



RADICALISM AND RED TAPE

The growing restrictions on advocacy for religious freedom in South Asia and Central Asia

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Cover photo: Pakistani human rights defender Bushra Khaliq poses with red tape, in protest against the growing legal restrictions faced by human rights defenders across Asia. Photo: Giulio Paletta

A PDF of this report, and additional information on the Defend the Defender campaign, is available at www.defendthedefender.com

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ABBREVIATIONS

CAT:	Convention Against Torture
CED:	Convention for the Protection of All Persons from Enforced Disappearance
CEDAW:	Convention on the Elimination of All Forms of Discrimination Against Women
CRC:	Convention on the Rights of the Child
CRPD:	Convention of the Rights of Persons with Disabilities
EU:	European Union
EUEA:	Eurasian Economic Area
FCRA:	Foreign Contribution (Regulation) Act 2010 (India)
FDRA:	Foreign Donations (Voluntary Activities) Regulation Act 2014 (Bangladesh)
FoRB:	Freedom of religion or belief
FoRB Declaration:	UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 1981
HRD:	Human rights defender. According to the United Nations, an HRD is someone who 'individually or with others, acts to promote or protect human rights.' ¹
HRD Declaration:	UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1999
ICCPR:	International Covenant on Civil and Political Rights
ICERD:	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR:	International Covenant on Economic, Social and Cultural Rights
ICRMW:	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
NGO:	Non-governmental organisation
NGOAB:	Non-Governmental Organization Affairs Bureau (Bangladesh)
NHRC:	National Human Rights Commission (India)
PTA:	Prevention of Terrorism Act 1979 (Sri Lanka)
SCRA:	State Commission on Religious Affairs (Kyrgyzstan)
UDHR:	Universal Declaration of Human Rights
UPR:	United Nations Universal Periodic Review

¹ United Nations Office of the High Commissioner for Human Rights, 'Human Rights Defenders: Protecting the Right to Defend Human Rights, Fact sheet No. 29' <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

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This report is dedicated to the human rights defenders across South Asia and Central Asia who courageously campaign for the right to freedom of religion or belief (FoRB) despite growing threats to their lives, and restrictions on their work. We are privileged to have met so many of you over the years and are inspired by your dedication and passion. Thank you for all your contributions to this report.

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ABOUT CSW

Christian Solidarity Worldwide (CSW) is an advocacy organisation specialising in freedom of religion or belief (FoRB), and working on over 20 countries across Asia, Africa, the Middle East and Latin America. CSW has over three decades of experience in advocating for FoRB, and has earned a reputation for providing credible information through in-depth research and evidence-based analysis, and by conducting regular research visits to our countries of focus. CSW has offices in London, Brussels and Washington DC and works with partner organisations around the world. For further information please visit www.csw.org.uk

INTRODUCTION

CSW has worked with human rights defenders (HRDs) from across South Asia and Central Asia for many years.² While HRDs in the region have always braved severe risks to carry out their work, in recent years the trend to suppress their voices has worsened.

Perpetrators of violence are increasingly targeting HRDs for speaking up on behalf of victims. Additionally, HRDs are labelled as 'anti-nationals' and 'enemies of the state' as a result of the narrative that it allowed to be disseminated in the media and government policies.

Internationally, there is a growing acknowledgement of the invaluable role that HRDs play in furthering democracy. The UN Special Rapporteur on the situation of human rights defenders, Michel Forst, has stated that HRDs 'should be recognized as the heroes of our time.'³ There is also a growing awareness of the increasing threats HRDs face. However, the severity and specificity of the threats faced by FoRB defenders is under-documented and under-reported.

**WOMEN HRDS (WHRDS)
WHO ADVOCATE FOR
FoRB ARE ESPECIALLY
AT RISK.**

Most HRDs who campaign for FoRB also campaign for a range of other human rights, including economic, social and cultural rights as well as civil and political rights. The challenges they face are sometimes part of the policies and/or violence that targets other HRDs who are not working on FoRB.

However, as FoRB defenders, they face a range of unique challenges and threats. As they challenge the nexus of religion, nationalism and extremism, which is often used for political leverage, they face antagonism not just from extremist groups but also from government officials who feel threatened by their work.

Women HRDs (WHRDs) who advocate for FoRB are especially at risk. Many are triple minorities in their countries – because of their gender, their religious or ethnic background, and the cause they are upholding. Many of the WHRDs we met routinely face sexual harassment and threats to their lives. Shabnam Hashmi, a prominent WHRD from India said in an interview with CSW that she has received email threats of gang rape.⁴

² This report focuses on Bangladesh, India, Kyrgyzstan, Nepal, Pakistan and Sri Lanka.

³ UN Office of the High Commissioner for Human Rights, Report of the Special Rapporteur on the situation of human rights defenders, 23 January 2017 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/011/75/PDF/G1701175.pdf?OpenElement>

⁴ The interview can be viewed online here: http://www.youtube.com/watch?v=hiiSxfJk_U&list=PL-ho-ebiQZPpJsw8bh3yBjiV9VI-rRT_n and the transcript can be read in this report (p. 40)

2017 FoRB Defenders consultation

In July 2017 CSW organised a consultation for human rights defenders in South and Central Asia. Attendees included the UN Special Rapporteur on the situation of human rights defenders, Michel Forst, as well as 40 FoRB HRDs from Bangladesh, India, Kyrgyzstan, Nepal, Pakistan and Sri Lanka. The delegates jointly drafted a set of policy recommendations, which form the basis of this report and are included in the Conclusion and Country Sections.



In addition, the experiences of some of these HRDs are showcased in a series of short films which can be viewed online.⁵

During the consultation, recurring themes emerged illustrating the types of violations experienced by FoRB HRDs in South and Central Asia. They face intimidation, harassment and violence from both state and non-state actors. They must also navigate a minefield of legal restrictions to their work – attempts by their own governments to curtail their movements and deny their access to funds.

Scope of this report

This report provides an insight into the FoRB context in six countries in South and Central Asia (Bangladesh, India, Kyrgyzstan, Nepal, Pakistan and Sri Lanka), and details some of the challenges faced by HRDs, especially FoRB HRDs, in these countries.

Each country profile is split into four sections. The first section outlines the recommendations to the government of that country; the second provides a brief overview of the human rights and FoRB situation; the third highlights specific challenges faced by FoRB HRDs; before concluding with the details of the Universal Periodic Review (UPR) recommendations on FoRB or on HRDs that the country has accepted or noted.

Our hope is that the international community will hold these states to account for the UPR recommendations they have received so far, and will urge them to adopt the recommendations co-drafted by the delegates at the 2017 Defenders consultation.

THE SEVERITY AND SPECIFICITY OF THE THREATS FACED BY FoRB DEFENDERS IS UNDER-DOCUMENTED AND UNDER-REPORTED.

⁵ The films can be viewed online here: http://www.youtube.com/watch?v=_hiiSxfJk_U&list=PL-ho-ebiQZPpJsw8bh3yBjiV9VI-rRT_n

Freedom of religion or belief (FoRB)

The right to FoRB is enshrined in the United Nations Universal Declaration of Human Rights (UDHR). Article 18 states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.⁶

FoRB is also protected in the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Articles 2 and 7 highlight coercion and the role of the state:

No one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other beliefs.⁷

Human rights defenders

Human rights defenders (HRDs) play an important role in ensuring that states comply with their human rights obligations. According to the UN fact sheet on protecting the right to defend human rights:

To be a human rights defender, a person can act to address any human right (or rights) on behalf of individuals or groups. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realization of economic, social and cultural rights.⁸

Additionally, the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (unofficially known as the UN Declaration on Human Rights Defenders) is a landmark document that recognises the importance of protecting the rights of HRDs, and details how they should be protected. It was adopted on 9 December 1998, on the eve of the 50th anniversary of the UDHR.

Article 12 of the Declaration on Human Rights Defenders states:

Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.⁹

The Declaration outlines the rights of those who are holding the state to account in terms of their human rights record.

Article 4 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief states:¹⁰

6 UN Office of the High Commissioner for Human Rights, Universal Declaration of Human Rights (UDHR) (adopted 10 December 1948), Article 18 http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

7 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (adopted 25 November 1981) A/RES/36/55, Article 2.1

8 UN Office of the High Commissioner for Human Rights, Human Rights Defenders: Protecting the Right to Defend Human Rights, Fact Sheet No. 29 1.A.1. p.2 <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>

9 *ibid.*, Article 12

10 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (adopted 25 November 1981) A/RES/36/55, Article 2.1, <http://www.un.org/documents/ga/res/36/a36r055.htm>

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Article 6 states:

In accordance with article 1 of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:...

(b) To establish and maintain appropriate charitable or humanitarian institutions;...

(f) To solicit and receive voluntary financial and other contributions from individuals and institutions.¹¹

International commitments

The following table displays the various UN human rights treaties to which each country examined in this report is party.¹²

	India	Pakistan	Nepal	Bangladesh	Sri Lanka	Kyrgyzstan
CAT	♦	✓	✓	✓	✓	✓
CED	♦				✓	
CEDAW	✓	✓	✓	✓	✓	✓
CRC	✓	✓	✓	✓	✓	✓
CRPD	✓	✓	✓	✓	✓	♦
ICCPR	✓	✓	✓	✓	✓	✓
ICERD		✓	✓	✓	✓	✓
ICESCR	✓	✓	✓	✓	✓	✓
ICRMW				✓	✓	✓

Key:

✓ The country has ratified, acceded or succeeded to the treaty.

♦ The country has signed the treaty, but not ratified, acceded or succeeded to it.

See 'Abbreviations' section for key to acronyms used in the table.

¹¹ *ibid.*, Articles 4 and 6

¹² Data from <http://indicators.ohchr.org/> (as of 30 June 2017)

RECOMMENDATIONS

As well as country-specific recommendations, the delegates at the 2017 Defenders consultation also co-drafted a set of recommendations applicable to all the countries:

- Ensure that the right to defend human rights is protected. Legislation specifically on the protection of HRDs must be introduced. These laws must be developed in consultation with civil society in each country.
- Strengthen the constitutional provisions for freedom of expression and freedom of thought and association.
- Provide training for law enforcement agencies in human rights laws.
- Provide digital security and privacy rights training for HRDs to protect them from hacking or being silenced.
- Recognise the threat and danger in which HRDs currently work, and investigate every complaint of threat or intimidation against them through a thorough and transparent legal process.
- Policymakers must take into consideration the risks faced by WHRDs and incorporate a gender perspective when they devise mechanisms to protect HRDs.
- All stakeholders must urge the countries to ratify the UN treaties they have not ratified, and implement the ones that they have signed and ratified.



COUNTRY SECTIONS



BANGLADESH

RECOMMENDATIONS TO THE GOVERNMENT OF BANGLADESH

- Conduct thorough investigations into the spate of attacks on and murders of bloggers, and bring the perpetrators to justice.¹³
- Amend the Foreign Donations Regulation Act¹⁴ which deregisters NGOs that criticise the government,¹⁵ and restricts the work of human rights defenders.¹⁶
- Amend the 2016 Digital Security Act which restricts HRDs' right to voice criticism and concern without fear of sanctions.¹⁷

Challenges faced by Human Rights Defenders

Violent attacks on secular bloggers, religious minorities and human rights defenders (HRDs) have escalated in recent years. The government has repeatedly failed to bring perpetrators to justice.

In 2013, a 'hit list'¹⁸ containing the names of 84 bloggers was sent anonymously to newspapers across Bangladesh. The list comprised bloggers who held atheistic views and challenged religious extremism through their writing. Since the publication of the list, Islamist extremist groups have brutally murdered at least six bloggers and publishers,¹⁹ in many cases using knives and machetes. The victims were Niloy Chatterjee, Ananta Bijoy Das, Washiqur Rahman Babu, Avijit Roy, Faisal Arefin Dipan and Nazimuddin Samad.

THESE GRUESOME MURDERS, ALONGSIDE MORE DISAPPEARANCES AND INCREASED STATE SURVEILLANCE, HAVE FORCED MANY JOURNALISTS AND HUMAN RIGHTS DEFENDERS INTO SELF-CENSORSHIP.

Responding to the death of Niloy Chatterjee in August 2015, the Inspector General of Police, Shahidul Hoque, stated that free thinkers should not 'cross the limit', and issued a reminder

13 The Diplomat, 'Another Secular Blogger Murdered in Bangladesh', 19 April 2016

<https://thediplomat.com/2016/04/another-secular-blogger-murdered-in-bangladesh/>

14 Human Rights Watch, 'Bangladesh: New Law Will Choke Civil Society', 19 October 2016

<http://www.hrw.org/news/2016/10/19/bangladesh-new-law-will-choke-civil-society>

15 Front Line Defenders, 'Bangladesh - Parliament passes Foreign Donations Regulation Bill to deregister NGOs commenting against authorities', 5 October 2016 <http://www.frontlinedefenders.org/en/statement-report/bangladesh-parliament-passes-foreign-donations-regulation-bill-deregister-ngos>

16 Public Finance International, 'Bangladeshi legislators move to restrict NGO freedom', 20 May 2016

<http://www.publicfinanceinternational.org/news/2016/05/bangladeshi-legislators-move-restrict-ngo-freedom>

17 Article 19, 'Bangladesh: Information Communication Technology Act', 10 May 2016

<http://www.article19.org/resources/bangladesh-information-communication-technology-act/>

18 Al Jazeera, 'The hit list: Endangered bloggers of Bangladesh', 14 August 2015, <http://www.aljazeera.com/indepth/opinion/2015/08/hit-list-endangered-bloggers-bangladesh-150813132059771.html>

19 The Guardian, 'I must survive to seek justice,' says widow of murdered Bangladesh blogger', 26 Apr 2016,

<http://www.theguardian.com/world/2016/apr/26/bangladesh-asha-mone-niladry-chattopadhyay-blogger-killed-extremists>

that hurting religious sentiment is a crime under Bangladeshi law.²⁰ Meanwhile, police investigations into the murders have made little progress.²¹ This has created a culture of impunity, emboldening the perpetrators to carry out further attacks.

These gruesome murders, alongside more disappearances and increased state surveillance, have forced many journalists and human rights defenders into self-censorship.

Restrictive laws are also narrowing the space for the work of HRDs. These include the 2014 Foreign Donations (Voluntary Activities) Regulation Act (FDRA) and the draft Cyber Security Law,²² which has been renamed the Digital Security Act.

These restrictions contravene human rights enshrined in local as well as international law. The constitution defends freedom of assembly (Article 37), freedom of association (Article 38) and freedom of thought, conscience and speech (Article 39), while Articles 2 and 12 protect freedom of religion or belief.²³

The 2014 FDRA has been the great source of concern for HRDs. It is similar to India's Foreign Contributions Regulation Act (FCRA) in that it includes restrictions on foreign donations and requires registration with the Non-Governmental Organization Affairs Bureau (NGOAB).²⁴ The FDRA also allows for the revocation of NGOAB registration for conducting 'anti-state' activities, financing terrorism, or making 'malicious' or 'derogatory' statements against the constitution and constitutional bodies.²⁵ The vague wording used to describe these offences means that the Act can be used to silence voices that the state disagrees with. This may represent a breach of Article 39 of the constitution, which protects freedom of speech. HRDs are calling on the president to block the passage of this law,²⁶ after its approval by Parliament on 5 October 2016.

The Digital Security Act 2018, formerly known as the Cyber Security Act, grants security agencies extensive powers to arrest anyone suspected of a cyber-related offence without a warrant at any time,²⁷ and states that acts of 'cyber-terrorism' carry penalties of up to 14 years in prison.²⁸ The Digital Security Act is intended to replace the 2013 Information and Communication Technology Act (ICT Act). Although there are reports that Section 57 of the ICT Act, which continues to be of major concern with regard to freedom of expression (see below), has been repealed in the latest draft of the Digital Security Act,²⁹

20 *Dhaka Tribune*, 'Don't hurt religious sentiment, IGP to bloggers', 10 August 2015

<http://www.dhakatribune.com/law-and-rights/2015/08/09/dont-hurt-religious-sentiment-igp-to-bloggers/>

21 BBC, 'Who is behind the Bangladesh killings?', 2 May 2016 <http://www.bbc.co.uk/news/world-asia-34517434>

22 The International Center for Not-for-Profit Law, 'Civic Freedom Monitor: Bangladesh', accessed 23 June 2017 <http://www.icnl.org/research/monitor/bangladesh.html>

23 Constitution of the People's Republic of Bangladesh http://bdlaws.minlaw.gov.bd/pdf_part.php?id=367

24 Global Human Rights Defence, 'Shrinking space for Non-governmental Organisations: Bangladesh and its Foreign Donations (Voluntary Activities) Regulation Bill', 9 September 2014 <http://www.ghrd.org/news/article/news/detail/News/shrinking-space-for-non-governmental-organisations-bangladesh-and-its-foreign-donations-voluntary/>

25 Front Line Defenders, 'Bangladesh - Parliament passes Foreign Donations Regulation Bill to deregister NGOs commenting against authorities', 5 October 2016 <http://www.frontlinedefenders.org/en/statement-report/bangladesh-parliament-passes-foreign-donations-regulation-bill-deregister-ngos>

26 *Dhaka Tribune*, 'NGO reps urge president to block restrictive law', 9 October 2016

<http://www.dhakatribune.com/bangladesh/law-rights/2016/10/09/ngo-reps-call-donations-act-amendments/>

27 International Federation of Journalists, 'Bangladesh drafts draconian Digital Security Act', 30 January 2018

<http://www.ifj.org/nc/en/news-single-view/backpid/1/article/bangladesh-drafts-draconian-digital-security-act/>

28 Committee to Protect Journalists, 'Proposed cyber-security bill threatens media freedom in Bangladesh', 24 August 2016 <https://cpj.org/2016/08/proposed-cyber-security-bill-threatens-media-freed.php>

29 *Dhaka Tribune*, 'Digital Security Act draft approved, Section 57 repealed', 29 January 2018

<http://www.dhakatribune.com/bangladesh/law-rights/2018/01/29/digital-draft-cabinet-approval/>

it is understood that similar clauses are included and that the latest draft is even more draconian.³⁰

Section 57 of the ICT Act criminalises the electronic publication of 'fake, obscene, or defaming information' that could 'deteriorate law and order, prejudice the image of the State or person or [cause] to hurt or may hurt religious belief or instigate against any person or organisation'.³¹

UPR on HRD and FoRB

Bangladesh will be undergoing its next Universal Periodic Review (UPR) at the UN in May 2018. We encourage all stakeholders to urge Bangladesh to uphold the rights of human rights defenders. During its previous UPR in 2013, Bangladesh accepted recommendations to 'ensure that human rights defenders are protected and allowed to conduct their work without hindrance, intimidation and harassment'.³²

30 International Federation of Journalists, 'Bangladesh drafts draconian Digital Security Act', 30 January 2018 <http://www.ifj.org/nc/en/news-single-view/backpid/1/article/bangladesh-drafts-draconian-digital-security-act/>

31 The Daily Star, 'The trap of Section 57', July 07, 2017, <http://www.thedailystar.net/frontpage/bangladesh-ict-act-the-trap-section-of-57-1429336>

32 UPR-Info, Recommendations & Pledges: Bangladesh, Second Review, Session 16 http://www.upr-info.org/sites/default/files/document/bangladesh/session_16_-_april_2013/recommendations_and_pledges_bangladesh_2013.pdf, 129.104

INDIA

RECOMMENDATIONS TO THE GOVERNMENT OF INDIA

- Reform the Foreign Contribution (Regulation) Act³³ to introduce proper safeguards against arbitrary or politically-motivated curtailment of NGO funding.
- End the use of excessive force during peaceful protests.³⁴
- End the arbitrary detention of human rights defenders (HRDs).
- End the surveillance of HRDs as revealed in the leaked Intelligence Bureau report.³⁵
- End the smear campaigns against, and stigmatisation and ostracism of HRDs (e.g. as 'enemies of the State' and 'anti-nationals').³⁶
- Reform the sedition law under Section 124A³⁷ of the penal code and its misuse³⁸ against HRDs (e.g. the Kanhaiya Kumar case).³⁹
- Publicly acknowledge the importance of an environment that enables HRDs to work without fear of reprisals, and remove policies that restrict the movements of HRDs who travel to participate in international assemblies which promote human rights (e.g. Priya Pillai,⁴⁰ Khurram Parvez).⁴¹

33 FCRA Services, The Foreign Contribution (Regulation) Act, 2010

https://fcraonline.nic.in/home/PDF_Doc/FC-RegulationAct-2010-C.pdf

34 Christian Solidarity Worldwide, 'India: Peaceful Dalit protest broken up roughly', 12 December 2013

<http://www.csw.org.uk/2013/12/12/press/1618/article.htm>

35 The Times of India, 'Foreign-funded NGOs stalling development: IB report', 12 June 2014

<https://timesofindia.indiatimes.com/india/Foreign-funded-NGOs-stalling-development-IB-report/articleshow/36411169.cms>

36 Human Rights Watch, 'Stifling Dissent: The Criminalization of Peaceful Expression in India', 24 May 2016

<http://www.hrw.org/report/2016/05/24/stifling-dissent/criminalization-peaceful-expression-india>

37 Indian Law Cases, Indian Penal Code, 1860, Section 124-A- Sedition

<http://www.indianlawcases.com/Act-Indian.Penal.Code,1860-1557>

38 Amnesty International, 'Human rights do not stand in the way of India's ambitions', 20 August 2016

<http://www.amnesty.org/en/latest/news/2016/08/human-rights-do-not-stand-in-the-way-of-indias-ambitions/>

39 BBC, 'Why an Indian student has been arrested for sedition', 15 February 2016

<http://www.bbc.co.uk/news/world-asia-india-35576855>

40 Guardian, 'India's war on Greenpeace', 11 August 2015

<http://www.theguardian.com/world/2015/aug/11/indias-war-on-greenpeace>

41 Al Jazeera, 'Kashmir: Human rights activist Khurram Parvez released', 30 November 2016 <http://www.aljazeera.com/news/2016/11/kashmir-human-rights-activist-khurram-parvez-released-161130140321711.html>

Overview

In recent years, human rights defenders campaigning for freedom of expression and freedom of religion or belief in India have come under increasing scrutiny and pressure from the government and from extremist groups.

Since 2013 there has been a spate of attacks on 'rationalist' and secular activists and journalists, and several have been murdered: Dr Narendra Dabholkar, Govind Pandharinath Pansare, M.M. Kalburgi and Gauri Lankesh.⁴² These individuals had all spoken up against *Hindutva* (the Hindu nationalist right wing ideology) the targeting of religious minorities, and campaigned for free speech.



Shabnam Hashmi received the National Minority Rights Award in 2008. She returned it to the National Commission of Minorities in protest in 2017.

Scientists, academics, writers, actors and filmmakers have also been threatened increasingly in recent years and forced to censor themselves.⁴³ Many of them have joined the 'award wapsi'⁴⁴ campaign, returning national awards they had been given earlier in their career as a mark of protest.⁴⁵ In 2017, Shabnam Hashmi returned her National Minority Rights Award which had been conferred on her by the National Commission for Minorities (NCM) in 2008, in protest at the impunity surrounding the increasing mob lynching of Muslims.

The constitution protects freedom of religion or belief as a fundamental right (Article 25),⁴⁶ as well as the rights to free speech and freedom of assembly (Article 19).

However, human rights defenders advocating for FoRB faced increased restrictions after the Bharatiya Janata Party (BJP) took office in 2014.⁴⁷ The BJP is the political arm of the RSS, a Hindu nationalist organisation that espouses *Hindutva*.

42 UN News, 'Following Lankesh's murder, UN rights experts urge Indian Government to protect free speech', 13 September 2017 <http://www.un.org/apps/news/story.asp?NewsID=57510>

43 Hindustan Times, 'Press freedom rankings: India slips 3 places to 136, "Modi's nationalism" blamed', 27 April 2017 <http://www.hindustantimes.com/india-news/world-press-freedom-rankings-india-slips-3-places-to-136-modi-s-nationalism-blamed/story-ea1yBizuPAkA7SZ9h9qkC9N.html>

44 'Wapsi' means 'to return' in Hindi. 'Award Wapsi' is a satire on 'Ghar Wapsi' ('homecoming'), the phrase used by Hindu nationalists to refer to reconversion ceremonies in which they forcibly convert Muslims and other religious minorities to Hinduism.

45 Hindustan Times, 'And it continues: 24 more filmmakers, writers return awards', 6 November 2015 <http://www.hindustantimes.com/india/and-it-continues-kundan-shah-saeed-mirza-join-award-wapsi/story-t7guKRzkGv7ZrsTY6vOMZJ.html>

46 Constitution of the Republic of India <http://lawmin.nic.in/olwing/coi/coi-english/coi-4March2016.pdf>, Article 25: 'Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.'

47 Christian Solidarity Worldwide, 'India: Key concerns relating to freedom of religion or belief', March 2017

Hindutva has for several decades threatened pluralism in India by encouraging intolerance towards non-Hindus. In recent years, right wing rhetoric from politicians and other leaders has gone unchecked,⁴⁸ while the space allowed by the state for civil society activity appears to be shrinking.⁴⁹ In 2017 India also voted for the removal of the term 'human rights defenders' from a UN resolution.⁵⁰ Although the amendment was defeated, the vote was a worrying move that sought to delegitimise the work of HRDs worldwide.



Photo: Marcus Perkins/CSW

THESE TRENDS SEEM LIKELY TO CONTINUE TO WORSEN, ESPECIALLY IF INDIA DOES NOT TAKE STEPS TO PROTECT THE RIGHTS OF HRDS

These trends seem likely to continue to worsen, especially if India does not take steps to protect the rights of HRDs in compliance with internationally recognised human rights standards.

Challenges faced by HRDs

Foreign Contribution (Regulation) Act 2010

In recent years the government has used the Foreign Contribution (Regulation) Act 2010 (FCRA) to clamp down on the work of Non-Governmental Organisations (NGOs), by prohibiting their access to foreign funding.

The FCRA has been used to stifle the work of tens of thousands of NGOs and HRDs whose are thought to be involved in 'activities detrimental to the national interest'.⁵¹ As of December 2016, the government had revoked the FCRA licences of some 20,000 NGOs,⁵² including many that advocate for freedom of religion or belief and work with victims of religiously-motivated violence, such as Act Now for Harmony and Democracy (ANHAD) and Sabrang Trust.⁵³

The withdrawal of an NGO's FCRA licence prevents them from receiving any further funding from overseas. Licence withdrawal may occur if the government deems their work to 'prejudicially affect the sovereignty and integrity of India; the security, strategic, scientific or economic interest of the State; the public interest; freedom or fairness of election to any Legislature; friendly relation with any foreign State; or the harmony of...communities.'

48 Al Jazeera, 'Getting away with hate speeches in India', 24 April 2014

49 Human Rights Watch, 'Stifling Dissent: The Criminalization of Peaceful Expression in India', 24 May 2016 <http://www.hrw.org/report/2016/05/24/stifling-dissent/criminalization-peaceful-expression-india>

50 The Wire, 'As UNHRC Session Draws to a Close, Here's How India Voted on Key Resolutions', 27 March 2017 <https://thewire.in/118974/unhrc-vote-india-myanmar/>

51 <http://freeassembly.net/wp-content/uploads/2016/04/UNSR-FOAA-info-note-India.pdf>

52 The Indian Express, 'FCRA licences of 20,000 NGOs cancelled', 27 December 2016 <http://indianexpress.com/article/india/fcra-licences-of-20000-ngos-cancelled-4447423/>

53 <http://www.theweek.in/content/archival/news/india/mha-cancels-fcra-licence-of-shabnam-hashmi-anhad-3-other-ngos.html>

Teesta Setalvad

A prominent advocate for FoRB in India, Teesta Setalvad has worked tirelessly to secure justice for the victims of communal violence, especially in the state of Gujarat where two thousand people, mostly Muslims, were killed in 2002. She and her husband Javed Anand played a key role in securing over 100 convictions against the perpetrators,⁵⁴ which included several government officials.

In 2015 the government suspended the FCRA registration of two charities run by Mrs Setalvad.⁵⁵ The following year the government announced that one of her charities, Sabrang Trust (which was set up after the 1992-1993 Mumbai communal violence), would no longer be permitted to receive foreign funding, accusing her and her husband of misusing charity funds for personal use.⁵⁶

This was not the first time that the couple had been accused of misusing charity funds. In October 2015 a high court froze their personal bank accounts in light of similar accusations. In December 2017 the pair challenged this verdict; however, their appeal was dismissed by the Supreme Court.⁵⁷



Teesta Setalvad.

Photo by Zuhair Ali (https://commons.wikimedia.org/wiki/File%3ATEesta_Setalvad_in_solidarity_function.jpg)

Henri Tiphagne

Henri Tiphagne is a prominent advocate for a range of human rights in India including Dalit rights, the rights of human rights defenders, FoRB, and women's rights. In 2016 he was awarded the Human Rights Award by Amnesty International Germany for 'tirelessly and bravely standing up' for human rights.⁵⁸ People's Watch – the NGO of which he is the founder and an executive director – had its FCRA registration suspended three times for a total period of more than 21 months, from 16 July 2012 to 16 March 2014. Staff believe the

- 54 The most severe outbreak of violence targeting religious groups in recent Indian history occurred in Gujarat State in February 2002. On 27 February 2002, two coaches of the Sabarmati Express caught fire in the town of Godhra; whether deliberately or by accident has not been decisively established. 59 Hindus, many of them activists returning from the disputed religious site of Ayodhya in Uttar Pradesh state, died as a result. After the Godhra train burning, Hindu nationalist groups called for state-wide protests in Gujarat, which set the context for a massive pogrom of violence carried out against Muslims in the state. It is estimated that 2,000 people were killed. Mosques and Muslim homes were looted and burnt, leaving thousands homeless; hate campaigns against Muslims fuelled further violence in cities and rural areas across the state. Narendra Modi, the current prime minister, was chief minister of Gujarat State at the time.
- 55 United Nations Office of the High Commissioner for Human Rights, 'UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding', 16 June 2016 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID=E>
- 56 Human Rights Watch, 'Dispatches: India Harasses Activists Seeking Justice', 20 June 2016 <http://www.hrw.org/news/2016/06/20/dispatches-india-harasses-activists-seeking-justice>
- 57 Hindustan Times, 'SC dismisses Teesta Setalvad's plea over de-freezing of bank accounts', 15 December 2017 <http://www.hindustantimes.com/india-news/sc-dismisses-teesta-setalvad-s-plea-over-de-freezing-of-bank-accounts/story-KT4lHsggkACbTu3EUdeczL.html>
- 58 Huffington Post, 'Activist Henri Tiphagne Wins Award For "Bravely Standing Up" For Human Rights In India', 28 January 2016 http://www.huffingtonpost.in/2016/01/28/award-human-rights-henri-n_9095044.html

suspension was imposed due to their work with the UN.⁵⁹ The organisation suffered seriously during this period, unable to pay staff wages or provide victims the support they needed.⁶⁰ Although the Delhi High Court ordered the restoration of their FCRA licence in 2014, two years later, in 2016, the government refused to renew the licence.

The former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, argued in his legal analysis of the FCRA⁶¹ that the Act is 'not in conformity with international law, principles and standards'. He went on to note that the FCRA contravenes India's obligations under the ICCPR 'to ensure the rights of all under its jurisdiction to free association because it imposes a total ban on associations' access to foreign funding on vaguely defined grounds for a broad purpose not included in the ICCPR's enumerated list of legitimate aims'.

In 2016 three UN Special Rapporteurs jointly urged India to repeal the FCRA. The Special Rapporteur on human rights defenders, Michel Forst; on freedom of expression, David Kaye; and on freedom of association, Maina Kiai; said, "We are alarmed that FCRA provisions are being used more and more to silence organisations involved in advocating civil, political, economic, social, environmental or cultural priorities, which may differ from those backed by the Government."⁶²



"The FCRA is not in conformity with international law, principles and standards" - Maina Kiai (above), former UN special rapporteur on the rights to freedom of peaceful assembly and of association

Photo: <https://www.flickr.com/photos/mainakiai/25127431233/in/album-72157663331450503/>

Finance Bill 2014

The Finance Bill 2014 brought in a series of amendments to sections of the Income Tax Act 1961 which cover tax exemption for NGOs, trusts and charitable institutions. These amendments give sweeping powers to the government to withdraw tax benefits or revoke these organisations' registration status. Moreover, the amendment is vaguely worded, with no clear definitions of the terms 'benefit of general public' or 'prohibited mode'.⁶³

59 Mr Tiphagne and his colleagues accompanied the former UN Special Rapporteur on the situation of human rights defenders, Margaret Sekkagya, on her official country visit to India in 2011.

60 International Service for Human Rights, 'Henri Tiphagne: Indian Human Rights Defender', 23 July 2014 <http://www.ishr.ch/news/henri-tiphagne-indian-human-rights-defender>

61 Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 'Analysis on international law, standards and principles applicable to the Foreign Contributions Regulation Act 2010 and Foreign Contributions Regulation Rules 2011', 20 April 2016 <http://freeassembly.net/wp-content/uploads/2016/04/UNSR-FOAA-info-note-India.pdf>

62 United Nations Office of the High Commissioner for Human Rights, 'UN rights experts urge India to repeal law restricting NGO's access to crucial foreign funding', 16 June 2016 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20112&LangID=E>

63 Christian Solidarity Worldwide, 'India: Stakeholder Submission to the Universal Periodic Review, 27th Session', September 2016 <http://www.csw.org.uk/2016/09/27/report/3269/article.htm>

Hate speech

When Odisha-based Catholic priest and human rights defender Ajaya Singh was awarded the National Minority Rights Award by the National Commission for Minorities in 2013, Hindu nationalist groups immediately convened a press conference to defame him. They portrayed him as a conspirator in the murder of Swami Lakshmananda Saraswati in Kandhamal (which triggered the 2008 communal violence against Christians in Kandhamal), and his effigy was burnt in numerous locations across the state.

Numerous FoRB HRDs have reported that they are experiencing intimidation online, especially on social media platforms like Twitter and Facebook. John Dayal, former president of the All India Catholic Union has regularly experienced harassment, including hate speech and threats on his life.⁶⁴ In September 2015 the hashtag '#shameonJohnDayal' was trending in India, and tweet after tweet poured out abuse and threats on his life.⁶⁵

Mr Dayal has filed cases to the police and to cybercrime agencies, yet the threats and abuse continue and the police are yet to intervene,⁶⁶ a trend that has been experienced by several other human rights defenders across India.

UPR recommendations on HRDs and FoRB

In the 2017 UN Universal Periodic Review (UPR), India received a number of recommendations regarding FoRB, Human Rights and HRDs.

India noted recommendations to:

- Enact a law on the protection of human rights defenders,⁶⁷ and to
- Take effective measures to combat rising instances of religious intolerance, violence and discrimination.⁶⁸



64 Scroll.in, 'What the online attacks on my father say about India: activist John Dayal's daughter takes stock', 14 September 2015 <https://scroll.in/article/755453/what-the-online-attacks-on-my-father-say-about-india-activist-john-dayals-daughter-takes-stock>

65 BBC, 'Viewpoint: The depressing reality of being trolled', 18 September 2015 <http://www.bbc.co.uk/news/world-asia-india-34266119>

66 Christian Solidarity Worldwide, 'The role of religious leaders as rights defenders', 10 December 2015 <http://www.csw.org.uk/2015/12/10/report/2894/article.htm>

67 UPR-Info, India's responses to recommendations (as of 23 August 2017) http://www.upr-info.org/sites/default/files/document/india/session_27_-_may_2017/response_to_recommendations_india_2017.pdf 161.134

68 ibid, 161.73

**MR DAYAL HAS FILED CASES
TO THE POLICE AND TO
CYBERCRIME AGENCIES, YET
THE THREATS AND ABUSE
CONTINUE AND THE POLICE
ARE YET TO INTERVENE**

India accepted recommendations to:

- Ensure that laws are fully and consistently enforced to provide adequate protections for members of religious minorities,⁶⁹ and to
- Adopt a national plan on human rights.⁷⁰

In the 2012 UPR, India accepted recommendations to:

- Continue including civil society in the UPR process,⁷¹ and to
- Strengthen the Federal Government's effort to guarantee freedom of religion to everyone.⁷²

It opted to take note of other recommendations regarding FoRB and HRDs. On FoRB, this included:

- Reconsider laws and bills on religious conversion in several Indian states in the light of freedom of religion or belief in order to avoid the use of vague or broad terminology and discriminatory provisions,⁷³
- Reconsider current local legislation on freedom of religion that uses vague or broad terminology and discriminatory provisions, and impedes the possibility for conversion of faith for those who wish to do so.⁷⁴

Recommendations affecting HRDs included to:

- Enact a law on the protection of human rights defenders,⁷⁵
- Adopt the recommendations of the Special Rapporteur on the situation of human rights defenders and the necessary measures to its recognition and protection, guaranteeing that the human rights violations are timely, effectively and independently investigated,⁷⁶
- Implement recommendations from 2012 with particular emphasis on recommendations that concern defenders of women's and children's rights, defenders of minorities rights, including Dalits and Adivasi, and right to information activists,⁷⁷ and to
- Solve remaining cases of human rights violations and create an independent committee to receive claims against the police.⁷⁸

The international community must hold the government of India to account for the recommendations they accepted and noted in recent UPR sessions.

69 *ibid*, 161.72

70 *ibid*, 161.62

71 UN Office of the High Commissioner for Human Rights, Universal Periodic Review Second Cycle – India, 24 May 2012 http://www.upr-info.org/sites/default/files/document/india/session_13_-_may_2012/recommendationstoindia2012.pdf 138.63

72 *ibid.*, 138.125

73 *ibid.*, 138.49

74 *ibid.*, 138.50

75 *ibid.*, 138.43

76 *ibid.*, 138.67

77 *ibid.*, 138.68

78 *ibid.*, 138.121

KYRGYZSTAN

RECOMMENDATIONS TO THE GOVERNMENT OF KYRGYZSTAN

- Amend Article 299 of the criminal code to bring the legal definition of 'religious hatred' as mentioned in this Article in line with international standards on freedom of religion or belief (FoRB).
- Ensure prompt, impartial and thorough reviews of the cases of Azimjan Askarov and Rashod Kamalov.
- End indirect discriminatory practices against human rights defenders (HRDs) working on FoRB, including the abolition of a suspected 'blacklist' of HRDs; and involve FoRB HRDs in dialogues between the state, religious groups and international organisations.
- End the deportation of foreign HRDs.

Overview

Kyrgyzstan, a Central Asian country that was formerly part of the Soviet Union, attained independence in 1991. In the period since then it has witnessed several mass demonstrations that resulted in the ousting of the first two presidents and constitutional reforms. Overall, there has been a trend towards democratisation, especially compared to its regional counterparts.⁷⁹ However, there are significant limits on FoRB, and HRDs and independent media professionals have been targeted by the state, especially since 2008.

The government has adopted the same approach to FoRB as the old Soviet model, with its recognition or tolerance of a few 'official' religions, and a deep suspicion of 'new' or 'foreign' religions. The religions that are permitted to operate with fewer restrictions include a government-approved version of the majority faith, Sunni Islam, as well as Russian Orthodox Christianity. Groups associated with these religions but which do not accept government control, as well as other religious groups, are targeted by the government and suffer violations of their FoRB.

Concerns about radicalisation across Central Asia have led to harsh anti-extremism laws and practices, which have been used to target members of the religious majority and religious minorities. The definition of 'extremist activities' under many of these laws is broad, leaving the legislation open to abuse and arbitrary application.

The constitution protects freedom of religion (Article 20.5.1), thought, opinion (Article 30), conscience and belief (Article 31), the right to freely receive information (Article 33) and to assemble (Article 34).⁸⁰ However, the 2009 Religion Law, which was signed by the president

⁷⁹ Search for Common Ground, 'Promoting Religious Freedom through Government and Civil Society Collaboration in the Kyrgyz Republic', <http://www.sfcg.org/religious-freedom-kyrgyzstan/>

⁸⁰ Constitution of the Republic of Kyrgyzstan <http://www.legislationline.org/documents/id/5045>

in 2008 and published in 2009, severely limits FoRB.⁸¹ The Law contains a range of onerous restrictions, particularly pertaining to the mandatory registration of religious groups.⁸² Religious groups may only register if they have 200 founders who are resident citizens of Kyrgyzstan. The law criminalises religious activities of any group not registered under this law – this has especially affected minority religious groups such as Protestant Christians, Baha'is, Buddhists and others.⁸³

The Supreme Court withdrew the official registration of Ahmadi Islam in July 2011; the Supreme Court upheld this decision in 2014.⁸⁴ Following the December 2015 murder of activist and human rights defender Yunusjan Abdjalilov, who was an Ahmadi Muslim, Ahmadi activities have come under increased state scrutiny.⁸⁵ Authorities have failed to address hate speech against Ahmadis and other vulnerable groups, often disseminated through mosque loudspeakers and mass media. One HRD claimed this hate speech is indirectly linked to the murder.⁸⁶

Several Jehovah's Witnesses endured arrests and police beatings in August 2015 in the city of Osh. During the same incident, one of their leaders, Nurlan Usupbaev, was charged with 'illegal religious activity'.⁸⁷ Although the charges were eventually dropped, the Osh city prosecutor refused to bring any charges against the police involved in the incident, against whom the group had filed a complaint.⁸⁸

Challenges faced by human rights defenders

In 2015 there was an attempt to force NGOs that receive overseas funding and engage in 'political activities' to register as 'foreign agents', a move which was described as an attempt to 'copy Russia' in its treatment of civil society.⁸⁹ This may have been influenced by the push to harmonise laws within the new Eurasian Economic Area (EUEA).⁹⁰ Although MPs eventually voted against the Bill,⁹¹ HRDs continue to face serious challenges.

81 BBC, 'Kyrgyzstan keeps a tight grip on religion', 19 January 2010 news.bbc.co.uk/1/hi/world/asia-pacific/8446662.stm

82 An English translation of the law is unavailable. However, a translation of a draft version of the law is available [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2008\)117-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2008)117-e) According to Kyrgyz HRDs there were no significant changes after the draft. European Commission for Democracy through Law (Venice Commission), Draft law on freedom of conscience, and religious organisation in the Republic of Kyrgyzstan'

83 Forum 18, 'KYRGYZSTAN: Religious freedom survey, November 2014', 4 November 2014 http://www.forum18.org/archive.php?article_id=2013

84 *Rabwah Times*, Kyrgyzstan Supreme court places restrictions on practice of Ahmadiyya faith, July 26th 2014 <http://www.rabwah.net/kyrgyzstan-supreme-court-places-restrictions-on-practice-of-ahmadiyya-faith/>

85 US Department of State, Kyrgyz Republic 2015 International Religious Freedom report, <http://www.state.gov/documents/organization/256521.pdf>

86 Forum 18, 'KYRGYZSTAN: Freedom of religion or belief without state permission = murder?', 18 February 2016 http://www.forum18.org/archive.php?article_id=2150

87 United States Department of State, 'Kyrgyz Republic 2015 International Religious Freedom Report', 2015 <http://www.state.gov/documents/organization/256521.pdf>

88 *ibid.*

89 Reuters, 'Copying Russia, Kyrgyzstan moves to brand some NGOs "foreign agents"', 4 June 2015 uk.reuters.com/article/uk-kyrgyzstan-rights-law-idUKKBNOOK1KA20150604

90 Centre for European Policy Studies (2012), Towards a Eurasian Economic Union: *The challenge of integration and unity* <http://www.ceps.eu/system/files/CEPS%20Special%20Report%20No%2075%20-%20Towards%20a%20Eurasian%20Economic%20Union.pdf> p.2

91 Human Rights Watch, Kyrgyzstan: Events of 2016 <http://www.hrw.org/world-report/2017/country-chapters/kyrgyzstan>

This is part of a campaign of harassment of HRDs that has been evident since 2013. The harassment includes:

- Judicial harassment
- Physical attacks
- Searches of the offices of non-governmental organisations (NGOs)
- Surveillance and intimidation of NGO employees
- Widespread discrediting of the activities of human rights defenders in the media.⁹²

A FoRB HRD interviewed by CSW, who wishes to remain anonymous, said that they were made aware of a government 'blacklist' of FoRB HRDs. HRDs on this list were allegedly denied access to conferences organised by multilateral bodies and embassies of western states in Kyrgyzstan and abroad, where there were opportunities for civil society representation.

Rashod Kamalov

In 2016 Rashod Kamalov, an ethnic Uzbek imam and an HRD, was arrested for allegedly 'inciting religious hatred and disseminating extremist materials.'⁹³ His supporters describe Mr Kamalov as a brave religious leader who 'openly criticised authorities and their policies.'⁹⁴ He was initially sentenced to five years' imprisonment, which was later extended to ten years. According to an HRD interviewed by CSW, Mr Kamalov was detained after accusing government officials of fabricating cases of extremism in southern Kyrgyzstan, where there are tensions between Kyrgyz nationalists and ethnic Uzbeks. Mr Kamalov's father, Muhammadrafik Kamalov, was killed by anti-terrorism Special Forces in 2006, accused of 'assisting terrorists.'⁹⁵

Rashod Kamalov was charged under the following sections of the criminal code:

- Article 299: Incitement of national, racial, religious, or interregional hatred
- Article 299(1): Organized activities aimed at incitement of national, racial, religious, or interregional hatred
- Article 299(2): Storage and dissemination of extremist material, using a position of power during public events
- Article 299(2)2: Incitement of national, racial, religious, or interregional hatred using an official position [an aggravated charge].⁹⁶

92 The Observatory for the Protection of Human Right Defenders, 'Kyrgyzstan at a crossroads: shrink or widen the scene for human rights defenders', June 2016 <http://www.omct.org/files/2017/02/24208/kyrgyzstanobsang2017hd.pdf> p.4

93 Global Freedom of Expression Columbia University, 'The Prosecutor General of Osh City v Rashod Kamalov' <http://www.globalfreedomofexpression.columbia.edu/cases/case-of-imam-rashod-kamalov/>

94 *Guardian*, 'Kyrgyzstan detains imam for "encouraging followers to fight for Isis"', 18 February 2015 <http://www.theguardian.com/world/2015/feb/18/kyrgyzstan-imam-encouraging-followers-fight-for-isis>

95 Fergana News, 'Rashod Kamalov: A respected imam or "chief Islamist" in Kyrgyzstan?', 13 February 2015 <http://www.fergananews.com/articles/2909>

96 Global Freedom of Expression Columbia University, 'The Prosecutor General of Osh City v Rashod Kamalov' <http://www.globalfreedomofexpression.columbia.edu/cases/case-of-imam-rashod-kamalov/>

HRDs have called for these laws to be amended, as their vague wording leaves them open to be used as tools to intimidate HRDs and minority ethnic groups, such as Uzbeks and Tajiks. One HRD interviewed by CSW, who wishes to remain anonymous, said that Article 299(2), which deals with the dissemination of extremist materials, has especially been used to target HRDs and religious leaders.

Azimjan Askarov

Another similar high profile case is that of Azimjan Askarov, also an ethnic Uzbek HRD. Mr Askarov is the founder of the human rights organisation Vozdukh (Air), and had investigated police brutality in the south of the country and advocated for improved prison conditions.⁹⁷

He was arrested in 2010 following the inter-ethnic violence in southern Kyrgyzstan that saw 400 deaths, mostly Uzbeks. Mr Askarov was charged with participating in mass unrest, inciting ethnic strife, illegal weapons possession, complicity in the murder of police officer Myktybek Suleimanov, attempted murder of other police officers, and incitement for taking a mayor hostage. After evidence obtained under torture, and from police officers who had been scrutinised by Mr Askarov, he was sentenced to life imprisonment. The sentence was upheld upon appeal on 24 January 2017.

Aziza Abdirasulova, Tolikan Islamilova and other HRDs who tried to defend Mr Askarov were monitored and intimidated by the authorities.⁹⁸

The UN Human Rights Committee found that Mr Askarov had been 'arbitrarily detained, held in inhumane conditions, tortured and prevented from adequately preparing his defence.'⁹⁹ The UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, stated that the court's decision to uphold Mr Askarov's life sentence 'is deeply troubling and highlights serious shortcomings in the country's judicial system.'¹⁰⁰

Izzatilla Rahmatullaev

In January 2017 Izzatilla Rahmatullaev, another ethnic Uzbek HRD from Osh, and one of the leaders of a human rights organisation called Law and Order, was physically assaulted after experiencing a torrent of verbal abuse. The attack left him in cardiac collapse.¹⁰¹ Mr Rahmatullaev and his colleagues had been involved in defending the rights of religious minorities, refugees, and ethnic minorities. Tensions in the region have been running high following the attacks on Uzbeks in Osh in 2010.¹⁰²

97 Frontline Defenders, 'Azimjan Askarov sentenced to life imprisonment', 24 January 2017 <http://www.frontlinedefenders.org/en/case/azimjan-askarov-sentenced-life-imprisonment>

98 Freedom House, 'Kyrgyzstan Seeks to Silence Human Rights Defenders', 8 December 2016 <https://freedomhouse.org/article/kyrgyzstan-seeks-silence-human-rights-defenders>

99 UN Office of the High Commissioner for Human Rights, 'Azimjan Askarov verdict in Kyrgyzstan "deeply troubling" – Zeid', 24 January 2017 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21113&LangID=E>

100 *ibid.*

101 Front Line Defenders, 'Assault on Izzatilla Rahmatullaev causes him to suffer a cardiac collapse', 1 February 2017 <http://www.frontlinedefenders.org/en/case/assault-izzatilla-rahmatullaev-causes-him-suffer-cardiac-collapse>

102 Al Jazeera, 'Unhealed Wounds of Osh', 18 October 2013 <http://www.aljazeera.com/programmes/101east/2013/10/unhealed-wounds-osh-2013101664058931780.html>

Deportations

The government has deported and denied entry to foreign religious leaders, HRDs and journalists in recent years.

In 2014 Bishop Feodosy, the head of the Russian Orthodox Church in Kyrgyzstan, was denied permission to work as a religious worker in the country. The State Commission for Religious Affairs (SCRA) alleged that he 'threatens the public security of Kyrgyzstan and sows religious discord among the population.' An HRD interviewed by CSW referred to this as an 'administrative deportation,' meaning Bishop Feodosy was asked to leave the country, and was denied entry when he attempted to enter the following month. Russian citizens are permitted to live in the country but not to carry out religious work.

In 2014 Vakhtang Fyodorov, a Sunday school catechist of the Russian Orthodox Church's Bishkek Diocese and a Russian citizen, was also threatened with deportation. An HRD we spoke to who wishes to remain anonymous said Fyodorov was asked to leave the country in 2014 and when he tried to pass through customs in Manas airport in Bishkek a month later, he was not permitted to enter Kyrgyzstan.

In 2015 American journalist Umar Farooq was detained by security services in Osh, where he had travelled to investigate the 2010 inter-ethnic conflict. Authorities accused him of spreading extremist ideas, and deported him.¹⁰³

In 2015 Mihra Rittman, a Central Asia researcher and Bishkek office director from Human Rights Watch, was refused entry and declared 'persona non grata'.¹⁰⁴

In July 2017, well known Russian HRD Vitaliy Ponomarev, also the Central Asia Programme Director at the Human Rights Center Memorial, was denied entry to Kyrgyzstan with no explanation.¹⁰⁵ Mr Ponomarev and other HRDs had been refused entry in 2010, but their travel bans were later lifted and he had continued to investigate and report on a range of human rights violations in Kyrgyzstan.

In December 2017 AFP Central Asia Correspondent Chris Rickleton was deported, and in March 2017 Grigory Mikhailov, a Russian journalist, was deported.¹⁰⁶

103 *Guardian*, 'US journalist deported from Kyrgyzstan after interrogation', 31 March 2015 <http://www.theguardian.com/media/greenslade/2015/mar/31/us-journalist-deported-from-kyrgyzstan-after-interrogation>

104 Human Rights Watch, 'Kyrgyzstan: Rights Group Representative Banned', 3 December 2015 <http://www.hrw.org/news/2015/12/03/kyrgyzstan-rights-group-representative-banned>

105 24.kg, 'Human rights organizations demand to lift ban on Ponomarev's entry to Kyrgyzstan', 14 July 2017 http://www.24.kg/english/57547_Human_rights_organizations_demand_to_lift_ban_on_Ponomarevs_entry_to_Kyrgyzstan/

106 24.kg, 'Journalist Grigory Mikhailov deported from Kyrgyzstan', 11 March 2017 http://www.24.kg/english/46998_Journalist_Grigory_Mikhailov_deported_from_Kyrgyzstan/

UPR recommendations on HRDs and FoRB

Kyrgyzstan accepted all the recommendations on HRDs and FoRB during its most recent UPR in 2015. These included:

- Ensure that relevant legislation guarantees the exercise of the rights to freedom of expression and association for all individuals, including human rights defenders and journalists.¹⁰⁷
- Guarantee freedom of expression, association and peaceful assembly for journalists, activists, human rights defenders and for participants in demonstrations.¹⁰⁸
- Ensure that journalists, human rights defenders and other members of civil society can seek, receive and impart information and carry out their legitimate peaceful activities without hindrance, intimidation, harassment or pressure.¹⁰⁹
- Take the necessary measures to ensure that human rights defenders and civil society actors can carry out their legitimate work in a safe environment without threats and harassment by State and non-State actors.¹¹⁰
- Protect human rights defenders from intimidation and violence and ensure prompt, impartial and thorough investigation of allegations of harassment, torture and ill-treatment of human rights defenders.¹¹¹
- Conform the recently adopted amendments to the criminal code to international human rights standards, promptly investigate attacks on journalists and human rights defenders and hold accountable the perpetrators.¹¹²

107 UN Office of the High Commissioner for Human Rights, Universal Periodic Review Second Cycle – Kyrgyzstan, 19 January 2015 http://www.upr-info.org/sites/default/files/document/kyrgyzstan/session_21_-_january_2015/recommendations_and_pledges_kyrgyzstan_2015.pdf 117.102

108 *ibid.*, 117.111

109 *ibid.*, 117.112

110 *ibid.*, 117.113

111 *ibid.*, 117.114

112 *ibid.*, 119.24

NEPAL

RECOMMENDATIONS TO THE GOVERNMENT OF NEPAL

- Amend the District Development Committee (DDC) Stay Order that deregisters NGOs working on projects that involve religious activities.
- Ensure the independence and safe working of the National Human Rights Commission (NHRC).
- Amend Article 26(3) of the constitution and Section 9 of the penal code to fully protect freedom of religion or belief (FoRB) and freedom of expression.

Overview

The constitution, promulgated in 2015, has been criticised by human rights groups for its failure to protect the rights of marginalised communities including women, Dalits and religious minorities.

While the constitution establishes Nepal as a secular state, it also stipulates that *Sanatana Dharma* (the Hindu faith) will be protected by the state. Article 26(3) restricts the right to freedom of religion or belief by stating that conversion from one faith to another is a criminal offence.¹¹³

In June 2016 Article 26(3) was used to charge eight Christians in Charikot with attempting to convert children to Christianity, after they distributed a comic book explaining the story of Jesus. Although the accused were acquitted of all charges in December 2016, similar cases may occur in the future if the penal code and constitution remain unchanged.

President Bidhya Devi Bhandari signed a Criminal Code Bill into law on 16 October 2017. This Bill includes clauses that criminalise religious conversion and the 'hurting of religious sentiment', and severely restricts freedom of expression and freedom of religion or belief.

By criminalising conversion and the 'hurting of religious sentiment' in the penal code and constitution, Nepal has disregarded its commitments under international law to freedom of religion or belief and freedom of expression – commitments which the country's own 1991 Treaty Act obliges it to uphold. This contradiction is made even more striking as Nepal assumed its seat as a first time member of the UN Human Rights Council in January 2018.

Ahmed Shaheed, UN Special Rapporteur on FoRB, called in October 2017 for a 'global repeal of blasphemy laws' and stressed that 'anti-blasphemy, anti-apostasy or anti-conversion laws...serve as platforms for enabling intolerance.'¹¹⁴

¹¹³ Article 26 (3) of the constitution states: 'No person shall...convert another person from one religion to another or any act or conduct that may jeopardize other's religion and such act shall be punishable by law.'

¹¹⁴ United Nations Office of the High Commissioner on Human Rights, 'UN expert urges global repeal of blasphemy laws to boost religious freedom', 24 October 2017 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22286&LangID=E>

Challenges faced by human rights defenders

Registration

There is no provision in domestic law for Christians, Muslims, Jains, Buddhists, Baha'is and other religious minority groups to register their places of worship as religious organisations. They are obliged to register the buildings as non-governmental organisations (NGOs) under the NGO Act 2034, or as individually-owned properties, which restricts their activities in those buildings.

NGOs need the approval of local District Development Committees (DDCs) to carry out their activities. In a stay order sent on 21 June 2016, the Department of Federal Affairs and Local Development instructed all DDCs to deny permission to any NGOs that apply for activities that involve *dharmaprachar*, or sharing of one's faith. An unofficial translation of point four in this letter reads: 'When making a memorandum of understanding and project agreement [with NGOs], do not approve any projects that involve the sharing of one's faith.' Local officials have warned FoRB defenders and faith-based NGOs not to submit any new project proposals, as they will not be approved.



A church in Kathmandu that meets in a rented room. There is no provision in domestic law for Christians, Muslims, Jains, Buddhists, Baha'is and other religious minority groups to register their places of worship.

During the recent federal restructure, with power being gradually distributed away from central government to the newly formed provincial government bodies, DDCs were renamed District Coordination Committees (DCCs). From May 2018, NGOs already registered with the local DCC will have to reregister with the provincial government. The provincial government will also be responsible for deciding whether to approve programmes that NGOs plan to carry out. In light of this change, the stay order must be amended to avoid replicating the discrimination.

Human rights institutions

The National Human Rights Commission (NHRC) has often been accused of being highly politicised. It faced harsh criticism and intimidation in 2015 from the government after the presentation it made at Nepal's UPR in Geneva.¹¹⁵ This was in direct breach of the UN Paris Principles,¹¹⁶ that protect the independence and work of national human rights institutions. Local MPs recently called for the NHRC to establish provincial-level offices, and ensure gender and ethnic diversity among the staff.¹¹⁷

¹¹⁵ Human Rights Watch, 'Nepal: End Intimidation of Human Rights Commission', 14 April 2016 <http://www.hrw.org/news/2016/04/14/nepal-end-intimidation-human-rights-commission>

¹¹⁶ United Nations Office of the High Commissioner on Human Rights, Principles relating to the Status of National Institutions (The Paris Principles) <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>

¹¹⁷ UNDP, 'MPs call for NHRC reform', 30 August 2017 <http://www.np.undp.org/content/nepal/en/home/presscenter/articles/2017/08/30/mps-call-for-nhrc-reform.html>

Combined with a lack of sufficient resources for the National Dalit Commission, this means that HRDs in minority ethnic groups are unable to work effectively, despite government commitments.

On 19 February 2016, 12 HRDs including Amnesty international members and Kanak Mani Dixit, a prominent journalist, and victims of human rights violations, were arrested for peacefully demonstrating to demand justice for victims of the armed conflict that ended in 2006.¹¹⁸ The demonstrators were never given a reason for their arrest, and were released without charge after four hours in detention. This is a breach of Article 5 of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.¹¹⁹

UPR on HRD and FoRB

At Nepal's UN Universal Periodic Review (UPR) in November 2015, both Spain and the USA made recommendations to amend Article 26 of its constitution, to allow for full religious freedom. Nepal did not accept these recommendations.

The recommendations that Nepal did accept included to:

- Investigate all case [sic] of threats and attacks against human rights defenders.¹²⁰
- Ensure the right to freedom of expression online/offline in law and in practice, including by decriminalizing defamation, and to investigate all cases of threats and attacks against journalists and human rights defenders.¹²¹
- Create and maintain, in law and practice, a safe and enabling environment in which journalists, media workers, human rights defenders and civil society can operate free from hindrance and insecurity.¹²²
- Include defenders of human rights of persons with disabilities in the decision-making process on education policies.¹²³

Nepal responded to the recommendation to 'eliminate the prohibition of conversion to another religion, which undermines freedom of religion,'¹²⁴ by stating that they consider that it 'does not undermine freedom of religion.'¹²⁵ In reality it limits not just FoRB but also freedom of expression.

118 Worldwide Movement for Human Rights (FiDH), 'Nepal: Arbitrary arrest of twelve human rights defenders and victims of human rights violations', 4 March 2016 <http://www.fidh.org/en/issues/human-rights-defenders/nepal-arbitrary-arrest-of-twelve-human-rights-defenders-and-victims>

119 UN General Assembly, Resolution Adopted by the General Assembly A/RES/53/144 <http://undocs.org/A/RES/53/144>

120 UPR-Info, UN Office of the High Commissioner for Human Rights, Universal Periodic Review Second Cycle – Nepal, 4 November 2015 http://www.upr-info.org/sites/default/files/document/nepal/session_23_-_november_2015/recommendations_and_pledges_nepal_2015.pdf 122.60

121 *ibid.*, 122.72

122 *ibid.*, 122.73

123 *ibid.*, 122.110

124 *ibid.*, 124.16

125 *ibid.*, 132

PAKISTAN

RECOMMENDATIONS TO THE GOVERNMENT OF PAKISTAN

- Conduct thorough and transparent investigations into the recent attacks on human rights defenders (HRDs) such as Waqass Goraya, Asim Saeed, Salman Haider, Ahmed Raza Naseer¹²⁶ and Sabeen Mahmud.¹²⁷
- Reform the requirements for NGOs to have a No Objection Certificate (NOC), in every district in which this requirement currently exists.¹²⁸
- Amend the blasphemy laws as a step towards their full repeal (specifically Sections 295(a), (b) and (c) of the penal code), in light of the fact that they violate freedom of expression, thought, conscience and religion.¹²⁹
- Honour its obligations under the constitution and international treaties to protect those defending human rights and ensure that they are not intimidated or harassed.

Overview

Amid the climate of worsening religious intolerance, the situation for human rights defenders (HRDs) in Pakistan has deteriorated significantly over the years.

HRDs who campaign for the rights of religious minorities, who challenge the blasphemy laws or anti-Ahmadi legislation, face constant intimidation, harassment, enforced disappearances, and violent attacks. Women human rights defenders are especially vulnerable.

The government has repeatedly failed to bring to justice the perpetrators of attacks and threats against HRDs, and lawyers and judges who work on human rights cases. The resulting culture of impunity has contributed to an increase in these attacks.

Article 20 of the constitution states that 'every citizen shall have the right to profess, practice and propagate his religion,'¹³⁰ while Article 36 maintains that 'the State shall safeguard the legitimate rights and interests of minorities.'¹³¹ It also protects freedom of assembly (Article 16), association (Article 17) and speech (Article 19).

In November 2015 Pakistan was one of 14 countries that voted against the UN General Assembly resolution on HRDs. This resolution included a number of new and significant provisions, including recognition of the vital role that HRDs play in protecting economic,

126 Al Jazeera, 'Concern over fate of missing Pakistani activists', 9 January 2017 <http://www.aljazeera.com/news/2017/01/pakistanfour-rights-activists-missing-week-170109142007148.html>

127 Al Jazeera, 'Pakistani rights activist Sabeen Mahmud shot dead', 25 April 2015 <http://www.aljazeera.com/news/2015/04/pakistani-rights-activist-sabeen-mahmud-killed-150424210251526.html>

128 Herald, 'Government versus non-governmental organisations in Punjab', 27 March 2017 <https://herald.dawn.com/news/1153702>

129 Amnesty International, PAKISTAN 2016/2017 <http://www.amnesty.org/en/countries/asia-and-the-pacific/pakistan/report-pakistan/>

130 Constitution of the Islamic Republic of Pakistan, Article 20 (a) <http://www.pakistani.org/pakistan/constitution/part2.ch1.html>

131 Ibid., Article 36

social and cultural rights, and the responsibility of businesses to consult with defenders and assess how their work impacts human rights.¹³²

Challenges faced by human rights defenders

HRDs face constant threats from a variety of state and non-state actors.

Intimidation of lawyers defending those accused of blasphemy

Lawyers defending clients accused of blasphemy, and judges who oversee hearings of such cases, have received death threats and have been physically assaulted, often in or outside courts. In addition, extremist groups have held violent protests outside courthouses to intimidate the lawyers and judges. In 2014, Rashid Rehman, a human rights lawyer, was shot dead in Multan for defending Junaid Hafeez, a university lecturer accused of blasphemy.¹³³

Murder of government ministers who challenged blasphemy laws

In January 2011, the then-governor of Punjab province, Salman Taseer, who was an outspoken critic of the blasphemy laws, was killed by his own bodyguard. He had also been proactive in demanding justice for Asia Bibi, a Christian woman accused of blasphemy who has been on death row since 2010.



Shahbaz Bhatti, former Federal Minister for Minorities Affairs who was assassinated in 2011 for his opposition to blasphemy laws

In March that year Shahbaz Bhatti, the then Federal Minister for Minorities Affairs, who had also called for reforms to the blasphemy law, was murdered.

HRDs feel that since these murders it has become especially difficult for anyone to challenge the wording and misuse of the blasphemy laws.

Murder of HRDs who were outspoken about radical religious groups

Sabeen Mahmud, who had received death threats for years from religious extremists, was killed on 25 April 2015. On 7 May 2016 Khurram Zaki, a prominent Shi'a human rights campaigner and editor, was shot in North Karachi. Mr Zaki had been outspoken against radical Islamist groups.¹³⁴

Enforced disappearances

In January 2017 four HRDs who campaigned for human rights and religious freedom, and who had been critical of the government and military, were abducted and disappeared for several weeks before they were released.¹³⁵ One of the detainees, Waqass Goraya, a blogger,

132 International Service for Human Rights, 'General Assembly adopts important resolution on human rights defenders in face of opposition from China and Russia', 25 November 2015 <http://www.ishr.ch/news/general-assembly-adopts-important-resolution-human-rights-defenders-face-opposition-china-and>

133 Reuters, Gunmen kill Pakistan lawyer defending blasphemy case, May 8 2014, <http://www.reuters.com/article/us-pakistan-blasphemy/gunmen-kill-pakistan-lawyer-defending-blasphemy-case-idUSBREA4709N20140508>

134 Amnesty International, 'Pakistan: Another human rights defender is killed', 10 May 2016 <http://www.amnesty.org.au/pakistan-human-rights-defender-killed/>

135 Human Rights Watch, 'Pakistan: Bloggers Feared Abducted', 10 January 2017 <http://www.hrw.org/news/2017/01/10/pakistan-bloggers-feared-abducted>

claims that a 'government institution' with links to the military abducted him and tortured him 'beyond limits'¹³⁶.

Legislation

In most districts, NGOs must obtain a No Objection Certificate (NOC) from the Deputy Commissioner of the District before carrying out any activities. Obtaining this certificate is a lengthy and difficult process, and NGOs are often forced to cancel their projects as a result. Human rights NGOs whose work includes criticism of government policies feel that they are particularly discriminated against, and any work that is deemed to be 'against national interest' is curtailed. Reports have also emerged that officials have abused the NOC system to extort bribes.¹³⁷

Even international NGOs (INGOs) are increasingly viewed with suspicion and are subjected to several bureaucratic hurdles that limit their staff's ability to work and travel within the country. INGOs whose registration has been rejected (some temporarily and some permanently) include Oxfam GB, the Norwegian Refugee Council, the Danish Refugee Council, Catholic Relief Services, World Vision, and Mercy Corps.¹³⁸

UPR recommendations on HRDs and FoRB

In the 2017 UPR Pakistan received recommendations to:

- Conduct an independent inquiry into all suspected cases of enforced disappearances of human rights defenders and hold accountable those responsible.¹³⁹
- Implement measures to protect the right to life and freedom of expression of journalists and human rights defenders ensuring that the perpetrators of violence against them are brought to justice.¹⁴⁰
- Continue the adoption and implementation of administrative legal measures for the protection of journalists and human rights defenders and ensure the referral to the courts of perpetrators of violence against them.¹⁴¹
- Continue its efforts to cooperate with the Special Rapporteur on the situation of human rights defenders, to ensure that all allegations of improper use of criminal laws against journalists and dissenting voices, including human rights defenders are investigated in an effective, impartial and prompt manner.¹⁴²

On FoRB, Pakistan received recommendations to:

136 BBC, 'Pakistan activist Waqass Goraya: The state tortured me', 9 March 2017

<http://www.bbc.co.uk/news/world-asia-39219307>

137 *Daily Times*, 'NOC for (I)NGOs or tool for corruption?', 8 November 2017,

<https://dailytimes.com.pk/135629/noc-ingos-tool-corruption/>

138 Devex, 'Pakistan uses regulations to tighten grip on INGOs', 18 October 2017

<http://www.devex.com/news/pakistan-uses-regulations-to-tighten-grip-on-ingos-91003>

139 UPR-Info, UN Human Rights Council, Draft report of the Working Group on the Universal Periodic Review: Pakistan, 22 November 2017 http://www.upr-info.org/sites/default/files/document/pakistan/session_28_-_november_2017/a_hrc_wg.6_28_L10.pdf 152.132

140 *ibid.*, 152.176

141 *ibid.*, 152.180

142 *ibid.*, 152.181

- Enact legislation ensuring the right to freedom of religion or belief for all religious groups and take effective measures to prevent the abuse of blasphemy legislation and the use of violence against religious minorities.¹⁴³
- Guarantee freedom of religion or belief by considering to decriminalize blasphemy and adopt measures to protect the rights of persons belonging to religious minorities.¹⁴⁴
- Abolish, or profoundly reform, the blasphemy laws and guarantee freedom of religion and belief for all in law and in practice.¹⁴⁵
- Ensure the prosecution of the right to freedom of religion or belief, expression, association and peaceful assembly by decriminalising blasphemy and respecting, protecting, and fulfilling the rights of all religious minorities, including the Ahmadi, Shi'a Muslims, Christians and Baha'i.¹⁴⁶

In response to the 2012 UPR, Pakistan accepted several recommendations to improve the situation for HRDs. These included recommendations to 'review and align the legislation with freedom of religion and belief and freedom of expression, as stipulated in the ICCPR,'¹⁴⁷ 'implement measures to protect the right to life and freedom of expression of human rights defenders, and ensure that the perpetrators of violence are brought to justice,'¹⁴⁸ 'take measures to combat impunity of all those who attack human rights defenders'¹⁴⁹ and to 'take steps to bring to justice those who have threatened, or attacked human rights defenders, children, and others who are working to promote democracy and accountability in Pakistan.'¹⁵⁰

It took note of recommendations to 'repeal or reform thoroughly the so-called blasphemy law'¹⁵¹ and to 'develop a national policy for the protection of human rights defenders and bring to justice all perpetrators of attacks on or threats against human rights defenders to combat impunity.'¹⁵²

The international community must hold the government of Pakistan to account for the recommendations they accepted and noted in recent UPR sessions.



HRDs in Pakistan demand justice and mourn the targeted killings of FoRB HRDs and religious minorities.

143 *ibid.*, 152.154

144 *ibid.*, 152.158

145 *ibid.*, 152.159

146 *ibid.*, 152.160

147 UPR-Info, UN Office of the High Commissioner for Human Rights, Universal Periodic Review Second Cycle – Pakistan, 30 October 2012 http://www.upr-info.org/sites/default/files/document/pakistan/session_14_-_october_2012/recommendationsandpledgespakistan2012.pdf 122.27

148 *ibid.*, 122.101

149 *ibid.*, 122.110

150 *ibid.*, 122.117

151 *ibid.*, 122.28

152 *ibid.*, 122.56

SRI LANKA

RECOMMENDATIONS TO THE GOVERNMENT OF SRI LANKA

- End the surveillance and intimidation of human rights defenders (HRDs) by state officials.
- Thoroughly investigate cases of attacks on HRDs and provide details on the current status of investigations in relation to rights violations of HRDs.
- Hold to account state officials who make accusatory and discriminatory statements against HRDs.
- Abide by international and local commitments regarding the protection of HRDs (e.g. the consensus resolution 30/1 on 'Promoting reconciliation, accountability and human rights in Sri Lanka' which was co-sponsored by Sri Lanka, and states that it '... [recognizes] the expressed commitment of the Government of Sri Lanka to address issues, including those involving sexual and gender-based violence and torture, abductions, as well as intimidation of and threats against human rights defenders and members of civil society."
- Repeal the Prevention of Terrorism Act (PTA)

Overview

HRDs in Sri Lanka contacted by CSW expressed a sense that there has been some improvement in the space for civil society work since the 2015 elections. Many felt able to assert their civil and political rights,¹⁵³ and the post-2015 government is encouraging greater openness for engagement and dialogue, compared to the pre-2015 presidency of Mahinda Rajapaksa.

Though the picture is one of general improvement, violations continue to occur, and the progress of reforms has been slower than originally anticipated. Religious intolerance has been on the rise since early 2000, and in particular since the end of the civil war in 2009, when Buddhist fundamentalist groups such as the Bodu Bala Sena began a campaign of hate speech against religious minorities.

The constitution protects fundamental freedoms of thought, conscience and religion (Article 10) and freedom of speech, assembly and association (Article 14).¹⁵⁴ It accords Buddhism 'the foremost place' in the state.

**RELIGIOUS INTOLERANCE
HAS BEEN ON THE RISE
SINCE EARLY 2000 AND IN
PARTICULAR SINCE THE END
OF THE CIVIL WAR IN 2009**

153 Sri Lanka Brief, 'Report: Voices of Civil Society, Democracy, Human Rights & Justice in Sri Lanka', Issue No. 11, 10 June 2016 <http://srilankabrief.org/wp-content/uploads/2016/06/Briefing-Note-Sri-Lanka-No-11-HRC32.pdf> p.3

154 The Constitution of the Democratic Socialist Republic of Sri Lanka (as amended up to 15 May 2015) <https://www.parliament.lk/files/pdf/constitution.pdf>

Challenges faced by human rights defenders

State surveillance and perception

A 2015 investigation led by the Office of the United Nations High Commissioner for Human Rights (OHCHR) found 'persistent reports of surveillance, threats, intimidation, harassment, interrogation of grass roots activists, human rights defenders and potential witnesses by security forces inside Sri Lanka, particularly in the north of the country.'¹⁵⁵

HRDs report that the interrogation, surveillance and harassment by state officials continues, although the surveillance is carried out in a more 'friendly' manner after the 2015 change in government. Armed personnel dressed in civilian clothes often visit venues where civil society programmes are being held, and ask the manager of the hotel or venue for details of the programme. This has the effect of intimidating not just the organisers and participants, but also the managers questioned, who subsequently become reluctant to rent out the venue for similar events. Incidents of this nature were reported in Negambo, Ampara, Mannar and Batticaloa.

According to Ruki Fernando, a human rights activist who was arrested and then released in 2014, and was stopped and detained temporarily at Bandaranayake International Airport on 1 October 2016, "this type of intimidation, questioning and surveillance is commonplace, although of less intensity and regularity than under the Rajapaksa years."¹⁵⁶

In 2016, the current president Maithripala Sirisena said in a speech that some NGOs are disruptive and that they conspire with the international community against Sri Lanka's national interest.¹⁵⁷ Unfortunately, this rhetoric is replicated in other South Asian and Central Asian countries where NGOs, especially those who work on human rights, are treated with suspicion and viewed as 'anti-national.'

As well as increasing threats, violence and attacks against the Muslim community by extremist Buddhist groups,¹⁵⁸ some within the Muslim community, including Muslim politicians, have threatened and intimidated Muslim women HRDs and other journalists involved in recent campaigns to reform Muslim personal laws such as the Muslim Marriage and Divorce Act (MMDA).¹⁵⁹

Prevention of Terrorism Act (PTA)

The Prevention of Terrorism Act 1979 (PTA) is used to target HRDs other individuals, and undermine their freedom of expression. It gives law enforcement broad powers of search, arrest and detention, while also guaranteeing immunity for the officials responsible if they

155 United Nations Human Rights: Office of the High Commissioner, 'Report of the OHCHR Investigation on Sri Lanka (OISL) (A/HRC/30/CRP.2)' <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>, p.11, 42

156 Huffington Post, 'The troubling detention of Ruki Fernando' http://www.huffingtonpost.com/taylor-dibbert/the-troubling-detention-o_b_12310814.html

157 Daily Mirror Sri Lanka, 'President slams some NGOs, media, traitorous forces', 27 October 2017 <http://www.dailymirror.lk/article/President-slams-some-NGOs-media-traitorous-forces-118241.html>

158 BBC, 'Sri Lanka Muslims killed in Aluthgama clashes with Buddhists', 16 June 2014 <http://www.bbc.co.uk/news/world-asia-27864716>

159 Colombo Telegraph, 'Muslims Condemn Abuse And Threats Against Women From Within The Community For Advocating MMDA Reforms', 18 November 2016 <http://www.colombotelegraph.com/index.php/muslims-condemn-abuse-and-threats-against-women-from-within-the-community-for-advocating-mmda-reforms/>

are considered to be acting in 'good faith'.¹⁶⁰ This encourages abuse and impunity, and may also breach Article 14 of the constitution.

In 2014, HRD Balendran Jeyakumari was arrested under the PTA.¹⁶¹ Ruki Fernando and Praveen Mahesan were investigating her arrest and were also arrested.¹⁶² Ms Jeyakumari was summoned for questioning again in August 2016, while Mr Fernando was barred by a court order from speaking about an ongoing police investigation into his advocacy on her case; his confiscated electronic equipment was not returned.¹⁶³ As at May 2016, 111 people had been remanded in custody under the PTA, 29 of whom had not been indicted,¹⁶⁴ amounting to unlawful imprisonment.

Ruki Fernando, in an interview with CSW, said, "Last year [in 2017], HRDs in Sri Lanka continued to be intimidated. Death threats were issued to a human rights lawyer over the phone, threats to another human rights lawyer by the then Minister of Justice for exposing violence against religious minorities, there were shootings outside the house of an HRD campaigning for justice, a prison massacre, intimidation of [Internally Displaced Persons] before a protest on land rights, an attack on a woman HRD leading a protest demanding truth and justice for the disappeared, harassment and investigation of an HRD for organising a memorial for war dead, abduction and threats to a trade union leader, to name a few. These violations must stop."

**DEATH THREATS
WERE ISSUED TO
A HUMAN RIGHTS
LAWYER OVER
THE PHONE**

UPR Recommendations on HRDs and FoRB

In the 2017 UPR, recommendations presented to Sri Lanka on HRDs included:

- Ensure a safe and enabling environment for civil society and human rights defenders.¹⁶⁵
- Ensure in line with international human rights the protection of women human rights defenders – including through human rights training of the police – so that they can fully participate in society without fear of harassment or violence.¹⁶⁶
- Take measures to adequately protect human rights defenders, to ensure proper investigation into alleged attacks and to prosecute those found responsible.¹⁶⁷

160 Human Rights Watch, 'Sri Lanka: Enforce Commission Directives on Terror Detainees', 13 June 2016 <http://www.hrw.org/news/2016/06/13/sri-lanka-enforce-commission-directives-terror-detainees>

161 Human Rights Watch, 'Locked Up Without Evidence: Abuses under Sri Lanka's Prevention of Terrorism Act', January 29, 2018 <http://www.hrw.org/report/2018/01/29/locked-without-evidence/abuses-under-sri-lankas-prevention-terrorism-act>

162 Front Line Defenders, 'Travel ban on human rights defender Ruki Fernando removed', 24 March 2015 <http://www.frontlinedefenders.org/en/case/case-history-ruki-fernando>

163 'Sri Lanka 2016/2017'

164 International Commission of Jurists, 'Challenges to Accountability for Human Rights Violations in Sri Lanka', March 2017 <http://www.icj.org/wp-content/uploads/2017/03/Sri-Lanka-FCO-Accountability-1-Advocacy-Analysis-brief-2017-ENG.pdf> p.4

165 Draft report of the Working Group on the Universal Periodic Review* Sri Lanka http://www.upr-info.org/sites/default/files/document/sri_lanka/session_28_-_november_2017/a_hrc_wg.6_28_L14.pdf 116.05

166 *ibid.*, 116.106

167 *ibid.*, 116.107

- Adopt a National Policy on the protection of journalists and human rights defenders to combat intimidation and violence, and to ensure effective investigation of such acts and prosecution of perpetrators.¹⁶⁸

On FoRB, recommendations included:

- Strengthen efforts to protect freedom of religion and promote interreligious dialogue.¹⁶⁹
- Ensure that the right to freedom of religion or belief is guaranteed and respected.¹⁷⁰
- Increase efforts to guarantee and protect freedom of religion or belief in line with its obligations under the International Covenant on Civil and Political Rights.¹⁷¹
- Strengthen existing law and practice to guarantee the right to freedom of religion or belief for all citizens and residents, in particular by prosecuting and punishing all cases of religiously-motivated violence.¹⁷²

In response to the 2012 UPR, Sri Lanka accepted recommendations to 'Step up efforts to protect freedom of religion and promote inter- religious dialogue as a tool to foster tolerance and peaceful coexistence,'¹⁷³ 'Increase efforts aiming to guarantee the right to freedom of religion and belief,'¹⁷⁴ and to 'take action to facilitate greater participation by citizens and civil society in helping to implement human rights action plans.'¹⁷⁵ However, all recommendations relating to the protection of human rights defenders were rejected.

168 *ibid.*, 117.46

169 *ibid.*, 116.97

170 *ibid.*, 116.98

171 *ibid.*, 116.99

172 *ibid.*, 116.101

173 UN Office of the High Commissioner for Human Rights, Universal Periodic Review Second Cycle – Sri Lanka, 01 November 2012 http://www.upr-info.org/sites/default/files/document/sri_lanka/session_14_-_october_2012/recommendationsandpledgessrilanka2012.pdf 127.57

174 *ibid.*, 128.91

175 *ibid.*, 127.41



INTERVIEWS WITH HUMAN RIGHTS DEFENDERS



INTERVIEWS WITH HUMAN RIGHTS DEFENDERS

These are first-hand accounts of seven of the 40 FoRB HRDs who attended the 2017 Defenders consultation. These are transcripts of their interviews which can be viewed online here: http://www.youtube.com/playlist?list=PL-ho-ebiQZPpJsw8bh3yBjiV9VI-rRT_n

Bushra Khaliq

My name is Bushra Khaliq and I'm a women's right activist, I'm a human rights defender in Lahore Pakistan, and I work with a women's organisation, Women in Struggle for Empowerment. Being a human rights activist I work for the marginalised communities in Pakistan.

The human rights defenders situation is very alarming and there are several kind of threats, intimidation and harassment, not only by the state institutions but as well as the non-state actors, which are making human rights defenders, and particularly women human rights defenders, more vulnerable to any kind

of act like discrimination, humiliation and violence. This kind of human rights work in

THIS KIND OF HUMAN RIGHTS WORK IN PAKISTAN IS CONSIDERED THAT THE PERSON WHO IS WORKING IS AN ANTI-STATE PERSON.

Pakistan is considered that the person who is working is an anti-state person. There is a trend of the state intimidation and harassment to stop the work of human rights, to close down the NGOs, and to squeeze the spaces and independence of the civil society in Pakistan.

activities, and is against the national security and national strategic interests of the country. It was directed to all departments to take actions against Bushra Khaliq and her organisation.

The media in Pakistan is very much controlled and influenced by certain state institutions, but they have witnessed my work around the human rights frame, which is why we were supported by the media, largely. Finally we decided to go to court and we challenged their letters, and after some hearings we won the case.



Father Ajaya

I am Father Ajaya Kumar Singh, I come from Odisha in the eastern part of India. I saw a huge number of people from marginalised communities who were struggling for their own survival, for their own living. I thought maybe, in order to help them, we need to get into social action.

There has been huge surveillance on me, my phone being tapped, my communications system being monitored, I even heard that my emails were also being checked. The BJP General Secretary led a candlelight procession in Odisha and organised a burning of effigies, so there is an ongoing harassment against me.

Whenever I write something in certain groups, the language they use in one of the RTA forums, one person, who I thought was a human rights activist himself, said that he will kill me. I get into a mode now of self-censorship where I'm not able to write properly, or I feel that I need to be constrained, choose words, not use certain language. I am also concerned about my movement. But when the issues are too huge, I feel it is worth taking risks, to go for it.

THERE HAS BEEN HUGE SURVEILLANCE ON ME.

Fatima Atif

My name is Fatima Atif and I'm a human rights defender, peace and culture activist from Pakistan and I belong to the Hazara community.

There are challenges involved and in those challenges when you are exposed physically your security is compromised. When you are exposed to social media that also brings a lot of challenges to you, and then you are a women human rights activist and also a Shi'a human rights activist – that invites more threats and more challenges in your digital life. They send inbox messages, they comment on your pictures and they criticise your activities

saying that you are doing certain things which are not good, which are against Islam.

WE ARE RAISING VOICES, NOT ONLY FOR OUR COMMUNITY BUT FOR OTHER COMMUNITIES AS WELL.

These messages and these threats are sometimes really disturbing that people are attacking your belief and your faith. They attack me, saying, "Why do you do this, you are doing such nonsense things." If you look at it in a gender perspective, they always keep criticising how I appear socially, on my dress.

They keep criticising, saying that these women are shameless, they don't have any honour, they don't have any family, they don't have any respect for themselves and for their families, that is why they are active. Just because they don't understand that we as women, we are taking a step forward and we are coming out of our comfort zone and we are sacrificing so



many things, we are putting extra effort and time on this; and we are raising voices, not only for our community but for other communities as well.

Julfikar Ali Manik

My name is Julfikar Ali Manik and I'm a journalist based in Dhaka, Bangladesh.

I have received so many threats, almost since the beginning of my professional career, for exposing human rights violations and the killing of free thinkers and publishers. I have received many of the threats from unknown people and many from known people, including one from a former inspector general of police. With most of the threats the language used was that they will kill me, or take action against me when they have the proper time.



We do work even after receiving so many threats, and in recent years, even in the last two decades, we have had a serious problem with the rise of Islamic extremism, with killings going on and terror attacks. I have exposed these things for the last two decades and I have received several threats from the extremists who are killing people in the name of Islam.

Now I am not scared of any threat but initially, at the very beginning when I started to receive threats I was definitely scared – sometimes it was so traumatic that I could not sleep for many nights. I had to think whether I should continue my work or I should stop. These are the kind of incidents that I could not share even with my family because they would also get scared.

In most cases people are asked to stop working to stay safe, but what I always have in my mind is if I don't have the courage to continue my work then I cannot expose these violations of human rights and the killings, threats and torture. The point is that now I am used to it, I'm not scared any more and I do my work as usual.

I WANT A SAFE BANGLADESH, I WANT A SAFE SOUTH ASIA, A SAFE ASIA. I WANT A SAFE SOCIETY, NOT ONLY FOR HUMAN RIGHTS DEFENDERS, BUT FOR EACH AND EVERY PERSON IN THIS REGION.

Sajjad Hussain

I'm Sajjad Hussain Changezi, I come from Quetta, Pakistan. I have been doing a lot of activism for the rights of Shia Hazaras who have been persecuted at the hands of groups like Lashkar-e-Jhangvi who belong to Sunni extremist groups. We've been fighting violence through peaceful protests, demonstrations and through educating people in masses.

Human rights defenders in Pakistan receive threats from different groups. If you talk against militant groups, against extremist groups, they can make you a target. They target people, journalists, lawyers who go after them and civil rights



activists as well. If you criticise government, the civilian and military establishment, there are good chances that they can also come after you. If somebody puts a blame, an accusation of blasphemy or being anti-state against you, the mob can easily be enraged and they can be incited to violence against you.

In a private university there was a talk about human rights violations in Balochistan and I was invited as a panellist, but since the issue is sensitive the military establishment called it off on the last day. There was this maligning campaign on Twitter and Facebook against the panellists and against all the organisers. They were trying to prove us, the panellists and the organisers, as anti-state, Indian agents or foreign-funded people.

My friends like Waqass Goraya and others have seen that their family photos have been photoshopped to blackmail them or to harass their family members. You feel yourself vulnerable, and then this process starts called self-censorship, you try not to speak your mind and your heart because you are afraid of people. Simply, you don't know what people will post against you on Facebook and Twitter and how it can incite a number of people or a mob.

We have seen that the mobs can lynch people. In Mardan University we saw the case of Mashal Khan, who was simply lynched by a mob and the mob was facilitated by the university administration as well.

YOU FEEL YOURSELF VULNERABLE, AND THEN THIS PROCESS STARTS CALLED SELF-CENSORSHIP.

Supriti Dhar

I'm Supriti Dhar from Bangladesh and I'm a journalist, an online activist, and now a human rights defender also.

I have been threatened so many times, because I'm a woman, because I belong to a minority. The latest threat was that they will kill me, they will hack me to death.

When I got threats the first time, when bloggers were being killed, they threatened me of course online, through Facebook messages because they threatened me from fake pages, and it was a huge pressure on me at the time. They tried to hack my portal and they tried to hack my Facebook account.

They came to my house and knew a lot about my son, where he goes every day, what he studies, and they threatened him, twice they attacked him. I filed a GD (general diary) in the local police station, but obviously the police didn't take any action, because there was a saying that I had said something against Islam.

I can't work in my country freely. I have been serving my country, for the betterment of my country, but now if I say something they say that it goes against Islam. I can't live there any more because it's not life, if you can't think freely, if you can't write freely, it's not life because I'm a journalist I'm a writer.

We can change South Asia, and we can make our South Asia a safer place for human rights defenders.



Shabnam Hashmi

I'm Shabnam Hashmi, I'm from India and I'm a social activist.

There have been attacks on human rights defenders but especially the last three years they have gone up many folds. It began with the attacking of the human rights defenders who were working on questions of environment and land, then it moved on to people who are working on legal aspects and then to people like us who raise questions of democracy, secularism and freedom of expression.



The moment you issue a statement there are trolls on social media, the kind of language which is used is sexist, it's abusive.

The day I returned my award – after that, if you read my Facebook, and I did not delete it deliberately, it was so abusive. There are threats in my inbox saying that you will be raped by gang rape.

**THE FORCES WHO WANT TO
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ON SPEAKING**

In today's India there are very few people who are going on despite the fact that they are being harassed, they are being attacked and they are being threatened that they would be killed. This is happening not only to me, I am still a very vocal person, it is happening to people in remote areas. There are all kinds of attacks and ways by which people are being suppressed.

I think that it is high time people take notice of it, it is high time that the nation thinks about it and the

international agencies think about it – what is happening in India, why are people who were till a few years ago leading society, they were the voices of the oppressed, why are they being maligned in a very systematic way?

The forces who want to oppress you or suppress your voice, they breed on fear. The only answer is not to be afraid, to keep on speaking, keep the voice of dissent loud and clear, keep on defending democracy and keep on defending those who are defending the rights of the underprivileged.



CONCLUSION



CONCLUSION

Human rights defenders (HRDs) promoting freedom of religion or belief (FoRB) in South Asia and Central Asia are increasingly being stifled. Whether it be from radicalism or red tape, the broad picture is one of increased concern at the growing restrictions upon FoRB HRDs and their work.

The 'red tape' in the title of this report often manifests itself through laws that make it difficult for NGOs to be registered or for HRDs to access funding, through smear campaigns by the state and through limitations on freedom of assembly and freedom of expression. The 'radicalism' element manifests itself through violent attacks on, and kidnapping and online abuse of HRDs by radical groups.

The trends that have begun to emerge over the last few years within the countries of focus for this report contradict their respective constitutions and international human rights obligations. Unless these countries urgently establish a framework to protect HRDs, in line with international law, there will be a downward spiral of human rights and democracy.

UNLESS THESE COUNTRIES URGENTLY ESTABLISH A FRAMEWORK TO PROTECT HRDS, IN LINE WITH INTERNATIONAL LAW, THERE WILL BE A DOWNWARD SPIRAL OF HUMAN RIGHTS AND DEMOCRACY.

In January 2018 Mali adopted a new law¹⁷⁶ to protect the rights of HRDs in the

country.¹⁷⁷ This is a positive move that should inspire the countries examined in this report to follow suit in drafting and implementing laws to protect and strengthen the work of HRDs.

2018 marks the 20th anniversary of the UN Declaration on Human Rights Defenders; yet the unique risks faced by FoRB HRDs and especially women HRDs (WHRDs) who campaign for FoRB are under-investigated and underreported. It is crucial that the international community upholds and renews its commitment to the Declaration, and redoubles its efforts to protect those who speak up for human rights.

In the words of Shabnam Hashmi, a FoRB WHRD from India:

THE FORCES WHO WANT TO OPPRESS YOU OR SUPPRESS YOUR VOICE, THEY BREED ON FEAR. THE ONLY ANSWER IS NOT TO BE AFRAID, TO KEEP ON SPEAKING, KEEP THE VOICE OF DISSENT LOUD AND CLEAR, KEEP ON DEFENDING DEMOCRACY AND KEEP ON DEFENDING THOSE WHO ARE DEFENDING THE RIGHTS OF THE UNDERPRIVILEGED.

¹⁷⁶ Article 2 of this new law uses the broad definition of HRDs that was enshrined in the UN Declaration on HRDs. Other provisions include the inviolability of HRD homes and offices; engagement without restriction with international bodies for the protection of human rights, for HRDs; the right to receive funding; and the right to carry out their activities. Article 16 sets out that HRDs should not be returned to a country where they would be at risk of torture and inhuman or degrading treatment.

¹⁷⁷ Front Line Defenders, 'Mali guarantees the protection of human rights defenders in the country', 16 January 2018 <http://www.frontlinedefenders.org/en/statement-report/mali-guarantees-protection-human-rights-defenders-country>

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VOICE FOR THE VOICELESS