

# CJP's Human Rights Manifesto for Election 2019

Let's keep the #JungJaari for Equality and Justice

The upcoming general election is critical for human rights in India, given the recent surge of violations of rights that are constitutionally guaranteed for all Indians. With this in mind, Citizens for Justice and Peace (CJP), a human rights movement working to guarantee rights in the courts and beyond, presents this constitutional and human rights manifesto. We will be sending this to all key political parties.

## Right to Peaceful Assembly and Freedom of Expression and Association

- Stop the perennial misuse of Section 144 of the Code of Criminal Procedure (CrPC)<sup>1</sup>
- Stop the misuse of the Prevention of Seditious Meetings Act, 1911 and repeal the said Act<sup>2</sup>.
- Allow human rights defenders (HRDs) access to police stations, prisoners etc.<sup>3</sup>
- Remove restrictions for access to funding and resources for HRDs, people's movements and marginalised communities, including the clampdown through the Foreign Contribution (Regulation) Act, 2010.

## Right to Information

- Block any attempts at dilution of the Right to Information Act, 2005 (RTI)
- Ensure transparency in vetting process for selection of members of the Central and state Information Commissions
- Ensure these commissions are fully staffed to avoid the pile-up of RTI requests/appeals
- Implement process for quick, time-bound appraisal of the more than 25,000 complaints and appeals currently pending with the CIC

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<sup>1</sup> Over the past five years in particular, but prior to that as well, tools used for repression of the Right to Peaceful Assembly (Article 19, Indian Constitution) are often in the form of i) Section 144 of the CrPC that is often force for decades in states facing 'conflict' like Manipur and Jammu and Kashmir, and is also used indiscriminately to quell peaceful assembly in the rest of India.

<sup>2</sup> Section 5 of this Act empowers the administrative head—District Magistrate—or Commissioner/Superintendent of Police –police head- of a division/district/city to prohibit a public meeting in a proclaimed area if in his/her opinion such meeting is likely to promote sedition and/or disaffection or cause disturbance in public tranquility. This section of this problematic law has been flagged for repealment by the Law Commission of India as recently as September 2014.

<sup>3</sup> An acute and important way that the Right to Free Assembly and Association is impeded or restricted, is the way that HRDs or human rights groups are not allowed free access to scenes of crimes/human rights violations (police lockups, scenes/sites of extra judicial killings, prisons etc.)

## Draconian Laws

- Repeal draconian sections of the Unlawful Activities Prevention Act<sup>4</sup> (UAPA)<sup>5</sup>, the Armed Forces Special Powers Act (AFSPA)<sup>6</sup>, the National Security Act (NSA), the Public Safety Act (PSA) and release of all those falsely implicated under them
- Repeal Section 124A of the Indian Penal Code pertaining to sedition, and release those falsely implicated under it
- Repeal provisions of the Chhattisgarh Public Safety Act<sup>7</sup>, the Tamil Nadu Public Security Act and other similar provisions that are being used to terrorise dissenters and common people
- Decriminalise triple talaq, as it can be used as a tool to target and harass Muslim men, and bring it under the purview of the Protection of Women from Domestic Violence Act, 2005

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<sup>4</sup> Sections of the newly amended (UAPA), namely Section 13 wherein ‘unlawful activity’ is punishable with imprisonment upto seven years with fine. ‘Unlawful activity’ is very problematically defined under Section 2(o) to include ‘support for claims of secession.’ Questioning territorial integrity and causing and intending to cause disaffection against India. The definition of “terrorism” under this law is also extremely wide and has been used against peaceful protests and assemblies.

<sup>5</sup>The amendments to UAPA (post 2008) that urgently need to be repealed, in fact, provide powers to misuse the provisions to the maximum extent possible, in the following ways:

- They expand the vague definition of terrorism under existing Indian law to encompass a wide range of non-violent political activity, including political protest by minority populations and civil society groups
- They strengthen the existing power of the government to ban an organisation on limited evidence and with limited rights to judicial review, and to make mere membership of proscribed groups a criminal offense.
- They authorise warrant-less search, seizure and arrest with wide authority and few safeguards, and the compulsion of information from third parties without a court order.
- They allow detention without charge of up to 180 days, including up to 30 days in police custody, and create a strong presumption against bail.
- They create a presumption of guilt for terrorism offenses where certain kinds of evidence are found, without a showing of criminal intent.
- They authorise the creation of special courts at the state and federal level, with wide discretion to hold in-camera (closed) hearings and use secret witnesses

<sup>6</sup> Section 4(a) of AFSPA gives the Armed Forces of the Union of India the power to ‘use force, including open fire, even to the extent of causing death’ if prohibiting orders banning assembly of five or more persons or carrying arms and weapons are in force in disturbed areas. This draconian law has been in operation in states of the north-east and Jammu & Kashmir since 1958, and has been used to target innocent persons with impunity.

<sup>7</sup> Both the UAPA and other repressive laws, for example, the Chhattisgarh Special Public Security Act define ‘unlawful organisations’ in an ambiguous manner that enables the authorities to misuse these and tamper with free assembly and association

## Attacks on Dissent: Protection for Human Rights Defenders and Movements

- Stop the crackdown on human rights defenders, including, but not limited to protestors, activists, civil society organisations, student leaders, trade unionists, journalists, advocates, Right to Information Act (RTI) activists, Dalits, tribals, minorities etc.
- Drop all false cases against them and immediately release all those who are wrongfully incarcerated
- Enact a special law, that meets international standards to protect human rights defenders against persecution<sup>8</sup>

## Religious/linguistic/ethnic minorities and oppressed castes:

- Pass the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011 to protect religious and linguistic minorities, as well as people from historically oppressed communities like Dalits and Adivasis in all states, after consultation and reference to a Joint Parliamentary Committee
- Ensure the said Bill has necessary provisions to make authority figures accountable for dereliction of duty in the event of targeted violence
- Ensure that said Bill standardises compensation and reparation
- Ensure victims/survivors of cow vigilante attacks and mob lynchings are not booked under cow protection laws
- Drop all false cases against cattle traders and other sections of religious minorities and immediately release all those who are incarcerated under such laws (cow protection laws)
- Ensure members of marginalized communities, historically oppressed castes, economically disadvantaged classes, and religious minorities are not falsely implicated and jailed in cases of targeted violence and rioting
- Ensure investigative authorities do not target people based on caste, class, religious community while conducting their probes
- Promptly rehabilitate Kashmiri Pandits, particularly the 800 families still residing in the Kashmir Valley
- Formulate a proper and peaceful resolution to the Kashmir conflict through peaceful dialogue
- Amend the Citizenship Bill, 2016 to ensure that the law does not discriminate on the basis of religion or faith in terms of granting citizenship.

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<sup>8</sup> Of late, mass movements in Orissa, Manipur, Jammu & Kashmir and other parts of India have faced significant reprisals; these include actions against Dalit activists after mass protests in Maharashtra against the brutal Khairlanjee massacre of 2006, and the constitutional and minority Rights activists targeted by the state for prosecuting mass crimes like those in Gujarat in 2002.

## Curbs and Prosecution of Hate Speech and Hate Writing<sup>9</sup>:

- Monitor instances of violence-inciting hate speech in public by influential figures, television news channels and the like, and take prompt action against them
- Take strict action against those engaging in trolling or bullying of ethnic, religious, gender, and sexual minorities
- Cases of violence, particularly those that target marginalised communities, that arise out of hate speech/writing should be treated as high priorities and prosecuted through special courts
- Police and law enforcement personnel should be trained to protect these communities from violence caused by hate speech

## Adivasis/Forest Workers:

- Hold a special session of Parliament to discuss the adequate implementation of the Forest Rights Act, 2006 (FRA) in all declared forests in India
- Appoint a Judicial Commission, first in Uttar Pradesh, then in other states to examine all the false and arbitrary cases against Adivasis and other forest dwelling communities as a first step towards quashing these malicious prosecutions
- Stop the oppression, harassment, torture of, and police brutality against Adivasis, Dalits and all forest dwellers and workers, especially women
- Initiate strict action against officials responsible for these acts
- Expedite the process of approving community land claims by forest dwellers and forest workers
- Make the process of approval and rejection of individual and community land claims under FRA completely transparent, so that rejects can be appealed.
- Institute strict accountability measures for authorities, including those reviewing these claims
- Ensure fair prices for Minor Forest Produce (MFP)

## Dalits

- Recognise Dalits as specific 'vulnerable groups' (groups at risk), given that their Right to Peaceful Assembly and Association is regularly denied, and is also weaponised by dominant caste groups to deny the same right to Dalits.
- Call for the institution of a specialised, sensitive monitoring infrastructure to factor in the issue of Dalits' Right to Assembly and Association.

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<sup>9</sup> The aggressive atmosphere of perpetrated by hate speech and writing against religious minorities, especially Muslims, is creating a situation through which they are under direct attack [e.g. Mohsin Shaikh, Afrazul, Rakhbar, the Varanasi Church Attack]. Multiple cases of physical violence are not being responded to because of the climate of fear and terror. Laws that exist should be implemented and cases such as these be treated on a high priority basis. Training of police and law enforcement personnel is pivotal to protecting the marginalised against the violent crimes caused by hate speech.

## Workers

- Proper implementation of labour laws, stop proposed pro-employer amendments
- Revise minimum wages to no less than Rs 15,000 per month, and assured pension of no less than Rs.3,000 per month for the entire working population, including agricultural labourers, and forest-dwelling communities
- Declare Anganwadi teachers, Accredited Social Health Activist (ASHA) workers and auxiliary nurse midwives as regular workers/karmacharis as defined and demanded by the 45<sup>th</sup> and 46<sup>th</sup> Indian Labour Conferences, with a minimum salary of Rs 18,000 per month; they are currently given honorariums under the Integrated Child Development Services (ICDS) programme that vary across states
- Halt contractual labour in regular jobs, and ensure equal pay for equal work
- Stop the privatisation of state-run PSUs, and immediately halt Foreign Direct Investment (FDI) in Railways, insurance and defence

## Farmers

- Guarantee Minimum Support Prices (MSP) for farmers across the country that is at least one and a half times the full cost of production
- Implement the recommendations of MS Swaminathan Commission
- Stop FDI in agriculture and food processing
- Implement a universal Public Distribution System (PDS) without linking it to Aadhaar, or moving to direct cash transfers
- Provide a minimum pension of Rs. 5,000 per month to each farmer above the age of 60
- Increase the number of guaranteed employment days under MGNREGA to 200 days per family
- Hold a special session of Parliament to specifically address the agrarian crisis
- Pass the Farmers' Freedom from Indebtedness Bill, 2018 and the Farmers Right to Guaranteed Remunerative Minimum Support Prices for Agricultural Commodities Bill, 2018
- Quash false cases against all activists working to alleviate the agrarian crisis
- Provide immediate relief in drought situations,
- Implement adequate solutions for irrigation issues

## Women, Gender-based and Sexual Minorities:

- Ensure stricter implementation of the Prevention of Sexual Harassment at the Workplace Act, 2013
- Expand provisions from said Act to cover the harassment of people from all gender-based and sexual minorities
- Follow up on #MeToo cases involving public officials and ensure they are held accountable
- Amend the Transgender Persons Bill, 2018 to respect determination of gender and accurately acknowledge the distinction between transgender, transsexual and intersex people

- Decriminalise begging, as it still remains one of the few ways for transgender and other people to earn a living
- Enact legislation to prevent candidates being rejected from jobs for being transgender
- Encourage a culture that does not tolerate harassment based on gender expression via appearance, attire or body language
- Encourage gender sensitivity training at public and private workplaces
- Remove all legal and other provisions that prevent transgender people from serving in the armed forces
- Take strong action against human traffickers, but destigmatise sex work so that sex workers can be treated with dignity and access basic facilities like healthcare and legal aid more easily
- Block any attempts at diluting the Protection of Women from Domestic Violence Act, 2005
- Include marital rape as criminal offence under rape laws
- Ensure that strict action is taken against state authorities involved in the rape and torture of Dalit and Adivasi women and other women

### **Criminal Justice Reform**

- Ensure full implementation of police reform provisions in line with not just the Supreme Court judgement in the Prakash Singh case, but also the recommendations made by the National Police Commissions
- Abolish the death penalty
- Ensure the proper implementation of a Witness Protection Programme, especially in cases related to mob lynching, cow vigilante attacks, and also to protect whistleblowers and RTI activists
- Ensure all such cases are tried by fast-track courts to ensure time-bound trials
- Ensure the establishment of Directorates of Prosecutions that are monitored by the higher judiciary and are independent of the executive arm of the government
- Impose stringent conditions for cow vigilantes to secure bail in cases of mob lynching
- Ensure all cases of gender-based violence are tried by special courts and that survivors, witnesses, and the families of victims and survivors are provided proper protection

### **Rights of Undertrials and Prisoners**

- Follow and implement relevant judgments of the Supreme Court on undertrials
- Order the release of undertrials who have already served half their maximum sentence<sup>10</sup>

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<sup>10</sup>An estimated two-thirds of around four lakh prisoners in India's jails are awaiting trial, with many already having spent years in jail. The release of undertrials will be a major step forward in the decongestion of the country's overcrowded prisons, but will also serve as judicial reform that a country with strong democratic ideals needs. The justice system is a pillar of the state, and its institutions are what a grieved citizen can turn to for redressal, just as it is meant to penalize those who violate the laws of the land. A system where people spend years in prison for petty offences, or just because of prolonged trials constitutes a travesty of justice.

- Ensure regular monitoring of prison conditions, particularly in relation to women and children
- Ensure adequate sanitation and health facilities, and emphasise cleanliness and adequate food and clean water

### **Privacy and Surveillance**

- Scrap the Ministry of Home Affairs (MHA) order that empowers ten security agencies to monitor and decrypt communication on social media
- Stop the compelling and arm-twisting of social media companies and app developers to disclose identities and other private data of users under the guise of national security
- Maintain net neutrality
- Implement stringent privacy measures to protect Aadhaar data
- End state surveillance of human rights defenders as an attempt to intimidate them and impede their work

### **Education:**

- Work towards the goal of a common school system and public university system
- Strengthen municipal, zilla parishad, and government schools
- Ensure regular, full-time, and secure employment for teachers and other staff in schools and pre-school nurseries/anganwadis
- Ensure that all state curricula and textbooks are in conformity with the principles of inclusion, pluralism, equality and non-discrimination that are enshrined in the Indian Constitution
- Establish central and state boards for the monitoring of textbooks and educational materials used by religious, sociopolitical and private institutions to ensure that they adhere to the principles of the Indian Constitution
- Restore all University Grant Commission (UGC) scholarships for diversity-driven affirmative action
- Restore funding for pre- and post-matriculation scholarships for marginalised groups (e.g. members of Scheduled Castes)
- Formulate a timeline, allocate adequate resources and work with state governments to ensure that all schools comply with the Right to Education Act (RTE)

### **Child Rights:**

- Provide creche facilities staffed by trained childcare professionals to working parents from low-income and marginalised groups
- Abolish the death penalty in cases of child rape to prevent the murder of survivors and witnesses
- Include mandatory sex education for all students from an early age
- Overhaul the juvenile justice system to ensure better regulation of detention facilities to prevent inmates' abuse, and to align with international laws and conventions

- Tackle the high pendency of cases filed under the Protection of Children from Sexual Offences Act, 2012 (POCSO) by guaranteeing time-bound trials in fast-track courts

### **Right to Food**

- Ensure more nutritious midday meals in state-run schools
- Include pulses and edible cooking oil in the Public Distribution System (PDS) and universalise PDS benefits, so that nobody is denied food due to exclusion errors
- Double the Antodaya coverage, giving priority to vulnerable groups
- Promote the procurement of local produce
- Form community kitchens in urban areas to provide hot and healthy meals at subsidised rates to people from low-income and marginalised groups
- Provide free, hot, and healthy meals for pregnant and lactating people and houseless persons at government-run facilities and facilities like Anganwadis
- Encourage an inclusive environment in public and private workplaces and public spaces to curb caste-based and religion-based discrimination over food choices