



14 for 2014: A Human Rights Charter for Political Parties

India's next government will face a range of challenges that will test its commitment to promoting human rights.

Political parties seeking a mandate from the public have sworn to uphold constitutional values of justice, liberty, equality and dignity. But will their actions reflect this pledge?

Amnesty International India is asking political parties contesting the 2014 parliamentary elections to commit to and adopt as part of their manifestoes 14 key goals to improve India's human rights record. These issues are by no means exhaustive, and effective action will need collaboration with other relevant authorities, including state governments.

But India's political parties need to show their commitment to respect, protect and fulfill fundamental human rights. Amnesty International India is asking them to do this by:

1. Protecting the rights of communities affected by corporate-led projects.
2. Ending torture, extrajudicial executions and enforced disappearances.
3. Ending arbitrary detention and reducing excessive undertrial detention.
4. Protecting the rights of all persons in custody.
5. Ending the use of the death penalty.
6. Ensuring justice for marginalized communities and minorities who have suffered abuses.
7. Reforming the criminal justice system to better tackle violent crime.
8. Tackling all forms of violence against women more effectively.
9. Holding armed forces accountable for human rights abuses.
10. Protecting people's rights to privacy and freedom of expression.
11. Protecting the rights of migrant workers and domestic workers.
12. Strengthening human rights institutions and protecting human rights defenders.
13. Building a culture of respect for human rights through education.
14. Adopting a more principled approach to human rights abuses around the world.

1. Protecting the rights of communities affected by public and private corporate-led projects, by:

- Investigating ongoing human rights abuses suffered by communities due to public and private corporate-led projects; ensuring that all victims are provided effective remedy, including adequate compensation; and putting forward concrete measures that the government and corporate actors can take to address, mitigate and prevent such abuses.
- Requiring public and private mining companies to identify, prevent and mitigate adverse impacts on human rights, including by carrying out full and impartial social, environmental and human rights impact assessments, as part of their due diligence process, in consultation with potentially affected people.
- Ensuring that the free, prior and informed consent of Adivasi communities is guaranteed in law and sought in practice before granting permission for to any corporate-led activity that threatens Adivasi rights.
- Ensuring that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act is effectively implemented in all states.
- Extending the provisions of the Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act to all people affected by any project, and explicitly prohibiting forced evictions in all circumstances.
- Signing and ratifying ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries.

2. Ending the use of torture, extrajudicial executions and enforced disappearances by State authorities, by:

- Ensuring thorough, independent and impartial investigations, into all cases of torture or other ill-treatment, staged extrajudicial executions or “fake encounters” and enforced disappearances allegedly carried out by state officials; the prosecution of suspects – including those with command responsibility - in swift and fair trials; and full reparation for victims, including access to the truth, compensation, medical care and rehabilitation.
- Reviewing the Prevention of Torture bill to bring it in line with India’s obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), enacting it into law, and ratifying the CAT and its Optional Protocol.
- Establishing an independent oversight and accountability mechanism with authority and resources to conduct regular, unrestricted and unannounced preventative inspections at all places of detention.
- Enacting appropriate policy reforms to ensure that in all cases of alleged faked encounter killings, FIRs are registered on complaints, investigations are conducted, and police claims of firing in self-defence are required to be proven in trial, as held by the Andhra Pradesh High Court.
- Ratifying the UN Convention for the Protection of all Persons from Enforced Disappearance, and introducing legislation to make enforced disappearances a crime under national law.

3. Ending the use of arbitrary detention and reducing excessive undertrial detention, by:

- Abolishing the use of administrative detention, and repealing all laws which allow or enable its use.
- Upholding the presumption in favor of pre-trial release for all persons; ensuring that pre-trial detention is sought only when it is necessary; and ensuring that undertrials are not overcharged and are brought to trial within a reasonable time or released from detention.
- Implementing Section 436 and 436A of the Code of Criminal Procedure to reduce excessive undertrial detention and overcrowding in prisons.
- Strengthening oversight mechanisms, including prison Boards of Visitors and Periodic Review Committees, in all states to effectively track undertrial detention periods and monitor prison conditions.
- Repealing or extensively revising anti-terror laws like the Unlawful Activities Prevention Act and the National Security Act to bring them in line with international standards.

4. Protecting the rights of all persons in custody, by:

- Ensuring the implementation of national and international standards relating to arrest, detention and imprisonment, including in cases of detention by armed forces.
- Providing competent, effective and free legal aid to all detainees who need it, and ensuring detainees are made aware of their legal rights.
- Ensuring that anyone who is subjected to unlawful arrest or detention is provided adequate compensation and those responsible are brought to justice.
- Immediately and unconditionally releasing anyone detained solely for the peaceful exercise of their rights to freedom of thought, conscience, religion, opinion or expression.

5. Ending the use of the death penalty in India, by:

- Commuting all death sentences to terms of imprisonment.
- Enacting laws to abolish the death penalty for all crimes.

6. Ensuring access to justice for marginalized communities and religious minorities who suffer human rights abuses, by:

- Bringing to justice all those responsible for human rights abuses - including political leaders, police or government officials - during past incidents of mass violence against marginalized communities and religious minorities, including various mass crimes against Dalits and Adivasis in several states, the anti-Muslim riots of 2002 in Gujarat and the anti-Sikh riots of 1984 in Delhi.
- Ensuring thorough and impartial investigations, conducted or supervised by an independent authority such as the CBI or a court-appointed Special Investigation Team, into all cases of human rights abuses committed against marginalized communities and religious minorities, the prosecution of suspects in swift and fair trials, and full reparation for victims.

- Enacting laws to prevent communal and targeted violence and to ensure access to justice and reparation for victims, and ensuring that such laws are in line with international standards, including those for fair trials.
- Endorsing and implementing the UN Draft Principles and Guidelines for the Effective Elimination of Discrimination Based on Work and Descent, which recognizes that caste discrimination is a violation under the UN Convention on the Elimination of All Forms of Racial Discrimination.

7. Reforming the criminal justice system to ensure that crimes are effectively prosecuted, by:

- Establishing a comprehensive and well-resourced protection mechanism for victims and witnesses, especially during investigation and trial, as recommended by the Supreme Court and the Law Commission of India.
- Ensuring that police officials are provided continuous and thorough professional training, especially in the investigative process and the appropriate use of force and firearms, in line with international standards.
- Reforming the judiciary and recruiting more judges to fill vacancies in High courts and lower courts and reduce the length of criminal trials.
- Implementing the Supreme Court directives on police reform, including separating investigative duties of the police from law and order duties, and setting up functional and independent Police Complaint Authorities at the state and district level with adequate powers and resources to hold police personnel accountable for human rights abuses.
- Repealing Section 197 of the Code of Criminal Procedure, which provides effective immunity to public servants.

8. Tackling all forms of violence against women more effectively, by:

- Introducing legislation to recognize rape within marriage as a crime that carries the same punishment as rape, as recommended by the Justice Verma Committee.
- Adopting the Justice Verma Committee's recommendations on filing and registration of police complaints, including making the guidelines for the police issued by the Delhi High Court mandatory across the country.
- Providing specialized training to police officials, government doctors, judges, and others working in the criminal justice system, to ensure that all investigations, prosecutions, treatment and medical examinations of survivors of gender-based violence respect their rights and dignity.
- Carrying out household crime surveys to assess the true extent of gender-based violence and underreporting, with a view to ensuring that appropriate policies and strategies can be developed.

9. Holding armed forces accountable for human rights abuses and ending impunity, by:

- Ensuring thorough and impartial investigations, conducted or supervised by an independent authority such as the CBI or a court-appointed Special Investigation Team, into all cases of alleged human rights violations by armed forces, the prosecution of suspects in swift and fair trials in a civilian court, and full reparation for victims.
- Repealing the Armed Forces Special Powers Acts (1958 and 1990) and ensuring that provisions from these laws are not reintroduced in future legislation
- Granting sanction in all pending cases requesting sanction for prosecution of armed forces for alleged human rights violations in areas where the AFSPA has been in force.
- Publicly disclosing all details of arrests, investigations and prosecutions of armed forces for alleged human rights abuses, including courts-martial.

10. Protecting fundamental rights to privacy and freedom of expression, by:

- Repealing Section 124A of the Indian Penal Code, which deals with the offence of 'sedition', which is inconsistent with international standards on freedom of expression.
- Reviewing Section 66A of the Information Technology Act, which is imprecise and overbroad, to bring it in line with international standards.
- Imposing safeguards and establishing an independent oversight mechanism to ensure that any measures the government takes to interfere with privacy - including by making requests for user data from service providers - is necessary and proportionate to legitimate goals, and is subject to judicial supervision and review.
- Disclosing the details of the Central Monitoring System – including its permitted grounds of surveillance and the safeguards on its misuse - and ensuring that it proceeds only after due consultation with the public and deliberation in Parliament.
- Ensuring that any restrictions placed on the rights to freedom of expression, assembly or association are necessary and proportionate to legitimate goals, and are not used to stifle dissent or persecute government critics and activists.
- Repealing Section 377 of the Indian Penal Code, which effectively criminalizes same-sex relations between consenting adults.

11. Protecting the rights of migrant workers and domestic workers, by:

- Signing and ratifying the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.
- Preventing trafficking and forced labor of Indian migrant workers employed abroad by strengthening regulation of recruitment agencies and brokers; carrying out prompt, thorough and impartial investigations into allegations of bribery and corruption in recruitment; and improving support mechanisms for migrant workers in destination countries.
- Ensuring that migrant workers travelling abroad receive adequate pre-departure orientation, and can access a transparent and accessible complaints mechanism.

- Signing and ratifying the ILO Domestic Workers Convention.

12. Strengthening our human rights institutions and protect human rights defenders, by:

- Amending the Protection of Human Rights Act to expand the authority and mandate of the National Human Rights Commission and State Human Rights Commissions, including by empowering them to investigate allegations of human rights violations by armed forces and removing the one-year limitation clause on complaints.
- Establishing SHRCs in states where they do not yet exist, filling vacancies in all SHRCs and giving them adequate human and financial resources.
- Establishing a comprehensive, adequately resourced protection programme for human rights defenders at the central and state levels in conjunction with the NHRC and SHRCs.
- Reviewing the provisions of the Foreign Contribution Regulation Act to ensure that it does not restrict the rights of NGOs to freedom of expression and association, and is not used to repress critical groups.

13. Building a culture of respect for human rights in education, by:

- Devising appropriate programmes and strategies to improve the implementation of the Right to Education Act, and ensure free and compulsory education for all children.
- Ensuring that education policies promote equality, dignity, respect and participation and target disparity and discrimination.
- Ensuring that both private and public schools respect human rights in curricular and co-curricular activities, in the school environment, and in school governance.
- Integrating human rights education into training courses for school and university teachers.

14. Adopting a more principled approach to human rights abuses in South Asia and the world in India's foreign policy, by:

- Urging governments falling short of their human rights obligations, including allies and neighboring countries, to take necessary action to promote human rights and uphold their international obligations.