

INDIA

@Analysis of the Government of India's response to Amnesty International's report on torture and deaths in custody in Jammu and Kashmir

I. Introduction

As of 17 February 1995, the Government of India had provided Amnesty International with responses to 519¹ of the 706 cases listed in the report India: Torture and deaths in custody in Jammu and Kashmir, published on 31 January 1995.

Amnesty International appreciates that the government has provided this information so promptly. However, the government's response is evasive and misleading. Complacently, the government refuses to recognize that there is an urgent need to take decisive action to put an end to the appalling human rights violations in Jammu and Kashmir. The information provided by the Government of India on specific cases lacks any substantial evidence to support its dismissal of many of the grave allegations of torture leading in hundreds of cases to death which the Amnesty International report describes in great detail and which continue to be reported. Amnesty International entirely agrees with the government that "Generalisations cannot be a substitute for facts". But this is precisely what the government has done to shirk its responsibilities to establish the truth about the serious allegations of human rights violations in the state by ordering credible investigations: a prerequisite for effective action to stop them and provide redress to the victims. The government shows no willingness to order prompt, independent and impartial investigations into allegations of torture and deaths in custody, to establish an independent Commission to protect detainees or to ensure that those found responsible for them are promptly brought to justice as Amnesty International had recommended.

The government also continues to refuse to invite the two UN Special Rapporteurs on extrajudicial, summary and arbitrary executions and on torture to visit the state and to deny international human rights organizations like Amnesty International access to the state. Nor is there any recognition of the need to drastically overhaul Indian laws and practices in the state as the government should do in order to abide by its international obligations to enforce

¹ The government has stated that it has responded to 525 out of the 706 allegations of deaths in custody listed in Amnesty International's report. However, six of the cases were duplicated in error.

and protect human rights, even in a difficult situation like that prevailing in Jammu and Kashmir.

The government has dismissed over half of the allegations of custodial deaths to which it has responded – 273 out of 519 – by claiming that they were "militants killed in encounters and crossfiring" or "non-militant persons caught up in crossfiring". In 81 other cases, the government has also apparently dismissed the allegations by saying that "No reports [were] lodged in concerned Police Station". The government said that a further 32 cases of alleged custodial deaths had been closed as "untraced/not substantiated" after an investigation, the nature of which was not specified. In 14 other cases the death of the alleged victim was attributed to sickness or an accident, without the government providing any medical or other evidence to substantiate its claims.

However, the government indicated that there was *prima facie* evidence of human rights violations in 85 other cases which were said to be "under police investigation" or the subject of a "Magisterial Inquiry under section 176 CrPC". In only eight cases were charges said to have been produced in court, but the government did not say whether any of the alleged perpetrators had been brought to justice.

In dismissing hundreds of cases of deaths in custody listed in the Amnesty International report by falsely attributing them to "encounter killings" or other causes without any supporting evidence, the government demonstrates once more that it aims to cover up the vast majority of the numerous crimes committed by its security forces in the state, effectively condoning them. This reinforces the pattern of cover-up that Amnesty International described in its report (page 35). Leading newspapers in the Kashmir valley have made similar disturbing observations about the government's tendency to hide the crimes committed by its security forces rather than to act decisively to establish the truth. Commenting on the recent allegations that a young man (Shah Jahan) was allegedly tortured to death in custody, The Kashmir Times, 24 December 1994, wrote:

"Invariably the government denies such allegations though such denials lack credibility. In a situation like the one prevailing in Kashmir an element of exaggeration in the charge of rights abuses cannot be ruled out. The right course for the government is to hold proper inquiries into all such allegations of human rights violations through an independent and impartial agency. What is being done is the departmental inquiry followed by sketchy press notes denying the allegations. These pressnotes fail to convince anyone about such denials. For these do not mention as to who conducted the inquiry, how the evidence was recorded and in what manner the allegations have been proved wrong."

In many cases there is compelling evidence that individuals whom the government claims have been killed in "encounters" were in fact arrested and tortured. In 51 cases which the government claims are "encounter" killings, Amnesty International has witness statements that

the individuals were arrested by the security forces. There were eyewitnesses to the arrest of Tabasum Qureshi (Case 216, Appendix I), a fact which the government denies. However, his arrest and death in custody was reported in India Today, Srinagar Flash and the Kashmir Times. Srinagar Flash quoted an eyewitness as stating "only some people were picked up during the identification parade and one among them was Tabasum Qureshi". It went on to report:

"The next day news spread that Tabasum Qureshi is no more. People and relatives rushed to the Police Control Room to confirm the news, where it was learnt that Tabasum has been killed during custody... The torture marks and bullet injuries were quite visible on the dead body of Tabasum Qureshi".

In a similar denial of such allegations, the government claimed that Abdul Hamid Ganjee (Case 263, Appendix II) was a "militant" who died in an "encounter" with security forces. However, Amnesty International has been told that the victim was a nine-year-old boy.

The government has also wrongly claimed that prompt inquiries are carried out and that "appropriate action [is] taken" whenever allegations of custodial deaths are brought to the notice of the concerned authorities. This is not so. In 85 cases, the government has said that Amnesty International's allegations are being investigated by the police, or are the subject of magisterial inquiries. However, this is only a small number of the over 700 allegations of custodial deaths recorded by Amnesty International. Moreover, such investigations are clearly not independent and impartial. A former High Court judge in the state has told Amnesty International that people have no faith in magisterial inquiries because they are not perceived as independent and impartial and because the findings are either published only after many years or not at all. Amnesty International is also concerned that over half of the investigations by the police have still not been completed more than two years after the death of the alleged victims. The deaths of Shamim Ahmed Shah and Mohammad Amin Kathwari (Case 402 & 403, Appendix I) have been under police investigation for more than four years according to the government's response, despite compelling medical evidence of torture contained in post-mortem reports.

Charges have only been brought against the security forces in eight cases. This confirms Amnesty International's conclusion in its report that no members of the security forces have been brought to justice for torturing and killing people in custody. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, in his report to the 51st Commission on Human Rights in Geneva in February 1995, has also expressed concern about this state of affairs:

² Srinagar Flash, 24-30 November 1992

*"The Special Rapporteur notes with concern that, while in most cases investigations are said to be initiated, reports brought to his attention suggest that such proceedings virtually never appear to conclude with a judgement convicting the security forces personnel involved. The length of the investigative procedures is also worrying: in a number of cases, inquiries opened more than two years ago are still said to be in progress"*³

The information provided by the government about the charges brought against officials who are being prosecuted is totally inadequate. There is not even an indication of the type of charges that have been brought against the security forces or why, in a number of cases, the government found them to be "unsubstantiated". Examples are: "A case stands as registered in the concerned police station and the challan of the case was produced in the court of Law against the concerned security force personnel. It is under trial" (response to Javid Ahmad Sheikh, Case 207, Appendix I) and "A case... has been closed as challaned against the security forces (response to Abdul Rashid Shah, Case 73, Appendix I). The meaning of this is entirely unclear. Such responses fail to demonstrate a serious commitment on the part of the government to ensure that members of the security forces are properly charged for the grave crimes they allegedly committed.

In some cases, the government has given contradictory responses. It has closed investigations of cases as "untraced" even though the local police reportedly found that the victim had died in custody. An example is Abdul Ahad Sheikh (Case 65, Appendix I). Amnesty International has copies of documents which record that a First Information Report was registered under section 302 RPC (murder) following his death and that the case was investigated by the Superintendent of Police, Kupwara. He reportedly found that Abdul Ahad Sheikh was killed in the custody of army personnel. The Deputy Commissioner, Kupwara, subsequently recommended that ex-gratia relief be awarded to his next of kin. However, the government has now informed Amnesty International that the case "has been closed as untraced".

The government has even contradicted previous statements made by its own officials about specific cases in order to deny knowledge of a death in custody. There were eyewitnesses to the arrest of Abdul Hamid Teli (Case 96, Appendix I) on 8 July 1993. The army admitted arresting him but claimed that he died the same evening while being "shifted for specialised treatment". An official spokesman in 1993 said that investigations had found that he was arrested but "fell ill". However, in its response to Amnesty International of February 1995, the government has now denied arresting him and stated that he was a

³ Report of the Special Rapporteur on extrajudicial, summary and arbitrary executions, E/CN.4/1995/61, paragraph 170

militant and that "some arms and ammunitions were recovered from the possession of other arrested militants".

The government's claims that it takes investigations into alleged breaches of human rights seriously also stand contradicted by the fact that no substantive investigations are known to have been ordered in over 40 cases listed by Amnesty International in which First Information Reports or writ petitions have reportedly been filed. For example, in August 1992 the People's Union for Civil Liberties filed a petition in the Jammu and Kashmir High Court about the death in custody of Mushtaq Ahmad Shora (Case 361, Appendix I). According to hospital records he had died as a result of kidney damage after torture in March 1992. In response to the petition, the High Court judge reportedly gave a senior government advocate four weeks to object to the petition. But the outcome of the legal proceedings is not known. Responding to Amnesty International, the government simply dismissed these allegations saying "inquiries conducted in the matter have revealed that no such report has been lodged in the concerned police station, and allegations are not substantiated". In view of the medical and judicial records, such a response is not credible.

In many more cases, the alleged custodial deaths were reported in the local or national press, but the government has failed to investigate them. The arrest and subsequent transfer of Mohammad Yusuf Sofi (Case 300, Appendix I) to an interrogation centre -- on 2 September 1992 -- was reported in the Times of India. A post-mortem reportedly showed the cause of death as injuries inflicted during torture. However, the government has failed to investigate his reported death in custody from torture and has informed Amnesty International that he died in "cross-fire".

Many of the responses provided by the government appear to have completely ignored substantive information on the case provided by Amnesty International in its report. The post-mortem report of Fayaz Ahmad Magloo (Case 39, Appendix I) who died in April 1994 reportedly found that he had been burned with heated objects and that he had been subjected to electric shock treatment. Amnesty International also has information that local police registered a case against the BSF personnel about his death. However, disregarding this information and the medical report, the government, admitting that Fayaz Ahmad Magloo was indeed arrested, simply claimed that during a search operation to recover weapons "The security forces returned the fire. Fayaz Ahmed Mangloo tried to escape taking advantage of the cross firing but he was killed during search of the area".

Of great concern to Amnesty International is the fact that the government's response remains entirely silent on the charge made in the Amnesty International report that the government has issued secret and illegal orders to the police not to register complaints of human rights violations against the security forces in First Information Reports (pages 52-53 of the report). It must therefore be presumed that such illegal orders, aimed at shielding the perpetrators of human rights violations from being brought to justice, have indeed been issued.

This confirms Amnesty International's conclusion in its report that it is official policy to obstruct available legal remedies in Jammu and Kashmir.

Reports of grave human rights violations in Jammu and Kashmir continue to reach Amnesty International nearly every day. At the time of writing, Nazir Ahmed Sheikh from Chak Yama near Handwara was battling for his life in Srinagar's Bone and Joint Hospital. His right hand was burnt, his legs were broken apparently during torture by the army. His feet are to be amputated because he has developed gangrene. Yet the government fails to act to stop such appalling treatment. With two possible exceptions the government shows no willingness to implement the eight detailed recommendations for the prevention of torture and deaths in custody which Amnesty International is resubmitting to the government for urgent consideration.

II. Amnesty International's comments on specific observations made in Torture and deaths in custody in Jammu and Kashmir: Response of Government of India to Amnesty International's report on the subject dated January, 1995.

The government's response was received on 14 February 1995. Amnesty International's comments are presented in paragraph numbers corresponding to those in the government's response

The nature of Amnesty International's concern about human rights in Jammu and Kashmir is part of its global concern for human rights protection

1. Amnesty International produces reports on all countries where there are substantive human rights concerns. This year, Amnesty International has published a series of new reports including on the death penalty in the United States of America, gross human rights violations in Sudan and torture, deaths in custody, extrajudicial executions and "disappearances" in Pakistan. Human rights have been violated persistently on a massive scale during the last four years in Jammu and Kashmir where, according to a Jammu and Kashmir High Court judge, the security forces and the administration have displayed a total disregard for the rule of law. The present report, India: Torture and deaths in custody in Jammu and Kashmir, is written for those genuinely interested in protecting human rights in India and is not against India; it is addressed to a government which has repeatedly stressed its commitment to protect human rights, including in Jammu and Kashmir but has failed to put it into practice in the state. India has reiterated that commitment most recently at the current – 51st – session of the United Nations Commission on Human Rights, held in Geneva.

The report is also written for the numerous victims of grave human rights violations in the state in an effort to assist them and the many Indian citizens who wish to see a far better measure of human rights protection in the state than has been the case up until now. They

have made courageous efforts to achieve that. In publishing the report, Amnesty International hopes to stimulate the debate in India about ways and means to bring a halt to the pattern of grave human rights violations in the state which has been ignored by far too many people inside and outside India for far too long.

The advance notice given by Amnesty International to the government about the contents of the report

2. Contrary to what the government suggests, the two lists of reported deaths in custody appearing in Appendix I and II of the report, amounting to 706 cases, were not received by the Government of India on 28 December 1994, but two weeks earlier. A letter conveying the lists, dated 15 December 1994, was delivered by hand to the Indian High Commission in London on that date. This was done in order to ensure that the lists should promptly reach the Indian High Commission in London which the Indian government has designated as the official channel for all communications between the Government of India and Amnesty International.

Nor is it true that the text of the report itself, sent on 9 January 1995 to the Prime Minister and the Home Secretary, was only received by the government on 25 January 1995, the date by which Amnesty International had requested a response to the recommendations listed in the report. In fact, the text of the report had already been sent by First Class mail on 9 January 1995 to the Indian High Commission in London to be received the following day, 10 January 1995. Indeed, when an Amnesty International delegation met the Deputy High Commissioner of India in London on 24 January 1995 to discuss various matters of concern including those raised in the Amnesty International report, the Deputy High Commissioner confirmed that he had received the report but "had not had time to read it". The suggestion made by the government that "It is as if Amnesty had made it sure that the Government of India's response to this report was not received by the deadline fixed by it" is therefore without any foundation.

It is also not true that Amnesty International released the two lists of 706 alleged custodial deaths to the media on 13 January 1995, "thereby denying the members of the media the opportunity of being informed of both sides of the story" as claimed by the government. Amnesty International does not know the reason for the government's mistaken belief. The two lists were only made public on 31 January 1995 as Appendices I and II to Amnesty International's report, India: Torture and deaths in custody in Jammu and Kashmir, as the media advisory statement which accompanied the report and which was embargoed for that date clearly shows. Indeed, all the Indian media (who were sent the report to be received shortly before the embargo date) strictly observed the embargo of the report including its Appendices.

The government raised the question why Amnesty International did not consider delaying the publication of the report until it had received the response from the

government. The reasons for that are clearly stated in Amnesty International's letter to the Prime Minister of India of 9 January 1995 presenting the text of the report:

"These allegations are not new. In view of the fact that we have raised the substance of these issues with the Indian Government on a number of previous occasions, and have tried to reflect the government's reaction thereto in this document, we do not anticipate changing the text before making it public. However, we would appreciate it if the government were to respond by informing us whether it intends to hold independent and impartial investigations into the specific cases described in the report and its Appendices. In particular, we hope to receive the government's views as to whether it will take measures to prevent these human rights violations, and whether it will consider implementing the eight detailed recommendations for the prevention of torture and deaths in custody and for increased cooperation with national and international bodies - including the two United Nations Special Rapporteurs - listed in the report. Amnesty International is also willing to make public comments or concerns which the Indian Government may have on facts presented in the report.

The report will be made public by the end of the month and we would appreciate receiving the government's response by 25 January 1995. In publishing the document, we hope to contribute constructively to the debate about the effective protection of human rights in Jammu and Kashmir, a debate which, we know, the Indian Government wishes to be open and transparent."

Sadly, the Indian Government's response appears to indicate that it is not willing to consider implementing virtually any of the eight detailed recommendations for the prevention of grave and persistent human rights violations in Jammu and Kashmir which Amnesty International asked the government particularly to respond to.

3. Instead, the Indian Government once more maintains, as it has done on previous occasions, that India's Constitution, its fiercely independent judiciary, its parliamentary democratic system, its free press, as well as other Indian institutions constitute a "powerful legal framework and watchdog mechanism for the protection of civil liberties and human rights in their widest forms".

Without questioning the value of these institutions and the very important role they play in many instances where the protection of human rights is at stake, these institutional mechanisms have, sadly, been totally inadequate to deal with the grave human rights situation in the state of Jammu and Kashmir. Amnesty International wishes once more to draw attention to the manner in which a Jammu and Kashmir High Court judge, ruling on a public interest petition alleging widespread torture and arbitrary detention of prisoners in the state, described the prevailing situation as recently as October 1994:

"The Police agencies and the administration appear to have thrown to winds the rule of law. All sorts of illegalities are being committed by them and even criminals and terrorists may be ashamed of them. The High Court is replete with such complaints and many of which stand substantiated. Hundreds of cases have been brought to my notice where the detenues are in illegal detention. Despite the strong directions of this court they are not being released... Scores of cases are pending wherein the detenues have been allegedly done-away with after arrest. For years the detenues are languishing in jails\Sub-Jails and interrogation centres without any legal authority. In short, there is total break down of law and order machinery... even this court has been made helpless by the so-called law-enforcing agencies. Nobody bothers to obey orders of this court..."

4. Speaking about the activities of armed opposition groups in the state, the Indian Government mistakenly states that Amnesty International has failed to put "the whole thing in correct perspective", and that "Amnesty International has simply documented some cases of human rights abuse by these terrorists". This is not true.

Amnesty International's report devotes one entire Chapter (Chapter V) to describing, in great detail, the numerous human rights abuses committed by these armed opposition groups in the state, which it condemns in the strongest terms. This is what the Amnesty International report says:

"Amnesty International condemns the deliberate and arbitrary killings, torture and hostage-taking by armed opposition groups in Jammu and Kashmir. There is no moral or legal justification for the arbitrary or indiscriminate killing of civilians. Many of the victims are selected for peacefully expressing their conscientiously held views, because of the political views of their relatives, or for belonging to a particular religious community. Hostage-taking does not further, in any way, the protection of human rights. Such grave human rights abuses can never be condoned, either in time of peace or war."

But Amnesty International also states:

"However provocative, the grave abuses committed by armed separatist groups can never justify the security forces resorting to arbitrary detentions, torture, extrajudicial executions or "disappearances". Such practices are specifically prohibited in Indian law and clearly contravene international human rights standards which the Indian Government is bound to uphold. As this report shows, the government has failed to uphold the most important of these standards, those protecting the right to life and the right not to be tortured of Indian citizens."

Furthermore, the Indian Government states that "The complicity of a neighbouring country, in pursuit of her territorial ambitions... has been simply ignored" by Amnesty International. This is not so. We quote from the Amnesty International report:

"India has consistently claimed that Pakistan provides military support and training to secessionist groups, including the Hizbul Mujahideen. This group wants Kashmir to become part of Pakistan and has admitted to having training camps in Pakistan. By 1988, Pakistan's Inter Services Intelligence (ISI) Directorate was reported to have established training camps in Azad Kashmir. Military support for militant groups has undoubtedly come from across the border.

The present degree of official involvement remains disputed, with recent reports finding further compelling evidence that elements of the Government of Pakistan have sponsored a significant flow of arms to Kashmiri militants⁴. Military officials and militants in Pakistan-held Kashmir told the news agency Reuters in August 1993 that groups wanting Kashmir to become part of Pakistan, like the Hizbul Mujahideen, had received direct military assistance from Pakistan until the beginning of the year. In May 1994 Pakistani military sources reportedly admitted that arming, training and providing logistical support to these groups had been resumed, the efforts being coordinated by the ISI and its field intelligence unit⁵. The Prime Minister of Pakistan-held Kashmir, Sardar Abdul Qayyum Khan, urged Islamic states in May 1993 to provide money and arms to those fighting Indian rule on the other side of the border, and reportedly admitted in May 1994 that training of Kashmiri militants on his territory may take place⁶. Pakistan, however, continues to deny that it provides military aid."

⁴ India: Arms and Abuses in Indian Punjab and Kashmir", Human Rights Watch Arms Project, September 1994, Vol. 6, No.10, which found that "Pakistani support for militants - direct support in the form of arms shipments and training, and indirect support in the form of a green light to purchase arms originally destined for Afghanistan - has greatly facilitated abuses" (page 5). An earlier study also found that: "The majority of the weapons in the possession of the militants point to the Afghan pipeline, either from the bazaars of the NWFP or the stocks controlled by the ISI [Pakistan's Inter-Services Intelligence]. The fact that an AK47 fetches Rs. 27,000 (c.\$870) - somewhat lower than the going price in Dara - suggests that commercial gain is minimal or non-existent, which points both to the number of weapons which must have reached the region and the likely involvement of the ISI." The Diffusion of Small Arms and Light Weapons in Pakistan and Northern India, page 28, see under footnote 4.

⁵ The Guardian, 17 May 1994.

⁶ India Today, 15 May 1994.

Impunity

6. Amnesty International welcomes that the government acknowledges that some human rights violations, which it describes as "aberrations", take place from time to time in the state. Amnesty International also entirely agrees with the government that "What is important to see in this connection is whether the offenders are brought to book and adequately punished."

Unfortunately, this is not at all the case. Even after reviewing the detailed responses from the Indian Government to 519 cases raised by the organization, Amnesty International still does not know of a single individual belonging to the security forces who has been brought to justice for allegedly torturing and killing any of the over 700 Kashmiri men listed in the Appendices to Amnesty International's report: the government continues to refuse to disclose for which specific offence and incidents a handful of punishments have been imposed.

The government now maintains that 225 members of the security forces have been proceeded against (as of May 1994 that figure was officially stated to be 174). Statistics provided by the government show that no more than 17 of the 225 were given terms of imprisonment of 1 year or more; the rest were either given short prison sentences, or, in many cases, had unspecified departmental action taken against them. That, given the thousands of allegations of indiscriminate arrests, torture including rape, "disappearances", extrajudicial executions, and deaths in custody, is a grossly inadequate response to an alarming situation. As Amnesty International points out in its report (on page 12):

"Amnesty International welcomes the publication of this information. It shows that the government does not wish its security forces to remain entirely immune from prosecution for committing human rights violations. The few prosecutions that have taken place establish the important principle of accountability for human rights violations. However, unfortunately, they bear no relation whatsoever to the gravity and persistence of the numerous human rights violations that have been reported in Jammu and Kashmir during the last four years. Moreover, the government continues to refuse to provide any information about the type of offence for which the 174 [the official figure available at the time] punishments were imposed, the identity of the security forces involved, and the incidents to which the punishments relate. From other information provided by the government, it appears that at least half of the 15 terms of imprisonment of one year or more were imposed following convictions for rape. None of these punishments are known to have been imposed on any members of the security forces for torturing and killing hundreds of suspects in custody"

⁷ In the first case of its kind in the state known to Amnesty International, eight army officers were recently reported to have been arrested after the public protested against the death in army custody of Khazir

Similar concerns have been expressed by the UN Special Rapporteur on Torture in his latest report to the United Nations Commission on Human Rights:

*"... it is apparent that few incidents, in what is credibly alleged to be a widespread, if not endemic phenomenon, are prosecuted and even fewer lead to conviction of the perpetrators. It is also to be noted that very many cases that come to the attention of the Special Rapporteur are those that result in death, in other words, those where torture may have been applied with the most extreme results"*⁸

Mohammad Akhoun of Veeripora Soiteng on 14 December 1994 (The Times of India, 17 December 1994).

⁸ Report of the Special Rapporteur on torture, E/CN.4/1995/34, paragraph 379

Deaths in custody: illustration of the pattern in the case of Abdul Jabbar Mir

8. The government's comment on Abdul Jabbar Mir's case (pages 1-2 of the report) is most disappointing on two counts and illustrative of the government's response to many other cases documented by Amnesty International. The government did not deny the allegations but simply informed Amnesty International that the report that he was murdered is "presently being investigated by the Crime Branch, Srinagar". This illustrates the failure of the government to institute an independent and impartial investigation into the serious and well-documented allegations that he was tortured to death – allegations supported by the police themselves and even by a doctor examining his body. Moreover, it is disconcerting that investigations into allegations of such well-documented nature have still not been concluded more than two and a half years after the incident.

However, in another case, that of Masroof Sultan (pages 29-32 of the report) who survived brutal torture and three attempts by the BSF to kill him, and whom the BSF claimed was shot dead in an "exchange of fire", the government has now acknowledged that there is *prima facie* evidence that there was an attempt to murder him by 14 members of the BSF. Amnesty International welcomes the information that the government may proceed against the perpetrators in this case which Amnesty International had chosen in the report to illustrate the pattern of such attempted cover-ups (further details about the case are provided under 38).

Amnesty International's attempts to verify reports of torture and deaths in custody

9. The government alleges that Amnesty International has failed to verify the allegations presented in its report, including the fact that the numbers of human rights violations are rising.

The best way of verifying the allegations contained in the report is for independent bodies to investigate them on the spot. Indeed, the Indian Government's failure to permit Amnesty International to do so for the last four years has been an important factor in Amnesty International's decision to publish the grave allegations in its report. Denied that possibility, Amnesty International has cross-checked the reports to the best of its ability and only relied on sources from within India itself. It has deliberately excluded any sources that could possibly be regarded as politically motivated (see under 31).

Amnesty International is dismayed that the government has already dismissed many of the allegations in the report to which it has responded so far seeking, falsely, to attribute them to "encounters with the security forces" (claims made in over 200 out of 519 cases the government has so far responded to from among the 706 cases listed by Amnesty International).

This is precisely the pattern of systematic cover-up that Amnesty International describes in its report (page 35) where it says: Some of the government's claims of "encounter

killings" may indeed be true. There are shoot-outs between armed separatist groups and the security forces, especially in urban areas. However, security force officials have used this to cover up custodial killings by falsely attributing them to "encounters" or "cross-fire" with militants. The government makes these claims without providing any documentary or other evidence to substantiate its denials.

The government itself does not deny some of the false claims made by its security forces to cover up killings in custody. In 85 out of 519 cases, inquiries were being conducted by the police or a magistrate, indicating there was some *prima facie* evidence of custodial killings.

Amnesty International's charge that reports of torture and deaths in custody are rising

11. In response to Amnesty International's charge that torture is a daily routine for the vast majority of thousands of men who have been arrested in the state, the government admits that some custodial crimes have taken place, but maintains that these "are few and far between". Unfortunately, evidence from noted Indian sources points to the opposite conclusion.

The Times of India wrote on 12 March 1993 that during the preceding six months "custodial killings of both militants and others became almost a daily phenomenon". Before that, since 1991, H.N. Wanchoo, the well-known civil liberties activist from Jammu and Kashmir, regularly presented petitions to the High Court of Jammu and Kashmir requesting a judicial inquiry and a response from the government to allegations of scores of custodial killings by the security forces. During 1992 he persisted in bringing his petition to court, virtually every month, each time adding many new names. The government failed to respond to any of them, thus denying justice and any effective form of redress to the victims and their relatives. Since then, reports of such human rights violations have only continued to rise. On 24 December 1994, The Kashmir Times wrote:

"Notwithstanding the frequent official denials, the allegations of human rights abuses in the troubled Jammu and Kashmir continue unabated. In fact there has been an increase in the excesses committed by the security forces during their operations against the militancy in Kashmir... Unfortunately the agencies have not been made accountable for the blatant violations of human rights."

Numbers of killings

12. The government states that 10,032 people were killed during the last four years in the state during the secessionist campaign; the Amnesty International report puts the number at 17,000. Amnesty International's estimate is based on figures from police and hospital sources also quoted by international news agencies. It includes an estimate of the numbers of civilians killed which the government fails to mention in its breakdown of figures.

Numbers of detainees

13. The government points out that there is a great discrepancy between its own figure of people in custody in the state (3,638 on 31 December 1994), and the estimate of various civil liberties groups, some of which put the number of detainees in the state at around 20,000. That is true. However, the actual figure can only be credibly determined if there is established, as Amnesty International recommends, a central, up-to-date and accurate register accessible to interested parties of all those arrested in the state and the places where they are held, and if observers from appropriate independent humanitarian organizations (including international organizations) are to be allowed full and unhindered access to all places of detention in the state. This is not the case. Amnesty International welcomes in principle reports that the International Committee of the Red Cross may be permitted access to detainees held in the state.

The government's attitude towards human rights violations in Jammu and Kashmir: failure to effectively implement measures announced to improve human rights protection

14. Although Amnesty International welcomes reports that a sensitivity program for officials about the need to observe human rights in the state is being undertaken, and indeed has specifically welcomed these efforts in its report (page 7), there is mounting concern that longstanding directives, issued by the Minister of State for Home Affairs, that relatives should be informed within 24 hours of the arrest of their children, have not been implemented in the state. An editorial in The Kashmir Times of 26 November 1994 cited the findings of a two-member team headed by Justice Mufti Bahauddin Farooqi of the Basic Rights Protection Committee, that "there is no evidence of the direction having been followed to this day in Kashmir valley and other militancy-affected parts of the state". This observation illustrates the widespread concern about the lack of determination of the government to effectively implement measures to improve human rights protection.

The Government also dismisses as "hearsay" Amnesty International's observations that there is little awareness among the security forces that they should abide by the law or observe human rights standards. However, the observations by the Jammu and Kashmir High Court judge in October 1994 that "even this court has been made helpless by the so-called law-enforcing agencies. Nobody bothers to obey orders of this court...", quoted above under 3, can hardly be dismissed as hearsay.

Positive developments

16. Amnesty International welcomes in its report the fact that one independent inquiry has so far been ordered into charges of human rights violations in Jammu and Kashmir: the alleged extrajudicial killing of dozens of civilians by members of the BSF in Sopore in January 1993. Amnesty International acknowledged the difficulties in the inquiry proceedings, because of reports that witnesses had been threatened by armed opposition groups from testifying before the inquiry. Amnesty International regrets these attempts to intimidate witnesses, and hopes that they will nevertheless come forward to testify. It

welcomes the government's decision to proceed with the trial of BSF personnel found *prima facie* guilty by the BSF's Staff Court Inquiry and requests the government to ensure that prior to, during and after the trial, all necessary measures will be taken to protect the witnesses concerned.

17. Amnesty International also welcomes new information provided by the government that the trial against 14 BSF personnel for alleged extrajudicial executions in the town of Bijbehara has started and is in progress, and that the National Human Rights Commission is monitoring the proceedings. This is an important development and Amnesty International hopes to be informed by the government about the trial and its outcome.

Restricted powers of the National Human Rights Commission in respect of Jammu and Kashmir

18/19/20. This regards Amnesty international's observations that the powers of the National Human Rights Commission under Section 19 of the Protection of Human Rights Act, 1993, precludes any independent investigation by the National Human Rights Commission, and that the Commission can effectively do no more than function as "a postbox" of official views when it comes to allegations of human rights violations by the army and paramilitary forces.

Amnesty International stands by the views expressed in its report about the lack of effective powers of the Commission to deal with the human rights situation in the state and its concerns about the ill-considered views about human rights in the state reportedly expressed by the Commission's Chairman (page 8 of the report). Nothing in the government's response convinces Amnesty International that the organization is wrong in concluding that the effectiveness of the Commission's work in respect of Jammu and Kashmir is grossly impaired by the special Section 19 procedure. Amnesty International welcomes, however, the efforts made by the NHRC to exercise its very limited powers in the state as effectively as possible in respect of the alleged extrajudicial executions in Bijbehara.

Attempted cover-up

22. The government has denied that it has sought to cover up torture and deaths in custody rather than ensuring that effective, independent investigations are carried out and that the perpetrators are brought to justice and has provided details of magisterial inquiries, inquest proceedings and police investigations. Amnesty International's position is set out in the Introduction to this report.

The inadequacy of the state's human rights protection machinery

23. The government confirms that the "human rights cell" established by the government in the state has a most senior police official in charge of Intelligence as one of its members, and informs Amnesty International that it functions together with the Divisional Commissioner, a government official, and representatives of the Army, BSF, CRPF and Police. The

government informs Amnesty International that the cell "has been keeping a close watch on the human rights situation and looking into the allegations of human rights violations."

The composition of the cell, consisting entirely of government officials, underlines Amnesty International's concern expressed in the report that: "Not surprisingly, the human rights cell has found most of the allegations of human rights violations to be "false and misleading" and "inspired by militants". The cell is neither independent nor impartial. The name "human rights cell" is, in Amnesty International's view, a misnomer.

Attempted cover-up: providing false information

24. The case of Manzoor Ahmed Ganai is described on pages 10-11 of the report as an illustration of the government's attempts to deflect attention even from the most well-documented cases of torture resulting in the death of the victim. The government has attempted to cover up the allegations of Manzoor Ahmed Ganai's brutal torture by the army resulting, first, in the amputation of his feet and thereafter in his death, by providing false information.

In its response, the government has stated that Manzoor Ahmed Ganai was arrested on suspicion of being a militant and was released after questioning on 22 January 1993. The government also claims that he was medically examined on that day and that he "had no obvious injuries or signs of manhandling". Furthermore, the government claims that he signed a certificate that he was not subjected to "harassment" or "physical injury/torture" during questioning.

However, doctors examining his legs before his release from hospital and also an independent forensic pathologist who examined photographs of the injuries on his legs (reproduced in the Amnesty International report) stated that the injuries appeared to be consistent with the victim's testimony of torture while in army custody. Amnesty International has not seen any evidence of the signed certificate in which Manzoor Ahmed Ganai is said to have stated that he was not tortured, but knows of several cases in which detainees have been forced to sign such statements under threat of further torture.

The government then misleadingly suggests: "There was reasonable suspicion that Manzoor Ahmed Ganai was picked up by the militants after his release on 22 January, 1993, and was tortured." His relatives deny this possibility. They say that he was released five days later, on 27 January in a coma and was immediately taken to the Bone and Joint Hospital, Barzulla, Srinagar, where he died. Press articles (including the Kashmir Times of 8 February 1993) also reported his release on 27 January. Amnesty International is strengthened in its belief that the government's version is put out falsely as an afterthought to cover up his death as a result of army torture because in previous responses the government made no mention of this version of events. In a response to the two Urgent Actions put out by Amnesty International in March and May 1993 about Manzoor Ahmed Ganai, the government had

simply stated that it would try and ascertain details of the case. In the government's factsheet received by Amnesty International on 30 January 1995, the government stated that a case has been registered in the police station which is under investigation without ever referring to the allegation that he might have been tortured by militants.

The government has drawn attention to the fact that the complaint about Manzoor Ahmed Ganai's torture was launched over three months after his death saying that if there was any truth in the complaint then it would have been filed immediately. However, such a delay is not unreasonable on the part of family members who themselves can be expected to have had to overcome a justified fear of being subjected to harassment by the army for filing a complaint against them.

Amnesty International also wishes to point out that the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions do not impose a time limit on the requirement to institute a thorough, prompt and impartial investigation into all cases of suspected extra-legal executions, "including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances".

Amnesty International was informed by the government that the case registered by relatives in the police station alleging that Manzoor Ahmed Ganai was murdered "is under investigation". The organization is concerned that the investigation has not been completed more than one and a half years after Manzoor Ahmed Ganai's death.

The question of non-compliance with court orders

25. In response to Amnesty International's allegations that officials routinely flout court orders in cases where the protection of human rights is at stake, the government states that "there is no question of any disregard being shown to the judiciary, which is one of the pillars of democracy". However, Amnesty International wishes to draw attention to the Jammu and Kashmir High Court judge's apt observations, quoted under 3, which speak for themselves.

Furthermore, the information which the government has provided about Mushtaq Ahmad Shora (Case 361, Appendix I) who died in custody in March 1992, underlines Amnesty International's concern. In August 1992, the People's Union for Civil Liberties filed a petition in court about his death. Justice V.K. Gupta of the Jammu and Kashmir High Court gave the senior government advocate four weeks to file objections to the petition. But the orders of the judge were apparently not followed and nearly three years after his death, the judicial investigation had still not been completed. The government in its response, simply informed Amnesty International that no report has been lodged at a police station and that the "allegations are not substantiated".

Virtual impunity

26. Amnesty International's position on the government's denial of the organization's charge that the security forces in Jammu and Kashmir operate with virtual impunity, is given in the Introduction and under 6.

Unfortunately, the government continues to ignore that Section 7 of the Armed Forces (Jammu and Kashmir) Special Powers Act permits the security forces in the state to operate with virtual impunity, by prohibiting any legal action – except with the prior sanction of the central government – against members of the security forces "purporting" to exercise powers in good faith even when their actions constitute a violation of the right to life. However, Amnesty International is not alone in its concern about the impunity enjoyed by the security forces under these and other provisions of the Act which facilitate breaches of the right to life. A member of the UN Human Rights Committee has pointed out:

"Purported is the dangerous thing because anyone killing anybody can say 'Well I thought I was performing my functions'. It is a highly dangerous [word] when one is dealing with the right to life. I sincerely hope, Attorney General, that you will bring this to the attention of the government. True, there are disturbed areas but people also live in disturbed areas and not everyone causes disturbance in a disturbed area."

Amnesty International regrets that the Indian Government has still not fulfilled its obligation under the International Covenant on Civil and Political Rights to undertake a thorough review of these and other provisions in special laws in force in Jammu and Kashmir that contravene international standards, as members of the Human Rights Committee urged the government to do. Amnesty International sincerely hopes that such a review will now be undertaken as a matter of priority.

Reaction to the United Nations

27. Although it is true that the government has been regularly providing information to the two UN Special Rapporteurs on torture and on extrajudicial, summary and arbitrary executions, in most cases these have not been meaningful responses to the serious concerns which both UN Special rapporteurs have expressed about the human rights situation in India, notably in Jammu and Kashmir. The Special Rapporteur on extrajudicial, summary or arbitrary executions, in his latest report on India which is now before the 51st Session of the UN Human Rights Commission, expressed concern at:

"... the apparent contradiction between the information received from the Government regarding allegations transmitted to the authorities in 1992 and 1993, and

⁹ India: Examination of the Second Periodic Report by the Human Rights Committee, AI Index: ASA 20/05/93 March 1993, page 9.

*comments and observations provided by the sources of these allegations with regard to this information... the Special Rapporteur finds himself in a position where it is virtually impossible for him to determine which of the contradicting versions corresponds to reality*¹⁰

The report further states:

*"... the Special Rapporteur remains concerned about persistent allegations of violations of the right to life, particularly of deaths in custody as a consequence of torture or killings which, according to the authorities, occur in armed encounters. Such reports, which have been received consistently over the past three years, suggest the existence of patterns of violations of the right to life in certain areas of the country, without, however, there being any indication of systematic investigations into these patterns with a view to identifying their causes and adopting the necessary steps to bring them to a halt"*¹¹

28. Amnesty international welcomes the government's decision, recently announced in February 1995 at the 51st Session of the United Nations Commission on Human Rights, to invite the UN High Commissioner on Human Rights and the UN Special Rapporteur on Religious Intolerance to visit Jammu and Kashmir. However, for a meaningful and effective dialogue with UN experts with a specific mandate particularly relevant to the human rights situation in Jammu and Kashmir, the government should now respond to the requests repeatedly made by the above two Special Rapporteurs that they be invited to visit Jammu and Kashmir.

In his latest report, the Special Rapporteur on extrajudicial, summary or arbitrary executions states:

"In 1993, the Special Rapporteur had inquired whether the Government would consider inviting him to visit India. In November 1993, and again in February 1994, he met with representatives of the government to discuss the possibility of such a visit. He was informed then that the authorities preferred to await the first results of the work of the newly established National Human Rights Commission before considering a visit by the Special Rapporteur. However...

¹⁰ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions E/CN.4/1995/61, paragraph 172

¹¹ Report of the Special Rapporteur on extrajudicial, summary and arbitrary executions, E/CN.4/1995/61, paragraph 170

*the Special Rapporteur reiterated his interest in visiting India so as to be in a position to assess the situation on the basis of first-hand information*¹²

The Special Rapporteur on torture also commented that he continued to believe that "the situation would justify a visit by him"¹³.

Denial of access to human rights organizations

29. Amnesty International regrets that, despite the government's proclaimed policy of openness and transparency, the government has not changed its stand in refusing to allow international human rights organisations like Amnesty International to visit Jammu and Kashmir. The visits by tourists, foreign journalists, diplomats and parliamentarians, to which the government refers, have no doubt served to inform some of them about some aspects of the human rights situation in the state. However, any such visits can be no substitute for those by human rights experts who wish to verify detailed reports about numerous allegations of specific human rights violations that have been made and who could engage in a real and substantive dialogue with the government about effective ways and means to improve the grave situation in the state. Amnesty International hopes that such visits can take place soon.

Sources used in the Amnesty International report

31/32. The government suggests that Amnesty International relies on "questionable sources, who have vested interests" and suggests that the organization has provided wrong documentation leading to "misinformation". This is not true.

Amnesty International has refused to base its report on questionable sources. It has taken great care in selecting its sources and has specifically excluded any that may have "vested interests" (See 'sources' section of report - pages 18-19). It has based the entire report on sources from within India itself, including first hand accounts from victims, signed statement from eye-witnesses, legal affidavits before the Jammu and Kashmir High Court and orders by that court and medical reports as well as reports from the Indian including the Kashmiri press. The government cannot dismiss these out of hand as it appears to do. Moreover, Amnesty International has repeatedly been refused permission to verify the numerous reports of appalling human rights violations reported to it by obtaining first hand information on the spot.

The government even criticizes Amnesty International because it "seems to heavily rely on newspaper and media reports" from inside the state, which "are under tremendous intimidation from terrorists and often fall prey to their machinations".

¹² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/1995/61, paragraph 172

¹³ Report of the Special Rapporteur on torture, E/CN.4/1995/34, paragraph 380

Amnesty International is not unaware of the threats made against newspapers and journalists in Jammu and Kashmir by armed militant groups. Indeed Amnesty International has described and specifically condemned them in its report (page 58 of the report). Amnesty International has therefore not included in the 706 cases of alleged deaths in custody listed in the report those in which the government stated that alleged members of militant groups were reportedly killed in encounters and where the government denied reports that they were in fact killed in custody, unless there was some other corroborative evidence to the contrary. Moreover, if the reports in the Kashmiri press are as unreliable as the government suggests, then the way to rebut them is to promptly hold independent and impartial investigations into the allegations and ensure that the findings thereof are published in the Kashmiri press. This, to Amnesty International's knowledge, has not happened.

Torture

33. Amnesty International welcomes the government's stated intention of obtaining information about the allegations of torture described in Chapter II of its report. However, in order to be credible, the information should be obtained by an authoritative body: an impartial and independent agency such as an inquiry by a judicial body. If the allegations are found not to "have been substantiated", as the government informed Amnesty International in several cases, then the government should provide information about the type of inquiry carried out, the evidence presented before it, and substantiate the reasons for its conclusions. Otherwise the government's denials of the allegations have little credibility.

The government claims specifically that allegations of the torture of Shabir Ahmed Bandey have "not been substantiated". However, Amnesty International received information from an international human rights organization, the Federation Internationale des Ligues des Droits de l'homme, whose delegate reportedly visited Shabir Ahmed Bandey in hospital in September 1992, finding that he had been taken from Papa II Interrogation centre to Soura Medical Institute by his family. They claim that he had injuries of severe torture. Doctors were treating him for rhabdomyolysis which they explained was a condition caused by torture (see page 22 of the report). Amnesty International believes that an independent and impartial inquiry should be carried out to establish the veracity of the alleged torture.

Rape and sexual abuse

35. The information provided by the government about the alleged rape of nine women and girls in the village of Shopian in October 1992 is another example of the government failing to substantiate its denial of alleged human rights violations. The government claims that the army and a senior Superintendent of Police investigated allegations of rape by an army unit in Shopian and concluded, perhaps not surprisingly, due to the fact that they were investigating allegations against their own men, that they were "unreliable... and could not be sustained". They claim that these two "independent inquiries came to the same conclusion". This explanation is not acceptable. In Amnesty International's view, the medical evidence, the statements of witnesses and other circumstantial evidence are compelling and merit independent and serious investigation. Amnesty International does not believe that investigations carried out by members of the security forces into allegations of human rights violations against their own members, such as the army and the police, can ever be perceived as independent or impartial.

36. Equally disappointing is the government's response to the allegations of mass rape in the village of Kunan Poshpora in February 1991, which the government continues to call "a massive hoax". For example, the government states: "The Divisional Commissioner concluded that while the veracity of the complaint is highly doubtful it [is] still to be determined why such a complaint was made at all." However, the government continues to refuse to provide the evidence requested by Amnesty International for its dismissal.

In its letter of 5 August 1991 to the High Commissioner for India in London, Amnesty International asked for a copy of the Divisional Commissioner's report, but was never sent it. In the same letter, Amnesty International also requested to be given a copy of the report submitted by Dr Mohammad Yakub, the Block Medical Officer to the Chief Medical Officer, District Hospital, Kupwara, about the examination of 32 women from the village at the primary medical centre, Kralpora on 15 and 21 March as well as the report or medical records kept by the Medical officer attending 23 persons at a clinic on 24 February 1991. These reports could contain vital information to prove or disprove the allegations of rape by the women. The government's refusal to supply these data casts serious doubt on its denial that the women in Kunan Poshpora were raped by the army.

37. Amnesty International looks forward to receiving the outcome of investigations which the government says are being conducted into six allegations of rape mentioned on page 27 of the published report, if conducted by an independent and impartial body.

Deaths in custody

38. Amnesty International welcomes the information provided by the government that despite earlier claims by the BSF that Masroof Sultan was a "militant" who had been killed in an "exchange of fire", an inquiry conducted by the Crime Branch has now established that there is *prima facie* evidence against 14 members of the BSF of an attempt to murder him. Amnesty International's report describes the case of Masroof Sultan – who survived brutal torture and three attempts by the BSF to shoot him in custody – as an illustration of the type of torture used in Jammu and Kashmir and of the type of tactics used by officials to cover up custodial killings.

Amnesty International was informed that a staff court inquiry conducted by the BSF found the conduct of the 14 men "blameworthy", that disciplinary action had been ordered to be taken against them and that a trial would start on completion of Record of Evidence proceedings.

Amnesty International hopes to receive details of the charges and of the trial of the BSF men as soon as possible. The organization urges the government to ensure that prior to, during and after the trial all necessary measures are taken to protect the victim, his relatives, and witnesses. The government should enable Masroof Sultan to receive all necessary treatment and assistance to facilitate his full recovery. Pending the outcome of the investigation, the victim and his family should be provided interim compensation.

39. Amnesty International welcomes the information provided by the government that a police inquiry and a magisterial inquiry are said to be in progress to investigate reports that Mohammad Ashraf Ganai was killed in custody by the BSF between 19 and 29 August 1992.

Amnesty International looks forward to receiving further details about the case, including about the outcome of the police investigation, the date of commencement and the nature of the magisterial inquiry i.e. whether it will be held by a judicial magistrate or by an

executive magistrate. However, Amnesty International is concerned at the long period of time that this case has been under investigation. It is also concerned that no independent inquiry is known to have been initiated into the circumstances of his death as the civil liberties activist, the late H.N. Wanchoo, requested in a writ petition CMP 5467/92 more than two and half years ago.

No explanation for deaths in custody: a policy of intimidation

40. The government dismisses as "absurd" the allegations in the Amnesty International report that between 1990 and 1992 the security forces appear to have made few attempts to conceal deaths in custody. The government maintains that "Whenever allegations of custodial deaths have been brought to the notice of the concerned authorities, prompt inquiries have been ordered for fixing responsibility, if any, and appropriate action taken." This has been covered in the Introduction to this report.

41. The government's response to the allegations that Abdul Salam Bhat (Case 341, Appendix I) was tortured and died in police custody in June 1992 illustrates the problem. The government has informed Amnesty International that a case of murder under section 302 RPC was registered in the concerned police station which is under investigation. Amnesty International is concerned that over two and a half years after his death, the case is still "under investigation", particularly since it was also the subject of a writ petition in the Jammu and Kashmir High Court – CMP 5467/92 – filed by the late H.N. Wanchoo.

Implausible official explanation for deaths

42. The government does not appear to dispute the allegations in the Amnesty International report that officials have sometimes given highly improbable explanations for custodial deaths. In the case of Javid Ahmed Iqbal – whom the government claimed to have died of "heart failure" even though there were apparently deep wounds on his head, legs and limbs – the government informed Amnesty International that his case is being investigated by a District Magistrate. Amnesty International is concerned that three and a half years after Javid Ahmed Iqbal's death investigations into his death have not been concluded. His death was also the subject of a writ petition no 1733/91 filed in the High Court by Mr Wanchoo, to which, to Amnesty International's knowledge, there has been no response from the government.

Again, in the cases of Nazir Ahmed Khan and Manzoor Ahmed Khan (Cases 260-261, Appendix I) – who died on 30 September 1992 – the government has informed Amnesty International that "the police have registered a case". However, the nature of the case, by whom it has been brought, what the charges are, and by whom it is being investigated, are not known to Amnesty International. The government states that the two were "physically over-powered" after they attempted to escape and claims that Nazir Ahmed Khan died of a head injury, while Manzoor Ahmed Khan died of a cardiac arrest. However, Amnesty International's information indicates that the post-mortem examination concluded

that they died as a result of burn injuries. Their deaths in custody allegedly from torture were also the subject of the High Court writ petition filed by Mr Wanchoo.

Implausible explanations for alleged deaths in custody continue to be made. The government informed Amnesty International that Saif-ud-Din (Case 190, Appendix II) tried to escape during an identification parade, that "he slipped due to snow and fell down in a ditch where he got injured and was again apprehended. He was referred to Medical Officer for treatment where he was found dead". Although a post-mortem was reportedly carried out, no medical evidence was provided by the government to demonstrate how a man could die from natural causes in such unlikely circumstances.

August 1992 onwards: Encounter killings used to conceal deaths in custody

43. Amnesty International continues to be gravely concerned that the security forces have covered up deaths in custody by attributing them to "encounters", despite the government's assertion that this claim is "without basis". The organization's concern about this is addressed in the Introduction to this report.

44. According to the government Mohammad Ashraf Shah (Case 303, Appendix I) died in cross-fire and a case has been registered against militants. However the family of Mohammad Ashraf Shah claim that he was arrested by the security forces and that when his body was handed over to them it had marks of torture. No magisterial inquiry is known to have been conducted and no independent and impartial investigation has been carried out into his death as should have happened in a case of such a serious nature.

45. The government has also claimed that Tabasum Qureshi (Case 216, Appendix I) was killed in an encounter during a cordon and search operation and that weapons and ammunition were recovered from his body. As stated in the appendix to the Amnesty International report and in the Introduction to this report, several newspapers reported his arrest by members of the BSF on 7 November 1992. There were also eyewitnesses to his arrest and his father filed a First Information Report No.72/92 with the police that his son had died in custody. Given these serious allegations, Amnesty International is concerned that the government has failed to order an independent and impartial investigation into the death of Tabasum Qureshi, as international human rights instruments require the government to undertake.

Medical evidence

46. Amnesty International welcomes indications that the government has taken note of compelling medical evidence that people have died as a result of torture. The government has informed Amnesty International that the death of Shamim Ahmad Shah is under investigation and that a case has been registered under section 304 RPC ("Punishment for culpable homicide not amounting to murder"). The post-mortem report apparently concluded that his death was caused by extensive crushing of tissue, haemorrhage and shock.

Despite such strong evidence, even four years after his father reportedly brought a case in court against the security forces in 1991, no-one has been brought to justice for his death.

47. In contrast, the government has apparently chosen to ignore medical and other evidence provided by Amnesty International in other cases.

The government has claimed that Farooq Ahmed Lone (Case 92, Appendix I, and pages 37-38 of the Amnesty International report) was not killed in cross-fire during an "encounter" when he was being taken back from a recovery operation as did the BSF in a complaint filed on 20 July 1993 – the day of his death. However, Amnesty International has a copy of the report of the Additional Superintendent of Police, Sopore, No. K-2/93-16/1/GB dated 22-7-93 which records that the Assistant Superintendent who collected Farooq Ahmed Lone's body from the BSF at Fruit Mundi, Sopore, noted multiple injuries of torture as well as bullet wounds on his body. Furthermore, a report by the medical officer who conducted a post-mortem on 22 July stated: "the deceased has been put to interrogation and tortured before death". The report identified seven injuries, as well as bullet wounds which suggested that Farooq Ahmed Lone was fired upon from a very close range by "some small fire arm". The report of the Additional Superintendent of Police states:

"It is quite strange that the said BSF party was heavily fired upon at two different places by the militants and none of the BSF jawans or their vehicles were not hit by a single bullet. So far the Numberdar and Chowkidar of these village have also not reported any such incident in their villages... the SHO [Station House Officer], Police Station, Sopore, in view of the contradictions in the FIR and circumstances of the case he has dispensed with the investigation of the above reported incident and declared the complaint of the Adjutant of 19th Bn. BSF as false... He has initiated proceedings u/s 174 CrPC [police inquiry into cause of unnatural death] and is requested to bring the matter into the notice of District Magistrate Baramulla to order proceedings u/s 176 CrPC [inquiry into case of death in custody] by nominating a magistrate".

The government has not informed Amnesty International whether such an inquiry by a magistrate, as initiated by the Station House Officer, Sopore, has been held or what its outcome is. Amnesty International remains concerned that no independent or impartial investigation has been ordered into the death of Farooq Ahmed Lone.

Victims

49. Amnesty International welcomes information from the government that a case has been filed against the security forces about the death of Riyaz Ahmed and that it is being investigated by the Crime Branch, Srinagar. However, Amnesty International is concerned that these investigations have not been completed, nearly two years after his death.

Moreover, they are not independent and impartial investigations which should have been ordered.

1993 to 1994: The pattern continues

50. The government has denied Amnesty International's allegations that during 1993 and 1994 the pattern of torture and deaths in custody has continued. The government denies that Jan Mohammad Dinposh and Imtiyaz Ahmed Nizami, whose cases the Amnesty International report cited to illustrate the continuation of the pattern, were ever arrested. However, Amnesty International has reports that there were eye-witnesses to the arrests of Jan Mohammad Dinposh and Imtiyaz Ahmed Nizami, and that there were allegedly eye-witnesses to the arrest, beating and subsequent shooting at close range of Tariq Parvaiz Rohella and Mohammad Ayub Wani, all four of whom the government claims were killed in "encounters". The government has failed to investigate these deaths even though in the cases of Tariq Parvaiz Rohella and Mohammad Ayub Wani, the Chief Judicial Magistrate ordered on 14 June 1993 that a First Information Report be registered with the police about their deaths.

The government informed Amnesty International that the National Human Rights Commission has been informed of two of the cases above and would appreciate receiving the outcome of any investigations into these cases which ought to be the subject of a comprehensive, independent and impartial investigation.

Deaths due to torture and lack of timely medical care

52. Amnesty International was already aware of the fact that a magisterial inquiry was being conducted into the death of Mushtaq Ahmed Bhat, as the government has now informed the organization. However, although Mushtaq Ahmed Bhat died over six months ago, the inquiry is still not complete. An independent and impartial inquiry should promptly be held to investigate the death of Mushtaq Ahmed Bhat. It should take account of the evidence from his family who claim that he suffered injuries from torture and from fellow detainees who claim that he complained of chest pains and was denied medical treatment.

The government's inadequate response to Amnesty International's previous allegations of deaths in custody in Jammu and Kashmir

53. Amnesty International welcomes the government's information that it is carrying out further investigations into the deaths of five of the 28 men whose deaths in custody of the security forces Amnesty International had already described in its report of March 1992, India: Torture, rape and deaths in custody¹⁴. It requests to be informed about the outcome of the investigations as soon as they are complete. However, the facts which the government says it has conveyed to Amnesty International about a further six of the 28 cases¹⁵ are not, in the organization's view, meaningful responses.

These six cases were the subject of writ petition 1733/91 filed in the Jammu and Kashmir High Court by the late H.N. Wanchoo. However, the government is not known to have responded. In only one case – that of Mohammed Ashraf Ahangar – the government has informed Amnesty International that a magisterial inquiry is in progress, but it has not been concluded more than three and a half years after his death. In another of the cases – that of Khazir Mohammad – the government has stated that following the filing of a complaint, a case under sections 302 (murder) and 342 (wrongful confinement) was registered and is under investigation. However, the government has not provided details of the agency which is carrying out the investigation or of its progress. This is an entirely unsatisfactory response three and a half years after his death. In three other cases – those of Fayaz Ahmed Mattoo, Shabir Ahmed Sulati and Hilal Ahmed – the government has stated that they were not arrested but were killed in cross-fire or "encounters". But the government has not provided any documentary or other evidence to substantiate its claims. In the case of Ghulam Qadir War, the government has informed Amnesty International that he was arrested on 17 June 1990 and taken to Jammu where he "developed a pain in his chest" and

¹⁴ Abdul Gani Khan (Case 404, Appendix I), Mohammed Altaf Khan (Case 418, Appendix I), Mangata Khan (Case 410, Appendix I), Mohammad Ayub Khan (Case 419, Appendix I), Abdul Majid Khan (Case 420, Appendix I), Imtiaz Ahmed Mir (Case 405, Appendix I)

¹⁵ Fayaz Ahmed Mattoo (Case 409, Appendix I), Mohammad Ashraf Ahangar (Case 394, Appendix I), Mohammad Khazir (Case 389, Appendix I), Ghulam Qadir War (Case 411, Appendix I), Shabir Ahmed Sulati (Case 421, Appendix I), Hilal Ahmed (Case 424, Appendix I)

that he died "due to heart problem" in SMGS Hospital. However, his relatives reportedly filed a writ petition at the High Court of Jammu and Kashmir requesting a post-mortem examination to ascertain the cause of the death. To Amnesty International's knowledge, this was never carried out. Relatives also complained that his body was not returned to them for burial. No independent investigation has been carried out into his death which, as the government itself admits, took place while he was in the custody of security forces.

The lack of determination of the government to live up to its international obligations to bring special laws in line with international human rights standards.

54. The government argues that "special legislation is necessary to counter terrorism in a situation where the rule of law has been effectively circumvented by terrorism and the due process of law is not allowed to prevail", adding that: "Such special laws are also enacted by various other countries which are affected by terrorism."

In other Amnesty International reports the organization has expressed its understanding of the extremely difficult circumstances in which the security forces, themselves often targets of attack, have to operate in Jammu and Kashmir¹⁶. But any special measures taken by the government in such complex situations should never fall short of basic international human rights standards. This is unfortunately the case with important provisions in the three special laws in force in the state of Jammu and Kashmir: the Jammu and Kashmir Public Safety Act, the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA), and the Armed Forces (Jammu and Kashmir) Special Powers Act.¹⁷

The fact that other countries enact special laws in special situations that may fall short of international standards, is no excuse to do the same in India. Amnesty International will pressurize governments to thoroughly review provisions in special laws that provide arbitrary powers to arrest and detain, to shoot to kill and thus facilitate extrajudicial executions or "disappearances", or that provide immunity from prosecution, wherever they occur. Amnesty International has, for example, criticized provisions in the Prevention of Terrorism Act in force in the United Kingdom which allows seven days detention after arrest in police custody without judicial supervision.

¹⁶ see page 6, 'An Unnatural Fate': 'Disappearances' and impunity in the Indian States of Jammu and Kashmir and Punjab, December 1993 (AI Index: ASA 20/42/93)

¹⁷ See comments which various members of the United Nations Human Rights Committee made on these laws in India: Examination of the second periodic report by the Human Rights Committee, March 1993 (AI Index; 20/05/93)

55. The government reiterates information it has previously provided about TADA, but none of it addresses Amnesty International's central concerns about the Act which fails to meet basic human rights standards described in various Amnesty International reports¹⁸.

These concerns are: - that people can be held under the Act's broadly defined provisions merely for peacefully expressing their views on matters which are the subject of ordinary political debate -- such as raising the question whether a plebiscite should be held in Jammu and Kashmir; that people can be held for dangerously long periods of up to 60 days in police custody, where torture is often practised; that there is no provision to bring detained persons promptly before a judge or other independent authority; that the Act provides effectively for 6 months or one year's detention without charge or trial; that the Act lacks basic fair trial guarantees including by presuming guilt instead of innocence in several instances, by failing to provide that charges be brought "promptly", by permitting that the identity of witnesses can be kept secret in certain cases, and by curbing the right to appeal; moreover, rather than remaining temporary legislation as the government states, the Act, in force for nearly ten years, has become in effect a piece of permanent legislation.

Distressingly, nearly three years after members of the UN Human Rights Committee found that the important provisions of the Act contravened international human right standards in the International Covenant on Civil and Political Rights (ICCPR) in many respects, the government has failed to undertake a thorough review of the Act to bring its provisions in line with its international obligations under the ICCPR¹⁹.

56-57. The same lack of interest in making real and effective legal changes to enhance human rights protection in India and thereby fulfil India's international obligations under the ICCPR is evident from the government's complacent response to concern expressed by Amnesty International and other organizations about the other two special laws in force in Jammu and Kashmir. The government's response makes it clear that it sees no reason to change either the Jammu and Kashmir Public Safety Act -- which provides for up to two years' detention without charge or trial, with constitutional safeguards being denied to detainees -- and the Armed Forces (Special Powers) Act -- which provides for broad powers

¹⁸ see Amnesty International reports, [India: The Terrorist and Disruptive Activities \(Prevention\) Act: The lack of 'scrupulous care'](#), November 1994 (AI Index: ASA 20/39/94), [India: Memorandum to the Government of India arising from an Amnesty International visit to India](#), August 1994 (AI Index: ASA 20/20/94), [India: Response to the comments provided by the Government of India to Amnesty International's memorandum](#), August 1994 (AI Index: ASA 20/29/94).

¹⁹ see [India: Examination of the second periodic report by the human rights committee](#), March 1993 (AI Index: 20/05/93)

to shoot to kill with virtual immunity from prosecution. Provisions in both laws contravene important human rights standards which India is bound to uphold under the ICCPR²⁰.

58. Contrary to what the government suggests, the circumstances of the killing of the civil liberties activist H.N. Wanchoo can not be considered credibly clarified merely by a CBI investigation. His death will not be clarified until there has been an independent and impartial investigation into his death and the charges against the alleged perpetrators have been proven to the satisfaction of a court of law.

59. To illustrate the breakdown and obstruction of legal remedies in Jammu and Kashmir, the Amnesty International report cited the cases of four alleged victims of custodial deaths – Mohammad Hussain Bhat, Shabir Ahmad Mir, Zahid Hussain Bawan and Mussadiq Hussain Sahaf (Cases 230-233, Appendix I) whose relatives stated that they could not pursue their complaints in court because officials persistently failed to appear before the judge and the police refused to register First Information Reports, as they are required to do by law. The government has now informed Amnesty International that "cases registered in the concerned police station are under investigation" but fails to show that instructions have been given to officials concerned to comply with judicial orders to appear in court, as Amnesty International requested. Especially serious is the government's inability to comment on or deny the central point made in this section, namely that, as the High Court of Jammu and Kashmir noted in an order of 30 January 1993, official and illegal instructions had been issued for the police not to register any cases against the security forces:

"The petitioner's allegation is that consequent to the event indicated, he lodged a FIR in the concerned police station, but the officer concerned refused to register the case... Learned counsel... has drawn my attention to a photostat copy of a circular letter No. SF(S-Exg)2678-81 dated 14-4-1992 issued by the concerned SP [Superintendent of Police] to the SHOs [Station House Officers] of the area concerned not to register cases. In that event the petitioner's right to agitate the matter stands precluded at the initial stage and the matter... stands clouded which is not the policy of the law."

It must therefore be presumed that such illegal orders, aimed at shielding the perpetrators of human rights violations from being brought to justice, have indeed been issued, confirming Amnesty International's conclusion that it is official policy to obstruct available legal remedies.

²⁰ see India: Examination of the second periodic report by the Human Rights Committee, March 1993 (AI Index: 20/05/93)

This policy of officials refusing to file complaints against the security forces continues. Amnesty International has been informed recently of the death of two men – Sheikh Mohammad Yasin, a 19-year-old student, and Mohammad Yousuf Bhat, a 38-year-old businessman. They were reportedly picked up by members of the army on 20 January 1995 during a cordon and search operation in Danderkhah, Batamaloo, and taken to a makeshift interrogation centre where they were allegedly tortured. Their bodies were handed over to their relatives by police the next day. Police reportedly refused to file a First Information Report at the request of the families. The families then had to approach the Chief Judicial Magistrate who ordered on 25 January that a First Information Report should be filed. This finally happened on 7 February 1995. This is just one of several more recent examples which have come to Amnesty International's attention.

60. The government says that in the cases of Mohammad Iqbal Mochi (Case 80, Appendix I) and Arshad Hussain Jan (Case 396, Appendix I), "cases have already been registered and are under investigation". However, the police initially failed to investigate Mohammad Iqbal Mochi's death, despite being ordered to do so by the District Magistrate. It only happened three months after the Crime Branch, Jammu, began an investigation. The government has now informed Amnesty International that following his death, a magisterial inquiry was ordered by the District Magistrate, Doda, although it failed to inform Amnesty International of the outcome thereof. Subsequently a case under section 302 RPC (murder) was registered at the police station and is under investigation by the Crime Branch, Jammu. The government's information which Amnesty International welcomes the government's information. However, it does not account for the long delay in the investigation of the case which has yet to conclude a year and half after his death.

The relatives of Arshad Hussain Jan (Case 396, Appendix I) complained that even though the police had registered a criminal case against the CRPF at their request, they were never called to identify the men who allegedly took him away and shot him. The government, in its response to Amnesty International, has simply stated that "A case U/S 302 RPC was registered in this connection in the concerned police station which is under investigation". This does not contradict Amnesty International's information, but fails to clarify the nature and progress of the investigation some three and a half years after the death of Arshad Hussain Jan or the reasons for the government's inaction in calling witnesses prepared to give evidence.

Amnesty International's recommendations

62. The Amnesty International report makes eight detailed recommendations for the protection of human rights in Jammu and Kashmir. Regrettably, the government's response shows that, with two possible exceptions (see under 62.a.1 and 62.f), it is not willing to consider implementing them.

62.a.1. As regards Amnesty International's recommendation that all allegations of torture and deaths in custody should be impartially investigated, the government refers to the Bill, introduced in parliament in May 1994, which would make judicial inquiries into all cases of deaths in custody or "disappearance" mandatory. The government is also considering Amnesty International's suggestion of making the results of the judicial inquiry public.

Amnesty International welcomes this and other important provisions in the Bill which would go some way to strengthen legal safeguards for detainees along the lines Amnesty International recommended. However, the specific proposal of making judicial inquiries mandatory in all cases of deaths in custody has been under discussion by the Indian government for three years and Amnesty International is concerned that this specific proposal has not yet become law. The government should take immediate steps to implement these and other recommendations made by Amnesty International to strengthen legal safeguards for detainees. They should apply to the state of Jammu and Kashmir.

62.a.2. Pending the establishment of mandatory judicial inquiries into reports of torture, rape and deaths in custody, the government states that *prima facie* reports of such human rights violations are "being referred to the State Government for prompt inquiries and follow up action".

However, in Amnesty International's experience, such action on the part of the government is neither prompt, nor does it constitute an impartial and independent inquiry which Amnesty International recommends should invariably be undertaken in all these cases. Although Amnesty International is encouraged by the work undertaken by the National Human Rights Commission in a number of these cases in India, as the Amnesty International report indicates, the Commission's powers to pursue cases effectively in Jammu and Kashmir are extremely limited (see page 8 of the Amnesty International report).

62.a.3. The Government of India says that in Jammu and Kashmir "the judges have all the necessary resources and powers to carry out their investigations effectively including powers to compel witnesses to attend and to obtain documentary evidence".

However, as described in the report (pages 50-55) Amnesty International knows of numerous instances in Jammu and Kashmir in which government officials have refused to respond to complaints of human rights violations presented by individuals and human rights groups in Jammu and Kashmir. High Court judges have themselves complained that they

cannot effectively exercise their powers in the state, one of them in October 1994 complaining: "Nobody bothers to obey the orders of this court".

Indeed, Amnesty International is sad to see that the government did not wish to respond to its recommendation that it "issue immediate instructions to officials to comply with all outstanding court orders regarding torture and deaths in custody and bring prosecutions against officials who fail to cooperate with judicial investigations into these human rights violations". Such instructions should be issued forthwith.

62.a.5. The Government of India informs Amnesty International that the Legal Services Authorities Act has been passed which the government says provides legal aid to poor and indigent persons.

Amnesty International is interested to see that the law is enacted and would like to see a copy of it.

62.b. It is entirely wrong to suggest, as the government does, that Amnesty International's key recommendation for the establishment of an independent Commission to Protect Detainees is met by the government establishing a National Human Rights Commission (NHRC), whose mandate, as repeatedly pointed out, remains restricted to that of a "postbox" in as far as the vast majority of complaints of grave human rights violations in Jammu and Kashmir are concerned. Moreover, as also pointed out in the report (page 8), the Commission's determination to effectively investigate complaints in the state with the seriousness and professionalism required must remain open to considerable doubt in view of the statements attributed to its Chairman during the NHRC's visit to the state.

62.c. Sadly, the government fails to respond to Amnesty International's recommendation that existing legal safeguards should be respected, and that the government withdraw illegal instructions issued prohibiting the police from registering First Information Reports concerning complaints against the security forces. Nor does the government wish to introduce the important safeguard of amending the Jammu and Kashmir Public Safety Act to ensure that detainees held under that law, like other detainees, should also be obliged to be brought before a magistrate within 24 hours of arrest. The government simply dismisses Amnesty International's recommendation by suggesting that "adequate safeguards already exist in the Constitution as well as the Code of Criminal Procedure...".

62.d. Amnesty International is glad to learn that an accurate record of all detainees is being kept by a central authority, including data about their transfer and release. However, there appears to be no obligation on the part of the arresting authorities to inform the central agency responsible for maintaining the register immediately whenever a person is arrested: this is an essential safeguard to prevent grave human rights violations notably "disappearances". Moreover, such a list does not serve its primary function of preventing

secret arrests and detentions and consequent human rights violations if relatives of victims, their lawyers and other interested parties are not guaranteed immediate and unhindered access to it. Such an assurance the government's response unfortunately fails to provide. Significantly, the government fails to respond to Amnesty International's practical suggestion that the government consider introducing written and signed statements notifying relatives of an arrest, the reason for the arrest and the place of detention.

Nor is it true that "in India access to lawyers in India is prompt and built into the system". In fact, during its visit last year to Bombay, Amnesty International was told that the opposite was the usual practice. A senior police officer in charge of a police station told Amnesty International that lawyers had no locus with prisoners (in police stations) and that their place was in the courts. Significantly, the government has failed to implement Amnesty International's recommendation in that report that "the right of access to a lawyer promptly after arrest -- including, as the Supreme Court has directed, during interrogation -- should be specifically included in the Code of Criminal Procedure, and that the Constitution should be amended to extend that right to detainees held under preventive detention legislation including in Jammu and Kashmir.

62.e. Whereas Amnesty International welcomes the government's stated commitment to provide for and strengthen safeguards against what it describes as "custodial excesses", it is not true that, as the government suggests, "Effective system already exists under the present legal/constitutional set up, whereby a person, whether he belongs to the police or armed forces, alleged to have committed any excesses, is brought to book promptly for his acts or omissions." The opposite is the case.

Although a few members of the security forces have been sentenced to terms of imprisonment exceeding one year for unspecified offences that appear to relate to rape, not a single member of the Indian security forces is known to have been brought to justice for torturing and killing a detainee in custody (see under 6). Indeed, the lack of prompt action on the part of the Indian Government to end impunity is not only of concern to Amnesty International but is shared by United Nations Specialists concerned with extrajudicial killings (see Introduction to this report).

The government's unwillingness to take meaningful steps to ensure that the perpetrators of human rights violations are indeed brought to book is underlined by the government's refusal to consider amending Section 7 of the of the Armed Forces (Jammu and Kashmir) Special Powers Act, section 22 of the Jammu and Kashmir Public Safety Act and section 26 of the Terrorist and Disruptive Activities (Prevention) Act, which, in Amnesty International's view, all provide virtual immunity from prosecution. They are an important factor contributing to the security forces' ongoing belief that they have a licence to torture and kill people in custody.

62.f. The Government of India says it is actively considering proposals to make legislative provision for payment of financial relief to victims of custodial deaths, "disappearances" and rape in custody.

Amnesty International welcomes this information and urges the government to take prompt steps to ensure that effective measures are taken to provide adequate relief to victims of these human rights violations.

62.g. Amnesty International regrets that the government continues to disregard the observations made by a body of international independent human rights experts, the UN Human Rights Committee, whose members found that provisions under the Terrorist and Disruptive Activities (Prevention) Act, the Armed Forces Special Powers Act, the National Security Act and the Jammu and Kashmir Public Safety Act clearly contravened provisions of the ICCPR, to which India is a party, notably the right to life, the right not to be subjected to arbitrary arrest and detention, and the right to a fair trial. The government should immediately undertake such a review.

Amnesty International is encouraged to see, however, that the government is actively considering becoming a party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and believes that such a step would be important in furthering India's commitment to enhancing human rights protection. It would also be an important initiative in the South Asia region.

62.h. Amnesty International deeply regrets that the government's stated policy of transparency and openness on Jammu and Kashmir is not extended to human rights experts in the United Nations with a specific mandate on arbitrary, summary and extrajudicial execution and torture and to international human rights organizations like Amnesty International, in continuing to refuse them access to the territory which they have repeatedly requested.

63. There is no question that Amnesty International "endorses and tacitly lends support" to activities of armed opposition groups. On the contrary, Amnesty International condemns in the strongest terms the deliberate and arbitrary killings, torture and hostage-taking by armed opposition groups in Jammu and Kashmir. The organization regrets that the Indian government has failed to cooperate in providing information to the organization about hostages taken by such groups. Had the government done so, it would have facilitated Amnesty International to more effectively implement that part of its mandate aimed at ending such grave breaches of international humanitarian law as the taking of hostages.