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The Informative

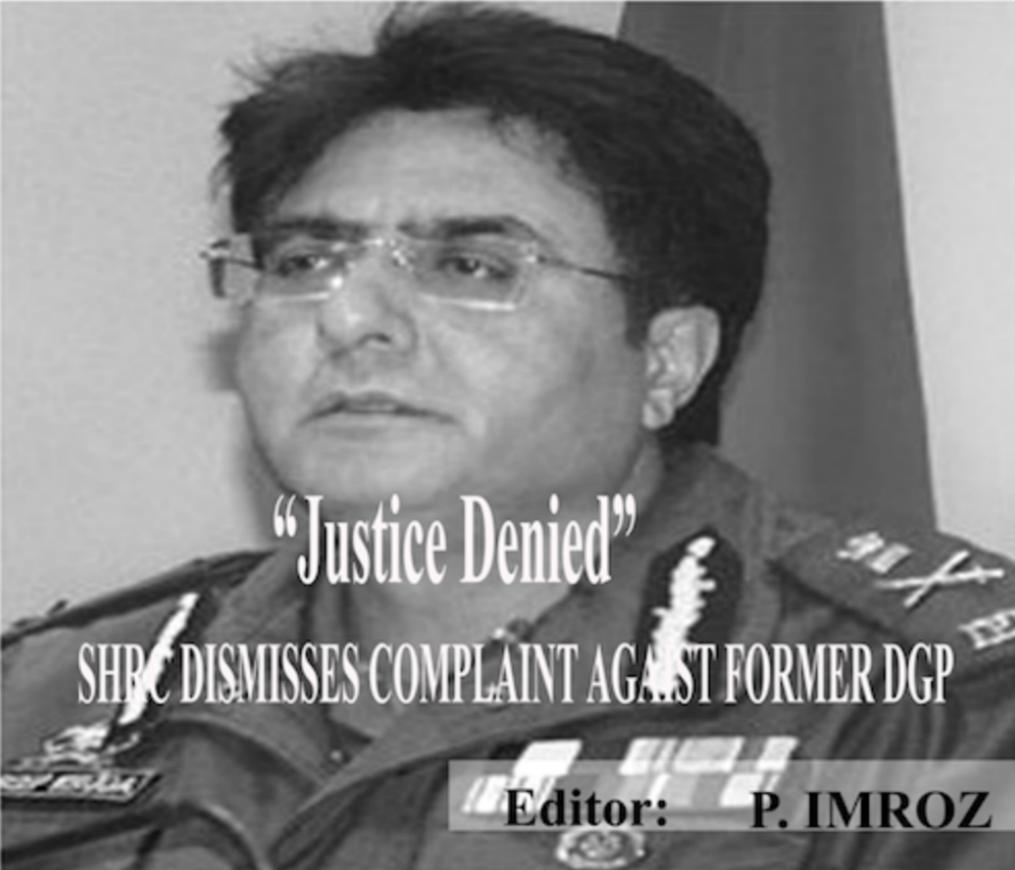


MISSIVE

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“Justice Denied”

SHRC DISMISSES COMPLAINT AGAINST FORMER DGP

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A JOKE

The response in Action Taken Report (ATR) by the government was on expected lines. Even in minor cases almost 90 percent SHRC recommendations are observed in breach. The same is the fate of high-profile cases where the govt. have to consider the recommendations. The case in point, Kunanpospora mass rape incident, where SHRC *inter alia*, recommended initiating prosecution against the director prosecution for his deliberate and intentional omissions and commissions with the implied or expressed approval of the competent authority to scuttle the investigation of the case. The offenders were not prosecuted. In addition to it, the Commission recommended for re-investigation into FIR No. 10 of 1991 P/S Trehgam and Special Investigation Team (SIT) headed by an officer not below the rank of SSP should conduct the investigation. Even the judgement was delivered in the month when the mass grave recommendations were made but nothing happened. No re-investigation and prosecution was made against the then director prosecution.

In mass graves matter, the ATR filed by the Special Secretary of State Home Department responded to 6 recommendations made by the State Commission in which he has replied that they are unable to meet the requirements of the Commission. The government expressed its inabilities in terms of resources of forensic facilities, availability of professional expertise and economical and social cost further stating the DNA profiling facility within the state is non-existent, only limited facilities are available in rest of the country, as there are only 15/16 recognized labs in the govt. as well as in private sector in the entire country. Further it says, the DNA profiling would take years to complete, than there are legal formalities seeking permission from the district magistrates for exhuming the dead bodies. In the response, Home Department have stated that the victims should be willing for giving the DNA samples and the victim should provide the details based on which the preliminary investigation would be conducted by the police authorities and more importantly *the complainant (blood relation) should be in a position to indicate with fair amount of certainty the exact location of the graveyard and the grave which is now sought to be reopened. Failing which the exercise would be non-starter it was completely ruled out the random DNA profiling but has stated the Chief Minister's statement made on 27 September 2011 in the legislative assemble that the people who desired to find the whereabouts of the blood relations who are alleged to be missing, should come forward, lodge a complaint / FIR with the nodal officer, provide a DNAS sampling of their own.* It is further stated, that despite the statement from the CM not a single person came forward before the SP Human Rights Cell (Nodal Officer). It is further admitted, the police organization is unable to collect and collate the photographs of the killed people. In the ATR also mention about the Truth and Reconciliation Commission as proposed by the Chief Minister shall look into all aspects relating to such issues. The bottom-line of the ATR is the recommendations made by the SHRC are not realistic.

It is amazing that in SHRC recommendations, the state has mentioned about the constitution of Empowered Committee constituted in 2008 and the appointment of the nodal officer. Hitherto, it was never made public neither the Commission was informed about it, nor it was ever published in govt. gazette to our knowledge. Neither its constitution nor its mandate was ever made public. The ATR quoting Chief Minister that that nobody has come before the nodal officer for the action. Already APDP has filed 100 enforced disappearance cases of Banihal and 503 cases of disappearance from Baramulla and Bandipora districts before the Commission in which the relatives expressed their readiness to volunteer for DNA profiling. So the CM's statement made in the ATR stand false that none turned up for DNA profiling. The ATR on expected lines are to reject the recommendations with lousy clarifications.

In many countries where mass graves is phenomenon, the excavations have been made (no doubt post-conflict) and it sounds strange that a state spending millions on the security secret funding cannot afford Rs 40 million for DNA laboratory. It is not a question of resources, it is all about to obfuscate the crimes committed and these are the pretexts; otherwise, the government is caring for resources. There are international organizations like EAAF, which was constituted in 1983 in Argentina where 30,000 people disappeared during military dictatorship and this organization has engaged itself in nearly 40 countries in DNA profiling of the corpses held in mass graves including 10 Muslim countries like Libya, Turkey, East Timor, Ethiopia etc where the religious leaders were at forefront in their investigations. The response to ATR is a total denial and to a certain extent insulting victims to suggest the actual grave where their near and dear ones are buries sounds bizarre. It amounts to a black joke. The govt. is arrogant and equally confident about its "get way culture".

This state behavior posed a serious challenge to the organization, and at this moment it can only suggest the mapping of the graves and preservation of graves which is impossible without engaging the local community members who have so far responded positively. In future, the task could be accomplished even now there are victims and organizations who are investigating the mass graves and genocide committed 60 / 70 yrs before including World War II. At this juncture, the denial by the govt. notwithstanding the urgent action, concerns and appeals poured in from international organizations or European Parliament 2008 is to be highlighted.

IKHWANI RENDERS FAMILY HOMELESS, GOT ITS MEMBER KILLED

Sep 15: Mohammad Akbar Dar, 43, of Drugmulla, Kupwara, a CISF (Central Industrial Security Forces) personnel posted at Banaras has gone through series of trials and tribulation. His sufferings seem to be never ending. His tribulations starts when his neighbor Mohammad Amin Malik, a notorious *Ikhwani* (army backed informer) threatened him to vacate his ancestral residential house for him. Irked by Akbar's resistance, which turned into an ugly quarrel, during the fight Amin threatened Akbar's family of wiping out them all, one by one. Akbar's brother was disappeared and subsequently killed and branded as foreign mercenary by the army.

While talking to *The Informative Missive* Akbar said, "Mohammad Amin Malik, a notorious army informer, living next to my house on October 19, 1997 entered into a fight with us. His aim was to through us out from our ancestral house. We all objected to it. Irked, he threatened off wiping-off my entire family."

Akbar's family has reasons to take Amin's threats seriously, as he was enjoying army's full patronage. He was sharing close relation with the army and has even purportedly established good connections with its top rank officials.

"Within a week, my younger brother Ghulam Nabi Dar, a 9th standard student, suddenly disappeared on 25-10-1997. For us it was reasonable to doubt Amin's role in disappearing him. While searching for him, on October 31-1997, we got information from the police that my brother was lying dead in Kupwara hospital. We went there to collect his dead body. In the hospital, we were shocked to know that my brother died while ambushing army at Lastail, Kupwara. Army in its FIR filed in Kupwara police station claimed that Ghulam Nabi along with two other boys were killed in retaliatory fire. I can say it with full authority that my brother was not affiliated with militancy. He was just a student," Akbar further stated.

Akbar had spotted three bullets in his brother's body. Two were pumped in his back side while one in his chest. The two other boys killed by the army in the same shoot out were also young. One of the deceased identified by Akbar as, Nazir Ahmad Mir, 14, s/o Aziz Mir of Draugmaulla while the identity of the third boy was not established. When nobody claimed the body police did his burial.

The three boys were shockingly branded as foreign mercenaries by the army in its FIR filed with Kupwara police station. Akbar strongly contested the army's claim of passing his brother as a foreign militant. "There was no truth in army claim. Labeling him and other two boys as foreign militants was a weak lie of the army. Army tried to change his identity to hide their illegal act. We clearly identify him. The police investigation didn't find anything

implicating against him. His antecedents were declared clear by the state police."

Further Akbar said, the Deputy Commissioner Kupwara made basis the police investigation and grant the family *ex gratia* relief of 1 lack.

Akbar sees Amin involvement in getting his brother killed by using army. Akbar said, it was apparent when he and his family were mourning the death of Ghulam Nabi, Amin and his associated were celebrating at Amin's house. "I saw renegades entering and leaving Amin's house apparently congratulating him for getting his enemy's brother killed. I had also heard them laughing loudly while the entire locality was mourning. This was a clear indicator of his involvement in killing my brother," Akbar averred.

From 1997 to 2000, there was no let up in Amin's harassments. Even he was getting more dangerous. He keeps threatening the family to leave the house or face consequences. Akbar further said, "Amin was getting perilous with every passing day. Earlier he used to threat us in private, but when we refused to budge to his intimidations, he openly starting threatening us. He kept repeating that he was blue-eyed person of the army and state, and no one can do any harm to him. He also threatened us that if we will not leave the place he will kill us all. He kept saying take Rs. 10-20,000 and leave the house for our own good. The house was our ancestral and worth over 15 lacks."

When Amin failed to break the resolve of Akbar and his family, then he changed tactics and blocked the way leading to his house. Akbar further stated, "Frustrated by our unwavering resolve, he blocked the path leading to our house by erecting two bunkers citing security reasons. He also got a stay order from Civil Court Kupwara, which remained in effect for three years till I got the revocation order from the court. However, the court order was never honoured by Amin and kept the blockade there."

The continuous blockade disturbed and split-up the entire family, comprised of 30 members living jointly. The family turned nomadic. "For months we remained roaming from place to place. Spending time in one or other relatives or neighbourers place till we build up an incomplete and unsafe shack, some 1 km away from our house. Villagers protested the highhandedness of Amin and his associates but that will not work. He remained unmoved and maintained the illegal blockade. He also threatened all those who were sympathizing with us", Akbar stated.

Shocked by the depressive situation Akbar's mother Shamala Begum passed away. Akbar said the fearless rule by Amin take serious toll on his family. On 18-02-2002, Akbar's aged mother finally succumbed to the shock she received after painful

sufferings and ceaseless harassment from this army backed gunman.

For three years (2003 to 2006) Akbar knocked every door from Chief Minister's Office to IGP Police, and even the courts but nothing changed his fortunes around. Disillusioned Akbar further stated, "Many a times, police and Govt. Revenue Department made attempts to remove the blockade but the *Ikhawani* applied his influence and even beat the government officials."

In 2007, DC Kupwara and *Tehsildar* Kupwara heard the case and ruled in Akbar's favour but nothing changed on the ground. Everything remained *status quo*. And Amin Malik kept the hold of the house. He even roughed up *Tehsildar* who tried to remove the illegal blockade.

When Amin and his few family members including his wife Shafeeqa took their neighbours rout and scale the wall to reach to their house. Before they could do sweeping and cleaning of the house Amin and his wife forced their entry inside and beat them up.

"On 25-10-2009, when I along with my wife and few other family members tried to enter the house to dust it off, but were prevented by Amin and his wife. Suddenly, Amin and his wife Goody appeared and beat me and my wife. They punched, kicked and used stick to beat us. In the beating, my wife got seriously injured. She had developed multiple injuries in her back. We took her to the hospital where she remained admit for 10 days. First in the emergency ward for 5 days and rest 5 days she spent in general ward. I also received injuries in my legs," Amin stated.

Against the beating Akbar's younger brother Abdul Majeed Dar, filed an FIR No. 25/10/2009 in Kupwara P/S. But police didn't act on the FIR.

During the beating Amin repeatedly and loudly mentioned that if the family will not surrender its property paper before him, he will get them killed the way he got Ghulam Nabi murdered. Akbar said, "My doubt got clear, when while beating Amin threatened us of killing in the identical fashion he got my brother killed. Amin and his wife repeatedly asked us to surrender the property to them, otherwise, they will get us disappeared and killed".

Repose some faith on the institutions Akbar filed a case in 2010 before SHRC. The SHRC acted on the complaint and summoned Amin Malik but he showed no regard to the SHRC. "Despite having a case against himself in the SHRC, Amin never bothered to appear before it. He never honored the SHRC summons", Akbar said while trying to demonstrate Amin arrogance.

As there are number of cases stand registered against Amin and also a protest by people against his

highhandedness, army started distancing itself from him. "Army has now realized that its backed *Ikhawani* Amin is getting more notorious and it has started distancing itself from him. As he is the old servant of the army still he enjoys some of its tacit patronage. His arrogance is proof of it," Akbar reaffirms.

Finally, in 2010, police succeeded in removing the bunker obstructing the way leading to Akbar's house. "After the army support started weakening to Amin, police had managed to remove the two bunkers he had erected to block the way to my house. Also his security has been withdrawn giving the impression that his own notoriety has started eating him. But the important thing is, we are yet to take back our house possession and Amin is still operating at his sweet will," Akbar stated.

Now Amin and his brother Ghulam Hassan Malik have started constructing a house in order to make it a permanent blockade. He further stated, "On 22-08-2012, Amin and his brother Ghulam Hassan have started constructing a house, encroach the land (about 6 feet) used as pathway by us. Despite a court stay in place, Amin is hell-bent to construct the house. Even the police failed to deter him from construction. He has shown no regard to judiciary and SHRC orders", Amin said while expressing his reservations he is having about the house.

BRIEF PROFILE OF MOHAMMAD AMIN MALIK

Mohammad Amin Malik - 50 - reaches heights of notoriety in early 90s when he got himself associated with the army. He committed wide-scale harassments to the general public. He was instrumental in tipping off the army about the militant movement in the area. Most of the times he got civilians (he projected as militants) arrested by the army for earning applauds and rewards from them.

In early 90s, he was darling of the army. There were accusations against him that he was supplying girls to the army officials. Not only were he, his entire family works on the pay role of the army. He has taken full-advantage of his proximity with the army. Also he had established strong connections with top-rank army officials.

Amin Malik has held entire village of Draugmulla hostage for over two decades now. Villagers don't have enough courage to stand against him. He paid scant regard to court orders, police or other state functionaries. He is having cases of human rights violations registered against him in number of police stations. Despite having cases, he never got arrested, therefore, is still roaming free and threatening people on his will.

THREE PORTERS DISAPPEARED BY SAME UNIT THEY WERE SERVING

September 17: 15-years-ago, three porters who were serving the army's 11 Jat Regiment for three years were disappeared by the same unit. On August 15, 1997, the trio porters were called to the Maidan camp, where the 11 Jat Regiment was stationed, and it was then they were last seen. When the families, after three days, came out to trace their whereabouts, army blocked them. The families were harassed not to continue the search. Army also intimidated the families not to go public about the case or take legal recourse. Their movements were kept under surveillance. The remoteness of the village and then precarious situation was also not favoring the families.

Now, semblance of change in the situation motivated the reserved families to resume the efforts aiming at locating the whereabouts of their dear ones. The families moved a joint application before the State Human Rights Commission (SHRC) requesting it to take up the matter thinking that some breakthrough could be achieved.

Makhadam Hussain, 50, travelled to Srinagar (covering over 200 km to and fro) to relate her ordeal to *The Informative Missive*. Two of the family members of Makhadam Hussain's - Ahmed Shah, 45, her young son Nazir Hussain, 22, and a neighbor Maqbool Khan, 26, disappeared, whom army claimed died in an encounter. However, the army was not clear about how exactly they were killed. The dead bodies of three were never shown to the families on the pretext that in the gunfight their bodies got de-shaped made it impossible for army to transport them.

While talking to *The Informative Missive* she said, "On August 15, 1997, the three were called by the 11 Jat Regiment, whose Maidan Camp was stone through distance from my house. It was an unusual call from the army. The trio responded to it, and immediately rushed to the camp. It was then they were last seen."

She further said, normally, the trio used to report to the camp at 8:00 am, but on that fateful day they were asked by the army to report and they reached the camp at 7:00 am. The sentry who shouted at the houses showed great urgency in his call and asked them to report immediately. It was around 6:45 am when the army sentry made the call.

"Just after the three entered the Maidan camp, army laid a cordon of the entire area and directed the villagers to get assembled at different locations. The army also made house to house searches. The army crackdown surprises one and all, as there was no untoward incident in the area. The army siege continued for three consecutive days. Nobody was allowed to move freely, except people were allowed to move back to their houses only by late evening, with the instruction to re-assemble next

morning," Makhadam stated while raising the doubts about the cordon, which appeared to be conducted to prevent the families from searching their loved ones.

The consecutive three day siege made it impossible for the families to reach to the camp to enquire about the whereabouts of the three. It was unusual three day absence of the trio. The trio was working as porters for three years and had no issues with the army at all. None of them ever made any complaint about army, and they were happily working with them.

She further averred, the families were left with no option but to go to the camp directly to enquire about them. The families assisted by a local *Lumberdar* (village head) went to the camp. Nevertheless, only the *Lumberdar* and Makhadam Hussain were allowed inside the camp. There, to their utter shock, they were told by an army officer of some high-rank that all the three were killed in encounter. When they asked him to show their dead bodies, the officer in a harsh tone reacted, telling them that their bodies got badly mutilated, and it was not possible to transport them.

Then the *Lumberdar* along with few family members of the three reported the incident to the Uri police station, and asked it to investigate the matter.

Makhadam complained the police choose not to act on the report for the reasons best known to them. The families were wondering as to how the bodies of the disappeared, whom army said died in encounter, would be retrieved. Before they (families) would make any effort, the army took the advantage of the remoteness of the area.

"They (army men) started intimidating and harassing us and directed not to report the incident before any forum or media. The army's ceaseless harassments kept us hostage for over a decade. We were not in a position then to initiate any legal proceeding against the 11 Jat Regiment. Till year 2007 army keep harassing the families. With some improvements in the situation, the army stopped harassing the families, as it has been presumed that they were convinced the families were not going to agitate the matter".

By virtue of change in situation, the families stepped out and re-report the incident to the police in 2009. Police acted but superficially. The investigation by police was just an eyewash. In the same year, the families moved to Deputy Commissioner's Office, Baramulla for grant of *ex gratia* relief in the case. But there was no progress on the application and the case is pending before the DC office.

In September 2012, the families moved a joint application to the State Human Rights Commission (SHRC) asking it to investigate the matter and also placed a request for compensation.

GUNMEN KILLS SARPANCH OUTSIDE MASJID

September 10: Ghulam Mohammad Yattoo, 59, s/o Abdul Kareem of Palhalan A, Pattan - a *Srapach* (village head) Palhallan - A elected last year was killed by gunmen yet to be identified. Ghulam Mohammad was fired bullets when he was coming out a local Masjid after offering prayers. The killing has sent shock waves across the Pattan area with large number of *Sarpanchs* announced their resignations publicly to dispel the threat. Ghulam Mohammad left behind his wife, two sons and two daughters.

According to the locals who talked to *The Informative Missive* that Ghulam Mohammad Yattoo, after done with his *Magrib* (pre-dusk) prayers at Rajpora Masjid, was fired bullets by the gunmen, whose identity is yet to be ascertained. Two bullets were pumped into his body, one in his head and the other in his belly. He died instantly on the spot and taking him to the hospital couldn't help. Despite, he was killed in public nobody succeeded in identifying the assailants, as it was dark and panicky.

The locals further said the killing triggered panic in *Sarpanch* circles. Scores of *Sarpanchs* came into public to resign. Some announced their resignations through loudspeakers and many through local media. There were anonymous posters spotted in many places asking the *Sarpanchs* and *Panchs* to resign or face consequences. The posters were earlier not taken seriously by anyone but after the killings they were treated as warning notes.

Pattan Tehsil of Baramulla hogged the limelight for being a hot-bed of militancy in early 90s and has declared sensitive during 2008 and 2010 mass agitations. In Pattan, the state and parliamentary elections were boycotted to the hilt and the participants faced isolation and public anger. The area has also dominant *Jamaat-e-Islami* (religio-politico

group) influence. It has not been considered wise in the area to take part in any kind of elections.

Ghulam Mohammad was a retired government employee, who had served the department of State Road Transport Corporation. Politically he has loyalties with Hurriyat (M) for last 17 years. He was rated as an active member of the political outfit. Ghulam Mohammad was arrested in mid-90s and was booked under Public Safety Act (PSA) for his political activities questioning India's rule over Kashmir. He was imprisoned in Kote Bhalwal Jail Jammu for one-year-and-a-half.

The locals alleged Ghulam Mohammad was advised by many of his friends and family members not fall in trap of these elections but he didn't listen to them. Socially active, Ghulam Mohammad joined the fray and won it for the seemingly betterment of public. But he felt disillusioned after the actual powers were denied to elected members by the ruling regime and the threat they were facing from anonymous groups. The locals further alleged, Ghulam Mohammad was actually encouraged by the statement made by United Jihad Council, Chief Syed Salauddin, who announced that these Panchayat elections have no bearing on the Kashmir issue.

Locals further stated that he fought Panchayat elections with a sincere aim of serving people. They said, his character as political worker was tried and tested. In past, he had gone through series of hardships forcing him to sell his land. He sold out his 15 kanals of his land to get his daughters marry and to improve his despicable economic conditions. The villagers said, he was commanding a good respect in the village till he fought Panchayat elections. However, the villagers said, there were no such threat to him privately from any one.

SHRC DISMISSES COMPLAINT AGAINST KULDEEP KHODA "JUSTICE DENIED"

Sep 12: Jammu and Kashmir State Human Rights Commission dismissed a criminal complaint against former Director General of Police Kuldeep Khoda in the Bhaderwah triple murder case of 1996 saying it "cannot traverse beyond the findings returned by the High Court in the case."

Three civilians of Bhaderwah were murdered on June 3, 1996, with families of the victims accusing Khoda, the then DIG of Udhampur-Doda Range, for the crime. The High Court had dismissed a petition on May 29, 2012, exonerating Khoda of the charges leveled against him in the case.

Pronouncing its judgment On September 12, the Division Bench of the SHRC comprising Javid Kawoos and Rafiq Fida dismissed the petition on the grounds that the case already stands disposed off by State High Court and a trial court and maintained

that the Commission cannot override judgments of these courts.

On 19 April 2012, the son of Fazal Hussain Dar approached the State Human Rights Commission [SHRC] seeking investigations by the SHRC into the matter. On 13 August 2012, the advocate for the complainant had sought an opportunity to advance further arguments on 22 August 2012. While this request was granted, no hearing was held on 22 August 2012. Instead of providing notice for the subsequent hearing on 12 September 2012, the SHRC chose to dismiss the case.

CASE ANALYSIS

The manner in which the petition/complaint before the High Court and SHRC were dismissed is unfortunate and requires to be closely analysed.

Justice Hasnain Masoodi, the High Court judge hearing the case, appears to have acted in much

haste and thereby denied the petitioners a fair hearing. The entire record of proceedings before the High Court is an indictment of the judiciary in the instant case. As the matter will be placed before the Supreme Court, a limited analysis of the judgment will be carried out here.

First, Justice Masoodi chose to invite the Advocate General to “assist” the bench instead of issuing notices, observing that this was a sensitive case.

Second, rather than provide assistance, the Advocate General did not initially appear before the Bench and subsequently despite agreeing to submit the complete Crime Branch record in the case, did not do so for eight months until the case was dismissed. The Crime Branch record was never presented before the High Court.

Third, the Chief Justice of the High Court admitted a transfer petition filed by SPO Mohammad Ashraf, despite him not yet being a party to the proceedings. Further, on 16 April 2012 the Acting Chief Justice of the High Court accepted the transfer petition, despite the Chief Justice having earlier allowed the petition to be heard in Srinagar. The objections filed by the petitioners were disregarded.

Fourth, the matter was listed as part-heard [perhaps to retain the case with Justice Masoodi], was taken up within four days effectively precluding the petitioners counsel from appearing in the matter in Jammu.

Fifth, the matter was adjourned to 25 May 2012 but was not taken up. On the same day, while written objections were filed by the Advocate General, the record of the case including the Crime Branch reports were not submitted.

Finally, the case was dismissed, within four days, without the petitioners being heard on the objections filed by the Advocate General. Further, the dismissal came within a day of the Government of Jammu and Kashmir recommendation of Kuldeep Khoda, and three days before his retirement as DGP, Jammu and Kashmir, as the candidate for the post of the first Chief Vigilance Commissioner [CVC] of Jammu and Kashmir. The timing of the dismissal and his recommendation for the post of CVC raises doubts on the judicial process in this case. Particularly as, during the pendency of the case in the High Court, Kuldeep Khoda retained his position as the DGP of the State.

The judgment of 29 May 2012 is itself marred by faulty judicial reasoning and a failure to appreciate the facts of the case, and unfortunately, a failure to even appreciate the facts of the proceedings before it. For example, no mention is made of the fact that the Advocate General was ordered to provide the complete record of the cases. Further, Justice Masoodi appears to have disregarded a crucial legal question in the case. It was the obligation of the police and

prosecuting authorities, whether the Crime Branch, the investigating authority that prepared the chargesheet or the Chief Prosecuting Officer, to bring the fact of the parallel investigations carried out by the Crime Branch to the attention of the Sessions Court, Bhandarwah. The first progress report of the Crime Branch was completed before the charges were framed by the Sessions Court, Bhandarwah. By not doing so, the Sessions Court, Bhandarwah was allowed to proceed to trial in a case where relevant incriminating evidence against the alleged perpetrators was collected in a parallel investigation. The Crime Branch investigations should have been the only basis for the trial as the parallel investigation ordered by the NHRC, the reasoning for which was endorsed by the then DGP, Jammu and Kashmir, was to address the concerns of the families of the victims.

The fear faced by the witnesses before the trial court was wrongly considered by Justice Masoodi. Justice Masoodi disregarded the fear of the petitioners and other witnesses [which did lead to witnesses turning hostile before the trial court] and instead stated that they did not complain of any coercion, undue influence and intimidation before or during the trial. It is only logical that a fearful witness, having little trust in a police agency, would not reveal any intimidation being faced.

Justice Masoodi callously observed that the families of the victim failed to appeal the trial court verdict for 11 years but failed to make a similar observation on the Government of Jammu and Kashmir which should have filed an appeal.

In addition the points noted above, Justice Masoodi has also wrongly interpreted the progress report of 16 January 1998 by the Crime Branch. Below is a summary of the crucial evidence in the case that strongly indicts the alleged perpetrators of the crime, particularly Kuldeep Khoda:

- Nazira, wife of Fazal Hussain Dar and mother of Fareed Hussain Dar, testified that on 3 January 1996, at about 9:20 pm, three or four masked men abducted her husband and son. During the trial court proceedings, Nazira was considered to have turned hostile as she in an earlier statement to the police had specifically identified SPO Mohammad Ashraf, whereas in court she did not. But, her statement on the point has been consistent before the Crime Branch and the trial court. While this contradiction does raise some questions, a proper, independent investigation might well provide the necessary answers.
- Talib Hussain, testified that on 3 January 1996, at about 9:30 pm, he and Mohammad Hussain Lone, were working when unidentified persons abducted them and put them in a vehicle. Subsequently, some more persons were brought and put in the vehicle. They were taken to the Chenab River at some unknown place. When he

was taken to the bank of the river, he was pushed into the river but he managed to hold on to a stone and survive. He then heard gunshots nearby. The witness managed to escape and subsequently he found out that SPO Mohammad Ashraf and his associates were responsible for the abduction and the killing of the other three victims.

- Shadi Lal, driver of the police vehicle that was used during the commission of the crime, stated that he knew SPO Mohammad Ashraf as someone who was close to the police.

On 1 January 1996, in the evening, he accompanied SPO Mohammad Ashraf, Abdul Sattar and Tariq Hussain from Doda to Batote, to hand over some store articles to Kuldeep Khoda. Following this, SPO Mohammad Ashraf met with Kuldeep Khoda for about an hour at his residence. Subsequently, they returned to Ramban and spent a night there.

On 2 January 1996, they went back to Batote. SPO Mohammad Ashraf once again met Kuldeep Khoda. The witness also met alleged perpetrator no.1 and told him that he needed to go to Doda and requested that the others be therefore provided a different vehicle. DIG Kuldeep Khoda did not accept this and asked the witness to continue with the group till 4 January 1996. On the same day, the group went to Doda and on the way they picked up two persons unknown to him. Further, at Police Post Assar, SPO Mohammad Ashraf and the two persons unknown to him procured arms and ammunitions and reached Doda on the evening of 2 January 1996.

On 3 January 1996, the group proceeded to Bharderwah and reached by the evening. Then after some work was conducted they proceeded back to Doda. When they reached Pranu at about 9:00 pm, SPO Mohammad Ashraf asked the witness to stop the vehicle. After some time, one person was brought into the vehicle. Subsequently, three more persons were brought into the vehicle. SPO Mohammad Ashraf along with his two associates and PSO's boarded the vehicle and asked the witness to proceed towards Doda. On reaching Pul Doda, SPO Mohammad Ashraf asked the witness to proceed towards Thatri as he had to perform some important work. Accordingly the party proceeded towards Thatri. When they reached near Prem Nagar, SPO Mohammad Ashraf stopped the vehicle and got down along with the civilians and his associates and asked the witness and PSO's to remain there on the road till he returned back and did not allow them to accompany him. The witness and PSO's remained on the roadside waiting. After half an hour of their departure the witness heard the sound of gun shots from the Chenab river side. SPO Mohammad Ashraf and his associates then came to the vehicle after about one hour but none of the civilians were along with them. They then proceeded and got down at the

Kishtwar Police Station. The witness went to his residence for the night.

On 4 January 1996, SPO Mohammad Ashraf wanted to proceed to Batote and meet with Kuldeep Khoda. On reaching Batote, SPO Mohammad Ashraf went to DIG Kuldeep Khoda's residence and met with him. The witness then himself met Kuldeep Khoda and apprised him about the whole story and informed him that SPO Mohammad Ashraf and his associates had abducted civilians and then murdered them near Thatri and their dead bodies were thrown in the Chenab river. The witness further stated that DIG Kuldeep Khoda ordered the witness to produce SPO Mohammad Ashraf and his associates to SSP, Doda [Javed Makhdoomi] on 5 January 1996.

On reaching Doda, SPO Mohammad Ashraf went to meet SSP Doda and he was directed to remain present in District Police Line Doda and ordered him not to move outside and also keep the vehicle in District Police Line Doda. The witness later on himself appeared before the SSP, Doda and told him about lifting of the civilians by SPO Mohammad Ashraf and his associates and then subsequent killings.

- Baldev Raj, deputed as a PSO to SPO Mohammad Ashraf, stated that on 1 January 1996, he went towards Batote with Shadi Lal [driver], another PSO Somnath and SPO Mohammad Ashraf. On reaching Batote, SPO Mohammad Ashraf went to meet DIG Kuldeep Khoda. They then proceeded to Ramban.

On 2 January 1996 they proceeded to Batote where a police vehicle carrying arms and ammunition from Ramban also reached Batote and was produced before Kuldeep Khoda, who inspected it. SPO Mohammad Ashraf once again met DIG Kuldeep Khoda and the vehicle carrying the arms and ammunition was then dispatched for Assar village. The group then proceeded to Doda, along with two persons unknown to the witness but known to SPO Mohammad Ashraf. On reaching Assar village, SPO Mohammad Ashraf and his associates went to the Police Post Assar where they were provided arms and ammunition. They then proceeded to Doda.

On 3 January 1996, the group left Doda and reached Bharderwah by the evening and then onwards to Parnu. On the way to Parnu SPO Mohammad Ashraf stopped the vehicle and brought two persons, one of whom was placed in the vehicle and the other was taken back. Subsequently, three more persons were brought and put in the vehicle. On reaching Pul Doda, SPO Mohammad Ashraf asked the driver to turn the vehicle towards Thatri. On reaching Thatri the vehicle was asked to be stopped by SPO Mohammad Ashraf where he along with his associates got down and took the civilians along with them. SPO Mohammad Ashraf asked the PSO's and driver to remain present in the vehicle. After half an

hour the witness heard gunshots from the Chenab river. After one hour SPO Mohammad Ashraf and his associates returned. The civilians were no longer with them. The party then left for Kishtwar.

On 4 January 1996 they went from Kishtwar to Batote. On reaching Batote, SPO Mohammad Ashraf met with Kuldeep Khoda. Following this meeting, the driver Shadi Lal also met with DIG Kuldeep Khoda. Following this meeting, SPO Mohammad Ashraf once again met DIG Kuldeep Khoda. They then proceeded to Doda where SPO Mohammad Ashraf and his associates went to Police Post Assar where everyone except SPO Mohammad Ashraf deposited their arms.

The above summary of evidence strongly points to the involvement of DIG Kuldeep Khoda in planning and executing the crime, notwithstanding some of the minor contradictions that do exist in the testimony. The evidence suggests a close proximity between Kuldeep Khoda and SPO Mohammad Ashraf. Further, DIG Kuldeep Khoda appears to be a key player at various points in the operation that resulted in the killing of the three persons - from meeting with SPO Mohammad Ashraf prior to the killings, inspecting arms, and meeting with SPO Mohammad Ashraf after the killings. What is at least certain from the above evidence is that the role of DIG Kuldeep Khoda cannot be conclusively ruled out. Further, it is unlikely that he would not have known of the reasons and purpose behind the crime.

The proceedings before the NHRC may also be considered. On 4 April 2000, the NHRC closed the matter on the basis that a chargesheet had been filed. But, on 19 June 1997, the NHRC noted that the investigations in the case were not satisfactory, and that the then DGP agreed with the NHRC opinion. It was also noted that the DGP would ensure an impartial, effective and expeditious further investigation with the leave of the Court before which the matter was pending. The results of such investigations were to be placed before the Commission. This clearly is a reference to the alternate Crime Branch investigations that were

UNIVERSAL PERIODIC REVIEW ON INDIA

On September 20, 2012, the United Nations Human Rights Council in Geneva adopted the outcome of the Universal Periodic Review (UPR) on India. In May of this year, dozens of countries made a total of 169 recommendations as to how after months of internal deliberations, the Indian Government on September 18 committed to only 83 of the UPR recommendations.

As many countries noted in their recommendations, India has failed to ratify Convention Against Torture and Cruel, Inhuman or Degrading Treatment (CAT). Torture, as defined in the CAT, is not criminalized under Indian law. India has been apathetic toward the recommendations of UN Special Rapporteurs as well as related

carried out but it appears that the NHRC was never apprised of the Crime Branch investigations and in fact on 4 April 2000 the NHRC does not appear to have any knowledge of the fact that the trial had also been completed. Based on the available record it is clear that the DGP, Jammu and Kashmir despite admitting that the police investigations were not satisfactory still proceeded with their own investigations for trial without factoring in the Crime Branch investigations eventually resulting in the acquittal. Therefore, the Crime Branch investigations were suppressed before the Sessions Court, Bhandarwah, NHRC and the High Court.

The crux of the case of the complainant before the SHRC was that the parallel Crime Branch investigation ordered into the case that implicated Kuldeep Khoda was never considered by the Trial Court, the NHRC or the High Court. The SHRC was the first forum to have the opportunity to consider the Crime Branch investigations. The SHRC had a unique opportunity to critically study the Crime Branch investigations but instead chose to mechanically understand the import of these documents. Despite an order from the SHRC to provide the final Crime Branch report, a so called "final" report of 4 December 1999 was provided. This was not a final or comprehensive report and did not provide cogent reasons to negate the earlier findings implicating Kuldeep Khoda. More crucially, this report was written when the accused Kuldeep Khoda was the Inspector General, Crime Branch. Therefore, the SHRC chose to rely on a document whose contents were directly under the control of an accused.

In light of the above, and considering the circumstances and time in which the trial was conducted, where it is likely that witnesses would feel great fear, the instant case should be re-investigated and if necessary, re-tried.

Later, it came into the notice that the families of the victims were influenced by the accused persons not to peruse the case. There was no word from the petitioners after the case was dismissed by the SHRC.

recommendations from many countries, including Australia, Austria, Botswana, Brazil, Czech Republic, Indonesia, Iraq, Italy, Maldives, Portugal, Republic of Korea, Spain, Sweden, Switzerland, Timor-Leste, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

Dilip Sinha, Permanent Representative of India to the United Nations Office at Geneva, said that India viewed the Review as a continuous process and not a one-time exercise and stressed that its commitments were not limited to the accepted recommendations. A range of administrative and legislative measures had been taken to seek improvement in all aspects of human life, said Mr. Sinha, and underlined the importance of an effective

institutional framework to protect the human rights guaranteed to its people by law.

The National Human Rights Commission of India said it would help to disseminate the Universal Periodic Review outcomes to the public and monitor the implementation of the accepted recommendations. The problem in India was not lack of laws and budgets, but the implementation of recommendations.

The Council then adopted the outcome of the Universal Periodic Review on India.

Forum Asia noted that most of the 169 recommendations it had received were actually repeated from the first cycle, thus indicating a poor implementation status. The recommendations to repeal the Armed Forces Special Powers Act was key as the Government continued to camouflage the systematic impunity enjoyed by the armed forces in the Northeast and Kashmir.

APDP TO GOI ALLOW UNWGEID TO PROBE DISAPPEARANCES

Sep 28: Association of Parents of Disappeared Persons (APDP) urged the Govt. of India to allow access to the United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID) to probe enforced disappearances taken place since 1989 in J&K. The association made this appeal during its monthly sit-in held at Local Park in Srinagar.

"In Pakistan the judiciary is attempting to provide justice to the family members of those who have been subjected to enforced disappearance. In 2008, the Chief Justice of Pakistan entered into confrontation with the then President of Pakistan for taking a pro-active stance against disappearances. That confrontation ultimately emboldened the judicial system in Pakistan to be more pro-active on human rights issues. This judicial intervention on enforced disappearances has created an atmosphere in Pakistan which has pushed Pakistani government to invite United Nations Working Group on Enforced or Involuntary Disappearances (UNWGEID). The UNWGEID recently concluded its first 10 day visit to Pakistan and have begun their investigations on enforced disappearances," the APDP statement released during the sit-in read.

While questioning the GOI's claim of the largest democracy and rule of law, APDP statement further read, "Indian government claims Pakistan is disaster for human rights but in the recent past Pakistan has allowed international organizations and institutions to probe human rights abuses. India being a democracy, has never allowed any transparency and accountability in Jammu and Kashmir. More than 8000 people have disappeared and there are more than 6000 unmarked graves and mass graves in Jammu and Kashmir; the government and the judicial

Sudwind Entwicklungspolitik criticized India for only giving the list of accepted recommendations. It was very disappointed that India did not accept to ratify the Rome Statute of the International Criminal Court, or the Optional Protocol to the Convention on the Elimination of Discrimination against Women. It recommended that India reconsider the recommendations it had not accepted.

Amnesty International regretted the apparent lack of support by India of recommendations to hold security forces to account for human rights violations. Amnesty International deeply regretted India's rejection of recommendations to allow a visit by the Special Rapporteur on Torture, which had been pending since 1993, to go ahead. It also expressed serious concern about the lack of protection of human rights defenders in India.

system has so far taken no concrete measures to address the problem of enforced disappearances or any other human rights violations. Not even one case of enforced disappearance has been redressed and also the government continues to deny conducting DNA tests of the thousands of unmarked graves and mass graves across Jammu and Kashmir. The victims of human rights abuses have got disillusioned with the available mechanisms of justice in Jammu and Kashmir. The systems of justice in Kashmir have functioned against the interest of the aggrieved."

APDP criticized the Indian President statement asking Kashmiri youth to forget their past and move ahead. "Indian President, Pranab Mukherjee during his visit to Srinagar asked the youth of Kashmir to move ahead and forget the dark days of violence... After perpetrating violence and injustices on the people of Jammu and Kashmir for years, the Indian President cruelly asks people to forget and move ahead, instead of directing the government to make systems of justice deliver. This is the extreme insensitivity of the Indian political elite, who claim Jammu and Kashmir to be an integral part but do not wish to redress the human rights abuses of the people of Jammu and Kashmir. The systems of justice in India appear to be not meant for people of Jammu and Kashmir," the statement says.

The association reiterated its demand for constituting a mechanism aiming at probing the disappearances. "Families of the enforced disappearances demand that international community to pressurize Indian government to shun arrogance and injustice in Jammu and Kashmir and allow international institutions to probe human rights abuses in Jammu and Kashmir," the statement said.

SHRC SUMMON P S GILL

SUMMONS EX-IGP THROUGH CONCERNED DISTRICT MAGISTRATE IN PUNJAB

Sep 18: Jammu and Kashmir State Human Rights Commission (SHRC) took strong note of repeated non-appearance of the ex-Inspector General of Police (Kashmir), PS Gill, in the case of abduction of foreigners in 1995. The rights body has summoned the former officer through the district magistrate of his native district in Punjab.

The Commission issued summon to Gill under section 73 of the Criminal Procedure Code (CrPC). Hearing the case today, the Division Bench of the SHRC comprising Javaid Kawoos and Rafiq Fida expressed strong resentment over Gill's non-appearance despite repeated notices in past few months.

The Bench observed that at the previous hearing on September 1 the secretary SHRC was directed to write an independent communication to Gill so that he is in a position to file his personal response in the case.

"The secretary SHRC vide communication dated September 4 has done the needful but no response from Gill has been received. In these circumstances it will be advisable to serve PS Gill by adopting procedure laid down under section 73 of the CrPC. Let PS Gill be served through concerned magistrate within local limits in whose jurisdiction Gill resides," the Bench directed.

SHRC officials said Gill resides in Moga district of neighboring Punjab state and if he does not appear despite summon by the respective magistrate, legal proceedings can be initiated against him. Gill has served as DGP of Punjab and after his retirement unsuccessfully fought Assembly elections from Moga Constituency in Punjab on Akali Dal ticket earlier this year.

Gill was IGP Kashmir when Paul Wells and Keith Mangan of Britain, Dirk Hassert (Germany), John Childs and Donald Hutching (US) and Hans Christian Ostro (Norway) were kidnapped by little-

RTI REVEALS 2226 POLICE OFFICIALS PROMOTED OUT OF TURN

Sep 24: As many as 2,226 police official were conferred with out-of-turn promotion Jammu and Kashmir police revealed in its reply to an RTI filed by JKCCS on awards (non-monetary) and out of turn promotions for anti-militancy operations from 1989 to 2012. However, police chose not to share the names of the receipts citing security reasons to block the full information.

The police reply, JKCCS said, was only partly satisfactory, as the important part of the

SHRC ISSUES WARRANT AGAINST ADC ISLAMABAD

COMMISSION TAKES STRONG NOTE OF HIS NON-APPEARANCE IN MISSING YOUTH'S CASE

Sep 11: The Jammu and Kashmir State Human Rights Commission (SHRC) issued non-bailable warrant against the Additional Deputy Commissioner Islamabad (Anantnag) for repeatedly failing to appear

known Al-Faran militant group from the forests of Pahalgam in 1995.

While Childs managed to escape under the cover of darkness six days after his abduction, 27-year-old Ostro was killed and his body was located on August 13, 1995. The other four foreigners remain untraced.

The Bench said that the complainant, Advocate Parvaiz Imroz, submitted during hearing of the case today that he wants to file a composite rejoinder in the matter. "Unless his (Gill's) response comes on record, he (Pervaiz) will not be able to file his rejoinder and further presentation in the case," it said.

The Bench observed that the secretary SHRC had also written a detailed communication to the Principal District and Sessions Judge Islamabad (Anantnag) to direct the Judicial Magistrate Ist class Aishmuqam to submit the record of ikhtitamis of FIRs 66, 67, 70 of 1995.

"The requisite record has not been received as yet. Secretary (SHRC) will take up the matter with the Principal District and Sessions Judge Anantnag again so that the requisite record is received positively by or before the next date. The DC Anantnag has not till date submitted his report in the matter. He be informed that the report must be submitted positively by or before the next date failing which he will appear in person to explain the defaults," it said.

The case took a twist following disclosures in a book "Meadows" released earlier this year that the foreigners were killed on the directions of the security forces. On these allegations, the International People's Tribunal on Human Rights and Justice and Association of Parents of Disappeared Persons (APDP) filed a joint petition in the SHRC on April 6 this year seeking a fresh probe into the case.

information was withheld on the pretext that naming the officials would put them in danger.

The RTI reply stated that 2226 police officials had received out of turn promotions for anti-militancy operations as per Government Order No. Home-3 (P) of 2000, dated 6 January 2000 for "consistently exceptional performance on the anti-militancy front". 560 police officials had received gallantry awards for their "gallant acts". It also says, the names of the officials were not provided, as it was felt the disclosure would endanger them.

before the Commission and comply with its direction on ex-gratia relief to family of a missing youth.

Hearing the case, member SHRC Javaid Kawoos asked the Deputy Superintendent of Police of the Commission's Investigation Wing to execute the

warrant and summon the ADC along with requisite records of the case.

During last hearing of the case on August 31, 2012, the Commission had issued bailable warrant against the ADC. However, after he still did not appear before the Commission, it issued non-bailable warrant on September 11.

By virtue of the Jammu and Kashmir Protection of Human Rights Act 1997, the SHRC has the powers to summon and enforce the attendance of any person and examine him and requisite the production of any document.

CASE:

The family of Khurshid Ahmad Reshi son of Ghulam Qadir Reshi of Dialgam Islamabad said he went missing on June 26, 1990. After failing to locate his whereabouts for nearly 20 years, the family had approached the SHRC in 2009 seeking investigation into the case.

The Commission sought a report from the Director General of Police (DGP) into the case. In his response the DGP submitted that the youth has crossed the Line of Control. "The enquiries conducted into the matter have revealed that the complainant's brother Khurshid Ahmad Reshi was a BA second year student of Government Degree College Anantnag. On June 26, 1990, the said youth left his home for college but did not return in the evening. His whereabouts were not known to anybody for a long time. It has further been reported that the said individual crossed over to POK for obtaining subversive training in 1990 and has not returned so far. However, it could not be ascertained whether the individual is dead or alive there in POK," the then DGP stated in a letter to SHRC on April 29, 2010.

However, after Khurshid's family refuted the report, the DGP changed his statement. "Whereabouts of the said youth (Khurshid) are still unknown. The period, during which Khurshid went missing, youth would cross over to POK in large numbers. However, it could not be confirmed as to

whether the said subject is alive or dead," the DGP stated in his letter to SHRC on October 11, 2011.

On March 2, 2012, the Commission maintained that this report of the DGP is final. "In my humble opinion the report of the police chief of the state is final which the DLSCC must consider while considering compensation case of the next of kin of the deceased. Let ADC Islamabad be summoned along with ex-gratia details of the case," the SHRC held on March 2, 2012.

In his report, the ADC Islamabad, according to the Commission, brushed aside the DGP's report and maintained that youth had crossed the LoC.

"The reports sought from the Additional DGP CID, SSP Anantnag reveal that the missing persons Khurshid Ahmad Reshi son of Ghulam Qadir R/o Dailgam was a student of BA Ist year, who infiltrated to PaK/PoK in 1990 for obtaining subversive training and till date his whereabouts are not known," the ADC Islamabad states in a letter 04/DCA/ER on March 4, 2012. However, the ADC did not appear before the Commission. The Commission took strong exception to the ADC's report and his non-appearance before it and issued bailable warrant against him on August 31, 2012.

"Despite bailable warrant having been duly executed against the ADC on August 31, 2012, he is not present today. Even requisite record has not been produced. The case was passed over a number of times to ensure the presence of ADC Anantnag, but as he did not turn up, he now be summoned alongwith requisite record by issuance of non-bailable warrant to be executed through DySP SHRC," the SHRC member Javid Kawoos stated in the order September 11.

"Further, Mukhtar Abass, some assistant revenue attorney in DC's office Anantnag who has stood for the presence of the ADC Anantnag be put to notice as to why the amount of surety Rs 5,000 be not forfeited and remitted to the Government Treasury," the order read. The case is listed for October 11, 2012.

10 MONTHS ON, SHRC CONTINUES TO BE HEADLESS

INVESTIGATION WING WITHOUT IGP

Sep 2: In blatant violation of rules, the Jammu and Kashmir Government has kept the State Human Rights Commission (SHRC) headless despite passing of nearly 10 months since its chairperson attained superannuation.

The Commission also is without a separate Inspector General of Police (IGP) to head its investigation wing besides a member—hampering its smooth functioning.

The SHRC chairperson Justice (Retd) Bashir-ud-Din retired in October last year and since then Government has not made any efforts to place a suitable person on the coveted post.

According to the Rule-3 sub-section 4 of the Constitution of the Commission, its chairperson shall

be appointed by the Governor by warrant under his hand and seal.

However, the Constitution provides that every appointment under this sub-section shall be made after obtaining the recommendation of a committee comprising the Chief Minister as chairperson, besides speaker of the Legislative Assembly, Chairman of the Legislative Council, Minister incharge of the Home Department in the State, Leaders of opposition in the Legislative Assembly and the Legislative Council as members respectively.

The Constitution provides that no sitting judge of the High Court or sitting district judge shall

be appointed except after consultation with the Chief Judge of the Court.

Sources said the Committee has not even met once in last 10 months to even discuss the issue of selection of the chairperson.

According to sub-section 7 of Rule 3, a member of the Commission can act as Chairperson or discharge his functions in certain circumstances.

"In the event of the occurrence of any vacancy in the office of the chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorize one of the members to act as the chairperson until the appointment of a new Chairperson to fill such vacancy," reads the sub-section.

The SHRC was constituted in 1997 and is governed by Jammu and Kashmir Protection of Human Rights Act 1997. By virtue of the Act, the Commission can order investigations in cases of human rights violations and recommend measures for effective implementation of laws and safeguards provided by the Constitution to protect the human rights.

The inordinate delay in selection of the Chairperson has put extra load on the Commission's two members in Srinagar headquarters who have to hear bulk of the cases regarding various human rights violations.

"The Chairperson shall have powers to constitute Bench (s) and distribute business of the Commission to such Bench(s). Members shall sit alone or in such benches as may be constituted from time to time by the chairperson and do such work as may be allotted to them by the Chairperson or under his directions," reads Rule 15 of the SHRC's constitution.

The Commission by virtue of the Jammu and Kashmir Protection of Human Rights Act- 1997 has been provided with a separate investigation agency for independently undertaking probe into complaints of human rights violation.

JKCCS TAKES UP DETAINEES CONDITIONS WITH SHRC

Sep 27: JK Coalition of Civil Society (JKCCS) sought immediate intervention of State Human Rights Commission (SHRC) into the alleged harassment and ill-treatment to the inmates at Udampur Jail, Jammu. JKCCS submission placed a request to the Commission to conduct an investigation and ensure necessary action against the personnel responsible for dishonoring prisoners' rights.

In an application filed before the state commission, JKCCS raised the issue of ill-treatment of detainees by the jail authorities. The JKCCS acted on a letter dispatched to its office by a Hurriyat's top activist, Masrat Alam Bhat, under incarceration in Udampur Jail. The letter made a detailed mention of the ill-treatment the inmates are getting at the hands of the jail establishment.

In November last year, the Government transferred IGP of the SHRC's Investigation Wing Gulzar Singh Slathia "without taking SHRC into confidence. Earlier this year, the State Cabinet on April 27 elevated DIG Trainings AQ Manhas as IGP Investigation Wing of SHRC. "However, after he did not join the new posting the State Cabinet on May 31 posted him as IGP Railways leaving the SHRC investigation wing headless. In absence of the IGP, the wing faces problems to undertake investigation in various cases," an official of the Commission wishing anonymity said.

"SHRC has been fighting for human rights or others, but the Government has denied the Commission of its rights by keeping important posts including of chairperson headless," he added.

The Commission is presently hearing important cases including of unmarked graves and kidnapping of foreigners. Presently the SHRC has only three members—two in Srinagar and one in Jammu.

Incidentally the SHRC for past six years has been decrying undue interference by the civil and police officials, lack of powers, proper staff and own accommodation saying it hampers the Commission's functioning and delays justice to the victims of human rights violations.

In 2006, Justice (Retd) Ali Muhammad Mir had resigned as the chairperson of SHRC to protest against the non-implementation of the Commission's recommendations.

When contacted the Secretary to Government Department of Law, Justice and Parliamentary Affairs, GH Tantray, acknowledged delay in selection of the chairperson but maintained the process for it has been started.

"We are on the job and all the vacant posts in the Commission including of Chairperson will be filled soon," Tantray said.

"Since September 2012, a new Jail Superintendent namely Vinod, after taken over the charge, has been involved in reining terror on inmates from Kashmir. On his orders, Muslims are being kept in separate barracks. SP Vinod has shifted me to a room where non-Muslims are being lodged and also a makeshift temple was erected to disturb me during prayers," reads Masrat Alam's letter wrote to JKCCS.

The letter further read, "That on daily basis, jail authorities use various pretexts to harass me and others. They ransack my belongings and ill-treat me by putting me to different difficult tasks. They also took away my blankets, bed sheets, prayer rugs, medicines, etc to deprive me of basic amenities. Every morning on the name of PT (Physical Training) all prisoners are forced to recite Indian National Anthem and sloganeer "Bharat Mata ki Jai". And those who

refused the dictates are being beaten and harassed repeatedly.”

The letter made startling revelations that the SP Vinod were forcing the inmates, both Muslims as well as non-Muslim to join his group “Radha Soami Sat Sang”. The other allegations mentioned in the letter read that whenever, any new detainee is brought to the Jail, the officer severely beats him, cuts his hair forcibly and then locked him in solitary confinement cell for at least 15 days.

“Medical aid is vehemently denied to the detainees. If any detainee complains of illness and seeks medicinal assistance, he has to face beating on the orders of the SP. There is complete violation of rights of prisoners and jail,” the letter reveals

UNIVERSITY STUDENTS ON RECEIVING END SUBJECT OF SUSPICION ON PRESIDENT'S VISIT

Sep 27: It has become customary in Kashmir University, whenever any political dignitary of the stature of President or Vice-President visit the University students has to bear the brunt of it. During the visit of Indian President, Pranab Mukerjee to award the students with medals and certificates on 18 Convocation the entire student community became the subject of suspicion. Even the credentials of those selected students, who were to receive the mementoes and certificates, came under severe intelligence scrutiny.

According to the students, who were facing harassment from the state to ensure the silence of the dissent on the occasion, that the very right to protest has been denied to them. The student community termed the visits of the political dignitaries to KU as an attempt to politicize the whole affair of education. The visits have been also seen as “forced allegiance” of students with the state. The student community came hard at University administration and questioned its role in facilitating such a big exercise of political nature, while on the other hand, usurping the very right of the student of forming the Unions. They further said there is no space or scope available for student activism.

The students said, verifying the credentials of students only imply the nervousness of the state while holding such exercises. What the state wants to convey to the students whom were asked to vacate the university hostel premises on the eve of the function. And those who remained in the hostel were strictly directed not to move out on the day of ceremony.

Aghast over the treatment, the students felt disturbed and in protest raised black flags on the rooftops of the Departments. They also tied around their arms black ribbon to mark their protest. An unofficial holiday was observed by the university administration.

In the last para of the letter, the detainees made a fervent appeal to put an end to the harassments they are being subjected to. The detainees harbor the apprehensions that if legal action has not been initiated against the officer, it is unlikely that there would be an end to harassment and torture to the detainees.

JKCCS application to SHRC also made a passing reference of Mushtaq-ul-Islam, lodged in Udhampur jail about his harassment and solitary confinement. “We are receiving inputs from various jails about the ill-treatment of inmates especially of Mushtaq-ul-Islam, who was locked up in solitary confinement,” JKCCS application read.

According to the students who preferred not to be named told *The Informative Missive*, “Whenever any state dignitary comes to KU, the student community comes under harsh treatment. The space to protest or shift the attention of the visiting dignitaries towards the Kashmir human rights violations or towards the peaceful solution of Kashmir has been choked.”

The students were enraged over how the very academic functions like seminars, conferences and convocations have been used by the state to show the forced allegiance of the student community with the state. Although, there is a complete ban on student activism and no space available for political discourse, the students who have been striving for a student union face intimidations and even arrests.

There Student Union office in 2009 was bulldozed and raised to ground by the state after they have protested against the Shopian double rape and murder and boycotted the then President of India's Pratiba Patil's visit. The students were completely followed and put under police radar.

Like this year two big events like JK Science Congress 2012 and KU Convocation 2012 were attended by vice President of India and President of India respectively. During both events students and scholars of the university were intimidated and harassed on the name of security.

Pertinently, in the June 2012 some of the KU students were arrested for face book activism. They were allegedly tortured in police lock ups. During the recent visit of Vice President of India - Hamid Ansari, the students were directed only to attend the inaugural session if they will stand for India's national anthem. There was one by one method screening of participant students, even the valid identity cards were made irrelevant for the day and a separate and special ID cards were issued.

INCARCERATED FOR DECADE

September 24: Two Kashmiri youth recently returned home after spending 10 prime years of their lives behind bars. Convicted by a court in Uttar Pradesh for carrying explosives, they claim they were framed and didn't get a good lawyer to fight their case.

On a sunny June morning in 2002, days after he cleared his Class 10 examination, Mohammad Yousuf Mir told his mother that he wanted to leave Kashmir to pursue higher education in Islamic Studies. Despite getting good marks, he wanted to discontinue his schooling and study Quran at a private Darul Uloom in India's northern state of Uttar Pradesh.

However, Mir had no idea of how to go about it. But his friend, Abdul Latif Tantray, told him about an acquaintance, who could help them get admission at Darul Uloom in Saharanpur.

Finally, in late June, they got enrolled in Darul Uloom in Gangoo village of Saharanpur. Everything was going well till one day when they were purchasing vegetables from a market. It was on August 5, 2002, just two months after their arrival in Gangoo when the classes had just begun that the Uttar Pradesh police arrested them on 'fake charges.'

"They asked us whether we were from Kashmir. Once we answered in affirmative, we were taken to a police station," says Tantray. The charge sheet filed against them said the police arrested the duo from a market where they were trying to detonate a bomb.

The police had in its charge sheet said both the accused possessed RDX and a weapon. Later, the court of Judicial magistrate, Saharanpur, convicted them for their involvement in militancy activities and sentenced them for ten years.

After spending ten years in jail they returned home recently. On their arrival in their hometown, hundreds of people garlanded them amid pro-freedom slogans. Upon their arrival, the two were taken to Gund Brath village, the home of Tantray, in a large procession.

"When we were arrested by the police, we asked them what was our crime. They said you are Kashmiri and you have a beard. That is your crime! We were locked up and subjected to torture," Tantray, who is 32 now says. "My world has changed after spending ten years inside the jail for a crime which I had never committed."

"The Indian media branded us as terrorists. They said that we had come to Saharanpur so that we

KASHMIRI STUDENTS HARASSED IN HARYANA COLLEGE

SEP 10: Kashmiri students pursuing engineering in Alfalah School of

Engineering and Technology in Dhauj area of Faridabad district of Haryana were allegedly harassed by the local goons.

The students talking to media said that the locals entered into the rented accommodation of the

could launch attacks from this place. We didn't know anything. We were there just to study but no one listened to us at that time," says Tantray.

Over the years of incarceration, Tantray has developed a hatred for media person and was reluctant to talk when this reporter met him. "Whenever any person-clicking picture, I get angry. Why didn't any newspapers highlight our case for ten years so that we could get justice."

Mohd Amin Peer, who also served 10 years in different jails in Uttar Pradesh, was shocked to see the condition of his family once he arrived at home. When he had left home for pursuing education, theirs was a middle class family. Today they live in abject poverty and desperation. "We sold our land, house and everything we had so that we could get our son out of the jail. But we couldn't even do that," said his brother, Nazir Ahmad.

"When we were arrested, we were told to sign two documents written in Hindi. I couldn't read it. We were told to sign on the papers and later we were produced before the court," Tantray says.

After signing the papers, both were lodged inside a stinking room in a police station, "It was suffocating inside. We were tortured, our clothes were striped and we were left naked," recalls Mohammad Amin.

Nazir Ahmad, Amin's brother says that he was not able to provide education to his children after Amin's arrest because whatever he earned, it was spent for fighting the case, "Despite that, I couldn't get my brother out of jail for ten years. The miserable conditions led me to stop my two young daughters from pursuing education. I cried and told my daughters that I was not in a position to afford their education," Nazir said.

Nazir's wife says they never celebrated Eid after her brother-in-law was arrested. "This was the first Eid after ten years when we were together. During his incarceration, both parents of my husband died due to cardiac arrest," she says.

For the first six months after his arrest, the parents of Amin were not allowed to meet him. They were only able to see him after a year. Now that the two are back to their normal lives, with the prime years of their lives spent behind bars, both feel cheated by the judicial system and the police who allegedly implicated them on false charges.

"We didn't had a good lawyer to fight our case," Tantray says.

B.Tech (Civil Engineering) College and ruthlessly beat up a Kashmiri student without any provocation leaving him critically injured. He was shifted to hospital in a critical condition and is undergoing treatment there.

The students said that trouble began after a local student pursuing MBA from the same college

under the influence of liquor started hurling abuses at a Kashmiri student.

"As the Kashmiri students objected, he got infuriated and left the place in a fit of anger. Few minutes later he returned along with two dozen goons who severely beat up the Kashmiri student with iron rods and cycle chains," a group of Kashmiri students told Kashmir Times.

They said that the goons continued to beat him till he fell unconscious. "When we tried to intervene the goons also thrashed us and threatened us of dire consequences. They also asked us to vacate the college within few days," the students said.

GOVT GUNMEN UNLEASH TERROR IN KUPWARA VILLAGE

ATTACK 20 OF A FAMILY, INCLUDING 11 DAY INFANT, OVER LAND DISPUTE

Sep 2: Twenty members of a Kupwara family, including a 11 day infant, were injured, some of them critically, when a group of government gunmen attacked them over a land dispute in border village of Trehgam on August 29 night.

Twelve of the injured protested at Press Colony. With injury marks visible on their bodies, they narrated the tales of atrocities perpetrated on them on the fateful night. Among the injured were five women, including an old lady with serious wounds. "More than five people beat me up. They tore my clothes and I was fainted. I opened my eyes in a local hospital," she said.

"I tried to save my kid by holding him in my bosom but they were so atrocious that they snatched him from me and hurled him away. They even tried to molest me but it was because of my brother that my chastity was saved," said another woman.

Ghulam Qadir Lone, the family head, said that a former renegade, Muhammad Shafi Lone aka Peer Jehangir hurled a grenade towards his house followed by an attack with sharp edged weapons.

"We were sleeping when I heard an explosion. At first I thought gas cylinder in the kitchen had exploded, but soon Shafi Lone barged into our home along with nearly 50 people and attacked us," Qadir said.

He said an army post is next to their house and the police post is ten meters away. "We raised a

BILLS TO PROTECT JUVENILE RIGHTS GATHER DUST

Sep 2: Two important bills--Juvenile Justice (JJ) Act and State Commission for Protection of Child Rights (SCPR) Act--to secure the rights of children are gathering dust over the past two years, with authorities showing no intention to pass the legislations.

Authoritative sources told media that J&K Govt had set the process of bringing the obsolete Juvenile Justice Act in conformity with national and international standards into the motion last year. The move was initiated by State Government after it drew flak from international rights groups and political parties for juvenile detentions especially booking of

They said they registered complaint with the college authorities but that too did not take any action. "We approached the college authorities and asked them for security, but it was not provided," the students said. They alleged that even the security guards of the college are supporting the local goons.

The incident has created fear psychosis among the Kashmiri students studying in the college. They have demanded intervention of the chief minister into the matter. "We are feeling insecure here and cannot concentrate our studies any more. We appeal the chief minister to look into the matter," they said.

hue and cry but no one came to our rescue," Qadir said, adding "the attack was pre-planned. They thrashed us continuously till 3 am."

"They even fired a few bullets in air. For a moment I thought all of us will be killed. I somehow managed to escape and tried to approach police which is very close to our house but they didn't pay any attention," said Qadir's son Mukhtar Ahmed. Two of the injured, he said, have been admitted to the SKIMS, Soura.

Mukhtar said they had purchased a piece of land from a Pandit family few months ago. But Shafi Lone, he said, lodged a complaint with the district administration. The district administration "gave the verdict in our favour and then he complained in a local committee which also gave verdict in our favour," Mukhtar said.

He said they had already given three *malras* of land to Shafi Lone out of fear. "But he wanted more and when we resisted, he attacked us," he said.

"Though police arrested some of the attackers after some senior police officials from the district headquarters came to know about the incident, the main culprit is still roaming freely, Mukhtar added.

Despite repeated attempts, no senior police officer from Kupwara was available for comment.

minor, Fazian Rafiq Hakeem, under Public Safety Act. Amnesty International (AI) had then also started signature campaign for upgradation of JJ Act in JK particularly raising the cut-off age from 16-yrs to 18-yrs and had urged Chief Minister Omar Abdullah to bring it at par with international law. "Despite an obligation under international law to treat anyone below the age of 18-yrs as a child, police continue to imprison 16-yr and 17-yr old boys as adults," the AI had said.

Under pressure from rights groups, Chief Minister Omar Abdullah had also acknowledged the

need to bring the state's Juvenile Justice Act at par with the National Act.

"I would ask the Law Department to look into the provisions of both the Acts and if any gap is required to be filled up in the State Act through legislation we should move towards that direction," Omar had said while speaking at Udhampur on Apr 21 last year.

According to the sources, the State's Social Welfare Department prepared the draft of the new legislation on Juvenile Justice to replace the archaic JJ Act-1997 within two months. Subsequently, the bill was sent to Law Department and without taking much time the Department cleared it after slight fine-tuning in July last year.

"Following the clearance from Law Department, the bill was sent to Finance Department for concurrence, but they returned the bill back to Social Welfare Department seeking modifications for bringing down the recurring amount required for setting up of infrastructure which was to be set up as per the draft. The Social Welfare Department promptly responded to the queries raised by Finance Department but the latter is sitting over the file," they said, adding that since then there has been no forward movement on upgrading the law.

Similarly, the law for setting up State Commission for Protection of Child Rights (SCPCR) has also been hit due to financial implications.

An official source said after preparation of draft for constituting SCPCR, the Law Department cleared it in early 2011.

Since then, according to the official, the bill has been returned by Finance Department four times on one or other pretext and the queries raised by them "do not hold any ground."

"They are raising unnecessary queries over the past two years and some of the queries raised by them are beyond their mandate," the official said.

Pertinently, the National Commission for Protection of Child Rights (NCPCR) has mandate to work in all states excluding Jammu and Kashmir for the purpose of safeguarding child rights. Despite being covered by NCPCR, 15 states have constituted

state level Commissions at their own level to strengthen child rights mechanism.

An official said that JK is losing crores of rupees due to failure of government to bring child rights at national standards.

"JK is only state where the Integrated Child Protection Scheme (ICPS) is yet to take off. Had ICPS been implemented in JK state would have got around Rs 40 crore from the Centre. The reasons cited by the Department for delay in implementation of ICPS are blatant lies and the only reason for its non-execution is failure of government to raise the cut-off age," the official added.

POLITICAL PARTIES SPEAK

Chief spokesman of opposition Peoples Democratic Party, Naeem Akhtar flayed the coalition government for failing to protect child rights and added that government should respect child rights and "not make it an issue of security".

"This government is directionless. Whatever it says it forgets next moment. They make promises only for news headlines and wherever we have laws in place they fail to implement them. Children have been particular victim of the present coalition. They have faced handcuffs, suffered long detentions," Akhtar said.

The PDP spokesman said the subject needs to be dealt with compassion and understanding and it should not be made an issue of security. Children can be what we the elders want them to be. Unfortunately, there is no effective mechanism to protect child rights in JK."

Member Parliament from south Kashmir, Dr Mehboob Beg said he would raise the issue with Chief Minister, Omar Abdullah, as soon as parliament session ends.

"It is a serious issue and we cannot remain mute spectators towards it," Beg said.

CPI (M) Communist Party of India State Secretary and MLA Kulgam, M Y Tarigami, said the two laws should be passed without wasting further time to protect our future. "As far as the child rights are concerned, there is no effective legal frame mechanism in place and successive regimes have forgotten the subject," he said.

JUVENILE ACT TO BE BROUGHT AT PAR WITH CENTRAL LAW

AS PER CENTRAL LAW, AGE OF A JUVENILE IS 18

Sep 5: The government is coming with the bill on justice juvenile act, which will be at par with the Central law. "The law department has already cleared the bill of justice juvenile act.

The bill covers all major aspects of the central juvenile law," Law and Parliamentary Affairs Minister Ali Mohammad Sagar told media.

He said he has already vetted the new justice juvenile act bill. "I have sent the bill to social welfare department, who have forwarded it to Finance Department for the approval".

"The moment the bill is passed by the finance department, it would be presented in the Assembly for approval," Sagar said adding it is a good piece of legislation and covers all the aspects regarding age, court trials and other things.

He said the bill would answer the queries of civil society, who have been demanding bringing State Juvenile Justice Act at par with the Central Act.

Kashmir, where scores of people between age group of 14 to 18 were detained and even booked under PSA since 2008, is feeling the real need for

implementation of juvenile act on the lines of central law.

A legal expert said the accused up to 16 year of age should be sent to juvenile court for trial. "But in the State, their cases are heard by the Chief Judicial Magistrate. It is because the government has framed no rules for the Juvenile Courts," he said.

The State government has not implemented the Juvenile Justice Act although it was promulgated in India in 1987 and introduced in Kashmir in 1997.

Since the introduction of State Juvenile Justice Act in 1997, neither any amendment was done nor was it practically implemented on the ground.

Apart from putting the delinquents on trial in normal courts, the J&K Juvenile Justice Act recognises the boys under 16 years old as minors while under central law, the age of a juvenile is 18.

The main purpose of the justice juvenile legislation is to protect children from exposure to the criminal culture and to rehabilitate them

The central Juvenile Justice (Care and Protection of Children) Act, 2000 is the primary legal framework for juvenile justice in India. The act was further amended in 2006. In this act a child or juvenile is defined as a person who has not completed his/her 18th year of age. The act calls for the establishment of Juvenile Justice Boards (JJBs) where the State Government sees fit.

Another important act is that when a police officer comes in contact with a juvenile he/she must place the child with the Special Juvenile Police Unit (SJPU) who must report the child to the board without delay. Bail is available to juveniles in all cases. Besides, the JJB must make an inquiry into the case and if they determine the child is guilty of the crime then they may release the child after advice and counselling. Under this Act, juvenile cases cannot be processed with non-juvenile cases.

OFFICIAL STATEMENTS

➤ 124 MINORS DETAINED AT JUVENILE HOME SINCE 2011

Sep 2: Officials revealed that out of 124 minors, 99 were detained on charges of stone pelting; five were on murder charges while three were booked on rape charges and 17 were detained for theft.

They said the most minors allegedly involved in stone pelting and street protests were booked by Police Station M R Gunj and Nowhatta.

Talking to media Superintendent of juvenile home, Ghulam Ahmad Manphoo, said no record about detention of minors was maintained before the setting up of juvenile home here. "Before setting up of juvenile home, a good number of minors were detained on the charges of stone pelting. They were kept in the jurisdictions of respective police station and were later released."

A senior police official said that during the 2008 and 2010 lot of minors were detained for stone pelting. "But no record was maintained," he added.

➤ TROOPER'S SUICIDE LED TO ARMY UNREST IN SAMBA: ANTONY

'25,000 JCOS, SOLDIERS HAVE TAKEN PREMATURE RETIREMENT'

Sep 3: Defence Minister A K Antony said suicide by a trooper had led to "unrest" among troops of an Army unit deployed in Samba sector in Jammu and Kashmir.

However, Army Chief Gen Bikram Singh had claimed that the two incidents were "not connected".

Officers and troopers of the 16th Cavalry regiment were engaged in stand-off on August 8 in Samba sector soon after the soldier committed suicide.

"The incident of a suicide by an Army personnel on August 8, 2012 in Samba sector of

Jammu and Kashmir led to unrest. A Court of Inquiry (CoI) has been convened by the Army to investigate the matter," Antony said in a written reply in Lok Sabha.

After the incident came to light, Gen Bikram Singh had stated that two separate CoIs had been instituted by the Army and that "there was no connection between the suicide and the incident."

Antony said in the last two years, there have been three such incidents where officers and soldiers have been involved in "scuffles" at different places including the 226 Field Regiment at Nyoma in Ladakh and 45th Cavalry at Gurdaspur in Punjab.

The Defence Minister said soldiers are not subjected to "undue harassment" by officers and they perform their responsibilities in a "congenial atmosphere".

In the same reply, he said in the last three years, 1,602 officers have sought either premature retirement or resigned from the force and 882 of these pleas have been accepted.

In case of Junior Commissioned Officers (JCOs) and soldiers, he said 25,063 of them have taken premature retirement from the force.

Antony said a number of steps including liberalised leave policy, provision of recreational facilities and deployment of psychological counselors to keep up the morale of soldiers.-PTI

➤ RTI ACT WAS AMENDED TO REMOVE ANOMALIES: GOVT

Sep 3: Jammu and Kashmir Government defended its move of amending RTI Act saying it was needed to remove "anomalies" in the act and bring it at par with the Central legislation. "The recent amendments to the J&K Right to Information Rules-2010 were aimed at removing anomalies in the execution of the act by bringing it at par with the central RTI Act of 2005 and

rules framed there under," an official spokesman said in a statement.

In fresh amendments in the RTI Act 2010 made public last month, rules spread over 27 pages stands discarded. Instead, new rules are on only six pages.

However, the spokesman said that there were certain discrepancies between the rules and the RTI Act-2009 as the mandate of the Act in the earlier rules was exceeded in respect of certain provisions which made it vulnerable to avoidable litigation.

He said the provision regarding initiation of criminal proceedings by the Commission was ultra vires the provisions of RTI Act-2005. It was an error which had to be corrected, the spokesman added.

➤ **67 SUCCESSFUL INFILTRATION BIDS IN JK THIS YEAR: GOI**

'14 KASHMIRI YOUTH JOINED MILITANT GROUPS'

Sept 5: The Government of India (GoI) said 67 successful infiltration attempts have taken place in Jammu and Kashmir till July this year and 14 Kashmiri youth have joined militant groups.

"A total of 67 successful infiltration attempts, out of the total 139, have taken place till July this year across the border in Jammu and Kashmir," Minister of State for Home Jitendra Singh told Rajya Sabha in a written reply.

He said similar successful attempts, during the same period last year, stood at 26.

"The total infiltration attempts upto July last year were 93," he said.

Singh said reports received from central agencies indicate that some Kashmiri youth have joined militancy. "During the year 2012 only 14 youth of the Valley have reportedly joined militant groups," he said.

He said the government had adopted various counter militancy methods to neutralise the efforts and capabilities of militants and to watch the activities of those supporting such groups.

"The government has also encouraged policies to mainstream the youth and discourage them from joining militancy," added Singh.

➤ **40127 KILLED IN JK IN 22 YRS: GOI**

Sept 19: At least 40,127 persons including militants, civilians and security men were killed in the State after eruption of militancy in 1989, according to Indian Home Ministry.

This information was revealed by the data furnished by Union Home Ministry to an RTI activist.

According to the figures about 70,000 incidents of militancy-related incidents took place in the State during last 22 years. "In these violence incidents, 21,461 militants and 13,853 civilians were killed. Besides, 4,813 police, army, CRPF and BSF men also killed during the period".

According to the data, 2001 and 2002 were among the deadliest of the 22-year-old militant with at least 3552 and 3168 total deaths respectively.

"About 2020 militants were killed in 2001, the highest-ever number with 536 security men losing their lives in the same year. The highest figure of civilian deaths stands at 1008 in 2002," states the data.

The figures show a decline in militancy violence after 2003. "In 2004, the number of deaths of civilians, militants and security men came down to 1964 from 2,603 cases the previous year. Continuing to fall gradually, the number of casualties in 2011 reached a low of 161," added the figures.

➤ **JK SECURITY SITUATION VERY FRAGILE: ARMY**

'GOI TO TAKE DECISION ON AFSPA; ATTACKS ON SARPANCHS CAUSE OF WORRY'

Sept 19: Terming the security situation in Jammu and Kashmir very fragile as the State was passing through a sensitive stage of transformation, a top Army official said the attacks on sarpanchs and civilians are a cause of worry.

"We (state) are transforming from high intensity proxy war to lower levels of violence but the situation never the less is very fragile," General Officer Commanding-in-Chief (GOC-in-C), Northern Command, Lt Gen K T Parnaik.

He cautioned against "triggers" which could alter the situation in a short span of time. "The security situation in the state today as general—I would say is passing through a sensitive stage of transformation".

Regarding another question about the killing of militants this year, he said that 44 militants have been killed and 24 have been arrested in 2012. "The militants have been killed, their leadership have also been eliminated and infiltration is down".

➤ **KASHMIR POLICE CONTESTS ARMY'S 'HEAVY INFILTRATION' CLAIMS**

Sept 23: Claims about increased infiltration, especially from Uri sector in North Kashmir, are being contested by J&K police, prompting army to reassess the figures and work out a mechanism for providing more authentic information about the entry of militants into the state.

The recent figures of about 100 militants having slipped into the Valley this year seems to be an exaggerated figure, highly placed sources in the state Home Department said.

Immediately after the conference of Directors General of Police in New Delhi earlier this month, state police and Home Department flagged the issue and sought clarification about the number of militants who may have crossed over, official sources said.

The input provided by Director General of Military Intelligence and Defence Intelligence Agency about infiltration of nearly 24 militants from Uri

sector in the month of July could not be substantiated either by the local army unit or state police, the sources said.

➤ **VIOLENCE AT LOWEST EBB IN 22 YEARS: DGP**
Sept 30: To regain ground in Kashmir, militant outfits are recruiting local youth, said Director General of Police (DGP), Ashok Prasad.

“As compared to last year, the violence has definitely decreased by 30 per cent. In 2011 violence was 30 per cent less than 2010. This downward trend will continue as we are making wholehearted efforts in controlling the militancy,” DGP, Ashok Prasad said while talking to reporters on the sidelines of Police Public-Mela held at Bakshi Stadium, Srinagar.

DATE	TROOPERS	MILITANTS	CIVILIANS	OTHERS
Sep 01	-	1	-	-
Sep 02	-	1	-	-
Sep 03	-	-	-	-
Sep 04	-	-	-	-
Sep 05	1	1	-	-
Sep 06	-	-	-	-
Sep 07	-	-	-	-
Sep 08	-	-	-	-
Sep 09	1	-	-	-
Sep 10	-	-	1 (Sarpanch)	-
Sep 11	-	-	-	-
Sep 12	-	-	-	-
Sep 13	-	-	-	-
Sep 14	-	-	-	-
Sep 15	-	-	-	-
Sep 16	-	1	-	-
Sep 17	-	-	-	-
Sep 18	-	-	-	-
Sep 19	-	-	-	-
Sep 20	-	-	-	-
Sep 21	-	1	-	-
Sep 22	-	1	-	-
Sep 23	-	-	1 (Dy Sarpanch)	-
Sep 24	-	-	-	-
Sep 25	1	2	-	-
Sep 26	-	-	-	-
Sep 27	-	2	-	-
Sep 28	-	-	-	-
Sep 29	-	-	-	-
Sep 30	-	-	-	-
TOTAL	3	10	2	0
TOTO		IN	15 KILLINGS REPORTED	

CHRONOLOGY

Sep 01: Army claimed one militant was killed in an encounter with troops in forest area of Kangan in central Kashmir's Ganderbal district.

Sep 02: Another militant army said was killed in an encounter, which started on September 1, with troops in forest area of Kangan in central Kashmir's Ganderbal district, taking the death toll of the operation to two.

Sep 03: No incident of violence reported from any part of the state.

Sep 04: No incident of violence reported from any part of the state.

Sep 05: A soldier and a militant were killed as Army claimed it had foiled an infiltration bid near the Line of Control in Tangdhar sector of Kupwara district in Kashmir.

Sep 06: No incident of violence reported from any part of the state.

Sep 07: No incident of violence reported from any part of the state.

Sep 08: Militants shot dead a Special Police Officer and injured a soldier of Jammu and Kashmir Light Infantry (JAKLI) in north Kashmir's Sopore area of Baramulla district. The deceased police man had been identified as SPO Riyaz-ul-Hassan Mir, 24, son of Ghulam Hassan, presently posted with Special Operations Group (SOG) of Sopore and the injured army soldier was identified as Tariq Ahmad Mir, 26, son of Muhammad Ramzan.

Sep 09: No incident of violence reported from any part of the state.

Sep 10: Suspected militants shot dead a *sarpanch* belonging to ruling National Conference in Pattan area of Baramulla district. Ghulam Mohammad Yattoo, son of Abdul Karim of Waza Mohalla, Palhalan, was fired upon when he was returning home after offering evening prayers at the local mosque, police sources told media.

Sep 11: No incident of violence reported from any part of the state.

Sep 12: No incident of violence reported from any part of the state.

Sep 13: No incident of violence reported from any part of the state.

Sep 14: No incident of violence reported from any part of the state.

Sep 15: Wide scale protests were reported from different parts of the Valley against blasphemous movies. During the protests many people were injured.

Sep 16: An unidentified militant, believed to a foreigner, was killed while his accomplice managed to escape in an encounter in Bagna village in Karata Behak Sector of Boniyar, Uri of North Kashmir's Baramulla district.

Sep 17: No incident of violence reported.

Sep 18: Incidents of violence and protests against American made blasphemous film were reported from different parts of the valley.

Sep 19: No incident of violence reported.

Sep 20: No incident of violence reported.

Sep 21: A suspected militant was killed in a gunfight with army near the Line of Control in Uri area of north Kashmir. Police sources said the gunfight broke out between militants and soldiers of 18 Dogra Rifles in Bijhama sector of Uri. However, the identity of the militants has not been ascertained. Incidents of protests were reported from various parts of the state. Authorities has imposed undeclared restrictions and curfew in many parts of the state to choke the protests.

Sep 22: An unidentified militant was killed in fresh gunfight bringing to end week-long operation in Uri area of north Kashmir's Baramulla district.

Sep 23: A deputy *Sarpanch* was shot dead by unidentified gunmen in North Kashmir's Baramulla district. Muhammad Shafi Teli was shot dead outside his house at Nowpora Jagir, which comes under the jurisdiction of police station Kreeri.

Sep 24: No incident of violence reported from any part of the state.

Sep 25: Two militants and an army man were killed in an encounter in Handwara in border district of Kupwara, police claimed.

The deceased army man was identified as sepoy Sandeep Kumar of 30 RR. The identity of the deceased militants and the outfit to which they owe allegiance was being ascertained.

Sep 26: No incident of violence reported.

Sep 27: Army claimed to have foiled an infiltration bid along Line of Control (LoC) in Poonch sector by killing two militants. Two of them were killed and bodies lay close to the border line. The deceased militants were identified as Abu Mahaz Kandari Kashmiri and Abu Hamza alias Abu Tala Afghani. The army sources claimed the militants were between the age group of 24 to 25 and their identity was established on the bases of names written on two rucksack packs, which were recovered from their possession

Sep 28: No incident of violence reported.

Sep 29: No incident of violence reported.

Sep 30: No incident of violence reported.

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