

URGENT ACTION

CHILD FREED FROM JAIL IN JAMMU AND KASHMIR

Fourteen-year old Faizan Rafiq Hakeem, who was detained without charge or trial by the Jammu & Kashmir police, was freed from Kathua jail on 5 April.

Faizan Rafiq Hakeem was arrested on 7 February outside his house in Anantnag, Jammu & Kashmir. He is alleged to have been part of a large crowd of protestors that pelted police and security forces with stones during protests against the state in four incidents in July 2009, June 2010, July 2010 and October 2010. He received two charges for rioting and other offences for his involvement in the incidents and was granted bail by a magistrate on February 12 for one of the charges and on February 23 for the second. However, the police decided to hold him in administrative detention – without charge or trial – under the Jammu & Kashmir Public Safety Act (PSA), a law that allows detention of persons for up to two years without any judicial review of the allegations against them.

When Faizan was charged, the police originally claimed that his age was 27, but his family showed Amnesty International a certificate provided by his school that records his date of birth as 18 May 1996 – making him less than 15 when he was arrested. Amnesty International verified the date of birth in the original records maintained in the school register. On 28 March, the state police announced that age-tests conducted in the Jammu Government Medical College showed Faizan's age as between 17 and 18 years. In the meantime, on 25 February, Faizan was moved to Kathua Jail – 300 km away from his home – where he spent the next 40 days.

Following the Urgent Action issued on 31 March demanding his release, Amnesty International welcomes the Jammu & Kashmir government's decision to release him. Faizan's father, Rafiq Ahmad, thanked the organization for taking up his case.

Amnesty International reiterates its demands that the Jammu & Kashmir authorities repeal the PSA and end the system of administrative detention, releasing all detainees or charging those suspected of committing criminal acts with recognized offences and trying them fairly in a court of law; in particular, those below age 18, should be freed or held only on charges of a recognizably criminal offence and be given fair trials in accordance with Article 40(2) of the UN Convention on the Rights of the Child.

Many thanks to those who sent appeals. No further action is required from the UA network.

This is the first update of UA 93/11. Further information: <http://www.amnesty.org/en/library/info/ASA20/013/2011/en>



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ADDITIONAL INFORMATION

At least 322 people are reported to have been detained without trial under the provisions of the Public Safety Act in Jammu & Kashmir from January to September 2010 alone. A number of them, reportedly including children, have been detained on similar grounds of stone pelting and rioting during various protests against the Indian government throughout the summer of 2010. The Chief Minister has claimed that no minors are being detained in the state, but lawyers point out that the state Juvenile Justice Act 1987 defines a boy above the age of 16 as an adult, thereby facilitating their detention under the PSA. On the contrary, the Indian Juvenile Justice (Care and Protection of Children) Act 2000 operating in the rest of the country gives the age of majority as 18 in line with the UN Convention on the Rights of the Child (CRC). When considering India's second periodic report under the CRC, the Committee on the Rights of the Child specifically recommended the application of the updated national law to the state of Jammu and Kashmir.

Further information on UA: 93/11 Index: ASA 20/014/2011 Issue Date: 05 April 2011

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