

April 20, 2018

Ms. Victoria Tauli-Corpuz  
Special Rapporteur on the rights of indigenous peoples  
c/o OHCHR-UNOG  
Office of the High Commissioner for Human Rights  
Palais Wilson, 1211 Geneva 10, Switzerland

Subject: Request for Intervention for Justice, fair trial to the 8 year old brutally raped and murdered in India

Dear Ms. Victoria Tauli-Corpuz

We are writing to you to bring to your kind attention the horrifying and growing incidences of sexual violence and extreme brutality being inflicted on girls in different parts of India (the country) within a span of few days. Here we are specifically placing before you the case of an unimaginably cruel and brutal rape and murder of an 8 year old girl child from an Indigenous community in Kathua village, of Jammu and Kashmir State, India requesting your intervention to protect the rights of these vulnerable communities.

The following are the facts of the case gathered from the data available from various sources from the ground, from the Legal Counsel, activists, and media.

1. Asifa, 8 years old, a Muslim child, belonged to the Bakarwals, a nomadic tribal community, which herd goats, sheep and horses. They spend the winter months in the plains of Jammu and migrate to highland pastures to graze their animals.
2. On 10 January 2018, while grazing the horses in the Rasana village, the child was kidnapped, held captive in Hindu temple, heavily and repeatedly drugged and gang-raped by several men for 7 days and brutally battered to death. There were electric shocks in her hands, she was strangled and stoned twice on her head to make sure she is dead.<sup>i</sup> Later her body was dumped on a street and was found on 17 January 2018. The Victim's mother told Aljazeera, that there were scars on her cheeks, her lips had turned black and her eyes had bulged out. It was horrific. She had faced a lot of barbarity.<sup>ii</sup>
3. Those accused and arrested include a retired government revenue official, his nephew, the friend of his nephew, police inspector, head constable, and two other special police officers. They all belong to a Hindu community. The main accused is ex-revenue officer. The little girl suffered unspeakable violence in the hands of these men.
4. According to Advocate Deepika Singh Rajawat, the Legal Counsel for the victim, there were all out efforts to conceal the crime by the influential. There was delay in filing First Information Report (FIR). The local Police station in Hiranagar, which initially investigated the case, destroyed crucial evidence like the child's blood-soaked clothes were having been washed before they were sent to a forensic laboratory. There was even a concerted effort on the part of the local community to mobilize partisan support from political and legal forces to scuttle the rule of law. It is a case where different arms of the government and political groups colluded to subvert the investigation.

5. The Crime Branch's investigations show that the atrocities against the 8-year-old were meant to strike fear among the Nomads (Bakarwals), who count for about less than 8 percent of the population in and around Jammu, and drive them out of the area. The Nomadic community has been demanding for the implementation of the Forest Rights Act in Jammu and Kashmir, which would give them rights to use forest land irked the majority community. Article 370 of Indian Constitution, gives the State of Jammu and Kashmir the right to clear or reject central laws to block the implementation of the Forest Act. In all this the innocent child became the soft target. What is more shocking is that, after the horrendous murder the entire village colluded to disallow the child's burial in a small plot of land owned by her father. The Hindus didn't want a graveyard to come up in Rasana village. Her body had to be buried several kilometers away deep in the forest.<sup>iii</sup>
6. The deliberate silence in the media in the first two months by those in authority and the projection of them as persons committed to gender justice is particularly disturbing and politically opportunistic. The leaders of the Bar Association obstructed the process of justice, by threatening the woman lawyer in representing the family and preventing of the filing of the charge sheet.
7. Some lawyers belonging to an organisation, Hindu Ekta Manch, took protest marches to oppose the arrests of the accused. The legal Counsel Advocate Deepika Singh Rajawat has faced threats for representing this case, even from legal fraternity. According to her, testimony, the evidence had been destroyed.<sup>iv</sup> A writ petition was filed in February by the girl's family before the Jammu wing of the High Court to ensure a fair investigation. It was only after the writ petition was filed in the High Court, some damage control was done with the High Court asking for the reports and monitoring the case. At every hearing, the Crime Branch submitted a status report of its investigations and based on the available evidence, the High Court ordered arrest of the accused. But despite the court-monitored probe, lawyers and some political party leaders opposed it ardently. Advocate Deepika also says that the charge sheet filed in the Court is satisfactory and the trial must begin, instead of transferring the investigation to the Central Bureau of Investigation (CBI).<sup>v</sup> She strongly advocates that only taking the trial process out of the State of Jammu and Kashmir, the fair trial is possible; and state protection be provided for the victim's family, tribal activists who play important link between the victim's parents and legal counsel, as well as for the legal counsel.<sup>vi</sup>

Based on the information above on this 8-year-old's ghastly death and the worst possible end for a young child, we appeal to you and request your interventions in the following:

1. A fair trial, gathering all the evidence as possible including circumstantial evidence to ensure that the perpetrators of both these unconscionable brutalities be brought to justice without any further delay.
2. Protection for the victim's family, legal Counsel and activists and also trial outside the State of Jammu and Kashmir
3. Protection of land rights and territories of the Indigenous communities.
4. Call the government of India to accountability on Convention on the Rights of the Child. (CRC)

Thank you for your kind attention.

## References:

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- <sup>i</sup> <https://www.youtube.com/watch?v=j13jNwZGzOI> (quint reading)
- <sup>ii</sup> <https://www.aljazeera.com/indepth/features/india-asifa-rape-killing-girl-family-accused-180416070659470.html>
- <sup>iii</sup> <https://www.ndtv.com/blog/an-eight-year-old-in-jammu-betrayed-over-and-over-1836718>
- <sup>iv</sup> <https://www.youtube.com/watch?v=rSpnThFZ1js>
- <sup>v</sup> [https://www.youtube.com/watch?v=x-L91Czvv8g&feature=player\\_embedded](https://www.youtube.com/watch?v=x-L91Czvv8g&feature=player_embedded)
- <sup>vi</sup> <https://youtu.be/MaBP31QmThY>