



Thursday, 17 June 2021

Foreign Affairs, Defence and Trade Committee Secretariat,  
Parliament House,  
Canberra, ACT 2600

**Submission to the Inquiry on '*Opportunities for advancing Australia's strategic interests through existing regional architecture*'**

The Humanism Project welcomes the opportunity to comment on advancing Australia's strategic interest through existing regional architecture. Our submission pertains to Australia's geo-political relationship with India, and risks to this relationship through an escalation of human rights violations and deteriorating democracy in India. The submission specifically responds to items **a** and **d.i** in the terms of reference. We submit that it is in Australia's strategic interest to speak out on the growing human rights situation in India.

The Humanism Project (THP) was founded in March 2020 by Indian origin people living in Australia concerned about ongoing religion-based discrimination, authoritarian nationalism and attack on human rights and democratic dissent in India. In Australia, we collaborate with human rights groups like Amnesty Australia to raise these issues with Australian political parties; globally we coordinate online campaigns for human rights in India with civil rights networks in New Zealand, Europe, United Kingdom and the USA.

We are concerned at the silence and underreporting by Australian media, politicians and think tanks of India's worsening human rights violations.

The first of three attachments in this submission is a letter from Amnesty Australia to the Department of Foreign Affairs and Trade about its *Country Information Report on India* published on 10 December 2020, pointing out that the report frequently understated threats to human rights and ongoing violations of human rights in India. Earlier, Amnesty's Indian arm was forced to halt operations after the Finance Ministry froze its bank accounts in September 2020. The Australian government also remained silent against violent crackdowns on protestors at India's farmers' protests in February this year.

The second attachment contains the biographical brief of our expert witness Dr. Angana Chatterji. Dr. Chatterji will submit a brief on **July 14, 2021** pertaining to the current human rights situation in India. Her note will cover current issues of majoritarianism and Hindu nationalism in India and the conditions confronting religious minorities, caste-oppressed groups, and civil society advocates. In particular, she will focus on the citizenship processes, "Love jihad," and political and gendered violence.

The third attachment is an expert summary on the extent of violation of land and forest rights in India, its impacts on India's worsening environmental problems and deepening injustices towards India's Indigenous peoples, adding another dimension to India's human rights problem.

Australia considers India a geopolitical and economic partner in a rapidly changing Indo-Pacific region, seeing it as the only country that can counter China's growing economic power<sup>1</sup>. Australia believes in a democratic value-based partnership with India for strengthening trade relations between the two nations, however takes a selective view of India's human rights violations by calling them India's internal matters<sup>1</sup> in a bid for good relations. At the same time Australia was quick to condemn the killing of protestors in Hong Kong in 2019 and regularly condemns the human rights abuses that the Uighur and other minorities suffer under the current Chinese regime.

Set against the backdrop of India's escalating problems, Australia's silence can be interpreted as complicity in human rights violations in the Indo-Pacific. It can affect the future of a values-based relationship between the two countries.

The Humanism Project welcomes the opportunity to further engage with the Committee on this on matter.

**For further information please contact**

Dr Haroon Kasim. Co-founder. The Humanism Project

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<sup>1</sup> <https://www.lowyinstitute.org/the-interpreter/australia-should-speak-out-india-s-democratic-crisis>



# Attachment 1

**Amnesty Letter to Department of Foreign Affairs & Trade**

**On the 2020 DEPARTMENTAL COUNTRY REPORT ON INDIA**

**AMNESTY  
INTERNATIONAL**



**DEFENDING HUMAN RIGHTS**

21 December 2020

Ms Frances Adamson  
Secretary  
Department of Foreign Affairs & Trade  
RG Casey Building  
John McEwen Crescent  
BARTON ACT 0221

AMNESTY INTERNATIONAL AUSTRALIA

Street address:  
79 Myrtle Street  
Chippendale  
NSW 2008

E: [exec.admin@amnesty.org.au](mailto:exec.admin@amnesty.org.au)

ABN 64 002 806 233

Postal address:  
Locked bag 23  
Broadway  
NSW 2007

F: (02) 83967677

W: [www.amnesty.org.au](http://www.amnesty.org.au)

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.

Yours sincerely,

Tim O'Connor  
Impact Manager  
Amnesty International Australia



## **Attachment 2**

**Brief Note on our Expert Witness**

**Dr. Angana Chatterji**

**Expert Testimony:** Dr. Angana Chatterji will submit a brief on July 14, 2021 pertaining to the current human rights situation in India. Her note will focus cover current issues of majoritarianism and Hindu nationalism in India and the conditions confronting religious minorities, caste-oppressed groups, and civil society advocates. In particular, she will focus on the citizenship processes, "Love jihad," and political and gendered violence.

**Biographical Brief:** [Angana P. Chatterji](#) is Founding Co-chair, [Political Conflict, Gender and People's Rights Initiative](#) at the Center for Race and Gender at University of California, Berkeley. Since April 2017, she has been a Research Fellow at the Center for Human Rights and International Justice, Stanford University. Between 2015-16, she was a Visiting Scholar at the Institute for the Study of Human Rights at Columbia University. A cultural anthropologist, she focuses her scholarly work on issues of political conflict; gender, power and violence; majoritarian nationalism, minoritization, caste oppression and racialization; religion in the public sphere and religious freedom; and human rights, justice and cultural survival. Her work is rooted in local knowledge and interdisciplinary South Asia Studies. In Kashmir, Chatterji co-founded (2008), and was co-convenor of (2008-2012), the People's Tribunal on Human Rights and Justice. In conjunction, she was a Member of the Drafting Committee on Minimum Standards, Second World Congress on Psychosocial Restitution in 2010. Her collaborative work investigating the unknown, unmarked and mass graves of Kashmir called international attention to the need for accountability to the victims and the families of the disappeared. Chatterji's publications include: Books: *Majoritarian State: How Hindu Nationalism is Changing India* (co-editor, U.S.: Oxford University Press, 2019, U.K.: Hurst, 2019, South Asia: Harper Collins, 2019); *Conflicted Democracies and Gendered Violence: The Right to Heal*; (lead editor, Zubaan, U. Chicago distribution, 2016); *Contesting Nation: Gendered Violence in South Asia; Notes on the Postcolonial Present* (co-editor, Zubaan, 2012, U. Chicago distribution, 2013); *Kashmir* (co-contributor, Verso, 2011); *Violent Gods: Hindu Nationalism in India's Present; Narratives from Orissa* (Three Essays Collective, 2009); Reports: *Access to Justice for Women: India's Response to Sexual Violence in Conflict and Social Upheaval* (co-author, 2015); *BURIED EVIDENCE: Unknown, Unmarked, and Mass Graves in Kashmir* (lead author, 2009), *Communalism in Orissa* (Lead author, 2006), and *Without Land or Livelihood* (lead author, 2004). Chatterji has served on the board of directors of International Rivers Network and Earth Island Institute, and the Advisory Board of the Kashmir Initiative at the Carr Center for Human Rights Policy at the Harvard Kennedy School. Chatterji is a founding member of the South Asia Feminist Preconference at the University of Wisconsin, Madison. Chatterji has served on human rights commissions and offered expert testimony, including at the United Nations, European Parliament, United Kingdom Parliament, and United States Congress.





## Attachment 3

### **Expert summary on violation of land and forest rights in India**

*It's impact on India's worsening environmental problems and deepens injustices towards India's Indigenous peoples*

Summary Report May 2021  
Dr. Ruchira Talukdar, University of Technology Sydney

## Risks to Environment and Forest Rights in India

India's image as a good climate actor due to its ambitious renewable energy targets<sup>1</sup> tends to sideline ongoing attacks on the environment and environmental organisations. Dilution of people's rights to forests and land, air pollution, water scarcity, loss of forests, and weakening the environmental regulatory framework for 'ease of business' is leading towards an environment related human rights crisis in India. Such actions increased in 2020 under the pretext of post-Covid economic recovery.

India now ranks 117 amongst 192 nations in terms of sustainable development<sup>2</sup>; its ranking on the global Environmental Performance Index has plummeted to 177 out of 180 countries<sup>3</sup>. The Environmental Justice Atlas, a global map of land and environmental conflicts, shows that India has the world's highest environmental conflicts, indicating considerable social unrest over access to resources and land<sup>4</sup> that ultimately have a bearing on the quality of India's democratic functioning. Despite a national program to clean up public spaces<sup>5</sup> and a ban on single use plastic bags, the escalation of bigger environmental issues pose serious concerns for India's future sustainability. The next four sections summarise the Indian government's measures that are worsening environmental destruction and violation of people's land and forest rights.

The Adani Group owned Carmichael coal mine in Queensland is seen as a crucial link to resource-based relations between India and Australia. The extent of favouritism by the Modi government and violation of land and forest rights by state governments in India for Adani, and the Group's environmental destruction, is now public knowledge in Australia. The case of the Adani Group epitomises India's environment related human rights problem. This problem deserves a critical response from Australia in order to make its partnership with India truly based on democratic values<sup>6</sup>.

## Diluting Environmental Regulations

In 2020, the Narendra Modi's Bharatiya Janata Party-led government proposed sweeping changes to the *Environment Impact Assessment (EIA)*, India's environmental regulatory framework. It proposed reducing public participation, exempting projects from rigorous appraisals, as well as legalising other projects that were operating without environmental approval<sup>7</sup>. The 2020 draft EIA notification is out of sync with international law. It violates the basic tenets of public participation in impact assessment for private projects<sup>8</sup>. Tools for participative democracy such as the *Right to Information (RTI) Act 2005* and the National Green Tribunal (NGT) enacted through the *National Green Tribunal Act 2010* have also been weakened under the Modi government<sup>9,10</sup>.

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<sup>1</sup> India has set an ambitious target of achieving 175 giga watts of installed renewables capacity by 2022, and 500 by 2030.

<sup>2</sup> Based on India's performance against the United Nations Sustainable Development Goals that were set in 2015 and adopted by India in the same year.

<sup>3</sup> [https://www.business-standard.com/article/current-affairs/india-ranks-177-out-of-180-in-environmental-performance-index-says-report-118012401215\\_1.html](https://www.business-standard.com/article/current-affairs/india-ranks-177-out-of-180-in-environmental-performance-index-says-report-118012401215_1.html)

<sup>4</sup> <https://www.thehindu.com/sci-tech/energy-and-environment/india-has-more-environmental-conflicts-than-any-other-country-in-the-world/article24066709.ece>

<sup>5</sup> [https://www.pmindia.gov.in/en/major\\_initiatives/swachh-bharat-abhiyan/](https://www.pmindia.gov.in/en/major_initiatives/swachh-bharat-abhiyan/)

<sup>6</sup> <https://www.lowyinstitute.org/the-interpreter/australia-should-speak-out-india-s-democratic-crisis>

<sup>7</sup> [https://www.business-standard.com/article/current-affairs/pm-modi-s-overhaul-of-environment-rules-sparks-fears-of-return-to-grim-past-120090900244\\_1.html](https://www.business-standard.com/article/current-affairs/pm-modi-s-overhaul-of-environment-rules-sparks-fears-of-return-to-grim-past-120090900244_1.html)

<sup>8</sup> <https://thewire.in/environment/draft-environment-impact-assessment-notification-international-law>

<sup>9</sup> <https://www.nationalheraldindia.com/opinion/how-pm-modi-the-champion-of-the-earth-has-weakened-the-national-green-tribunal>

<sup>10</sup> [https://www.huffpost.com/archive/in/entry/weaker-rti-amendment-bill-dangerous\\_in\\_5d385e01e4b020cd994caa71](https://www.huffpost.com/archive/in/entry/weaker-rti-amendment-bill-dangerous_in_5d385e01e4b020cd994caa71)

### **Weakening Land and Forest Rights and Violating Consent**

The *Forest Rights Act 2006* (FRA) was passed by the Indian parliament to redress historic injustices towards India's Indigenous Adivasi people and their access to forestlands, and to overhaul their colonial legacy of dispossession. In comparison to Australia's Native Title Act, the Indian Forest Rights Act grants communities the right to veto development on their lands. Also, for the first time since independence, the *Land Acquisition, Rehabilitation and Resettlement Act 2013* (LARR) gave Adivasi and peasant communities who had faced the brunt of dispossessions caused by India's economic development a say in how the state should deal with their lands. However both laws have been diluted and violated under the Modi government, especially provisions surrounding public consultation and consent for mining projects from Adivasi communities, and through exempting certain projects from requiring forest clearance<sup>11</sup>. The Modi-led national government has been accused of the slow implementation of the FRA, and of delaying and withholding forest rights to nearly 5.3 million Adivasi families<sup>12</sup>.

### **Targeting environmental and land defenders**

In 2014, the Modi government cancelled the registration of 9000 non-governmental organisations (NGOs) that received foreign-funding on the pretext that they did not comply with India's tax codes. Grassroots people's movements and international environmental groups were equally deemed as a risk to India's national economic security due to their opposition to industrial projects<sup>13</sup>. Greenpeace India was silenced for its campaign to stop coal mining<sup>14</sup>.

Draconian laws were used to curb movements and organisations for the environment and land and forests rights. In the Adivasi majority Jharkhand state, the previous Bharatiya Janata Party (BJP) state government responded to the 'Palthagadi' (stone slab) Adivasi movement for constitutional and forest rights by vandalising villages and imposing sedition charges on 30,000 locals (or approximately 10% of the population)<sup>15</sup>. In 2020, the Indian government blocked the website of Fridays for Future (amongst other groups) and booked the organisation under India's anti terror law – Unlawful Activities Prevention Act (UAPA) – for its advocacy surrounding the draft EIA notification<sup>16</sup>. The Indian government has cracked down on the Indian farmers protests through a range of strong-arm tactics<sup>17</sup>. Journalists and environmental activists supporting the farmers' protests have been targeted<sup>18</sup>.

### **Special favours for a few corporations**

The government weakened regulations and rights to favour private corporations. It is widely regarded the special relations of the Adani Group and a handful of other Indian business conglomerates with the BJP have broken earlier bounds of what passed as acceptable 'crony capitalism'. The special favours between Adani and the BJP grew extensive during successive terms of the BJP national government from 2014. Adani emerged as one of the biggest beneficiaries on the Modi government's massive privatisation drive of public assets, making it one of India's largest private airport operators overnight. Adani is also the largest private port operator, thermal coal producer, and the world's largest solar power developer<sup>19</sup>.

<sup>11</sup> <https://www.hindustantimes.com/india/forest-rights-act-diluted-for-projects/story-cl3LtPEr7XXfMq4jpf1BQ1.html>

<sup>12</sup> <https://www.epw.in/engage/article/international-day-forests-india-exclusionary-private-capital>

<sup>13</sup> <https://epress.lib.uts.edu.au/journals/index.php/mcs/article/download/5602/6345?inline=1>

<sup>14</sup> <https://newmatilda.com/2019/03/29/profit-before-people-why-india-has-silenced-greenpeace/>

<sup>15</sup> <https://www.newsclick.in/jharkhand-every-10-advansi-khunti-dist-charged-sedition-resorting-palthagarhi>

<sup>16</sup> <https://india.mongabay.com/2020/07/governments-crackdown-renews-interest-in-draft-eia-2020/>

<sup>17</sup> <https://www.greenleft.org.au/content/india-what-we-can-learn-farmers-protests>

<sup>18</sup> <https://time.com/5939627/disha-ravi-india-toolkit-arrest/>

<sup>19</sup> <https://www.ft.com/content/474706d6-1243-4f1e-b365-891d4c5d528b>