



The Right Honourable Justin Trudeau  
Prime Minister of Canada  
80 Wellington Street  
Ottawa, Ontario  
K1A 0A2

February 9, 2018

Dear Prime Minister Trudeau,

We are writing to you in advance of your official visit to India later this month to lay out a number of pressing human rights concerns and related recommendations that Amnesty International's 300,000 supporters across Canada urge you to raise in all possible exchanges, including your meetings with Prime Minister Narendra Modi.

The relationship between Canada and India is an important one and the ties between our countries are numerous, deep and longstanding. It is vital that in a spirit of mutual support, such a relationship give serious attention to pursuing all possible avenues for strengthened respect and regard for human rights. As such, Amnesty International is also reaching out to Prime Minister Modi, urging that he and other members of his government raise recommendations for human rights improvement in Canada with you and other Canadian officials during meetings and discussions held during this upcoming visit.

We have attached a short briefing paper to this letter, highlighting six areas in which we believe interventions from the government of Canada and you personally at this time would be timely and significant. Those areas of concern are:

- threatened forced mass expulsion of Rohingya people from India;
- justice and accountability for the 1984 Sikh massacre;
- use of pellet-firing shotguns in Kashmir;
- demonization of religious minorities;
- decriminalization of consensual adult same-sex relations; and
- criminalization of marital rape.

We would welcome an opportunity to meet with you or your officials in advance of your trip to discuss these concerns and recommendations further.

Sincerely,

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# AMNESTY INTERNATIONAL BRIEFING: HUMAN RIGHTS CONCERNS IN INDIA

February 2017



Ahead of Prime Minister Justin Trudeau's state visit to India between 17-23 February 2018, Amnesty International is presenting this briefing to highlight human rights concerns in the country. Amnesty International urges the Prime Minister to raise these concerns in discussions with representatives of the Government of India and seek meaningful commitments for improvement.

## 1. Forced mass expulsion of Rohingya people in India

An estimated 40,000 Rohingya people in India are at risk of mass expulsion. They include more than 16,000 who have been recognized as refugees by UNHCR, the UN refugee agency. In August last year, the Ministry of Home Affairs wrote to state governments asking them to identify "illegal immigrants", including Rohingya. The following month, the Ministry said that all Rohingya in India were illegal immigrants, and claimed to have evidence that some Rohingya had ties to terrorist organizations. India's Supreme Court is currently hearing a petition filed by two Rohingya refugees against the forced expulsion. The government has raised unsubstantiated national security concerns in order to justify the mass expulsion. It has further argued that this measure is lawful because India is not a signatory to the UN Convention and Protocol Relating to the Status of Refugees.

Expelling Rohingya asylum-seekers and refugees would violate the international principle of *non-refoulement* – which is part of customary international law and is binding on all countries – that forbids governments from forcibly returning people to countries where they may be subject to serious human rights violations. India is also a state party to other international treaties under which it must comply with this principle. Forcibly expelling Rohingya would also break India's longstanding moral tradition of providing shelter to vulnerable populations seeking refuge.

**Amnesty International urges Prime Minister Trudeau to call on Prime Minister Modi to ensure that Rohingya people living in India are not forcibly expelled, and to explore opportunities for Canada and India to work together to pressure the government of Myanmar to end discrimination and violence against Rohingya people.**

## **2. 1984 Sikh massacre**

At least 3000 Sikh men, women, and children were killed, mainly in Delhi, in November 1984 over the course of four days that followed the assassination of Prime Minister Indira Gandhi. Yet, more than three decades later only a small fraction of those responsible have been brought to justice. The Delhi Police closed investigations in hundreds of cases after the massacre citing lack of evidence. Only a handful of police personnel who were charged with neglecting their duty and offering protection to the attackers have been punished.

Since 1984, two commissions and nine committees have been set up to look into the issues related to the massacre. In February 2015, the government formed a Special Investigation Team (SIT) to investigate cases that had been closed. However the SIT's functioning was marked by a lack of urgency and transparency. Of the 291 cases it looked at, it went on to close 241.

In January 2018, the Supreme Court decided to set up another three-member team to probe 186 cases which were not investigated by the central government's SIT.

**Amnesty International urges Prime Minister Trudeau to call on Prime Minister Modi to ensure that all those suspected of involvement in the 1984 killings, including those with command responsibility, are prosecuted. The government must also develop and implement a comprehensive plan for reparation in full consultation with the victims and survivors of the 1984 massacre.**

## **3. Use of pellet-firing shotguns in Kashmir**

Security forces in Jammu and Kashmir have been using pellet firing shotguns to police protests in the Kashmir valley since at least 2010. These weapons have killed, blinded and injured thousands of people. In January this year, the Jammu and Kashmir state government admitted in the state legislative assembly that 6,221 persons received pellet gun injuries, including 782 eye injuries, between July 2016 and February 2017. The actual figures are likely to be even higher.

People injured by pellet-firing shotguns have faced serious physical and mental health issues, including symptoms of psychological trauma. School and university students who were hit in the eyes said that they continue to have learning difficulties. Several victims who were the primary breadwinners for their families fear they will not be able to work any longer. Many have not regained their eyesight despite repeated surgeries.

These shotguns fire a large number of small pellets spreading over a wide range. There is no way to control the trajectory or direction of the pellets, whose effects are therefore indiscriminate. By their very nature, the weapons have a high risk of causing

serious and permanent injuries to the persons targeted as well as to others. These risks are virtually impossible to control. The use of pellet shotguns in Kashmir violates international standards on the use of force.

**Amnesty International urges Prime Minister Trudeau to call on Prime Minister Modi to immediately ban the use of pellet-firing shotguns as a means of policing protests, and work with the state government of Jammu and Kashmir to set up independent investigations into cases of deaths or serious injuries caused by pellet firing shotguns.**

#### **4. Demonization of religious minorities**

In 2017, several hate crimes against Muslims were reported in different parts of India, amid a rising tide of Islamophobia in the country. Since April 2017, at least ten Muslim men have been lynched or killed in public. Mob attacks against minority communities, especially Muslims and Dalits, have become a serious threat. Several people have been attacked over rumors that they had sold, bought, or killed cows for beef.

The attacks have contributed to a growing sense of insecurity for many Muslims, and intensified religious tensions. The government has failed to prosecute those responsible for such attacks. Some officials of the Bharatiya Janata Party (BJP), which leads the government in many states where the attacks have taken place, have made statements which appeared to justify the violence.

**Amnesty International urges Prime Minister Trudeau to call on PM Modi to publicly condemn hate crimes and Islamophobia, and work with state governments to end impunity for those responsible for hate crimes against Muslims.**

#### **5. Decriminalization of Section 377**

In 2009, the Delhi High Court read down Section 377 of the Indian Penal Code to decriminalize adult consensual same-sex relations. The decision, however, was reversed by the Supreme Court of India in 2013.

Several countries, including Canada, have called upon India to decriminalize same sex relations by revoking section 377 of the IPC. However, the Government has shrugged off its responsibility by passing the buck to the judiciary. Several officials of the ruling BJP have expressed their support for section 377. In 2015 and 2016, members of the lower house of Parliament, where the BJP has a majority, blocked a bill seeking to decriminalize same-sex relations.

**Amnesty International urges Prime Minister Trudeau to call on Prime Minister Modi to repeal Section 377 of the Indian Penal Code and decriminalize consensual adult same-sex relations.**

## **6. Criminalization of Marital rape**

Marital rape is a grave and widespread form of violence against women in India. According to an official nationwide family health survey in 2015-16, 6% of married women in India— and over 11% in some states - said their husbands had raped them or forced them to commit sexual acts against their will.

However, marital rape is still not recognized as a specific crime under Indian law. Section 375 of the Indian Penal Code, which defines the offence of rape, retains an exception for sexual intercourse by a man with his wife. Only rape committed within a marriage when the spouses are living separately can be punished, and then with a lower sentence than that given to rape outside a marriage.

India has not accepted recommendations from domestic and international bodies, and other states including Canada at the Universal Periodic Review, pressing for marital rape to be recognized as a crime. Responding to petitions in courts seeking to criminalize marital rape, the central government has stated that doing so would “destabilize the institution of marriage”.

**Amnesty International urges Prime Minister Trudeau to call on Prime Minister Modi to amend the law to remove the exception to marital rape in the definition of rape in the penal code.**