



# General Assembly

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## Human Rights Council

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Agenda item 3

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

### **Written statement\* submitted by the 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.

[30 April 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Women's Rights Ongoing Abuse in Jammu and Kashmir\***

The territory of Kashmir has been in the crossfire of India and Pakistan's territorial wars, resulting in the division and occupation of Kashmir in 1947. Since then people have found themselves wedged in a political and ideological conflict between India and Pakistan as these warring states were interlocked in wars in 1965, 1971 and 1999. After insurrections in Kashmir claiming independence from the Indian occupation, the pro-Indian Government approved the application of draconian laws, namely the Jammu and Kashmir Armed Forces (Special Powers) Act 1990 (AFSPA), the Prevention of Terrorism Act 2002 (POTA), the Jammu and Kashmir Public Safety Act 1978 (JKPSA) and the Terrorist and Disruptive Activities (Prevention) Act 1987 (TADA). These laws - as condemned by human rights agencies such as Amnesty International- undermine people's exercise of their rights and give immunity to the Indian authorities' illegal and immoral actions.

As in most armed conflicts; women's livelihoods are commonly targeted and heavily affected. Kashmiri women have had to step out of their gender roles, and assume masculine roles not only by fending their families because of their husbands' absence due to their disappearance, homicide or detention, but also to protest the human rights violations that they suffer. One of such initiatives aimed at defending women and their rights was the establishment of the Association of the Parents of Disappeared Persons (APDP) in 1994.

Despite the civil efforts to promote human rights in the region, women's situation remains unnoticed, both locally and internationally. Women in Kashmir still undergo physical, psychological and cultural violence; having to face on daily basis eve teasing, body and cordon searches and in many cases undeclared rapes as consequence of the conflict; hence further fueling it. Regrettably women in Kashmir are until this day victims of violence by both security forces and non-state actors, as evident in the appalling incident of gang rape that occurred on February 23, 1991, when units of the Indian army sieged the village of Kunan Poshtora, located in Kupwara District, and where more than 50 women were alleged raped by soldiers; human rights organizations -including Human Rights Watch- have reported that the number of raped women could be as high as 100. Another appalling event is the Shopian rape and murder case consisting in the alleged abduction, rape and murder of two young women in mysterious circumstances on the intervening night of 29th and 30th May 2009 at Bongam, Shopian district of Jammu and Kashmir.

The international community has generated numerous legal provisions and instruments intended to tackle the human right abuses towards women, such as the Vienna Declaration and Programme of Action of 25 June 1993 adopted by the World Conference on Human Rights (A/CONF.157/23), the publication of reports by the UN High Commissioner for Human Rights' Special Rapporteurs on violence against women, the Declaration on the Elimination of Violence against Women of 20 December 1993 (A/RES/48/104), the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention for the Elimination of Racial Discrimination (CERD) and the General Recommendation No 19 adopted by the Committee on the Elimination of Discrimination Against Women (CEDAW).

It is then, in accordance to international regulations, the State's duty to monitor and exhaustively seek the implementation of the international human rights treaties that address abuse and violence against women such as those that repeatedly take place in Jammu and Kashmir.

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\* The International Council for Human Rights, an NGO without consultative status, also shares the views expressed in this statement.

In its general recommendation No. 19 from 1992 on violence against women, the Committee on the Elimination of Discrimination against Women confirmed that:

“[...] Under general international law and specific human rights covenants, States may...be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation [...]”

As for national legal frameworks, the Committee on the Elimination of Discrimination against Women recommended that States parties:

“[...] Ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity; and

Take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence. [...]”

Being the State of India party to the Committee on the Elimination of Discrimination against Women, we urge it to address the situation of women in Jammu and Kashmir and to bring justice to the all perpetration, abuse and infringement of the lawful human rights women are entitled to.

Accordingly, the European Parliament has also addressed the issue under the Resolution on Violence Against Women in India (2013/2512(RSP), which reads:

“The European Parliament, [...]”

3. Expects India, being a democracy and having significant relations with the EU, to ensure respect for democratic principles, fundamental rights and human rights, in particular the rule of law and the rights of women;
4. Deeply regrets that more was not done to provide immediate assistance to the victims of the attacks and that in this case and other such cases low respect for women, lack of medical aid, deficient policing and absence of legal remedies discourage rape victims from bringing charges against rapists;
5. Reminds the Indian Government of its rights and duties under the Indian Constitution, especially its duty to end practices derogatory to the dignity of women (Article 51(A));
6. Encourages the Indian Parliament to further incorporate the recommendations of the Indian National Commission for Women (NCW) as to how to amend and implement Indian law in order to protect women from such crimes [...]”

Considering the ongoing situation of the conflict and therefore the consequences it has on women's lives, International Human Rights Association of American Minorities and the International Council for Human rights hosted the conference: International Women's Day: Protecting and Promoting Women's Rights at Palais des Nations in Geneva. As result of a productive and involving discussion, the several academics, international organization's representatives, experts and researchers on the field that participated reached the following recommendations on this particular topic:

- Women's concerns must be included at all stages of pre conflict and peace process, so that they are included and implemented in the post conflict agreement;
- There must be specific focus on the situation in Kashmir with further investigation on the violent rapes that have taken place in the region as it is clear that the security

officers from the Indian military are responsible for war crimes, and the Indian government need to hold perpetrators to account for their actions;

- There needs to be a system of accountability for such crimes, and using Acts such as the Armed forces (Special Forces) Act, should not be used to exempt officers for such crimes;
- Accusations of rape need to be taken seriously, and prompt investigation by local police should be supported. Special training should also be provided to police officers in order to help them collect sufficient evidence that can be presented at any trial. Human Rights Watch recommends allegations to be tried in civilian courts rather than military ones in order to promote transparency, and that those convicted of such crimes should be punished and named openly, in order to serve as a deterrent to any would be rapists;
- Police and doctors; those who would be a first point of contact to victims of rape should also be trained in dealing with victims in a sensitive manner, whereby they can be guaranteed some form of privacy, in order to avoid them becoming stigmatized;
- Human Rights organizations and the media must also be sensitive to the victims of rape, as they often have to recount their tragedy which can be traumatic. Many have had their pictures taken by the media, which may be counterproductive for many women, as they can be easily identified and singled out for harassment. Such reporting also needs to be followed up by organizations;
- The lack of psychological rehabilitation clinics and camps for women in Kashmir is very important and must be addressed;
- The absence of women from negotiations at conflict zone is another reason to advocate women victims;
- A transitional justice system needed to be created, such as truth commissions and other tribunals, to hear and address the concerns of Kashmiri women in conflict, since it is impractical to wait until the conflict ends as this is unlikely in the immediate future;
- Promote gender equality and the need for a multi-sectorial response in order to reduce human rights violations;
- UN should extend the promise to protect Kashmir's women whose voices remain muted in a never-ending conflict;
- Work towards a gender sensitive police and judiciary;
- Repeal the Armed Forces Special Powers Act (AFSPA) and the Public Safety Act (PSA);
- React against new proposed Police Bill;
- Have more women's police stations in Srinagar and urban Kashmir;
- Create and implement a Women's Reservation Bill;
- Raise awareness around gendered violence;
- Support organisations dealing with half-widows and widows;
- Organise workshops on gender roles for both boys and girls/men and women;
- Improve Sex education;
- Work to empower girls and women in different ways;

- Support girls' involvement in after school activities, such as arts classes and sports;
  - Support structures for women's meetings, roundtables and conferences, where women from different sections of society and ages can meet and share experiences;
  - Impartial and independent investigation of all cases of rape in Kashmir; and
  - Special Rapporteur on violence against women needs to undertake a visit to Kashmir.
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