

PRESS NOTE: FOR IMMEDIATE RELEASE

Srinagar, December 06, 2012

INTERNATIONAL PEOPLES' TRIBUNAL ON HUMAN RIGHTS AND JUSTICE IN INDIAN-ADMINISTERED KASHMIR [IPTK] / ASSOCIATION OF PARENTS OF DISAPPEARED PERSONS [APDP]

*announce the release of: **alleged Perpetrators - Stories of Impunity in Jammu and Kashmir** at a press conference on Thursday, December 06, 2012, in Srinagar, Kashmir [Report available at: www.kashmirprocess.org/].*

alleged Perpetrators a report by IPTK/APDP examines 214 cases of human rights violations and for the first time, the role of 500 alleged perpetrators in these crimes. The report is authored by Parvez Imroz, Kartik Murukutla, Khurram Parvez, and Parvaiz Mata.

This report, prepared over two years using information gleaned mostly from official State documents in addition to witness testimonies, in cases available with IPTK/APDP, portrays the state of impunity prevalent in Jammu and Kashmir. Where identities of individual perpetrators of crimes are known it seeks a process of accountability for institutional criminality. The State documents used range from police records, judicial and quasi-judicial records and Government documents. IPTK/APDP using the Right to Information legislations sought information on First Information Reports, High Court petition numbers and other documentation.

Out of 214 cases a list emerges of 500 individual perpetrators, which include 235 army personnel, 123 paramilitary personnel, 111 Jammu and Kashmir Police personnel and 31 Government backed militants/associates. Among the alleged perpetrators are two Major Generals and three Brigadiers of the Indian Army, besides nine Colonels, three Lieutenant Colonels, 78 Majors and 25 Captains. Add to this, 37 senior officials of the federal Paramilitary forces, a recently retired Director General of the Jammu and Kashmir Police, as well as a serving Inspector General. The official designations of the alleged perpetrators and the geographical spread of the crimes committed against the people of Jammu and Kashmir indicate a decisive will of the Indian State, carried out by its functionaries as part of a policy. The concept of individual criminal responsibility is well established under international criminal law. From Nuremberg to the United Nations ad hoc tribunals – like the International Criminal Tribunal for Rwanda, and the International Criminal Tribunal for the Former Yugoslavia - to the most recent, the International Criminal Court [ICC], the focus of international law has gradually moved from laying responsibility for crimes from the general – the State – to the individual – the *perpetrator*.

Cases presented in this report reveal that there is a policy not to genuinely investigate or prosecute the armed forces for human rights violations. There is an occasional willingness to order compensatory relief, but not to bring the perpetrators to justice. On the contrary, alleged perpetrators of crimes are awarded, rewarded and promoted by the State.

The role of the judiciary in a conflict zone is a vital and, often, the only hope available for ensuring justice. It must serve as an effective check on the executive and be vigilant in ensuring that human rights of individuals are not violated. Despite the occasional passing of strong

orders, this report contains numerous examples of the High Court effectively condoning the continuation of violations. The general experience in Jammu and Kashmir has been that judicial and quasi-judicial authorities such as the State Human Rights Commission [SHRC] have allowed themselves to be conscious of the power and will of the executive, thereby rendering themselves subservient to the State. The impunity fostered by the judicial processes have been compounded by the existence of draconian laws such as the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 [AFSPA].

Based on the information before it, IPTK/APDP cannot conclusively pronounce on the guilt of any of the alleged perpetrators, but it is clear that enough evidence exists to warrant further investigations and prosecutions. However, in the absence of any institutional or political will to take the evidence to its natural conclusion – a trial where the crime and the guilt of a perpetrator can be proven beyond reasonable doubt – the Indian State stands indicted.

The Executive Summary and Tabular overview of the report are annexed.

Queries may be directed to:

Khurram Parvez

E-mail: kparvez@kashmirprocess.org

Mobile: +91.9419013553