedures of the Human Rights Council since 1998, <https://spinternet.ohchr.org/ViewCountryvisits.aspx?visitType=pending&lang=en>

Recommendations:

In line with the G20 agenda of inclusive growth, digital transformation, need for reformed, comprehensive, and effective multilateral institutions and women-led development, Amnesty International urges G20 leaders and participating international organizations to call on the Indian Government to:

- Immediately and unconditionally release human rights defenders arrested and detained solely for peacefully exercising their human rights to freedom of expression, opinion, assembly and association;
- Impose an immediate moratorium on its de-facto policy of demolishing the homes and businesses of marginalized groups over the suspicion of criminal offences, which amounts to collective punishment and legal prohibition on mass forced evictions;
- End discriminatory policies and practices against minorities and persons from other marginalized groups;
- Ensure the prime minister takes 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;
- End broad, indiscriminate internet shutdowns. Ensure any restriction on internet comply with the requirements of legality, necessity, proportionality and non-discrimination and is limited in temporal scope, and 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;
- Withdraw the draft bill on data protection, and draft a new bill in meaningful consultation with civil society groups to ensure it is in line with international standards on safeguarding the right to privacy of users and other human rights, and is accompanied by surveillance reform;
- Take urgent measures to implement the recommendations accepted by India in its previous UPR processes but is yet to take any meaningful step to implement them.