

# AMNESTY INTERNATIONAL

## Public Statement

AI Index: ASA 20/015/2005 (Public)  
News Service No: 072  
24 March 2005

### India: Nine years after Jalil Andrabi's death perpetrators still free

The continuing failure of the Government of Jammu and Kashmir to bring to justice those responsible for the death of human rights lawyer Jalil Andrabi nine years ago reinforces the sense that human rights defenders in the state cannot count on the state's protection, Amnesty International said today.

On 27 March 1996, the dead body of human rights lawyer Jalil Andrabi was found in the river Jhelum, 19 days after he was seen being taken away by military personnel. Those responsible for his death remain free despite continuing efforts by members of his family and the members of the Jammu and Kashmir High Court Bar Association to obtain legal redress for the death of their relative and former colleague. The Jammu and Kashmir High Court noted in late 1996 that 'the functionaries of the Union of India have not been cooperating with the Investigation Team in a proper manner'. The family of Jalil Andrabi has expressed its feeling of frustration and loss of faith in the institution of the judiciary which has failed to provide legal redress for nine years.

Amnesty International believes that justice must be done to ensure that human rights violations end. Undue delays will produce the impression that perpetrators can get away with abuses and that the state shields its agents from being brought to justice. The organization reiterates its repeated earlier appeals to the Government of Jammu and Kashmir to break the cycle of impunity by ensuring that perpetrators of all human rights violations in the state are brought to justice without delay and in a transparent manner in order to restore people's confidence in the rule of law.

#### Background

The Special Investigation Team set up on High Court orders in 1996 in the following year identified an army major posted in the Rawalpora Camp of the 103 Territorial Army as prima facie responsible for the death but army representatives told the High Court that the major was not employed by the army any longer and that he had not committed the offence in his official capacity.

In October 2000, the case gained momentum when the Special Investigation Team submitted a report of its findings to the High Court which asked the army to present the accused in the court of competent jurisdiction, the Chief Judicial Magistrate (CJM) in Budgam. Despite repeated requests, the army did not comply. In December 2001, the Special Investigation Team submitted a charge sheet (the final police inquiry report) before the Budgam CJM, who admitted the charge sheet without insisting on the presence of the accused as is required by law. The army then made known its decision to try the accused by court martial. Members of the Jammu and Kashmir High Court Bar Association representing Jalil Andrabi's family challenged the trial by court martial before the High Court. This petition was sent back to the CJM without clarifying the point if a charge sheet could be entertained without the accused being brought before the court. Hearings of this petition have continued since then. The CJM has ordered the Special Investigation Team to arrest the accused and bring him to court on 30 April 2005.

Army representatives have asserted in court that the accused is absconding and that they have not been able to locate him. The Special Investigation Team while filing its final report is on record as having stated that the accused major was working with the Railway Regiment of the Territorial Army located at Ludhiana, Punjab.