



# General Assembly

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## Human Rights Council

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

## **Written statement\* submitted by Community Human Rights and Advocacy Centre (CHRAC), 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.

[23 January 2024]

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



## **Torture as an Institutional Expression of Power in Indian-Administered Jammu and Kashmir**

Torture as an institutional expression of power and social control, is an instrument for states to intimidate or even eliminate the enemies and non-enemies. Torture whenever routinely employed by the state is a reflection of its unauthorized use of violence and otherwise, impermissible use of coercion backed by the notions of self-defense and national security. Torture is both manifest and latent as it affects the physical as well as the psychological integrity of a person, hence it is prohibited under International Law, and domestic legal frameworks. Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which is representative of Customary International Law defines torture as an act by which 'severe pain or suffering' is intentionally inflicted upon a person or a third person to obtain 'information or a confession' or as a 'punishment for an act committed or suspected of committing' or on any reason based on discrimination of any kind.

People of Indian-Administered Jammu and Kashmir suffer torture as a method of reprisals, a punitive measure, and a controlling tactic widely and extensively across the Indian-Administered Jammu and Kashmir. It is employed as a systematic mechanism to create a fear psychosis in the native population and to weaken the people's resolve to resist the realization of the right to self-determination. India's systemic torture of the natives' bodies and minds is a grave violation of International Humanitarian Law and Human Rights Law. The ICCPR prohibits Torture and other forms of cruel, inhuman, and degrading treatment. The Articles 4 and 7 explicitly ban torture, even in times of national emergency or when the security of the state is threatened. India having ratified ICCPR is violating its articles by hostage-taking, torture, and extrajudicial executions.

Multiple reports by Amnesty International, Human Rights Watch, JKCCS, and APDP have documented testimonies of several thousand Kashmiri civilians from all walks of life including minor children, women, the elderly, political activists, students, journalists, lawyers, and human rights defenders. The reports aim to expose the systematic and indiscriminate torture perpetrated by the Indian army and other agencies.

I would like to bring to the notice of the Special rapporteur on torture and other forms of inhuman and degrading treatment a distressing event that took place in Topa Pir Village of Poonch. Indian army personnel took some 8 people from the village in custody for questioning. Three out of 8 civilians arrested, died due to brutal torture in the nearby military camp.

The victims were identified as Muhammad Showket 22, Safeer Hussain 45, and Shabir Ahmed 32, members of the tribal community.

The victims' families were informed when the bodies were handed over to the local police. Safer Hussain's brother, Noor Ahmed, was a dedicated servant of the Indian army with 32 years in the Border Security Forces (BSF) in Rajasthan. The untold agony of the Hussain family exposes the grim reality that Safer, along with his two compatriots, succumbed to relentless torture, bearing the brutal marks of their tormentors.

A disturbing video surfaced on social media, showing army personnel sprinkling chili powder on the private parts of civilians lying on the floor, later identified as the detainees. This grotesque revelation spurred furious protests in Srinagar, the beating heart of the region, echoing the collective cry for justice against these custodial killings.

The victims, mercilessly beaten and subjected to electrocution during their detention, faced unimaginable suffering that defies the principles of humanity. In response, the government opted to silence dissent by severing internet services on smart devices in Poonch and nearby Rajouri on December 23, revealing an attempt to suppress public outrage.

This tragic incident evokes haunting memories of a similar atrocity in 2020 when the Indian army falsely labeled three young men from Rajouri as terrorists, orchestrating a staged gunfight that ended their lives. Subsequent police investigations unraveled the military's abuse of power, leading to a rare admission of guilt and acknowledgment that the soldiers had overstepped their legal boundaries under the Armed Forces Special Powers Act.

In a bid to pacify the growing crisis, the government extended job offers and compensation to the grieving families. However, suspicions linger regarding the army's potential involvement in the custodial killings. Families rightly question why these gestures materialized only after the tragic deaths, raising unsettling doubts about a potential cover-up.

Although to cover up the Indian army has transferred three top-ranking officers from the area and initiated an internal inquiry, the history of inquiries and commissions established in India administered reveals all these inquiries and commissions are set up to pacify local public anger and international scrutiny

The incident underscores the need for a thorough and impartial investigation into the actions of the military during the detention and the subsequent custodial deaths. The families of the victims deserve justice and the international community must closely monitor developments in this disturbing case to ensure accountability for those responsible for the heinous acts perpetrated in the name of national security.

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