



April 13, 2015

VIA E-MAIL ONLY

Prime Minister Stephen Harper
The Honourable Minister Ed Fast
The Honourable Deepak Obhrai, MP
The Honourable Randy Hoback, MP

Dear Sirs:

RE: *Embassy News*: India's dismal record on freedom of expression poses risk to Canada

By way of introduction, I am the executive director of the International Human Rights Program (IHRP) at the University of Toronto Faculty of Law. I am writing today on behalf of myself and Tasleem Thawar, the executive director of PEN Canada.

We are writing today to urge you to put freedom of expression on the agenda for this week's talks with Indian Prime Minister Narendra Modi.

The IHRP and PEN Canada, along with PEN International, expect to release a ground-breaking report regarding freedom of expression in the world's largest democracy next month (to mark PM Modi's first year in office). Our research, which included field research in India, finds that India's vague, overbroad and overlapping laws allow for censorship of political speech that is necessary to a well-functioning democracy. The issues with India's laws are compounded by significant problems with the administration of justice in India, including endemic corruption within the police force and judiciary. While the Supreme Court of India has taken the first steps last month towards limiting laws that censor speech on the Internet, it is now up to PM Modi to make free speech a priority and reality for India's 1.3 billion citizens.

The authors of the report, two Faculty of Law students, Amy Tang and Evan Rankin, have written an opinion published in [Embassy News](#) today that highlights the risk that India's problematic record on freedom of expression poses to Canada as a potential preferential trading partner. (For ease of reference, the opinion is attached herein.)

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DIRECTOR

Renu Mandhane, J.D., LL.M.
39 Queen's Park
Room 106
Toronto, Ontario M5S 2C3
Tel: 416.946.8730
Fax: 416.978.8894
renu.mandhane@utoronto.ca



We urge you, this week, to make sure that freedom of expression is on the agenda for talks with PM Modi, and in future negotiations with India regarding a preferential trading agreement.

Do not hesitate to get in touch with either of us directly if you would like to discuss this issue further,

Renu Mandhane

Renu J. Mandhane (Ms.), B.A., J.D., LL.M.
Executive Director
International Human Rights Program
University of Toronto, Faculty of Law
39 Queen's Park, Room 106
Toronto, Ontario M5S 2C3

per

Renu Mandhane

Tasleem Thawar
Executive Director
PEN Canada
24 Ryerson Ave, Suite 301
Toronto ON M5T 2P3
Phone: 416 703 8448 x24
Fax: 416 703 3870
Email: tthawar@pencanada.ca

Encl.

cc: The Honourable Thomas Mulcair, MP
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EMBASSY

India's dismal record on freedom of expression poses risk to Canada

Opinion | Trade | Foreign Affairs | [EVAN RANKIN](#) | [AMY TANG](#)

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Freedom of expression is essential to democracy and combatting corruption, and facilitates economic growth. Canada and India have been negotiating a Comprehensive Economic Partnership Agreement since November 2010. The importance of trade relations between the two countries will undoubtedly be on the agenda when Indian Prime Minister Narendra Modi meets with Prime Minister Stephen Harper in Ottawa from April 14 to 16.

But a meeting that is silent on India's dismal record on freedom of expression—a fundamental human right—would be a missed opportunity. We believe that bilateral negotiations with India must be informed by the increase in censorship in the world's largest democracy. Anything less risks Canada's increasingly shaky reputation as a global leader in human rights.

As a potential future preferential trading partner, Mr. Harper should speak with Mr. Modi about India's vague, overly broad, and overlapping laws that violate freedom of expression. Indeed, while Canada's track record on freedom of expression is by no means perfect, Canada's censorship laws are significantly narrower than India's, and yet we have managed to foster a peaceful, vibrant, and respectful multiculturalism.

Much of the Indian Penal Code is a colonial antique, but its excessive restrictions on dissent and free speech have largely been embraced by the Indian state, eager to maintain public order in a religiously and culturally diverse society. In India, you can go to jail for defaming someone (even if the contents of your statements were true), or because you insulted "religious feelings" or committed an act that is prejudicial to the maintenance of "harmony."

The threat of criminal prosecution itself creates a chilling effect on expression that silences not only marginal voices but major publishing houses. Wendy Doniger's book, *The Hindus: An Alternative History*, was withdrawn from the Indian market by Penguin Books in February 2014 when it was alleged that the book insulted religious feelings and violated India's blasphemy law. Penguin India felt its hands were tied, claiming that the vague and overly broad blasphemy law levelled against it makes it difficult for any Indian publisher to uphold international standards of free expression.

The story is not entirely gloomy. Last month, the Supreme Court of India struck down a controversial internet censorship law which criminalized "annoying," "inconvenient," and "insulting" electronic messages and would see violators thrown in jail. The law was used to entangle students, professors, tradesmen and others in costly legal proceedings. In one case, the alleged offence was emailing an image that satirized a government minister. Unfortunately, in the same decision, the Supreme Court failed to strike down laws that require internet service providers to take down offending content based on complaints by the public.

The vague, overly broad, and overlapping censorship laws still on the books threaten the country's 1.27 billion citizens with imprisonment or fines for merely expressing an opinion,

writing a letter to a newspaper, or drawing a cartoon. Political speech is often specifically targeted. Many of these laws blatantly violate the International Covenant on Civil and Political Rights, a treaty to which both India and Canada are parties.

As Canada looks to deepen its economic relationship with India, it is in Mr. Harper's interests to encourage Mr. Modi to build on the Supreme Court of India's recent ruling by amending or repealing the web of laws that infringe on the internationally recognized right to free expression. This timely opportunity is a test for both governments' willingness to take human rights seriously on the international stage.

Evan Rankin and Amy Tang are students enrolled in the International Human Rights Program's legal clinic at the University of Toronto's Faculty of Law and are authors of a forthcoming report on freedom of expression in India.

editor@embassynews.ca

<http://www.embassynews.ca/opinion/2015/04/12/india%E2%80%99s-dismal-record-on-freedom-of-expression-poses-risk-to-canada/46958>