

Country Summary: India

Introduction

The COVID-19 pandemic amplified an already tense environment in India. In December 2019, the enactment of the Citizenship Amendment Act (CAA), allowing the government to grant citizenship to persecuted religious minorities except Muslims, sparked a series of protests throughout the country.¹ The government also proposed a National Register of Citizens to register Indian citizens and facilitate the deportation of undocumented migrants. Some of the protests against these measures spilled into the pandemic period, and were subsequently forced to disband.²

On 31 January 2020, India had its first confirmed case of COVID-19³ and on 25 March 2020, the government of India announced a nationwide lockdown for 21 days. The government retained pandemic-related restrictions until April 2022.⁴ During this period, India faced waves of rising COVID numbers, consequent restrictions, and other pandemic-related issues:

- The government extended the first lockdown multiple times until May 2020.⁵ The lockdown imposed stringent measures,⁶ including placing a national curfew on every member of the public and only allowing movement for essential services. Any person violating the lockdown could be imprisoned for a year.⁷
- The lockdown triggered a mass exodus of migrant laborers from major cities who could not sustain themselves while their workplaces were closed and had to walk thousands of kilometers home without public transportation. Migrant laborers also faced food shortages, police harassment, and denial of timely medical care during the pandemic.⁸

¹ To read more on Anti-CAA protest visit: <https://www.outlookindia.com/national/delhi-burning-a-timeline-of-cao-protests-and-northeast-delhi-violence-news-265077>.

² Shaheen Bagh's 101-day protest: Timeline of sit-in against CAA (*The Indian Express*, 24 March 2020).

³ India reports first case of novel coronavirus (*Nature India*, 30 January 2020).

⁴ Covid restrictions to end from tomorrow; Here's what will change on April 1 (*LiveMint*, 31 March 2022).

⁵ Extension of Lockdown up to May 31, 2020 (*Press Information Bureau*, 17 May 2020)

⁶ Oxford University released a Stringency Index evaluating the strictness of COVID-19 response measures at the country level. The Index found only China's measures more stringent than those of India. See: <https://our-worldindata.org/covid-stringency-index#:~:text=The%20OxCGRT%20project%20also%20calculate,and%20polices%20around%20vaccine%20rollout>.

⁷ See the official guidelines here: <https://www.mha.gov.in/sites/default/files/Guidelines.pdf>; How the world's strictest lockdown affected India (*Hindustan Times*, 23 June 2020)

⁸ Shailendra Kumar and Sandhamitra Choudhary, Migrant workers and human rights: A critical study on India's COVID-19 lockdown policy, *Social Sciences and Humanities*, Vol. 3 (1) (2021).

- During the first lockdown, violence against women increased by 2.5 times.⁹
- In February 2021, India saw its worst rise in COVID-19 cases. Indian healthcare system crumbled under the rising pressure of COVID-19 cases. Infrastructure issues such as oxygen shortages, lack of medical supplies and doctors, and inadequate beds in hospitals led to many lost lives.¹⁰

The government of India passed 20 bills with negligible or minimal discussion in one parliamentary session in 2021,¹¹ prompting an opposition leader to comment that the “government ramrodded 10 bills of national importance in 97 minutes. Parliament was condescendingly granted 9.7 minutes to reflect, deliberate on, and pass each bill. The PM is demeaning the democratic and parliamentary process.”¹² One of these bills included amendments to the Foreign Contribution (Regulation) Act, 2020, which resulted in tighter restrictions on civil society organizations (CSOs), including many providing essential public health and pandemic services.¹³ Despite reaching out to CSOs and demanding their assistance with the pandemic, the government continued to shut down and obstruct the operation of groups like Oxfam and CARE India.¹⁴

The government was also not transparent about data relating to COVID deaths. While many people died during the March to May 2021 pandemic wave, the government’s official data underreported the number of COVID-19 related deaths. The World Health Organization also reported that a million COVID related deaths in India had gone unreported.¹⁵

The following are other troubling examples of unnecessary restrictions on civic freedoms and public participation during the pandemic.

LIMITS ON THE FREEDOM OF EXPRESSION

The government’s attacks on the freedom of expression during the pandemic are well-documented. The government arrested 25 people under the Delhi Prevention of

⁹ NCW records sharp spike in domestic violence amid lockdown (*The Hindu*, 15 June 2020). Referred to as the “shadow pandemic” by the UN Women, COVID-19 shed light on the vulnerable situation of women in their own homes. The Shadow Pandemic: Violence against women during COVID-19 (UN Women). Available at <<https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>>.

¹⁰ O India reports over 412,000 new Covid cases as court demands plan to tackle oxygen shortage in Delhi (CNBC, 6 May 2021).

¹¹ 20 bills passed in monsoon session without debate (*New Indian Express*, 5 August 2021).

¹² Ibid.

¹³ See, e.g., ICNL, India’s 2020 FCRA Amendments Impact on Association, available at <https://www.icnl.org/post/analysis/indias-2020-fcra-amendments-impact-on-association>

¹⁴ See, e.g., The Hindu, “Oxfam India says Centre’s refusal to renew FCRA registration will hit humanitarian work in 16 States,”

<https://www.thehindu.com/news/national/oxfam-india-says-centres-refusal-to-renew-fcra-registration-will-hit-humanitarian-work-in-16-states/article38091539.ece>

¹⁵ WHO says millions of Covid deaths went unreported in India; Centre questions methodology (*Times of India*, 5 May 2022)

Defacement of Property Act because they pasted posters on walls, poles, and other surfaces in public spaces that expressed anger at vaccine shortages in India.¹⁶

In another case, the police arrested a woman under the Sedition Law for criticizing the Lakshadweep territory's Administrator for adopting measures that led to the increase in COVID-19 cases in the territory.¹⁷

Aside from abuse of existing laws, authorities also used intimidation to silence critics. Law enforcement and other state officials threatened and intimidated doctors and patients for highlighting the shortage of essential supplies for medical staff.¹⁸ The government also censored content critical of the government, ordering the removal of 100 social media posts on X (then, Twitter) which criticized the government for shortages of medicine and beds in public hospitals, its policy of mass cremations of people who died of COVID-19, and its decision to allow a religious gathering, 'Kumbh Mela', which attracts millions of visitors amidst a pandemic.¹⁹ The government claimed that the posts were spreading fake news.²⁰

ATTACKS ON THE MEDIA

The government used a range of laws to arrest or threaten journalists and media houses during the pandemic. For example, between 25 March to 31 May 2020, the government arrested and threatened 55 journalists for reporting on matters related to COVID-19, including oxygen shortages. Authorities charged these journalists for violating lockdown orders and spreading fake news, under laws such as the Penal Code, Information Technology Act, and Disaster Management Act, citing offenses including sedition, sharing false information with a public servant, undertaking an act that is likely to spread infection of a dangerous disease, and defamation.²¹ A report from August 2020 also noted 15 instances of journalist arrests on charges of spreading fake news and fearmongering when they reported on COVID-19 in Maharashtra state. For example, authorities arrested a six-member news team after they reported on the undercounting of COVID-related deaths by local authorities. These types of arrests led to self-censorship by journalists to reduce their risk of being arrested.²²

¹⁶ Delhi Police arrests 25 people, lodges 25 FIRs over posters critical of PM Modi (*Livemint*, 15 May 2021).

¹⁷ Lakshadweep Filmmaker Aisha Sultana moves to Kerala HC to seek anticipatory bail in Sedition Case (*Firstpost* 14 June 2021)

¹⁸ Indian doctors face censorship, attacks as they fight coronavirus (*Alzazeera*, 13 April 2020)

¹⁹ Govt asks social media platforms to remove 100 COVID-19 related posts (*The Hindu*, 25 April 2021)

²⁰ Govt tells social media platforms to block 100 posts to 'prevent obstructions' to Covid-19 fight (*The Economic Times*, April 26 2021)

²¹ Suhas Chakma, India: Media's Crackdown During COVID-19, Rights and Risks Analysis Group (2020). Available at <<http://www.rightsrisks.org/banner/india-medias-crackdown-during-covid-19-lockdown-2/>>.

²² During Lockdown, Maharashtra Has Cracked Down on Journalists and Media (*Wire*, 7 August 2020).

CURTAILMENT OF PROTEST RIGHTS

The government also used COVID-19 measures to curtail protests, regularly disbanding protests and repeatedly denying permissions for holding protests and rallies, particularly during the farmers' protests of 2020-2021.²³ The prohibition on gatherings of more than 50 people evidently restricted larger scale protests. For example, during the first lockdown, the government dispelled an over 100-day women-led protest against the Citizenship Amendment Act in Shaheen Bagh, Delhi. The Shaheen Bagh protest had become the symbol of dissent against the government and had inspired a series of protests across different cities. The government also cleared the protest area of all the artwork displayed to express the protesters' dissent, even though the removal did not contribute to preventing the spread of COVID-19.²⁴

PRIVACY AND SURVEILLANCE

During the pandemic, the government of India introduced drone monitoring of lockdowns and mask usage,²⁵ as well as digital applications such as Aarogya Setu and CoWin, which infringed on people's right to privacy.²⁶ Aarogya Setu is a contact tracing application that seeks continuous access to users' locations which it feeds into graphs tracking users' movements; it also uses users' locations to alert those who may have come in contact with others who were Covid-19-positive. CoWin is an online application to register for vaccination, which also uses location and Bluetooth access to track its users' exposure to COVID-19.²⁷ India did not have specific legislation for data protection and privacy at the time, although the Supreme Court of India had declared privacy a fundamental right under Article 21 of the Constitution of India.²⁸ Without specific protection laws, COVID apps lacked oversight to prevent them from using personal information to track individuals for reasons other than COVID-19 prevention.

There were also several incidences where the government shared private information about its citizens or fell victim to data breaches. For example, in Kashmir, the local

²³ The Hindu, "Farmers vow to come to Delhi for protest despite police refusing permission," 11 Nov 2020, available at <https://www.thehindu.com/news/cities/Delhi/farmers-vow-to-come-to-delhi-for-protest-despite-police-refusing-permission/article33076199.ece>

²⁴ Delhi lockdown: Anti-CAA protesters removed from Shaheen Bagh, other places (*Economic Times*, 24 March 2020)

²⁵ National Herald, "Use drones to monitor if people do not wear masks: Allahabad HC to Yogi govt," 25 Nov 2020, available at <https://www.nationalheraldindia.com/national/use-drones-to-monitor-if-people-do-not-wear-masks-allahabad-hc-to-yogi-govt>

²⁶ Vrinda Bhandari, COVID-19 Surveillance in India: A Bridge Too Far (2022). Chapter in "Private and Controversial: When Public Health and Privacy Meet in India" (Parsheera ed., Harper Collins, New Delhi) (2022), Available at SSRN: <https://ssrn.com/abstract=4317620> or <http://dx.doi.org/10.2139/ssrn.4317620>

²⁷ Sangeeta Mahapatra, Digital Surveillance and the Threat to Civil Liberties in India, German Institute for Global and Area, Hamburg, 2022. Available at <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-73130-3>; Vrinda Bhandari, COVID-19 Surveillance in India: A Bridge Too Far (2022). Chapter in "Private and Controversial: When Public Health and Privacy Meet in India" (Parsheera ed., Harper Collins, New Delhi) (2022), Available at SSRN: <https://ssrn.com/abstract=4317620> or <http://dx.doi.org/10.2139/ssrn.4317620>

²⁸ Puttuswamy v. Union of India, AIR 2019 SC

government published the identities of individuals with COVID-19 to ‘spread awareness.’²⁹ There were also reports that data on Aarogya Setu and CoWin had been leaked, though the government officially denied such reports.³⁰ These incidents exposed individuals’ names, government identity information, birth year, and other personal information, placing them at higher risk for identity theft, persecution for having COVID-19, and other abuses.

POLICE BRUTALITY

The police exercised a heavy hand to enforce pandemic-related lockdowns. Police were authorized in some areas to arrest and detain individuals for not wearing masks, and enforced this directive via drone and CCTV surveillance.³¹ Reports indicated that police also beat people for being outside their homes to collect rations and essential supplies.³² Some videos captured police harassing migrant laborers who were walking home after the announcement of the first lockdown, ordering them to act like animals and threatening them with beatings if they did not comply.³³ In some instances, police brutality led to death: in West Bengal, the police beat a man to death when he violated the lockdown by going outside his house to get milk.³⁴ In Tamil Nadu, a father and son died in police custody after the police detained them for violating the lockdown.³⁵ These incidents sowed fear amongst the population: a 2021 report found that 55% people in India feared being beaten up by police during lockdown.³⁶

RELIGIOUS HOSTILITIES

The pandemic also escalated existing religious hostilities, particularly animosity and discrimination towards Muslims in India. When news broke of a conference organized by a Muslim missionary organization, later labeled as a super spreader event, the media adopted an Islamophobic narrative that blamed the initial spread of COVID-19 on Muslims. Terms like “*COVID jihad*” regularly appeared across social media and television news reports.³⁷ Government representatives reinforced this narrative. The Chief Minister Uttar Pradesh, a state in India, said that the conference was responsible for the

29 Mohd Ayub Dar & Shahnawaz Ahmed Wani, COVID-19, Personal Data Protection and Privacy in India, *Asian Bioethics Review*, Vol. 15, 125-140 (2022).

30 CoWIN Data leak! Aadhaar, PAN Card info, shared on Covid vaccination portal, made public by Telegram: Report (*Livemint*, 12 June 2023).

31 The Statesman, “Not wearing mask may land a person in jail for 8 days in HP,” 29 Nov 2020, available at <https://www.thestatesman.com/cities/shimla/not-wearing-mask-may-land-person-jail-8-days-hp-1502937966.html>

32 Chennai cops harass, beat up residents stepping out to buy groceries amid COVID-19 lockdown (*New Indian Express*, 27 March 2020); Coronavirus lockdown: Delivery personnel beaten up by police as people struggle for essential goods (*YourStory*, 25 March 2020).

33 See the video here: <https://www.youtube.com/watch?v=vR8rwiBB6Xo>

34 West Bengal: Man Who Was Buying Milk Dies Hours After Police Thrash Him (*Wire*, 26 March 2020).

35 Outrage after father, son die in police custody (*Ajazeera*, 27 June 2020).

36 55% people feared police would beat them during lockdown but trust has grown now, says survey (*The Print*, 17 August 2021).

37 See It Was Already Dangerous to Be Muslim in India. Then Came the Coronavirus (*Time*, 3 April 2020) and Covid-19: How fake news and Modi government messaging fuelled India’s latest spiral of Islamophobia (*Scroll.in*, 21 April 2020).

spread of COVID-19 in India.³⁸ The Union Ministry of Home Affairs also blacklisted 960 foreigners who were associated with the conference organized by the Muslim missionary organization, cancelling their visas and the police to register criminal cases against them.³⁹

VACCINE INEQUITIES

The Indian government's rollout of the COVID-19 vaccines exacerbated existing inequities. Because the government allowed private hospitals in addition to public hospitals to distribute vaccines, vaccine distribution was concentrated in the nine major metropolitan cities.⁴⁰ Socially and politically marginalized populations⁴¹ were also less able to access higher-priced vaccines at private hospitals. The reliance of the government on digital technology to administer the vaccines, such as initially requiring individuals to register on the CoWin portal to access the vaccine,⁴² may have also contributed to vaccine inequities due to the "digital divide" (i.e., the gap in access to digital technologies between women, rural populations, people with disabilities, and other marginalized populations and their counterparts, such as men, urban populations, and people without disabilities).⁴³ Refugees in India were also unable to access vaccines because they did not hold any of the accepted identity documents required to obtain a vaccine.⁴⁴ Persons with disabilities also faced barriers to obtaining vaccines due to inaccessible vaccination centers.⁴⁵ After 12 months of rolling out the vaccination program, reports highlighted that only 4,018 persons with disabilities out of the total population of 26.8 million, were given both doses of COVID-19 vaccines.⁴⁶

Vaccine inequities may have also led to restraints on civic freedoms. Because the government sometimes required individuals to obtain a vaccination to return to their physical offices or and access some public spaces,⁴⁷ yet did not evenly distribute the vaccines, uneven rollout likely prevented certain groups from joining meetings or gathering in public spaces.

³⁸ E-Agenda Aaj Tak: Yogi Adityanath says Tablighi Jamaat responsible for nationwide surge in Covid-19 (*IndiaToday*, 2 May 2020).

³⁹ 960 foreigners linked to Tablighi Jamaat blacklisted, visas cancelled by MHA (*IndiaToday*, 2 April 2020).

⁴⁰ India's vaccine inequity worsens as countryside languishes (*Reuters*, 7 June 2021).

⁴¹ Every second ST, every third Dalit & Muslim in India poor, not just financially: UN report (*The Print*, 12 July 2019).

⁴² Covid vaccination in India: Health Min says registering with CoWIN is mandatory (*LiveMint*, 15 January 2021).

⁴³ Anshita Sharma & Anuradha Banerjee, Socio-Economic Determinants of Digital Divide in India, *Demography India*, Vol. 51, No. 1 (2022).

⁴⁴ Why India Needs To Vaccinate Undocumented Immigrants, Refugees (*IndiaSpend*, 5 May 2021).

⁴⁵ Rahul Bajaj et al, COVID-19, Persons with Disabilities and an (Un) Inclusive Healthcare System, Vidhi Centre for Legal Policy (2022). Available at <https://vidhilegalpolicy.in/research/covid-19-persons-with-disabilities-and-an-uninclusive-healthcare/>.

⁴⁶ Only 4,018 people with disabilities got both doses of vaccine till November-end (*The Hindu*, 7 December 2021).

⁴⁷ Shreya Srivastava, COVID-19 and Mandatory Vaccination, An Analysis of the Current State and Legal Challenges, Vidhi Centre for Legal Policy (2021) <https://vidhilegalpolicy.in/blog/covid-19-and-mandatory-vaccination/#:~:text=The%20Supreme%20Court%20recently%20issued,violation%20of%20their%20fundamental%20rights.>

Conclusion

The Indian government's pandemic response and failure to protect civic freedoms in various areas resulted in a chaotic public health situation, as well as a significant dip in rights protection, amidst already closing civic space. Despite its harsh restrictions, India had one of the highest death tolls and likely per capita death rates (especially taking into account underreporting) of COVID-19.⁴⁸ CSOs played a critical role in pandemic response, particularly in rural and remote areas, yet the government significantly hampered their operations through harassment and legislation like the FCRA 2020 Amendments.

Moving forward, it is imperative for civil society and other stakeholders to promote strong legal safeguards to protect civic freedoms so that individuals can continue to mobilize, gather, and advocate for their interests and needs in both normal and emergency period.

⁴⁸ See, e.g., Our World in Data, "India: Coronavirus Pandemic Country Profile," available at <https://our-worldindata.org/coronavirus/country/india>; and Statista, "Coronavirus (COVID-19) deaths worldwide per one million population as of July 13, 2022, by country," available at <https://www.statista.com/statistics/1104709/coronavirus-deaths-worldwide-per-million-inhabitants/>.