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*To the attn. of:*

**Ms Ursula von der Leyen**

President of the European Commission

10 October 2023

Dear President von der Leyen,

## **INDIA'S WEAPONIZATION OF LAWS AGAINST CIVIL SOCIETY MUST PROMPT EU ACTION**

We are writing to share with you Amnesty International's recently issued briefing, [Weaponizing Counterterrorism: India's exploitation of terrorism financing assessments to target civil society](#), highlighting how the Indian authorities have systematically targeted civil society, including by intimidation, harassment, investigation and prosecution on trumped-up money laundering and terrorism related charges. These developments must prompt the European Union (EU) and its member states to hold India accountable for this growing crackdown on the country's human rights defenders, activists, journalists, and once vibrant civil society, both at the forthcoming Mutual Evaluation Report assessment in November and in their wider relations with India going forward.

Amnesty International's briefing analyses the Indian government's exploitation of the [2010](#) and [2013](#) Financial Action Task Force ([FATF](#)) assessment report recommendations to tighten its arsenal of financial and counter-terrorism laws to target human rights defenders, activists, journalists, and civil society organisations including those promoting the rights of women, Dalits and Adivasis (India's indigenous people) and religious minorities, and those working on environmental advocacy. These repressive laws include the 2010 Foreign Contribution (Regulation) Act (FCRA) and its 2020 amendment, the 1967 Unlawful Activities (Prevention) Act (UAPA) and its 2019 amendment and the 2002 Prevention of Money Laundering Act (PMLA). The weaponization of these laws has had a chilling effect on India's civil society, leaving human rights defenders and non-profit organisations (NPOs) vulnerable to arbitrary arrests and prolonged detention and disrupting their legitimate human rights work.

In the last ten years, over 20,600 NPOs have had their FCRA licences cancelled, with almost 6,000 NPOs having lost their licences in early 2022. Several human rights defenders remain imprisoned under the UAPA, including student activist [Umar Khalid](#), Kashmiri activist [Khurram Parvez](#) and the [16 human rights activists](#) in the Bhima Koregaon-Elgar Parishad case. Most recently, renowned journalist and founder of NewsClick Prabir Purkayastha and the organization's HR Head Amit Chakravarty were [arrested](#) under the UAPA, signalling the latest attempt by the Indian government to curb dissent. These arrests were preceded by the raiding of at least 46 journalists' homes by the Indian authorities. Amnesty International India has also been at the receiving end of the misuse of these laws, particularly the FCRA and PMLA, leading to the Indian government freezing the organization's bank accounts without notice in September 2020. Since then, Amnesty International India has faced multiple cases in Indian courts without being able to legally secure funding for effective legal representation, while its human rights work in the country has remained on hold for the past three years.

Amnesty International believes that the enactment of these laws is an unintended consequence of FATF policy and practice, which require a targeted risk-based approach and proportionate risk mitigation measures.<sup>i</sup> The Indian government has tightened the three above-mentioned laws supposedly based on FATF's recommendations and under

the guise of combatting terrorism, terrorist financing and money laundering. This has resulted in the weaponization of central financial and investigating agencies against Indian civil society in a debilitating blow to the lawful activities of NPOs and to the effective enjoyment of human rights. Amnesty International has documented cases where the Indian authorities have misused these laws to harass, intimidate and target members of Indian civil society by arbitrarily cancelling and suspending their FCRA licenses and imposing burdensome administrative conditions on them. This has instilled a grave fear of reprisal among NPOs and has weakened the entire sector's efficiency in holding the Indian government to account.

By misusing these laws to intimidate, harass, target and attack human rights defenders, activists and journalists, the Indian authorities have failed to comply with both FATF standards (particularly its interpretative note to Recommendation 8<sup>ii</sup>) and international human rights law. The FATF recommends that "...countries should identify, assess and understand the money laundering and terrorist financing risks for the country, and should take action [...] aimed at ensuring the risks are mitigated effectively."<sup>iii</sup> However, none of the NPOs Amnesty International spoke with were contacted by the Indian authorities for a risk assessment.

The three laws also fail to meet the requirements of international human rights law and the narrowly defined objective of halting terrorism financing through identifying risk and then applying appropriate, proportionate, and human rights-compliant risk mitigation measures. Imposing burdensome administrative requirements along with threats of prosecution and prolonged detention under these laws violates fair trial rights and the rights to freedom of expression, association and peaceful assembly, as enshrined under International Covenant on Civil and Political Rights (ICCPR), to which India is a state party. Further, most of these laws and their subsequent amendments were brought in unilaterally without any consultation with civil society. India is obliged to ensure that all measures taken to counter terrorism respect international human rights law. However, despite the [repeated calls](#) by United Nations Special Rapporteurs, India has continued to apply these laws in a discriminatory and repressive manner against independent and critical voices.

In the joint press release following the 10th EU-India human rights dialogue, both sides recognised the importance of:

"safeguarding the freedom, independence and diversity of civil society actors, including human rights defenders and journalists, and respecting freedom of association and peaceful assembly", and  
"strengthening national and international human rights mechanisms for the protection and promotion of human rights and the important role of national human rights institutions, civil society actors and journalists".<sup>iv</sup>

The EU High Representative also recently emphatically acknowledged the need to involve civil society in effectively addressing the root causes of violent extremism, while also expressing concern over the shrinking civic space in many parts of the world.<sup>v</sup> During India's Universal Periodic Review in November 2022, EU member states [recommended](#) the revision of the UAPA and the amendment of the FCRA – both recommendations were accepted by India. EU member states also called on India to create an enabling environment for civil society actors and human rights defenders to function freely. However, instead of taking any meaningful steps to implement the recommendations, Indian authorities have accelerated their crackdown on human rights and civil society in the country.

Amnesty International urges the EU and its member states – in particular the European Commission and EU member states with membership of the FATF and FATF-Style Regional Bodies (FSRB) and/or acting as FATF assessor states – to:

- Call on the government of India to fully comply with FATF recommendation 8 and stop subjecting the NPO sector to harassment, intimidation and attacks, in violation of India's international human rights obligations;
- Engage in a dialogue with the Indian authorities to identify and address the provisions of the FCRA, UAPA and PMLA that violate India's international human rights obligations, including the rights to freedom of expression, association and peaceful assembly, privacy, and fair trial rights;
- Engage in an independent dialogue with the NPO sector to understand the barriers they face in carrying out their legitimate human rights work due to the arbitrary application of the FCRA, UAPA and PMLA. This engagement should not be limited to government-organized NGOs (GONGOs) and must include NPOs from diverse geographic areas working on a range of issues including gender, religion, socio-economic status, and caste;
- Urge the Indian authorities to amend or repeal the relevant provisions of these three laws that restrict human rights including the rights to freedom of expression, association and peaceful assembly and impact on India's

NPOs by limiting the provision of services to marginalised groups, restricting the rights of these groups because of their advocacy work with the United Nations and other international bodies, and hindering their ability to conduct fundraising activities. The repeal or amendment of relevant provisions of these laws must be done in line with India's obligations under international human rights law and in meaningful and equitable consultation with NPOs in India, including human rights organizations;

- Urge the government of India to bring its counter-terrorism legislation in line with international human rights law to ensure that NPOs, including human rights organizations and human rights defenders, are not harassed, or prosecuted on fabricated terrorism-related charges in retaliation for their human rights work. The government of India should be held accountable for implementing these proposed legislative changes within a reasonable timeline;
- Engage with the government of India up to highest level to reverse the growing crackdown on the country's civil society and remove arbitrary foreign funding restrictions on NPOs under the FCRA. The EU and its member states should also call unequivocally for the government of India to immediately release all those detained solely for peacefully exercising their human rights and to drop all baseless charges against human rights defenders, activists and journalists detained under the UAPA and PMLA in violation of India's national and international human rights obligations and commitments.

Thank you in advance for your action for human rights in India at this crucial time. We stand ready to provide any further information you may require.

Yours sincerely,



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Head of Office and Advocacy Director  
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<sup>i</sup> "FATF to create new work stream on unintended consequences of poorly implemented AML/CFT measures," 4 March 2021, <https://fatfplatform.org/news/fatf-to-create-new-work-stream-on-unintended-consequences-of-poorly-implemented-amlcft-measures/>.

<sup>ii</sup> FATF, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations, Interpretive Note to Recommendation 8 (Not-Profit Organizations), Updated October 2020, <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

<sup>iii</sup> FATF, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations, p.11, Updated February 2023, <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>.

<sup>iv</sup> European External Action Service, *10th EU-India Human Rights Dialogue*, 15 July 2022, [https://www.eeas.europa.eu/delegations/india/10th-eu-india-human-rights-dialogue\\_en](https://www.eeas.europa.eu/delegations/india/10th-eu-india-human-rights-dialogue_en).

<sup>v</sup> European External Action Service, *Global Counterterrorism Forum: Opening speech by High Representative/Vice-President Josep Borrell at the Ministerial meeting co-chaired with Egypt*, 20 September 2023, [https://www.eeas.europa.eu/eeas/global-counterterrorism-forum-opening-speech-high-representativevice-president-josep-borrell\\_en?channel=eeas\\_press\\_alerts&date=2023-09-20&newsid=0&langid=en&source=mail](https://www.eeas.europa.eu/eeas/global-counterterrorism-forum-opening-speech-high-representativevice-president-josep-borrell_en?channel=eeas_press_alerts&date=2023-09-20&newsid=0&langid=en&source=mail).