

**AMNESTY
INTERNATIONAL**



DEFENDING HUMAN RIGHTS

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Ms Frances Adamson
Secretary
Department of Foreign Affairs & Trade
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Dear Ms Adamson

RE: 2020 DEPARTMENTAL COUNTRY REPORT ON INDIA

I am writing regarding the *Department of Foreign Affairs' Country Information Report on India* (the report), published on 10 December 2020. I note that the purpose of this report is stated as being primarily for the use of protection status determination, and provides a 'general' country overview.

Amnesty International is concerned that the report does not reflect the reality of the human rights situation in India. In particular, threats to human rights and ongoing violations of human rights are frequently understated in the report.

Jammu & Kashmir

The report (pp. 20-21) dramatically understates the human rights violations occurring in Jammu & Kashmir (J&K). The extent of the situation is assessed in Amnesty International India's update and analysis: *Jammu and Kashmir after one year of abrogation of Article 370* (enclosed).

Arbitrary political detentions made possible through repressive laws such as the *Jammu and Kashmir Public Safety Act* or the *Code of Criminal Procedure* has quelled all credible opposition voices in the region. Such detentions included at least 70 political leaders including three former chief ministers. Amnesty International could not find any information on the detention of political leaders belonging to the ruling Bharatiya Janata Party (BJP).

The report also ignores the use of 'verbal orders'. As of February 2020, at least 1,249 people, including minors were held in administrative detention in J&K, often through verbal orders. These orders are unlawful under Sections 107 and 151 of the Code of Criminal Procedure. Some of those detained on verbal orders were only released when they signed 'bonds', some of which laid down conditions that they wouldn't "commit breach of peace" or partake in any political activity including making political speeches.

The communication and internet shutdown is outlined in the report but its impact on media and the consequent curbing of the freedom of the press is understated. The shutdown had a complete silencing effect on regional media. Newspapers only reproduced government information or wire

agency reports collected from the Media Facilitation Centre set up by the Government of India in Srinagar.

In wake of the communication blackout, the Government of India set up the Media Facilitation Centre to help journalists access the internet and other communication channels. Several journalists have complained of the extremely restrictive working conditions imposed on them which include working out of a small room with a minimal number of computers where they would get approximately 15 minutes to file their stories and update their websites. Initially, the facility only had three computers which were connected to the internet. Over 300 journalists were forced to work on these computers. Most journalists who accessed the facility have also routinely expressed issues of privacy and insecure systems.

The Government of India is also attempting to control the media by restricting the access it provides to journalists. In a majority of cases, Government members, officials and bureaucrats are unwilling to speak to them or remain inaccessible. Not having the official version on the events or issues have led to fabricated charges of peddling fake news on journalists, or journalists' being summoned to the police station. Independent journalists are commonly faced with bias and prejudice from the authorities.

The internet and communications shutdown also has significant effects on other rights, namely the right to health and the right education. The report does not mention the threats to the right to the health nor education in relation to J&K (pp.14-17).

As J&K went from one lockdown to another, the situation in relation to the COVID-19 pandemic constantly evolved, throwing up new challenges. The internet provides a crucial link to information that helps keep families healthy and safe during this global health crisis. To ensure real-time preparedness of the people against the spread of the virus, full access to high speed internet is essential. However, the people of J&K have been deprived of telemedicine and online education during the pandemic.

A human rights approach must be at the centre of all prevention, preparedness, containment, and treatment efforts to protect public health during the COVID19 pandemic. The right to health, as guaranteed under the Universal Declaration of Human Rights, provides for the right to access healthcare. Access to health-related information is also a crucial part of the right to health. Providing "education and access to information concerning the main health problems in the community, including methods of preventing and controlling them" is considered an "obligation of comparable priority" to the core obligations of the right to health.

The World Health Organisation recommends that the public must be informed of the situation so that they can take appropriate measures to protect themselves and their family. The people of Jammu and Kashmir have the right to remain informed of the threat to their health, the measures to mitigate risks, early warning information of possible future consequences and information on ongoing response efforts. They have the right to information in the local languages and through media and in formats that can be easily understood and accessed, so that they can fully participate and take informed decisions in the response efforts.

On 11 April 2020, the Private Schools Association of Jammu and Kashmir had moved the Supreme Court of India seeking restoration of 4G services in the union territory, contending that the lack of proper internet connectivity violated the fundamental right to education of children. Restrictions on internet speed directly impacts the students of Jammu and Kashmir to exercise their right to

education as they are unable to access elearning services such as online video classes and other online educational content. This not only impacts their continuing education, but also disadvantages the students of J&K who are preparing for competitive exams.

The report discusses the National Human Rights Commission, but does not acknowledge that the Jammu & Kashmir State Human Rights Commission and the State Commission for Protection of Women and Child Rights were abolished through the passage of the *Jammu & Kashmir Re-Organisation Act*. Amnesty International India has reported that this has had an impact on the ability of people in J&K to lodge human rights grievances.

Treatment of Minorities

Amnesty International does not agree with the Department's finding in part 3.53 of the report that states that Muslims in India 'face a low risk of official discrimination'. Law reform such as the re-organisation of J&K is state-sanctioned discrimination of Indian Muslims, in favour of the Hindu majority.

Furthermore, the passage of the *Citizenship (Amendment) Act* weaponised the National Register of Citizens, and Foreigners Tribunals, against Muslims. Amnesty International India's report, *Designed to Exclude* (enclosed), clearly shows that Muslims in India indeed face significant 'official discrimination'. The ongoing exclusion of Muslims by the Foreigners Tribunals risks the creation of the largest statelessness crisis in the world.

I ask that the Department revises the report with the intention of providing a truer and more realistic understanding of the current human rights situation in India.

I note that the report does comment on the broader trend of human rights organisations and other non-government organisations being targeted and restricted, and agree with its findings. As the report notes, Amnesty International India has been one such target.

For further information, or to discuss and organise a meeting, please contact Joel MacKay at joel.mackay@amnesty.org.au or 0424 242 112.

Yours sincerely,

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