

**Armed Forces
Special Powers Act, 1958**

Manipur Experience



AFSPA 1958: Manipur Experience

CPDM

Campaign for Peace & Democracy (Manipur)

Armed Forces Special Powers Act 1958; Manipur Experience

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Published for Campaign for Peace & Democracy (Manipur) from 153, Old Gupta Colony, New Delhi, India, (91) 110009 and printed at Classic Offset Printer and Packagers, 1/6704, East Rohtas Nagar, Delhi-110032.

Foreword

In Manipur consistent and continuous process of organized killings that are carried out primarily to achieve vested material interests which are cloaked under the institutionalised jargons such as *politics*, *collective identity* and *security* constitute an alarming dimension of war. It is a war that is being waged upon the subjugated, oppressed and exploited by the bourgeois state and the reactionary forces: (1) Whereas the bourgeois state as the instrument of class oppression is carrying out unrestraint *pogrom* to eliminate democratic activists in order to suppress democratic voices of the subjugated population and perpetuate bourgeois class rule; the corrupt superstructure have produced criminal gangs of police and army who would use the banner of counter-insurgency and kill innocent civilians primarily for the purpose of looting money / property, gallantry award and promotion to higher rank; (2) On the other hand armed reactionaries who are grouped under various communal and extortionist organizations but lack democratic & revolutionary wisdom are indulging in similar tactics of killings to settle with personal grudge and for personal profit / private property at the cost of others.

In fact, the post 1949 war condition in Manipur as we notice today is largely and dominantly played by the Indian state in the name of upholding India's peace and strategic interest. For more than half a century the Indian state, at the cost of the taxpayers' money, have been manufacturing arms and recruiting soldiers, and imposing repressive laws in Manipur. The Armed Forces Special Powers Act 1958 that was enacted, imposed, and justified by the Indian Supreme Court stands out as the most glaring evidence of war dimension of the Indian state. On the basis of the practical implication of the Act, the *modus operandi* of its repressive soldiers and police force, and the material impact on the physical and economic concerns of the victims of state terrorism; there can be no difference markers to distinguish the character of the Indian state from the character of the reactionary forces who extort money from the people to purchase arms, kill people on petty issues or carry out widespread reign of terror. Both the state and reactionary forces have common objective in covering up the crisis of bourgeois democracy; both promote militarisation and reign of terror that have serious repercussion on the overall security concern. For the larger section of the subjugated, oppressed and exploited sections of the population, life is constantly threatened and insecure. They are vulnerable to killing, casualty, extortion and suffering from unaddressed psychological disturbance of war hysteria.

Throughout the period since 1958 protest against AFSPA had been the predominant protest in the overall protest against terrorism, i.e., either state terrorism or terrorism perpetrated by the reactionary forces are being resented. Although the legislation of AFSPA in 1958 was not the beginning nor its repealing would be an end to the inherent character of state terrorism as it is prevalent everywhere under oppressive bourgeois rule; the protest against AFSPA is symbolically significant as the Act is a manifestation of an unrestraint overarching war perspective that is being carried out openly. The subjugated sections of the tax payers of Manipur who are being cajoled into subordination within the premise of the Act were to raise objection to the very legislation that openly allow killing of people with impunity. Manipur, therefore, was a witness to series of protests, including violent struggles against the Act, throughout the period since the beginning of reign of terror under AFSPA.

In the present volume entitled, *Armed Forces Special Powers Act, 1958: Manipur Experience*, CPDM intends to produce a compiled version of collected documents related to the Act and issues centred on it. The edition does not include the list of names of the victims of AFSPA or human rights violation, incidences of massacres, sodomy, forced disappearance, torture, rape or sexual harassment, illegal detention, and other repressive instances. The agenda of the volume is to provide with a compiled volume of valuable source materials in the format of original texts for research scholars, intellectuals, activists, politicians, and any others who are interested in reading documents related to the Act and the issues surrounding it. The documents are not organised thematically but arranged in chronological order starting from 1942 Act which is considered to be replicated in the 1958 Act. Views expressed in each of the documents are those of the author (s) and does not necessarily carry the view of the editorial team. Each of the documents not only speaks about a particular historical context and timing but also informs ideological perception, interest, agenda, and tactical perspective of the concerned author. We hope the reader would gain a lot from this volume.

Editor

With the Torchbearers of Manipur

(Members of Committee Against Violence on Women (CAVOW), Shoma Sen and Vasantha visited Manipur between 6 and 10 May 2010 on a fact-finding on women's situation there in the wake of increased violence by the Indian Army in the recent years. Three others couldn't move ahead after reaching Silchar on 5th May due the road blockade in the hills by the Naga organizations protesting Manipur government's attitude to the leader of NSCN (IM) Thuingaleng Muivah to his ancestral village. Following is the report of the visit to the people in India.)

Some women activists from Manipur at a seminar in Delhi organized by the Centenary Committee to Celebrate International Women's Day, invited members from CAVOW to visit Manipur to have a firsthand knowledge of the situation women facing there with the increasing atrocities by the Indian Security forces. After two months, we had planned to go to Manipur to have an interaction with women's activists. We decided to go there basically to observe the situation of state violence against women and the women's movement in the state. At about the same time the leader of NSCN (IM) Thuingaleng Muivah was supposed to be visiting his village in Ukhrul district with the permission of the Central government who had asked the CM of Manipur to provide him with security. This is of course, ironic, since the Manipuri people were actually opposed to his visit. A month long economic blockade was carried out by ANSAM as a protest against Manipur (Hill Areas) District Council Act of 2008. After the Mao incident of 6 May 2010 the Nagaland Students Federation of Nagaland imposed economic blockade on NH39 leading to Manipur. The impact of economic blockade was felt by all communities, particularly the peoples in the hills. Petrol was then available for Rs. 120 a litre!

The state of Manipur is geographically divided into the plains and the hills. The valley of Imphal and its surrounding districts is the abode of largely Meitei people. (The Meitei is not a religion community. While the bulk of Meitei population was Hindu in 19 century; today Meetei is composed of Meitei Hindu, Meitei revivalists, Christians, Bhai, and so on.) The hills have tribes like the Nagas, Kukis and many smaller communities. (Manipur in 2009 was composed of Aimol, Anal, Angami, Any Kuki tribes, Any Mizo (Lushai) tribes, Chiru, Chothe, Gangte, Hmar, Kabui, Kacha Naga, Kharam, Koirao, Koireng, Kom, Lamgang, Mao, Maram, Maring, Meetei / Meitei, Meetei Panggal, Monsang, Moyon, Paite,

Poumai, Purum, Ralte, Sema, Simte, Suhte, Tangkhul, Tarao, Thadou, Vaiphei and Zou recognised communities. Except the Meetei / Meitei and Meetei Panggal that have a common mother tongue. All these communities did not have a common tongue although the Government recognised English and Manipuri as official languages. Out of these, the Rongmei or Kabui, Liangmei Zemei, Tangkhul, Mao, Maram, Maring and Tarao and Thangal communities in Manipur were considered as predominant members of an overarching Naga nomenclature. The Anal, Moyon, Monshang, Lamkang, Tarao, Chothe, Chiru, Koireng and Kharam communities were considered to have linguistic affinity with Kuki Chin and cultural identification with the Naga and inclination towards Naga political identity.). There has been a violent contention over the support of certain section of the Naga people for the call of greater Nagalim given by the NSCN (IM). For example, Kuki-Naga Clash 1992-96, and the growth of parties such as Manipur Naga Revolutionary Front and United Naga People's Convention that challenged the NSCN-IM and officially endorsed to protect the integrity of Manipur.

While the entire region of the Northeast has been fighting for the right to self-determination, the differences within the people have been exploited by the state and ruling classes, creating some ethnic identity politics that can only be tackled by a correct ideological perspective by the political groups that work there.

Due to the blockade by ANSAM and an indefinite bandh call given in the valley, two of us from CAVOW, Vasantha and Shoma Sen reached Imphal by flight from Delhi. However, we were sorry to hear that our team from Kolkata, who were on the rail and road route could not make it. Though buses were not plying from Guwahati to Imphal, they bravely boarded a private Sumo and went as far as Silchar, on the state border and then had to go all the way back!

The activists of the Ima Market Women Vendor's Association, our hosts warmly welcomed us at Tuliha airport. Women in Manipur have a big share in running markets, a tradition that is attributed to Manipur's tradition in the past where men had to be continuously in the battlefield and women looked after trade. The General Secretary of the Association, Leishram Mema, was familiar to us since she, with two other women activists, had visited Delhi and made a presentation at the seminar on 'State Violence and Repression on Women—The Larger Social Ramifications' organized by the Centenary Committee to Celebrate International Women's Day. Along with her were a few young men from the Campaign for Peace and Democracy (Manipur) who would be accompanying us for the next three days. All the Imas (mothers) of the

Executive Members of the Association were actual women vendors and could not speak any other language and we had to communicate through signs. Occasionally they would burst into a few lines from Hindi film songs amidst their chattering and laughter. Our interpreter was a young educated woman called Tama, the Treasurer of the Association, who worked as a trade unionist with the vendors after her job hours in the evening. She works for the Bharatiya Mahila Federation. We boarded a Maruti van and were taken to our hotel. From the airport itself, we were drinking in the beautiful surroundings and noticed that even in the crowded market area where our hotel was we could still see the hills. Over tea, we were introduced to our hosts, Tama, Mandakini, Premila, Jano Begum, Inaobi, Bilashini, and the main leader of Ima Market Association in Imphal, Laishram Mema, and the boys who helped us go around Irom, Dara, and Bonney.

After lunch we set off again in the van to meet some of the struggling sisters of Manipur, some victims of state violence, others leading activists. Though it is an ethical practice by the media and women's groups not to reveal the names of rape victims, we have noticed that women associated with mass movements do not mind revealing their identity as they feel that their cases will only strengthen the resolve of people to fight for justice. In our previous fact-finding to the Northeast we observed that the social stigma on rape victims by the community hardly exists as all are united to fight against state violence. Ms. Elangbam Ahanjaobi's house is a simple cottage in Takyei Khongban Khumanthem Leikai in the outskirts of Imphal. Aged about 40 now, she was raped in 1996, on 1st August, when her house was raided at about 3.30 a.m., as part of the combing operations conducted jointly by the Manipur Police and the Security Forces of the Union of India. She lived in this house with her husband, a cook in a school for the visually challenged nearby and her two sons, one of whom is physically challenged. She says that her husband was not involved in the social movement. They tried to open her almirah and threatened to shoot her. She kept telling them that they were the jawans who were supposed to protect them, so why were they behaving in this manner. They threw out her husband and raped her in front of her sons. Ahanjaobi says that she was so horrified that she wanted to give up her life, to close her eyes forever and not face anyone. It was only for the sake of her sons that she lived on and it for the sake of other women that she still tells her story. Her handicapped son, who is now a teenager, also expressed his anguish over not being able to do anything for his mother.

However, a tremendous, forceful agitation by the community brought justice for Ahanjaobi. The day after the incident, she had a medical

examination done and filed a report. The Meira Paibis (the torch bearers, the mothers of Manipur) also led the agitation and finally the two jawans of the Mahar regiment got 14 years imprisonment. She was given a compensation of two lakhs. Ahanjaobi strongly feels that the Armed Forces Special Powers Act should be withdrawn from the Northeast.

Our next visit was to the family of Rabina Thokchom (23), who had been killed in police firing, in the heart of Imphal's market on July 23rd, 2009, in the incident where another youth Sanjit had also lost his life. We had read about this incident in the media. The police were apparently chasing an insurgent, though it is a case of mistaken identity where they shot the young boy called Sanjit. Rabina's death was fallout of the incident. Rabina's father-in-law and sister-in-law, (husband's brother's wife) Laijalembi described the incident. Rabina had gone to the city for a medical checkup from her village Lamdeng Khunou seven kilo metres from Imphal. She had her three year old son with her and was expecting again. It was the time of the Assembly Session and there was heavy security. Rabina had gone towards the vendor's Ima Market to buy some bananas. Suddenly there was this shoot-out in the street and she was lying dead in a pool of blood. Leishram Mema rushed out from the market and picked up Rabina's son; sat by the pool of blood, by the body. "Such is life in Manipur," said Laijalembi, her beautiful, sensitive face, quivering with emotion. She did not have child; now Rabina's son calls her mother. We told her about the women's movement, about how we were going to hold a meeting of women's groups that had got a great response and asked her did she not feel that she should do something. Laijalembi has studied law, she understands things and expresses herself thoughtfully. "But what can one do, she asked, it's very confusing, very complicated now." Mr. Damu, Rabina's father-in-law who has a clerical job in a school, was very cynical about the inquiry commission that has yielded no results. He said that the people from the community have boycotted the commission and feels that the AFSPA being withdrawn will never happen. Tama said "Anytime, any of us in the Ima Market can die, selling vegetables, fruit or whatever. The police can come in searching for insurgents and they have the powers to shoot at sight. Life is very precious here."

As we left their house the hills were turning a dark grey, evening sets in early here. Being tea addicted activists we asked for a stop and were also served black chana (chick peas) a favourite snack in Manipur. Our next halt was at Oinam Thingel, Singiamel PS, Imphal West. The house of Mr. Loitongbam Sharat, the first two storeyed house that we have entered so far, for this 70 year old gentleman has been an MLA from the

Manipur People's Party. An ex- MLA who has lost his son in a custodial killing, whose other son is in jail and who lives with his young widowed daughter-in-law and one year old grandson. L. Satish, the victim of the custodial killing was a student of Kumaon Universtiy and had done his PG in Economics. His father said that he was preparing for his UPSC exams and also took tuitions to supplement the family income. He was about 34 years old, married to Ranjita and had a six month old child. On May 16, 2009, Satish went to meet his elder brother, Karunakanta, who was in jail under the NSA, which his father says is a false charge. He went along with his friend P Gunindro to the Sajiwa Central Jail. According to the Human Rights Special Report 2009, prepared by Human Rights Alert, Satish and Gunindro were arrested by the Government Armed Forces at about 3 p.m., near the Sajiwa Jail and taken away in a bullet proof vehicle. Gunindro's wife, Babita registered a written complaint with the Police Station and approached the local MLA. But on 19th May, Satish's family came to know from the local papers that Satish was killed in an alleged encounter by combined forces of the Thoubal Police Commandoes and 23 Assam Rifles at Laikot Ching in Imphal East, on May 18, 2009. The police claimed that a .32 pistol, three bullets of an AK 47 rifle and two detonators were recovered from him. On May 19, Gunindro was handed over to Lamlai Police Station with a report that he was arrested as a member of the armed organization, the People's Liberation Army (PLA).

Immediately an agitation started by the committee formed by the clubs of Manipur, demanding an Independent Judicial Inquiry into the custodial killing of Satish and the unconditional release of Gunindro. A large number of people came out and blocked Highway no 39 using timber, bamboo, etc. The Meira Paibis staged torch light rallies and public meetings were held. Five policemen were suspended for 6 months and reinstated. There was no judicial inquiry but an inquiry committee was formed by the DIG of police. When asked if they received any compensation, Mr. Sharat said, "Human life cannot be compensated. I did not even perform the last rites of my son, that was done by the police. We are fed up with the Indian Army. What has Mr. Chidambaram done to revoke the AFSPA?" The elderly man is extremely moved, and now spends all his time working on the issue of Extra Judicial Killings, documenting and campaigning on the many similar cases of false encounters and missing people. Ranjeeta, widowed at 27, sits with her only son Dinaraj on her lap and talks to us, sharing her feelings in Manipuri as darkness envelopes the still, sad atmosphere around us.

On the next day, 7th May, our Imas enter after a boisterous banging on our door. They are colourfully dressed in their Fanek, the sarong like wrap, plain for the unmarried women, thin black stripes for the married ones, their yellow streaks of chandan creeping up their nose bridges to decorate the red dots on their foreheads. They have brought the special flower of Manipur, an elongated white bud, which they tie to a single strand of hair and it bobs up and down with their lively gesticulations. Tama switches on the local news channel on the TV in our room. All over the state there have been protests, some of the people of the hill areas of Manipur, the Nagas demanding that their leader Muivah be allowed to visit his village and the non Nagas demanding that he be restrained, Meira Paibi women sitting in peaceful dharnas, students militantly protesting. We ask our friends what they feel. These women do not want to see their state being split up, the hills going off to the greater Nagalim that Muivah and his comrades fight for. They are suffering due to the economic blockade that has been going on and feel that the centre should not have given permission. We try to explain that the common people of both areas are exploited and the state is trying to divide them because it benefits from ethnic strife in the region, but as we talk, it is time to go.

Today we are to visit Manorama's house. We drive quite a distance to a place of scenic beauty and enter a simple house with a mud courtyard and duck coop in the corner. Manorama's photo greets us from its place on the wall, at the entrance. We see the famous window whose pictures we have seen, which was broken by the soldiers. We sit on the earthen verandah and meet with her mother, but she is very depressed and cynical. A frail, thin woman dressed in thin faded clothes, she seems to have lost her interest in life. Clearly, justice has not been delivered in her case. Manorama's brother talks to us and we explain that we were to come here for this meeting of women's organizations and that similar things are happening all over the Indian sub-continent to women who are struggling, as if that is some consolation for the family.

Each time we travel through the city we pass the Kangla Fort. Now our vehicle stops for a trip inside. This was the place where the elderly women had held their naked protest on 15 July 2004 after Manorama's rape and encounter, with their frenzied shouting, clutching on to the banner before them saying Indian Army come and Rape us! After this world shaking protest, the Assam Rifles have moved out of the fort and handed it over to the Manipur government. It is with this sense of pride and victory of having driven the Army out of the fort, a symbol of their nationality and culture that our friends take us on a guided tour. The

fort, built by the Meitei King is soon going to have its boat ride down the moat and we see the painted peacock decorated elongated vessel made of a single tree trunk lodged in its shed. There is a terracotta Govinda temple in the premises and on our cajoling her, Leishram Mema bursts into a Vaishnav kirtan in Manipuri, with her body swaying in the delicate Ras Leela dance. However, an urgent call on her cell phone transforms her back into her usual avatar and she rushes off at full speed to the fort gate to meet the person who called her.

Now we reach Sanjit's house, the boy who shot dead by the armed forces on the same day as Rabina, a broad daylight shooting bang in the middle of the market place on July 23rd 2009. Mistaken to be an insurgent, he was actually buying medicines at a pharmacy shop when he was shot dead. Sanjit's mother is also frail and silent. Her niece tells us that she has been suffering from psychological ailments. Ever since his death she stopped talking and would hardly eat. A visit to the hospital showed that she needed psychiatric treatment. Even now, the police intelligence department comes and harasses them in the name of an inquiry. They were demanding a photo of Sanjit with a half shirt to see if he had a tattoo on his arm or not, as that was an identification mark of the boy whom they were searching for. "But what was the use of a photo when the post-mortem had examined the body itself?" asked his cousin. His mother told us that Sanjit and his father used to work in a garage at Maram near Mao in Senapati District. A few days before the incident, he called the family and told them that his uncle was seriously ill and that they would be coming to Imphal for treatment. After his uncle was admitted to hospital, on that day, Sanjit left his home for the Jawaharlal Nehru Hospital with food for the patient. From there, on the doctor's advice, he went to Imphal market to buy medicines. As he did not return, his younger sister, who was waiting with the patient in the hospital, phoned home. From home, his cousin and others tried Sanjit on his cell. They heard some disturbances and probably some people talking roughly. Soon the family heard of the disturbances in the market and went to Regional Institute of Medical Science and from there to the Post Mortem section and realized that it was their boy who was killed. As in Manorama's and most other cases, there was a huge agitation led by the Joint Action Committee: road blocks, furniture piled up and burnt, the house has marks of rubber bullets and after a lot of bargaining for all the losses incurred a compensation of five lakhs was given. Men and women of the community fought the armed police with catapults and stones. A local magazine showed Sanjit's mother, the same lost, frail woman, screaming and charging down a street, her long

hair streaming behind her, looking like a woman possessed. We realized that life is not only precious in Manipur, life is also one unending struggle and that suffering people never give up.

Our next visits were with women's organizations: The Meira Paibi head office is an unassuming ten by ten room with simple accommodation amenities. It was too small to seat us all so we shifted to the hall upstairs. The full name of the organization is Poirei Leimarol Meira Peibi Apunba Manipur or All Manipur Women Torchbearers. Formed in 1980 when the AFSPA was promulgated in Manipur it was a collective of women, (mothers) against Army atrocities, the house to house raids and torture of people in the community. In 1986 the organization was registered. It is not a membership organization but a movement. It has many branches in each and every corner of Manipur. There are many examples of their agitations...on April 26, 1980 a pregnant woman and 3 others were killed near a place where there was a public meeting. The next day a woman vendor selling ornaments was killed at Imphal bazaar. There was such widespread agitation that an 11 day curfew was imposed to control the mobs. In another instance a girl taken into police custody fell off from the police vehicle and died, leading to protests by the Meira Paibis. Asked if it was this organization that protested against alcoholism in the villages, they answered that it was another organization against "Nashabandi". They are human rights defenders; they wish to protect their sons and daughters. They bring out a quarterly journal called *Meira Paibi*. Among those we met were L. Menchoubi, 72, President, Th. Apabi. Gen Secretary and R.K. Landhoni, Assistant Secretary. Such militant protests must have led to a lot of repression on Meira Paibi members as well, we asked. Going in and out of jail was a matter of no consequence for these courageous ladies. At 72, Menchoubi was in Imphal Central Jail for 5 months in relation to the agitation after the shooting down of Sanjit and Rabina. During the agitation after Manorama's rape and murder, 16 Meira Paibi leaders were picked up and incarcerated from different districts. Rasta rokok and torch rallies, all night vigils against the killing and torture of innocent people has been the main form of struggle. Perhaps it is due to this collective effort that AFSPA was removed from 7 Assembly segments of Imphal in 2004.

We go to meet Ms. Mangol who is 85 and probably the oldest of the Meira Paibi leaders in her house. Even the day before, she had attended a dharna. She was a young widow who was active in the social movement from the age of 20. She narrated to us both the cases of repression on her as well as how the Parliamentarians offered her money to win her over to

Parliamentary politics, which she refused. Right near her house is a memorial to the Meira Paibi martyrs, the statue of a woman holding a torch. A small neon lamp lights up the torch in the night. This is to commemorate an incident at Maibam Leikai Bokul Makhom in April 1982. There was a huge agitation going on over some issues and the army jawans tried to break into the Meira Paibi office. When all the women were away in a torch rally, four women were guarding the office. All of a sudden, a truck came and crashed into the bamboo structure of the office, mowing down the women and killing them.

Tonight a dinner has been planned for all of us at Laishram Mema's house. The house is in a courtyard with separate structures for each room. There is an office room too, with some tables and chairs, but we all sit down together on the floor. Ima lives here with her two daughters. But first some interaction with more Meira Paibi women. Keisam Kumudini works for Porei Eeta Meira Paibi Apunbalup...just another kind of Meira Paibi that focuses on crime, which probably means atrocities. They work in a few villages around Malom and in Imphal. They are also part of the broader Meira Paibi. They tell us how the organization funds itself by collecting Rs 10 from each woman in the community and giving Rs. 200 to each unit to give to the head office. Almost every woman identifies with the Meira Paibis. We ask if they take up other issues like domestic violence and whether housework and childcare are shared at home. By coming into the movement the women have become conscious and very bold, they say, and these domestic disputes can be handled by them. Sometimes the men folk resent the women getting so active but in other instances they cooperate and share the domestic work. We meet M. Jibanlata Devi, who is the first among the activists to speak to us in English. She works for a women's organization that helps the families of the deceased, or the martyrs of the nationality movement in Manipur. They have formed self-help groups and manufacture small handicrafts and organize sales. Jibanlata was arrested twice in 1982, accused of being a supporter of the armed groups and she lost both her brothers who were active in the movement to state violence. We have asked most of the women activists what they feel about the condition of the common people...are they caught between the violence of the armed forces and the insurgents, but each time the answer has been that the perpetrator of violence over this long period has been the Indian Army. Kumudini questions, what is development... is it just infrastructure and shopping complexes? Who will be alive to get the fruits of this development if we die fighting the armed forces?" Just then we are called for dinner and huge steel thalis arrive with mounds of rice piled high

in the centre and various fish and vegetable delicacies in blobs all around it. The Manipuris eat each and every part of the fish and each organ is made into a dish.

The next day is lighter, more focused on visiting some places outside Imphal. First a quick visit to Manipur University, where Prof. Dhanabir Laishram of the Political Science Department talks to us of the glorious history of women's struggles from the British days till today. Then we stop by at the Museum dedicated to the women's war against the British in 1939 and later we are moving towards the famous Loktak Lake and first stop at Malom. This is the bus stop on the National Highway where in 2000, ten innocent people were gunned down by the armed forces, the incident that led to Irom Sharmila's decade long hunger strike. We would have liked to meet Sharmila but she is in prison and it is unlikely that we will get permission to meet her. We drive through the beautiful rural landscape surrounded by hills and each time we cross a town or village our friends point out the Ima Market where a branch of their union is. It is surprising how every place of tourist interest is also associated with the movement. If the army has been forced to leave the Kangla fort, it is now very much present at the Loktak Lake. We have to leave our vehicle and walk up the hill from where we can see the various bodies of water that make up the lake, the fishermen in their boats with bamboo framed nets that they swing in and out of the water. At the bandstand at the peak of the hillock we stop to relax, sit on the benches, take photographs when suddenly I see a statue like jawan at a sentry point, rifle poised, aiming at the lake, at the patches of green "phumdi" floating in the water, at the brow antlered deer, that is a rare species found here, at those of us women who are trying to disappear behind the trees to answer nature's call, the gun that covers all of life in the Northeast.

When we return, we meet up with the All Manipur Women's Voluntary Association, an organization of young women from about 18 to 40. Their President, Ch. Usharani tells us that their organization was started in 1989 and is a registered organization. They join up with other student and youth organizations to campaign on major political issues. They observe Human Rights Day and International Women's Day and have about 10 units. They join with Meira Paibis in the agitations against the atrocities of the Armed Forces. After this we must visit the Ima Market, the place of action of the Imas, where we also meet an activist of NFIW called Ms. Sakhi. The Imas ply us with gifts from various stalls. The market is an old structure next to which the new Market premises have been built, a multi-storied building with pagoda like edges to its roofs. We finally get to

interview Laishram Mema, the moving force of the market, but it is also an interview of Tama, the non-vendor woman activist, the Joint Secretary of the union. Laishram Mema is 58 and has been in the social movement since 36 years. She was active in the student union and studied up to Higher Secondary. Their Women Vendors' Welfare Association is a registered organization and by 2003 it had about 3000 members. Today it has about 5000. It is affiliated to the National Hawkers' Federation. The main agitation has been a prolonged one against demolition of the market when the new one was to be built. Women had to be on all night vigils for months to prevent this during 1980-83. National Federation of Indian Women (NFIW) helped their organization to negotiate with the Central Government for their demands regarding the market. They have now signed an MOU that the existing license holder vendors will be relocated in the new building and that new shopkeepers from outside will not get space there. They also insist that the unlicensed women vendors who now sit on the footpath outside the old market will be given shops in this market. Due to unemployment and corruption many women cannot get jobs and are forced to become vendors, some are widows whose husbands have been victims of state violence. The other demands are for social security, childcare centre, health insurance and a Primary Health Centre at the market.

Tama tells us that in November 2006 they met the Prime Minister Dr. Manmohan Singh to demand for the extension of railway line to Imphal since the recurring economic blockades make it difficult for goods transportation. How has Globalization affected their business? The larger shopping complexes and big businessmen have invested in stores which sell various items under one roof. As a result consumers go there and their business is suffering. Luckily shopping malls have not yet entered Manipur, but if this happens we will struggle in a do or die manner, says Mema. The market is also a hub of activism and local politics. If any bandh has to be called or if mass mobilization is necessary for a cause, it's these women who always rally forward. They are also vocal in the decision making and the taking of initiative. As our visit comes to a close, we are amazed at the personality of Leishram Mema...this lady with an aged but pretty face, mesmerizing smile and purposeful walk, whose comrades have witnessed her striking people down with a backhand slap, who also does the delicate Rasa Leela dance and sings the quavering kirtans, gives her final comments, this time in Hindi, "Manipur mein jeena hai to goonda banke jeena hai."

Returning from our visit to Manipur, I kept thinking about the remarkable role played by the women of this state in social transformation, The divide of the home and the world is not a major issue here, as women

of Manipur are very much part of the economic processes and social life of their community. The Meira Paibis have a huge sense of social responsibility and commitment towards defending human rights for their people. If the feminist movement threw up the slogan, "The personal is political", the women of Manipur remind us that the political is also personal. The political issues of their times have seeped into every aspect of their personal life; it is their happiness and sorrow, their loss and triumph. The women's movement there is not anti-patriarchal in the sense that the western or Indian urban movements are focusing on individual liberties, family disputes, sexuality, individual aspirations, etc of women but focused on the larger issues of social change and political rights. As part of this larger process women also come to question their roles in the family, the issues of equality in the man-woman relationship and other aspects of patriarchy. The history of the region has shown women continuously showing exemplary courage and the will to fight, to struggle for their rights.

However, our visit coincided with protests and with the Manipur armed police killing two people in a police firing at Mao Gate on 6 May. At the same time, the economic blockade through the hills was causing immense difficulties. It affects all parts of Manipur, because Manipur is dependent on imports and all supplies are distributed from Imphal. These developments deeply saddened us, for the people of Northeast must realize that the Indian state, against whose atrocities they have been fighting so consistently is playing games to divide the people along ethnic lines. It is ironical that the Naga movement leader, Thuingaleng Muivah should ask the same Indian state to provide him with Z security when he wishes to go to his own village amongst his own people in the Northeast. It is of grave consternation that the issue should be handled through weapons by the Manipur state government whose forces fired on innocent protestors. All the people of the Northeast belong to oppressed nationalities and the majority belong to the oppressed classes. It is only through talks, debates and discussions among these communities and through developing the correct ideology that they can come together and struggle against a system that is perpetrating so much injustice on the people.

CAVOW

25 June 2010

The Armed Forces Special Powers Ordinance

Government of India,
Legislative Department
New Delhi, the 15th August, 1942

AN ORDINANCE to confer certain special powers upon certain officers of the Armed Forces.

WHEREAS an emergency has arisen which makes it necessary to confer certain special powers upon certain officers of the armed forces;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Ordinance:

1. (1) This Ordinance may be called the Armed Forces (Special Powers) Ordinance, 1942.
(2) It extends to the whole of British India
(3) It shall come into force at once.
2. (1) Any officer not below the rank of captain in His Majesty's Military Force and any officer holding equivalent rank either in His Majesty's Naval or Air Forces of a or in the forces of a foreign authority recognised by His Majesty as competent to maintain armed forces for service in association with His Majesty's forces or in association with any such forces as aforesaid may, if in his opinion it is necessary for the proper performance of his duty so to do by general or special order in writing, require any personnel under his command to use such force as may be a necessary, even to the causing of death, against any person who -
 - (a) fails to halt when challenged by a sentry, or
 - (b) does, attempts to so, or appears to be about to do or attempt to so, any such Act as would endanger or damage any property of any description whatsoever which it is the duty of such Act as would endanger or damage any property of any description whatsoever which it is the duty of such officer to protect; and it shall be lawful for such personnel, when so ordered, to use such forces against such person.

(2) The use of forces against any person in obedience to an order under sub-section (1) shall include the power of arrest and take into custody such person, and the use of such force as may be necessary even to the causing of death, in order to effect such arrest.

*(3) Any person arrested and taken into custody under this Ordinance shall be made over to the officer incharge of the nearest police station as soon as practicable, together with a report of the circumstances occasioning the arrest.

3. Arrested persons to be made over to appropriate authority — Any person arrested and taken into custody under this ordinance shall , as soon as practicable, be made over together with a report of the circumstances occasioning the arrest, to the officer in charge of the nearest police station, or where the said person is a person subject to military law, to the appropriate military officer.
4. No prosecution, suit or other legal proceeding for any other purporting to be made under this Ordinance or any act purporting to be done in obedience to any such order shall be instituted in any court except with the previous sanction of the Central Government and not withstanding anything contained in any other law for the time being in force, no person purporting in good faith to make such an order or to do any act in obedience thereto shall, whatever consequences ensue, be liable therefore.

LINLITHGOW
Viceroy and Governor General
G.H. SPENCER
Secy. to the Govt. of India

* Substituted by Section 2 of Ordinance 360/1945

Manipur Administration Order

The Manipur Gazette, extraordinary published by the authority.
No. 1E1, Imphal, Saturday, Oct. 15, 1949, Government of Manipur.
Orders by the Chief Commissioner.

Notification: Office of the Chief Commissioner, Manipur.
No. 0001/CC. Of 15 October 1949 (12 Noon)

Manipur administration order 1949 issued under Notification No. 219-P in the Gazette of India dated the 15th Oct, 1949, incorporates the provision that as from midday of Saturday the 15th Oct, 1949, the Ministers of Manipur State shall cease to function and the legislature will stand dissolved. It is therefore hereby notified that with effect from midday of Saturday the 15th Oct, 1949, the aforesaid Ministers shall relinquish charge of the portfolios held by them and with immediate effect all the portfolios are taken over by the Chief Commissioner.

The legislature also as stated in the order shall stand dissolved with effect from midday of Saturday the 15th Oct, 1949.

Rawal Amar Singh
Major General, Chief Commissioner of Manipur.

Sardar Patel's Letter to Jawaharlal Nehru

Dated 7 November, 1950

My Dear Jawaharlal,

Ever since my return from Ahmedabad and after the Cabinet meeting the same day which I had to attend at practically fifteen minutes' notice and for which I regret I was not able to read all the papers, I have been anxiously thinking over the problem of Tibet and I thought I should share with you what is passing through my mind; I have carefully gone through the correspondence between the External Affairs Ministry and our Ambassador in Pending and through him the Chinese Government. I have tried to peruse this correspondence as favourably to our Ambassador and the Chinese Government as possible, but I regret to say that neither of them comes out well as a result of this study.

The Chinese Government have tried to delude us by professions of peaceful intentions. My own feeling is that at a crucial period they managed to instill into our Ambassador a false sense of confidence in their so-called desire to settle the Tibetan problem by peaceful means. There can be no doubt that, during the period covered by this correspondence, the Chinese must have been concentrating for an onslaught on Tibet. The final action of the Chinese, in my judgment, is little short of perfidy. The tragedy of it is that the Tibetans put faith in us; they chose to be guided by us; and we have been unable to get them out of the meshes of Chinese diplomacy or Chinese malevolence. From the latest position, it appears that we shall not be able to rescue the Dalai Lama.

Our Ambassador has been at great pains to find an explanation or justification for Chinese policy and actions. As the External Affairs Ministry remarked in one of their telegrams, there was a lack of firmness and unnecessary apology in one or two re-presentations that he made to the Chinese Government on our behalf. It is impossible to imagine any sensible person believing in the so-called threat to China from Anglo-American machinations in Tibet. Therefore, if the Chinese put faith in this, they must have distrusted us so completely as to have taken us as tools or stooges of Anglo-American diplomacy or strategy. This feeling, if genuinely entertained by the Chinese in spite of your direct approaches to them, indicates that, even though we regard ourselves as the friends of China, the Chinese do not regard us as their friends. With the Communist

mentality of "Whoever is not with them being against them," this is a significant pointer, of which we have to take due note.

During the last several months, outside the Russian camp, we have practically been alone in championing the cause of Chinese entry into the UNO and in securing from the Americans assurances on the question of Formosa. We have done everything we could to assuage Chinese feelings, to allay their apprehensions and to defend their legitimate claims, in our discussions and correspondence with America and Britain and in the UNO; In spite of this, China is not convinced about our disinterestedness; it continues to regard us with suspicion and the whole psychology is one, at least outwardly, of skepticism perhaps mixed with a little hostility.

I doubt if we can go any further than we have done already to convince China of our good intentions, friendliness and goodwill. In Peking we have an Ambassador who is eminently suitable for putting across the friendly point of view. Even he seems to have failed to convert the Chinese. Their last telegram to us is an act of gross discourtesy not only in the summary way it disposes of our protest against the entry of Chinese forces into Tibet but also in the wild insinuation that our attitude is determined by foreign influences.

It looks as though it is not a friend speaking in that language but a potential enemy. In the background of this, we have to consider what new situation now faces us as a result of the disappearance of Tibet, as we know it, and the expansion of China almost up to our gates.

Throughout history, we have seldom been worried about our north-east frontier. The Himalayas have been regarded as an impene-trable barrier against any threat from the north. We had a friendly Tibet which gave us no trouble. The Chinese were divided. They had their own domestic problems and never bothered us about our frontiers.

In 1914, we entered into a convention with Tibet which was not endorsed by the Chinese. We seem to have regarded Tibe-tan..autonomy as extending to independent treaty relationship. Presumably, all that we required was Chinese counter-signature. The Chinese interpretation of suzerainty seems to be different. We can, therefore, safely assume that very soon they will disown all the stipulations which Tibet has entered into with us in the past. That throws into the melting pot all frontier and commercial settlements with Tibet on which we have been functioning and acting during the last half a century.

China is no longer divided. It is united and strong. All along the Himalayas in the north and north-east, we have, on our side of the frontier, a population ethnologically and culturally not different from Tibetans or Mongoloids.

The undefined state of the frontier and the existence on our side of population with its affinities to Tibetans or Chinese have all the elements of potential trouble between China and ourselves. Recent and bitter history also tells us that Communism is no shield against imperialism and that Communists are as good or as bad as imperialists as any other. Chinese ambitions in this respect not only cover the Himalayan slopes on our side but also include important parts of Assam.

They have their ambitions in Burma also. Burma has the added difficulty that it has no McMahon line round which to build up even the semblance of an agreement.

Chinese irredentism and Communist imperialism are different from the expansionism or imperialism of the Western powers. The former has a cloak of ideology which makes it ten times more dangerous. In the guise of ideological expansion, lie concealed racial, national and historical claims.

The danger from the north and north-east, therefore, becomes both communist and imperialist; While our western and north-western threats to security are still as prominent as before, a new threat has developed from the north and north-east. *Thus, for the first time, after centuries, India's defence has to concentrate itself on two fronts simultaneously.* Our defence measures have so far been based on the calculations of a superiority over Pakistan.

In our calculations we shall now have to reckon with Communist China in the north and north-east—a Communist China which has definite ambitions and aims and which does not, in any way, seem friendly disposed towards us.

Let me also consider the political considerations on this potentially troublesome frontier. Our northern or north-eastern approaches consist of Nepal, Bhutan, Sikkim, Darjeeling and the tribal areas in Assam. From the 'point of view of communications they are weak spots. Continuous defensive lines do not exist. There is almost an 'unlimited scope for infiltration. Police protection is limited to a very small number of passes. There too, our outposts do not seem to be fully manned.

The contact of these areas with us; is, by no means close and intimate. The people inhabiting these portions have no established loyalty or devotion to India. Even Darjeeling and Kalimpong areas are not free

from pro-Mongoloid prejudices. During the last three years, we have not been able to make any appreciable approaches to the Nagas and other hill tribes in Assam. European missionaries and other visitors had been in touch with them, but their influence" was, in no way, friendly to India or Indians. In Sikkim, there was political ferment some time ago. It is quite possible that discontent is smouldering there. Bhutan is comparatively quiet, but its affinity with Tibetans would be a handicap. Nepal has a weak oligarchic regime based almost entirely on force; it is in conflict with a turbulent element of the population as well as with enlightened ideas of the modern age.

In these circumstances, to make people alive to the new danger or to make them defensively strong is a very difficult task indeed and that difficulty can be got over only by enlightened firmness, strength and a clear line of policy. I am sure the Chinese and their source of inspiration, Soviet Russia, would not miss an opportunity of exploiting these weak spots, partly in support of their ideology and partly in support of their ambitions.

In my judgement, therefore, the situation is one in which we cannot afford either to be complacent or to be vacillating. We must have a clear idea of what we wish to achieve and also of the methods by which we should achieve it. Any faltering or lack of decisiveness in formulating our objectives or in pursuing our policy to attain those objectives is bound to weaken us and decrease the threats which are so evident.

Side by side with these external dangers we shall now have to face serious internal problems as well. I have already asked Iengar to send to the External Affairs Ministry, a copy of the Intelligence Bureau's appreciation of these matters. Hitherto, the Communist Party of India has found some difficulty in contacting Communist abroad, or in getting supplies of arms, literature, etc. from them. They had to contend with difficult Burmese and Pakistan frontiers on the east or with the long seaboard.

They will now have a comparatively easy means of access to Chinese Communists and through them to other foreign Communists. Infiltration of spies, fifth columnists and communists would now be easier. Instead of having to deal with isolated Communist pockets in Telengana and Warangal we may have to deal with Communist threats to our security along our northern and north-eastern frontiers where, for supplies of arms and ammunition, they can safely depend on Communist arsenals in China.

The whole situation thus raises a number of problems on which we must come to an early decision so that we can, as said earlier, formulate the objectives of our policy and decide the methods by which those actions will have to be fairly comprehensive involving not only our defence strategy and state of preparation but also problems of internal security to deal with which we have not a moment to lose. We shall also have to deal with administrative and political problems in the weak spots along the frontier to which I have already referred.

It is, of course, impossible for me to be exhaustive in setting out all these problems. I am however giving below some of the problems, which, in my opinion, require early solution and Jiaund which we have to build our administrative or military policies and measures to implement them.

(a) A military and intelligence appreciation of the Chinese threat to India both on the frontier and to internal security.

(b) An examination of our military position and such redistribution of our forces as might be necessary, particularly with the idea guarding important routes or areas which are likely to be the subject of dispute.

(c) An appraisalment, of the strength of our forces and, if necessary, reconsideration of our retrenchment plans for the Army in the light of these new threats.

(d) A long-term consideration of our defence needs. My own feeling is that unless we assure our supplies of arms, ammunition and armour, we would be making our defence position perpetually weak and we would not be able to stand up to the double threat of difficulties both from the west and north-west and north and north-east.

(e) The question of Chinese entry into the UNO. In view of the rebuff which China has given us and the method which it has followed in dealing with Tibet, I am doubtful whether we can advocate its claims any longer. There would probably be a threat in the UNO virtually to outlaw China, in view of its active participation in the Korean war. We must determine our attitude on this question also.

(f) The political and administrative steps which we should take to strengthen our northern and north-eastern frontiers. This would include the whole of the border i.e. Nepal, Bhutan, Sikkim, Darjeeling and the tribal territory in Assam.

(g) Measures of internal security in the border areas as well as the States flanking those areas such as Uttar Pradesh, Bihar, Bengal and Assam.

(h) Improvement of our communications, road, rail, air and wireless, in these areas, and with the frontier outposts.

(i) Policing and intelligence of frontier posts.

(j) The future of our mission at Lhasa and the trade posts at Gyantse and Yatung and the forces which we have in operation in Tibet to guard the trade routes.

(k) The policy in regard to McMahon Line.

These are some of the questions which occur to my mind. It is possible that a consideration of these matters may lead us into wider questions of our relationship with China, Russia, America, Britain and Burma. This, however, would be of a general nature, though some might be basically very important, e.g., we might have to consider whether we should not enter into closer association with Burma in order to strengthen the latter in the dealings with China. I do not rule out the possibility that, before applying pressure on us, China might apply pressure on Burma. With Burma, the frontier is entirely undefined and the Chinese territorial claims are more substantial. In its present position, Burma might offer an easier problem for China and, therefore, might claim its first attention.

I suggest that we meet early to have a general discussion on these problems and decide on such steps as we might think to be immediately necessary and direct quick examination of other problems with a view to taking early measures to deal with them.

AFSPA 1958 Parliamentary Debate (excerpt)

18 August 1958

Annexure XXIV, Lok Sabha Debates, Second Series, Volume XVIII, 1958,
(11th August to 22nd August, 1958), Fifth Session, 1958, Vol. XVIII
Contains Nos. 1 to 10,
Lok Sabha Secretariat
New Delhi

ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS BILL.

...

The Minister of Home Affairs (Pandit G. B. Pant): I beg to move:

“That the Bill to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the State of Assam and the Union Territory of Manipur, be taken into consideration.”... This is a very simple measure. It only seeks to protect the steps that the armed forces might have to take in the disturbed areas. It is not possible over such a vast areas to depute civil magistrates to accompany the armed forces wherever there may be trouble, because it happens unexpectedly.

...

Sri Mahanty (Dhenkanal): I want to raise a point of order. My point of order is that we cannot proceed with the Bill unless certain constitutional obligations imposed under article 352(1) of the Constitution are fulfilled. It can be said that this particular legislation does not come under the impact of the emergency conditions as enumerated in Chapter XVIII of the Constitution. But certain parts of it do directly come under Chapter XVIII of the Indian Constitution. In this context, I invite your attention to clause (6) of the Bill which says; “No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.” This immediately takes away, abrogates, pinches, frustrates the right to constitutional remedy which has been given in article 32 (1) of the Constitution. Here let me bring it to your notice that article 32 (1) of the Constitution ensures and guarantees the constitutional remedies. It says “The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.”

...

Dr. Krishnaswami (Chingleput): ... The Bill contravenes the provisions of the Constitution since it does not satisfy certain Constitutional requirements. It seeks to confer powers on the Armed Forces, and to take complete control of areas in the State of Assam when such areas have been declared to be a disturbed area. This virtually transfers the executive power in respect of such areas to the Centre. This is not tantamount to calling of the military aid of the civil power to quell a local disturbance where the State authority retains the power to regulate movement of the forces. ... What the Bill contemplates is to make over the area, under clause 4, completely to the Armed Forces thereby divesting the State of all powers in respect of that area. This is a state of affairs that can be brought about only a Proclamation of emergency promulgated under article 352 of the Constitution. The Bill seeks to circumvent these provisions and attempts to usurp the powers of the State not warranted by the Constitution... The proclamation of declaring a disturbed area is different. But in clause 4 the power given particularly to the Armed Forces and the civil authority is divested of all control... clause 4 is virtually a replica of the corresponding provisions in the Defense of India Rules under the Defense of India Act after a proclamation of emergency was issued under the Government of India Act, 1935

...

Shri Mahanty: ... This is a unique legislation, the kind of which has never been contemplated since this Indian Parliament came into existence. (*An Hon. Member*; Regulation). Regulation is not legislation; it is an administrative and executive fiat. What I am trying to submit is that this is a martial law. This is martial law as defined in article 34 of the Constitution. ... we are taking recourse to a most extraordinary measure. We are empowering the havildars and non-commissioned officers –to shoot any person they like and choose, to attach any property, to destroy any building and so on and so forth, and also arrest persons without warrant.

...

Shri L. Achaw Singh (Inner Manipur): ... I rise to oppose this Bill. I do not find any occasion or any reason why there should be such a measure to be adopted by the Central Government. It seems the Central Government wants to enact into law the ordinance which it has promulgated on the 22nd May last. ... In my humble opinion this measure is unnecessary and also unwarranted. This Bill is sure to bring about complications and many difficulties in those areas which are going to be declared as disturbed areas. I fail to understand why the military authorities are to be invested with special powers. I have found that these military authorities have

always committed excesses in many cases, especially in the sub-division of Kohima and Mokokchung. In such a situation I do not like that the officers should be invested with such special powers. Recently, such an incident took place in the headquarters of the North Cachar and Mikir Hills district. Instead of rounding the hostile Nagas, some military personnel trespassed into the house of some retired tribal official and committed rape on the widow. So, such things have deteriorated the situation. The tribal people have risen against the military people there. It is, therefore, dangerous to invest the military authorities with extraordinary powers of killing and of arrest without warrant and of house-breaking... I have got reports of the operations of the armed forces in these tribal sub-divisions of Manipur, especially in the sub-division of Tamenglaong where these armed forces have by force occupied the religious institutions, in spite of the protests of the local people. Most of them are Christians there and they hold their churches sacred. But these armed forces would occupy these institutions. There are schools, and the armed forces could easily occupy them, but then, in spite of the protests of the people, they encroached upon, and trespassed into the house... Then, they often persecutions and also harassments would take place. I would rather request the Government not to encourage such things in the tribal areas. They would wound the religious susceptibilities of the people there and would create more difficulties... This piece of legislation is an anti-democratic measure and also a reactionary one. Instead of helping to keep the law and order position in these areas, if they declare some areas as disturbed areas, it would cause more repression, more misunderstanding and more of unnecessary persecutions in the tribal areas. This is a black law. This is also an act of provocation on the part of the Government. How can we imagine that these military officers should be allowed to shoot to kill and without warrant arrest and search? This is a lawless law. There are various provisions in the Indian Penal Code and in the Criminal Procedure Code and they can easily deal with the law and order situation in these parts. I am afraid that this measure will only sever the right of the people and harass innocent folk and deteriorate the situation... The stationing of troops in the border areas of Assam and Manipur and also in the Naga Hills has been a very disturbing feature to the tribal people. It will not help the situation, and the sooner these troops are withdrawn, the better. Now that the condition have come to normal in the Naga Hills and most of the tribal areas, it is better that the troops are withdrawn and let things take their own course. Those who commit crimes and murders in these areas can be dealt with under the ordinary provisions of the law... I would like to ask

one question at the end. Why the Government has been following all the time such a negative policy? For example, in Shillong, they have maintained the family of Phizo, and they have educated the children of Phizo of a cost of Rs. 500 per mensem. On the other hand they are helping them, and, on the other hand, they have been trying to round them off? This is an ambiguous position. Government should take up a positive policy from now.

...

Shri Rungnung Suisa (Outer Manipur Reserved –Sch. Tribes): ... I want to ask the Government very seriously; are the conditions such that this Ordinance is necessary in Manipur? Do the Government think that such kind of an Ordinance will solve the problem? ... All these Ordinance and sending of Armed Forces will not solve the problem. I can tell the House very clearly and very frankly that it is only creating more bitterness and harm. We know what a soldier is. A soldier is trained in the art of killing and destruction. He cannot appreciate the yearning of the human soul. As soon as he finds a colleague of his is killed, his anxiety is to kill some other people, whether they belong to the rebel party or not. So, we have to learn one lesson from the past actions.

...

Shrimati Renu Chakravartty (Basirhat): There is just one point. The hon. Minister has not answered the basic point made in all the speeches, that the real way of dealing with it is to come to a political settlement. What is the idea of having an ordinance and the military?

Mr. Deputy Speaker: This is exactly what he has said. He is trying to deal with the political situation.

...

Shri Jaipal Singh: My name may be recorded, and my division number.

Mr. Deputy Speaker: His name has been recorded, and his opinion has been recorded, namely that he is opposing it. The point is whether he wants division now. I have declared that the 'Ayes' have it.

Shri Jaipal Singh: No.

Mr. Deputy Speaker: The 'Ayes' have it, the 'Ayes' have it.

The motion was adopted.

The Armed Forces (Assam & Manipur) Special Powers Act, 1958

(Act 28 of 1958)

[11th September, 1958]

An Act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the State of Assam and the Union Territory of Manipur

Be it enacted by Parliament in the Ninth year of the Republic of India as follows:

1. Short Title and Extent

(1) This Act may be called the Armed Forces (Assam and Manipur) Special Powers Act, 1958.

(2) It extends to the whole of the state of Assam and the Union territory of Manipur.

2. Definitions

In this act, unless the context otherwise requires—

(a) “armed forces” means the Military forces and the air forces operating as land forces, and includes any other armed forces of the Union so operating;

(b) “disturbed areas” means and areas which is for the time being declared by Notification under section 3 to be disturbed areas;

(c) all other words and expressions used herein, but not defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the meanings respectively assigned to them in this Act.

3. Power to Declare Areas to be Disturbed Areas

If the Government of Assam or the Chief Commissioner of Manipur is of the opinion that the whole or any part of the state of Assam or the Union territory of Manipur, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, he may, by Notification in the official Gazette, declare the whole or any parts of the state or Union Territory to be a disturbed areas.

4. Special Powers of the Armed Forces

Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area—

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may

consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order of the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying on of weapons or of fire arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any armed dump, prepared or fortified position or shelter from which armed attacked are made, or any structure used as a training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrong fully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises and may for that purpose use such force as may be necessary.

5. Arrested person to be made over to the Police

Any person arrested and taken into custody under this Act shall be made over to the officer-in-charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

6. Protection to Persons acting under this Act

No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government against any person in respect of anything done or purported to be done in exercise of the powers conferred by this act.

7. Repeal and savings

(1) The Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 22nd day of May 1958.

The Armed Forces Special Powers Act 1958

(As Amended in 1972)

An Act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram. Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:

1. This Act may be called the Armed Forces (Special Powers) Act, 1958.

2. It extends to the whole of the State of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram.

a) "Armed Forces" means the military and the Air Forces of the Union so operating:

b) "Disturbed area" means the area which is for the time being declared by notification under Section 3 to be disturbed area;

c) all other words and expressions used herein, but not defined in the Air Force Act, 1950, or in the Army Act, 1950, shall have the meanings respectively assigned to them in those Acts.

3. If in relation to any State or Union Territory to which this Act extends, the Governor of the State or the Administrator of the Union Territory, or the Central Government in either case, is of the opinion that the whole or any part is in such a disturbed or dangerous condition that the use of Armed Forces in aid of civil power is necessary, the Governor of that State or the Administrator of that Union Territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union Territory to be a disturbed area.

4. Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the Armed Forces may, in a disturbed area

a) if he is of the opinion that it is necessary to do so for maintenance of public order, after giving such due warning as he may

consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or firearms, ammunition or explosive substances;

b) if he is of the opinion that it is necessary to do so, destroy any armed dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made, or any structure used as a training camp for armed volunteers or utilized as a hideout by armed gangs or absconders wanted for any offence;

c) arrest without warrant, any person who has committed a cognisable offence or against whom a reasonable suspicion exist that he has committed or is about to commit a cognisable offence and may use such force as may be necessary to effect the arrest;

d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises; and may for that purpose use force as may be necessary.

5. Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

6. No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government against any person in respect of anything done or purported to be done in exercise of powers conferred by this Act.

A Fact of Life

It is apparently the strength of the presence of the Central Reserve Police which separates the good guys from the bad guys among our states and union territories. The three brief paragraphs on the CRP in the Home Ministry's annual report for 1972-73 say nothing about its deployment. However, some bare figures of the distribution of the CRP's 360 companies as on February 1, 1972, have been published in the press recently. It does not come as a surprise that, on that date, 60 of the 360 companies were stationed in two states, West Bengal and Kerala. ...

What does, however, come as some- thing of an eyebrow-raiser is the concentration of the CRP in the country's north-eastern region comprising the states of Assam, Manipur, Nagaland and Tripura and the union territories of Arunachal Pradesh and Mizoram. Together, these states and union territories accounted for less than 19 million of the country's total population of 548 million in 1971. Yet, they had 153 of the 360 companies of the CRP at hand to keep watch over them. And unlike in the case of, say, Andhra Pradesh, the CRP and the paraphernalia that goes with a paramilitary force of this kind are a constant presence in this region. In fact, the strength of the CRP there just now is very likely rather below its normal complement because of the need to divert temporarily a certain number of companies to Andhra Pradesh.

Even such acute concentration of the CRP is not, however, considered sufficient to adequately discharge the function of "maintaining law and order" in the region. For, there is the Assam Rifles which is exclusively deployed in that part of the country. The Home Ministry's Annual Report for 1972-73 contains this brief paragraph on the Assam Rifles: "The Assam Rifles is a paramilitary force under the Ministry of Home Affairs. The Ministry exercises control through the Governor of Assam, Nagaland, Meghalaya, Manipur and Tripura. The Force is headed by the Inspector General of Assam Rifles with headquarters at Shillong. The present strength of the Force is 21 battalions and they are assisting in the maintenance of law and order in the north- eastern region."

Manipur, Meghalaya, Nagaland and Tripura and Arunachal Pradesh and Mizoram are on paper states of the union and union territories, just like all the rest. With one vital difference, however: the people of the rest of the country are expected to behave themselves with the help of only the local police in normal times, whereas the people of these areas are assumed to require the constant presence of large paramilitary forces,

deployed and directly controlled by New Delhi to keep them on the straight and narrow path. It takes a rare newspaper report to make the people of the rest of the country aware of this. But for the Mizos and the Nagas and the rest of the people concerned, it is a, fact of life they have lived with always.

Source: Economic and Political Weekly, Vol. 8, No. 15 (Apr. 14, 1973), pp. 691-692

Suicide note of Chanu Rose

Miss Rose, a Tangkhul woman of Ngaprum Khullen village in Ukhrul district was gang raped in the house of Mr. R. Khasung in the night on 4 March 1974 by Major Pundir and Captain Nag of the 95 BSF. CPDM reproduces a suicide note drafted by Rose and addressed to her boyfriend Mr. Stone of Bungpa village, about 17 miles from Ngaprum Khullen. Rose committed suicide on 6 March 1974. The suicide note was translated into Manipuri and published in Bharatki Loilam Manipur by Pan Manipur Youth League in 1993. CPDM is thankful to Ms. R.K. Smejita Hidam for the English translation of the suicide note.

Most beloved...

In a world seeded with envy, our love shall never bloom together like those lovely flowers in the same stalk but we will bloom radiantly in that pure everlasting place of our true love. That I am leaving this world should not bereaved you to utter melancholy. A life driven by gale of sorrow and unrequited words mortify my soul and leave me to choose only this lone way. For the days to come, we made promises to be one and together in our lifelong journey. But oh! My love I could not made for that moment! Oh! My life none is there to receive your lot. What a pity! Oh! My vanquished soul every second bear the brunt of bereaved feelings, bringing me to the threshold of defeat. Even the tears which flow like an eternal spring now dries up. Those tears were the only image of my life. I will be remembering in those looming darkness of hell the tale of you and I. From dust to dust let this body embrace its birthplace; let the earth dissolves my remains. Oh! How enviable for that last glance, to see one last time of my image in your eyes, but alas! Fate deceives me at this last hour. I choose my own disgraceful death and lo! I will walk as an outcast forever. My love when you remembers me, turn your eyes to those darkest horizon for I reside forever in the abyss of darkness. There, you will find me treading all alone with a heavy sigh of regrets in that long darkness.

Love of my life! Feeling of sweet remembrance of those long hearty laughs and sharing each other woes fills my memory. At the dead of this night, far from here my love a deep slumber will be taking you to pleasant dreams. My last wish to see your visage shall ever remain unfulfilled as you are far from me... far across these ranges of hills.

For my lovely friends, though I am unable to write each a parting letter I plead to you to tell them my last farewell. In this early morning, I am glancing over the distance of your lovely place Bungpa. Remember, my love how I wish to shower all my feelings and love, all I have for you like a cascade flowing down in your ocean of love. Have you ever received the letter I sent to you on 6-2-73? What could have happened for not returning any reply from your side? I have waited long and I am still waiting, but at the moment life steals away stealthily. Why and how did we ever get parted will only be known after you escape from this world. Oh Hell! Oh! Abyss of Darkness! I loathe going that dark passage. No one shall ever know who betrays whom. The secret is entombed forever.

The life of a maiden dries up from blooming into a lovely flower and lays in the heathen... unadorned, unaccepted, untouched. Only regrets on my part for I am choke with words which I unable to tell you everything at this moment. What remains of the sad tale I will narrate to you closely in another lifetime, in another eternity. I will end with this note my love! That the only words that erupt from the truest, innermost part of me is the saddest part of our parting, the story of our failure to be together again.

Your Rose.

Translated: R.K. Smejita Hidam.

Disturbed Area

While the Union Home Minister's assurance to bring forward legislation for the repeal of MISA is hanging fire, there have been indications that various states might enact separate legislations of their own for maintaining the provision for preventive detention on the statute books. As it is, five states - Andhra Pradesh, Jammu and Kashmir, Madhya Pradesh, Rajasthan -and Uttar Pradesh - are reported to have decided to retain the existing state level preventive detention laws, which they passed during the brief respite from detention without trial that the nation had enjoyed in 1970-71; and the Union home ministry might well advise the rest of them, as it did in 1969, to take 'necessary steps' and pass legislation similar to the yet to be repealed MISA.

In much of discussion on civil liberties the emphasis is only on such laws as MISA which affect the personal liberty of the individual. Yet how many Indians know that provisions virtually amounting to a perennial suspension of life and personal liberty have been on the statute books for years on end now, and that these provisions are applicable to every state and union territory in the north-eastern region? For such indeed are the provisions and scope of The Armed Forces (Special Powers) Act, 1958, as amended by the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972, enacted in 1958 and in continuous operation in all the five states and two union territories of the region. By the simple procedure of pro claiming, through a gazette notification, that a given area in any of these states is a 'disturbed area' no objective criteria are laid down to define what events or occurrences would justify such a declaration; it is enough if the Governor of the state or the administrator of the union territory, or for good measure, the Central government, is of the opinion that the whole or part of such state or union territory is in a disturbed or dangerous condition to qualify for being declared a 'disturbed area' - the army is given virtual carte-blanche to shoot to kill, to conduct search and destroy operations, to enter private premises and search them as well as arrest individuals without warrant. For, shorn of the obligatory qualifications, such is the import of section 4 of the Act, according to which any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a 'disturbed area',

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing

of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) ... destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilised as a hideout by armed gangs or absconders wanted for any offence;

(c) arrest without warrant, any person who has committed a cognisable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognisable offence and may, use such force- as may be necessary to effect the arrest;

(d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary. Section 6 of the Act assures for good measure complete immunity to the members of the armed forces engaged in all such operations from being called upon to account for their actions.

Since 1966, the whole of Mizoram has been such a 'disturbed area' (an account of the ways in which such laws are implemented there is discussed in the article that appears elsewhere in this issue). Nagaland has been a 'disturbed area' for an even longer period; and periodically, parts of Assam, especially in the Mikir Hills and North Cachar Hills and the area around Lumding, are also declared 'disturbed areas'. Emergency regulations and the midnight knock on the door, an experience out of the ordinary for most of the Indians, is very much a matter of daily experience for those whose habitats are arbitrarily chosen to be declared 'disturbed areas' by the Government of India or its minions in the various states and union territories in the north-east all under the guise of fighting an 'insurgency', and all to no avail in obtaining the desired results. It is good that the aroused democratic opinion in the country has to some extent succeeded in defeating moves to retain provisions for preventive detention in some barely concealed form or the other. It is now necessary that attention is also focused on the unfortunate plight of millions of Indians

Disturbed Areas

in the north-eastern states who constantly go under the danger of being arrested without rhyme or reason, of having their humble households razed to the ground, or indeed of being shot out of hand.

Note:

MISA stands for Maintenance of Internal Security Act (MISA). It was a law passed by the Indian Parliament in 1973 under the leadership of Prime Minister Indira Gandhi. It gave the Prime Minister and the enforcement agencies powers of indefinite preventive detention of individuals, search and seizure of property without warrants, in direct contravention of Constitutional guarantees of fundamental rights and established standards of human rights. The law was repealed in 1977 pursuant to a change of government.

Source: Economic and Political Weekly, Vol. 13, No. 15 (Apr. 15, 1978), pp. 633-634

A CURIOUS feature of the notification declaring Assam a 'disturbed area' issued on April 6 has been the omission of North Cachar district from the purview of the notification.

Also, while the proclamation was made under the provisions of Section 3 of Assam Disturbed Areas Act, 1955, another notification was issued enforcing the Armed Forces (Special Powers) Act of 1958, as amended by the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972. Thereby hangs a tale.

Essentially, there is no difference between the two Acts; while the former is intended "to make better provisions for the suppression of disorder and for the restoration and maintenance of public order in disturbed areas In Assam" and empowers civil authority ("any magistrate or public officer not below the rank of a sub-inspector" or, in the case of armed police including the Assam police, "not below the rank of a havildar") with virtually unlimited powers, the latter whose cover- age is more extensive and includes, apart from Assam, the states of Meghalaya, Manipur, Nagaland, Tripura and the Union territories of Arunachal Pradesh and Mizoram empowers, as the title of the Act says, members of the armed forces ("any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces") enter and search without warrant any premises, arrest without warrant, conduct search and destroy operations and of course, shoot to kill, with complete immunity from prosecution, except with the previous sanction of the Central government, in respect of anything done or purported to be done in exercise of the powers conferred by the Act.

Clearly, the powers bestowed by the two Acts on functionaries of the civil and military police as well as the armed forces are very wide with no bars being placed on their exercise, though the power to 'shoot at sight' has for the moment been denied following the Gauhati High Court's order of April 18. Very rightly, there has been widespread opposition to the declaration as well as strong criticism of the legislation which makes such declarations possible.

But it is significant that though these laws were passed more than twenty years ago, and though these have been in operation not merely in the general area of the northeast, but in the state of Assam itself, including within the area of the present truncated Assam, there had been no protest against these dangerous laws in Assam till now. The reason,

for instance, for certain parts of Assam being 'exempted' from the ambit of the proclamation of April 6, 1980 was that these areas have for long been declared 'disturbed areas', and so, administratively, could not be declared over again as 'disturbed areas'...

Source: Economic and Political Weekly, Vol. 15, No. 22 (May 31, 1980), pp. 946-947

Eikhoigi Wakat (Our Cry)

Of all the changes in the administrative strategy and policies amidst enduring political complications in Kangleipak (Manipur), the most endangering one is the challenge that is directed against the lives of the Manipuri women by entrusting them to the army to rule over. The consequence of army rule in Manipur is victimization of Manipuri women through unending sexual harassment by foreign army. In order to enable us to live with full dignity and preserve our honor along the line of our tradition and culture, our fight against crimes and atrocities committed by the army, which are occurring in front of everybody's eyes, is going on without a break from 14 May 1980 onwards.

We understand that the community, which cannot protect the dignity of life and respect the honor of its women, will extinct from amongst the communities on earth. It is, therefore, natural that we resolve to live as Meetei women and as daughter of Kangleipak forever. Therefore, the legislatures must reconsider on how will the daughters of Kangleipak be esteemed as respectful mothers by other communities when barbarous and animal like behaviors that rule the society had no longer shown any respect to the women of this land. We are merely prophesizing to you the future lives of your mothers, sisters and daughters. For all these reasons we are forced to come forward against the legislatures who are administrating the assembly as they like without any consideration for the people of our motherland. Manipuri daughters were victimized many times in many excessive military incidents before the administration of this land is entrusted to the army, even before Manipur was declared as disturbed area.

By subverting the rights of our motherland's police force, including IGP and SP. By stampeding over their power, beyond all means recognized by the law, many women of the Langjing village were mercilessly tortured and dehumanized. Many women were raped in front of their helpless village men who were handcuffed and seriously beaten up till they become speechless. Many women escaped without cloth through the back door of their houses and ran helplessly to save their lives in jungle. A pregnant woman (Bino) was shot at, pierced through bayonet and was killed in front of everyone. Manipuri women are aware of this inhuman and heart-grieving incident. We are asking this question; what is the fault of those women who were living a simple and innocent village life that the CRPF should deride at their honor and de-humanize them in public. Why is the

legislature not giving an answer to this question? Since you never give response to many such questions shouldn't the people feel worry when the Armed Forces Special Power Act (1958) is enforced in Manipur? Armies are posted everywhere in hills and valley. However, the legislatures remain with the pretension of not listening to all the crimes and tortures committed by them. Even today most of you are still in the habit of mobilizing watchdogs and bribe the people with money in the same way as you did during election campaigns. Monetary compensation will not restore the lives of those who were killed. It will not bring total rehabilitation to those who are still suffering due to army torture. Moreover, the attempt to evaluate the honor of women in terms of money is never acceptable to any women's community on earth. Even if the legislatures will successfully cover up the convicts who are responsible for the public unrest the future of this land will one day avenge against the crime.

For all these reasons, it is inevitable for the Nupee Kanglup (Women's Organisation) to play a role at this crucial juncture of the community. From 14 May onwards groups of people of various villages from different parts in Manipur are putting pressure to the Chief Minister R.K. Dorendro. On 16 May more than four thousand of us, mostly hailed from Imphal, paraded a procession demanding withdrawal of AFSPA (1958) from Manipur. We raised many slogans against declaration of Manipur as disturbed area. On the same day various groups of people from various villages in Manipur also came to meet the Chief Minister for the same demand. Finally all were assembled at near the residence of Dorendro. Dorendro gave an answer quite contrary to our demand: - if your sons-grandsons are involved in rebellion then discipline them; we will provide them with job, tell them to surrender their weapons; the armies who will be deploying in Manipur this time are unlike untrained CRPFs, they are well trained central armies; by declaring disturbed area operations will be carried out with the presence of civil officials like DC, so that women and children are not touched upon; don't listen to those who are spreading rumors to destabilize the government and so on.

Such irrelevant response was quite contrary to our demand. Being disheartened we retreated from Chief Minister's residence and assembled at Mapal Kangjeibung (The Polo Ground). A meeting was immediately held and we resolve to continue our fight under the banner of a united front known as "All Manipur Nupee Kanglup"— All Manipur Women's organization. Following that, about five to six thousand of us (women) paraded a silent procession against army operation on 19 May. A

memorandum was submitted to the CM. On that day too Dorendro made the same humiliating statement. Since demands and processions yielded any good result, Meetei women decided to pursue through their non-retreating temperament. Therefore, on 21 May, Manipuri women once again took part in the history of Manipur. This time spearheaded by the valour of Meetei-womanhood that can never be suppressed, about ten thousand of us raised many slogans against army operation and marched to the CM's residence. Bearing the overcastting heat of the summer sun we waited till 4.30 p.m. to meet the CM. From 7 a.m. in the morning, the crestfallen Meetei women, totally unaware of appetite for food and drink, fully engrossed in desolation, marched around the Khwai Keithel (Imphal Market) and were finally assembled near the CM's gate at around noon. We really understood the disrespect shown to thousands of women; the oblivious character trying to divert us from our demand, the uncouth response that the minister was out of station and the swaggering in front of our eyes. The fact was that he was (the CM) hiding in the Manipur rifles camp. His hiding was a direct challenge to the people; it was a heedless behavior against the women community. Therefore, we broke the barricade (gate) of the CM and surrounded the bungalow till he found it impossible to hide inside. Finally he gave up from hiding and presented himself before the crowd. He miscalculated himself that women were totally ignorant about the meaning and implication of the AFSPA (1958). We were really disappointed when he used the best of his rhetoric skill and misinterpreted the AFSPA so that the act would be willingly accepted by us as a pack of sweet cakes. We knew that the Act would totally suppress the liberty of human beings. We also knew that in a democratic country the Act would demean democratic rights and all natural respects ascribed to humanity would be brutally derided upon. Once the Act is enforced even the minister will become voiceless when army do as they like. It is worth for you to reconsider that we —All Manipur Nupee Kanglup— are taking ourselves to the street since we know the limitless brutality and the parameter of this Act.

It will be better if you (legislatures) do not test again, by invoking a new Third Women War to take place, the courage and temperament of the Meetei women who had made Women Wars as respectable episodes in the history of the world by valiantly fighting, with stoles enlaced around the waist as the only weapon, against the guns and bayonets of the British.

Meetei women are the mothers of the children who can sacrifice their lives for the sake of the motherland. Aren't the legislatures the

legitimate children of the Meetei women? Patriotism do not cause harm to another country — if that creates problem then it is an intension to extinguish smaller land like ours from this earth. Therefore, the legislatures in order to peacefully rule the land and not to heighten up mass hysteria, must not declare Manipur as disturbed area. To avoid Langjing incident from reoccurring once again army must not be entrusted to rule the land.

The Nupee Kanglup (women's organization), therefore, will fully carry along the non-retreating valour and temperament of the Manipuri women community by organizing a procession on 28 May 1980 and contrive to stride our opposition against army operation.

All sons and daughters of the motherland are requested to fully support the cause of the Manipuri Nupee Kanglup. You must take part in making good the turbulent and complicated administration of this land. It is too late that all women groups and all other organizations in this society forget their differences and take equal responsibilities in all events pertaining to our land and plead our demands to the legislatures and children of this land.

Communication group
Manipur Nupee Kanglup
Kangleipak (Manipur)
Imphal: Dated 27/5/1980.

Translated from original Manipuri pamphlet reproduced in National Research Centre, Imphal, compiled Meira Paibee, 1999

Petition of the women society of the east

Honorable Chief Minister —

We, the women society, a section of those who are thinking for the welfare of the people, would like to submit a petition. That, on hearing that armies are entrusted to accomplish the task of suppressing the movement of the “Youth” the “Children of the Society” are psychologically frightened. People have experienced and are aware of the inevitable oppression and torture under military regime. Many instances of killing, torturing and burning of houses have occurred during military operations.

We appeal you to arrive at an amicable solution to defend the people from the confrontationist situation developed out of the extra-judicial behaviour of the armies and people's heartfelt reaction against military brutalities. We express our anguish and apprehension against weakening of our governing power as a result of empowering the armies with power to rule over us and the failure to bring a civilized solution to the ‘unrest’ of our “youth” and students.

It is the natural decision of every community on earth that a community like ours had to strive hard to defend the historical identities, culture, creed and colour which are on the verge of decline and marginalization. Instead of working for a ‘civilized’ solution to the various forms of movements initiated by various ‘youth fronts’ who believed in the aforesaid discourse of identity, the disposal of the civilian lives to the mercy of the armies is a disrespect to the future history of this land [Manipur].

The representatives of the people must carefully understand the interest of the people and defend the people, women and children of their lives and protect from oppressions. We continue to hear ‘unbearable cry’ of killing and torturing of innocent women and children, of sexual harassment of women as a result of a confrontation between few ‘youth’ and one or two CRPF personnel. All the daughters of this land “Poirei” had to crunch in disdain only to console our anguish and had not express discontent to the judicial lord of this land.

However, ‘today’s women society’ on hearing the information of empowering armies to suppress the movement of the ‘youth’ of this land had to rethink the dignity of mankind and had to warn you of the obvious outcome and unceasing torture.

It is wrong to target the branches when you fail to destroy the roots. It is too old a maxim that upholds beating as means of correction in

today's world. If you think that the problem of hunger, the suckling of Meetei blood by wealthy Mayang and that total disorganization of the society as a result of innumerable influx of Mayang would be solved through 'oppression' [of the Meetei], then, will it not be better to purchase bundles of beating-sticks instead of rice? How many more Mayang from the 'land of others' are you going to call in?

We appeal to today's political- administrative lord; to reconsider all these; to enable restoration of the natural livelihood; not to empower armies with political- administrative powers and; to direct the movement of the 'youth' of this society towards a progressive path. We also continue to express our feeling that; there is no torture on the lives of arrested students; please release them and; efforts are made in order to bring schools and colleges to normal condition.

We lay before the lord and the people our firm belief, that, as a result of our opportunity to express our many feelings and petition, the people of this society would be freed from fear and apprehension.

'Manipur Nupi Khunnai', Imphal East, 16/5/1980.

Translated from original Manipuri pamphlet reproduced in National Research Centre, Imphal, compiled, Meira Paibee, 1999

Reckless Homocidal Government of Dorendro

On 28/5-1980 our friend Sinam Piyari, a pregnant woman from Yumnam Khunou Village was arrested and killed by throwing down from the government's vehicle. Another friend was seriously injured. She was killed because we pleaded for not to allow dying in the battle to survive. Dorendro Government's arrested of women and killed many of them when they requested for an end to army operation in Manipur is a challenge against the women on earth. It is a serious defiance to the cultural tradition of India. In the same manner as the CRPF killed a pregnant women on 26/4/1980 at Langjing Village, in the same manner as the killing of an old market women on the next day at Khwairambal Keithel, there is reckless killing of those who requested for not to be killed. Dorendro had also declared that Rs 10,000 each would be paid as compensation for those killed. As if Manipuri women are easily auctioned for money, the disrespect shown to us is a clear indication that the land is under colonial rule.

Our deceased friend Piyari had to be thrown bare on the police ground the whole night since the Government had the women deported to a far off place and curfew was imposed without time limit. As the only means to express our disheartedness against the government we spent the whole night at Lamlong High School and shared the grievance for our deceased friend Piyari. The help rendered to us by the people of Khurai Lamlong Side through whatever they possessed irrespective of age was a permanent proof that we all are the children-grandchildren of Manipuri Women.

Legislatures, you are the representatives of the people. You are elected through people's consent. The desire of the people must be your desire. You are enemy of the people if you act according to your own wish without any consideration for the people. Manipur has not become a disturbed area. You cannot enforce army operation at all. Unless the citizen rights coded in the constitution are erased you should listen to the people. Does democracy means killing women? Will you totally extinguish Manipuri women community? Manipuri women community will live long.

Communication group;

Manipuri Nupee Kanglup, Imphal: Dated 29/5/1980

Translated from original Manipuri pamphlet reproduced in National Research Centre, Imphal, compiled, Meira Paibee, 1999

War cry of the bloodstained Manipuri women

Manipuri Nupi Kanglup from 14 May onwards had been protesting the “tail-end” government of Dorendro, the dog of India government not to impose army operation. As a fruit of the collective efforts of the Manipuri women without any division on the basis of hill/plain and highland/lowland, the government at the midnight of the killing of our comrade Sinam clan married Priyari, disturbing the sleeping people, made an apologetic announcement – till now the government has no plan to carry out army operations. This does not mean that the women community would be fully satisfied. In the meantime, the government has not ended its treacherous ‘tiger-tricks’. On 4 June at around 8 p.m. president Punyabati and vice-president Nungsitombi of the ‘community’ ere dumped in the government lock-up; the following day, 5 June, at around 1 p.m. Sanahanbi and sister Chaobi of the organization were arrested. Other secretaries, finances and many others were searched by the ‘dogs’ of the government. Instead of reconsidering our complaints, such attitude of arresting women to identify them with ‘insurgents’ in the eyes of the people added anguish over anguish. We have already clarified that we are never instigated by anyone. We have never caused any destruction to the government and the people — ours is simple complaints. We are surprised of the government’s stereotyping that categorically locate the women as having no role to play concerning the affair of our ‘bloodland’.

Government must recall the difference between the unrest of the ‘land’ by ‘insurgents’ and the unrest as a result of atrocities committed against the life of civilian women and children. Disappointing situation emanated out of the merging of these two differences have been learnt by many Asian and African countries. If the government do not realize that the voice of the people is its mirror; there are various instances of the development of a totally different difficult situations when attempts are made to make the government realize it.

In thirty years of Manipur’s becoming part of India, instead of making the people hear any sound of operational factory and industry, the government charges the women of this land for everything and is frequently announcing through the radio to kill the children of the women of this numerically small population of this land. Instead of providing with job to our youth who by now have become journeymen due to absence of opportunity for employment, the justification to bring in a brigade of army

to kill our frustrated youths and women and children is illogical and ambiguous. Today, if the huge money that is being spent for the army would have been invested for the development of the means of earning, then, the complaint of those who are dissatisfied would have never been heard of. However, it is the character of colonizing countries that in a situation of administrative mismanagement and disorganization women and children are disposed to army brutality only to ‘stitch up’ the mouths of the people. Therefore, it is high time to rethink the kind of relationship that should be maintained between the government and the people.

We were once misinformed that the issue of bringing in army to carry out operation had never arose. But, the government had opened up many new shops run by the army in various parts, thus, forcing people to purchase from cheaper army shops only to show the army as a good hearted community. The distribution of medicines by army and forced assembling of villagers to attend meeting organized by the army are the glaring examples of the bringing in of armies.

The shops of the Mayang armies, dogs of India that sell goods at much cheaper rate than the shops of this land, lured the ‘pug-nose’ Manipuris to become ‘lanky-nose’, raised their eyelids, become more hairy so that modesty of Manipuri women is being exchanged with. Mayang treachery is meant to break one another’s heads among mothers and children. Through superimposing confrontation among the hill villagers, mistrust and hatred among the valley clans, disintegration into smaller disorganized groups and through breaking down the classless mongoloid society of this land, armies will indulge in intoxication and toss money to the women of this land like a harem land of dancers. We fear more destruction and disorder.

On the other hand, the government’s imposition of curfew and attempt to charge the women responsible for unrest of the land, instead of considering the complaint of the women community, will remain regrettable as long as we live.

Manipuri women are mothers of the pillars of the future of this land; the future youths are the dream of the Manipuri women who are bearing with punches hitting upon our hearts. The ‘mind image’ of our comrade killed by Dorendro government is her only one year old daughter. Therefore, even if the shadow of anguish imprinted into the minds of today’s women community are suppressed by the barrel of the gun, in the coming historical periods our children will very often question and avenge the glooms befallen upon the faces of the mothers.

Army Rule

In order that such questions never arise, Manipuri women community protests army operation in Manipur. However, if such barrage raised had to be forcefully destroyed only to drown into the stream all men and women of this land, leave aside Dorendro government even the Bharat government cannot prevent the outcome. Therefore, the decision that we have taken based on our conscience of truth cannot be altered by anyone; we have promised with the blood our comrade Priyari.

Reaffirming our firmed stand and reiterating our complaint before the Manipur and Bharat governments, we the Manipuri women with our strong determination, courage and valor would wait for a changed situation where a final onslaught with new temper against injustice would be attempted. We don't want to be called mothers by army's leftover Manipuri children. Manipuri women do not want to be wives, children and sisters of those who were tortured beyond recovery. Handicapped, feverish and disease infested as a result of army brutality. In a land invaded by Mayang armies, several questions raised by those three dishonoured women, traumatized men and youth of the two villages, psychologically disturbed mothers whose children were abducted from their laps and killed continue to haunt us.

Therefore, in order that the people of this land are never challenged again, on the coming Friday, 26 June 1980, there will be public assemblage at Mapal Kangjeibung at 8 a.m. from where a silent procession will be flagged off. In the same way as before every Manipur woman may take part so that women community's movement is successful. With our only sacrificing ideology let us take part in bringing welfare of the 'blood-land. Manipuri women community will live long.

Coordinating Committee
Manipur Nupi Kanglup
17/6/1980

Translated from original Manipuri pamphlet reproduced in National Research Centre, Imphal, compiled, Meira Paibee, 1999

State governments should take heed of happenings in Manipur. They may soon have to cope with parallel administrations within their territory-not by Naxalites, but the Indian armed forces. A mini- military dictatorship is operating in the Senapati district of Manipur, where the elected representatives of the Manipur citizens (including their chief minister, who happens to belong to Congress (I)) can be debarred from moving beyond lines drawn by the armed forces, where officials of the state government-both magistrates and police officers-can be detained and their offices raided by the armed forces. Thus is, of course, not to speak of the torrent of atrocities on the common people of the area, who are supposed to be protected by the state's civil administration from unwarranted harassments.

The provocation for all this was an attack on the Assam Rifles post at Oinam in Senapati district on July 9, allegedly by members of the secessionist National Socialist Council of Nagaland (NSCN), during which nine jawans were killed and several weapons looted. Failing to apprehend those who humble them and taking it out on innocent citizens, the Assam Rifles started 'Operation Bluebird' for recovering the arms. As a part of the operation, from July 11, Oinam and the surrounding Naga villages in Senapati district were sealed off, preventing people from either going out or entering...

Things have come to such a pass that the council of ministers of Manipur has been compelled to address a memorandum to the union home minister complaining that the civil law is not being allowed to operate in Senapati district by the Assam Rifles. The memorandum states: "The Assam Rifles are running the parallel administration in the area. The deputy commissioner and superintendent of police were wrongfully confined, humiliated and prevented from discharging their official duties by the security forces. The chairman, Hill Autonomous District Council was... confined during night and thereby prevented from discharging his official functions" The memorandum also refers to the raid carried out by the security forces on the house of Ng Luikang, minister of state for education, on the night of August 10; the torture on a Congress(I) man, Solomon Veino; the arrest of an independent MLA, Benjamin Bane; and numerous cases of atrocities on villagers. ... The memorandum is a rather unique document-drafted by Congress(I) ministers of a state complaining against violation of their constitutional rights by the Indian armed forces, a complaint voiced often in the past by non-Congress(I) state governments...

Source: EPW, Vol. 22, No. 40 (Oct. 3, 1987), pp. 1670-1671

Different Norms

“The norms of decency followed by us here are different from those in Delhi” This was how a major of the Assam Rifles retorted when he was asked to behave decently by a member of a Planning Commission team that had gone to Ukhrul town in Manipur some months ago on some official work. The major, who had earned notoriety among the inhabitants of the town for his brutalities, had barged into a room where the team was meeting and demanded explanations for the presence of the members of the team there.

The incident reflects the bellicose mood of the all-powerful armed forces and the prevailing state of affairs in Manipur which remains out of bounds of the normal laws and civil administration. On the plea of fighting insurgency, the armed forces have acquired vast powers, especially under the Armed Forces (Special Powers) Act, 1958. The increasing intervention of the army in civil administration in a remote part of the country appears to be of little concern to the mainstream opposition which is otherwise occasionally responsive to the violation of civil liberties in the heartland. Yet Manipur illustrates the dangerous tendency of a process of politicisation of the army. When the former chief minister, Rishang Keshing, in 1987 submitted a memorandum to the union home minister protesting against the atrocities carried out by the Assam Rifles in Oinam village in the Senapati district of his state, he was promptly removed from chief minister-ship. The army persuaded the home ministry to take this action by suggesting that Keshing had secret links with the secessionist underground NSCN (National Socialist Council of Nagaland). Here may be the first sign of what has come to prevail in Pakistan and Bangladesh. Elected representatives of the people can be removed with impunity by the armed forces in our country too. Junejo and Keshing are victims of the same militarist politics.

Several civil liberties and women’s organisations had filed writ petitions before the Guwahati High Court on the atrocities committed by the Assam Rifles in Oinam and other villages in July 1987, which included killings, torture and raping of women. But the Assam Rifles had been consistently interfering in the due process of law. It successfully prevented the Registrar (Judicial) of the Guwahati High Court from interviewing the women victims of rape, which he was authorised to do by the high court. Pressurised by the Assam Rifles, the home minister of Manipur, Tombok Singh, went to Oinam village on April 11 this year to tell the villagers to

withdraw the writ petition. There were also attempts to bribe the victims of rape.

In 1983, some eminent intellectuals, including Sarvapalli Gopal, P N Haksar, Romila Thapar, V M Tarkunde and Gobinda Mukhoty had issued a statement on the problem of the Nagas (who apart from Nagaland also inhabit the Ukhrul district of Manipur) in which they demanded the restoration of fundamental rights to the Nagas who had been “under virtual military rule for the past twenty-five years”. Referring to the consequences of such rule — disruption of the economy and the dysfunctional role of the civil administration — the statement added: “The government has employed the army to perform an impossible task of solving a political question by viewing it as one of law and order. The impact of this process has been that the people have been more and more alienated from the rest of the country.”

The statement fell on the deaf ears of the government. During the last five years, the government has gone on giving more unfettered powers to the armed forces through various special acts (e g, the Assam Maintenance of Public Order Act, 1953, the Assam Disturbed Areas Act, 1955, Regulation 5 of the Nagaland Security Regulations, 1962, etc), which increasingly encroached on the fundamental rights of the citizens in the north-east and deprived them of the normal channels for redressal of their grievances. ...

Source: Economic and Political Weekly, Vol. 23, No. 34 (Aug. 20, 1988), pp. 1713-1714

Army vs Civil Administration

The paramilitary outfit known as the Assam Rifles which is virtually an extension of the Indian armed forces, with 80 per cent of its officers drawn from the army, has added a comic interlude to its long drama of repression on the common people of Manipur, Tripura, Mizoram and Nagaland. At the sessions court in Imphal, the Assam Rifles personnel are at present facing a case filed by the NPMHR (Naga People's Movement for Human Rights). In what is otherwise a grim recording of proceedings, the lawyers and officers of the Assam Rifles introduced an element of peevishness which turned them into a laughing stock. Every day during the proceedings, they carried a table and a pair of chairs to the court room on the plea that the ordinary benches used by the public in the court are not good enough for the high and mighty officers of the Assam Rifles.

Matters came to a head when the local newspapers reported the incident and the court took notice of the behaviour of the Assam Rifles. The counsel for the latter argued that Assam Rifles officers must be treated differently from the petitioners since they were senior officers of the armed forces. The sessions court finally directed the Assam Rifles not to bring their own chairs and table into the court room, but to sit on the benches provided by the court. The judge observed: "There must be an equality before the law and treatment given to the petitioners and respondents must be alike and same." Taking offence at this, the Assam Rifles has now gone to the Guwahati High Court challenging the order.

The battle over a table and two chairs may not be as innocuous as it looks. It could be yet another attempt by the Assam Rifles to put a snag and delay the judicial proceedings in respect of the several cases pending against its jawans and officers. Ever since the recording of the evidence from the victims of the Assam Rifles began on August 22, 1988, the paramilitary force had been openly flouting the court by arresting and torturing key witnesses. The NPMHR lawyer was threatened by the Assam Rifles: counsel in the court, compelling the judge to severely reprimand the latter. On January 24, the Assam Rifles personnel, raided a girls' hostel and a church in Imphal and broke open into the room of the NPMHR lawyer and ransacked it, during her absence. The Armed Forces (Special Powers) Act under which the Assam Rifles personnel have been deployed in Manipur, while arming them with many arbitrary powers, does not empower them to arrest people and usurp the normal authority of the civil administration. The director general of police, Manipur, at last appears to

have woken up to the intrusion of the Assam Rifles into his administrative sphere. He has ordered an inquiry into the January 24 incident.

But pampered by the centre, the Assam Rifles seems to be in an advantageous position vis-a-vis the civil administration in Manipur. It was under its pressure that the former chief minister of Manipur, Rishang Keishing, was removed after he had protested against the atrocities committed by the Assam Rifles on the Naga villagers of Senapati district of Manipur. State government officials and senior police officers plead helplessness, and sometimes even express fear, when their attention is drawn to the high-handed behaviour of the Assam Rifles. After having successfully reduced the civil administration to a non-entity, the Assam Rifles now is trying its best to browbeat the judiciary into surrendering its independence.

Source: Economic and Political Weekly, Vol. 24, No. 6 (Feb. 11, 1989), pp. 273-274

Army Terror unleashed again in kachai

- A convoy of 6/11 Bn Gurkha Rifle was ambushed near Kachai village at 11:30 on the 10th April, 1991.
- Four army personnel were killed and two SLR, three carbines were snatched away from the convoy.
- In the night 10th April 1991 all the men in Kachai village were flocked in the army camp there and tortured, threatened one man to be beheaded by an army personal...the angered women assembled outside army camp were dispersed by blank firing. Army torture continues in the surrounding areas, Tora, Chingshong, Chamfu, Funghar, Maichon ... etc ... Almost all the men in these villages fled to the nearby jungle and towns due to premonition of army terror.
 - a. C.H. Josua, Councillor, Chingsu Khunou, 55 Years—hanged by feet.
 - b. Shangi Horam, Chingsu Khunou—sustained broken hand.
 - c. Sanarei H. Kangai & I.V.S. Somi—bed -ridden due to extreme torture.
 - d. all abled persons—hard labour

Such incidents were happened in the past also—Heiranggoithong massacre by the CRPF in 1984, army torture in Oinam village in July 1987, combing operation and subsequent atrocities committed by the army personnel in various regions, systematic killings of innocent people and provocations since the imposition of draconian acts (NSA, Armed Forces (Special Powers) Act, 1958, TADA, etc), fake encounters, etc where happened / carried out from time to time. All the people protested vehemently against these crimes. But the governments in succession so far have neither conducted seriously any measure to stop such crimes nor to punish the criminals. Instead the authorities sanctioned a free rein to this uniform criminals to terrorize further against the common people. This has been a policy of the government since Manipur merged to the dominion of India. This policy remains the same whatever political parties of different flags represent the people. These parties turned out to be a partner of the exploiters with the same policy to further inflict new wounds against the masses. They talked about withdrawal of these acts but the opposite happen. This is rather quite understandable because this exploiters cannot

rely on themselves. They rule and exploit further with the help of this uniform criminals.

It is said that the governor of Manipur visited the affected areas of Kachai and an enquiry must have been filed. Nobody knows. Indeed the authority needs an enquiry as an old time tested policy of the government. We have thousands of enquiries either pending or suppressed related with such incidents. But 100 of every 101 of us faced what the army terror is. Without any thorough enquiry we understand what must have happened in Kachai and surrounding villages. What crimes have these people committed that they should be treated in this brutal and barbaric manner? The authority always justifies their brutal army terror by claiming that all this is necessary because of “extremist”!! But who is the army terror really directed against? What did the facts show?

Democratic and progressive people can never accept any justification whatsoever for the army terror in Kachai and surrounding villages. We cannot rely on the authorities to put an end to these army terror against the common people. Instead we ourselves should stand together to oppose such crimes and should throw out the army to put an end forever of such crimes and should never allow these criminals to rule us. This is the only alternative we have.

Condemn the army atrocities! Throw out the army! Unite and fight for better tomorrow.

*A statement release by: People's Democratic Movement
Dated 1st May Imphal.1991*

**CONCLUDING OBSERVATIONS OF THE UN HUMAN RIGHTS
COMMITTEE 1991
INDIA**

UN Ref: CCPR/C/37/Add.13
([Relevant paragraphs only](#))

2. The CHAIRMAN invited members of the Committee to make their closing comments on the second periodic report of India (CCPR/C/37/Add. 13)

8. (Ms CHANET said) The Government did not consider that it was derogating in the case of article 6, and maintained that deprivations of the right to life under the special powers granted to the police and the armed forces could not be construed as arbitrary. She agreed with the views expressed by Mr. Lallah and Mr. Wako on the use of firearms by such forces in the preservation of public order, and regarded the provisions of the Armed Forces (Special Powers) Act as incompatible with article 6 of the Covenant.

15. Mr. FODOR said that during the consideration of the report the Committee had identified a number of fields in which legislation and practice in India were not compatible with the terms of the Covenant, such as the implementation of the Covenant in 'disturbed areas', arbitrary killings and arrests in some states, the excessive powers granted to the security forces, and the failure to bring proceedings against police offenders. At the same time, he felt confident that India, with its democratic traditions and institutions, would succeed in overcoming its difficulties with regard to implementation of the Covenant and that the Government's next periodic report would reflect continuing progress towards that goal.

16. Mr. AGUILAR URBINA said that it was his impression that the reservations to the Covenant showed that it was not being fully implemented in India. Other articles, in respect of which no reservations had been entered, were also at variance with such domestic legislation as the Terrorist and Disruptive Activities (Prevention) Act and the Armed Services (Special Powers) Act. In particular, the authority conferred by the latter Act on the security forces with regard to the use of firearms was clearly excessive and in contravention of article 6 of the Covenant, while article 14 was contravened by the provisions in the former Act which invalidated the concept of due process by denying presumption of innocence. In the case of article 14, the Committee should have been

notified of any derogation. He hoped, however, that the constructive dialogue with the Government of India would continue and that the next periodic report would go some way towards allaying the concerns voiced by the Committee.

18. He (Mr. WAKO), too, hoped that the Indian Government would consider ratifying the Optional Protocol so that its citizens would have the added protection of being able to petition the Committee. He shared the views of other Committee members concerning the Terrorist and Disruptive Activities (Prevention) Act and National Security (Amendment) Act and was particularly concerned about the Armed Forces (Special Powers) Act, which broadly empowered police officers and the army to kill. The representative of India had maintained that those powers had not been used to any great extent, but the Committee had seen reports to the contrary. Neither was there convincing evidence - apart from the covert case on death in custody - that such violations had been sufficiently investigated or prosecuted.

International Human Rights Day

The General Assembly of the United Nations proclaims the Universal Declaration of Human Rights to promote and uphold the inalienable rights, dignity and equality of human beings on the 10th December 1948. Every year peoples all over the world observe this day, the 10th December as International Human Rights Day, to escalate their struggle for the Universal respect of basic human rights and freedom.

Though every member state of UN pledged to achieve this end, the State had never been stopped the provocation and violation of human rights towards the common people. Human rights has been violently strangled in the whole NE region of India. The Government of India enforced the Armed Forces (Special Powers) Act, 1958 in the whole States of the North Eastern States of India to suppress the aspiration and human right of the people, empowering the State to declare any part or whole of the State to torture and to kill the common people on the mere suspect of being “terrorist”, “extremist” etc. It has been the security personnel of the State of commit crimes of every kind — mass torture, killing, rape etc. towards the common people in our State violating the basic human rights of the every individual. Any kind of opposition to this rule and politics (which is the basic right of every individual) has been made a taboo.

The question of nationality in India have never been solved nor tried to do so. Instead the oppression towards different nationalities increases. The present Indian Union itself is the result of forcible annexation of weaker and smaller nationals. For example, the present Manipur State was independent for more than two years (1947 to 1949) before the then dominion of India forcibly annexed through infamous merger agreement. In fact this act itself is the violation of fundamental rights of the people of Manipur. Today the Indian State violently suppressed any just demands may it be in the field of economy or the question of politics, the question of basic human rights etc. raised by the democratic and justice loving people. Recently the Minister of the State for Home Affairs, Mr. M M Jacob, declared openly that the above mentioned problems facing by the people of N.E. is nothing but “Law and Order” problem and that it will be dealt accordingly. Many extra battalions of Armed Forces arrived recently to execute what the M.M. said in spite of solving the real problem.

The statement of the MOS and its follow up actions clearly shows that the Government of India and the State Government violate the human

rights of the people of the land by using the security forces to terrorise, torture and killing the people.

All the freedom the justice loving people of this land should unitedly oppose the violation of the basic human right and to show our solidarity. The International Human Rights Day observation Committee, appeal all the people to join and attend the Mass Rally and Public meeting on the 10th December 1992. (International Human Rights Day)

Venue: Mapal Kangjeibung

Time: 10:30 am

Date 10th December 1992

*Released by International Human Rights Day Observation Committee,
Manipur*

Imphal Rally against AFSPA 1958

Today the 10th September 1993 Friday, a massive rally marched around the Khwairamband Bazaar for the protection of basic human rights of the common people and to protest against the continuing atrocities of the present Government.

Following the rally a public meeting was held at Statehood Square and the meeting was chaired by Advocate Khaidem Mani, Ex- General Secretary, Manipur Bar Association.

In the meeting the following resolutions were unanimously passed.

Resolution No. 1. Till the anti-people Black Laws and Armed Forces are here, there will be violations of Democratic Human Rights of the people.

Resolution No. 2. In spite of finding out the root cause of armed uprising and solving it politically, they are trying to suppress it by arm by giving more power to the armed forces is condemnable.

Resolution No 3. As a first step it is decided to submit a memorandum including the following three versions to the Union Home Minister and Chief Minister of Manipur.

The three versions are:-

Armed Forces (Special Power) Act, 1958 should be removed immediately.

Remove Punjab Security of the State Act, 1953 from Manipur

Do not instigate communal infighting in the name of suppressing revolutionaries.

Chairperson

Sd/- Khaidem Mani

Advocate, Ex-General Secretary, Manipur Bar Association.

Human Rights Resolution of the National Seminar

8-9 December, 1994

The National Seminar on Human Rights, held at Gandhi Memorial Hall, Imphal in Manipur State from the 8th to the 9th December, 1994.

After having deliberated upon the Universality, indivisibility and unity of Human Rights as enunciated by the Universal Declaration of Human Rights, 1948, re-affirmed by the Teheran Conference of the U.N. in 1968 and also with a concrete programme of action, by the U.N. World Conference on Human Rights held in Vienna in June, 1993.

Having noted the Treaty and U.N. obligations of the union Government of India, which arise out of India's Signing, accession and ratification of several major human Rights Instruments as yet.

Having recorded India's accession to Four Geneva Conventions pertaining to the International Humanitarian Law.

Having appreciated the consistent pro- Human Rights stance of the Indian Supreme Court which have been recorded in some of the Landmark judgements.

- AND -

Also after having witnessed the progressive deterioration of Human Rights in Manipur State since 1949 onwards, which are unambiguously and invariably found in recorded documents and various sources.

RESOLVES THAT:

1) The Union Government of India and its allied authority concerned be strongly urged upon to immediately repeal and revoke "The Armed Forces(Special Powers) Act. 1958", 'the Punjab Security of State Act, 1953', 'The Terrorist and Disruptive Activities(Prevention) Act, 1987' to start with, from amongst the draconian laws,

2) The Union Home Ministry of India be requested to issue necessary directions to all classifications off law enforcement machineries and the Security forces, to urgently discontinue and halt the different forms of State repression, let loose on the people of Manipur State.

3) The Union and State Governments be prayed to rehabilitate the Human Rights victims of State repression, and immediately remove

the Security Forces and Para-Military Forces from the area of Settlement by civilian population and pay compensation to the victims and their surviving family members and punish the official/individuals used by the forces who had committed heinous Human Rights violations in this State.

4) The State Government be asked to take urgent steps so as to install a State Human Rights Commission and State Human Rights Court, under the provisions of the Protection of Human Rights Act, 1993.

5) The Union Government of India be strongly urged upon to allow the 'people of Manipur to exercise their legitimate Right to Self-Determination'.

Chairpersons:

Prof. Gangumei Kamei

Dr. Naorem Sanajaoba

Mangthoi Thamei

Prof. Ksh. Bimola

Dr. L. Pardesi)

Endorsed and approved by :-

The Manipuri MASS at Mapal Kangjeibung, Imphal on 10th December, 1994. Chairperson: (R.K. Madhurjit Sana

SUPREME COURT OF INDIA
on
Armed Forces (Special Powers) Act, 1958

WRIT PETITION (CRL) 550 OF 1982 WITH WRIT PETITION (C) NOS. 5328/80, 9229-30/82, CIVIL APPEALS NOS. 721 TO 724 OF 1985, 2173-76/1991, 2551/81 AND WRIT PETITION (C) NOS. 13644-45/84

Naga People's Movement of Human Rights, etc. - Petitioner

vs.

Union of India - Respondent

Before J.S. Verma, CJI and other four Judges

27 November, 1997

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Operative Part of the Judgement (Relevant extracts)

74. In the light of the above discussion we arrive at the following conclusions:

(1) Parliament was competent to enact the Central Act in exercise of the legislative power conferred on it under Entry 2 of List I and Article 248 read with Entry 97 of List I. After the insertion of Entry 2A in List I by the Forty Second Amendment of the Constitution, the legislative power of Parliament to enact the Central Act flows from Entry 2A of List I. It is not a law in respect of maintenance of public order falling under Entry I and List II.

(2) The expression 'in aid of the civil power' in Entry 2A of List I and in Entry 1 of List II implies that deployment of the armed forces of the Union shall be for the purpose of enabling the civil power in the State to deal with the situation affecting maintenance of public order which has necessitated the deployment of the armed forces in the State.

(3) The word 'aid' postulates the continued existence of the authority to be aided. This would mean that even after deployment of the armed forces the civil power will continue to function.

(4) The power to make a law providing for deployment of the armed forces of the Union in aid of the civil power of a State does not include within its ambit the power to enact a law which would enable the armed forces of the Union to supplant or act as a substitute for the civil power in the State. The armed forces of the Union would operate in the State concerned in cooperation with the civil administration so that the situation which has necessitated the deployment of armed forces is effectively dealt with and normalcy is restored.

(5) The Central Act does not displace the civil power of the State by the armed forces of the Union and it only provides for deployment of armed forces of the Union in aid of the civil power.

(6) The Central Act cannot be regarded as a colourable legislation or a fraud on the Constitution. It is not a measure intended to achieve the same result as contemplated by a Proclamation of Emergency under Article 352 or a proclamation under Article 356 of the Constitution.

(7) Section 3 of the Central act does not confer an arbitrary or unguided power to declare an area as a 'disturbed area'. For declaring an area as a 'disturbed area' under Section 3 there must exist a grave situation of law and order on the basis of which the Governor/Administrator of the State/Union territory of the Central Government can form an opinion that the area is in such a disturbed or dangerous condition that the use of the armed forces in aid of civil power is necessary.

(8) A declaration under Section 3 has to be for a limited duration and there should be periodic review of the declaration before the expiry of six months.

(9) Although a declaration under Section 3 can be made by the Central Government *suo motto* without consulting the concerned State Government, but it is desirable that the State Government be consulted while making the declaration.

(10) The conferment of the power to make a declaration under Section 3 of the Central Act on the Governor of the State cannot be regarded as delegation of the power of the Central Government.

(11) The conferment of the power to make a declaration under Section 3 of the Central Act of the Government is not violative of the federal scheme as envisaged by the Constitution.

(12) The provision contained in Sections 130 and 131 Cr.P.C. cannot be treated as comparable and adequate to deal with the situation requiring the use of armed forces in aid of civil power as envisaged by the Central Act.

(13) The powers conferred under clauses (a) to (d) of Section 4 and Section 5 of the Central Act on the officers of the armed forces, including a Non-Commissioned Officer, are not arbitrary and unreasonable and are not violative of the provisions of Articles 14, 19 or 21 of the Constitution.

(14) While exercising the powers conferred under Section 4(a) of the Central Act, the officer in the armed forces shall use minimal force required for effective action against the person/persons acting in contravention of the prohibitory order.

(15) A person arrested and taken into custody in exercise of the powers under Section 4(c) of the Central Act should be handed over to the officer in charge of the nearest police station with least possible delay so that he can be produced before nearest Magistrate within 24 hours of such arrest excluding the time taken for journey from the place of arrest to the court of magistrate.

(16) The property or the arms, ammunition etc., seized during the course of search conducted under Section 4(d) of the Central Act must be handed over to officer in charge of the nearest police station together with a report of the circumstances occasioning such search and seizure.

(17) The provision of Cr.P.C. governing search and seizure have to be followed during the course of search and seizure conducted in exercise of the power conferred under Section 4(d) of the Central Act.

(18) Section 6 of the Central Act in so far as it confers a discretion on the Central Government to grant or refuse sanction for instituting prosecution or suit or proceeding against any person in respect of anything done or purported to be done in exercise of the powers conferred by the Act does not suffer from the vice of arbitrariness. Since the order of the Central Government refusing or granting the sanction under Section 6 is subject to judicial review, the Central Government shall pass an order giving reasons.

(19) While exercising the power conferred under clauses (a) to (d) of Section 4 the officers of the armed forces shall strictly follow the instructions contained in the list of 'Do's and Don'ts' issued by the army authorities which are binding and any disregard to the said instructions would entail suitable action under the Army Act, 1950.

(20) The instructions contained in the list of 'Do's and Don'ts' shall be suitably amended so as to bring them in conformity with the guidelines contained in the decisions of this Court and to incorporate the safeguards that are contained in clauses (a) to (d) of Section 4 and Section 5 of the Central Act as construed and also the direction contained in the order of this Court dated July 4, 1991 in Civil Appeal No. 2551 of 1991.

(21) A complaint containing an allegation about misuse or abuse of the powers conferred under the Central Act shall be thoroughly inquired into and, if on enquiry it is found that the allegations are correct, the victim should be suitably compensated and the necessary sanction for institution of prosecution and/or suit or other proceeding should be granted under Section 6 of the Central Act.

Source: A.I.R. 1998 SUPREME COURT 463-464

INDIA: Official sanction for killings in Manipur

AIINDEX: ASA 20/014/1997

1 April 1997

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Introduction

For nearly four decades, the Armed Forces (Special Powers) Act, 1958 has been in force in Manipur, one of the seven states of the north-east region of India.[1] By conferring broadly defined powers to shoot to kill on the armed forces, this law has fostered a climate in which the agents of law enforcement use excessive force with impunity. A pattern of apparently unlawful killings of suspected members of armed opposition groups has resulted from the systemic use of lethal force as an alternative to arrest by the security forces. Civilians, including women and juveniles, have been among the victims of killing or wounding by security forces.

As well as providing powers to shoot to kill, the Armed Forces (Special Powers) Act provides virtual immunity from prosecution to those forces acting under it. Despite consistent allegations of widespread human rights violations in areas of the northeast of India where the Act is in operation, to Amnesty International's knowledge, no member of the security forces has been prosecuted for a human rights violation.

...

Shortcomings of the legal process

Human rights and women's organisations in the region have become increasingly vocal in their opposition to the violence in Manipur and other states of the northeast region, and to the Armed Forces (Special Powers) Act. An India-wide campaign has been initiated in opposition to this Act, and has mobilised support throughout the country for its repeal [2]. Appeals challenging the constitutionality of the Act have been pending in the Supreme Court of India since 1982. Within Manipur, people from differing communities and organizations, who share a concern for the disregard of human rights have formed Joint Action Committees in response to reports of killings of civilians by the security forces.

These protests have been fuelled by frustration at the lack of redress mechanisms for victims of human rights violations. Human rights activists have reported that people are reluctant to file complaints against the security forces with the police, as investigations launched in the past have not succeeded in bringing those responsible to justice.

In several cases complaints — known as First Information Reports (FIRs) — have been filed with police and forwarded to judicial magistrates for investigation to determine whether a trial can commence. Advocates representing the security forces concerned have then filed review petitions challenging the right of magistrates to investigate offences alleged to have been perpetrated by members of the security forces, on the grounds that they do not have the jurisdiction to hear such cases. This has had the effect of stalling the legal process. The review petitions invoke section 197 of the Code of Criminal Procedure (CrPC), under which no court can take cognizance of an offence alleged to have been committed by a public servant or member of the Armed Forces while acting or purporting to act in the discharge of his official duty except with the previous sanction of the central or state government.

The requirement of the consent of the central or state government for the prosecution of officials under section 197 of the CrPC and of the central government under section 7 of the Armed Forces (Special Powers) Act, prevents full redress for violations, and reinforces the climate of impunity for the security forces. The National Human Rights Commission has acknowledged this in its support for the recommendation of the Law Commission in 1985, that section 197 CrPC be amended to obviate the necessity for sanction. [3] Amnesty International considers that such an amendment is necessary in order for there to be full redress, which would consist of the thorough, independent and impartial investigation of such violations, prosecution of the alleged perpetrators and reparation for the victims.

Remedies have also been pursued in the Supreme Court in the form of writ petitions seeking the observance of constitutional rights. Petitions challenging the constitutionality of the Armed Forces (Special Powers) Act have been pending in the Supreme Court since 1982. In a significant development, the Supreme Court of India, on 6 February 1997, ordered the Government of Manipur to pay Rs 1 lakh (Rs 100,000 — approximately \$US 3,000) in compensation to the relatives of two men whom it found had been killed in a “fake” encounter with Manipur police in April 1991. Both men were suspected to have been members of an armed opposition group, the Hmar People's Convention (HPC).

The Supreme Court had ordered a district and sessions judge in Manipur to investigate the allegations and it confirmed the “administrative liquidation” of the two men. However, the judgement of 6 February 1997 referred only to monetary compensation. The court did not exercise its

authority to refer the matter to the trial courts in Manipur for their criminal prosecution; the alleged perpetrators of the killings are reportedly still on active duty with the Manipur police. The Supreme Court order was a result of several years of legal action by the Peoples Union for Civil Liberties, which had filed a public interest petition in the Supreme Court in 1992 as an alternative to pursuing criminal proceedings in the Manipur courts [4], because the families of the victims were reluctant to bring legal action in the local courts for fear of reprisals. Should the families of the victims now wish to pursue the matter further, fresh legal proceedings will have to be instituted and sanction for prosecution obtained.

This case is not the first in which the Supreme Court has expressed its concern at the action of the security forces in Manipur. In a judgement in 1984, in a *habeas corpus* petition — *Sebastian M Hongray v Union of India* [5] — filed after the “disappearance” of two men, the Court chastised the respondents to the petition for having misled the court and distorted the facts of the case, and considered this to be contempt of court. Awarding compensation to the wives of the two men who had been illegally detained, the Court also directed that the papers relating to the case be forwarded to the Superintendent of Police, Ukhrul, Manipur, with orders that the information be treated as a cognizable offence, and that an investigation be commenced under the CrPC, 1973. To Amnesty International’s knowledge, the inquiry subsequently initiated in Manipur has yet to present its findings, and the alleged perpetrators have yet to be brought to justice. The fate of the two men remains unknown.

At a political level, the Government of Manipur has responded to the public protests of Joint Action Committees by appointing several Commissions of Inquiry under the Commissions of Inquiry Act, 1951, headed by sitting and retired judges. These Commissions have been mandated to enquire into specific incidents in which civilians have been killed during operations by members of the security forces. While a Commission of Inquiry does ensure a public hearing of the circumstances of a specific case, their findings and recommendations are not legally binding and, to Amnesty International’s knowledge, have not as yet resulted in security forces being prosecuted for violations.

On 7 February 1997 Mr Rishang Keishing, Chief Minister of Manipur since February 1995, was reported to have said; “So far the findings of all the judicial inquiries have justified incidents of police firing during my tenure” [6]. However, the evidence as detailed in the cases below presents a different picture — Commissions of Inquiry appointed

by the government have found security forces responsible for violations and have suggested remedies.

Limited access to information on unlawful killings and other human rights violations exacerbates the climate of impunity which prevails in Manipur, where human rights violations in reprisal for attacks on the security forces continue. Amnesty International has not been granted regular or routine access to India, and access to Manipur is restricted even for Indian citizens through the Restrictive Areas Permit Act. In the context of restricted access to information, the incidents documented in this report are those in which Amnesty International has been able to obtain strong documentary evidence of unlawful killings.

However, the number of incidents cannot be quantified. In one report, the Committee on Human Rights, a human rights organization based in Manipur, has documented 55 selected incidents between 1980 and 1996 in which civilians have been killed by the security forces in a deliberate and arbitrary manner — none of these cases have been resolved, and none of the perpetrators have been brought to justice [7]. Almost a decade has lapsed since at least eleven men from Oinam village, Senapati district were deliberately killed by the Assam Rifles during “Operation Bluebird” which had been launched in reprisal for the killing of nine soldiers and looting of an army camp in 1987. Many others were subjected to torture, including rape and at least four children died in detention during the army operation which lasted for over two months.

Petitions filed by the Naga People’s Movement for Human Rights and the Manipur Baptist Convention Women’s Union seeking redress for the victims of the violations in Oinam are still pending — having been adjourned repeatedly on the request of lawyers for the Assam Rifles. [8] In 1996 alone, the final hearing of the petition was adjourned fourteen times. In the interim, the security officials stationed in Manipur continue to use excessive force in their counter-insurgency operations.

The effect of this impunity cannot be underestimated. Justice C Upendra, the Commissioner appointed by the Manipur Government to enquire into the killing of a young woman, Amina Devi, in April 1996 (described below), articulated this in his report:

If the person(s) responsible for indiscriminate firing resulting to the loss of the life of innocent people on mere pretext of self-defence or for apprehending a person or persons suspected to be extremists are left scot-free, it would amount to anarchy

The perpetrators of the deliberate and arbitrary killings documented in this report come from different arms of the security forces. A series of enquiries by sitting and retired judges have indicted the central paramilitary forces, including the Assam Rifles and the Central Reserve Police Force (CRPF), battalions of the armed forces, and the Manipur police, as also its special units the Rapid Action Police Force and the Indian Reserve Battalion.

The strong evidence of a pattern of unlawful killings by the security forces in Manipur — some deliberate and targeted killings, others resulting from the unjustified use of lethal force in the course or arrest or apprehension — underlines the urgent need for a review of the Armed Forces (Special Powers) Act. In addition, a clear message needs to be sent to all the forces stationed in Manipur — that the excessive use of force will no longer be tolerated by Indian authorities.

...

International standards relating to law enforcement

Section 4(a) of the Armed Forces (Special Powers) Act confers a power on the security forces to “shoot to kill”, providing official sanction for violation of the right to life, as protected by Article 21 of the Constitution of India and Article 6 of the International Covenant on Civil and Political Rights (ICCPR). In response to the concern expressed by many within India, the National Human Rights Commission has announced that it is studying provisions of the Act and will make recommendations to the Government.

When hearing India’s second report on its adherence to the ICCPR, the United Nations Human Rights Committee held that the Armed Forces (Special Powers) Act (and other special legislation in force in India) effectively derogated from the right to life and other rights in the covenant.

A member of the committee said:

“These laws greatly concern me because when we give a person powers and for very subjective reasons powers to be able to deny the lives of citizens that is far too much power. I think it is excessive, particularly when that person is immune and can act with impunity because he or she will not be punished. I am convinced that these laws are contrary to Article 6 of the Covenant” [12]

Despite the existence of remedies in the Constitution of India and the general criminal law, the requirement of obtaining sanction from the central

government, under section 7 of the Armed Forces (Special Powers) Act has provided virtual impunity from prosecution of the armed forces deployed as a result of its application. This impunity has been reinforced by the effect of the need for sanction from the state or central authorities for prosecution of any official or member of the armed forces, under section 197 of the CrPC. These provisions have the effect of denying the right of an effective remedy to victims of violations as set out in Article 2(3)(a) of the ICCPR.

In seeking to ensure that human rights are protected at all times, in 1978, the United Nations General Assembly adopted the Code of Conduct for Law Enforcement Officials. Article 3 of the Code specifies that force should be used only when necessary, that the use of force should be exceptional and that force should be used only as is reasonably necessary under the circumstances. The Code of Conduct specifies that force should be used for only two purposes: the prevention of crime and effecting or assisting in the lawful arrest of offenders or suspected offenders.

The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted in 1990, restrict the situations in which firearms should be used, and specify the intentional lethal use of firearms only when strictly unavoidable in order to protect life.

In 1989 the United Nations also adopted Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary executions which establish the prohibition of such killings and specify detailed measures for their prevention.

AMNESTY INTERNATIONAL’S RECOMMENDATIONS: To the Government

Amnesty International urges the Government of India to ensure that it fulfils its obligations under international law to respect and uphold the human rights of all people, at all times. In this connection it is calling for the implementation of the following recommendations:

Safeguards

Amnesty International urges the Government of India and the Government of Manipur:

- to publicly demonstrate its opposition to extra-judicial executions and deliberate and arbitrary killings by giving a clear message to

members of the security forces that such violations will not be tolerated;

- to ensure that the security forces only use force when necessary and only to the minimum extent required under the circumstances; to ensure that lethal force is not used except when strictly unavoidable in order to protect life;
- to ensure that senior officers of the forces of law enforcement maintain strict control to ensure that officers under their command do not commit extrajudicial executions, or other human rights violations;
- to ensure that the training of members of the security forces fully reflects their obligations to protect human rights;
- to remove the requirement of sanction for the prosecution of police or armed forces personnel under section 197 of the Code of Criminal Procedure; to remove other provisions requiring sanction for prosecution of officials, for example under section 45 of the CrPC.

Amnesty International urges the Government of India:

- to review the Armed Forces (Special Powers) Act to ensure there are strict legal limitations on the use of force and firearms by law enforcement officials;
- to remove the requirement of sanction for the prosecution of police or armed forces personnel under section 7 of the Armed Forces (Special Powers) Act.

Redress

The victims of extrajudicial executions or their families should be entitled to obtain prompt, fair and adequate redress from the state. In this connection, Amnesty International is calling on the Government of India and the Government of Manipur:

- to ensure the independent and impartial investigation of all allegations of human rights violations in Manipur; to make public

in full the methods and findings of such investigations; to suspend officials suspected of such violations from active duty during investigation; to protect complainants, witnesses, lawyers and others involved in the investigations from intimidation and reprisals; to ensure that the security forces cooperate fully with investigations and judicial proceedings;

- to take action to bring to justice anyone against whom there is reasonable evidence of involvement in human rights violations including extrajudicial executions;
- to provide full compensation to the families of the victims.

Concluding Observations of the UN Human Rights Committee, 1997 INDIA

UN Ref.: CCPR/C/79/Add.81 of 4 August 1997
([Relevant paragraphs only](#))

18. The Committee remains Concerned at the continuing reliance on special powers under legislation such as the Armed Forces Special Powers Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations, in particular with respect to Article 6,7,9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups. The Committee, noting that the examination of the constitutionality of the Armed Forces (Special Powers) Act, long pending before the Supreme Court is due to be heard in August 1997, hopes that its provisions will also be examined for their compatibility with the Covenant.

In this respect, bearing in mind the provisions of Article 1, 19 and 25 of the Covenant, the Committee endorses the views of the National Human Rights Commission to the effect that the problems in areas affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political, and emphasizes that terrorism should be fought with means that are compatible with the Covenant.

19. The Committee regrets that some parts of India remains subject to declaration as disturbed areas over many years and for example the Armed Forces (Special Powers) Act has been applied throughout Manipur since 1980 and in some areas of that state for much longer and, and that in these areas, the State party is in effect using emergency powers without resorting to Article 4, paragraph 3, of the Covenant.

The Committee recommends that the application of these emergency powers be closed monitored so as to ensure its strict compliance with the provisions of the Covenant.

21. The Committee notes with concern that criminal prosecution or civil proceedings against members of the security and armed forces, acting under special powers, may not be commenced without the sanction of the Central Government. This contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with Article 2, paragraph 3, of the Covenant.

The Committee recommends that the requirement of governmental sanction for civil proceedings be abolished and that it be left to the courts to decide whether proceedings are vexatious or abusive. It urges that judicial inquiries be mandatory in all cases of death at the hands of the security and armed forces and that the judges in such inquiries, including those under the Commissions of Enquiry Act of 1952, be empowered to direct prosecution of security and armed forces personnel.

22. The Committee regrets that the National Human Rights Commission is prevented by Clause 19 of the Protection of Human Rights Act from investigating directly complaints of human rights violations against the armed forces, but must request a report from the Central Government. The Committee further regrets that complaints to the Commission are subject to one-year time-limit, thus preventing the investigation of many alleged past human rights violations.

The Committee recommends that these restrictions be removed, and that the National Human Rights Commission be authorized to investigate all allegations of violations by agents of the State. It further recommends that all states within the Union be encouraged to establish Human Rights Commission.

23. The Committee expresses concern at allegations that police and other security forces do not always respect the rule of law and that, in particular, court orders for habeas corpus are not always complied with, particularly in disturbed areas. It also expresses concern about the incidence of custodial death, rape and torture, and at the failure of the Indian Government to receive the United Nations Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

While the Committee welcomes the requirement by the National Human Rights Commission that all such alleged incidents be reported and investigated, and that all post mortem examinations be taped, it recommends:

- a. the early enactment of legislation for mandatory judicial inquiry into cases of disappearance and death, ill-treatment or rape in police custody;
- b. the adoption of special measures to prevent the occurrence of rape of women in custody;
- c. the mandatory notification of relatives of detainees without delay;

d. the guarantee of the right of detainees to legal advice and assistance and to have a medical examination;

e. and that priority be given to providing training and education in the field of human rights to law enforcement officers, custodial officers, members of the security and armed forces, as well as judges and lawyers, and that the United Nations Code of Conduct for Law Enforcement Officers be taken into account in this regard.

24. The Committee regrets that the use of special powers of detention remains widespread. While noting the State party's reservation to Article 9 of the Covenant, the Committee considers that this reservation does not exclude, *inter alia*, the obligation to comply with the requirement to inform promptly the person concerned of the reasons for his or her arrest. The Committee is also of the view that preventive detention is a restriction on liberty imposed as a response to the conduct of the individual concerned, that the decision as to continued detention must be considered as a determination falling within the meaning of Article 14, paragraph 1, of the Covenant, and that proceedings to decide the continuation of detention must, therefore, comply with that provision.

The Committee recommends that the requirements of Article 9, paragraph 2, of the Covenant be complied with in respect of all detainees. The question of continued detention should be determined by an independent and impartial tribunal constituted and operating in accordance with Article 14, paragraph 1, of the Covenant. It further recommends, at the very least, that a central register of detainees under preventive laws be maintained and that the State party accept the admission of the International Committee of the Red Cross and the Red Crescent to all types of detention facilities, particularly in areas of conflict.

Declaration on Manipur People's Solidarity with the United Nations

on the occasion of
THE UN DAY RALLY AT IMPHAL CITY
ON OCTOBER 24, 1999

WE, THE PEOPLE OF MANIPUR

On the solemn occasion of the celebration of the last United Nations Day of this Millennium, on the 24th October, 1999 at Imphal - the Capital city of the two-millennia-old Asian State of Manipur,

AFTER

1. *RECALLING* the completion of two-millennia of political, socio-economic and cultural history of the Manipur State at the fag-end of the second millennium and the occasional disruptions from the external sources to the common historical experience of the Manipur People,

2. *RE-AFFIRMING* firstly, the geographical separateness of this ancient state from the countries in the proximity, secondly, ethnic, racial and national distinctiveness of the Manipur People as it is clearly distinguishable from other nations in the proximity areas,

3. *DEPLORING* the political, socio-economic subjugation of the people of Manipur consequent upon the coercive annexation of the state on the 15th October, 1949 by the then Dominion of India,

4. *DISCUSSING* the relevance of the article 2(4) of the UN Charter, 1945, which unreservedly and succinctly safeguards the territorial integrity and political independence of Manipur state at the material time of the coercive annexation of Manipur on 15 October, 1949 by the then Dominion of India and the UN consensus on the removal and de-installation of military, military bases from non-self-governing-territories,

5. *RE-EMPHASIZING* the loss of the self-governing status of Manipur People, who till the coercive annexation in 1949, had a political constitution, a duly elected parliament (sic. assembly), a cabinet form of government, their own independent electoral laws and political institutions,

6. *EMPHASIZING* the inviolability of the territorial integrity and boundary of Manipur vide 'UTI POSSIDETIS JURIS' rule endorsed consistently by the International Court of Justice in several cases and established contemporary state practices,

7. *REITERATING* the promises of "WE, THE PEOPLE OF UNITED NATIONS" in the UN Charter to maintain peace and security in the world,

by way of de-colonisation of all forms of colonialism in every inch of the earth,

8. *RECALLING* the Manipur people's de-annexation struggles since 1949 till the end of this century for a period covering the last half-a-century, as registered in all the books, documents, periodicals and official records, among others,

9. *DISCUSSING* the genocidal consequences of invoking de-humanising laws like the Armed Forces (Special Powers) Act, 1958, the National Security Act 1980, among a host of draconian laws by the union government of India that legitimize half-a-century-old state repression on the native people of Manipur and engineered-communal riots that led to the loss of thousands lives of Manipur people and to uprooting tens of thousands of Manipur People in hill-areas,

10. *DEPLORING* both state and individual-private terrorism, which tarnish the humanity and legitimate national liberation movements, facilitated by the United Nations and the international community,

11. *RECALLING* with deep appreciation, the government of India's consistent material, moral and diplomatic support to the de-colonisation of approximately ninety states and peoples in the Third World, including the liberation of Bangladesh, Vietnam, Palestine, Namibia, Angola just to cite a few and also recalling her diametrically-opposed stand in regard to the illegally-annexed state of Manipur,

12. *ACCLAIMING* the unwavering stand of the international community in regard to the de-colonisation of all forms and manifestations of colonialism, since 1960 and the commitment of the United Nations in incorporating "After-Acquired Non-Self-Governing-Territory" in the list of non-self-governing-territories as it was accepted in 1946, including Angola, Mozambique, Southern Rhodesia, Equatorial Guinea, Western Sahara and East Timor, among others, irrespective of varying degrees of political subjugation,

13. *RE-ENDORSING*, the UN Declaration on Principles of International Law concerning Friendly Relations and Co-operation (GA Resolution 2625 (XXV) of 24 October, 1970) which stipulates as follows: "The territory of a colony or other Non-Self-Governing-Territory has under the Charter, a status separate and distinct from the territory of the state administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles",

AND

14. *ACCLAIMING* once again, the commitment of the global community to wipe out the last vestiges of colonialism by 2000 AD and also the mandate of the "Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples", which may be kindly extended till the mandate has been completely fulfilled in achieving its purpose,

MAKE THE SOLEMN DECLARATION

I. That the UN and its organs be urged upon to enlist MANIPUR as after-acquired Non-Self-Governing-Territory in regard to Chapter XI of the UN Charter and

II. That the Union Government of India, in the capacity of Administering Power be entrusted with the international responsibility of fulfilling her obligations in regard to Manipur as Non-Self-Governing-Territory.

The Declaration be transmitted to the Union Government of India, His Excellency the Secretary-General of the United Nations, among others, for their prompt attention and follow-up action and also to the multi-media.

Signatories for the People of Manipur:

Ak. Janaki, All Manipur Meira Paibi United Action Committee; Ima Ibeni, All Manipur Nupi Marup; Md. Abdul Gaffar Sheikh, All Manipur Students' Union; Nupimacha, All Manipur Tammi-Chingmi Nupi Marup; Ima Chaobi, All Manipur Women's Social Reformation and Development Samaj; S. Leirangtombi, All Manipur Women's Voluntary Association; Chingkheinganbi Chanu, Chanura Lamjinglen Kangleipak; Khuman Leima, Eeramdam Manipur Mothers' Association; H. Ibotombi Khuman, International Peace and Social Advancement; Sitara Begum, Kangleipak Muslim Chanura Development Organisation; Mayengbam Chanu Rita, Leimarol Lamjingkon; Th. Muhini, Manipur Chanura Leishem Marup; K. Seityajit, Manipur International Youth Centre; M.Subhaschandra, Manipuri Students' Federation; Khemabati, Nupi Union for Peace and Integrity; Ima Kombi, Poirei Leimarol Meira Paibi Apunba Manipur; Kh. Ratan, United People's Front; Ima Fajabi, Women's United Development Organisation Manipur

Presidium of the Convention of the Manipur People:

Chongloi Hauzakam, Md. Riyazuddin Choudhuri, Joy Nongmaithemcha, Arambam Somorendro, Thounaojam Iboyaima

Women give vent to naked fury in front of 17 AR at Kangla

Imphal, July 15: Scripting a sort of a history not only in the State but perhaps in the entire country, a number of women folk, bared all in front of the Western Gate of Kangla this morning, where the 9 Sector Assam Rifles and 17 AR are housed, to lodge their protest against the killing of Thangjam Manorama. The novel protest, the first of its kind in Manipur, came after the 48 hours general strike called by various voluntary organisations expired today at 12 am.

Manipur, especially Imphal, has been in a state of turmoil and uncertainty ever since 32 years old Thangjam Manorama alias Henthoi of Bamon Kampu was picked up from her house in the wee hours of July 11 and later shot dead by 17 Assam Rifles personnel under contradictory claims. Following the naked outburst of anger and bottled up rage, the district administration of the two districts of Imphal acted swiftly and imposed an indefinite curfew in Greater Imphal areas from 11 am today.

The women folk started gathering in front of the Western Gate of Kangla from 10 am onwards and taking everyone by surprise stripped off their clothings and raised slogans to lodge their protest. Banners denouncing the excesses of the security personnel were also put up by the women folk. Seeing the gravity of the situation, the AR personnel on sentry duty lost no time in closing the gate. This however did not discourage the women folk from registering their protest.

Significantly the office of the Commander of 9 Sector Assam Rifles, Brig VK Pillai, is situated just a few metres away from the gate of the Kangla, where the women folks staged their protest. The women raised slogans, demanding that the personnel involved in killing Manorama be produced before them. They also challenged the security personnel to come out and outrage their modesty, if they wished. Policemen who rushed to the site found themselves in an awkward position not knowing how to deal with the women who had bared all. The women folks raised a number of slogans, questioning, how long they have to suffer, while their sons and daughters are being trampled, tortured, raped and killed by the security personnel.

After about 1 hour, police women were pressed into service and they managed to bring the situation under control. A number of women fainted at the site of the protest and they were taken to the hospital for necessary treatment. The body of Manorama is still lying at RIMS morgue

and with the protest rally scheduled for tomorrow, the district administration of Imphal East and West took no chances and clamped an indefinite curfew from 11 am onwards today. District Magistrate of Imphal East KK Chhetry and DM of Imphal Y Surchandra issued separate notifications announcing the imposition of the indefinite curfew. Enforcing the curfew under Section 144 CrPC, the District Magistrate of Imphal East notified that the general public should remain indoors during the enforcement of the restrictions.

The curfew notification said that the restrictions have been imposed in view of the perceptible threat posed by the proposed rally scheduled to be held tomorrow. Persons who want to take out procession for marriage, funeral etc may do so after getting the due permission of the DM concerned, notified the Imphal West District Magistrate. The restrictions however will not apply to Government agencies involved in law enforcing activities, said the notification.

As news of the curfew spread, people could be seen hurrying home to beat the deadline. Policemen were pressed into service to enforce the restriction and at many points, they could be seen instructing the people to turn back home. For the third consecutive day, Imphal city wore a deserted look with all the commercial centres downing shutters from 11 am onwards. However till as late 2 pm, the police did not go over board and allowed those caught outside to return to their home safely. The sudden announcement of the curfew saw a human chain at the Imphal West DC office at Babupara to get curfew passes.

By about 6 pm almost all the major roads and lanes of Imphal were deserted with the exception of the lone cyclist or pedestrian. Even as the curfew was imposed, members of the Naoria Pakhanglakpa Apunba Meira Paibi Lup gathered at the market shed at Haobam Marak and staged a sit-in-protest in defiance of the curfew. Members present at the gathering appealed to all women folk to prepare for the third Nupi Lan to protect their chastity and life from the security personnel. The members also resolved to support any movement launched to protest the killing of Manorama. The women folk also expressed that it would be in the fitness of things to present the Governor women's clothings as the State machinery has not been able to protect the modesty and chastity of women.

Source: The Sangai Express - Breaking News - 18:30 IST

INDIA: Torture and murder of a woman by armed forces in India

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

29 July 2004

UA-96-2004: INDIA: Torture and murder of a woman by armed forces in India

INDIA: Torture, Impunity, Draconian laws and Government Sanction

Dear friends,

The Asian Human Rights Commission (AHRC) has received information from the Centre for Organisation Research & Education (CORE) on the extra-judicial killing of a 32-year old woman named Thangjam Manorama by the personnel of the paramilitary force 17 Assam Rifles on 11 July 2004. Her body was found at around 5:00 p.m in She was found at Keirao Wangkhem Road near Ngariyan Maring Village, after she was picked up by the armed forces in the early morning of July 11. When it was found, the body wore no proper clothes and Manorama's family believes that she had been raped and then killed by the army personnel.

According to the report from CORE, curfew was imposed in Greater Imphal, Bishenpur and Thoubal Districts of Manipur, India since 15 July 2004 in wake of widespread public protests against the torture and extra-judicial execution of Manorama. Large number of people came out on the streets defying the curfew that caused street battles between the people and Manipur police. It was reported that over 100 people were injured in the police firing on July 16, while the police tried to disperse the people at various places including Kongba, Sangakpham, Tera, Uchekon and some on the outskirts of the state capital using tear gas and rubber bullets.

Manipur state administration and the military agreed to inquire the case of Manorama. However, almost all judicial inquiries ordered in prior cases of arbitrary execution are pending disposal since the army was not cooperating and it is believed that this case also will not get justice. Your urgent action is required to pressure the government of India to take genuine action to correct this matter.

Urgent Appeals Desk
Asian Human Rights Commission (AHRC)

India: Call for repeal or review of the Armed Forces (Special Powers) Act, 1958

Public Statement

AI Index: ASA 20/090/2004 (Public)

News Service No: 201

11 August 2004

On the one month anniversary of the alleged sexual assault and killing in custody of Thangjam Manorama in Manipur and in light of a series of other reported abuses, Amnesty International today urged the Government of India to repeal or review — ensuring its consistency with international human rights standards — the Armed Forces Special Powers Act, 1958 (AFSPA). This law has been operative in “disturbed areas” including large parts of the north-east region for over four decades.

In its Common Minimum Programme, the United Progressive Alliance has stated its intention to repeal the Prevention of Terrorism Act (POTA) and recognized “concerns with the manner in which POTA has been grossly misused”. While welcoming the government’s initiative regarding POTA, Amnesty International has pointed to reports of equally serious human rights abuses occurring under the AFSPA as under POTA and on that basis appealed for AFSPA’s repeal or review.

In areas declared as “disturbed” — such as in the north-east region — Amnesty International is concerned that the AFSPA:

- facilitates grave human rights violations,
- empowers the security forces to arrest and enter property without warrant,
- gives the security forces powers to use excessive force, including to shoot to kill without members of the security force lives being at imminent risk,
- facilitates impunity because no person can start legal action against any member of the armed forces for anything done under the Act without permission of the Central Government,
- by certain of its provisions violates articles of the International Covenant on Civil and Political Rights (ICCPR), including Articles 6, 9 and 14. These articles include, but are not limited to, article 6(1) which states “every human being has the inherent right to life”, and article 9(1) which states “no one shall be subjected to arbitrary arrest or detention”.

In a letter to the Chief Minister of Manipur, Amnesty International today sought clarification from the on the status of the judicial inquiry on Thangjam Manorama's case apparently promised on 11 July in meetings with Manipur-based organizations, including the *Meira Paibis* [torch bearers]. The organization further urged that if no judicial investigation has been initiated that it is done so immediately and that it examines allegations of rape and death in custody, that the findings be made public in a timely manner, and that criminal charges are filed against any security officials found to have been responsible for the killing and use of torture, excessive force or sexual assault.

Amnesty International further expressed concerns to the Chief Minister of Manipur regarding the prohibition and criminalization of peaceful protests and assembly in Manipur in recent weeks. Amnesty International called for criminal charges to be brought against anyone who has been responsible for the arrests and firing upon peaceful demonstrators and to prevent any further such threats and harassment.

Appeal Soliciting Solidarity with the People of Manipur Protesting the Ongoing State Repression.

The killing of Thangjam Ningol Manorama (32) in Manipur by the Indian Security Forces has provoked widespread condemnation and protest from the people of Manipur. There is much anger and discontent from the fact that the Indian Security Forces tortured and raped her before being shot, which went right through her vagina thereby causing extensive damage to her private parts. She was picked up by the Indian Security Forces at the wee hours of 11th July 2004 from her residence in front of all family members and locality.

Protest began by way of not accepting the dead body by the family members and local Meira Paibi Organisations demanding justice to the killing. This was followed by a public meeting of various social Organisations at the locality. These social Organisations which included many State Level Meira Paibee Organisations decided to launch a joint agitation against the beastly killing of Manorama. Twenty-six Social organizations, which was later increased to thirty two later called a 48-hour General Strike was from midnight of 12 July 2004 to Midnight of 14 July 2004. People in large numbers came out to streets during the General strike protesting the killings. Many Government Offices was burnt down during the General Strike. The effigies of the Indian Prime Minister Manmohon Singh, Home Minister Shivaraj Patil and Manipur Chief Minister O. Ibobi were burnt by the angry protesters during the protest. These organizations later called for a mass action programme on 16th July 2004 in the form of mass submission of memorandum. People were to converge at the capital from four points and submit memorandum en-masse to the Chief Minister of Manipur, Governor of Manipur and D.I.G Assam Rifles. Press Information Bureau (Defense Wing) made an attempt to subdue the protest by publishing information that Manorama was a member of People's Liberation Army (PLA), the armed wing of Revolutionary People's Front (RPF) which is an Armed Resistance Group of Manipur fighting for the Independence of Manipur. But the protest continued.

On 15 July 2004, while many sit-in-protests are going on at various parts of Manipur, 12 women belonging to various Social Organisations came to the Gate of Kangla and protested naked in front of the Kangla Gate. Kangla is the former Capital City of Manipur which was occupied by the British Forces after the defeat of Manipur by the British in 1891. The

occupation of the Kangla by the Indian Security Forces continued after her annexation to the Dominion of India in 1949. At present Kangla Fort is occupied by the personnel of 17 Assam Rifles whose personnel were responsible for the brutal Killing of Manorama. Daring the Indian Army to rape them also, the women protester raised many slogans against the Indian Security Protests. This protest by women has exposed the hidden part of the repression in Manipur- using Rape as a repressive weapon by the Indian Security Forces. Sentiments were further heightened by this protest. And the Government imposed indefinite curfew in the Greater Imphal areas with Shoot-at-Sight orders in order to suppress further protest.

On 16th July, a large number of women defied curfew and came out to streets battling the rubber bullets and tear gas of the security forces and submitted memorandum demanding (1) the immediate arrest and prosecution of the Personnel of the 17 Assam Rifles responsible for the raping and brutal killing of Km.Thangjam Manorama, (2) the immediate stop to the systematic and genocidal killing of the Manipuri People, (3)The immediate withdrawal of the 17 Assam Rifles in particular and the Indian Army in general who have been committing genocidal killings against the people of Manipur and (4) the removal of the draconian “Armed Forces Special Powers Act, 1958” with the immediate revocation of the Disturbed Areas Status for the whole of Manipur. Women encircled the Offices of District Commissioners and the camps of Assam Rifles at various Parts of Manipur battling the Police, Paramilitary and Army. More than hundred women protesters suffered injuries in the protest on this day. Further alarmed by the continuing protests, the Government imposed Curfew in other parts of the State. The organizations spearheading the agitation have announced the continuation of the protest by way of defying the Curfew and organizing of Sit-in-Protests at various parts of Manipur. Women have come out in large numbers defying curfew battling the rubber bullets and tear gas shells and staging sit in protests in large numbers at various locations. Security Forces inflicted injuries to many protestors while trying to foil the sit-in-protests.

The Government has undertaken extreme measures to stifle the voice of the people by curtailing the democratic right to protest. At present, lacs of people have been kept virtually under house arrest for more than 48 hours with the clamping of curfew with shoot-at-sight orders. Security Forces have used tear gas shelling even to the residential buildings. Educational institutions, markets and all the working places are closed. People have not been allowed even to procure the essential items. Even

the media have not been spared. Local Cable TV networks were forced to discontinue the news services for giving coverage to the ongoing agitation. Many journalists covering the agitation were harassed by the security forces. Manipur was already reeling under economic hardship with the Government unable to pay salary to the employees for the last three months. This along with the lack of employment opportunities in a virtually captive-market economy has caused a vicious cycle of underdevelopment in Manipur. People of Manipur as a result is facing a lot of hardship despite of rich natural and human resources favoured by a good climate.

On the other side, there is stepping up of Militarisation. Government has increased spending on Police and Security measures even while basic infrastructures in health, education and communications are lacking in many parts of the State. A large number of Indian Security Forces, Army as well as Paramilitary Forces are deployed against the civilians. These Security Forces enjoy the licence to kill with impunity under the provisions of the draconian Armed Forces (Special Powers) Act, 1958 (AFSPA). The basic and fundamental Human Right of Right to Life is denied by this draconian law despite of the fact that various International Covenants and Municipal Laws guarantee this fundamental right. This draconian law of the Armed Forces (Special Powers) Act, 1958 has the colonial legacy in the Armed Forces (Special Powers) Ordinance promulgated by the British Government in 1942.

The whole of Manipur has been kept virtually under emergency for the past twenty-four years since 1980 when all of Manipur has been covered by this Act. The whole of Manipur has been declared as disturbed since 1980 under the provisions of AFSPA and thereby deploying Army and Paramilitary Forces against the whole people of Manipur for the past many years. Empowered by the provisions of this act, various heinous crimes and many acts of atrocities have been committed against the people of Manipur by the Indian Security Forces under active patronage of successive Governments. Custodial killings, forced disappearances, raping of women, sodomy, collective fines, mass killings and various forms of torture are what the people of Manipur have received as a gift of the Indian Parliamentary Democracy.

People have Manipur have consistently raised their voices against the draconian AFSPA and State Repression. Rallies, demonstrations, sit-in-protests, hunger strikes, court battles and organizing protests and agitations are what people of Manipur have been doing for the past many

Memorandum

years. Women organized as Meira Paibeas have been keeping vigil of their respective localities against the Indian Security Forces for the whole night for the past many years. They face the rifle butts, boots grenades and bullets of the Security Forces to save those unfortunate ones who have become the target of the Security Forces. These Meira Paibeas raise their voice against the Human Rights Violations and AFSPA and thus fight the State repression heroically. .

In one of the strongest protests against State Repression in recent times, the Meira Paibeas are spearheading the present agitation by the people of Manipur. The protest has come after a series of custodial killings by the Indian Security Forces. They are now defying curfew, thrown away all their modesty for the sake of fighting for justice. They demand no less than the punishment of the guilty security personnel, removal of the AFSPA and stop to the ongoing State Repression. What they demand is peace with justice. They yearn for a peaceful democratic society free from all forms of State Repression.

Time has come now that all progressive organizations and individuals to give their solidarity to the ongoing struggle by the people of Manipur. You are requested to send your solidarity message to the people of Manipur through the editors of local dailies and cable TV networks.

I have the confidence that the people of Manipur will definitely receive your solidarity message.

Imphal the 17th July 2004

Yours Sincerely,
(Jagat Thoudam)
President,
All Manipur United Club's Organisation (AMUCO)

Memorandum submitted to the Hon'ble Prime Minister of India through the Chief Minister of Manipur demanding the institution of an enquiry against the DIG-9 Sector (Assam Rifles), for genocidal killings of Manipuri people and the repeal of the Armed Forces (special powers) Act, 1958.

Hon'ble Sir,

We on behalf of the people of Manipur would like to lay down the following facts for your prompt action.

That, a genocidal killing of the Manipuri people is carried out in Manipur by the Indian Security Forces, especially by the Assam Rifles under the command of DIG- 9 Sector of which the raping and custodial killing of Km.Thangjam Manorama by the personnel of 17 Assam Rifles is the latest example.

That, no Indian law or the various International Treaties and Covenants sanction the torture or killing of any person including the insurgents after arrest, whereas the Indian Security Forces, especially the Assam Rifles are carrying out the Secret killings in Manipur by employing the criminals and renegade militants where any person arrested by the security personnel is either tortured using third degree methods or killed.

That, various Colonial and Draconian laws, especially the Armed Forces (Special Powers) Act, 1958 which deploys the Army and the Paramilitary Forces against the civilians have been in force in Manipur for the past many years putting the whole of Manipur under a virtual emergency for the past 24 years since 1980, when the whole of Manipur have been declared disturbed under the provisions of the Act.

That, the Colonial and Draconian law of the Armed Forces (Special Powers) Act, 1958 is a tool of State Repression which has been used so far been used for killing the people of Manipur with impunity and the imposition of the law for many years has neither solved the problem of Insurgency nor brought peace in the land.

We, representing the various social organizations of Manipur therefore put the following univocal and unanimous demands of-

1. The Institution of an enquiry against the DIG-9 Sector for the genocidal killings of the people Manipur and punishment of the guilty.

2. The repeal of the Colonial and Draconian law of the Armed forces (Special Powers) Act 1958 by the Indian Parliament.
3. The lifting of the Disturbed area status of Manipur for the whole of Manipur with immediate effect, and The immediate arrest and prosecution of the Personnel of the 17 Assam Rifles responsible for the raping and brutal killing of Km.Thangjam Manorama.

21st July 2004,

Signed and Submitted on behalf,

Ak. Janaki Leima, President, Momnu Erikkombi Lup

S. Ibetombi Leima, President, Women Association for Civil Action,
Kangleipak

L. Memchoubi, President, Poirei Leimarol Meira Paibee Apunba
Manipur

Taruni Devi, President, All Manipur Women's Social Reformation
and Development Samaj

Sorojini Devi, President, Apunba Manipur Kanba Ima lup
(AMKIL)

Suicide note of Chittaranjan

Mr. Pebam Chittranjan Mangang committed self-immolation in protest against Armed Forces Special Powers Act on 15 August 2004. He had left a suicide note, which was translated into English and reproduced in Ranjit Chirom, compiled, Unrest in Manipur, Imphal, 2004. CPDM with due acknowledgment to Mr Chirom reproduces the translated version of the suicide note for wider circulation.

Chittaranjan Message

At the outset I beg to bow down with obeisance to all those state citizens who bear the brunt of the pang of the excesses of this state. Furthermore, I prayed to the almighty to let me able to sacrifice my humble life with smile for the sake of the Motherland Manipur nurturing both hill and plain people by bearing with invincible will, the brunt of the fetters of slavery as well as the pang of separation of so many dare sons.

This day, the 13th of August is the day that reminds the whole world of the invincible courage meted out by the brave Manipuri heroes who fought against the British Empire where it is presumed that the sun never sets. We are also proud of claiming as their successors. But today under the suzerainty of the Indian Government and behind the camouflage of democracy and more particularly even before the attainment of statehood the imposition of the black law claimed the life of so many hill tribe brothers and sisters and then by the imposition of AFSPA more actively since 1979-80 by oppressing innumerable numbers of innocent citizen gives both of the so-called Meira Paibis and then it gives birth of the so many NGOs to protect the violation of human rights. As for example, COHR, HRA, TIPS etc are facing the problems of human rights violation. It happens as if all such organisations are immune in a forcibly dominated and enslaved state. Not only this, the Human Rights Commission sequel by the pressure of the public had been caned to be paralysed after having a short tenure of comic show.

Even in the present day during the recent Holi festival 13 people were executed on the futile charge of encounter death and made the public to feel the extreme panic of the climax of state owned terrorism. Even in the Sadar Hills area also so many married men and women in terms of 2, 5 and

7 were brutally murdered. Thus containing in such a way the consequent killing of pastor Jamkholet Khongsai and Thangjam CHanu Manorama by resorting to inhuman way of torture and rape clearly showed that the chastity and virginity of the womenfolk is not honour by the Indian Occupant Force. Because, in case he or she survived they doubt that they will publicise the dirty deal that they resorted to in the name of AFSPA.

It is too late to teach a good lesson to those pseudo leaders of this state who equated themselves to the rank of a faithful servant kissing the feet of the Delhi based boss.

It is my last appeal to all near and dear one that it is my endeavour to end up my precious life as a human torch by independently decrying the evils of AFSPA inspite of waiting the time to be a death-victim of such a draconian law like AFSPA. I may be pardoned by all those near and dear ones who were my co-workers, colloquies both man and woman for my being unable to intimate one and all of this act of carrying onto this will of mine into action.

More particularly, I prayed with obeisance to my parents so that I may be given a chance to pay back the price of my birth as their son if there could be a possible next re-birth by providence and that also in such a state where everybody avail of their own rights and enjoy it in an equal manner. It is my fervent appeal to all my blood brothers, sisters, uncles, aunts not to be aggrieved as there will be hundreds and thousands who will replace and succeed me in future.

**Go back Indian army,
Remove black law from Northeast
Indian democracy is for mouth only –not for into practise
Unity is our strength
Struggle in unity “not separately”
Punish the culprit of Pastor Jamkholet Khongsai & Miss Manorama
Chanu**

For my final decision of selfless sacrifice the responsibility should be Manipur Government and Government of India respectively.

Pebam Chittaranjan Mangang
S/O P. Subol Mangang & P. Ongbi Sorojini Devi

Of Sega Roda Takhel Leikai

Presently staying at Khaidem (BPS-8) Thiyam Leikai
C/O Kh. Loken Singh & Rajen Singh
BPS Post Office Complex.

Presently I serve as an advisor of MSF, BPR, Dist. Committee
Asst. Organ, & Public Relation Secretary VCOBID
Co-ordinator and Advisor in charge AMSU, MSF, DESAM, BDC

No freedom will ever get without bloodshed.

— End

Sd/-
P. Chittaranjan Mangang
14-8-04

Sd/-
P. Chittaranjan Mangang
15-8-04

Parliament Debate on AFSPA

Rajya Sabha
17-18 August 2004

KS-MCM/1T/2.00 *The House re-assembled after lunch at two of the clock, MR. DEPUTY CHAIRMAN in the Chair*

...

SHRI JASWANT SINGH (CONTD): ... insurgency, a challenge to India, certain complicity by the State Government, 'layered blackmailing' which is a very distressing challenge to the unity of our country, to Constitution... It is possible, Sir, that I say this with a degree of parochialism and of the interests of the armed forces at heart, but you cannot have armed forces being asked to lay down their lives, and then, every now and then told, 'you would now go back to the barracks.' The armed forces have gone there in discharge of their responsibility to the unity of India and we cannot, in any fashion, lower their morale or to call into question their relevance in combating insurgency.

...

SHRI MATILAL SARKAR:... The North-Eastern Region is a very resourceful region surrounded by some of the neighbouring countries. We have oil resources, we have forest wealth, and, it is very pertinent that the imperialist forces are behind all these militants who are encouraging them to destabilize our country.

...

SHRI MANOJ BHATTACHARYA (CONTD): ... On 14th of August, they celebrated their independence, unfurled their own flag. It is a question of seceding from the Union of India and the anti-Indian feelings are precipitating in Manipur. We should be extremely careful

...

THE MINISTER OF HOME AFFAIRS SHRI SHIVRAJ V. PATIL (CONTD.): ... terrorist, because of misguided views. More than that, Sir, our brothers, men and officers of the Armed Forces, are living thousands of miles away from their homes and from their places and exposing

themselves to all kinds of dangers that are involved in countering insurgency in the country. They have laid down their lives. They have made supreme sacrifices. We also have to salute their sacrifices and condemn their deaths... We have been talking about the human rights. If the person killed has a human right, the person facing has also got human right. ... drug peddling, timber and arm running and things like that earning money using illegal means. They are printing fake notes. They are in the business of drug trafficking, gun running and selling the forest produce also and making money, and then abducting and kidnapping the innocent persons and making money... But, at the same time, it is our bounden duty to see that the morale of the Armed Forces also is not allowed to be attacked, and, those who are there to protect their brothers and sisters, when their families are living in other parts of the country, we cannot let them down also... With you or without you, if anybody wants to talk with us, we are willing to talk with him and we are willing to discuss anything. Conditions, we will not have; decisions, we will take. The agreement will be there. The agreement will be on the basis of what we decide. But, we are willing to talk.

...

The House then adjourned at twenty-three minutes past four of the clock till eleven of the clock on Wednesday, the 18th August 2004.

Report of the Committee to Review

THE ARMED FORCES (SPECIAL POWERS) ACT, 1958

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
2005

(Also known as the Jeevan Reddy Committee Report)

In the wake of the intense agitation launched by various civil society groups in Manipur following the death of Kr. Th. Manorama Devi on 11.7.2004 while in the custody of the Assam Rifles, and the earlier indefinite fast undertaken by Ms. Irom Sharmila since 2001 demanding repeal of the Armed Forces (Special Powers) Act, 1958 (hereinafter referred to as AFSPA), the Central Government, accordingly, set up a 5-Member Committee (vide Ministry of Home Affairs Office Order No. 11011/97/2004-NE-III dated 19th November, 2004 - under the Chairmanship of Justice B.P. Jeevan Reddy, former Judge of the Supreme Court with the following four Members: -(a) Dr. S.B. Nakade, Former Vice Chancellor and Jurist, (b) Shri .P. Shrivastav, IAS (Retd), Former Special Secretary, MHA, (c) Lt Gen (Retd) V.R. Raghavan, Former DGMO and (d) Shri Sanjoy Hazarika, Journalist.

The terms of reference for the Committee was to advise the Govt. of India whether-

- (a) To amend the provisions of the Act to bring them in consonance with the obligations of the Govt. towards protection of Human Rights; or
- (b) To replace the Act by a more humane Act.

The committee submitted its report to the Government of India on 6th June 2005. The recommendation of the Committee is being reproduced for wider reference.

Recommendations

The Committee has carefully considered the various views, opinions and suggestions put forward by the representatives of organisations and individuals who appeared before it as also the presentations and representations made by the concerned departments of the governments, security agencies and other organisations and individuals.

2. While devising a solution to the problem referred to the Committee, it has to bear in mind the following three basic conditions viz.,

ONE - The security of the nation, which is of paramount importance. Security of the nation involves security of the States as well. The very first entry in the Union List in the Seventh Schedule to the Constitution speaks of defence of India and every part thereof which means and implies that it is the power and obligation of the President, the Parliament and the Union Government to ensure the defence of India and of every part thereof. Though purporting to be a division of legislative powers between the Union and the States, the Seventh Schedule to the Constitution, it is well accepted, does represent the division of powers between the Union and the States. Even if a law is not made under and with reference to a particular entry / legislative head, the executive power would still be available under that entry. Lists-I and II set out the legislative heads / powers of the Union and the States respectively while List-III sets out the legislative heads, with reference to which both the Parliament and the State Legislatures can make laws, subject, of course, to the rule of parliamentary predominance recognised by Article 254. For ensuring the defence of India and of its every part, the Parliament can make such law and / or the Union government can take such executive action, as may be found necessary or proper. Some of the ways in which the Union government performs the said obligation are mentioned in Articles 352 to 356, (as pointed out in Chapter II of Part II of this Report. Article 355, which places an obligation upon the Union to protect every State against external aggression and internal disturbance and also to ensure that the Government of every State is carried on in accordance with the provisions of this Constitution, has also been referred to at some length in the said part of this Report). It is necessary to clarify that the Constitution does not contemplate that the obligation to protect the States in the Union shall be carried out by the Union Government only by invoking Article 352 (external aggression or internal rebellion) or Article 356 (to ensure that the government of every State is carried on in accordance with the provisions of the Constitution); the said obligation can be performed in such manner as may be found appropriate, without of course violating the spirit and letter of the Constitution. Now, coming to Article 355, it may be reiterated that the obligation created by Article 355 includes the duty to protect every State against internal disturbance as well. "Internal disturbance", as pointed in Part II of this Report, represents a very serious, large scale and sustained chaotic conditions spread over a large area of the State. It

is no doubt the power and obligation of the State Government to maintain public order as is evident from Entry 1 of State List in the Seventh Schedule to the Constitution. However, the said entry read with Entry 2A of the Union List means that (a) where the State Government finds that it is not able to maintain public order and it is of the opinion that the aid of the armed forces / forces under the control of the Union is necessary for maintaining or restoring the public order, it can request the Union Government to send the armed forces to maintain and restore the public order; (b) even where the State Government does not so request but the Union Government is satisfied that for protecting the State from “internal disturbance” i.e. to save it from domestic chaos or internal commotion, it is necessary to deploy armed forces of the Union, it can do so under Art.355.

TWO - It is equally the duty of the Union and the States to not only respect the fundamental rights conferred upon the citizens of India by Part III and other provisions of the Constitution; they are also under an obligation to ensure the conditions wherein the citizens can enjoy and avail of the fundamental and other rights available to the citizens. In particular, Article 21 of the Constitution expressly declares that no person shall be deprived of his life or personal liberty except in accordance with the procedure established by law. Article 14 in Part III of the Constitution ensures to its citizens equality before law and equal protection of laws within the territory of India which means that no citizen or group of citizens shall be discriminated vis-a-vis any other citizen or group of citizens. Article 19 confers upon the citizens six valuable freedoms viz., freedom of speech and expression; freedom to assemble peacefully and without arms; freedom to form associations or unions; freedom to move freely throughout the territory of India; freedom to reside and settle in any part of the territory of India and the freedom to practise any profession or to carry on any occupation, trade or business - subject of course to such reasonable restrictions thereon as may be placed by a law made by the Parliament or State Legislatures under clauses (2) to (6) of the said article. Clauses (1) and (2) of Article 22 confer equally valuable rights upon the citizens of India. Clause (1) declares that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to “consult, and to be defended, by the legal practitioner of his choice. Clause (2) declares that every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of 24 hours excluding the time taken for

journey from the place of arrest to the nearest court of the Magistrate. Inasmuch as no law has been made by Parliament under Article 33 of the Constitution (as pointed out in Part II of this Report), the above mentioned rights remain sacrosanct and effective even where the armed forces of the Union are deployed to restore public order and/or peace or to protect a State against internal disturbance. Articles 25 to 30 ensure the freedom of religion and ensure to every religious denomination or any section thereof to manage its religious affairs; they ensure freedom of worship, right to conserve one’s own culture and also confer a right upon the minorities to establish educational institutions of their choice.

THREE - The armed forces of the Union viz., the army, navy and the air force are meant to ensure the defence of the Union and all its parts. In other words, the armed forces are meant to guard our borders against any aggression by any foreign power or foreign agency, irrespective of the manner in which such aggression is perpetrated. The armed forces are trained and are equipped for this purpose. May be that in an emergency like a flood or other natural calamity, armed forces are also called in to provide relief and help the people but that is only a temporary phenomenon. The Union Government has also been creating and indeed expanding various paramilitary forces under various enactments like the Border Security Force Act, Assam Rifles Act, Indo-Tibetan Border Police Act, CRPF Act, CISF Act and so on. The Union Government has also created what is known as “India Reserve Battalions”. Though these paramilitary forces have been created for certain specific purposes, yet, on account of the disturbed situation in certain parts of the country, the Union Government has been obliged to deploy, from time to time, these forces as well as its armed forces to redress these situations. It must be recognised, at the same time, that the deployment of armed forces or paramilitary forces of the Union to restore public order in any part of the territory of India, or to protect a State from internal disturbance is, and ought to be, an exception and not the rule. The deployment of armed forces for the said purposes should be undertaken with great care and circumspection. Unless it is absolutely essential for the aforesaid purposes, the armed forces of the Union should not be so deployed, since too frequent a deployment, and that too for long periods of time, carries with it the danger of such forces losing their moorings and becoming, in effect, another police force, a prey to all the temptations and weaknesses such exposures involve. Such exposure for long periods of time may well lead to the brutalisation of such forces - which is a danger to be particularly

guarded against. This concern applies no less in the case of other armed forces of the Union as well. All this means that as soon as the public order is restored or the internal disturbance is quelled, the forces have to be withdrawn to their barracks or to their regular duties, as the case may be. This very concern and consideration underlies Sections 130 and 131 of the Code of Criminal Procedure, which have been referred to and dealt with in Chapter IV of Part II of this Report. These sections of the Code of Criminal Procedure make it repeatedly clear that where it is necessary to call in the army to disperse an unlawful assembly endangering public security, the armed forces so called in shall act according to the directions of the Magistrate though the manner in which the armed forces perform the task entrusted to them lies within their discretion. Even where the armed forces are called in for meeting a more serious threat to public order or public security, or where the deployment of the armed forces is required on a fairly long-term basis, this concern remains equally valid. It has also to be ensured that the legal mechanism under which they function is sufficiently clear and specific and accords with the spirit and provisions of the Constitution as adumbrated hereinabove. While providing protection against civil or criminal proceedings in respect of the acts and deeds done by such forces while carrying out the duties entrusted to them, it is equally necessary to ensure that where they knowingly abuse or misuse their powers, they must be held accountable therefore and must be dealt with according to law applicable to them. It is not unusual that there will be some indisciplined individuals in these forces as well, but their wrong actions should not be allowed to sully the fair name of the armed forces and the paramilitary forces. While our armed forces are one of the most disciplined in the world, situations may arise when they are deployed outside their regular duties, i.e., when they are deployed for maintaining public order or for quelling internal disturbance in a part of the territory of India, when certain members thereof may seek to take advantage of their power and position to harass or otherwise trample upon the rights of the citizens of this country. The legal mechanism should ensure that such incidents do not take place and should also ensure that adequate remedial measures do exist where such incidents do take place.

3. Bearing the above considerations in mind, we have to proceed ahead. At this juncture it would be appropriate to recall the terms of reference given to this- Committee. They read as follows: .

“Keeping in view the legitimate concerns of the people of the North Eastern Region, the need to foster Human Rights, keeping in

perspective the imperatives of security and maintenance of public order to review the provisions of the Armed Forces (Special Powers) Act, 1958 as amended in 1972 and to advise the Government of India whether:

- (a) To amend the provisions of the Act to bring them in consonance with the obligations of the Govt. towards protection of Human Rights; or
- (b) To replace the Act by a more humane Act.

The Committee may interact with representatives of social groups, State Governments and concerned agencies of Central Govt./State Govt. legal experts and individuals, as deemed necessary by the Committee in connection with the review of the Armed Forces (Special Powers) Act, 1958 as amended in 1972. The Committee will meet as often as required and visit the North Eastern Region, if felt necessary.”

4. The Committee finds that there are four options available for it to adopt viz.,

- (a) to recommend the repeal of the Armed Forces (Special Powers) Act, 1958;
- (b) to recommend that the present Act should continue as it obtains today or with such amendments as may be found appropriate;
- (c) in case the repeal of the Armed Forces (Special Powers) Act, 1958 is recommended, to recommend that it should be replaced by an appropriate legislation;
- (d) in case of recommendation for repeal of the Act, to recommend insertion of appropriate provisions in an existing / cognate enactment

5. Keeping in view the material placed before us and the impressions gathered by the Committee during the course of its visits and hearings held within and outside the North-Eastern States, the Committee is of the firm view that:

- (a) The Armed Forces (Special Powers) Act, 1958 should be repealed. Therefore, recommending the continuation of the present Act, with or without amendments, does not arise. The Act is too sketchy, too bald and quite inadequate in several particulars. It is true that the Hon’ble Supreme Court has upheld its constitutional validity but that circumstance is not an endorsement of the desirability or advisability of the Act. When the constitutional

validity of an enactment is challenged in a Court, the Court examines (i) whether the Act is within the legislative competence of the Legislature which enacted it and (ii) whether the enactment violates any of the provisions of the Constitution. The Court does not - it is not supposed to - pronounce upon the wisdom or the necessity of such an enactment. It must be remembered that even while upholding its constitutional validity, the Hon'ble Court has found it fit and necessary not merely to approve the "Dos and Don'ts" in the instructions issued by the Army Headquarters from time to time but has also added certain riders of its own viz., those contained in clauses 8, 9 and 14 to 21 in para 74 of its judgment (at pages 156 and 157 of the judgment in *NAGA PEOPLES' MOVEMENT OF HUMAN RIGHTS v UNION OF INDIA - (1998) 2 SCC 109*). The Committee is of the opinion that legislative shape must be given to many of these riders. We must also mention the impression gathered by it during the course of its work viz., the Act, for whatever reason, has become a symbol of oppression, an object of hate and an instrument of discrimination and highhandedness. It is highly desirable and advisable to repeal this Act altogether, without, of course, losing sight of the overwhelming desire of an overwhelming majority of the region that the Army should remain (though the Act should go). For that purpose, an appropriate legal mechanism has to be devised,

- (b) The Committee is also of the firm view that it would be more appropriate to recommend insertion of appropriate provisions in the Unlawful Activities (Prevention) Act, 1967 (as amended in the year 2004) - which is a cognate enactment as pointed out in Chapter III Part II of this Report instead of suggesting a new piece of legislation.

6. The reasons for adopting the course of introducing requisite and appropriate provisions in the Unlawful Activities (Protection) Act are as follows:

ONE - The ULP Act defines "terrorism" in terms which encompass and cover the activities of the nature carried on by several militant/insurgent organisations in the North-east States. Use of arms and/or explosives so as to cause loss of life or property or to act against a government servant, with intent either to threaten the unity, integrity,

security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country (as provided by Section 15), the kind of activity carried on by various militant / insurgent organisations in the North-east, falls within, the four corners of Section 15. It is terrorism within the meaning of the Act.

TWO - The ULP Act not only defines 'terrorism' in expansive terms but also specifically lists some of the organizations engaged in militant / insurgent activity in Manipur, Tripura, Nagaland and Assam as terrorist organizations in the schedule appended to the Act. In other words, the Act recognizes that the activities carried on by the schedule mentioned organizations fall within the definition of 'terrorism' and 'terrorist activity' as defined by the said Act. Furthermore, as pointed out in Chapter III of Part II of this Report, the ULP Act does contemplate, by necessary implication, the use of armed forces of the Union as well as the other paramilitary forces under the control of the Union to fight and curb the terrorist activities in the country. It is for the said reason that it has expressly barred, in Section 49, any suit, prosecution or other legal proceedings against "any serving or retired member of the armed forces or paramilitary forces in respect of any action taken or purported to be taken by him in good faith, in the course of any operation directed towards combating terrorism". In this sense the ULP Act, as it now obtains, does provide for deploying the armed forces or paramilitary forces for fighting the militant/insurgent/terrorist activity being carried on in some or all North-eastern States¹. The Act is designed to curb the terrorist activities of not only the organisations mentioned in the schedule but any and every terrorist activity.

THREE - a major consequence of the proposed course would be to erase the feeling of discrimination and alienation among the people of the North-eastern States that they have been subjected to, what they call, "draconian" enactment made especially for them. The ULP Act applies to entire India including to the North-eastern States. The complaint of discrimination would then no longer be valid.

FOUR - The ULP Act is a comprehensive law designed to (i) ban unlawful organisations; (ii) to curb terrorist activities and the funding of terrorism; and (iii) investigation, trial and punishment of persons indulging in terrorist acts, unlike the Armed Forces (Special Powers) Act which deals only with the operations of the armed forces of the Union in a disturbed area. After the proposed amendments, ULP Act would be more comprehensive in the sense that it would expressly permit deployment of

armed forces and paramilitary forces of the Union to achieve its object viz., curbing terrorism. In other words, operations of the armed forces of the Union would be one of the ways of curbing terrorism. It would also mean that persons apprehended by the armed forces of the Union would be made over immediately to the nearest police station and would be tried in accordance with the procedural laws of the land. The prosecution too would be quicker and more effective because of the special provisions contained in Sections 44 (protection of witnesses) and 46 (admissibility of evidence collected through interception of communications). At the same time, the accused would also get the very important safeguard contained in Section 45 of the Act which provides that no court shall take cognizance of any offence under the Act unless previous sanction therefore is granted by the appropriate government, in case the prosecuting agency proposes to proceed against him for any offence in Chapter IV or Chapter VI of this Act. We may clarify that in law it lies within the discretion and judgement of the investigating officer to decide, after due investigation, whether to proceed against the accused or to drop the proceedings and in case, he decides to proceed against the witness, to determine the offence with which the accused is to be charged. In short, just because, a person is arrested by the armed forces acting under this Act, and is made over to the police, the police is not bound to proceed against him only for offences under this Act, the police is free, depending upon the evidence/material gathered during investigation, to file a charge sheet for offence under this Act or under IPC or such other appropriate enactment, as may be applicable.

7. As stated hereinabove, the ULP Act does contemplate, by necessary implication, use of armed forces or paramilitary forces to conduct operations and to take steps to fight and curb terrorism. It does not, however, contain any provision specifying their powers, duties and procedures relevant to their deployment. It does not also provide for an internal mechanism ensuring accountability of such forces with a view to guard against abuses and excesses by delinquent members of such forces. It is this lacuna, which is to be supplied by inserting appropriate provisions in the ULP Act. The provisions so introduced should be clear, unambiguous and must specify the powers of the armed forces / paramilitary forces while acting to curb terrorist/insurgent activities.

8. We may also refer in this connection to the necessity of creating a mechanism, which we may designate as the "Grievances Cell"- Over the years many people from the region have been complaining that among the

most difficult issues is the problem faced by those who seek information about family members and friends who have been picked up and detained by armed forces or security forces. There have been a large number of cases where those taken away without warrants have "disappeared", or ended up dead or badly injured. Suspicion and bitterness have grown as a result. There is need for a mechanism which is transparent, quick and involves authorities from concerned agencies as well as civil society groups to provide information on the whereabouts of missing persons within 24 hours.

9. To ensure public confidence in the process of detention and arrest, grievance cells are proposed to be set up in each district where armed forces are deployed. These cells will receive complaints regarding allegations of missing persons or abuse of law by security/armed forces, make prompt enquiries and furnish information to the complainant. Where, however, the complainant is not satisfied with the information furnished and is prepared to file an affidavit in support of his allegation, it shall be competent for the Cell to call upon the State level head of the concerned force or organization to enquire into the matter and report the same to the cell as early as possible, not exceeding in any event, one week. The State level officers from whom these Grievance Cells seek information shall immediately make necessary enquiries and furnish full and correct information to the Grievance Cell as early as possible, not exceeding in any event one week. The Grievance Cells will be composed of three persons, namely, a senior member of the local administration as its chair, a Captain of the armed forces/security forces and a senior member of the local police. These will have dedicated communications, authority to obtain information from concerned authorities and have facilities for recording and responding to complaints. They shall locate their offices in the premises of the Sub Divisional Magistrate or in the premises of the District Magistrates, as the case may be. Such a mechanism is absolutely essential to achieve the two equally important purposes viz., (a) to infuse and instil confidence among the citizenry that the State, while deploying the armed forces of the Union to fight insurgency/terrorism has also taken care to provide for steps to guard against abuses/excesses with a view to protect the people and to preserve their democratic and civil rights; and (b) to protect the honour and the fair name of the forces.

11. While deploying the forces under sub-section (3) the Central Government shall, by a notification published in the Gazette, specifying the State or the part of the State in which the forces would operate and the

Prayer for Justice

Statement of Sharmila

6 October 2006, Jantar Mantar, New Delhi

period (not exceeding six months) for which the forces shall operate. At the end of the period so specified, the Central Government shall review the situation in consultation with the State Government and check whether the deployment of forces should continue and if it is to continue for which period. This review shall take place as and when it is found necessary to continue the deployment of the forces at the expiry of the period earlier specified. It shall be permissible for the Central Government to vary the part of the State where the forces are deployed in case the earlier notification is in respect of a part of a State. Every notification extending the period of deployment of forces or varying the area of the State, as the case may be, shall be laid on the table of both the Houses of Parliament within one month of the publication of such notification.

12. A draft of the Bill, which is recommended to be incorporated as Chapter VIA of the Unlawful Activities (Preventive) Act, 1967 is enclosed herewith. The draft bill is meant to serve as a guide in drafting the legislation to be introduced in the Parliament. We may also mention that the Appendix to the draft incorporates the Do's and Don'ts issued by the Army and which have been approved by the Hon'ble Supreme Court of India in its decision report in Naga People's Movement for Human Rights Vs. Union of India (A.I.R 1998 Supreme Court 431) as well as the additional directions given by the Hon'ble Supreme Court. However, those directions which have been already incorporated in the Bill are not repeated in the Appendix.

13. A separate note submitted by Sri Sanjoy Hazarika, a Member of the Committee, is also enclosed at Annexure-XIV.

Footnotes

¹ As a matter of fact, it can be said that there are two enactments for fighting militant / insurgent / terrorist organizations, groups and gangs in the North-eastern States viz., the Armed Forces (Special Powers) Act whose application is limited to the North-eastern States alone and the ULP Act which extends to the whole of India including the North-eastern States.

All that are being born would die one day. All that I have been bearing with without allowing even a drop of water into my mouth is for the sake of truth. As a firm believer in god all that I have been bearing with has been for the blessing of the god. I believe that god has endowed me with the strength and courage to live. I can never bear in silence the law that grants killing of human beings. As a mortal being that is bound to die one day I should have been able to bear to live in silence; but if my sacrifice would save the lives of several hundred others like me in future, as a living being, I am obliged to serve for the just cause of those who would like to live without being killed. I am stubborn and firm with this belief. My cry for justice, like a child's cry to its parents, is being repeatedly forwarded to the leaders and policy makers who would at present not listen to my prayers. I firmly believe that the issues that I raised are not meant to be dealt with sticks. I would like to see that the root cause of my prayer is being discovered and addressed with softer and healing touch. I shall never give up my stand without fulfilling my demand.

My conscience would never accept the partial character of judgment of the Indian State towards Manipur. At present the land where I was born is in a state of absolute backwardness. My native State does not have any worthy production centre to produce essential commodities required for daily subsistence. We do not have any worthy means of production such as factory and industry to produce essential commodities required for our own consumption. We are absolutely dependent on imports. Against such backdrop the number of educated persons facing the problems of unemployment is increasing day by day. I believe that if the means of production and instruments of production are being developed then on the one hand my native State would have been developed and on the other hand the question of unemployment, frustrations, and going into misadventure and wrong path would have been relatively solved.

The root cause of my six years old agitation has been a prayer to address the issue of disappointment, dissatisfaction and the policy of suppression of justice. Throughout the six years all that the government had been doing is to release me periodically only to be rearrested at the next moment and to bear the expense in terms of lakhs of rupees of the

poor State to forcibly nasal feed me. I am not satisfied with such policy. However, I would like to reaffirm to the people that I shall remain firm with my agitation and shall never revoke my demand. The question of life and death is rested in god and I am not bothered about my life. I would like to make it known that my commitment to sacrifice my life to defend the lives of future generation has encouraged me never to compromise with my stand and demand.

Submitting myself to god I believe that, no matter how slow it may take to achieve the goal, the struggle for truth will definitely prevail above lies and shall be victorious one day. This belief has been my strength and courage. The god that knows my inner conscience for truth, my sentiment and perspective would guide me towards victory. This is my belief and it shall never die.

Transcription of press statement delivered by Irom Sharmila on 6 October 2006 at Jantar Manter, New Delhi

The struggle continues; the fight reclaims

July 15 is the day on which Manipuri women marched the historic Nude Protest at the gate of the Political Army of the Indian State in 2004 against the most inhuman and horrific Armed Forces (Special Powers) Act 1958. The protest reclaimed the intent of the people's struggle against the atrocities of the Political Army of the Indian State.

If one closely examines the devastated experience under the Act it won't be difficult for anybody, who acknowledges the intensity of the cost that the people of Manipur have been bearing since the imposition of the Act, to easily judge that the State authors the way one should live strictly according to the ideology of State authoritarianism. The killing of Manorama and hundreds of others, including youths and minors, forceful disappearance of another hundreds, including minors, sexual harassments and political wounds inflicted upon the cultural tribute of womanhood in the society and strategic massacre of innocents, to point out a few, are what the Act commits within its own terms. The Act produces its own technology of immunity and a method of employing it to define the grounds to 'suspect' anybody and murder and rape as the Political Army wishes. Does it mean a license to murder and rape? Yes, everybody who knows the logic of the Act says. But the Government does not. Those who know the logic but do not believe what the Act actually does do not say, yes.

A Review Committee was constituted as a temporary remedial tactics to freeze the protesting mass. The hypocrisy of the stand to win the trust of the people while, at the same time, betraying them has been caught up in an exposé. While punishment to the rapist and murderers of Thangjam Manorama has been yet to be made visible to the public inquiry another series of murders and atrocities has reconfirmed the ongoing crimes committed under the Act by the Political Army against the people of Manipur. The Government says and still believes, as it did, that the Act is necessary to be retained. The Act produces more grounds to, what the Government calls, a threat to the national security. Thus the Act sustains itself within its own terms of application by producing the condition of its operation. The Act in fact constitutes the material ground for protecting the ideological apparatus of the State to build its presence through the Political Army thereby aiming at silencing the democratic voices against what the State says about the Act: an Act to protect the 'national security'. The struggle against the Act is a battle for democracy that questions the ideological claims of the Act; on security, which has been colonized by

the hegemony of national security; and around life and dignity which remain severely undefended under the Act. The battle is to decide that democracy matters, that security of life and dignity matters. Repeal Armed Forces (Special Powers) Act 1958! Join the struggle for democracy against the Act!

**Lead the struggle for democracy forward
Join the Convention Against AFSPA 1958**

Venue: Indian Social Institute, Lodhi Road.
Time: 2 p.m. till 6 p.m.
Date: 15th July 2006

Organized by the MSAD Human Rights Committee.

**Mass Demonstration against AFSPA:
Militarization and Impunity**

From Mandi House to Parliament Street, Delhi: Saturday, 9th Dec,
2006: Time: 02:00 pm.

For over 6 years now, Irom Sharmila has been on a fast unto death without even a drop of water touching her lips. For the State this is a “crime” and she has been harassed, detained and ill-treated overtime and nose-fed. Sharmila continues to demand for the Repeal of the Armed Forces (Special Powers) Act 1958 (AFSPA). Such a courage to fight against the Act was heralded long before when Pebam Chitraranjan self-immolated and the Manipuri mothers protested nude against AFSPA.

The Armed Forces (Special Powers) Act-1958 became operative in the ‘Independent’ India in 1958. This Act of 1958 is the retention of a colonial law that was introduced to suppress Quit India Movement-1942. The clauses in the Act declares many regions as “disturbed” and puts even the most existential conditions like Right to Life under suspension as under the Article 4 Clause (a) of the AFSPA the security forces can to use force “even causing death” on mere grounds of suspicion and Article 6 further implicates a total derailing of the autonomy of federal/constituting units in India as it says that the without a prior approval of the Central government no Commissions be constituted against the issues concerning the Act. The tendencies of this Act have shown on how specific communities are suspected historically which is aptly seen in the Article 4 (a) of AFSPA.

Recent PM’s Visit to Imphal: A Flawed Re-iteration!!!!

PM in his latest trip to Imphal (Dec 02, 06) just re-affirmed that this Government had nothing new to respond to the people struggling against AFSPA as he re-iterated “ the Act would be made more humane” which he had already said in 2004. The recent statement by the PM reflects some basic flaws that reflect how people in frontiers are still considered ‘subjects’ to be empowered. This was testified when he said “people of Manipur are entitled to the same privileges and protection of law as the citizens in rest of the country”. One would require to ask whose ‘privileges’ he is talking about when the rest of India is also reeling under the State atrocities & impunity of security resulting into

forced disappearances, rape, recent killings in Khairlanji, displacement and deaths of adhvavis and daltis which gets reproduced under the guise of 'National Conscience & Development'.

Ultimately, the PM did not fail to mention that Army was meant to be there (Manipur) for security reasons. Thus, an inherent colonial character of independent India is manifested in the continuance defining the frontiers as a politico-military region only. The struggle against AFSPA has been successful in initiating a wider demand for repealing the Act at the mass level. Today, the presence of Irom Sharmila in Delhi (arrested by Delhi police on 6th Oct 06) continuing her hunger strike at AIIMS and not being responded to the demand for Repeal by the Government has made the struggling communities realize the battle against the Act is going to be a longer people's journey. We call for your participation, solidarity and endorsement of this struggling against AFSPA. We demand;

- **Repeal the AFSPA and all the black laws from North East and Kashmir.**
- **Do not retain the provisions of AFSPA in any other law (Reject Reddy Committee's Recommendation)**
- **Prosecute the military personnel guilty of violations against people**
- **Release Irom Sharmila from the Police Custody.**

Call for action issued by: Apunba Lup, MSAD, PUCL, Jagori, HRLN, LRS, DAMMS, JNSU, AISA, DUSU, FDI, MRFD, PSU, The Other Media, Indigenous Women's Resource Centre (NE Region), PUDR, PLS, Sangat, CGPI, MPO, ISI Delhi, KJS, SAD, KYSV, Yuva Bharat, Justice For Workers, NTUI, SPDPR, CASIM, Jamia Millia Islamia Students Union, Saheli, United NGO Mission Manipur, People's Right Organization, Reach Out, MRF, INSAF and more. E-mail: msad.manipur@gmail.com (9312314339 (rojesh), Onil-..., Ravi: Kangleipal)

Down with the anti-people UPA Government

No to the barbaric Armed Forces Special Powers Act!

Statement of the Communist Ghadar Party of India, 4 December, 2006

The UPA Government headed by Manmohan Singh has finally come out with its answer to the unanimous demand of the people of Manipur and of all freedom loving people of the country. Hiding behind a bullet-proof enclosure in Imphal, Manmohan Singh made it clear that the draconian Armed Forces Special Powers Act is here to stay.

Sixteen months after the whole of Manipur went up in flames following the barbaric rape and killing of Th. Manorama Devi by the armed forces, the hated law under which such acts are regularly committed with impunity has got a renewed sanction from Delhi. Sixteen months after men and women, the young and the old, poured out onto the streets of Manipur day after day demanding the total withdrawal of the AFSPA, the Indian government has made it clear that it has no intention of acceding to their just demand. The UPA government just used the intervening period to try and cool down the situation by making soothing noises about how it would look into the grievances of the Manipuri people. The Communist Ghadar Party of India denounces the UPA government for its utterly anti-people stand and actions, and reiterates its demand for the complete removal of the Armed Forces Special Powers Act from the statute books.

In refusing to repeal the Act, the UPA government has had to reject the recommendations of its own committee appointed to look into the issue after the escalation of the long struggle of the Manipuri people last year. It is known that the Justice Jeevan Reddy Committee had recommended scrapping of the Act while incorporating some of its provisions into other laws. The UPA government could not tolerate even this recommendation – it could not even table the report in Parliament – because it went against what the government had decided from the very beginning, which was to keep the AFSPA come what may.

To a people who have suffered so much because of this Act, Manmohan Singh had the gall to stand in front of them and say that his government would try to make some of its provisions “more humane”! How does one make a pistol or machine-gun staring someone in the face more “human”? Every Manipuri youth, or woman, knows what it is like to live with the reality of daily harassment and humiliation at the hands of the armed forces. By merely removing the provision of “shoot to kill” from the

wording of the law, as Manmohan Singh promised, this reality is not going to change. It will not change because this government, like other governments at the Centre before it, will not relent unless the indomitable people of Manipur completely give up their demand for their national rights, for their democratic rights, for a life of security and dignity free from the jackboots of the armed forces.

The fact that such an outrageous law as the AFSPA can remain nearly 50 years on the statute books is a damning indictment of this 'world's largest democracy'. It shows that even the most basic rights, such as the right to life, and what is termed as the "due process of law", are not considered inalienable rights of every human being in this country. The most basic rights are denied to whole sections of the people at the whim of the executive. This is the situation facing millions of our people in different parts of India, whether they are from other parts of the North East, or Kashmir, the tribal peoples or those fighting in defence of their land or denial of our rights by the rulers. The Communist Ghadar Party of India considers that the struggle of the Manipuri people and others in the North East against the AFSPA and the rule of the armed forces is an extremely important part of our struggle for a new political order, which will enshrine human rights for all and in which the peoples will be free to determine their own destiny.

The categoric refusal of the UPA government to accede to the popular demand to repeal the Armed Forces Special Powers Act is a challenge to all of us. In the weeks and months to come, we must find ways to further escalate our struggle and strengthen our fighting unity in defence of our rights. The Communist Ghadar Party of India salutes the indomitable spirit of the people of Manipur, and pledges to continue to work whole heartedly for the withdrawal of the AFSPA and all other draconian laws; and for an end to army rule in Manipur and other parts of the country.

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Open Letter from human rights NGOs to EP- SAARC India Delegation: A Vital Opportunity to Call for India to Ratify UN Torture Convention

[ATTENTION: Members of the European Parliament's SAARC Delegation India Visit, April 2006](#)

13th April, 2006

Honourable Delegates,

On the eve of your visit to India, scheduled to take place on 15-21 April 2006, the undersigned organisations call on you to adequately represent the European Union's objectives with regard to the persistent problem of torture in India.

According to the EU's Guidelines on Torture, the Union is committed to eradicating the practice of torture. The Guidelines state that the EU will, inter alia, "express the imperative need for all countries to adhere to and comply with the relevant international norms and standards and will consequently emphasise that torture and ill-treatment are forbidden under international law."¹ India signed the United Nations Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (CAT) in 1997, but has failed to ratify the Convention, meaning it has no effect. This Convention is a very important mechanism for combating torture, a practice that is forbidden by international law under any circumstance.

This is not a hypothetical or purely legal problem; it is a frighteningly common practice in the world's largest democracy. Here are some recent reports from several leading monitors of human rights:

[Amnesty International](#)

Security legislation was used to facilitate arbitrary arrests, torture and other grave human rights violations, often against political opponents and marginalized groups... Though the 1958 Armed Forces Special Powers Act (AFSPA), which grants special powers to the security forces, is under review, there is concern over its continued enforcement in "disturbed areas", including large parts of the northeast. In Punjab, in response to 2,097 reported cases of human rights violations, the National Human Rights

Commission had ordered the state of Punjab to provide compensation in 109 cases concerning people who were in police custody prior to their death. The culture of impunity developed during that period continued to prevail and reports of abuses including torture and ill-treatment persisted.²

Asian Human Rights Commission

The corruption and inefficiency embedded in India's policing system is a constant source of torture, particularly for India's poorer and marginalised sections of society, such as the country's minorities. The discriminatory psychology of caste is inbuilt into the policing system of India as well. Those who are considered to be Dalits and lower castes are among the people who are most brutalised by torture and are denied all of their rights... Torture is not only practiced as a crude form of investigation, but is also used to impart fear upon citizens so as to cater the rich and the influential. Torture in India is widespread, unaccounted for and rarely prosecuted.³

Human Rights Watch

The government continued to use legislation that shields security forces from accountability—Indian military, paramilitary, and police forces have engaged in serious human rights abuses in conflict zones and yet there have been no attempts at transparent investigations or prosecutions of those responsible. Police reform was discussed, but torture during interrogation remained the norm.⁴

Observatory for the protection of Human Rights defenders (FIDH-OMCT):

In India the government promulgated amendments to the Unlawful Activities (Prevention) Act 1967, which adopted (...) a definition of terrorist acts [which] remains vague; immunity is maintained for those involved in any operations directed towards combating terrorism, which is all the more alarming [considering] that security laws are often misused by the authorities, notably in the conflict regions of Jammu, Kashmir, Manipur and Assam.⁵

The current Indian government has recently submitted a report to the UN Committee on the Elimination of Racial Discrimination, ending

an 8-year drought in this regard. This can be seen as a positive sign that the current administration is more willing than previous governments to engage with the UN's mechanisms for the protection and promotion of human rights in general. Yet, the continued refusal of India to allow the visit requested by the UN Special Rapporteur on Torture (pending since 1997) prevents the full consideration of such evolution.

India has announced its candidature to the new UN Human Rights Council, of which the first elections will take place on May 9th. In doing so, the Indian government, like any other candidate country, must abide by paragraphs 8 and 9 of the Resolution 60/251 creating the Human Rights Council, which calls upon candidates to make pledges and commitments to improve their Human rights record and abide by the highest international standards while sitting on the body. This should be seen as an opportunity to ratify the CAT and extend a standing invitation to all UN Special Procedures on Human Rights.

As human rights organisations, we urge you to push for the CAT's ratification and the invitation of UN Special Rapporteurs at every possible occasion with the Indian authorities during the course of your visit. In order to make real progress towards the eradication of the practice, we further request you to call for independent complaints, investigations and prosecution mechanisms to be made available de facto to all victims of torture. Special measures should be introduced to enable the most vulnerable communities such as Dalits, Adivasis, women, people below the poverty line and others with limited effective access to criminal justice mechanisms to protect their right to be free from torture. Criminal justice reform is clearly necessary, but there are concerns that the legal reforms underway do not seriously address the issues of custodial torture and impunity.

We expect also that you would naturally enquire with the European Commission's Delegation in New Delhi regarding measures they are taking to pursue India's ratification of this important instrument, since the Guidelines on Torture require that "the human rights component of the political dialogue between the EU and third countries and regional organisations shall, where relevant, include the issue of torture and ill-treatment."⁶ In the light of the serious reports cited above, such an inclusion is certainly 'relevant'.

We wish you a useful and interesting visit to India, and look forward to hearing about your engagements in this regard upon your return to Europe.

Working Committee of the Apunba Lup

Camp: Jantar Mantar, New Delhi

PRESS RELEASE

7 OCTOBER 2006

Sincerely,

- Timothy Gill, European Campaigns Coordinator, Asian Human Rights Commission (AHRC)
- Antoine Madelin, Permanent representative to the EU, International Federation for Human Rights (FIDH)
- Dick Oosting, Director, Amnesty International EU Office (AIEU)
- Nieves Molina, Senior Legal Adviser, International Rehabilitation Council for Torture Victims (IRCT)
- Theodore Piccone, Executive Director, Democracy Coalition Project

Footnotes

- ¹ Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, page 4. The guidelines go on to specifically to say that the EU will urge third countries to accede to the CAT.
<http://ue.eu.int/uedocs/cmsUpload/TortureGuidelines.pdf>
- ² Amnesty International Annual Report 2005 (India section) <http://web.amnesty.org/report2005/ind-summary-eng>. While the Commission has pursued further compensation for the families of victims since this report, it is criticised by Amnesty International for steadfastly refusing to probe liability issues, confining itself solely to compensation claims.
- ³ Human Rights Day Message, 2005 and accompanying Open Letter to UN High Commission for Human Rights (India section)
<http://www.ahrchk.net/hrday2005/05message.htm> and
<http://www.ahrchk.net/statements/mainfile.php/2005statements/387/>
- ⁴ Human Rights Watch World Report 2006 (India section)
<http://hrw.org/english/docs/2006/01/18/india12272.htm>
- ⁵ Observatory for the protection of Human Rights Defenders (FIDH-OMCT), Annual report 2005,
<http://www.fidh.org/IMG/pdf/fullobs2005a.pdf>
- ⁶ Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, page 4,
<http://ue.eu.int/uedocs/cmsUpload/TortureGuidelines.pdf>

The Working Committee of the Apunba Lup and the Manipur Students Association, Delhi (MSAD) condemns the arbitrary and violent arrest of Miss Irom Sharmila by Delhi Police from Jantar Mantar, where she was holding her fast to death without any charge around midnight on 6th October 2006, and the further arbitrary confinement at Room No 57, Private Ward, AIIMS Hospital against her will. The Apunba Lup considers this violent response as another manifestation of state repressive to democratic call for justice and respect of our basic fundamental rights and would like to remind the Government of India and Government of Manipur should be responsible for any incident arising out of such eventualities.

In condemnation of the violent response of the Delhi Police of the Government of India and in support of the firm and determined resolve and struggle of Miss Irom Sharmila for repeal of the draconian law, the Armed Forces (Special Powers) Act, 1958 (AFSPA), the Apunba Lup and the MSAD organized a sit in protest at Jantar Mantar today. In continued support to the struggle of Irom Sharmila before her arrest, a massive rally was organized here in New Delhi by Apunba Lup and MSAD on 6th October 2006. The rally that show participation of around 500 students, human rights activist, progressive organizations and well wisher individuals from Delhi and outside, commenced from Jantar Mantar and was stopped by Delhi Police at Parliament Street. The rallyist raised slogans including “Repeal Armed Forces Special Powers Act, 1958”, “Down with State Terrorism”, “We want Justice” and “Long live Irom Sharmila”, “Long Live Manipur”.

A public meeting and a press conference preceded the rally on 6th October. Miss Irom Sharmila addressing the Press Conference reaffirmed her decision for democratic struggle for repeal of the draconian Armed Forces Special Powers Act, 1958. Coordinators of the Apunba Lup, Yumnam Devadutta, Ayekpam Langdon, Phulindro Konsam and Laishram Babloo also addressed both the press conference and the public meet, where they spoke on the state repression and military abuses in Manipur and the sufferings of the people of Manipur under AFSPA.

Apunba Lup would like to clarify that it has no decision and stance to meet any of the officials of the Government of India, including the Home Minister or the Prime Minister till AFSPA is repealed. The Government of India has still failed to respond positively to the call of the people of Manipur for repeal of the Draconian Armed Forces Special Powers Act as reflected in their unwillingness, lack of sincerity and seriousness to act upon on the recommendations of the Justice Jeevan Reddy Review Committee of the Armed Forces Special Power Act, formed in 2004. This will constitute further violations, as justice delayed is justice denied.

Apunba Lup will now explore and adopt serious means and resort to campaign with the International community to extend their solidarity and support to repeal the AFSPA and for an end to the suffering and grievances of the people of Manipur. Apunba Lup expresses our certainty that the decisions and approaches of the Lup will continue to be taken in due consideration of the wishes and aspirations of the people of Manipur and the position of Miss Irom Sharmila.

Apunba Lup would like to urge upon all concerned individuals, including media persons to seek detailed information with the coordinators of Apunba Lup in New Delhi and the coordinating team in Manipur as the current issue has reached a very critical and serious stage and also to avoid any misinterpretation of the situation. Apunba Lup expresses our gratitude to all students, progressive organizations, human rights groups and individuals in Delhi and other states for extending their solidarity and support with Miss Irom Sharmila in her struggle and call for repeal of AFSPA. Apunba Lup would like request all to extend their valuable support for repeal of the Armed Forces Special Powers Act from Manipur and North Eastern States.

Coordinators, Apunba Lup

Yumnam Devadutta
Ayekpam Langdon
Phulindro Konsam
Babloo Laishram

UNIVERSAL PERIODIC REVIEW (UPR)
HUMAN RIGHTS COUNCIL
In accordance with Resolution 5/1 of 18 June 2007
**INDIA: Manipur Persistence of Impunity in
Northeast Region**
20 November 2007

Submitted by
CORE Centre for Organisation Research & Education

PART I Introduction

1. The human rights violations perpetrated in the North Eastern region of India, and particularly in Manipur¹, by the Indian armed forces (including paramilitary forces and the Central Reserved Police Force) under cover of the Armed Forces (Special Powers) Act of 1958 and similar draconian legislation² effectively conferring *de jure* and *de facto* impunity for all actions taken by officers of the armed forces and military personnel are a matter of long and detailed record. These records have been compiled by human rights activists and organizations of repute on the situation of ongoing armed conflict, substantiated by national and international non-governmental monitors and agencies such as Amnesty International, Human Rights Watch, the Asian Commission on Human Rights, South Asia Human Rights Documentation Centre, the Asian Centre for Human Rights and others.

2. The antecedents of the long-standing armed conflict lies in the history and political economy of the indigenous peoples and communities of Manipur, which comprise a typical multi-ethnic, multi-cultural Asian indigenous nation of the Indo-Burma region that lost its sovereignty through a complex process of political and cultural colonization initiated by British colonial intervention and continued by successor states in the region, in this instance, the Union of India³.

3. The main agents of this loss or erosion of sovereignty were widely acknowledged illegal military coercion, the forcible re-structuring of indigenous land holding and territorial patterns, the disenfranchisement of indigenous economic and judicial processes and the induction of alien systems and institutions of governance and the economy by the paramount British. All this occurred under a mantle of progress, continued by the successor governments of India.

4. Only fresh information since the last four years or current information of unchanged situations will be submitted in this report, in accordance with the review process, though we will recall to the Council that outstanding reports of such violations have till date received neither redress nor attention in any supportive and positive manner from the government of India or its concerned agencies and may thus be perceived as retaining validity for consideration as on-going cases of violation.

Self-determination

5. The armed conflict situation and its direct and indirect consequences of counterinsurgency military options, human rights violations including impunity are all rooted in the interpretation and expression of the fundamental right to self-determination, a right protected and promoted by the United Nations Charter and core human rights treaties, of which India is a State party. This is true of the situation in Manipur and many parts of the Northeast region of India.

6. Many armed opposition groups (AOGs) claiming as representing the aspirations various peoples, ethnic minorities and communities have emerged in Manipur since the late 50s of the last century. Armed struggles and conflicts are thus a reality of Manipur for five decades, as also the issues of human rights and the State's responsibilities and obligations in protecting the citizens' fundamental freedoms.

7. Attempts have been made to broker a negotiated peaceful settlement of these conflicts through cessation of open hostilities and commencement of talks; proposals, calls and counter-proposals have been offered by the conflicting parties.⁴ However, an environment of public debate or consensus for a democratic and effective political settlement of lasting peace that is free from fear and violence has been elusive.

Repressive military presence

8. There are about 350 military installations⁵ supposedly intended to contain the AOGs. Based on these figures and other information regarding food and fuel supplies from contractors to these installations, it is estimated there is approximately one troop for every 15 citizens, a proportion possibly higher than that used in many recognized active war zones.

High incidence of violations of rights to life and bodily integrity

9. Recently, the Chief Minister of Manipur, Mr Okram Ibobi has publicly stated that 8,000 civilians and 12,000 members of Government

Forces and AOGs had been killed till 2005 since the armed resistance began in 1970s⁶. This does not take into account those killings unrecognized by the Government or those victims of torture, disappearance or extended illegal detention and who have died as a later consequence of their injuries

10. Over the last 40 years, allegedly in the attempt to eliminate armed opposition groups, government military forces have been committing gross human rights violations⁷; massacre, extrajudicial execution, enforced disappearance, rape, torture, human shield, arson, plunder, forced labor and forced displacement, etc.

Threats and violence to Human Rights Defenders

11. Human rights activists, defenders and organisations are also regularly victimized⁸ including by search operations and sealing of premises for various periods of time, under different pretexts, confiscation of equipment and materials, harassment, false imprisonments, violence and threats of violence to self and family members.

Lack of public peace and security disrupts normal life

12. There are about 50 general strikes every year over the last few decades⁹. These have caused acute economic and social problems to the population in conducting normal life.

13. The on-going general ambience of unprovoked and unpredictable violence has also provoked high levels of large scale trauma sequelae, affecting the physical, mental and social health of the population, that have been recognised for many years.

Involuntary Displacement

14. Widespread and frequent instances of involuntary displacement of indigenous populations, villages and groups have been reported and documented in Manipur. There are two main reasons for this displacement, which may be temporary or permanent, internal or external in character. The first is due to the armed conflict, related violence including military operations and fear for the safety of life and property.

15. The second type of displacement is due to a skewed development agenda pursued by the government under advisement of private corporate interests including financial and international cooperation institutions. Large multi-purpose projects, such hydroelectric and infrastructure projects¹⁰ result in larger and permanent displacement.

16. Both types of involuntary displacement in Manipur has been associated with violence, killings, repressive action by State agencies (police or paramilitary forces), loss or alienation of land and other properties, reversal of economic and social conditions, loss of cultural and natural heritage, and a range of inter-related human rights violations.

17. The state obligations to domestic and international human rights standards and agreements are neglected routinely in such instances where involuntary displacement has either taken place or is planned.

Victimization, assimilation and repression of indigenous religions

18. Indigenous Meitei institutions such as the *Maibi*, *Pena* and *Pandit Loisangs* have become controlled by legislation that hands over the control to a dominant religious board, viz., the Manipur Govindaji Temple Board Act. The Gauhati High Court routinely identifies indigenous Meitei deities as Hindu deities and thereby alters the identity of the deity and its cultural context and ownership. The freedom to practice the indigenous religion is violated.

19. Sacred sites including sacred groves and water bodies are routinely taken over by development projects and privatised, by infrastructure installations and by the military. The military also regularly installs temples of dominant Hindu deities at indigenous sacred sites.

PART II

Recommendations with regard to India's domestic legislative and statutory environment vis-à-vis human rights

20. Repeal the Armed Forces (Special Powers) Act 1958 unconditionally;

21. Ensure that provisions taken from the AFSPA are not introduced into the recently Unlawful Activities (Prevention) Act, (UAPA) 1967, and amend the UAPA to bring it into line with international human rights law;

22. Ensure that law enforcement personnel, including armed forces deployed for law enforcement purposes, respect the standards set out in the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

23. Amend Section 19 of the Protection of Human Rights Act which prohibits the National Human Rights Commission and State Human Rights Commissions from independently investigating allegations of human rights violations by members of the armed or paramilitary forces;

24. Repeal/review

- The National Security Act, 1980 (NSA) which empowers the executive to detain suspected insurgents for a long time without producing them before the court.
- The Prevention of Seditious Meetings Act, 1911, which violates the freedoms of expression and assembly.
- The Code of Criminal Procedure (Manipur Amendment) Act, 1983 which provide for impunity to the law enforcement agencies.
- The Punjab Security of State Act, 1953 (PSSA) which empowers the Government to impose collective fines to the civilian population.

25. Military Court in India curtails rights of independent and impartial justice, it disregards the doctrine of natural justice – “*No one should be a judge in his own cause*”. Armed forces officers convene the martial tribunals and an office known as Judge Advocate General in the Armed Forces acts as Minister of Justice for every offense committed by military personnel¹¹.

- Amend the Article 136 (2) and 227 (4) in Indian Constitution so that there can be judicial access to the crimes committed by the government armed forces¹².

20. India ratified the Geneva Conventions on 16 October 1950. On 14 August 1961, by enacting the Geneva Conventions Act by the Parliament of India it came into force throughout country

- Implement (International Humanitarian Law) the Four Geneva Conventions as Manipur is in the armed conflict situation. Allow access to International Humanitarian Agencies like ICRC, international defenders and journalists.
- Ratify Additional Protocol II to the Conventions.

Concerns pertaining to Indigenous Peoples

21. The Land Acquisition Act, in violation of its own constitutional law and provisions such as Schedules V and VI, is a colonial act that violates all the rights of indigenous peoples to their ancestral lands and natural resources, their traditional knowledge, languages and culture and their religious and spiritual practice. A new Land Act must be promulgated that respects India's commitment under its Constitution and international obligations

National Human Rights Institutions, Access and Monitoring

22. National Human Rights Institutions (and State level Institutions) are presently disabled by limitations in the extent of their powers. They are not permitted to compel compliance from armed and paramilitary forces. This should be amended. They also have limited powers with regard to ensuring compliance from government agencies. They are also frequently inadequately staffed and supported with human and other resources.

PART III

Recommendations for India to implement during its tenure on the Human Rights Council in regard to its obligations under international law and treaties

23. India should immediately ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which it signed in 1997.

24. India should comply with the recommendations made by independent expert monitoring mechanisms for international conventions and treaties to which it is party.

The UN Human Rights Committee in 1991 gave its observation that Government of India violates the non-derogable rights with official sanction in Manipur even without the declaration of state of emergency¹³

In 1997, the Committee remains Concerned at the continuing reliance on special powers under legislation such as the Armed Forces Special Powers Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations, in particular with respect to Article 6,7,9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups¹⁴

In 2007, the Committee on the Elimination of Racial Discrimination urged India to repeal the Armed Forces (Special Powers) Act and seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making processes related to such projects and provide adequate compensation and alternative land and housing to those communities.¹⁵

The Committee on the Elimination of Discrimination against Women in 2007 also expressed concern about the review of the Armed Forces (Special Powers) Act.¹⁶

The Committee on the Rights of the Child has also made recommendations in regard to the situation of indigenous children and children in Armed Conflict in response to the two periodic reports on India that have been reviewed. These have not been implemented.¹⁷

25. India has made certain specific commitments when it bid for its election to the Human Rights Council in the document “Note verbale dated 1 December 2006 from the Permanent Mission of India to the United Nations addressed to the Secretariat” (A/61/718; General Assembly, 61st session) with “Voluntary pledges and commitments by India” in its campaign seeking re-election to the Human Rights Council this term, in its Annex;

26. India must extend a standing invitation for all Special Procedures under the UN Charter.

27. India must respond positively and expeditiously to specific requests for visits by Special Procedures mandate holders such as the Special Rapporteurs on Torture and Extrajudicial Execution, the Working Groups on Enforced Disappearances and Arbitrary Detention, and the Special Representative on Racism.

28. India must respond appropriately and promptly to interventions from special procedures mandate holders, set up specific mechanisms for the monitoring of the implementation of international treaties and the recommendations of their monitoring bodies, and submit its treaty-based periodic reports in time.

End notes:

1 Annexure I: A brief introduction to Manipur (CORE document)

2 Annexure II: Armed Forces Special Powers Act 1958; a law for extra-judicial execution in perpetuity by Dr. Naorem Sanajaoba, Professor and Dean of Law Faculty, Gauhati University. Assam, Jan 2007

3 The British government of India was succeeded on 15 August 1947 by the two Dominion governments of India and

- Pakistan (headed by Governor Generals appointed by the British Crown). India only became a Republic with a Constitution of its own in 1950.
- 4 These have included cease-fire and talks, laying down of arms (surrender) in exchange for gainful employment by the government, call for a free plebiscite, re-organisation of territories and constitutional provisions, etc.
 - 5 Annexure III: Deployment of Indian military forces in Manipur (an informal compilation, unpublished), CORE
 - 6 AFSPA-Lawless law enforcement according to Law: editorial Sangai Express, 16/06/2003
 - 7 Annexure IV: Some incidents of human rights violations by Indian armed forces.
 - 8 Irom Sharmila agitation to repeal AFSPA - timeline 2006 -2007
<http://www.e-pao.net>
 - 9 Survey of Public Strikes and Bandhs in Assam and Manipur, 2005 -2007; independent CORE documentation, unpublished
 - 10 For example, the 1500 MW Tipaimukh Hydroelectric Multipurpose project will result in a super high dam and massive reservoir in Manipur. The project has been rejected and resisted by the indigenous people of Manipur since the late 80s, but state plans to build the dam have still not been abandoned for better options.
 - 11 Annexure V Note on extrajudicial execution of Miss Thangjam Manorama
 - 12 Annexure VI Note on Article 136 (2), Constitution of India 5
 - 13 Annexure VII
 - 14 Annexure VIII
 - 15 Consideration of Reports submitted by States Parties under Article 9 of the Convention; Concluding observations of the Committee on the Elimination of Racial Discrimination: INDIA (CERD/C/IND/CO/19); Paragraphs 12, 19
 - 16 Annexure IX
 - 17 See Concluding observations of the Committee on the Rights of the Child

Media restrictions in Manipur is a step backward in resolving the armed conflict

The state government of Manipur has imposed a series of restrictions regarding the “publication of objectionable materials”, by the media in the state through its notifications dated August 2 and 14, 2007. The restrictions were published as orders issued by the State Home Department. These orders is a response by the state in the excuse of protecting the media from being forced to publish materials related to the armed resistance groups in the state. The language used in these orders is of such nature that it is possible to be interpreted in different forms leaving a large margin for misuse.

Manipur is a state in the Northeast of India from where human rights abuses like rape, torture, killing and disappearances are being reported in alarming numbers. The paramilitary and the military stationed in Manipur are alleged to be responsible for the majority of the cases of rights abuses reported from the state. The Asian Human Rights Commission is also aware that a considerable number of cases of human rights abuses are committed also by different factions of armed resistance groups operating in the state.

The media restrictions imposed in the state, in unqualified terms, states that the local media must not report any information related to the activities of the armed resistance groups functioning in Manipur. The first order that was issued on August 2, 2007 prohibits publication of any information which is “directly attributed” to & “unlawful organisations, organized gangs, organisations, terrorist and terrorist related organizations”. The order however is silent regarding which organization is to be considered unlawful and which is not.

The use of the word “organizations” in the above quoted clause from the order, can in theory, cover every organization in the state. In addition to the order issued on August 2 yet another order was issued on August 14, “partially modifying” the earlier order.

The language used in this order is equally confusing and loose ended. For example, the order issued on August 14 prohibits publication of “seditious or subversive literature affecting the integrity of the nation”. Prohibition also applies for “publication” of “threats of any sort” by any organizations or even “a person” or a particular class of persons”. The order is silent regarding what is to be considered as: “seditious or subversive literature”. Any media house breaching the orders could face actions, including search, confiscation and destruction of materials.

Freedom of speech and expression, a fundamental right in India, is not construed as an absolute right, without any restrictions, though in ideal circumstances it must be so. The Press Council of India has formulated its own regulations regarding acceptable standards for publishing and broadcasting materials by the media in India. A complete ban, when imposed upon the media, curbs media freedom and is often counterproductive.

The media in India and abroad has protested against the orders. Several other civil society organisations have also joined the protest. However, the state government has not backed off from its position and has in fact threatened that it will take actions against those media who would dare to comment against the government order.

The media has a role to play in conflict situations. The fact that there is an armed conflict in Manipur could not be denied. The presence of an independent media, free to report about the facts and circumstances in a conflict situation, is an equally important factor in any process to bring an end to an armed conflict. In a conflict situation, even when baseless rumours could breach a possible peace process, a free and fair media could be the eye and ears of the people.

Through the prohibition what has been made clear is that the state administration has decided to shut off these eyes and ears of the people. In such circumstances one could only assume that the state government has issues to cover-up in the darkness created by a media black-out. Such an attempt will not go down as an honest attempt to resolve the conflict in Manipur, but is in fact a step backward.

Asian Human Rights Commission
Hong Kong, AS-204-2007, August 29, 2007

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Submission of Committee on Human Rights (COHR), Manipur

**On Human Rights Situation in Manipur (India) to OHCHR
Concerning the Universal Periodic Review of the Government of India
At the UN Human Rights Council in April 2008**

Introduction

1. In conformity with the UN Human Rights Council's resolution 5/1, 18 June 2007, the COHR, Manipur, which is an apex representative human rights organization constituted by NGOs and civil society organizations of the state of Manipur, takes the opportunity to submit this report on the human rights situation in Manipur in India's North East, with particular reference to the ongoing, gross human rights violations that the people of Manipur has been subjected to since the forcible annexation of sovereign Manipur into dominion of India on 15 October 1949 till date. The COHR has led mass movements in Manipur from 1993 by addressing the human rights violations in Manipur and continues to relentless campaign for justice and protection of human rights; it had submitted an alternate report to the UN Human Rights Committee in consideration of Third Periodic Report of the Government of India in 1997 and it substantiates, in the following paragraphs, the failure of the Government of India [government hereafter] to fulfill its national and international human rights obligations. The report comprises three essential components, the first dealing with India's human rights obligations; the second component addressing the trend of human rights violations by the Government, and the last part, outlining the urgent appeal of COHR based on non fulfillment and systematic disregard of India's human rights obligations.

India's Human Rights Obligations

2. The Government has ratified the ICCPR on 10 April, 1979 with reservations and declarations to articles 1 (Right to Self-Determination), Art 9 (Prohibition of Arbitrary Detention), Art 12 (Freedom of Movement), Art 19 (Freedom of Expression), Art 21 (Peaceful Assembly) and Art 22 (Freedom of Association) of the Covenant. India has signed Convention against Torture, 1984 on 14 October 1997 but still has not ratified the treaty. India also made reservations to Article 1, 4 and 8 of the ICESCR, while ratifying the treaty. Under Article 2 of ICCPR, India is obliged to ensure to all individuals within its territory and jurisdiction the rights, recognized in the covenant. The Supreme Court of India has endorsed

covenants of the United Nations in public interest litigation cases as in the case of PUCL vs. Union of India (1997)2JT 3/1/1), among others. The fundamental rights under chapter III of the Constitution cannot be suspended even during times of emergency, following 44th amendment of the Indian Constitution. Under reporting obligations of Article 40 of the ICCPR, India has submitted three periodic reports; and the fourth report, already due in 2001, has not been submitted till date.¹ For 7 long years, when every moment is painful to every Manipuri, India had willfully evaded the reporting obligation, in order to apparently conceal gross human right violations from UN scrutiny.

3. India had enacted the Protection of Human Rights Act, 1993 (PHRA) and the National Human Rights Commission (NHRC) was established to inquire into complaints of human rights violations. However, article 19 of the PHRA disempowers the NHRC to investigate *suo motu*, cases of human rights violations perpetrated by the Armed Forces of India. India has ratified the Geneva Conventions on October 16, 1950. Accordingly, the Parliament has passed the Geneva Conventions Act, 1960. The Government is yet to sign both Additional Protocols of 1977 and indicate its political will to honor laws of armed conflict in the entirety.

4. The Government continues to make assurances to promote and protect human rights internationally and to review declarations and reservations to human rights treaties. In consideration of India's Second Periodic Report to ICCPR on 26 – 27 March 1991, India's Attorney General, Mr. Ramaswamy assured the HRC of the UN that he would convey to his Government "seriously to consider about the reservations" to ICCPR. The assurance has not yet been materialized even after 16 years.

Human Rights Situation in Manipur Denial of Right to Self Determination of the people of Manipur Consequential Indo- Manipur conflict

5. Manipur, in India's NE region (Annex I - III), was a sovereign state [kingdom] until its fall to the British in 1891 and had regained its sovereign nation status on 14 August 1947 and it had been forcibly annexed by India on 15 October 1949. The first democratic election of sovereign Manipur was held in August 1948 under the independent Manipur Constitution Act, 1947 (Annex IV) thereby creating Manipur Assembly [read parliament]. India relegated independent Manipur to the status of 'Part C' state or, after acquired NSGT (Non Self- Governing

Territory) after extracting under duress the disputed Manipur Merger Agreement on 21 September 1949 (Annex V). No referendum/plebiscite of the people of Manipur on the merger issue had ever been held and with the enforced annexation, the Government has denied the right to Self-Determination of the people of Manipur. The referendum is still pending. The forcible annexation and resultant military occupation of the sovereign state of Manipur in 1949 has been opposed since 1978, as encouraged by the UN charter in self preservation of its sovereignty and espoused by several UN GA resolutions since 1960 till date, by the armed resistance movements of the Revolutionary People's Front (RPF- its military wing being the PLA)² (Annex VI) and the United National Liberation Front (UNLF-its military wing MPA), The rejection of merger agreement has also come from the people of Manipur (Annex VII - IX).

6. The state of Manipur has been recognized as an independent country as early as 550 B.C in the Burmese royal chronicles and in 33 A.D as per Manipur's own royal chronicle – *Cheitharol Kumbaba* and has never been part of British India. Manipur's political independence had been internationally reaffirmed, among others, by Anglo- Manipuri Defence Treaty, 14 September, 1762 A.D and Anglo- Burmese Yandaboo Treaty 24 February 1826 A.D. (ANNEX X). The British did not annex Manipur even after defeating Manipur in 1891 Anglo-Manipuri war as the Queen of England in due recognition of indomitable spirit of two millennia-old Manipuri nationalism, had deliberately foregone her right to annex Manipur.³ By the wilful denial of the inalienable right to Self- Determination, that the Government endorsed religiously since 1960s, to the people of Manipur, India has blatantly violated Article 1 of two International Covenants, ICCPR and ICESCR to which the government is a respected party, notwithstanding the fact that India has played a crucial role in adopting UN General Assembly resolution⁴ on the "Right of the people to Self determination" in 1960.⁵ The government had not fully answered in 1997 to the UN HRC's examination of India's ambivalence towards exercise of ICCPR article 1 in regard to Manipur, which had been racially alien, dependent and subjugated by government since 1949 annexation and therefore, automatically falls in the jurisdiction of ICCPR article 1 reservation. The government ought to make itself unflinchingly accountable to the Human Rights Council in 2008.

7. The Government adopted a military response, by enacting emergency legislations in repudiating the Manipur peoples' rejection of the forced annexation of Manipur. Massive deployment of armed forces

and military action had been undertaken under the Armed Forces Special Powers Act, 1958 (hereafter AFSPA) (Annex XI) and other security legislations, including the Unlawful Activities Prevention Act, 1967 (UAPA) (Annex XII) the National Security Act, 1980 (NSA), Prevention of Terrorism Activities Act, 2002 (POTA (Annex XIII), Prevention of Seditious Meetings Act, 1911. Initially applied in several districts of Manipur from 1958, the entire state of Manipur was declared ‘disturbed’ under the AFSPA by 8 September 1980. (ANNEX XIV). The invocation of emergency legislation, such as AFSPA, while denying the right to self determination of the people of Manipur has led to suspension of the non-derogable fundamental rights under article 4 of the ICCPR, recognized both in the constitution of India and in international human rights covenants and declarations, primarily the “Right to Life”, “Right Against Torture” and “Right to Judicial Remedy”, etc. Even the so called independent judiciary- the supreme court in 1997 willfully evaded the Human Rights Committee’s advice to comply with international covenants and justified extrajudicial execution or, virtual genocide of Manipuris.

Gross Human Rights Violations in Manipur under unproclaimed Emergency

8.The AFSPA, couched in the colonial Armed Forces (Special Powers) Ordinance promulgated by the colonial British government on 15 August 1942 to suppress “Quit India Movement” was imposed despite the stern opposition of representatives of Manipur to the Indian Parliament. Manipur’s Member of Indian Parliament (MP), Mr. Achou opposed the Bill to enact the AFSPA, 1958 in the parliamentary debate on 18th August 1958, “I rise to oppose this Bill...I failed to understand why the military authorities are to be invested with special powers... it is therefore, dangerous to invest the military authorities with extraordinary powers of killing an arrest without warrant.....This is black law. This is also an act of provocation on the part of the Government...”. Manipur Hill MP Rungnung Suisa argued against the AFSPA, “All these ordinances and sending of Armed Forces will not solve the problem.” Shri Mohanty, another MP from Orissa had argued, “...we do not want a free India with barbed wires and concentration camps, where Havildars can shoot any man”⁶ Had the Government honored basic federal principle of constitutionalism; it should not have enacted the black, as all the MPs of Manipur had opposed the bill.

9. The invocation of AFSPA for half a century in Manipur has blatantly violated non- derogable rights, primarily the “Right to life” as provided for by article 4 of the ICCPR. Under section 4(a) of AFSPA, a non commissioned officer of the Indian army can shoot to kill in mere suspicion of crimes defined by the Government. Article 6 of ICCPR provides that “Every human being has the inherent right to life. No one shall be deprived of his life”. Article 4 (b) of the ICCPR provides no derogation from articles 6, 7, 8, 11, 15, 16 and 18 of the Covenant. Manipuri youths are primary victims of daily and routine genocidal extra- judicial executions. Innumerable incidents of extra judicial execution, fake encounters, massacres, arbitrary detention, torture, forced disappearances, rape, sodomy, destruction of property and looting by Indian armies targeting innocent people are well documented worldwide. Reports of respected organizations, including COHR and Amnesty International (AI) in the last three decades corroborate the heinous crimes committed by the state forces in Manipur and the NE region for half a century. Women, children and youths are often victims of indiscriminate killings and abuses by security forces in their operations against armed opposition groups⁷ Apart from the armed forces, law enforcing agencies, the Manipur police commandos has also committed human rights violations with impunity, although special powers are not entitled to them, except under special circumstances the Code of Criminal Procedure had provided for. (Annex XV – XXII).

10.The invocation of AFSPA in Manipur and India’s NE region has violated Article 4 (a) of ICCPR on declaration of “States of Emergency” since de facto emergency has been imposed without formal promulgation of any form of public emergency. Under Section 3 of AFSPA, Manipur has been declared as a “disturbed area”. The UN Human Rights Committee (UN HRC) in its consideration of India’s Third periodic report to ICCPR, 1997 observed that the Government is resorting to emergency powers without adhering to article 4 of ICCPR, that stated “Any State Party to the Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the Secretary-General of the UN, of the provisions from which it has derogated and of the reasons⁸ .”. Human rights organizations including AI has maintained that declaring an area a “disturbed area” and granting the military extensive powers is in practice imposing an undeclared emergency regime.⁹

11.Section 6 of the AFSPA specifies that, “No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Government, against any person in respect of anything

done or purported to be done in exercise of the powers conferred by this Act". This impunity provision is found to be expressly incompatible with the obligations of the Government under Article 2 (3) of the ICCPR to ensure the provision of an effective remedy in cases involving violations of human rights.¹⁰

12. The UN HRC also expressed its recurrent and profound concern about serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by armed forces and the paramilitary acting under these laws.¹¹ The Committee on the Elimination of Discrimination against Women in 2000¹² and the Committee on the Rights of the Child further confirm that women and children in Manipur and other parts of North- East have also suffered serious abuses under the AFSPA.¹³ The Committee on the Elimination of All Forms of Racial Discrimination also urged upon the Government to repeal the AFSPA in March 2007.¹⁴ Notwithstanding UN Human Right Committee's recommendations to the contrary, the Indian Supreme Court upheld the constitutionality of AFSPA in a 1997 judgment. The court ruled that the powers given to the army were not "arbitrary" or "unreasonable" and concluded that they did not violate the contested provisions of the Indian Constitution.¹⁵ (ANNEX XXIII). The apex court owes explanation to the UN HRC in 2008. The UN Special Rapporteur on Extra Judicial Execution, Philip Alston had called upon India to repeal the (Special Power) Act, 1958¹⁶ The Administrative Reforms Commission (ARC) of the Government of India, headed by M Veerappa Moily in its fifth report on Public Order has also recommended the repeal of AFSPA, 1958.¹⁷

13. The typical response of the Government to cases of rampant human rights violation both by the armed forces and the law enforcing agencies in Manipur is the institution of Commission of Inquiries under the Commission of Inquiry Act, 1952. A basic problem of setting up Inquiry Commissions lies in the lack of transparency, concealing of inquiry reports without any action taken to the perpetrators. As for instance, the tactics of commission of Inquiries constituted in response to mass uprising against the sexual harassment and torture of Maibam Naobi Chanu by Manipur Police commandoes in February 2006 and the rape and extra judicial execution of Thangjam Manorama Chanu by the soldiers of 17 Assam Rifles on 11 July 2004 has failed to prosecute and punish the perpetrators- the police commandos and the soldiers 17 Assam Rifles; the findings and recommendations of the inquires are not yet made public. The special Rapporteur on EJE, P. Alston, reported to the UN Human Rights Council in

2007 that despite the Government of Manipur ordering numerous inquiries into the alleged extrajudicial executions, none of them ultimately reached any meaningful conclusions.¹⁸ The government owes explanation to the UN HRC in 2008.

14. The armed forces of India refused to cooperate with public Inquiry commissions and went further to the extent of challenging the jurisdiction of commissions of the state government in the Gauhati High Court. The army also refused to comply with summons orders of the state Inquiry commission inspite of its previous assurances of lending full cooperation. The Defence Ministry of India even challenged the right of the state government of Manipur to order Inquiry into the death in custody of 15-year-old school boy Kangujam Ojit in February 1997¹⁹ thereby encouraging his forces to recurrently commit heinous crimes in occupied territory. The ministry owes explanation to the UN HRC in 2008,

15. In the prevailing armed conflict situation of Manipur, not less than 50,000 Indian soldiers in addition to several thousands of police, mercenaries, spies etc in a population of 2.4 million are deployed. With the enactment of AFSPA, massive deployment of armed forces in Manipur continued; the armed forces are occupying sacred cultural sites and prime agricultural land, depriving primary survival sources of Manipuri peoples. Manipur has become one of the most militarized areas of the world. Out of 1700 sq. kilometers of land in the central Imphal valley of Manipur, a great portion of land has already been occupied by the occupation forces. Just to cite one example, in a mere distance of hardly 5.5 Kilometers from Sangakpham bazaar and Koirengei Duck Farm, Heingang Constituency, near Imphal, capital of Manipur, the land allocated to security forces is 470 acres, 2 acres at Sangakpham to Assam Rifles, 3 acres at MSRTC complex to CRPF, 80 acres at Tandan Pukhri Maning, Mantripukhri to CRPF including the shooting range and the hill areas, 231.47 acres to Assam Rifles at Lamlongei, Matai, Khabam Lamkhair and Luwangsangbam, 74.20 acres at Koirengei old Air field, 50 acres at Koirengei Bazaar given to BSF, two acres at Nilakuthi Vanaspati factory to Assam Rifles and another 2 acres to BSF at Nilakuthi Drug Formulation Centre.²⁰

16. The report of the Justice Jeevan Reddy Review Committee on AFSPA, [as reported by the Hindu daily on 8 October 2006] has recommended the repeal of AFSPA. The review Committee was formed as a response to stern peoples movement to repeal AFSPA in the wake of the rape and murder of Thangjam Manorama Chanu by 17 Assam Rifles on 11 July 2004 in Manipur.²¹ The report "unambiguously" recommends the

repeal of AFSPA and lucidly records that “the Act (AFSPA) for whatever reason has become a symbol of oppression, an object of hate, an instrument of discrimination and high-handedness.” In violation of established parliamentary convention which the opposition by tacit agreement, the Government has not yet tabled the report before the parliament since 2005 and the racially discriminatory opposition parties remain silent religiously thereby approving the genocide in Manipur. They have to report the apathy to the UN HRC in 2008. The Speaker of the Lower house of parliament had supported the repeal of the black law. The NHRC of India has also recommended the repeal of AFSPA in 1997 by way of impleading in the 1997 hearing of Supreme Court of India on AFSPA. However, the Government of India has still yet to repeal the AFSPA, 1958 till this report is prepared.

17. The Government has not signed the ICC Rome Statute of 1998. By evading ICC prosecution the Government has been actively promoting impunity and immunity of Indian armed forces, who had committed heinous crimes of genocidal nature in Manipur in the process of subjugating the universally acclaimed and legitimate national liberation struggle which the colossal racist India Mass media tarnish as terrorist crime. The same media had supported national liberation in the rest of world since 1945. They owe an explanation to the UN bodies. The government does not enact penal legislations either in order to terminate impunity of individuals committing heinous crimes, as are being committed in Manipur for half a century.

18 After India has ratified the Geneva Conventions of 12th August 1949, the parliament has passed the Geneva Conventions act, 1960 which came into force since 14-8-1961. The government had never invoked the 1960 Act towards taking errant soldiers to task on commission of breach of the conventions in Manipur. The Government is yet to sign both Geneva Protocols of 1977. Despite the fact that India has signed the Geneva Conventions, it has continued to violate “Common Article 3” of the four conventions. (Annex XXIV). The Government continues to blindly misconceive the Indo-Manipur conflict that had claimed more than 10,000 civilian casualties and traumatized a million of civilian population for half a century, as routine law and order problem.

Conclusion

19. The sustained deployment of armed forces for half a century in the NE region implies the need for invoking international humanitarian

laws. The deep structured political and nationality questions that characterize the turmoil in Manipur deserve political attention, just and fair resolution. The human rights violations following the invocation of special emergency laws, primarily the AFSPA for nearly half a century has been inextricably associated with the denial of right to Self- Determination of the people of Manipur. The United Nations Human Rights Committee in its recommendations in 1997 has also observed that the Indo-Manipur conflict is political requiring political solution. (Annex XXV) Despite intense pressure and call from human rights fraternity, to repeal AFSPA from Manipur and to resolve the deep rooted political conflict, the Government continues to be insensitive and has insisted on utterly futile and counterproductive military response in dealing with the Indo-Manipuri conflict.

Urgent Appeal

20. Allow the indigenous people of Manipur to exercise their inalienable right to Self - Determination under Article 1 of the International Covenant on Civil and Political Rights, ICESCR and general international law.

21. Repeal the Armed Forces (Special Powers) Act –the draconian emergency legislation.

22. The OHCHR ought to depute a fact finding commission in Manipur in order to investigate gross human rights violations in Manipur with the participation of independent experts including the UN Special Rapporteur on extrajudicial executions, on torture, on violence against women, on human rights defenders etc.

The COHR further appeal through the good offices of the Council -

23. Urges upon the Government of India to submit its fourth Periodic report which had been due by 2001 year end, to the UN Human Rights Committee of the ICCPR

24. Urges upon India to sign the Additional Protocol I and II, 1977 of the Geneva Conventions

25. Urges upon India to sign and ratify the ICC Rome Statute of 1988

26. Urges upon the Government of India to withdraw its reservations in International Bill of Rights

Sd/-
(N. Chaobi Chanu)
Co Convenor
The 14th November 2007, Imphal, Manipur

Footnotes

- ¹ “Revisiting Justice Reddy Report on Armed Forces Special Powers Act, 1958 “ by Naorem Sanajaoba, Gauhati University Journal of Law, volume Vi, 2006 ,pp. 9-42.
- ² (<http://www.geocities.com/CapitolHill/Congress/4568/memorandum/index.html>)
- ³ “British Political Agency in Manipur (1835-1947)” by Dr. Kh. Sarojini Devi, Linthoi Publications, Raid Robert. Op-cit, p. 19
N. Sanajaoba, Manipur Treaties (1110-1971), Vol I, 1993, Mittal Publications, New Delhi – British Parliamentary debate on annexation of Manipur in 1891 see pp. 59– 239.
“British Political Agency in Manipur (1835-1947)” by Dr. Kh. Sarojini Devi, Linthoi Publications
- ⁴ UN General Assembly Resolution 1514(XV) of 1960
- ⁵ “Revisiting Justice Reddy Report on Armed Forces Special Powers Act, 1958 by Naorem Sanajaoba, Gauhati University Journal of Law, volume Vi, 2006)
- ⁶ Lok Sabha Debates second series, volume XVIII, 1958 (11 August 1958), Lok Sabha Secretariat, New Delhi
- ⁷ Amnesty International’s report, India: ‘Operation Bluebird’, A case study of torture and extrajudicial executions in Manipur, October 1990, AI Index: ASA 20/17/90
- ⁸ Concluding observations of the Human Rights Committee: India. 04/08/97. CCPR/C/79/Add.81, para. 19.
- ⁹ “India: Briefing on the Armed Forces (Special Powers) Act, 1958”, AI Index: ASA 20/025/2005, 9 May 2005
- ¹⁰ Report of UN Special Rapporteur on Extrajudicial Execution to the UN Human Rights Council, A/HRC/4/20/Add.1
- ¹¹ Id. at para. 18.
- ¹² Concluding observations of the CEDAW: India, 01/02/2000, at para. 72

– “The Committee recommends a review of prevention of terrorism legislation and the Armed Forces Special Powers Act.....”

- ¹³ Concluding observations of the CRC, India, 23/02/2000, at para. 63 and 26/02/2004, para. 68-9.
- ¹⁴ Concluding Observation of the Committee on the Elimination of Racial Discrimination, 17th Session of CERD Committee, 19 February to 9 March 2007 (CERD/C/IND/CO/19 March 2007)
- ¹⁵ Naga People’s Movement of Human Rights v Union of India [1997] ICHRL 117 (27 November 1997).
- ¹⁶ A/HRC/4/20/Add.1 Report of the Special Rapporteur on Extra Judicial Execution to the UN Human Rights Council
- ¹⁷ “ARC for repeal of Armed Forces Act”, The Hindu, 26 June 2007
- ¹⁸ E/CN.4/2006/53/Add.1., Report of the UN Special Rapporteur on Extra Judicial Execution, to UN Human Rights Council
- ¹⁹ INDIA: Manipur: The silencing of youth, AI Index: ASA 20/005/1998, 1 May 1998
- ²⁰ “Shall We Listen: Militarization in Manipur”, By Jiten Yumnam, Imphal Free Press, 1 May 2005
- ²¹ ‘Repeal Armed Forces Act: Official Panel,’ The Hindu, 08 October 2006. Available at: <http://www.hindu.com/2006/10/08/stories/2006100806130100.htm>

Extra-judicial killing

The International Secretariat of the World Organisation Against Torture (OMCT) requests your **URGENT** intervention in the following situation in India.

Brief description of the situation

The International Secretariat of OMCT has been informed by the Centre for Organisation Research & Education (CORE), a member of OMCT SOS-Torture network, about the extra-judicial killing of Mr. **Longjam Uttamkumar**, 34 years old sales executive resident in Keishamthong Longjam Leika, Imphal West, on 29 March 2008, by members of the Manipur Police Commandos in Imphal City, Manipur.

According to the information received, on 29 March 2008 at around 3.30 p.m., Mr. Longjam Uttamkumar got from work on his scooter (bearing registration no. 4952), when two armed individuals dressed in plain clothes, who had reportedly followed him, rushed towards him and allegedly, without saying a word, fired indiscriminately at him in the courtyard of his residence.

According to the same information, Mr. Longjam Uttamkumar, who was hit by the bullets in the upper and lower parts of his body, cried and ran, saying that he was innocent, but fell down just nearby the house of his uncle, Mr. Gyanendro, chased by an armed individual with a gun. After hearing the sound of the gun shots, his family, including his mother, Mrs. Meena, and his uncle, came out the house and witnessed the event. As Mr. Gyanendro tried to rush toward his wounded nephew, this latter was again reportedly shot twice. According to the information, Mrs. Meena also tried to intervene but the individual, who allegedly shot at Mr. Uttamkumar, threatened them with dire consequences, shooting three to four rounds in blank and forced them to return inside the house. Mrs. Meena reportedly peered through the window that another individual with a gun arrived on the spot, pulled out another gun and then, allegedly placed it beside the dead body. The individuals reportedly informed the family that they were members of Manipur Police Commandos.

According to the same information, the family members saw a Honda Activa bearing registration number 4042 parked at the gate and saw that one of the police commandos members took out a plastic bag and proceeded towards the site of the incident. After two to three minutes, a white car parked near the Honda Activa and after around 30 minutes, a police team in uniform reportedly came on the spot and allegedly seized a sum of Rs. 1, 50280, the scooter and one mobile handset from the deceased.

The police reportedly later informed that they had drawn an FIR No. 99(3)08 Imphal Police under section 307 IPC & 25 (IB) Arms Act (attempt to murder and offence modification firearms without licence respectively). Police claimed that Mr. Uttamkumar had been killed in an encounter and that they had recovered money and a pistol from the body. During a meeting with representatives of a Joint Action Committee (a citizen's group) on 30 March 2008, the Chief Minister of Manipur reportedly said that Mr. Uttamkumar had links with an UG group (an armed opposition group but not specified) and was guilty in many counts.

On 30 March 2008, Mr. Longjam Shanti, Mr. Uttamkumar's father, filed a complaint with the Office in Charge at Imphal West Police and a memorandum was submitted by a Joint Action Committee to the Chief Minister urging for prompt legal actions to punish the perpetrators.

The International Secretariat of OMCT is gravely concerned about the extra-judicial killing of Mr. Longjam Uttamkumar and more generally with the human rights situation prevailing in Manipur, as reports indicate that there is an increasing trend of extra-judicial killings, which mostly go unpunished. OMCT calls on the authorities to order a prompt, thorough and impartial investigation into the circumstances of this extra-judicial killing, in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law.

Action requested

Please right to the authorities in India urging them to:

- i. Order a prompt, thorough and impartial investigation into the circumstances of the extra-judicial killing of Mr. Longjam Uttamkumar in order to identify those responsible, bring them to trial and apply the penal and/or administrative sanctions as provided by law;
- ii. Guarantee that adequate reparation is granted to the victim's family;
- iii. Guarantee the respect of human rights and the fundamental freedoms throughout the country in accordance with national laws and international human rights standards

Please also write to the embassies of India in your respective country.

Geneva, 04 April 2008.

United Nations observation on India

I
UNITED NATIONS
General Assembly
Distr.
GENERAL
A/HRC/WG.6/1/IND/2
27 March 2008
Original: ENGLISH

HUMAN RIGHTS COUNCIL Working Group on the Universal Periodic Review First session Geneva, 7-18 April 2008

1. Treaty bodies invited India to consider the ratification of CAT, ICRMW, Palermo Protocol, ILO Conventions 138 and 182 relating to the abolition of child labour, ILO Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, ICCPROP1, OP-CEDAW; as well as to making the optional declaration provided for in article 14 of ICERD.

2. India was invited by treaty bodies to review the reservations or declarations it made to articles 1, 9, 13, 12, 19, paragraph 3, 21 and 22 of ICCPR and to articles 5 (a) and 16 (1) of CEDAW with a view to withdrawing them; and to consider withdrawing its reservation to article 16 (2) of CEDAW and its declaration to article 32 of the CRC.

3. Notwithstanding the comprehensive constitutional and legal framework in India, the HR Committee noted that international treaties are not self-executing in India and recommended full incorporation of ICCPR provisions in domestic law so that they may be invoked directly before the courts.

6. In 1997, the HR Committee welcomed the setting up of human rights commissions as well as human rights courts at State level. The Committee regretted that the NHRC is prevented from directly investigating complaints of human rights violations against the armed forces but must request a report from the central Government, and that complaints to the Commission are subject to a one-year limit.

16. In 1997, the HR Committee remained concerned at the continuing reliance on special powers under legislation such as the Armed Forces (Special Powers) Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations,

in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups. It emphasized that terrorism should be fought with means that are compatible with the Covenant.

25. Four special procedures expressed concern about the situation of the Manipuri indigenous communities in some areas of Manipur State. A case of rape and murder of an indigenous woman, as well as cases of excessive use of force and mass arrests during peaceful demonstrations were brought to their attention. Three mandate-holders also sent a letter regarding an indigenous human rights defender from Manipur who had allegedly been arrested without charge by the Manipur police commando. The Government replied that it did not recognize any separate category of its citizens as “indigenous peoples” and that there is no internationally accepted definition of the term. Mandate-holders in their response, stated, inter alia, that the absence of an international definition does not prevent the international community from taking constructive action.

27. In 2004, CRC expressed concern that the situation in areas of conflict, particularly Jammu and Kashmir and the north-eastern States, has seriously affected children. The Committee recommended that India ensure impartial and thorough investigations in cases of rights violations against children and the prompt prosecution of those responsible, and provide just and adequate reparation to the victims.

28. The HR Committee regretted that some parts of India have remained subject to declaration as disturbed areas over many years, and that in these areas the State was in effect using emergency powers. It therefore recommended that the application of those emergency provisions be closely monitored to ensure strict compliance with the ICCPR. The HR Committee, CEDAW and CERD raised particular concerns about the Armed Forces (Special Powers) Act, 1958 (AFSPA), and the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an allegation letter to the Government regarding it. He recommended that the Government consider either repealing the AFSPA or ensuring its compliance with international law. CERD and CEDAW also referred to the report of the Committee to Review the Armed Forces (Special Powers) Act (1958) set up by the Ministry of Home Affairs, which recommended the repeal of this Act.

29. The HR Committee also noted with concern that criminal prosecutions or civil proceedings against members of the security and armed forces, acting under special powers, may not be commenced without

the sanction of the central Government and stated that this contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with the ICCPR. Special Rapporteurs have also brought to the attention of the Government concerns relating to reports of alleged impunity for criminal acts committed by officials. In some cases relating to reports of death or ill-treatment while in detention, it is alleged that the authorities had attempted to block the investigation, to destroy evidence, or had taken no steps to investigate the allegations. The Special Representative of the Secretary-General on the situation of human rights defenders also raised her concern about what she sees as a pattern of impunity for violations committed against human rights defenders.

II
UNITED NATIONS
General Assembly
Distr.
LIMITED
A/HRC/WG.6/1/IND/3
[DATE]

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Working Group on the Universal Periodic Review
First session
Geneva, 7-18 April 2008

ADVANCE UNEDITED VERSION
25 FEBRUARY 2008

(Relevant portions)

1. The NHRC stated that it has been advocating for the ratification of the 1951 UN Convention relating to the Status of Refugees and the Torture Convention. People's Forum for UPR (PF for UPR) also noted that India has yet to ratify, *inter alia*, the ICRMW, CED, CEDAW-OP and ICCPR OP1 and OP 2. Amnesty International (AI) further noted that India has yet to sign the Rome Statute of the International Criminal Court. The Asian Indigenous & Tribal Peoples Network (AITPN) and the International Working Group on Indigenous Affairs (IWGIA) highlighted that India has

not ratified the ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries.

2. The PF for UPR considered that as international laws are not self-executing in India the Government has failed to bring conformity with the ratified treaties at the domestic level.

5. The NHRC stated that some parts of the country like Jammu and Kashmir and NorthEast region and some other States are facing the menace of militancy and terrorism. The Armed forces of the Union including para-military forces have been deployed in some disturbed areas to aid and assist the State Government authorities to handle the internal security situation. At times, there are allegations of human rights violations by the forces who conduct operations against terrorists and on receipt of such complaints, the Commission calls for reports from concerned authorities. The Army has issued strict guidelines to all ranks on the observance of human rights while operating in such areas.

6. AI regretted that India continues to display an unwillingness to cooperate with the UN Special Procedures. PF for UPR noted that the largest democratic country has failed to extend a Standing Invitation to the Special Procedures.

12. PF for UPR stated that violations of the right to life through custodial deaths, encounter killings, indiscriminate and disproportionate use of fire-arms and enforced disappearances are rampant. The NHRC reported 136 deaths in police custody and 1,357 deaths in judicial custody and 122 cases of encounter killings, quoted the PF for UPR.

13. According to Liberation, India continues to have a veritable spectrum of draconian laws that are supposedly aimed at stopping terrorism but are used effectively by state agents to abuse human rights. Liberation and AAI reported that these laws include the Central Government enacted Armed Forces (Special Powers) Act 1958 (AFSPA), National Security Act 1980 and the amended Unlawful Activities Prevention Act 2004. Liberation stated that the Armed Forces (Special Powers) Act 1958 remained in effect in Nagaland, Manipur, Assam and parts of Tripura. It also reported that a version of the law was in effect in Jammu and Kashmir, the Armed Forces (Jammu and Kashmir) Special Powers Act 1990.

14. The South Asia Forum for Human Rights (SAFHR) added that the chronic use of antiterrorist laws, preventive detention laws and the Armed Forces Special Powers Act, 1958 (AFSPA) have created a situation where the normal methods of 'investigation' have been replaced by disappearances, illegal detention, custodial torture, sexual violence

against women and summary executions disguised as armed encounters. The Committee on Human Rights Manipur (COHRM) noted that the invocation of the AFSPA for half a century in Manipur has blatantly violated non-derogable rights, primarily the right to life. Under section 4(a) of AFSPA, a non commissioned officer of the Indian army can shoot to kill in mere suspicion of crimes defined by the Government. Manipuri youths are primary victims of daily and routine extra-judicial executions.

17. The World Peace Forum (WPF) noted that section 4 (a) of the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990 authorizes the armed forces of India to “fire upon or otherwise use force even to causing of death against any person” without fire orders. The Jammu and Kashmir Public Safety Act (PSA) permits administrative detention of any person for a period of one year purely on the purported presumption that they may in future commit any act that will be harmful to the maintenance of public order or to the security of the State, noted the WPF. Under section 8(2) of this Act, the authorities are empowered not to disclose the grounds of detention to the detainee.

39. CORE reported that human rights defenders and organizations are regularly victimized, including by search operations and the sealing of premises under different pretexts, confiscation of equipment and materials, harassment, false imprisonment, violence and threats of violence to self and family members. FL is concerned that human rights defenders who tackle issues deemed sensitive by the government find themselves at considerable risk. Torture, preventive illegal or arbitrary detention, disappearances, ill-treatment, the use of excessive force, and the violation of due process rights are used by State actors to prevent human rights defenders from carrying out their legitimate and peaceful work. Human rights defenders who investigate and monitor atrocities committed by the police and custodial violence are at particular risk, as are Dalit and Tribal human rights defenders and those defending the rights of historically marginalized groups. Several human rights defenders in Punjab, Jammu and Kashmir and states of the north-east have been killed, according to FL.

The following abbreviations were used in the above texts:

- AFSPA (Armed Forces Special Powers Act)
- AI (Amnesty International)
- AIRPN (Asian Indigenous & Tribal Peoples Network)
- CAT (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)

- CED (International Convention for the Protection of All Persons from Enforced Disappearance)
- CEDAW (Convention on the Elimination of All Forms of Discrimination against Women)
- CERD (Committee on the Elimination of Racial Discrimination)
- CESCR (Committee on Economic, Social and Cultural Rights)
- CMW (Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families)
- COHRM (Committee on Human Rights Manipur)
- CORE (Centre for Organisation Research & Education)
- CRC (Committee on the Rights of the Child)
- FL (Front Line)
- HR Committee (Human Rights Committee)
- ICCPR (International Covenant on Civil and Political Rights)
- ICCPR-OP 1 (Optional Protocol to ICCPR)
- ICCPR-OP 2 (Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty)
- ICERD (International Convention on the Elimination of All Forms of Racial Discrimination)
- ICESCR (International Covenant on Economic, Social and Cultural Rights)
- ICRMW (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families)
- ILO (International Labour Organisation)
- IWGIA (International Working Group on Indigenous Affairs)
- NHRC (National Human Rights Commission of India)
- OP (Optional Protocol)
- OP-CAT (Optional Protocol to CAT)
- OP-CEDAW (Optional Protocol to CEDAW)
- OP-CPD (Optional Protocol to Convention on the Rights of Persons with Disabilities)
- OP-CRC-AC (Optional Protocol to CRC on the involvement of children in armed conflict)
- OP-CRC-SC (Optional Protocol to CRC on the sale of children, child prostitution & child pornography)
- PF (People’s Forum)
- PSA (Jammu and Kashmir Public Safety Act)
- SAHR (South Asia Forum for Human Rights)
- UPR (Universal Periodic Review)
- WPF (World Peace Forum)

UPR Recommendations to INDIA

At the review in the Working Group: 10 April 2008

Plenary: 10 June 2008

18 Recommendations contained in Section II of the Report of the Working Group A/HRC/8/26:

“86. In the course of the interactive dialogue the following recommendations were made:

(India had no clear position over the following recommendations. Recommending states are being mentioned inside bracket)

1. Expedite ratification of the Convention against Torture (United Kingdom, France, Mexico, Nigeria, Italy, Switzerland, and Sweden) and its Optional Protocol (United Kingdom);

4 Encourage enhanced cooperation with human rights bodies and all relevant stakeholders in the pursuit of a society oriented towards the attainment of internationally recognized human rights goals (Ghana);

5. Maintain disaggregated data on caste and related discrimination (Canada, Belgium, Luxembourg);

6. Consider signature and ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Brazil);

7. Consider signature and ratification of ILO Conventions No. 138 and 182 (Brazil, Netherlands, Sweden);

9. Review the reservation to article 32 of the Convention on the Rights of the Child (the Netherlands);

10. Consider new ways of addressing growing economic and social inequities arising out of rapid economic growth and share experiences/results of best practices in addressing poverty (Algeria);

12. Ratify the Convention on Enforced Disappearances (Nigeria);

13. Strengthen human rights education, specifically in order to address effectively the phenomenon of gender-based and caste-based discrimination (Italy);

14. Extend standing invitation to special procedures (Latvia, Switzerland);

15. Receive as soon as possible the Special Rapporteur on the question of torture (Switzerland);

17. Follow up on CEDAW recommendations to amend the Special Marriage Act in the light of article

16 and the Committee’s general recommendation 21 on giving equal rights to property accumulated during marriage (Slovenia);

18. Continue efforts to allow for a harmonious life in a multi-religious, multi-cultural, multi-ethnic and multi-lingual society and to guarantee a society constituting one-fifth of the world’s population to be well fed, well housed, well cared for and well educated (Tunisia).”

(India had accepted the following recommendations. Recommending states are being mentioned inside bracket)

2. Continue to fully involve the national civil society in the follow-up to the UPR of India, as was done for its preparation (United Kingdom);

3. Continue energizing existing mechanisms to enhance the addressing of human rights challenges (Ghana);

8. Share best practices in the promotion and protection of human rights taking into account the multireligious, multi-cultural and multi-ethnic nature of Indian society (Mauritius);

11. Take into account recommendations made by treaty bodies and special procedures, especially those relating to women and children, in developing a national action plan for human rights which is under preparation (Mexico);

16. Fully integrate a gender perspective in the follow-up process to the UPR (Slovenia);

AFSPA must continue in NE: DG AR

Guwahati/Shillong, February 27, 2010: The Director General of Assam Rifles, Lt.Gen.KS Yadava, has advocated the continuation of Armed Forces (Special Powers) Act (AFSPA) in the Northeast."We (soldiers) function under orders and hence our interests need to be protected," General Yadava said."We talk of human rights but what about our rights? Is anyone concerned about our rights?" he asked while talking to a couple of reporters in Shillong."If a soldier is not protected to do his own legitimate job, why shall he do it? I feel he needs it (AFSPA) for his protection.But if it is repealed, who will protect him?" the General asked further.Rights groups say the Act gave security forces unbridled and unaccounted powers to carry out their operations once an area is declared disturbed. Viewing AFSPA as something like "amnesty" to soldiers, General Yadava pointed out that the Act did not allow a soldier to be spared if he did something wrong."Even when the Act is here, a soldier is not spared if he does something wrong," he said.With a strength of 46 battalions, the Assam Rifles, the oldest paramilitary force of the country, plays the dual role of guarding the border with Myanmar as well as fighting insurgency."We've a total of 46 battalions.While most of them are in the CI (counter insurgency) role, some are doing the border guarding job.Given the obvious constraint, another 26 battalions would be raised phase wise over a period of seven to eight years from now," General Yadava informed."These battalions will come up along with infrastructures such as roads, helipads etc.They will be deployed all over the Northeast but the first few would be deployed to Manipur along with Tirap and Changlang districts of Arunachal Pradesh". A number of underground groups are active in Manipur while Tirap and Changlang districts are the stronghold of Naga underground factions, General Yadava said while adding, militants of the Northeast use the Tirap-Changlang route to sneak into or sneak out of the porous Myanmar border.General Yadava said the insurgency situation in the Northeast was relatively peaceful though Manipur continued to be a cause of concern. *Source: Hueiyen News Service*

Centre may amend AFSPA; Army could lose cover

New Delhi, June 20 2010: Notwithstanding opposition from the Army and faced with reports of fake encounters, the government is planning to go ahead with certain amendments in the Armed Forces Special Powers Act which includes handing over of an Army personnel in case of extra-judicial killings to the state authorities. While of late, Army officials have

been raising issues and even terming AFSPA as a 'holy book', government sources feel that there was a need to give a fresh look to the Act and make it more humane. A draft note has been circulated to the Law and Defence ministries for their comments as the UPA government continues to strive hard to fulfil the assurance made by Prime Minister Manmohan Singh in carrying out a thorough review of the AFSPA and making it more humane, the sources said. Once an view is firmed up, the amendments would be listed before the Cabinet Committee on Security, they said. The AFSPA gives the Army the powers to detain and, if the situation warrants, eliminate suspected terrorists when they are fighting insurgents without the fear of prosecution. The Armed Forces (Special Powers) Act only in force in some areas in Kashmir and insurgency-affected states in the north east. The Second Administrative Reforms Committee had suggested to the government replacing of the Act with an amended law which gives the Centre the right to deploy the Army or para-military forces in situations involving national security. According to the sources, the amendments also include handing over of Army personnel, who allegedly indulge in fake killings, to the local police authorities for prosecution. The issue of amendments has been regularly been raised by Jammu and Kashmir Chief Minister Omar Abdullah with several senior Central leaders including the Prime Minister and Home Minister P Chidambaram. Northern Army Commander Lt Gen BS Jaswal, in his recent interview to a news channel, had said, "I would like to say that the provisions of the Armed Forces Special Power Act are very pious to me and I think to the entire Indian Army. "We have religious books, there are certain guidelines which are given there. But all the members of the religion do not follow it, they break it also. Does it imply that you remove the religious book or you remove this chap?" . Recently, Jammu and Kashmir Police had faced an uphill task while dealing with the Army when three youths were allegedly shot dead in a fake encounter. Among the accused was an Army major. There have been demands for scrapping of the Act from some of the north eastern states especially Manipur where several civil rights activists have been blaming the Army for misusing it. *Source: Hueiyen News Service / Agency*

Centre may amend AFSPA, Army not amused

New Delhi, June 20, 2010: Notwithstanding opposition from the Army and faced with reports of fake encounters, the Government is planning to go ahead with certain amendments in the Armed Forces Special Powers Act which includes handing over of an Army personnel in case of extra-judicial killings to the State authorities. While of late, Army officials have been raising issues and even terming AFSPA as a 'holy book',

Government sources feel that there was a need to give a fresh look to the act and make it more humane. A draft note has been circulated to the law and Defence ministries for their comments as the UPA Government continues to strive hard to fulfil the assurance made by Prime Minister Manmohan Singh in carrying out a thorough review of the AFSPA and making it more humane, sources said. Once a view is firmed up, the amendments would be listed before the Cabinet Committee on Security, they said. The AFSPA gives the Army the powers to detain and, if the situation warrants, eliminate suspected terrorists when they are fighting insurgents without the fear of prosecution. The Armed Forces (Special Powers) Act is only in force in some areas in Kashmir and insurgency affected States in the North East. The Second Administrative Reforms Committee had suggested to the Government to replace the Act with an amended law which gives the Centre the right to deploy the Army or paramilitary forces in situations involving National security. According to the sources, the amendments also include handing over of Army personnel, who allegedly indulge in fake killings, to the local police authorities for prosecution. The issue of amendments has been regularly raised by Jammu and Kashmir Chief Minister Omar Abdullah with several senior Central leaders including the Prime Minister and Home Minister P Chidambaram. Northern Army Commander Lt Gen BS Jaswal, in his recent interview to a news channel, had said, "I would like to say that the provisions of the Armed Forces Special Power Act are very pious to me and I think to the entire Indian Army. "We have religious books, there are certain guidelines which are given there. But all the members of the religion do not follow it, they break it also. Does it imply that you remove the religious book or you remove this chap?" . Recently, Jammu and Kashmir Police had faced an uphill task while dealing with the Army when three youths were allegedly shot dead in a fake encounter. Among the accused was an Army major. There have been demands for scrapping of the Act from some of the Northeastern States especially Manipur where several civil rights activists have been blaming the Army for misusing it. Manipur rose in revolt after the bullet riddled body of Th Manorama was found after she was picked up by 17 Assam Rifles personnel on July 12, 2004. She was picked up the day earlier. The demand for revocation of the contentious Army Act reached its crescendo when a number of women folk staged a nude protest in front of Kangla, which was then occupied by the Assam Rifles. It took Prime Minister Dr Manmohan Singh to personally fly down to Imphal and announce that the Act needed a more humane face and constituted the Justice Jeevan Reddy Commission to review the Act, which helped in defusing the crisis. *Source: The Sangai Express*

CPDM Statement on AFSPA

Office of the
Campaign for Peace & Democracy Manipur
(Development, Peace and Unity)

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Ref No: 20100623 CPDM statement

Dated: 23 June 2010

Press statement
New Delhi

A solidarity conference under the theme "**Save Irom Sharmila and Democracy**" was held on 9 June 2010 at Cochin in Kerala under the initiatives of Solidarity Youth Movement, Kerala. The conference that was presided by P. Mujeeb Rahman, president, Solidarity Youth Movement was attended and addressed by Justice V.R. Krishna Iyer (former Justice of Supreme Court), Irom Singhajit (Just Peace Foundation, Manipur), T.T. Sreekumar (assistant professor, National University of Singapore), Malem Ningthouja (Campaign for Peace & Democracy (Manipur)), Civic Chandran (democratic rights activist), K.P. Ramanunni (Malayalam writer), Advocate Chadra Shekharan (President, PUCL, Kerala Chapter) and executive members of Solidarity Youth Movement. A handwritten letter of Sharmila addressed to the people of Kerala was translated into Malayali and read out to the public who have gathered there. The conference had discussed that democratic values and rights of the citizens are being systematically and consistently subverted by the government in the name of maintaining law and order. The conference had unanimously expressed solidarity to the ongoing fast unto death agitation that had been relentlessly carried out by Miss Irom Sharmila demanding for the repealing of the controversial Armed Forces Special Powers Act 1958.

As a follow up of the solidarity conference, the Student Islamic Organisation had convened a public interaction program under the theme "*Story of oppression - Unheard Voice from Manipur*" on 11 June 2010 at SIO national head quarter in Delhi. The programme was addressed by Irom Singhajit (Just Peace Foundation, Manipur) and Malem Ningthouja (CPDM) and moderated by SIO National Secretary Shah Nawaz Ali Raihan. Apart from exchange of views on the issues concerning material implication of AFSPA (enclosed in Annexure I) or its repercussion on the civilians;

SIO and individuals who had attended the programme had expressed solidarity to Sharmila and the people of Manipur as well in the struggle for peace and justice. CPDM is thankful to the SYM, SIO and progressive individuals that had not only shown interest but also assured to extend moral and political support on the issues related to the restoration of peace and democracy in Manipur.

Annexure I

Note: Minutes of the questions that were being raised in the interaction and responded to by CPDM at the public interaction program entitled “*Story of oppression - Unheard Voice from Manipur*” on 11 June 2010 at SIO national head quarter in Delhi.

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SIO: On the cultural dimension of AFSPA.

CPDM: *(The answer was a supplementary to Irom Singhajit’s argument that Manipur has cultural, religious, linguistic, food habit, and racial differences from mainland Indians.)* Well, brother Irom’s argument may be oversimplification of the empirical realities. And yet the perception of difference and notion of otherness conceptualised in the mind of the Indian political leaders while dealing with the peoples living in the Northeastern region cannot be denied. The architects of the AFSPA pandit Nehru and Patel could not fully explain it. For them the Northeastern peoples are virile people with pro-mongoloid prejudice. As late as 1947 many members of the Constituent Assembly were relatively ignorant about the Northeastern people. They had to institute a special committee under the supervision of Bordoloi to submit a report on the Northeastern peoples. The report had reproduced the northeast in the format of paragraphs under subheadings, apparently like an anthropological show piece to be analysed and decided upon. The northeast peoples were being perceived as wild people, barbaric and in a comparatively backward state of social development. The wild space of Northeast had to be invested with capitalist exploitation and to do that they required military force to tame or domesticate what they perceived ‘wild’ or ‘atavistic’ Northeastern peoples. Culture, therefore, had been a crucial factor in the relentless use of force and it had directly or indirectly helped in inspiring towards the framing of the AFSPA.

SIO: AFSPA is meant to aid civil administration and to suppress rebellion or law & order problem.

CPDM: The fundamental question is that the Indian ruling class had perceived India from a national perspective, i.e., a community of population who are or who should be psychologically united and have loyalty to an imagined Indian nationhood. They have enforced & superimposed Indian nationalism. All other forces, inhabiting the projected Indian Territory, who do not subscribe to this ideology are being characterised as threat or enemy. Therefore, the question of law & order problem has been framed within the framework of the perception that India was a nation. This is a political issue and it involves economy and other identity questions. However, the Indian ruling class wanted to deal it from legal paradigm. But the legal approach had failed considerably. In 1958 Naga rebellion was more or less confined in the then Naga Hills and Tuensang areas, now Nagaland State which was formed in 1963. From 1958 to 2010 several rebellion organisations had emerged in the entire Northeastern States. In other words, AFSPA had failed to deal with rebellion / insurgency. Quite contrary to assisting civil administration, the army, paramilitary forces have become virtually powerful and have created more tension and insecurity to civilians. Violation of articles 19 and 21 of the Indian Constitution had become widespread as a result of AFSPA. If AFSPA had been imposed to maintain law & order, i.e., security of the people and a peaceful situation, we experience more disturbance and insecurity under AFSPA.

SIO: Repealing of the Act rested with state Government.

CPDM: According to the parliamentary debate on Armed Forces Special Powers Act 1958 in 1958 whether to declare any portion of the territory as disturbed or not was rested with the State government. However, one must note that Mr. Achaw and Mr. Suisa the then two parliamentarian representatives from Manipur had boycotted the Act. Their voice was turned down. In 2003/2004 the DAN government of Nagaland had urged upon the Government of India not to further extend disturbed area status for Nagaland. The DAN proposal was turned down by the Government of India. Justice Reddy Review Committee instituted by the Government of India in 2004 had come up with its report in 2005. This had not been publicly announced. By chance the report was available through the media. The report had shown that the Act had not assisted civil administration but created more tension. The report had recommended for repealing of

the Act. The Government of India had a different view on it. On the other hand, although apparently there are state, central and concurrent lists, it is difficult to differentiate the State Government and the Central Government, when it comes to policy implementation. The Government of Manipur is always depended on the Government of India and always acted as the puppet of the later. The ruling class irrespective of state origin or central origin are corroborative and they serve common interest in the AFSPA. The struggle centred on AFSPA, therefore, is not between the State Government and the Central Government, but between the victims of AFSPA and the Government who want to continue with AFSPA.

SIO: On the perspectives of human rights movement and legal support from the Amnesty international and the United Nations.

CPDM: We appreciate the initiatives that are being taken up by the human rights NGOs against AFSPA 1958. International human rights organisations such as the South Asia Human Rights Documentation Centre, Amnesty International and certain UN human rights bodies had shown positive response in internationalising the issue. For instance; SAHRDC's *India's security tyranny*, AI's *India: Official Sanction for Killing in Manipur*, and concluding observation of UN Human Rights Committee in 1997 were indeed remarkable and had lots of positive impacts in making awareness about human rights condition in Manipur. We appreciate all these. However, we also had certain reservations on the role of these bodies. The UN and most of the powerful international human rights organisations are funded by the capitalist finance institutions. The UN was a silent spectator when US had invaded Iraq. There are several instances when UN and its allied international organisations had remained comparative silence on issues where the interest of the big & developed capitalist countries had been under question. US had been a major player in the UN and China is an emergent power. As long as the US and Indian comprador bourgeoisie had common capitalist interest and on the other hand China continue to control Indian market, these powerful countries would not help us in raising the AFSPA or human rights issue in the UN. Most of the advanced countries had adopted repressive laws and almost all of them are indulging in human rights violation either in their own countries or somewhere. Against such backdrop the AFSPA issues remained a mere reference point at the international level but no concrete help to repeal it could be expected from the UN or the international human rights organisations.

SIO: Chinese role?

CPDM: Firstly, China cannot raise the issue of AFSPA as long as the questions of human rights violation & suppression concerning Taiwan and Tibet had not been permanently resolved in peaceful manner by the Chinese Government. Secondly, as long as India continue to provide with market base for the ever expanding Chinese capitalism, China would not dare to show open support to any political issue that may hamper Indo-Chinese trade relation. At present Manipur cannot expect much from China.

SIO: Why would the Indian state need to keep Manipur within India? What are the material benefits?

CPDM: The Constituent Assembly of India debate and proceeding had clearly recorded that the Northeast region was important for strategic and economic reasons. The fertile tea plantation economy of Assam; Uranium and coal reserves in Meghalaya; forest and water resources in Arunachal Pradesh; the natural lower Himalayan belt stretching over the entire Northeastern region which could act as the defensive natural fortified frontier for India; relative backwardness in the mode of production which provided lucrative market for the Indian manufacturers and comprador bourgeoisie and so on are some of the examples that have had interested the Indian ruling class. V.P. Menon, the then right hand of Patel, had mentioned that for administrative and strategic reasons Manipur was taken over by India in 1949. All other accounts as well corroborate to strategic and economic importance of the Northeast regions for India. If we look deeper it is the Indian ruling class for whom strategic and economic importance of Northeast had been the priority concern. In Manipur they have established control over the territory and the population. They are making use of the territory and its resources such as the forest products and water resource. They are in control of the market. They are using Manipur as a launch-pad with military bastions to carry out Indian market expansion into the Southeast Asian countries in the format of the Look East Policy. The capitalist interest is being wrapped up by the cloak of national nostalgia and it has been widely articulated to a large section of the Indian mass. Therefore, Manipur within India or outside India is a mechanical situation largely determined by the capitalist interest of the Indian ruling class.

SIO: Will repealing of the AFSPA solve the problem?

CPDM: AFSPA is just a tip of the overall process of massive subjugation, oppression and exploitation. We have the experience of Kashmir where there was large scale human rights violations in the pre- AFSPA period. We have the experience of series of killings, fake encounters, looting and extortion by a section of the state police force in the Imphal areas where AFSPA had been withdrawn. Killing by security forces will continue as long as there is capitalist intension to use force to subjugate and exploit people and suppress democratic movements. However, we are very much concern about AFSPA because it was a law enacted by the Indian Parliament to legalise killing by the security forces with impunity. You cannot have democracy and AFSPA together; you can have only one.

SIO: Insurgent organisations and AFSPA.

CPDM: Insurgents are not waging war against AFSPA, but against the Government. They have guns for defence and offensive, they are trained to wage war and they are in the war. With AFSPA or without AFSPA they would have to engage in the war. I don't think that they are apprehensive about AFSPA. They may, however, use AFPSA as a reference point to condemn the government policy of state terrorism which has had serious repercussion on the physical and psychological security of the civilians. They may attempt to organised victims of AFSPA towards their side. Perhaps, AFSPA exposed the militant character of the Indian state while dealing with the fundamental political and economic questions of Manipur.

SIO: Solution?

CPDM: The political economy of AFSPA has revealed to us that the Act serves the interest of the Indian ruling class. AFSPA may come or go but the precondition of state terrorism or the real threat to the security of the people would continue under capitalism which is based on subjugation, suppression and exploitation of the workers and peasants. The solution to such capitalist menace cannot be in the form of piecemeal reform of the terror laws imposed by the State. The solution to the problem lies in the unity of the subjugated, oppressed and exploited cutting across religious and regional boundaries towards a revolutionary overthrow of the reactionary regime and establishment of a people's democracy based on scientific principles.