



# General Assembly

Distr.: General  
17 April 2023

English only

---

## Human Rights Council

### Fifty-second session

27 February–31 March 2023

Agenda item 4

### Human rights situations that require the Council's attention

## **Written statement\* submitted by Citoyens en action pour la démocratie et le développement, a non-governmental organization in special consultative status**

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

[5 February 2023]

---

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



## **The Jammu and Kashmir Reorganization Act, 2019 and Disinformation Thereof: A Case Study Of Enhancement Of The Rights Of Persons With Disabilities and The Child Protection System In Indian Administered Jammu and Kashmir In This Context**

1. There are constant attempts by interest groups and some section of the media about the decision of introducing the Jammu and Kashmir Reorganization Act, 2019 however as a case study, the progress made in enhancing the rights of Persons with Disabilities (PWDs) and development of child protection system in Indian Administered Jammu and Kashmir after the enactment of the Jammu and Kashmir Reorganization Act, 2019 by the Indian Parliament on 5th August 2019. The current status of the rights of children and people with disabilities is very promising. All the essential infrastructure and institutions for these vulnerable populations have been established across all the districts of Indian Administered Jammu and Kashmir. The Jammu and Kashmir Reorganization Act 2019 has started a new journey of disability rights and child protection regime in the region.

2. On 5th of August 2019 a historic decision was taken, and all the provisions of Constitution of India were made applicable to Indian Administered Jammu and Kashmir without any exception or modification. While the Article 370 became inoperative and the commencement of the Jammu and Kashmir Reorganization Act, 2019 made all the central laws applicable to the region of Indian Administered Jammu and Kashmir. As many as 890 central laws have been extended to the region of Indian Administered Jammu and Kashmir. Before the enactment of the Jammu and Kashmir Reorganization Act 2019 most of the progressive legislations or policies could not be extended to the region. Previously, the Indian Administered Jammu and Kashmir had its own constitution, a state flag and many other discriminatory characters. With these historic decisions by the Indian parliament in 2019, the Indian Administered Jammu and Kashmir has been fully integrated with India in all respects. This integration has resulted in ensuring and enhancing rights to all populations of the region especially to vulnerable and weaker sections of the society. Moreover, the Reservation Rules of 2005 have amended to extend benefit to left out categories which includes Pahari Speaking People and residents of International Border and LOC. By amending the Decentralization Act of 2010 discriminated categories, i.e., West Pakistan Refugees, Valmikis, Gorkhas, Displaced Persons, Safai Karamcharis and Children of women married outside Indian Administered Jammu and Kashmir got justice in basic eligibility for recruitment as well as declaration as domiciles of Indian Administered Jammu and Kashmir. By amending land laws a new developmental process has been unleashed in the region to give an empowering push to priority sectors of the region including agriculture, horticulture, tourism and infrastructure development across all allied sectors of development.

3. Enhancing Child Protection Indian Administered Jammu and Kashmir: The development of the child protection and juvenile justice system in the erstwhile Indian Administered Jammu and Kashmir happened at a different pace. Any law passed by the Parliament had to be passed by the State legislature for its implementation in the Indian Administered Jammu and Kashmir. Like all other laws, the State was slow to catch up with the progressive reforms carried out at the national level which affected the rights of the children in Indian Administered Jammu and Kashmir. The Indian Administered Jammu and Kashmir witnessed enacted of the Juvenile Justice Act in 1997, ten years after the enactment of JJ Act at the Centre in 1986. Similarly, the Indian Administered Jammu and Kashmir state could not follow the journey of child rights and juvenile justice which happened in the rest of the country. The state government always had a lackadaisical approach as far as the adoption and implementation of the laws relating to juvenile justice was concerned. The ongoing Indian Administered Jammu and Kashmir turmoil and terrorism has impacted thousands of children in the state. A study conducted by an INGO Save the Children claimed that there are approximately 2,00,000 children who have lost their parents and 37% of them are orphans as a result of armed conflict. The delay in the enforcement of Central laws in the state led to the tardy implementation. The children in need of care and protection were either paid no attention and few got the support through NGO run homes which did not follow the

laid rules as per the mandate of the Juvenile Justice Act. Similarly, the conflict-ridden state has many children who come in conflict with the law.

4. Disability Rights in Indian Administered Jammu and Kashmir after 2019: The overall benefits of specialized schemes for persons with disabilities in erstwhile Indian Administered Jammu and Kashmir were less because most of the schemes are under central Government were not applicable in Indian Administered Jammu and Kashmir because of its separate constitutional identity. The persons with disabilities were disadvantaged in areas such as rehabilitation, education as well as employment. While government efforts to provide aids and appliances for rehabilitation of persons with disabilities were ongoing, sudden proliferation of disability status due to conflicts hinders the access to these benefits to all the individuals. Special education was almost a new concept for the people of Indian Administered Jammu and Kashmir. However, with the efforts of Sarva Shiksha Abhiyan and some non-governmental organizations inclusive education has been rooted in very few schools of urban areas, but it is lack a professional approach. Employment opportunities and reservation were not available. Several reasons may be attributed for this scenario. One the important reason is that all the successive governments in Indian Administered Jammu and Kashmir did not pay more attention for properly implementing the policies at ground level. There used to be total lack of professionals in the field of disability and special education.

5. Before 2019 the erstwhile state of Indian Administered Jammu and Kashmir was governed by the Indian Administered Jammu and Kashmir persons with Disabilities (Equal opportunities, Protection of Rights and Full Participation) Act, 1998 and the Indian Administered Jammu and Kashmir Persons with Disabilities Rules, 2003 were published after 6 years. The “Equal Opportunities, Protection of Rights, and Full Participations Act, 1998 could not be fully rolled out because of the notification of its rules that came in the year 2003 and due to insensitive and non-priority sector of that government, the Act was not implemented leaving the Population of Disabled people into difficult situations. Number of types of disabilities recognised by this Act were limited to 7 disciplines of disabilities and restricted to pension scheme only.

6. The Rights of PWD Act, 2016 was passed by both the houses of the Parliament. It was notified on December 28, 2016, after receiving the presidential assent. Principles stated to be implemented for empowerment of persons with disabilities (PWD) are respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons. The Act lays stress on non-discrimination, full and effective participation and inclusion in society, respect for difference and acceptance of disabilities as part of human diversity and humanity, equality of opportunity, accessibility, equality between men and women, respect for the evolving capacities of children with disabilities, and respect for the right of children with disabilities to preserve their identities. The principle reflects a paradigm shift in thinking about disability from a social welfare concern to a human rights issue.

7. The extension of Central Acts like The Rights of Persons with Disabilities Act, 2016 and The Juvenile Justice (Care and Protection) Act, 2015 the Indian Administered Jammu and Kashmir after 5th August 2019 is a great step towards ensuring all rights and guarantees to vulnerable populations like children and persons with disabilities. Under these Acts, the Government have designated authorities who shall issue Disability Certificates to persons suffering from benchmark disabilities within a prescribed time frame. Now, persons with disabilities have access to better health care, education, sports events, free education, cultural activities and most importantly reservation in employment. Similarly, in the domain of Juvenile Justice and Child rights, the UT government has been serious and sensitive towards holistic development of children and families. Juvenile Justice Boards, Child Welfare Committees, Special Juvenile Police Units, Child Protection Units under JJ Act and ICPS are established in all the districts of the Indian Administered Jammu and Kashmir.

8. Therefore the propaganda associated with the decision taken on 5th of August 2019, which made all the central laws applicable to the Indian Administered Jammu and Kashmir particularly in light of the welfare oriented legislation and safeguarding the rights of Persons with Disabilities, Child Rights and Protection issues are some of the examples to demonstrate how this decision have benefited hundreds and thousands of vulnerable and unattended beneficiaries and on the other had we should also equivocally discourage interest groups and

all media houses who are spreading disinformation and encourage propaganda around the decision of introducing the Jammu and Kashmir Reorganization Act 2019 without understanding the welfare, significance and benefits for vulnerable sections particularly Children and Persons with Disabilities in Indian Administered Jammu and Kashmir.

- 
1. The Jammu and Kashmir Reorganization Act, 2019.
  2. Advani, L. 1997. Rights by Law. Paper presented at the National Consultation Meet on Rights of Disabled Children and Government of India, Sarva Shiksha Abhiyan:
  3. Mohit, Anuradha. 2000. Governance and legislation: initiatives of Government of India to advance Asia & Pacific Decade of Disabled Persons. Disability World
  4. [www.un.org.in/JANSHALA/march2001/educdisb](http://www.un.org.in/JANSHALA/march2001/educdisb). retrived on 10.3.2017
  5. Juvenile Justice System in Jammu and Kashmir by Arvind Jasrotia & Ms Sunandini and Scenario of Disability Programs in Jammu and Kashmir by Mr. Behzad Maqbool & Dr. Prabha Hariharan