



# General Assembly

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## Human Rights Council

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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by International Human Rights Association of American Minorities (IHRAAM), a non-governmental organization on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

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\* Issued as received, in the language(s) of submission only.

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## **India's continued record of torture**

The use of excessive force in India has plagued the country's human rights record for decades. Police officials have used real and rubber bullets during protests and now pellet guns, participated in beatings, used electric shocks and water boarding in their attempt to solicit information, and engaged in acts of sexual abuse. With the escalation of conflict in the region of Kashmir, such brutalities have dramatically increased in recent years. Worse yet the victims were civilians. The violence inflicted upon those who are taken into official custody is also a big issue, one that is further exacerbated by the lack of appropriate access to medical care and supervision.

While Indian authorities continue to play the blame game and deny that physical harm is regularly sustained by civilians and detainees, case after case continues to make its way into the attention and consciousness of the international community. An ordinary Kashmiri was tortured in Kashmir in April last year. He was beaten, strapped with ropes to the front of a military vehicle and a cardboard placard was forced on his chest. He was then paraded as a "human shield". Farooq Ahmad Dar was an embroiderer of fine Kashmiri shawls. He "was" an embroider because since being shown around the world as a hapless, tied-up prisoner atop a truck bonnet, he has not been able to work or do much else. But a gentleman officer of the army that holds Kashmir for Delhi decided to teach Kashmiri protesters a lesson - so he picked up the first person that caught his eye and turned him into a warning. The torture parade Major Leetul Gogoi organised was filmed and somehow found its way onto the internet. Regrettably, there was widespread support for Major Gogoi's public display of torture. Farooq's tormentor was bestowed with official recognition and praise. Chief of Army Staff awarded him a commendation card "for his sustained efforts in counterinsurgency operations". Farooq was no "insurgent"

As a signatory of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, India is obliged to take measures to prevent the use of torture and excessive force within its borders and the contested area of Kashmir. Yet even though the country signed the Convention in October 1997, it has still not been ratified and accusations of torture continue. Until the Indian government provides clear definitions of torture and provisions on how to deal with such instances, it remains in limbo and continues infringing on basic human rights.

## **Torture Generally with reference to Indian administered Kashmir**

The National Human Rights Commission (NHRC) continues to receive reports of abuse cases sustained by detained individuals, annually totalling well over a thousand instances. Annually, nearly one hundred of these result in "unnatural" deaths for those held in judicial custody. To add to the problem, claims of secret detention centres are consistently reported to the Asian Centre for Human Rights (ACHR), three of which are said to be in Jammu and Kashmir. These undercover institutions may explain how the NHRC managed to get away with registering only six official<sup>1</sup> deaths in police custody in Kashmir since 2000.

Torture is not something new for the Kashmiris. Since the beginning of the rebellion against Indian rule in 1989, Kashmiris have almost always faced some form of brutal torture at the hands of the Indian armed forces and police. Over the last three decades, torture killings, disappearances, rape, arson, and plunder also became a part of everyday Kashmiri life.

The Indian government conveniently ignores accusations of beatings, torture and arbitrary repeated arrests, much in the same way it has dodged questioning into the matter by international human rights organisations. The lack of appropriate retributions and prevention mechanisms for instances of torture in police custody, create the illusion that the

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<sup>1</sup> The International Council for Human Rights, an NGO without consultative status, also shares the views expressed in this statement.

government is comfortable turning a blind eye. The culture of torture thus becomes endemic to the judicial and police systems of India, a matter that cannot be resolved until the Indian government admits to its past and present crimes, firmly resolving to improve the situation in the future.

Sadly, the new governing elites in India decided to borrow from an old playbook and launched a ruthless crackdown, torturing and killing anyone who gets in the way of the colonial engine deployed to keep Kashmir in a stranglehold. While doing so, they also added a celebratory gloss to it all, thereby normalising crimes like the blinding of civilians (through pellet guns) and the use of human shields.

It is now 30 years since the start of the uprising in Kashmir. The Indian state has tried everything to extinguish it, including using at least two generations of Kashmiris as human shields and rewarding officers for doing so. A new generation of Kashmiris has grown up on a daily dose of humiliation and that eternal reminder: *"We are face to face with naked injustice. We are not free"*.

## **Conclusion**

IHRAAM calls on the Indian government to carry out independent and impartial investigations of all accusations of abuses that are made against detainees or threats made against their families. Detainees should not have to fear violence of a physical, sexual or mental nature while in custody and should be eligible for the receipt of adequate medical care. If infringements do occur, findings have to be made public and those in the authorities with involvement must be held accountable for their ill-treatment of detainees.

The Indian government is also urged to co-operate with international authorities and IHRAAM encourages authorities to accept visits from the United Nations Special Rapporteur on Torture and other cruel, inhuman and degrading treatment. This is a critical step for the monitoring of infringements and ensuring that detainees are free from threat and their personal safety is maintained while in custody. IHRAAM beckons for the appropriate legal and investigative action to be taken in cases where the treatment of detainees is under question – whether this is because of accusations of torture, ill-treatment, restrictions of medical care or forced admission – in a timely and transparent manner.

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