



ASIAN CENTRE FOR HUMAN RIGHTS

NEW DELHI, 16 NOVEMBER 2011

JUVENILES OF JAMMU AND KASHMIR: UNEQUAL BEFORE THE LAW & DENIED JUSTICE IN CUSTODY



I. Summary and key recommendations

Children in conflict with the law in India, and indeed in the rest of the world, are particularly vulnerable to abuse. Therefore, they are offered particular protections and these have been elaborated under the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the UN Convention on the Rights of the Child.

From 15 May to 6 July 2010, Asian Centre for Human Rights (ACHR) carried out a field investigation in Jammu and Kashmir to study the

INSIDE

1. Summary and key recommendations
 2. Methodology
 3. Rotten justice: the case of Fayaz Ahmed Bhat
 4. Violations and non-implementation of J&K’s 1997 Juveniles Justice Act
 - A. Illegal arrest under the 1978 Public Safety Act
 - B. Police refusal to apply the 1997 JJA
 - C. Lack of political will to implement the 1997 JJA
 - D. Problems in the R S Pura Juvenile Home
 - E. All juvenile delinquent girls must be sent to police lock ups or prisons in J&K
 5. Failure to comply with National Child Protection Initiatives
- Annex I: Partial list of juvenile cases being tried in normal courts in J&K

status of children in conflict with the law given widespread reports of violations of their rights. The ACHR's researcher visited Srinagar, Budgam, Shopian, Pulwama, Islamabad, Kulgam, Ganderbal and Jammu districts and met with juveniles and their relatives, senior police officials, Chief Judicial Magistrates, Prosecuting Officers, senior officials of the Department of Social Welfare of the State of Jammu and Kashmir, Superintendents of District Jails, Superintendent of the R S Pura Juvenile Home, Jammu and Secretary of the J&K State Human Rights Commission.

As the field investigation got underway on 15 May 2010 onwards, the death of 17-year-old Tufail Mattoo after being hit by a tear gas shell near Rajouri Kadal area in Srinagar during a protest on 11 June 2010 triggered a chain of massive protests in the Kashmir valley. Gross violations of universally accepted human rights laws on administration of juvenile justice in Jammu & Kashmir came to the fore.

One of the persons arrested under the draconian Public Safety Act, 1978 on 17 June 2010 for protesting against the death of Tufail Mattoo was 15-year-old Sheikh Akram, son of Sheikh Zulfikar of Jogilanker Rainawari. Akram, a student of Class 8th allegedly attended the funeral procession of Tufail Mattoo and he was charged with stone pelting and conspiring against the State. After his arrest, Akram was granted bail by the Principal District and Sessions Court but in order to foil the bail, on 3 July 2010, District Magistrate of Srinagar Meraj Ahmad Kakroo issued orders to book him under the Public Safety Act. He was sent to Kote Bhalwal jail.¹

Juveniles should be arrested, detained and tried as juveniles. Yet juveniles in Jammu and Kashmir have been consistently arrested, detained and tried as adults in contravention of national and international human rights standards.

India's Juvenile Justice (Care and Protection of Children Act) of 2000 which replaced the flawed Juvenile Justice Act of 1986 has no jurisdiction in Jammu and Kashmir. Article 370 of the Indian Constitution provides that unless the J&K government

extends Indian law by an Act of the State Legislature, the law has no jurisdiction in J&K. While the Jammu and Kashmir State government extended all the laws considered draconian including the Armed Forces Special Powers Act, it failed to show the same level of alacrity with regard to the juvenile justice.

Though the Juvenile Justice Act was enacted in India in 1986, it took more than a decade for the J&K legislature to enact the Jammu and Kashmir Juvenile Justice Act, 1997. It took another decade until 2007 to adopt the Rules accompanying the Act meaning that the Act remained unimplemented. Even through the rules were framed in 2007, the State government took no action to set up juvenile homes, observation homes and Juvenile Justice Boards as required by the Act. All successive governments failed to ensure respect for juvenile justice.

In 2009 a Public Interest Litigation was filed before the J&K High Court to direct the State government to implement the 1997 J&K Juvenile Justice Act. In June 2010, the J&K High Court directed the state government to implement the Juvenile Justice Act in three months. The Court observed that "*even though the Act was passed in 1997, and its rules were framed in 2007, the provisions of the Act and the rules have not been implemented.*"² Little has been done to comply with the said order.

In the rest of India, the weaknesses of the 1986 JJA had long been recognised. It clearly failed to conform to India's commitments under the United Nations Convention on the Rights of the Child. In 2000, India enacted a new Juvenile Justice (Care and Protection of Children) Act to meet its international legal obligations. In 2009, India's Ministry of Women and Child Development launched 'Integrated Child Protection Scheme' (ICPS) with the aim of ensuring compliance with the United Nations Convention on the Rights of the Child with respect to the children in conflict with the law.

In February 2010, India's Ministry of Women and Child Development recommended the State of Jammu and Kashmir "*to take necessary action for*

1. 15-yr old booked under PSA, Samaan Lateef, posted on Kashmir Global on Sunday, 07/11/2010 - 13:08, available at <http://www.kashmirglobal.com/?p=1115>

2. Implement Juvenile Justice Act: Court to Govt, The Greater Kashmir, 19 June 2010 available at: <http://www.greaterkashmir.com/news/2010/Jun/19/implement-juvenile-justice-act-court-to-govt-27.asp>

carrying out amendments to the Jammu & Kashmir Juvenile Justice Act, 1997 and Rules, 2007, to bring them at par with the Central Act before they commence implementation of ICPS".³ In its 2010-11 Annual Report, the Ministry of Women and Child Development stated, "By and large, all the States / UTs except the State of Jammu & Kashmir and the UT of Andaman & Nicobar Islands are on board for implementation of the Scheme (ICPS)". The State government of J&K has failed to take any concrete measures until today.

The findings of the mission is given below:

- The State government of Jammu & Kashmir has been illegally detaining minors under the Public Safety Act (PSA) of 1978 that provides for upto two years of preventive detention. A large, yet unknown, number of children have been detained under the PSA. The detention of these minors is illegal as the Supreme Court of India in numerous judgements held that the Juvenile Justice Act has supremacy over all other Acts while trying offences committed by children in conflict with the law;
- Prisons in J&K currently have large number of juvenile prisoners and/or prisoners who have been arrested as minors but who have subsequently attained adulthood during their detention and are charged as adults in contravention with India's national laws and international obligations;
- There is no Juvenile Justice Board and Child Welfare Committee in Jammu and Kashmir and minors are tried in normal courts, sometimes as adults, in contravention with India's national laws and international obligations. Further, juveniles are specifically tried with adults if charged in the same offence in contravention of India's national laws and international obligations which provide that trials must be separate for juveniles;
- There is no juvenile home for girls in Jammu and Kashmir in violation of 1997 J&K Juvenile Justice Act and all the girls taken into custody by the law enforcement personnel are placed in jails or police lock ups in the absence of a Juvenile Home for Girls. Out of the 51 cases of juvenile justice cited in this report, 9 cases relate to girls including two girls who are categorised as "in need of care";
- Juveniles detained at the R S Pura Juvenile Home at Jammu are not being produced before the Courts and hence being denied justice in contravention with India's national laws and international obligations;
- Children in conflict with the law in J&K do not get the benefit of the Central law i.e. Juvenile Justice (Care and Protection of Children) Act, 2000. Under the 1997 J&K Juvenile Justice Act, those who are over 16 years are not regarded as juveniles;
- Minors in pre-trial detention are assumed to be adults and are routinely detained with adult criminals, placing them at very high risk of abuse, in clear violation of national laws and international human rights standards;
- Across India, school certificates are used to determine the age of a juvenile. That is not the practice in J&K. The J&K Police in all cases argue that those detained are adults. Until their age is medically assessed or ruled by the judge, the juveniles are assumed to be adults and are detained in adult detention facilities, placing them at very high risk of abuse, in clear violation of national laws and international human rights standards;
- Even if age can be determined, the lack of juvenile facilities such as juvenile homes means that detained delinquents are routinely detained in police lock ups or in prisons with adults;
- The juveniles detained in the R S Pura Juvenile Home in Jammu suffer from the lack of basic facilities such as drinking water, electricity, educational and recreational facilities; and
- Juveniles of Jammu and Kashmir are not covered under the programmes launched by the Government of India such as Integrated Child Protection Scheme.

3. Available at http://wcd.nic.in/agenda16062010/agenda_16062010_item4.pdf

Conclusions and recommendations:

Since the field study conducted by Asian Centre for Human Rights, Jammu and Kashmir State government has started construction of a Juvenile Home at Harwan, Srinagar.⁴ In the light of national and international condemnation, the State Cabinet also approved Jammu and Kashmir Public Safety Act (Amendment) Ordinance 2011 to, among others, prohibit detention of a person below 18 years under the PSA.

Both the measures are too little too late.

The Asian Centre for Human Rights recommends to the State Government of Jammu and Kashmir to take the following measures:

- Repeal the 1997 J&K Juvenile Justice Act, and enact a new law in conformity with the Juvenile Justice (Care and Protection of Children) Act, 2000 and the United Nations Convention on the Rights of the Child and the Rules for the same Act must be adopted immediately. The proposed Act of Jammu and Kashmir, among others, must provide for a Juvenile Justice Board in every district; Observation Homes in every district or a group of district; Special Homes for every district or group of districts; Children Home in every district or a group of districts; Shelter homes - as many as may be required; Child Welfare Committees in every district, Inspection Committees at the State, district and town level, Special juvenile police unit in every district and city and Juvenile/Child Welfare Officer in every police station. Further, it must provide for separate homes/facilities for those juveniles who attain the age of 18 years during the pendency of their trial and the untried detainees should be separated from convicted juveniles.
- Issue an order to ensure that henceforth all pending cases against juveniles including the 51 cases cited in this report shall be tried by the Juvenile Justice Boards to be established under the new Act and not under the normal courts presently being conducted;
- Direct the authorities of all the prisons in the State to conduct a survey to verify the status of the under-trial detainees as to whether at the time of alleged offence they were minors, and if they were minors, order to try them under the Juvenile Justice Act even if they have attained adulthood during their detention;
- Immediately assign a “suitable government building” in Srinagar as the “Juvenile Girls Home” to house the juvenile girls and provide all the facilities as provided under the Juvenile Justice Act;
- Direct the authorities of all the prisons in the State to conduct a survey of the female juvenile detainees and immediately transfer them to the Juvenile Girls Home even if they have attained adulthood during their detention;
- Provide access to water, electricity, educational and recreational facilities to juveniles detained at the R S Pura Juvenile Home in Jammu;
- Ensure that juveniles detained at the R S Pura Juvenile Home are provided expeditious trial and regularly produced before the Courts; and
- Take measures for implementation of the Integrated Child Protection Scheme of the Government of India including (i) setting up of dedicated service delivery structures, i.e. State Child Protection Society, District Child Protection Society in each district, State Project Support Unit and State Adoption Resource Agency, to manage and monitor the implementation of the scheme; (ii) appointment of the Child Welfare Committees and Juvenile Justice Boards in every district and Juvenile Police Units in every police station; (iii) conducting a survey of the various types of Homes, authentic data and take effective measures for their improvement; and (iv) assessing the demand for Upgradation of existing Juvenile Home at R S Pura, Jammu.

2. Methodology

Asian Centre for Human Rights (ACHR) conducted in-depth field interviews with juveniles detained and released, their relatives, as well

4. First Juvenile home set up in J&K, The Kashmir Times, 9 September 2011

as concerned government officials, judges and officials of the only Juvenile Home at R S Pura, Jammu from 15 May to 6 July 2010. ACHR further collected subsequent updates as the field visits had to be suspended in view of the protests in the valley.

The following government officials dealing with administration of juvenile justice were interviewed by ACHR:

1. Director Prosecution, Police Head Quarters, Srinagar, (Mr. Fazal Karim), (17 May 2010)
2. Inspector General of Police, Kashmir Division, Srinagar, (Mr. Farooq Ahmad, IAS), (May 18-20, 2010)
3. Senior Superintendent of Police, Srinagar, (Mr. Riyaz Badar, IPS) (May 19-20, 2010)
4. Chief Judicial Magistrate, Srinagar, (Mr. Ibrahim Wani), (May 22-25, 2010)
5. Chief Judicial Magistrate, Budgam. (Mr. Qureshi) (8 June 2010)
6. Chief Prosecuting Officer, Budgam, (8-11 June 2010)
7. Senior Prosecuting Officer, Budgam, (8-11 June 2010)
8. District and Sessions Judge, Budgam, (Mr. Moulvi Javed), (8 June 8 2010)
9. Chief Judicial Magistrate, Shopian, (May 24-25, 2010)
10. Chief Prosecuting Officer, Shopian, (25 May 2010)
11. Station House Officer, Police Station, Shopian, (26 May 2010)
12. Chief Prosecuting Officer, Pulwama, (14 June 2010)
13. Senior Prosecuting Officer, Islamabad, (Mr. Mustaq Ahmad), (14 June 2010)
14. Chief Judicial Magistrate, Islamabad, (Ms. Jeema Bashir), (14 June 2010)
15. Station House Officer, Islamabad, (Mr. Aftab Rather) (14 June 2010)
16. Chief Prosecuting Officer, Kulgam, (Mr. M. Shafi) (24 June 2010)
17. Lines Officer, District Police Lines, Kulgam, (Mr. Yasir Arafat), (24 June 2010)
18. District and Sessions Judge, Ganderbal, (Mr. M. Shafi Khan), (25 June 2010)
19. Chief Prosecuting Officer, Ganderbal (25 June 2010)
20. Senior Prosecuting Officer, Ganderbal (25 June 2010)
21. Secretary, J&K State Human Rights Commission, Srinagar, (Mr. Bandy), (21 May 2010)
22. Special Secretary, Department of Social Welfare, Govt. of J&K, (Dr. Itoo)
23. Director, Kashmir Division,, Department of Social Welfare, Govt. of J&K, (Mr. Hilal Parray)
24. Director, Jammu Division, Department of Social Welfare, Govt. of J&K, (Mr. Mahmud), (3 July 2010)
25. District Social Welfare Officer, Jammu, (Mr. Atul), (3 July 2010)
26. Deputy Director, Jammu, Department of Social Welfare, (Ms. Anunshoo), (3 July 2010)
27. Superintendent, District Jail Jammu, (5 July 2010)
28. Lines Officer, District Jail Jammu, (5 July 2010)
29. Deputy Superintendent, Kot Balwal Jail, Jammu, (6 July 2010)
30. Chief Judicial Magistrate, Jammu, (3 July 2010)
31. Chief Prosecuting Officer, Jammu, (6 July 2010) and
32. Superintendent Juvenile Home, R S Pura, Jammu (Ms. Shivani) (3 and 4 July 2010)

The interviews with the juveniles and their relatives were conducted in Kashmiri. The researcher was fluent in Kashmiri. In a number of cases, juveniles could not remember the exact details of the cases. In a number of other cases, all the records to establish the chain of events could not be collected. These cases had to be omitted from this report.

Partial list of cases being tried under the J&K's Juveniles Justice Act appended in annex has been prepared based on the information provided by the government officials interviewed. In most of cases, ACHR was allowed to inspect relevant official documents but was not allowed to take copies.

3. Rotten justice: the case of Fayaz Ahmed Bhat

That the administration of juvenile justice in Jammu and Kashmir is rotten even in comparison to the rest of India is well-known. The case of Fayaz Ahmad Bhat, who is an adult now and being held at the R S Pura Juvenile Home in Jammu and Kashmir, illustrates the denial of justice to the juveniles.

Fayaz Ahmad Bhat (25 years old now), son of Ghulam Hassan Bhat, resident of Goori-pora, Palpora, Ganderbal, Srinagar was arrested and charged with offences under sections 302 of the Ranbir Penal Code (murder) and Sections 7 and 27 of the Indian Arms Act. The case was registered in 1995 (FIR no. 42/1995) at the Safakadal Police Station. Fayaz Ahmad Bhat's lawyers repeatedly claim that Fayaz is a victim of mistaken identity. They also underlined that Fayaz Ahmad Bhat was a minor at the time of the offence.

He spent closed to 3 years in the Central Jail, Srinagar and was then transferred to R S Pura, Jammu in 2009 where he remains till date.

On 2 July 2007 the Chief Judicial Magistrate (CJM), Srinagar directed Police station Safakadal to file chargesheet in the case. On 7 July 2007 after re-construction of records on the basis of case diaries available, police filed the chargesheet. However, on that day, Fayaz was not produced from Central Jail, Srinagar. The Court directed the Superintendent of the Central Jail, Srinagar to produce the delinquent

on 9 July 2007. He was not produced on 9 July 2007 and directed to be produced again on 11 July 2007.

On 11 July 2007 too, Fayaz was not produced before the court. The court thereafter directed the Superintendent of the Central Jail, Srinagar to file statements of fact for his failure to produce the delinquent before the court and the Chief Prosecuting Officer (CPO) was directed to produce the delinquent before the court on 12 July 2007.

The CJM of Srinagar noted:

"The accused has not been produced. CPO states at the bar that he has conveyed the directions of this Court for production of the accused to the concerned Superintendent Jail for compliance. But the concerned Superintendent despite directions from this Court has not bothered to produce the accused before this Court. Before initiating any action against the concerned Superintendent of Jail in light of the statement made by the CPO it is deemed expedient in the interest of justice to direct the Superintendent Central Jail Srinagar to file the statement of facts as to why he has not produced the accused before this Court despite directions from this Court".

On 12 July 2007, Fayaz was produced in the CJM court. In view of the fact that the offence under section 302 of the Ranbir Penal Code is exclusively triable by the Court of Sessions Judge, the CJM court directed that the case be transferred to the Court of Principal District and Sessions Judge, Srinagar. The CJM fixed the next date of hearing on 18 July 2007 and hearing continued.

On 18 September 2008, the counsel of Fayaz pleaded before the Sessions Judge that apart from the fact that the delinquent not being the person against whom police had leveled charges under section 302 of Ranbir Penal Code, the delinquent was still a juvenile at the time of commission of the alleged offence. To prove that the delinquent was a juvenile on the date of commission of alleged offence, his counsel produced a copy of certificate of the delinquent issued by Shanti Public School in which the delinquent's date of birth was recorded as 9 December 1984. The court of First Additional Sessions Judge, Srinagar noted that the

delinquent was less than 18 years of age on the date of commission of the alleged offence.

The prosecution contested the plea of the defence counsel contending that the delinquent was not a juvenile on the date of commission of offence. It produced a certificate of the delinquent from the Government Boys High School, Dub Ganderbal in which his date of birth was mentioned as 25 February 1976. Besides, a copy of State Subject certificate of the delinquent issued to him in 1997 showed his age to be 22 years.

The Court noted that the provisions of the Juvenile Justice Act have overriding effect over the normal provisions of the Criminal Procedure Code or any other law for the time being in force and therefore, the benefits of the Juvenile Justice Act have to be given to the delinquent, if he is found to be juvenile on the date of commission of alleged offence. Accordingly, the court directed record in-charge of the above mentioned school and the concerned custodian of State subject certificates to appear before it along with their original records pertaining to date of birth of the delinquent on the next date of hearing on 4 October 2008.

After hearing the prosecution and defence, vide order dated 12 March 2009 the Court of First Additional District and Session Judge declared that the delinquent was a juvenile on the date of commission of alleged offence and forwarded the case to the Court of CJM for further proceedings under the Juvenile Justice Act. It is pertinent to mention that Fayaz was just 9 years at the time of alleged offences for which he was charged with murder and acquisition or possession, or of manufacture or sale, of prohibited arms or prohibited ammunition.

The counsel for the delinquent filed three applications for bail on 17 March 2009, 4 April 2009 and 20 April 2009.

On 4 April 2009 the CJM Court directed that the delinquent who was detained at Central Jail, Srinagar be shifted and lodged at Juvenile/Observation Home, R S Pura, Jammu.

On 10 April 2009, the Superintendent of Central Jail Srinagar shifted the delinquent to

Juvenile Observation Home, R S Pura Jammu with a police escort team. But, the Superintendent of Juvenile Observation Home, R S Pura Jammu refused to admit the delinquent to the Juvenile/Observation Home and returned him through the same police escort team with the remarks that the delinquent was above 16 years. The Superintendent stated that the date of birth of the delinquent was 1985 and as per appearance the delinquent was above 16 years of age and therefore, cannot be kept at the Home.

On 20 April 2009, the CJM court heard the bail applications and instructed the Superintendent of Juvenile Observation Home R S Pura, Jammu to admit the delinquent to the Juvenile/Observation Home and submit compliance report on the next date of hearing on 4 May 2009.

In the order, the CJM court noted:

“The perusal of the letter from the Superintendent Observation Home R S Pura Jammu makes it evident that he is trying to interpret the law viz-a-viz the interpretation of Juvenile Justice Act. It is better for the concerned Superintendent not to go for interpretation and leave it for the concerned courts. By interpreting the provisions of the law, Superintendent Observation Home R S Pura Jammu by virtue of letter has acted in most contemptuous manner. When the accused was forwarded to him the court was fully aware that the accused is not juvenile at present but was juvenile on the date of commission of the offence. The Superintendent Observation Home R S Pura Jammu seems to have acted in violation of the court order for which explanation needs to be sought from him. He be therefore asked to explain as to how he has not lodged the accused in pursuance to the directions of the Court”.

Following the above order, Fayaz was admitted to the juvenile home but was not produced before the Court.

The CJM court finally heard the bail applications of the delinquent on 23 May 2009. The Court rejected the bail applications, among others, on the following grounds:

“..... in the light of the allegations against the accused, provision section 18 of Juvenile Justice Act (in the interest of justice), it is evident that the release of the accused at this stage would be against the interest of justice. In the light of the allegations against the accused, the threat which prosecution witnesses may feel when the accused is on bail, allegations that there are other cases of heinous nature pending against accused which are sub-judice before other courts and taking into consideration the fact that bail in favour of the accused at this stage would defeat the ends of justice, I am of the opinion that the accused is not entitled to be released on bail at this stage. The application for bail is accordingly dismissed.”

The court observed that the important aspect of the case is that no Special Observation Home or place of safety is established as required under the provisions of the Juvenile Justice Act in the State of Jammu and Kashmir. The Court noted the failure of the state to provide adequate infrastructure to hold juveniles in conflict with the law. The Court noted the relationship between inadequate infrastructure and juvenile crime:

“It is to be noticed inordinate delay in proper implementation of Juvenile Justice System has tendency to convert delinquent juveniles into official criminals. In absence of necessary homes, these juveniles are to be lodged in the police stations or jails. It is to be noticed that by lodging these juveniles into ordinary prisons they get encouraged to commit serious crimes because of their being influenced by adult criminals. There is every apprehension that these juveniles will turn into professional criminals Juvenile Justice Act came to be passed in year 1997. No juvenile home or observatory home or special home certified under section 9, 10 and 11 of the Act has been established in Kashmir, although rules have been framed already. The Government for the last more than 22 years has not been able to establish juvenile home or observatory home or special home under juvenile justice system as prescribed under rules and regulations of the Act. As is being observed that crimes in juveniles is

increasing and no steps are being taken by the state to establish necessary home as mandated by Act. In jails there are no separate rooms for juveniles and in view of express bar provided under the provisions of the Act that a juvenile during the pendency of the enquiry or at the conclusion of the enquiry is not to be lodged in jail or in prison.”

After being sent to R S Pura Juvenile Home, Fayaz was seldom produced before the Court. On 6 August 2009, the Court noted that police failed to produce the delinquent on the last 5 dates of hearing. The Court therefore directed the Director General of Police of Jammu and Kashmir to ensure presence of the delinquent on the next date of hearing and cautioned about initiating contempt proceedings against all concerned police officials in case of failure to produce the delinquent. The Court noted:

“... The accused is facing trial under the provisions of Juvenile Justice Act and he has not been produced before this court for last 5 hearings. The police authorities need to be well versed with position of the law that enquiry under the provisions of Juvenile Justice Act is to be completed within a period of 4 months and the enquiry in this case against the accused is pending for the last more than 2 years. I fail to understand why police authorities despite having sufficient resources and man power are adopting delay tactics in producing the detainee before this court. Under these circumstances I am constrained to direct, Director General of police J&K State to ensure presence of the accused before this Court on the next date of hearing. In case accused is not produce on the next date before this court, necessary contempt proceedings shall be initiated against all the concerned police officials”.

When ACHR researcher met Fayaz Ahmed at the R S Pura Juvenile Home on 3 July 2010, he alleged that he was not produced even once before the trial court since the denial of bail.

There is no doubt that Fayaz’s detention without trial violates universally accepted human rights laws. Rule

17 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty provides that *“Juveniles who are detained under arrest or awaiting trial (‘untried’) are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.”*

Fayaz is an adult of 25 years at present. His detention in the Juvenile Home have raised specific questions. However, when the FIR was filed 16 years ago in 1995, he was only 9 years old. His contention that he is not person being charged but a victim of mistaken identity has not been investigated even after the certificate issued by the Shanti Public School has been held as genuine by the Court and therefore, he was sent to the R S Pura Juvenile Home. No inquiry has been conducted as to whose certificate the police produced from the Government Boys High School, Dub Ganderbal to show that he was an adult.

He is destined to stay in the R S Pura Juvenile Home as the State fails to ensure his expeditious trial of a case registered more than one and half decade ago.

4. Violations and non-implementation of J&K’s 1997 Juvenile Justice Act

A. Illegal arrests under the Public Safety Act, 1978

The Jammu and Kashmir State government has been arresting juveniles under the Public Safety Act since the beginning of the insurgency in 1990s. However, it was during the mass protests which saw the death of at least 109 persons, including children and women, from 11 June 2010 to September 2010⁵ and the arrest of large number of juveniles that brought national and international spotlight on the mis-use of the PSA against children.

One of the persons arrested under the Jammu and Kashmir Public Safety Act, 1978 (which is an Act for preventive detention) for attending the funeral of Tufail Mattoo was Sheikh Akram, 15 years, son of Sheikh Zulfikar of Jogilanker Rainawari. Akram, a student Class 8th, was arrested on 17 June 2010 and was charged with stone pelting and hatching conspiracy against the State. He was given interim bail of 7 days by Principal District and Sessions Court which was extended subsequently. However, in order to prolong his detention, on 3 July 2010, District Magistrate of Srinagar Meraj Ahmad Kakroo booked him under Public Safety Act and sent him to Kote Bhalwal jail.⁶

During the 2010 mass uprising, hundreds of people — many of whom are children as per the UN Convention on the Rights of the Child — were detained without trial under the Public Safety Act in Jammu & Kashmir. While the actual number of children arrested will not be known, the arrests and detention of children continue unabated as given below:

- In October 2011, Mohsin Majeed Shah, 12 years, was granted bail by 2nd Additional Sessions Judge Srinagar, another 12-year-old boy, Burhan Nazir was granted bail by Principal Sessions Judge Srinagar. The delinquent minors were arrested by the police under the sections 148, 152, 336, 332 of Ranbir Penal Code which relate to the offences like stone pelting and damage to property.⁷
- In October 2011, Sajad and Zubair were detained in police custody on charges of sedition, arson and attempt to murder. They have been booked under section 152 of Ranbir Penal Code for waging war against the state, Section 307 for attempt to murder and section 336 for arson.⁸
- On 7 February 2011, Fazin Rafiq Hakeem, aged less than 15 years, was arrested and held without charges and trial. He was picked up

5. Indian army’s role in Kashmir’s Intifada, India Human Rights Quarterly, Asian Centre for Human Rights, July – September 2010,

6. 15-yr old booked under PSA, Samaan Lateef, posted Kashmir Global Posted on Sunday, 07/11/2010 – 13:08, available at <http://www.kashmirglobal.com/?p=1115>

7. Court grants bail to 2 minors, The Greater Kashmir, 5 November 2011

8. Court extends judicial remand of 4 juveniles, 2 granted bail, The Kashmir Times, 5 November 2011

by the Jammu & Kashmir Police from outside his house on the charge of being part of a large crowd that threw stones at the police during a protest.⁹

- In May 2011, Murtaza Manzoor, aged 17 years, was released from jail after the High Court intervened and found his imprisonment to be unlawful. He was locked up for more than three months under the PSA.¹⁰
- Harris Rasheed Langoo, aged 15 years, was detained under the PSA in November 2010 despite being granted bail twice.
- Omar Maqbool, aged 13 years, was detained on 27 October 2010 under the PSA and faced similar trauma.¹¹
- Mushtaq Ahmad Sheikh, aged 14 years, was detained under the PSA on 9 April 2010. He was granted bail after eight days, but was re-arrested on 21 April 2010. He was finally released on 10 February 2011.¹²

All the arrests under the PSA are illegal as the Supreme of India held in numerous judgements that Juvenile Justice Act shall prevail over all other Acts trying the juveniles.

B. Police refusal to apply the 1997 JJA

The J&K Police has been fond of applying the PSA and they seldom invoke the Jammu and Kashmir Juvenile Justice Act enacted in 1997. Consequently, juveniles are denied access to justice and benefits of the special protection provided under the 1997 Juvenile Justice Act. The judiciary is forced to intervene in every case to invoke the JJA.

Case 1: Minor Karim R Bhat (name changed), S/o Abdul Rehman Bhat of New Colony, Srinagar

Minor Karim R Bhat (name changed), S/o Abdul Rehman Bhat of New Colony, Srinagar was arrested for offences including murder (Section 302 of the Ranbir Penal Code) committed on 10 April 2007.

Karim R Bhat was subsequently arrested along with other accused persons, held in prisons with them and police sought to try him with other adult accused.

On 14 August 2007, the counsel for the delinquent filed an application for bail in favour of the delinquent under Section 18 of Jammu and Kashmir Juvenile Justice Act. The counsel contended that the delinquent was a juvenile and could not be tried together with the co-accused who are adults. He also submitted a birth certificate of the delinquent showing his date of birth as 20 December 1991. The Court of Chief Judicial Magistrate, Srinagar then asked the Investigating Officer (IO) to ascertain the veracity of Karim's birth certificate. On 10 September 2007 following confirmation about the correctness of date of birth of the delinquent by the IO, the Court declared the delinquent as juvenile in terms of the Juvenile Justice Act. The Court ruled that being a juvenile, the provisions of the Juvenile Justice Act are applicable to the delinquent and directed the police to file a separate charge sheet against delinquent Karim under the Juvenile Justice Act. On 14 September 2007 the delinquent was released on bail.¹³

Case 2: Ahmed (name changed) S/o Ghulam Mohidin R/o Kota Doda, Jammu and Kashmir

An 8th class student, Ahmed (name changed) S/o Ghulam Mohidin R/o Kota Doda, Jammu and Kashmir was arrested on 8 June 2010 for allegedly joining the insurgents. He was charged under Section 307 of the Ranbir Penal Code and Section 3 of the Prevention of Sabotage Substance (PSS) Act. He was detained for six days in police custody. Thereafter, the police from Doda Police Station produced him before the District Court seeking further remand in police custody.

In an order dated 14 June 2010, the Court of District Judicial Mobile Magistrate rejected the remand. In his order, the Magistrate stated:

“Case Diary file also contain one photocopy of Date of Birth certificate of accused issued by Government High School Koti. As per the certificate the accused is still less than 14 years of

9. Juveniles suffer in Jammu and Kashmir, The Pioneer, 8 July 2011

10. Ibid

11. Ibid

12. Ibid

13. Court orders available with the Asian Centre for Human Rights

age. Although the accused is involved in serious offences but since the accused is still juvenile, the request of police remand cannot be accepted and is hereby rejected. The provisions of Justice Juvenile Act clearly say that all delinquent juveniles are not to be given police remand. Since accused is involved in militancy related activities, his changes are more to get involved in such cases again. IO is directed to lodge accused in Children Home in R S Pura Jammu till further order. Since the police is more than 200 K.M away from Doda I.O. is directed to complete investigation at the earliest and produce the accused in competent Court on 23.6.2010 for further order. Children Home R.S. Pura shall provide accused food and other necessary items free of cost.”¹⁴

When the ACHR researcher met Ahmed at R S Pura Juvenile Home in July 2010, he narrated the problems in juvenile home including lack of water supply and electricity. There are also no education and recreation facilities. He was also not produced for the trial and therefore being denied access to justice.

Ahmed told ACHR that *“the only thing I like about the juvenile home is that my parents and relatives can come anytime and they can meet for longer times”*.

Case 3: Rupal Kumar (name changed), 14 years (Son of Ditta Ram, Ganetar Tehsil, Doda district)

Rupal Kumar (name changed), 14 years (Son of Ditta Ram, Ganetar Tehsil, Doda district), was a student of 8th standard when he was arrested under sections 302 and 307 of the Ranbir Penal Code and Section 4 of the Indian Arms Act. He was allegedly detained illegally for 24 days without being produced before a magistrate. He was kept in the local police station for 15 days and was shifted to Udampur Jail where he was detained for 9 more days. He shared the barrack with the adult prisoners. Thereafter, he was produced before the Chief Judicial Magistrate (CJM), Doda on 25 February 2010.

In an order dated 25 February 2010, Mr S R Gandhi, Chief Judicial Magistrate, Doda directed that the delinquent be lodged at the juvenile detention facility

at R S Pura, Jammu instead of sending him to judicial lock up. The Learned Magistrate stated:

“Keeping in view the fact that apparently the accused appears to be a juvenile, to be on safer side, it would be proper to avoid the accused to be sent in the judicial lock up. It is as such ordered that the accused shall be kept at Children’s Home at R S Pura with the direction to the superintendent of the said home that he shall keep the accused there and ensure the safety of the accused. SHO Police station Thathri who is present in the court is directed to produce the accused in the Court of Munsiff Thathri on 10.03.2010”.¹⁵

When ACHR met the juvenile at the Juvenile Observation Home at R S Pura, Jammu in July 2010, he had spent about 6 months in the facility. He narrated that there were a lot of problems concerning his trial. He further stated that no provision had been made to ensure his presence for the trial in the court. Frequent delays were traumatizing him.

C. No political will to implement the 1997 JJA

As stated elsewhere in the report, the original Juvenile Justice Act was enacted in India in 1986. It took more than a decade i.e. until 1997 for the J&K legislature to enact the Jammu and Kashmir Juvenile Justice Act. It took another decade until 2007 to adopt the Rules accompanying the Act meaning that the Act remained unimplemented. Even after the adoption of the rules, the State government took no action to set up the juvenile homes, observation homes and Juvenile Justice Boards as required by the Act.

Successive governments irrespective of whether directly ruled by the Central government or National Conference, Peoples Democratic Party or any alliance of these parties have failed to show any political will even to implement the flawed 1997 Juvenile Justice Act.

In 2009 a Public Interest Litigation was filed before the J&K High Court to force the government to implement the 1997 J&K Juvenile Justice Act. In June 2010, the Jammu and Kashmir High Court directed the state government to implement the Juvenile Justice Act in three months: *“Even though*

14. Remand order available with the ACHR

15. Court order available with Asian Centre for Human Rights

the Act was passed in 1997, and its rules were framed in 2007, the provisions of the Act and the rules have not been implemented.’, the Court observed.¹⁶ The state government ignored the Court’s ruling and has subsequently taken no action.

In July 2010, the Secretary to Revenue Department, J&K State Government Ejaz Iqbal informed the J&K High Court that his department had examined the request of the Social Welfare Department to allot land to build facilities. He stated that the Divisional Commissioner Jammu and Divisional Commissioner of Kashmir had been directed to allot State land to build Juvenile Homes, Special Homes, and Observation Homes for minors of both sexes.¹⁷ But to date, no progress has been made for a Juvenile Home for girls.

Across the spectrum, the frustration with the Government’s lack of will to implement the JJA has come to the fore.

Learned Chief Judicial Magistrate of Srinagar, Ibrahim Wani told ACHR:

“In 1997, Juvenile Justice Act was enacted in our State. After a decade in 2007 the rules governing the Act were notified in the Govt. Gazette. Ironically, nothing exists on the ground. I myself have issued a number of orders, directing the Govt. to provide all the essential infrastructure as per the Act. But it seems that there wasn’t any impact or change on the ground. We have only one Juvenile Home in R S Pura, and it is highly difficult to shift juveniles from Kashmir there. Even if that it is done, there are difficulties in ensuring the presence of accused; problems of delayed-trial, insecurity, etc”.

This was echoed by M. Shafi Khan, District and Sessions Judge, Ganderbal who told ACHR:

“Whenever a case involving children or juveniles comes before the court; utmost care is taken to make all the available legal provisions, facilities,

etc to the accused. But as the existing dysfunctional juvenile justice structure has too little to offer; the judiciary itself feels helpless to go further. We lack infrastructure for separating the trial of the accused juveniles; we don’t have observation homes and other facilities guaranteed by the Juvenile Justice Act. In the prevailing circumstances in our State, it is indispensable to have a comprehensive juvenile justice system that could cater to the special needs of children here.”

Efforts to establish Juvenile Homes under the supervision of the judiciary have also failed. As Mr Moulvi Javaid, Learned District and Sessions Judge of Budgam told the Asian Centre for Human Rights:

“When I was posted at Pulwama, I had built a juvenile home in the town under my supervision. After my transfer and simultaneous completion of the home, it was occupied by the security forces and is still being occupied illegally.....”

Since the field study conducted by Asian Centre for Human Rights, the State Government of Jammu and Kashmir has started construction of a Juvenile Home at Harwan, Srinagar.¹⁸ However, that is too little too late. A juvenile home for girls remains a pipe dream.

D. Problems in the R S Pura Juvenile Home

The R S Pura Juvenile Home has serious problems with the lack of basic facilities such as electricity, water supply, educational and recreational facilities.

Ms Shivani, Superintendent of Juvenile Home, R S Pura, Jammu summed up the problem of the Juvenile Home as under:

“The most serious problems our home is facing is that we are not able meet the educational needs of juveniles here, and frequently adults (above 16 years) are being referred to here from various courts. It is much against the philosophy of the Juvenile Justice Act itself. Also, in the lack staff and other essential support and facilities it is quite difficult to incline our work according to the ethos of the Act. The limitations under which the staff works are not

16. mplement Juvenile Justice Act: Court to Govt, The Greater Kashmir, 19 June 2010 available at: <http://www.greaterkashmir.com/news/2010/Jun/19/implement-juvenile-justice-act-court-to-govt-27.asp>

17. HC directs establishing of juvenile homes, The Greater Kashmir, 13 July 2010 available <http://www.greaterkashmir.com/news/2010/Jul/13/hc-directs-establishing-of-juvenile-homes-33.asp>

18. First Juvenile home set up in J&K, The Kashmir Times, 9 September 2011

taken cognizance of by the State. For instance, I, being a female, am quite worried about my own safety during my working hours in the home. The adult inmates lodged in this home are source of many problems for the staff and the juvenile/minor inmates. We don't have enough staff to control the adult inmates. They are spoiling the environment of the home."

But the juveniles detained at the R S Pura Juvenile Home can do little in the absence of their trial.

Akram is one of the inmates lodged in the R S Pura juvenile home, who has crossed the age of 16, and, therefore, falls outside the purview of J&K Juvenile Justice Act. He was 14 when he was arrested and booked under sections 302, 307, 306, 120-B, 121, 121-A of the Ranbir Penal Code which among others relate to murder and waging war against the State.

After being detained in various jails of Jammu Division, the delinquent was subsequently shifted to the Juvenile Home of R S Pura on December 13, 2005. Akram has spent almost five years in the Juvenile Home. He is neither able to pursue education nor any kind of vocational training. There have been frequent delays and cancellations of his trial due to lack of police escort or transport on a number of occasions. He therefore could not appear for the court hearings. He is detained in the Juvenile Home without being tried for the alleged offences.

E. All juvenile delinquent girls must be sent to police lock ups or prisons in J&K

As Jammu and Kashmir has so far failed to build a Juvenile Home for girls, all juvenile delinquent girls have to be detained either in police lock up or prisons with adult female prisoners in general jails. In June 2010, the J&K High Court specifically directed the State government to construct a Juvenile Home for Girls.

Two juvenile girls, namely, Rubayya Jan and Samina Jan (names changed), daughters of Abdul Rashid Gadda were charged with attempt to murder along with other family members as per FIR No. 66/2010 under Kulgam Police Station. As per the record,

on 21 March 2010, when two families had a fight on a construction site, where the family members of Abdul Rashid Gadda hit one person of the opposite family. He got seriously injured. A case of attempt to murder was registered against all the family members of Abdul Rashid including the two minor girls.

As Jammu and Kashmir has no Juvenile Home for girls, Rubayya Jan and Samina Jan were sent to judicial custody along with the other adults.

5. J&K's failure to comply with national child protection initiatives

In 1992 the Government of India ratified the UN Convention on the Rights of the Child which prescribes standards to be adhered to by all state Parties in securing the best interest of the child. India enacted the Juvenile Justice (Care and Protection of Children) Act, 2000 and launched various schemes for welfare of such children. However, examination of these schemes conducted in 2006, by the Ministry revealed shortcomings and gaps in the existing child protection institutions, policies, programmes and in implementation at all levels. It launched Integrated Child Protection Scheme (ICPS) from 2009-10 for implementation through the State Governments/UT Administrations.

The objectives of the ICPS are to contribute to the improvement in the well being of children in difficult circumstances, as well as to the reduction of vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children from their families. These are proposed to be achieved by: i) improved access to and quality of child protection services; (ii) higher public awareness about the reality of child rights, situation and protection in India; (iii) articulated responsibilities and enforced accountability for child protection (iv) established and functional structures at all levels for delivery of statutory and support services to children in difficult circumstances; (v) evidence based monitoring and evaluation.

The focus of ICPS is on children in need of care and protection (as listed in the Juvenile Justice

(Care and Protection Act) 2000; children in conflict with law; who are alleged to have committed an offence; children in contact with law; who have come into contact with the law as a victim, witness or any other circumstance and any other vulnerable child

For Jammu and Kashmir and North Eastern States, the ratio for financial contribution by the Central Government and the State government is 90:10.

However, the ICPS cannot be implemented in Jammu and Kashmir as the State government refused to enact a law in line with the Juvenile Justice (Care and Protection Act) of 2000. The priorities of the First Phase of ICPS vis-à-vis the status in Jammu and Kashmir as given below explain as to why the J&K needs to enact the new law.

i. ICPS requires “Setting up of service delivery structures”

One of the major requirements under the scheme is the provision for setting up of dedicated service delivery structures, i.e. State Child Protection Society [SCPS], District Child Protection Society [DCPS], State Project Support Unit [SPSU] and State Adoption Resource Agency [SARA], to manage and monitor the implementation of the scheme and ensure convergence with other line departments, wherever required.

Status in Jammu and Kashmir: At present, Jammu and Kashmir has 22 districts but there is only one juvenile home at R S Pura, Jammu while another one is being built at Harwan, Srinagar.

ii. ICPS requires “Setting up of structures mandated by the Juvenile Justice (Care and Protection) of Children Act, 2000

Under the Juvenile Justice Act, Child Welfare Committees [CWCs] and Juvenile Justice Boards [JJBs] have been mandated for every district to enable expeditious disposal of cases related to children. The Supreme Court of India has also directed expeditious setting up of CWCs and JJBs and has entrusted National Commission for Protection of Child Rights with the responsibility of monitoring the progress in this regard.

Status in Jammu and Kashmir: J & K has no Juvenile Justice Board. The trials are conducted by normal courts.

iii. District-wise need assessment for child protection

Whereas figures are available of children living in the various types of Homes, authentic data is not currently available of children requiring other services under the Scheme. This includes orphaned children living with relatives, runaway or abandoned children on the streets, children working in unorganized sector, etc. Location-wise requirement must be identified for meaningful interventions.

Status in Jammu and Kashmir: The NGOs allege that there are 3000 to 5000 registered NGOs that run orphanages and about 1,00,000 children are housed in these orphanages. Out of these only 25 to 30 are allegedly genuine. In the absence of any child rights mechanisms, the data in Jammu and Kashmir simply do not exist.

iv. Assessing the demand for Homes and Upgradation of existing Homes and services

A review of occupancy figures of the Homes in several States has revealed that while some of the Homes are housing children more than their capacity, there are others which are under-utilised. Also, a number of children staying in these Homes are not strictly the ‘children in need of care and protection’. They are using these homes as a hostel. States are requested then to carry out a realistic assessment of their requirement, based on existing available capacity, their utilization by the targeted group and rationalize their requirements. The assessment of Homes having been made, upgradation of existing Homes can be considered to bring them in line with the Minimum Standards of Care.

Status in Jammu and Kashmir: The only Juvenile Home at R S Pura, Jammu is in bad shape and requires upgradation including services. There is no Juvenile Home for Girls in the State.

Annex I: Partial list of juvenile cases being tried in normal courts in J&K

| S. No | Name | FIR | Charges | District |
|-------|-------------------------------------|---|---|-----------|
| 1 | Fayaz Ahmad Bhat (real name) | 42/1995, Police Station (p/s) Safakadal | 302 RPC, 7/27 Indian Arms Act | Srinagar |
| 2 | Minor Karim R Bhat (name changed) | (Trial before CJM Srinagar) | 302 RPC, 7/25 Indian Arms Act | Srinagar |
| 3 | Taj Bhat (name changed) | (Trial before CJM Srinagar) /2007 | 201, 454, 380 RPC | Srinagar |
| 4 | Tahoor Sheikh (name changed) | 68/2007 p/s ParimPura | 294 RPC | Srinagar |
| 5 | Akbar Sheikh (name changed) | 209/2005 p/s Mattan | 344,376, 511,109 RPC | Anantnag |
| 6 | Yusuf Uran (name changed) | 16/2008 p/s YariPura | 15/18 N.D.P.S Act | Anantnag |
| 7 | Shahabzada Naiko (name changed) | 121/2006 p/s Kokernag | 302, 364, 451 RPC, 7/25 Indian Arms Act | Anantnag |
| 8 | Rukshana (F) (name changed) | 18/2010 p/s Bijbehara | 20/29 N.D.P.S Act | Anantnag |
| 9 | Latheef Rather (name changed) | 390/2008 p/s Mattan | 147, 341, 323, 34 RPC | Anantnag |
| 10 | Hussein Sheikh (name changed) | 210/2010 p/s Anantnag | 379, 511 RPC | Anantnag |
| 11 | Sheikh Altaf (name changed) | 210/2010 p/s Anantnag | 379, 511 RPC | Anantnag |
| 12 | Ershad Hussain (name changed) | 94/2003 p/s Anantnag | 342, 377 RPC | Anantnag |
| 13 | Nazar Magray (name changed) | 47/2006 p/s Ganderbal | 353, 34 RPC | Ganderbal |
| 14 | Mudassar Dar (name changed) | 14/2006 p/s Ganderbal | 302, 452, 148, 149,354, 336, 427 RPC | Ganderbal |
| 15 | Gulal Guroo (name changed) | 14/2006 p/s Ganderbal | 302, 452, 148, 149,354, 336, 427 RPC | Ganderbal |
| 16 | Aftab Lone (name changed) | 35/2010 p/s Budgam | 147, 148, 336, 353, 341, 427 RPC | Budgam |
| 17 | Zahid Ahmad Parray (name changed) | 22/2007 p/s Budgam | 354, 323 RPC | Budgam |
| 18 | Tabeez Ahmad Bangroo (name changed) | 56/2010 p/s Budgam | 13 Gambling Act | Budgam |
| 19 | Waheed Parray (name changed) | 22/2007 p/s Ompura | 354, 323 RPC | Budgam |
| 20 | Sufiq Ahamd Sheikh (name changed) | 22/2007 p/s Magam | 354, 241,323, 140 RPC | Budgam |
| 21 | Ishfaq Ganai (name changed) | 63/2010 p/s Beerwah | 379 RPC | Budgam |
| 22 | Naz Ganai (name changed) | 63/2010 p/s Beerwah | 379 RPC | Budgam |
| 23 | Abdullah Ahmad Mir (name changed) | 66/2010 p/s Magam | 457, 380, 201 RPC | Budgam |
| 24 | Imtiyaz Ahamd Sheikh (name changed) | 07/2010 p/s Yaripura | 363, 376, 109 RPC | Budgam |
| 25 | Reyaz Ahamd Malik (name changed) | 13/2008 p/s D.H. Pura | 302 RPC | Kulgam |
| 26 | Javid Ahmad Kuchay (name changed) | 11/2010 p/s Yaripura | 447, 427, 147, 148 RPC | Kulgam |
| 27 | Aamir Ahmad Bhat (name changed) | 47/2008 p/s D.H. Pura | 363, 376 RPC | Kulgam |
| 28. | Waqar Ahmad Magray (name changed) | 95/2008 p/s Wattuu | 302, 34 RPC | Kulgam |
| 29 | Samina Jan (F) (name changed) | 66/2010 p/s Kulgam | 307, 147, 148, 149, 447, 427 RPC | Kulgam |
| 30 | Rubayya Jan (F) (name changed) | 66/2010 p/s Kulgam | 307, 147, 148, 149, 447, 427 RPC | Kulgam |
| 31 | Zahid Ahmad Teli (name changed) | 03/2007 p/s Shopian | 302, 307 RPC, $\frac{3}{4}$ Explosive Substance Act | Shopian |

| S. No | Name | FIR | Charges | District |
|-------|---------------------------------------|---|---|----------|
| 32 | Basharat Ahmad Khanday (name changed) | 12/2008 p/s Shopian | 325 RPC | Shopian |
| 33 | Imra Ganaic (name changed) | 194/2007 p/s Shopian | 341, 336, 427 RPC | Shopian |
| 34 | Ratola Jan (F) (name changed) | 194/2007 p/s Shopian | 341, 336, 427 RPC | Shopian |
| 35 | Nancy Jan (F) (name changed) | 194/2007 p/s Shopian | 341, 336, 427 RPC | Shopian |
| 36 | Yousuf Ahamd Bhat (name changed) | 93/2007 p/s ZainaPura | 323, 354, 148, 325 RPC | Shopian |
| 37 | M. Ishfaq Gorey (name changed) | 131/2009 p/s Keller | 302, 148, 149, 447 RPC | Shopian |
| 38 | Samia Jan (F) (name changed) | 76/2010 p/s Keller | 309 RPC | Shopian |
| 39 | Abdul Ali (name changed) | 72/2009 p/s Nagrota | 302 RPC | Jammu |
| 40 | M. Jaffer (name changed) | 40/2002 p/s Gandhi Nagar | 302 RPC | Jammu |
| 41 | M. Farooq (name changed) | 70/2007 p/s Satwari | 302 RPC | Jammu |
| 42 | M. Kamran Ali (name changed) | 17/2005 p/s Billawar | 302, 307, 306, 102B, 121, 121A, 7/27 Indian Arms Act | Jammu |
| 43 | Gitesh Kumar (name changed) | (Trial before Addl. Munsif JMIC Samba) | 379, 411, 201 RPC | Samba |
| 44 | Ishfaq Ahamd (name changed) | (Trial before District Judicial Mobile Magistrate Doda) | 302, 307, 147, 148 RPC | Doda |
| 45 | Surya Kumar (name changed) | (Trial before Judicial Magistrate R.S. Pura) | 376 RPC | Jammu |
| 46 | Raza Ahmad (name changed) | (Trial before JMIC R. S. Pura) | 379 RPC | Rajouri |
| 47 | Lohit Kumar (name changed) | (Case No.195/CJM) Doda | 302, 307 RPC, 4/25 Indian Arms Act | Doda |
| 48 | Imran Ahmad (name changed) | 111/2010 p/s Doda | 307 RPC, 3/8 Prevention of Sabotage Substance Act (PSS) | Doda |
| 49 | Priyanka Aggarwal (F) (name changed) | 116/2009 p/s Domane | 366 RPC | Jammu |
| 50 | Sharmila (F) (name changed) | 92/2009 (mthr) p/s Jammu | (in need of care) | Jammu |
| 51 | Sameena Kumari (F) (name changed) | DM's orders No. 2321-22/dmj108 | (in need of care) | Jammu |



Acknowledgement: This report is being published as a part of the ACHR's "National Campaign for Prevention of Violence Against Children in Conflict with the Law in India" - a project funded by the European Commission under the European Initiative for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission.

ASIAN CENTRE FOR HUMAN RIGHTS

[ACHR has Special Consultative Status with the United Nations Economic and Social Council]

C-3/441-C, Janakpuri, New Delhi-110058, India Phone/Fax: +91-11-25620583, 25503624

Email: suhaschakma@achrweb.org; Website: www.achrweb.org