

URGENT ACTION

TWO CHILDREN HELD IN UNLAWFUL DETENTION

Two teenage boys in Jammu and Kashmir are being detained in prison under the Jammu and Kashmir Public Safety Act (PSA), which expressly prohibits the detention of anyone under 18 years of age. The PSA is an administrative detention law that allows detention without charge or trial for up to two years in some cases.

Rayees Ahmad Mir, aged 16 years, was arrested on 16 September in Baramulla district under ordinary criminal procedure for allegedly throwing stones at security forces. Two days later, to prevent his release on bail, an executive official passed an order to detain him under the PSA. The order incorrectly stated that Rayees Mir was 18 years old and he was transferred to the Kot Bhalwal central jail in Jammu, about 300 kilometres from his home.

Rayees Mir's family challenged the order before the Jammu and Kashmir High Court, producing documents that proved he was only 16 years old. On 7 October, the court stated that Rayees Mir should be treated according to juvenile justice rules, as there was prima facie evidence that he was a minor, and ordered his transfer to a juvenile home. An official at the Kot Bhalwal jail said on 19 October that the prison authorities had not yet transferred Rayees Mir, as they had not received a copy of the court order.

Waheed Ahmed Gojree, also 16 years old, was arrested in Kupwara district on 18 August, and detained at a police station. According to his family, the police initially told them he would be released the next day, however they then said that he had been detained under the PSA. He was first taken to a jail in Baramulla, and then to the Kot Bhalwal central jail in Jammu, about 380 kilometres away. The family has not yet received a copy of the detention order, or been formally informed about the grounds of Waheed Gojree's detention, however an official at the central jail confirmed that he had been detained under the PSA. The authorities appear to have not taken his age into account before issuing his detention order.

Please write immediately in English, or your own language, urging authorities to:

- Release both Rayees Ahmad Mir and Waheed Ahmed Gojree or charge them with an internationally recognizable criminal offence and give them fair trials in accordance with international juvenile justice standards, using detention only as a last resort and for the shortest appropriate period, and ensuring that any detention be in a separate facility for children, as close as possible to their families in order to facilitate family contact;
- Investigate the detention of the two boys, and all other cases of detention of children under the Jammu and Kashmir Public Safety Act in Jammu and Kashmir, and bring those responsible to justice;
- Repeal the Jammu and Kashmir Public Safety Act and other administrative detention laws in India.

PLEASE SEND APPEALS BEFORE 30 NOVEMBER 2016 TO:

Chief Minister of Jammu and Kashmir
Mehbooba Mufti Sayeed
Chief Minister's Secretariat,
Srinagar: 190009,
Jammu and Kashmir, India
Phone: +91 194-2506100 (Srinagar)
(English or Hindi only)
Fax: +91 194-2506200 (Srinagar)
Twitter handle: @MehboobaMufti
Salutation: Dear Madam

Kot Bhalwal Central Jail Superintendent
Dinesh Sharma
Kot Bhalwal Central Jail
Jammu: 181123
Jammu and Kashmir, India
Phone: +91 191-2623975 (English or
Hindi only)
Fax: +91 191-2623975 (call and ask for
fax),
Salutation: Dear Sir

Director General of Prisons, Jammu and
Kashmir
SK Mishra IPS
Old Secretariat, Srinagar 19001
Jammu and Kashmir, India
Phone: +91 1942457969 (English or
Hindi only)
Fax: +91 1942457811
Salutation: Dear Sir

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY Mr. Navtej Sarna, Office of the High Commissioner for India, India House Aldwych WC2B 4NA, 020 7836 8484, Fax 020 7836 4331, info.london@hclondon.in, www.hclondon.in, salutation: Your Excellency

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



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ADDITIONAL INFORMATION

The Jammu and Kashmir Public Safety Act (PSA) contains vague and overbroad terms such as “security of the state” and “public order” that are not precisely defined, and therefore do not meet the requirement of legality under international law. The PSA does not provide for judicial review of detentions. It also protects officials from legal proceedings for anything “done or intended to be done in good faith”, which is inconsistent with the right to remedy for arbitrary detention or other human rights violations. The law has often been used to detain people on vague grounds for long periods, ignoring regular criminal justice safeguards.

Under international law, anyone under the age of 18 is a child, and should be tried in accordance with internationally accepted juvenile justice standards. The UN Rules for the Protection of Juveniles Deprived of their Liberty and the UN Standard Minimum Rules for the Administration of Juvenile Justice say that the detention before trial of children shall be avoided to the extent possible and limited to exceptional circumstances. Detention must be carried out under procedures established by the law, children must not be kept in the same facility as adults, and untried detainees should be separated from convicted children. In the past, the UN Working Group on Arbitrary Detention has held that certain detentions under the PSA amount to arbitrary detentions.

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