
**INTERNATIONAL HUMAN RIGHTS
ASSOCIATION OF AMERICAN MINORITIES**

Report submitted to the
Committee on the Rights of the Child
On the Children's Situation in Jammu & Kashmir
Occupied by India

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A. INTRODUCTION

1. General Background

The State of Jammu & Kashmir lies in the lap of the Himalayan range of mountains in Asia. For centuries it remained an independent state having close links with its mighty neighbours such as Iran, Afghanistan, India, China and the states in Central Asia. The present population of Kashmir is estimated at thirteen million. The overwhelming majority of Kashmir are muslims. As a consequence of the British imperialistic presence on the sub-continent of India in the eighteenth century, the people of Kashmir began to suffer greatly at the hands of the non-muslim rulers imposed upon them by the British. In 1931 a political party was set up and it became the focus of the freedom movement. Its leaders were regularly jailed by the Hindu Maharajah and up until 1947, the Maharajah used violence and terror to rule the state.

When the British partitioned India, Kashmir was ruled by Hari Singh, a Hindu dogra whose ancestors had bought Kashmir from the British through the infamous Treaty of Amritsar. Hari Singh was conspiring with the newly created India to make the state a part of India but Kashmiris rose in rebellion to thwart that conspiracy. Indian forces came to the rescue of the Maharajah and landed in Kashmir to quell the rebellion. The newly born state of Pakistan protested and demanded that the people of Kashmir should have the right to decide their future. A war broke out with part of Kashmir "liberated". However, the bulk of the state was occupied by India and remains in that position to this date. Both India and Pakistan agreed at the United Nations Security Council that a plebiscite to ascertain the wishes of the Kashmiris should take place and on that basis a cease-fire was agreed.

The United Nations Security Council passed a number of resolutions affirming the right to self determination for the people of Jammu & Kashmir. However, India has refused to comply with these resolutions although up until 1950 it repeatedly assured the world that it had no intention of annexing or occupying Kashmir as its integral part but fought three major wars with Pakistan over Kashmir. The people of Kashmir have continued their struggle for freedom and suffered the consequences. Since 1947 and up until 1989, hundreds of Kashmiris lost their lives in non-violent struggle against Indian occupation.

In January 1990 the frustration of Kashmiris manifested itself and an armed struggle against Indian oppression commenced. India responded by letting loose a reign of terror.

2. *Current Situation*

The Indian occupation of Jammu & Kashmir continues. As of February 1999, the strength of Indian military and paramilitary forces in the occupied territory is estimated as follows:

| | | |
|-----|--------------------------------|------------------------|
| (a) | Indian Army | 3,51,531 |
| (b) | Paramilitary Forces | |
| | (i) Border Security Forces | 1,39,187 |
| | (ii) Rashtrya Rifles | 98,738 |
| | (iii) Special Operation Groups | 17,850 |
| (c) | Jammu & Kashmir State Police | 51,771 |
| (d) | Central Reserve Police Force | 27,092 |
| | Total | <u>6,86,179</u> |

Inhuman practices are widely practised in Kashmir as a means of extracting information from detainees, coercing confessions, punishing persons being sympathetic to the liberation movement and creating a climate of political repression.

Indian armed forces routinely ignore procedural safeguards when persons are taken into custody. Although Indian law requires that everyone taken into custody must be produced within 24 hours before a magistrate, in fact, detainees are rarely produced at all. Prohibitions and safeguards against torture in the Indian Panel Code and the Criminal Code of Procedure which prohibit the use of coerced confessions and which prescribes enquiries into custodial deaths for officers guilty of torture are as a matter of routine disregarded.

In Kashmir every armed force has its own interrogation centre which includes temporary detention centres with Border Security Forces, Central Reserve Police Forces and Army Contingents. Detainees are first interrogated by the detaining armed forces for periods of time which may range from several hours to several weeks. During this time the detainee is not produced before a court

In Kashmir, the word “ crackdown ” has taken on a specific new meaning; What it means to Kashmiris is the late-night knock by the Indian paramilitary forces, the line-up, the hooded informers and the disappearances. There is at least one crackdown each day in Srinagar plus several more outside the capital. Often, bodies of missing turn up on the streets within days but recently, the identified persons throats are slashed with bayonets by the Indians during the crackdowns directly in the presence of those helpless Kashmiris who are lined-up. This brutal and most ruthless offensive which

New Delhi has waged against Kashmiris for demanding the right to self-determination has crossed all limits of barbarism.

There is a tacit sanction to killing of innocent Kashmiris both during “Crackdowns” and “interrogations”. Senior police official privately confess that it is a “catch and kill policy”. Patricia Grossman, an Asia Watch research associate, corroborates the “catch and kill” strategy and “torturing virtually all detainees”.

Independent monitoring groups (i.e. Human Rights Watch and Amnesty International) have observed a massive brutal repression of the Kashmiri population through murders, widespread torture, rapes and gang rapes, arbitrary arrests and detentions by the Indians.

The State of Jammu & Kashmir has highest number of “ Interrogation and Torture Centres” in the world which demonstrates widespread pattern of human rights and humanitarian law violations particularly since 1989. For full details on the “Interrogation and Torture Centres”, please see Annexe I.

3. Abuses Against Children

India’s commitment to the cause of children in Jammu & Kashmir is simply abysmal. No aspect of a child’s life is spared by the Indian occupation forces and intelligence agencies there simply because of their vulnerability. They are prime victims of multiple physical and emotional abuse and of dangers such as violence and displacement. Children are at high risk of becoming separated from their families - a trauma more devastating than even the displacement itself. Kashmiri separated minors are extremely vulnerable. Girls are at risk of sexual violence, exploitation and abuse. Boys are vulnerable to underage military recruitment etc.

The Indian People’s Tribunal (IPT), an Indian NGO, in its Report (see Annexe II) describes the plight of Kashmiri children in these terms:

“Constant disturbances in the valley have changed the entire life pattern of inhabitants, especially children. The entire concept of childhood has undergone a radical change in the valley. The children do not go to kindergarten, or learn nursery rhymes or play with the toys, as normal children would do. Neither are they brought up under the loving tender care of their parents in a free atmosphere. Instead their memories of childhood consist of an atmosphere surcharged with fear, terror, constant violence, unrest and constant insecurity”.

Kashmiri children, as a whole, suffer disproportionately from the general rigours of oppressed and terrified life. Malnutrition and its related ailment are common. As for the severe psychological consequences of active observation of hostilities, with children witnessing gross atrocities, the full extent of the impact on children and adults is only beginning to be understood.

The scenario of minor rape victims is a phenomenon which has dramatically increased in the valley. Young and minor girls become particular targets of the Indian armed forces. Cases of vaginal tears, pelvic infection, excessive bleeding are increasingly reported.

According to the Kashmir Bar Association, Srinagar, there are now 30,000 orphans within the age group of 1 to 14 years.

4. India's Non-compliance with the Convention on the Rights of the Child

India's compliance with the Convention on the Rights of the Child in the occupied territory of Jammu & Kashmir is simply atrocious and condemnable.

In fact, the reports emerging from Kashmir clearly indicate that terror against children is a deliberate tactic in order to break the will of Kashmiris thereby coercing them to abandon their support to the liberation movement.

The following paragraphs demonstrate how India belligerently violates the Convention and consequently, the children's rights :

ARTICLE 6 - THE RIGHT TO LIFE AND THE RIGHT TO SURVIVAL

The most fundamental challenge faced by the advocates of children's rights in Kashmir is to ensure their inherent right to life.

A number of NGOs have repeatedly expressed concern about the extra-judicial killings of Kashmiri children. These deaths are directly related to torture and use of lethal force. IPT in Jammu & Kashmir has summed up this situation in these words:

"The young teenagers and students are often taken for interrogation. Many of them are found missing after interrogation."

It is estimated that over three thousand child killings have taken place at the hands of the Indian forces in the last decade.

Selected Cases on the Right to Life.

Here are names of some of the children who have been killed and or disappeared (presumed killed). The details pertaining to their parentage, dates, places and circumstances of deaths are found in the attached Annexes. The names are as follows:

| No. | Name of the child | Date killed or Disappeared | Age | Annexe |
|------------|--------------------------|---------------------------------------|------------|---------------|
| 1 | Mohammad Shafat Rather | 19 November 1998 | 14 years | |
| 2. | Abroo Ali | 9/10 August 1998 | 6 months | IV |
| 3. | Miss Barkat Jan | 15 August 1998 | 15 years | V |
| 4. | Hafiz Bakhtiar | 10 December 1998 | 17 Years | VI |
| 5. | Nazir Ahamad Gojar | 26 January 1992 | 14 Years | |
| 6. | Waheed Ahamad Ahanger | 26 May 1990 | 16 Years | VIII |
| 7. | Mohammad Maqbool Bhat | 21 July 1990 | 17 Years | VIII |
| 8. | Javid Ahmad Dar | 3 October 1990 | 8 Years | IX |
| 9. | Gulzar Ahmad Rather | 4 July 1997 | 14 Years | X |
| 10. | Mehraj Udin Shora | 27 October 1997 | 16 Years | XI |
| 11. | Shabir Ahmad Lora | 27 October 1997 | 17 Years | XI |

ARTICLE 37 - NO CHILD SHALL BE SUBJECTED TO TORTURE, OR OTHER CRUEL INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

A very high number of children have been mercilessly tortured by the Indian forces and intelligence officials at the "Interrogation and Torture Centres" in the last ten years.

It is widely reported that the torture methods practised in the “ Interrogation and Torture Centres” in Kashmir include:

- (a) *Forcing the victim to lie on the ground and moving a heavy roller over the body repeatedly until muscles are crushed;*
- (b) *Electric shocks;*
- (c) *Gouging eyes, pulling out fingernails, beating with wooden rods and rifle butts.*
- (d) *Pulling out hair from the head and beard;*
- (e) *Pulling apart the legs until the joints of the upper thugs come out of sockets; Arms are also disjointed in a similar way;*
- (f) *Pushing a wet cloth into the mouth and nostrils to cause suffocation;*
- (g) *Poking hot iron rods into the body;*
- (h) *Hanging the body upside down;*
- (I) *Spraying chilli powder into the eyes, ears, nostrils and rectum;*
- (j) *Dipping the body into cold water;*
- (k) *Sexual abuse.*

Selected Cases on Torture Etc.

Following is the list of some of the children who have been tortured etc.,

| No. | Name of the child | Age | Date of Arrest | Annexe |
|------------|---------------------------|-----------------|--------------------------|---------------|
| 1 | Miss Raja Bano | 15 Years | 25 December 1996 | XII |
| 2. | Miss Irfat Jan | 12 Years | 17 March 1997 | XIII |
| 3. | Zubair Ahmad | 16 Years | 1 February 1999 | XIV |
| 5. | Javid Ahmad Mir | 9 Years | 7 May 1998 | XV |
| 6. | Imtiyaz Ahmed Bhat | 13 Years | 23 September 1998 | XVI |

ARTICLE 28 - STATE PARTIES RECOGNISE THE RIGHT OF THE CHILD TO EDUCATION

This massive and unparallel military and paramilitary operation by the government of India in Jammu & Kashmir has resulted in massive loss of schooling for the Kashmiri children.

IPT has expressed grave concern on this in the following terms:

“The army constantly enters school premises, takes the teachers, principals to task, and humiliate them in front of students by parading them. The schools are virtually turned into army camps which the army has occupied for years. The schools are therefore hardly functioning.....There is no schedule for conducting examinations and declaring results. The students have to bear the brunt on all fronts....Many lose their homes as the army burn houses where they suspect the presence of militants. Thus the student community in the valley has been deprived of having education in a free and fair atmosphere.”

This is a serious problem which still persists.

Regrettably, destruction or closing of schools etc. has now become a norm there.

Over the last decade, the Indian military forces have destroyed 686 schools (reported by New Delhi based newspaper “ Daily Indian Express - 29 October 1996) thereby directly affecting educational facilities for 2,15,000 children in the age group of 6 to 14 years.

It is calculated that in aggregate schools and colleges have remained closed for two and a half years either on account of consistent curfews imposed by the Indian military authorities or simply having ordered them to close down. It is estimated that a students on average finds his educational institution open for only 102 days during a calendar year.

This situation is simply unacceptable.

ARTICLE 24 - ACCESS TO HEALTH AND CARE SERVICES

The brutal repression of the Kashmiris by the Indian forces and constant raids and crackdowns on hospital and other health related centres invariably disrupt health services. A considerable number of both senior and junior doctors have left the state to move to better and safer countries. Consequently, there are situations in which total breakdown of health care services have been witnessed. The result is deaths of children from otherwise avoidable causes.

IPT describes the situation of health services in Kashmir as follows

“The antenatal and puerperal deaths have increased, as the women do not travel to the city during nights even if they have severe medical problems. They wait till next morning and by that time they enter into serious complications which cannot be treated or may become fatal as well....There is severe shortage of beds in the hospital....They have to keep two women and two children on one bed many a times.”

Indeed, the predicament of pregnant women, for not attending antenatal department, can be safely and squarely attributed to the fear of frequent street searches conducted by the Indian armed forces.

Likewise, there has been a drop in the number of children coming for immunisation for similar reasons.

Many children are admitted for undernutrition and bacterial infection such as pneumonia with complications, meningitis, osteomyelitis and tuberculosis. In recent years fifteen children developed diphtheria in a village called Bemina and ten of them died. Fewer children with meningitis, for obvious reasons, reach the hospital and of those that do the mortality rate is as high as 50% because of the delay in starting treatment.

Doctors from Srinagar have reported that recently three babies were admitted with neonatal tetanus. This condition had not been seen for years and its appearance is on account of lack of immunisation. Birth asphyxia is on the increase in Jammu & Kashmir.

Above all, medical staff equally passes through the process of oppression. Besides, the strain of dealing with large numbers of dead and injured persons and horrors of casualties sometimes leave medical personnel unable to cope and so shocked that many of them become “hysterical” and need medical attention themselves.

Not surprisingly, there is no provision or manpower to provide for the physical and psychological rehabilitation of child victims of armed conflict related trauma.

B. RECOMMENDATIONS

1. The preceding chapters have presented the situation of children in Jammu & Kashmir under the occupation of India, which can only be described as extremely grim. It is strongly recommended the Committee makes an unequivocal finding that the government of India, its agents and servants are grossly in contravention of the articles of the Convention with regard to the children in Jammu & Kashmir.
2. The government of India having ratified the Convention must be directed to adhere to, observe and implement the Convention strictly.
3. The government of India is called upon to release all the children who are held in prisons, detentions centres and interrogation centres within Jammu & Kashmir and elsewhere in India forthwith. The Indian government must provide progress report on this matter to the Committee within the period of six months.
4. Kashmiri children who have been subjected to inhuman practices in terms having been killed, tortured, raped and maimed must be financially compensated. The Committee must be provided with full information about all the financial awards made.
5. The government of India must be directed to take all the necessary measures to arrest all those military, paramilitary and other officials who are directly or indirectly responsible for killing, raping and abusing Kashmiri children and try them in specially constituted criminal courts. The committee must be kept informed about the process of their trials and the punishments, if any, handed out to the culprits.
6. The government of India is called upon to take necessary steps to rebuild all the destroyed schools and colleges within a prescribed period of two years. In the interim necessary arrangements should be undertaken to provide education to those children who are directly affected on account of the destruction of their schools and colleges.
7. The government of India is under an obligation to provide health care to children irrespective of their parents race, religion or political opinion. India must ensure that children accompanied by their parents or other relatives reach hospitals for immunisation and other treatment without any fear or hindrance.
8. Pursuant to the resolution adopted at the NGOs Round Table on "Children in Armed Conflicts" held on 15 April 1999 at the Palais Des Nations, it is urged that the Committee constitutes the proposed Standing Committee on urgent basis.