

# **Public Safety Act and Juvenile Justice Act, 1997: Critical Analysis of The Union Territory of Jammu And Kashmir**

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## **ABSTRACT**

The Public Safety Act raises serious questions about the legal basis for law and governance in Kashmir on both adults and juveniles. If the principle of legality is derived from clearly defined statutes, legal procedures and the rule of law, the Public Safety Act gives wide powers to the government to arrest any person without any reason. The detained persons are immune from the rights of court trial and proceedings. The object of the juvenile justice was based on a “*social welfare model*” (also referred to as a child welfare model) and it was envisioned to monitor and help juveniles. The juvenile court is an institution of quasi-social welfare that is meant to help to children in trouble. Since the juvenile court was perceived as helping youth in reformation and not punishing them. It is important to highlight the plight of the children (Juvenile) who have been detained in Kashmir. This law is in contravention of the rule of law; the authorities are misusing it which led mass detention in the valley without any checks and balances.

The Researcher in this paper tried to focus on the subject within the ambit of constitution of India, international instruments and human rights abuses by the both police and security authorities. The researcher also tried to highlight the loopholes and lacunas in the said Act which is directly violating the constitutional fundamental as well as fundamental rights.

**Key words:** juvenile, human rights, Kashmir, law etc.

## **Introduction:**

### **Late Krishna Iyer J. on the subject of bail or jail?**

*“..... Belongs to the blurred area of criminal justice system and largely hinges on the hunch of the bench, otherwise called judicial discretion. The Code is cryptic on this topic and the Court prefers to be tacit, be the order custodial or not. And yet, the issue is one of liberty, justice, public safety and burden of public treasury all of which insist that a developed jurisprudence of bail is integral to a socially sensitized judicial process”<sup>2</sup>*

We are living in an age of conflict. Kashmir has suffered huge damage due to the violence from 1947 onwards till today. After the revocation of the Article 370 of the Constitution, things have not been changed; even it worsened and exaggerated more. The government forces illegally not only detained political leaders but there are cases of juvenile also who have been illegally detained in different jails.<sup>3</sup> The normally accepted notion of transitional justice frameworks

include contributing to responsibility, checks and balances, restoration of state-citizen relationships and the creation of democratic institutions. These are very important and crucial for addressing the grievances of the victims. The enactment of the Juvenile Act in Jammu and Kashmir was a fairy tale; it has not achieved its objectives for which it was intended. The controversial Act (Public Safety Act) is contradictory with the aforesaid Juvenile Justice System.

In 1997, the state passed the Care and Protection of Children (Juvenile Justice) Act, which significantly changed the law on children's criminal sentencing. As per this Act under the Act, any person who is under the age of 18 years is considered as a child.

The object of the juvenile justice was founded on a social welfare model (child welfare model) and also it was expected to guide / assist juveniles, not punish them. The juvenile court is a quasi-social welfare institute which assists children in trouble.

Restorative justice and healing touch process have now moved far-off the justice systems in the Union Territory of Jammu and Kashmir, even in the sense of unprecedented political violence. The researcher tried to review the policies of both Centre and Union Territory of the Jammu and Kashmir with regard to Restorative justice movement. The government policies and practices towards children in conflict are very poor when it comes to Kashmir because enforceability of the Juvenile Justice Act has not observed in letter and spirit. The framework of juvenile and criminal justice system should necessarily be implemented to curb child human rights violations in the Valley. The principle ideals and methods of restorative justice also must be used to tackle broader issues of human rights violations and deeply entrenched tension and political violence in Valley.

Jammu and Kashmir Care and Protection of Children (Juvenile Justice) Act 2013 is applicable in UT. The 2013 Act defines “juvenile as a person under the age of 18 and a juvenile in conflict with the law as a person under the age of 18 at the time of the relevant offence”.<sup>4</sup>

In Jammu and Kashmir, “no person who was under the age of 18 at the time of an offence may be sentenced to imprisonment for any term which may extend to imprisonment for life”.<sup>5</sup>

### **JUVENILE DELINQUENCY:**

The campaign for juvenile justice seems to have owed more to the slowly changing insights of adolescence that developed in the 17<sup>th</sup> and 18<sup>th</sup> centuries. During the nineteenth century, the concern for the children had increased due to the awareness of children's special needs especially for reformation and rehabilitation. By the end of 19<sup>th</sup> century, these philosophies were supported by different legislative policies, and thus courts for children were set up to give children in conflict expression to humanitarian beliefs.<sup>6</sup> Delinquency is an abnormality of some sort. When an individual departs from normal social life, his behavior is referred to as ‘Delinquent.’ If a juvenile, below a statute-specified age, exhibits behaviors that may be dangerous to society, he may be called a juvenile delinquent.

The concept of juvenile justice inates from an assumption that in unusual circumstances the issues of juvenile delinquency is not likely to be addressed within the context of conventional criminal law systems unless it is not to be addressed in a cohesive manner. The term “Juvenile Justice” has been viewed differently by different authorities. The main function of this system is to provide care, safety, education, growth and rehabilitation of delinquent juveniles and dispose

of delinquent juveniles under the established policy of providing these children with opportunities to utilize occasion of life fully.<sup>7</sup>

There are various factors in juvenile delinquency which needs to be ascertained delicately. The following causes of delinquency are as follows:

The psychological or personal factor of the children. There are also few other causes of delinquency i.e., instability and impulses in adolescence, early sex experiences, poor recreation, socio-environmental mental conflicts, school dissatisfaction, social suggestibility, vocational dissatisfaction, sudden impulses, love of adventure, motion pictures, street life, physical condition.<sup>8</sup> So far as the juveniles in Kashmir are concerned, there are cases which are serious in nature because minors are very depressed due to conflict and their illegal detentions. The government remains always in denial for the actions of the security forces in Kashmir. Various reports emerged about the illegal detentions of the minors, whereas in a shocking revelation in a report submitted by Jammu and Kashmir Juvenile Justice Committee to Honorable Supreme Court, it has come to light after the abrogation of some provisions from Article 370 of the Indian Constitution. As per the reports, the government forces in J&K have arrested 144 minors.<sup>9</sup>



Source:<sup>10</sup>

In Kashmir, it is a grave problem and concern for the government to tackle it; the administration is directly responsible for the human rights violations and in violation of the Juvenile Justice Act because police and security forces have been given free hand to detain any person including minors. The iron fist practices against juvenile delinquency cannot be solved through regulation unless police authorities are therefore be made accountable for slapping the Public Safety Act (PSA) to minors. As far as India is concerned, the Children Acts have not been successfully implemented in many of the States, and the same issue faces the children of the valley who languish without any trail in prison with adult offenders. Both government and human rights activists need to work hand in hand with all sincerity and seriousness to find effective remedies for this menace to avoid illegal detentions of the minors in Kashmir.

The primary purpose of the Juvenile Justice Act, is to find Crime and the rehabilitation of juvenile offenders. The three models of the juvenile justice system are as “*due procedural model*”, “*social welfare model*” and “*participatory process model*”. Out of all the above-mentioned models, even a single model is not working in Kashmir. There are multiple reasons whereby the existing system of juvenile justice in Kashmir is not working properly; the underage

boy who needs treatment in observation homes are / were tried with adult offenders in normal courts, most boys have been slapped with the Public Safety Act without any trial. The important factor is the lack of observational homes in Kashmir that has prompted police officers to send youth behind bars against the “*Juvenile Justice Act*” The main purpose of the Act has not been fulfilled by the concerned authorities.

## **APPROACH OF SUPREME COURT TOWARDS JUVENILE:**

### **Landmark judgment on juvenile case of Nirbhaya:**

#### ***In State v. Ram Singh and another*<sup>11</sup>,**

Supreme Court stated that the object behind treating the persons under 18 years of age as juveniles is to safeguard and ensure their reintegration in society and to empower these child offenders to become useful and responsible members in future, the bench comprising of P. Sathasivam, C.J. and Shiva Kirti Singh, Ranjan Gogoi JJ dismissed the petition which sought interference with the age of juvenility under the Juvenile Justice Act, 2000 (JJ Act). The Honorable Court while explaining the scheme and punishment under the JJ Act, the Court said, “*The JJ Act does not do away or obliterate the enforcement of the law insofar as juvenile offenders are concerned and that the same penal law i.e. Indian Penal Code apply to all juveniles. The Court further explained that the only difference is that a different scheme for trial and punishment is introduced by the JJ Act in place of the regular provisions under the Code of Criminal Procedure for trial of offenders and the punishments under the Indian Penal Code. Hence, the Court was of the opinion that the respondent, the juvenile accused in the Nirbhaya Gang-rape case does not have to face a regular trial.*”

***In Malda Dada v. State of Gujarat*<sup>12</sup>,** the Honorable Court has made following observation with regard to the Juvenile age:

*“The word ‘attained’ used in the J.J. Act of 1986 means ‘completed’. Therefore, a boy who has not completed the age of sixteen years and a girl who has not completed the age of eighteen years is a juvenile for the purpose of The Juvenile Justice Act, 1986.”*

***In Dharambir v. State (NCT of Delhi) & Anr*<sup>13</sup>,** for determination of the age of the accused person at the time of the commission of offence was discussed. The Honorable Court has made the following observation in this case.

*“We feel that, keeping in view the age of the appellant, it may not be conducive to the environment in the special home and to the interest of other juveniles housed in the special home, to refer him to the Board for passing orders for sending the appellant to special home or for keeping him at some other place of safety for the remaining period of less than eight months, the maximum period for which he can now be kept in either of the two places”.*

***In Raisul v. State of UP*<sup>14</sup>,** The Honorable Supreme Court's approach towards young children has been very progressive and liberal. The main reason for the juvenile offenders to shorten the

term or lesser penalty is to rehabilitate them. In this case, the Supreme Court ruled that death penalty should not be enforced on a person under the age of 18.

The bench comprised of **P Bhagwati, P Shinghal, S M Ali, J.**

*“Appearances can often be deceptive. We must, therefore, proceed on the basis that the appellant was below 18 years of age when he committed the offence. We, accordingly, allow the appeal and commute the sentence of death imposed on the appellant to one of life imprisonment”.*

**In SheelaBarse and Anr. v. Union of India<sup>15</sup>**, “The Supreme Court ordered the District Judges of the country to appoint the Chief Judicial Magistrate or any Judicial Magistrate to visit their respective prisons and to determine how many children under the age of 16 were confined and what charges were brought against them”.

The said Act is deliberated to be enormously advanced piece of legislation and the Model Rules of Juvenile Justice System can be found better for the protection of children in conflict. However, the implementation is a very serious concern particularly in Kashmir where unbridled and un-channelized power is given to the both police and armed forces are against not only the Juvenile Justice Act but it is blatantly in violation of Constitution of India.

In 2013, the Supreme Court of India is constantly looking into the implementation of this Act on ground; in **SampurnaBehruav. Union of India<sup>16</sup>** and **BachpanBachaoAndolanv. Union of India<sup>17</sup>**. The lack of implementation of the Act is the root cause of the human rights violations and illegal detentions of the minors in the Kashmir.

The Director General of Police (DGP) in a press statement on 11/02/2017 admitted that in Union Territory of Jammu and Kashmir, there are no facilities handle children offenders who were/are allegedly involved in stone throwing on security forces in Valley.

While addressing training programme schedule for Child Protection Officers and District Child Protection Officers on Juvenile Justice and Integrated Child Protection Scheme said that “the children in the State (now Union Territory) have not been treated the way they should have been and in terms of facilities the state is far behind then other states of the country. The police chief while referring to last year’s violent turmoil in the Valley said lots of children came out on to the streets for stone-pelting. Unfortunately, in the Union Territory, people don’t have facilities to handle juvenile law offenders. There is a Juvenile home in Srinagar at Harwan and similar one in Jammu at RS Pura but he has admitted unequivocally that if we compare the facilities with rest of the country those are far behind”.<sup>18</sup>

## **PUBLIC SAFETY ACT 1978:**

The Public Safety Act (PSA) has been used to detain any person in the interests of the State’s protection or safety, if it needed by Government to control the person’s entry into any region, it may declare the area a protected area by a notified order, and that area shall be covered for the purposes of this Act as long as the order is in effect.<sup>19</sup> The actions of any person, if found “*prejudicial to the security of the state,*” the detention period has been reduced to 6 months from 2 years and it may be increased to 2 years if the behavior of detained person is still under suspension. So far as the other cases, in addition, those held for “*acting in any manner*

*prejudicial to the maintenance of public law*” can be detained for 3 months for the first time, but it can be extended to a full year.

The detained person’s rights are limited. They usually have the right to legal representation when a person is arrested and may challenge the illegal detention. However, when a person is arrested under the PSA, they do not have these rights before the Advisory Board unless there are sufficient grounds for the illegality of detention. There are various instances where the High Court of Union Territory, Jammu and Kashmir has interfered and quashed the detention.<sup>20</sup>

According to Section 13(2), the detention authority shall not even notify the detainee of the reason for the action if it determines that it is contrary to the public interest. The phraseology of this section is directly in violation of the principles of natural justice and rights of accused person.<sup>21</sup>

The Government or any authority has been given unrestricted powers without any checks and balances to arrest any person without holding trail for the same. The authority can take any action necessary for preventing activity and maintenance of communal harmony.<sup>22</sup>

The authority is duty bound to communicate the grounds of detention, and necessarily enable the detainee person earliest opportunity of making a representation, against the order to the Government<sup>23</sup>. But there is an exception which gives exclusive power to the authority in which they are not bound to communicate the grounds of detention which they considers to be against the public interest to disclose<sup>24</sup>. The normal procedure of law, where in police custody, a person has to be produced before a magistrate within 24 hours of detention. But the PSA allows the government to hold a person without producing them in court. While the Jammu & Kashmir government has not given details as to why they have detained more than 100 minors illegally from August to October 2019.<sup>25</sup>

The maximum period of detention of a person may be in compliance with any order which has been confirmed under section 17, shall be<sup>26</sup>

- (a) “twelve months from the date of detention in the case of persons acting in any manner prejudicial to the maintenance of public order or indulging in smuggling of timber;” and
- (b) “two years from the date of detention in the case of persons acting in any manner prejudicial to the security of the State.”

## **PSA violates both Constitutional Law as well as India’s International Human Rights Legal Obligations:**

The Public Safety Act intrudes international human rights law through detention without trial while rejecting for those in detention the judicial review and other safeguards expected by international human rights law. It also undermines the rule of fairness by describing crimes so broadly that security officials may arrest any person including juveniles for extremely vague purposes, including exercising their right to peaceful assembly and freedom of expression.

The PSA is a power tool used by the administrative authorities for detention without holding normal court trial for a period of two years. Such vague and draconian laws are not only against the Constitution of India but also against International instruments where India is a signatory.

The PSA grants wide powers to Union Territory, including the police to detain individuals; it provides legal shield and impunity from prosecution to the police and government authorities even after violate provisions of the PSA.<sup>27</sup> Under sections 8(1) (a) and 8(3) (b) of the PSA number of civilians and juveniles are detained “*acting in any manner prejudicial to the security of the State*” and or for “*acting in any manner prejudicial to the maintenance of public order*” respectively.

The Amnesty International Report on PSA released a report titled “*A Lawless Law*” in 2011 provides a complete detail of the arrested persons which shows how gross human rights are being perpetuated by the public officials in the State of J & K. In the backdrop of severe criticism from human rights organizations against the said controversial law, the Government made minor amendment in the PSA, 1978 (a person can be detained for a period of three and six months without a trial but it can be extended to one and two years. Minors cannot be detained under PSA).<sup>28</sup> The said Amendment proves nothing but eyewash to international human rights organizations because it does not curb the human rights violations in Kashmir. Various reported cases shows despite minor amendment in PSA, police officials are blindly slapping PSA to Juveniles in Kashmir. Tariq Ahmad Tantray, 14 years old boy is an open example how brazenly law on paper and in practice works in Kashmir. The fact findings from reports also suggests that there are hundreds of children in Kashmir who are languishing in jails under the PSA, whose age has been mentioned as 18 by the police dossier and the exact figures of children being detained are not available.<sup>29</sup>

There are large detentions under the PSA from past few years and the ratio is increasing, even United Nations Reports on Human Rights and recent reports after abrogation of Article 370 of the Constitution, nearly 144 minors were detained in different jails by the police authorities in Kashmir.<sup>30</sup>

This ICCPR provision is very important regarding free and fair public hearing by a competent, independent and impartial tribunal established by law. All persons shall be equal before the courts and tribunals. The right to free, impartial and fair trial is specifically mentioned in Article 14 clause (1) of ICCPR<sup>31</sup> to which India is a signatory. This provision has been incorporated by almost all civilized democracies in domestic laws. India, too has incorporated similar provisions to protect their citizens from illegal arrests, undue delays in trials, right of legal representation etc. Article 14 clause (2) of ICCPR<sup>32</sup> makes it clear that unless and until accusation of crime is not proven against any person, he/she is presumed to be innocent. However, PSA gives wide powers to the police administration to arrest any person without established proof to prove involvement in any crime of arrestee person. It is violating the basic provisions of the Covenant by not giving opportunity of being heard. Although, the Indian Constitution does not contain any express provision that criminal trials must be “*open public trials*” but Honorable Apex Court of India has widened the scope of fundamental rights i.e., Article 21 of the Constitution that “*procedure established by law*” should be fair, just and reasonable<sup>33</sup>. It is the duty of State that every human being shall be given access to justice to obtain speedy, effective and fair judicial remedy to protect his/her rights. It is an administrative mechanism to prevent all kinds of aberrations, which affects the common citizens.

Detention and non-disclosure of facts to detention is violation of Article 9 of the ICCPR (International Covenant for the Protection of Civil and Political Rights) signed by India in

1979.<sup>34</sup> The PSA further breaches the UN Convention on the Rights of the Child by detention of boys above the age of 16 years as adults for alleged stone pelting, which India ratified in 1992. The controversial piece of legislation violates the inalienable right to life of children below 18 years of age. Under PSA the principal of legality is been totally violated i.e. law should be clear and should be established on the ground of law. The PSA's operational provisions are so extensive and unclear that they snatch the fundamental rights of the citizens. All persons under Article 9(4) of the ICCPR, whether detained or arrested must be "entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful." But under PSA ordinary access is denied to the judicial authority.

## Conclusion and Suggestions:

As a human nature, every person in this world love to take care of their children and in India this practice is being taken as a tradition and duty. Unfortunately, this practice has been diluted over the last few years, the children are not being treated the way they should have been. The children are the precious asset of the country, it is the high time to protect and preserve them instead of detaining them illegally.

The illegal arrests of Juveniles have become a normal in the Union Territory of Jammu of Kashmir. The abuse of the Public Safety Act against children in conflict with the law by the police and executive authorities violates the both fundamental rights and international human rights of the children who are below 16 years of age.

This paper summarizes some of the experiences that can be drawn from this co-operation and describes the gradual formulation of a strategy on the implementation of humane responses to children in conflict with the law in this forum.

The numbers of juveniles in detention and the way they are treated are difficult to monitor in the Jammu and Kashmir. There is no proper system in place that keeps track of the numbers of children being illegally detained by the police. Therefore, it is currently impossible to assess how well or how poorly the system is working because of lack of proper checks and balances in the Union Territory of Jammu and Kashmir.

In 20<sup>th</sup> September 2019, the Supreme Court of India while hearing the petition regarding illegal detention of minors in Kashmir. The Apex Court passed an order and directed committee to file a report on the issue of alleged detention of children in Kashmir. The Committee has submitted a 52-page report. The committee in their report takes necessary steps to ensure that provisions of the law concerning juveniles are effectively implemented. The committee is also conducting "inspections of the Observation Homes to ensure that the juveniles lodged there are provided appropriate lodgment, bedding, clothes, food, recreation facility, health care etc".<sup>35</sup> There are varying reports which are shocking and are contradicting with the official statements of the government. There are allegations of around 13,000 boys have been detained since autonomous status was revoked in Jammu and Kashmir. It was also contended that the police authorities are demanding lofty amount from the family to release their children.<sup>36</sup>

1. The juvenile should not be tried in the normal Courts. As have been observed in union Territory, the child offenders are been detained with adults and tried in normal courts.

2. The government should monitor and check the facilities provided for juvenile convicts.
3. The Observation Homes should be established and made available for Juveniles and should be given protection provided under the Juvenile Justice System.
4. The controversial Public Safety Act should not be imposed in any case children below 16 years of age. The alleged officers shall be penalized for the imposing Public Safety Act on children of under age.
5. The offender must be produced before Juvenile Justice Board meant for them. Irrespective of the offence, the child offender must be granted bail and sent to juvenile home other than jail. The overall period for inquiry cannot exceed 4 months and during that period offender child must stay at home.
6. Adults and Juveniles should not mix in prison.
7. The Supreme Court should take suo moto action against the perpetrators of the crime.
8. The Honorable Court should also conduct independent inquiry on the allegations of the illegal detentions of the minors in Kashmir in a speedy manner.

*“Tardy, if not virtual non-implementation of juvenile justice laws and turning a deaf ear to the plight of voiceless if not silenced children of the nation”.*<sup>37</sup>

## References:

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<sup>2</sup> *Gudikanti Narasimhulu v. Public Prosecutor*, AIR 1978 SC 430.

<sup>3</sup> Available at <https://thewire.in/rights/kashmir-turka-wangam-detention> (Accessed on 27-11-2019)

<sup>4</sup> Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Act, Section 2(m) and (n).

<sup>5</sup> Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Act 2013, Section 17(1).

<sup>6</sup> Eric L Jensen and Jørgen Jepsen (ed.) *Juvenile Law Violators, Human Rights, And The Development Of New Juvenile Justice Systems* 216 (Hart Publishing, Oxford and Portland, Oregon 2006).

<sup>7</sup> *Id.*, 223.

<sup>8</sup> Healy and Bronner, *A Delinquent & Criminals: Their making and unmaking* 179 (New York : Macmillan, 1926).

<sup>9</sup> Available at <https://www.livemint.com/news/india/144-minors-arrested-in-j-k-since-the-abrogation-of-the-provisions-of-article-370-11570021960865.html> (Accessed on 29-11-2019).

<sup>10</sup> Available at <https://thelogicalindian.com/news/fresh-report-illegal-detention-children/> (30-11-19)

<sup>11</sup> SC No. 114/2013

<sup>12</sup> I.L.R. (1972) Gujarat 326.

<sup>13</sup> 2010 (2) RCR (Criminal) 773.

<sup>14</sup> AIR 1977 (SC) 1822.

<sup>15</sup> AIR 1986SC 1773.

<sup>16</sup> (2011) 9 SCC 801

<sup>17</sup> (2011) 5 SCC 1.

<sup>18</sup> Available at <http://www.dailyexcelsior.com/jk-lacks-facilities-handle-juvenile-law-offenders-dgp/> (10-10-2019)

<sup>19</sup> Section 4 of Public Safety Act, 1978 defines protected areas.

<sup>20</sup> Available at <https://indianexpress.com/article/india/kin-of-2-minors-challenge-psa-order-in-jammu-and-kashmir-hc-6042807/> (Accessed on 29-11-19).

<sup>21</sup> *“The detaining authority need not even inform the detained individual as to the reason for the action, if it decides that it goes against public interest.”*

<sup>22</sup>Section 6 (1) of Public Safety Act, Power to prohibit circulation within the State or entry into the State of certain documents.

<sup>23</sup>Section 13 (1) of Public Safety Act.

<sup>24</sup>*Ibid* clause (2).

<sup>25</sup> Available at <https://thewire.in/rights/kashmir-minors-2>(Accessed on 29-11-19).

<sup>26</sup>Section 18 (1) of Public Safety Act.

<sup>27</sup>Section 22 of the PSA prohibits any ‘criminal, civil or any other legal proceedings against any person for anything done or intended to be done in good faith in pursuance of the provisions of the Act.’ A Lawless Law: Detentions under the J&K Public Safety Act (London: Amnesty International, 2011).

<sup>28</sup>Section 8 clause (3) sub clause (f) of PSA bars detention of any person under the age of 18 years. (Amendment, 2012).

<sup>29</sup> Available at <https://www.thequint.com/voices/opinion/public-safety-act-being-misused-against-juveniles-in-jammu-and-kashmir> (Accessed on 18-11-18).

<sup>30</sup> Available at <https://www.indiatoday.in/india/story/children-among-minors-detained-kashmir-article-370-abrogation-reports-1605322-2019-10-01> (Accessed on 29-11-19).

<sup>31</sup> “*All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children*”.

<sup>32</sup> “*Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law*”.

<sup>33</sup> *Maneka Gandhi v. U.O.I* (1978) 1 SCC 248.

<sup>34</sup> Article 9(1) of the ICCPR reads: “*Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*”

<sup>35</sup> Available at <https://www.livemint.com/> (Accessed on 29-11-19).

<sup>36</sup> Available at <https://www.telegraph.co.uk/news/2019/09/25/young-boys-tortured-kashmir-clampdown-new-figures-show-13000/> (Accessed on 29-11-19)