

On the Trail

Human rights defenders have been deeply concerned by the prolonged imposition of the Armed Forces (Special Powers) Act and resulting gross violations of fundamental human rights in Manipur.

During a meeting in Mumbai, Ashoka Fellows Colin Gonsalves and Babloo Loitongbam came up with the idea of conducting a people's inquiry. On returning back to Manipur, Babloo Loitongbam through his organization Human Rights Alert (HRA) convened a roundtable of the legal fraternity, the human rights community and NGOs on August 20, 2000 at Imphal.

The roundtable unanimously agreed to constitute an Independent People's Inquiry Commission and to invite Justice H. Suresh, former Judge of the Bombay High Court to lead the Commission.

A Preparatory Committee (hereinafter referred to as the Prep Com) with Mr. A.C. Sharma as the Convenor and Mr. Loitongbam as the Co-convenor, was also constituted to work out the details of the Commission.

The Prep Com, through ten rounds of meetings, prepared for the Commission. The terms of reference of the Commission was drawn up as follows:

To inquire into the overall human rights situation in the State of Manipur as a consequence of the prolonged application of the Armed Forces (Special Powers) Act, 1958.

Justice H. Suresh readily accepted the invitation. Funds were raised through voluntary contributions by the constituent organizations and individuals and other like-minded institutions and individuals. The local daily newspapers too contributed their mite.

Justice H. Suresh along with Colin Gonsalves and Preeti Verma, Advocates, arrived at Imphal on October 21 and led the Independent People's Inquiry Commission. The Commission met with victims of torture, rape and the families of

New Delhi seeking their comments on the Report. But the IPIC has not received any official response till date.

A week later on November 2, 2000 the Assam Rifles killed nine innocent civilians in Malom about three kilometers from Imphal following a bomb blast. The State administration imposed curfew for the next two days restricting even the family members of the deceased from picking up the dead bodies.

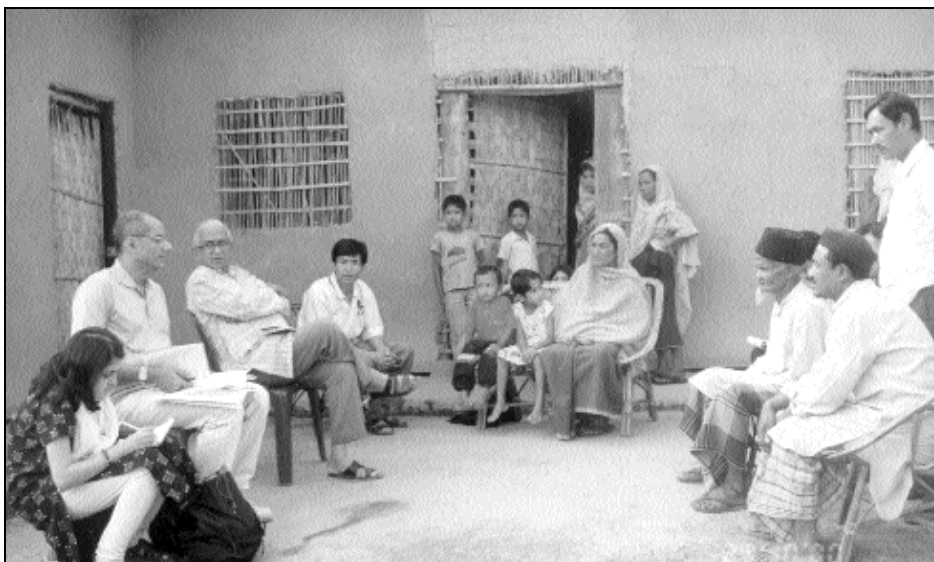
Miss Irom Sharmila, 28, one of the active volunteers of the IPIC decided to

fast until the Armed Forces (Special Power) Act is discontinued in Manipur. She was arrested on charges of attempting to commit suicide. A week later she was force-fed in judicial custody and she continues to be force-fed even today after more than 18 months.

The IPIC deeply regrets the delay in the publication of this report, as the

team working on it had to deal with one crisis after another that is gripping the State of Manipur ever since the completion of the Commission's work.

IPIC hopes that this report will ultimately pave the way for the repeal of the Armed Forces (Special Powers) Act so that unlike the generations that have gone by, the coming generations of Manipuris and members of other nationalities of North East and Jammu and Kashmir will be able to enjoy their most basic and fundamental human rights as any other citizen of India.



Members of the Inquiry including J. Suresh, Adv. Colin Gonsalves and Preeti Verma speaking to the family of Tayab Ali - disappeared (Pg.17)

the involuntarily 'disappeared' and arbitrarily killed.

The commission also examined the available reports of official commissions of inquiries and the cases taken up by the Manipur Human Rights Commission. Discussions were held with prominent lawyers, human rights defenders and experts of Manipur.

On October 25, 2000 the Mumbai team left Imphal after releasing the Interim Report at a press conference and asserting that the Armed Forces Special Powers Act should be repealed.

The next day the Interim Report was posted to the Union Home Ministry at

The Armed Forces (Special Powers) Act - Repressive Law

The precursor of the AFSPA appeared in the statute books of India at a crucial phase in India's freedom struggle - the year 1942. In Bombay, the All India Congress Committee in its August 8 meeting, decided to launch the Quit India movement.

In Singapore, about 40,000 British Indian soldiers who had joined the Indian National Army were marching towards India from the eastern front together with the Japanese soldiers. In a sweeping move, Congress was declared an illegal organisation. Prominent Congress leaders were arrested and jailed. A mass upheaval broke out all over India. The Viceroy Lord Linlithgow declared emergency all over British India and promulgated the Armed Forces (Special Powers) Ordinance, 1942 on August 15, 1942, conferring vaguely defined special powers to the armed forces to arrest and use force (even kill) civilians on mere suspicion.

Five years later, on 15 August 1947, India got independence and became a Sovereign Democratic Republic on 26 January 1950. But, in the remote North East corner of the country, the armed forces are enjoying today the same special powers and privileges granted in the colonial Ordinance. In its new incarnation, the enabling legislation is called the Armed Forces (Special Powers) Act, 1958.

Certain modifications were made to the 1942 Ordinance.

▶ The provision for declaration of emergency was replaced by the term 'disturbed area'.

▶ More vaguely defined powers were added (including the power to use force to even kill any person on suspicion of disturbing public order or carrying weapons, 'to search any place without warrant or destroy any place on suspicion of being used by armed groups) to the old Ordinance;

▶ The power to take action, given to an officer of the rank of Captain and above in the old Ordinance, was delegated to lower ranks including Junior Commissioned officers and Non-commissioned officers.

▶ The area of operation was confined to ethnically distinct North East region; unlike the 1942 Ordinance, which was applied to the whole of India.

As a result of these modifications, the 1958 Ordinance became more deceptive and harsher than the colonial Ordinance of 1942.

Parliament Debates

In the monsoon session of the Parliament in 1958, a Bill to replace the Ordinance was introduced. While introducing the Bill, the then Home Minister Mr. G B Pant justified the Bill by stating:

... there (Assam and Manipur), they (certain misguided sections of the Nagas, in the words of Mr. Pant) are indulging in arson, murder, loot, dacoity etc. So it has become necessary to adopt effective measures for the protection of the people in those areas. In order to enable the armed forces to handle the situation effectively wherever such problem arises hereafter, it has been considered necessary to introduce this Bill.

Some members of Parliament opposed it on the ground that blanket powers being conferred on the army by this Act would lead to the violation of the Fundamental Rights of the people, that this Act would circumvent the Constitution by effectively imposing an Emergency in these areas without actually declaring one and that it would abrogate the powers of the civil authority in favour of the armed forces.

Manipur has only two seats in the Lower House of the Parliament. When the Bill was introduced, both the Members of Parliament (MPs) from Manipur, Mr. R.

Suisa and Mr. Laishram Achaw Singh, vehemently opposed it. Mr. Laishram Achaw Singh, MP from Inner Manipur Parliamentary Constituency, voiced his objections in the following words:

In my humble opinion, this measure is unnecessary and also unwarranted. This Bill is sure to bring about complications and difficulties in those areas, especially in those 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-divisions of Kohima and Mokokchung.

In such a situation, I do not like that the officers should be invested with special powers. Recently, such an incident took place in the Headquarters of the North Cachar and Mikir Hills District. Instead of rounding (up) the hostile Nagas, some military personnel trespassed into the houses 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 Tamenglong where these armed forces have by force occupied the religious institutions, in spite of the protests from the local people. Most of them are Christians there and hold their Churches sacred. But these armed forces would forcibly occupy these institutions. .

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 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”.

However, the few voices of dissent were drowned out and after brief discussions (three hours in the Lower House and four hours in the Upper House), the Bill was passed by Parliament. The resultant Act was given retrospective effect from May 22, 1958.

Spread of ‘Disturbed Area’

Parts of Manipur were also declared ‘disturbed areas’ under the Act since its inception. Then it gradually spread to the other areas. In 1970, the State Home Department through a series of notifications declared parts of Manipur South District, Manipur West District, Manipur East District, Manipur North District, Sadar Hills Sub-division of Manipur North District as ‘disturbed areas’ under the Armed Forces (Special Powers) Act, 1958.

In October 1975, the entire Tengnoupal District was declared disturbed. In May 1978, the whole area of Manipur South District, Jiribam Sub Division of Manipur Central District and Tengnoupal District were covered.

Finally, under the Government of

Manipur, Home Department Notification dated 8 September 1980, the entire Manipur Central District was declared disturbed. With this notification, the whole of Manipur became a ‘disturbed area’ under the Armed Forces (Special Powers) Act, 1958. No part of Manipur has been de-notified ever since.

In January 1965, the entire Mizoram



Army Jeeps on a Manipur main road - a common sight.

(then Lushai Hills District of Assam) was declared disturbed. In November 1970, the Armed Forces (Special Powers) Act was extended to Tripura (then a Union Territory) by a notification of the Government of India

In 1972, the Act was amended. This time, it was Mr. K. C. Pant, the son of Mr. G. B. Pant and new Home Minister, who moved the amendment. He laid down the objectives of the amendment as:

Firstly, it is proposed that the Armed Forces (Assam and Manipur) Special Powers Act, 1958 may have uniform application in all the five States and the two Union Territories in the North Eastern region.

Secondly, it sought to state clearly that the Governor of these States and the Administrator of the two Union Territories would have the power to declare an area as disturbed.

Thirdly, it is proposed to take that power also for the Central government.

Long Road to Nowhere - Judicial Activism

In the post-Emergency era, the Indian judiciary struggled hard for a face-lift with judicial activism. The mission was to impress the masses, in the words of Justice Krishna Iyer, ‘with not just its majesty, but also its justice’. The concept of Right to Life (Art. 21) in the Indian Constitution was expanded. The ‘procedure established by law’ in the Article was interpreted to be on the lines of ‘due process of law’ in the American Constitution. A combined reading of Right to Equality (Article 14), Right to Fundamental Freedoms (Article 19) and Right to Life added a whole new ‘human rights’ dimension to constitutional jurisprudence. International human rights standards were repeatedly read into the

fundamental rights of the Constitution. Novel procedures like the Public Interest Litigation (PIL) and the Lok Adalat (People’s Court) revolutionised the Indian judiciary.

But it was a completely different story on the North East front. The whole region was already pockmarked with ‘disturbed areas’. By September 1980, the whole State of Manipur was declared ‘disturbed’ under the Armed Forces (Special Powers) Act, 1958 (AFSPA). A large number of Army troops and paramilitary forces of the Central government moved in. Then began the recurrent acts of ruthless atrocity: midnight knocks, enforced disappearances, arbitrary executions, torture, rapes and house breaking.

A few Manipuri students studying in Delhi got together and formed the Human Rights Forum, Manipur. It moved a PIL in the Supreme Court, challenging the constitutional validity of AFSPA. The petition was admitted as Writ Petition No. (C) 5328 of 1980. Two years later, the Naga People’s Movement for Human Rights

(NPMHR) and the People's Union for Democratic Rights (PUDR) also moved separate writ petitions on the same issue. Subsequently, more writ petitions and Appeals from the High Courts followed. However, the Supreme Court, in its most active phase otherwise, simply slept over the matter for about two decades as the people in the North East bore the brunt of a de facto permanent emergency under the Armed Forces (Special Powers) Act.

International Attention

It was in the beginning of the 1990s that the international community became aware of the AFSPA as its tentacles spread to Kashmir, the hotbed of South Asian politics, and as it consequently found a mention in the UN Human Rights Commission debates and in reports of the Thematic Special Rapporteur.

In 1991, the UN Human Rights Committee considered the Government of India's Second Periodic Report under ICCPR. A few months earlier, Amnesty International came out with the first reports on Manipur entitled *Operation Bluebird: A Case Study of Torture and Extrajudicial Executions in Manipur* (AI INDEX: ASA 20/17/90). Human rights activists from Manipur briefed the Committee members on the AFSPA. The Human Rights Committee came down hard on the representatives of the Indian Government on the AFSPA and the Terrorist And Disruptive Activities (Prevention) Act (TADA).

It was after such critical observations of the UN Human Rights Committee and of international human rights bodies that the Indian Parliament enacted the Protection of Human Rights Act, 1993. A National Human Rights Commission and a State Human Rights Commission for each State can be established under the Act.

TADA allowed detention of suspects for long periods and the trials were to be conducted in the designated courts only. On the other hand, under the AFSPA, a suspect would count himself lucky if he is only detained and not killed!

However, the imposition of TADA, which affected the whole country, was discontinued, following a nationwide

campaign. But the AFSPA, which is applicable only among the national minorities in the North East, continues to remain in force.

It was from this perspective that the UN Committee on the Elimination of all forms of Racial Discrimination brought up the issue of AFSPA while discussing India in 1996. The Concluding Observation contained in UN document CERD/C/304/Add.13 of 17 September 1996 reads as follows:

15. The Committee is seriously concerned that the Kashmiris, as well as other groups (read, the Manipuris), are frequently treated, on account of their ethnic or national origin, in ways contrary to the basic provisions of the Convention.

16. Clause 19 of the Protection of Human Rights Act prevents the National Commission on Human Rights from directly investigating allegations of abuse involving the armed forces. This is a too broad restriction on its powers and contributes to a climate of impunity for members of the armed forces.

Till date, the most detailed discussion on AFSPA within the UN human rights treaty bodies was in July 1997 at Geneva, when the UN Human Rights Committee considered the Third Periodic Report of India. Human rights defenders from Manipur and Assam were able to apprise the members of the Committee with detailed reports, with supporting documents, of human rights abuses under AFSPA.

The Committee questioned the Government of India representatives on the wide ranging powers given to the armed forces and the de facto state of emergency in Manipur which, in fact, dominated the deliberations of the Committee. Finally, the UN Human Rights Committee, in its concluding observations said:

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 remain subject to declaration as disturbed areas over many years. 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 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 closely monitored so as to ensure its strict compliance with the provisions of the Covenant.

UN Human Rights Commission

The UN Human Rights Commission was kept in the dark on the actual situation in the North East by the Government of India, despite repeated official requests from Mr. Leandro Despouy, the UN Special Rapporteur on States of Emergencies, who was conducting a study for the Commission. The Government of

India refused to admit that an undeclared state of emergency existed in the North East under AFSPA.

However, NGOs have filled in the information gap to some extent. Other Thematic Special Rapporteurs and the Working Groups of the Commission have, of late, started commenting on the issue. Mr. Bacre Waly Ndiaye, the then Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, [UN document E/CN.4/1998/68/Add.1 of 19 December 1997 (para. 203)] reported as follows:

...the Special Rapporteur's attention was particularly drawn to reports indicating the existence of a pattern of killings in the State of Manipur. Civilians, including women and children, as well as suspected members of armed opposition groups are reportedly killed by members of the armed forces, many of them allegedly deliberately and arbitrarily. The Armed Forces (Special Powers) Act of 1958 reportedly gives them widespread powers to shoot to kill and protect them from prosecution for any acts carried out under its provisions. The situation is further aggravated by the restrictions placed on access to the region by the Government. The result of this policy is a climate in which security forces are able to use excessive force with impunity.

The Court Stirs

As assured by India's representative to the UN Human Rights Committee in August 1997, a five-member Constitution Bench of the Supreme Court headed by the Chief Justice, J.S. Verma, finally heard the petitions challenging the AFSPA. The National Human Rights Commission too, reportedly, played a role.

Many legal luminaries argued on behalf of the petitioners. The Attorney General of India, Mr. Ashok Desai, who also headed the Indian delegation to the UN Human Rights Committee on the Third Periodic Report, appeared on behalf of the Indian Government.

The Act was challenged on various

grounds: the Parliament was not competent to enact the legislation; it was a colourable legislation; it subjugated and displaced the civil authority; the arbitrary and unreasonable power granted to the armed forces violated the fundamental rights of a citizen, etc. It was all in vain.

On November 27, 1997 the Supreme Court of India upheld in toto the constitutionality of the Armed Forces (Special Powers) Act, 1958. The Judgement did make some cosmetic recommendations to check the flagrant abuse of the Act. But, for the people living under the shadow of the Armed Forces (Special Powers) Act, 1958, it was practically useless.

The Judgement

The Judgement on the constitutionality of the Armed Forces (Special Power) Act is one of the most conservative judgements in the annals of the Supreme Court of India. The Court had delivered landmark judgements upholding human rights in the past. In this particular case, it has practically given its stamp of approval to even the arbitrary execution of a citizen on mere suspicion.

The Judgement is based on the premise put forward by the Union of India that (Para 53) :

... an inquiry is made whenever complaint about misuse of power conferred under the Central Act is received and that on enquiry most of the complaints were found to be false, and that whenever it is found that there is substance in the complaint, suitable action has been taken against the person concerned under the provisions of the Army Act.

The ground reality is very far from the government's claim. There are scores of cases where 'suitable action' has not been taken up even after Official Enquiries clearly established human rights abuse by the armed forces. There are still more cases where proper enquiries have never been conducted. In the course of hearing, the Court did not entertain documentary

evidence of individual cases for illustration of the true picture.

The Judgement put aside all the arguments raised by the learned counsels of the petitioners. The Judgement, in substance, relies on arguments not too different from those put forward by the Attorney General while defending the Government both in the Court and in the UN Human Rights Committee in Geneva.

Impossible Remedies

From the point of view of the victims, the Judgement offers three possible remedies:

▶▶ That the declaration of disturbed area should be periodically reviewed;

▶▶ That the armed forces should strictly follow the 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;

▶▶ That the order of the Central Government refusing or granting sanction is subject to judicial review and the Central Government should pass an order giving reasons.

The implications of these remedies, from the perspective of a victim seeking relief, are:

▶▶ The Court did not give any criteria for objective assessment of the situation before declaration as 'disturbed area'. Thus, in practice, the review is a routine bureaucratic exercise, as it had always been in the past.

▶▶ In practice, the Do's and Don'ts are often violated with the knowledge of, and violations covered up by, the higher army authorities. To victims already traumatised by the armed forces, the last thing they have in mind is lodging a complaint to the same forces to get justice.

▶▶ Even if a complaint is lodged against army personnel, the procedure followed in Indian military courts under Army Act, 1950 falls far short of an 'equitable, impartial and independent administration of justice', which is the internationally accepted standard under Article 14 of the

There is a problem here and I think if a choice has to be made between two evils, let the poor citizen have the benefit of the choice.

ICCPR.

► Prosecution under the Criminal Procedure Code arises after registering a case with the police. But the local police usually discourage the victim from registering a case, for the police have a notion that they have no power to investigate into the conduct of the armed forces. Legal positions apart, the police are too scared of offending the army.

► Even if the police file a charge sheet against guilty army personnel after due investigations, getting prosecution sanction from the Central Government is a long and costly procedural hurdle. Assuming that the Central Government finally gives the sanction, the victim is pitted against the resources of the armed forces for another legal battle, as the Judgement says 'refusing or granting sanction should be subjected to judicial review'.

On this particular issue of prosecution sanction, the view expressed by Chief Justice Rajsoomer Lallah, Member of the UN Human Rights Committee, while considering India's Third Periodic Report under ICCPR, is relevant. He said:

...the choice here, and I take it from the answers given by the Attorney General, is between the harassment of officials and the vindication of right of a citizen. If a choice has to be made why not let the courts decide whether the action is vexatious or frivolous? To whom could the citizen turn if it is the executive which

decides this? Suppose the executive says 'No, I am not going to authorise you under section 6' what does he do? Presumably he goes to the court. Can it be dealt with there, since no proceeding can be instituted there?

But let us assume that it would go by way of judicial review, you are still landed in the lap of the judges and one has to think of the practical effect of this, the citizen who doesn't have the resources of the administration is put to the expense of trying to get permission, if it is refused then trying to get the court to force the executive to give the permission. But I will not go on and on about this. There is a problem here and I think if a choice has to be made between two evils, let the poor citizen have the benefit of the choice.

Ignoring UN Request

UN Human Rights Committee made a specific request to examine the compatibility of the provisions of AFSPA with the ICCPR, when the Supreme Court of India examined the constitutionality of the AFSPA.

The UN body had repeatedly elaborated on serious human rights violations pertaining to Articles 6,7,9 and 14 of the Covenant, in areas declared to be disturbed under the AFSPA. This was brought to the notice of the Court. But the matter did not find a mention in the Judgement. However, the Court did make a passing comment on certain facets of

life under the AFSPA. In para 39, the Judgement noted:

There is one aspect, which cannot be ignored. The primary task of the armed forces of the Union is to defend the country in the event of war or when it is faced with external aggression. Their training and orientation is to defeat the hostile forces.

A situation of internal disturbance involving the local population requires a different approach. Involvement of armed forces in handling such a situation brings them in confrontation with their countrymen.

Prolonged or too frequent deployment of armed forces for handling such situation is likely to generate a feeling of alienation among the people against the armed forces .

Conclusion

The Judgement has sanctified the Armed Forces (Special Powers) Act. It has emboldened the armed forces to operate with impunity against the racially and culturally distinct minorities in North East India. Much against the Supreme Court's wishes, it is likely to generate more the feeling of alienation among the Manipuris against the armed forces.

(Abstracted from the Manipur Update, Vol.I, Issue 1, Human Rights Alert)

CL

Documenting Violations

Torture is regularly reported in Manipur. Youths suspected to be members or sympathizers of the underground groups when arrested are subjected to third degree methods by the military to extract information on the activities of their groups. But it is always a challenge to systematically document cases of torture as the torture survivors are crushed not only physically but also psychologically. The fear of further reprisal has always been a hurdle in taking up legal action on cases of torture.

Considering the impunity enjoyed by the perpetrators under the Armed Forces (Special Powers) Act and the weakness of police to deal with excesses by the military, this apprehension is not entirely baseless. Many of these youths died in custody; others just "disappeared"; yet others survived but often maimed and handicapped.

Khurajam Pranam Singh, aged about 23 years, resident of Kwakeithel Laishram Leikai, who runs an electrical shop at Kwakeithel for a living, is one such torture survivor. Thanks to the efforts of

courageous young lawyers like Chongtham Ngongo who promptly used the legal system to save his life.

The IPIC in coordination with the Meira Paibis of Kwakeithel, Laishram Leikai held a session at the local Mandop (Community Hall) on October 22, 2000. Pranam Singh came in person and testified before the Commission. He was extremely weak and walked with great difficulty. Two parts of his intestines were protruding out of the right side of his stomach. He was still under medical treatment at the time of testifying before

the IPIC. Here is his statement.

Kurajiam Pranam Singh: *"On July 22, 2000 while on a bus to Bishnupur to deliver a generator our bus was stopped and searched by the personnel of 'F' Company of Assam Rifles near Maibam Lokpaching. I was ordered to stay back, the rest of the passengers were allowed to leave along with the bus. Thereafter, I was blindfolded and taken inside their camp. I was forced to eat a cant of tobacco. My clothes were removed. My hands and legs tied up. And they started beating me up, including administering electric shocks. I was hung upside down and beaten black and blue. The torture continued intermittently for the next three days.*

On July 30, 2000 a rod was inserted up my anus and vigorously stirred thereby causing sever pain and bleeding. In doing so the wooden rod broke inside my anus. Chilli powder was also applied to my eyes, anus and genitals as a result of which I could not urinate. A doctor among the army personnel, checked my blood pressure and forced me to eat a handful unknown tablets.

On the same day, I was taken to the Nambol Police Station from where a combined team of police and the AR took me to the Community Health Centre, Nambol where one Dr. N.K. Nando examined me. From there I was referred to the Jawaharlal Nehru Hospital, Porompat. I was admitted in the security ward of the JN Hospital the same day. A few days later on August 4, 2000, I was operated. I was released on August 8 after signing a personal bond of Rs 10,000 and after giving a surety of the same amount."

Legal Issues

On medical examination at the Jawaharlal Nehru Hospital, Porompat, on July 30, 2000, Dr. L. Krishanmani Singh senior Surgeon described the injuries of Pranam as follows:

▶ Penetrating injuries: Perforation anterior wall of rectum 1 1/2 inches from anal verge, below peritoneal reflection - admit index finger.

▶ Perforation of the base of bladder

proximal to trigon - admit index finger.

▶ Perforation of dome of bladder (intraperitoneal rupture) - admit index finger.

▶ Urinary ascites.

▶ Recto-versical fistula with Pneumoturia.

On August 1, 2000, Laljit, Naik Subedar, AR filed a First Information Report (FIR) against Pranam Singh alleging him to be a supporter of the banned



Khurajiam Puanam Singh, victim of third degree torture by the 8th Assam Rifles with his protruding intestine, photographed on August 28, 2000.

People's Liberation Army (PLA). Subsequently, Pranam's father approached the concerned Magistrates as to whether Pranam has been produced before them as per section 57 and 167 of Criminal Procedure Code and Article 22 of the Constitution of India. In this regard, the Chief Judicial Magistrate Bishenpur, the concerned Magistrate, passed an order

dated August 7, 2000 explaining that neither Pranam nor any case record on him had been produced before him till the said day.

Having no other alternative, the father of Pranam, then moved the Gauhati High Court, Imphal Bench by filing a Habeas Corpus case, being case number WP (Crl) 11 of 2000 on 9 August 2002. The next day the father filed a report to the police on (August 10, 2000) alleging arbitrary detention and torture of his son Pranam Singh by 'F' Company AR. The same day the High Court issued a direction to the AR personnel to hand over Pranam Singh to the nearest police station. Despite of the court's direction, neither the police nor the AR produced Pranam to any Magistrate. On August 17, 2000 the AR as well as the police testified before the High Court denying that Pranam Singh is in their custody. The same day, the Court directed all the respondents, including the Officer-in-charge of JN Hospital Porompat, to produce the detainee before the court the following day at 10 a.m. by convening a special sitting of division bench of the Court. After a hectic argument the State Govt. Advocate admitted the detainee was in the custody of the State police.

Subsequently, on August 20, 2000, the police personnel produced the records of Pranam Singh's arrest before the CJM alleging that Pranam Singh was arrested on August 19, 2000. The Chief Judicial Magistrate, Bishnupur released Pranam Singh on bail on August 26, 2000 after executing a personal bond of Rs. 10,000/- and a surety of the same amount.

The CJM categorically stated that the FIR against Pranam Singh is a false and fabricated story as the accused was already in the judicial custody in JN Hospital on July 30, 2000 in a critical state preparing for a major operation and as

such it is impossible to arrest him on August 1, 2000 from a place about 25 kilometres from the JN Hospital.

IPIC Observations

The commission heard the case of Pranam Singh. His brother Roni Singh also gave his statement. Thereafter, we heard the members of *Meira Paibi*. What they said appears to be very significant. These ladies keep vigil as torchbearers. As Loitongbam Sabita stated what happened during the day could be seen by all; but what happens in the night nobody can see. This is why they keep watch in the night.

They stated before us that Indian army is sent to Manipur not to protect the people but to harass women and children in particular. There are large numbers of case where people are arrested under false charges with false witnesses. The people know the persons so charged are innocent but they are tortured and they are made to suffer inhuman treatment. They also deposed about army people sexually abusing women and even sexually abusing little boys. These women are trying to safeguard the dignity of women and children. What Pranam Singh has stated has to be understood in the light of what these women are trying to safeguard — the dignity of women and children.

What is significant is that Pranam Singh is not involved in any underground movement nor does he belong to any militants group. He has a shop and is carrying on his business. If the allegation is that he was found with some arms and ammunition there should be some acceptable evidence. On the other hand we find that the neither the army nor police have ever searched his home or his shop. The police have registered a case stating that he was caught with some bullets on August 1, 2000.

According to the police when he was brought to the police station by the army, he had serious injuries and that is why they sent him to the hospital. Therefore, it is clear that he was in army's custody and he suffered injuries while he was in their

custody. The police registered a FIR at the instance of the army that he had in his possession certain bullets. This was on August 1, 2000 when he was admittedly in the hospital since July 30, 2000. Assuming that the army caught him with bullets in his possession, there is no justification for torturing him.

He was admitted in the hospital on July 30, 2000 and he had to undergo an operation, remaining there for about forty days. Therefore, obviously the case registered against him is a false case and is intended perhaps to protect the AR personnel.

We understand a writ petition has been filed on his behalf by his brother by way of Habeas Corpus petition in which the petitioner also claimed for compensation for his wrongful detention and torturer. We hope that while the Hon'ble High Court has disposed of the petition, the High Court will also grant adequate compensation to Pranam Singh for what he had suffered. Pranam Singh injury is so serious that his is still not cured completely. He requires an operation as parts of his intestine are still protruding outside his stomach.

We are told that the Doctor had stated that after some time perhaps the intestine can be inserted back into it proper place. We hope that High Court take into account all these aspect before sanctioning compensation to Mr. Pranam Singh.

IPIC Recommendation

An Inquiry should be ordered by the High Court by appointing an Inquiry officer, under its supervision and with a direction that the Inquiry Officer should submit his report to the High Court itself.

The Inquiry Officer should be empowered to call for all records and summon witnesses including army personnel involved in the case. On receipt of such report the High Court should not only grant compensation to Pranam Singh but should also direct the government to prosecute the officers concerned, for unlawful detention and for causing grievous injury to Pranam Singh.

Rape

The military environment is inherently masculine and misogynist. The masculinity cults that pervade military establishments are intrinsically anti-female and therefore create a hostile environment for women. In the case of Manipur the matter is aggravated by the fact that the soldiers operating here besides hailing from a different and relatively more patriarchal cultural backgrounds, are also placed at the elated status of impunity by the special power legislations. As a result, rape and other forms of sexual harassments while conducting operation amongst the civilian populations are very common.

However, most rape by the army goes unreported due to fear of social stigma and the futility of taking up an embarrassing legal battle against the might of the Army. The first reported rape case in Manipur by the military is that of Miss Rose in 1974. An officer of the Border Security Force repeatedly raped her. Rose committed suicide out of shame while the perpetrator went scot-free, due to lack of sufficient evidence. The Ahanjaobi case of 1996, where two Army personnel raped a married woman in front of her disabled 12-year-old son, was a turning point in public attitude towards the crime and its victimization. The public outrage and the intensity of the movement practically forced to the Army Authority to initiate Court Martial proceedings. The two Army personnel were found guilty and punished for the crime in 1997.

The gang rape of M. Mecry Kabui, aged about 25 years, wife of M. Akham Kabui, resident of Lamdan village by the personnel of 112 Battalion, Central Reserve Police Force (CRPF) camp on July 19, 2000 is yet another such tragic story. Mercy's father-in-law M. Thaitoungam Kabui is the chief of the Lamdan Kabui village. On October 22, 2000 the IPIC visited Mercy's family. A female member of the IPIC also spoke her in private.

Mercy Kabui: *On July 19, 2000 at about 5.30 p.m. my husband, my father-in-law Thaitoungam Kabui and I were stand-*

There are large numbers of cases where people are arrested under false charges with false witnesses.

ing at the Verandah of our house. Commander Devshis Biswas A.C. (Assistant Commander) from the 112 battalion CRPF Camo is located at a distance of 150 meters from our house. They were coming from the house of the village secretary Shri. Tangdimlung Dimpu Kabui. I know the said commander. The said commander was in civil dress and other 6 (six) personnel were in uniform. They were all armed. At the relevant time my mother-in-law had gone to the house of my eldest brother-in-law. When the Commander and the six CRPF personnel reached our courtyard, he instructed the CRPF personnel to arrest my husband Akham and to take him to their camp and he left. Three CRPF personnel arrested/seized my husband Akham and kept him at a little distance away from our courtyard and started beating him. At the relevant time my father-in-law was near them and requested them to stop beating my husband. I was very frightened.

The other three CRPF personnel asked me to go inside the house. I refused to go inside. They caught my neck and forcibly pushed me inside the house. I tried to escape from the place through our kitchen. The two Jawans caught the shawl I was wearing and forcibly took me to the bed at the room located near the kitchen and the said two Jawans started forcibly touching upper parts of my body. The other Jawan was standing near the door. I shouted "please do not do, don't." Then they forcibly pulled my legs and hands apart by pointing their guns at me. Then they took away my phanek and pulled up my petticoat. I tried to free myself from them in vain. Then the said two Jawan committed rape on me one after another. I called out to my father-in-law to help me. My father-in-law came running inside the room. I was so frightened and shocked that I was only half conscious and cannot recollect the incident fully. When my father - in - law came inside the room the two CRPF personnel left the room. Then my father-in-law took me out of the house. My husband asked my father - in - law whether the CRPF personnel have committed rape on me or not. He affirmed that they have raped me. Then my husband

caught my hand and told me to go to the CRPF commander in the camp.

The CRPF personnel who were keeping my husband forcibly separated me from him and they took my husband to the camp. They left my father-in-law and me behind. Semen discharged from the two CRPF personnel got stained on my petticoat and phenek. I also sustained pain in my private parts. When I urinated, I checked my private part and the pain coming from there. I found blood in my private parts."

The Medical examination took place only after three days. The family lodged the complaint immediately, however, even three months later no identification parade has been conducted and not a single arrest has been made.

Legal Issues

A complaint was lodged by Mercy herself in the Loktak Project Police Station on July 20, 2000 at about 3.00 p.m. which is being registered as FIR no. 10(7) 2000 Loktak P.S. under section 376 and 34 IPC. The Investigating Officer of the case Shri L. Gopal Singh seized the following article by preparing a seizer memo on 20-7-2000 at about 4.45 p.m.:

▶▶ Blue cotton Phanek having semen stain;

▶▶ One Petticoat green in colour (terry-cotton) having semen stain.

The Police produced Mercy before the Chief Judicial Magistrate, Bishnupur for recording her solemn statement under 164 of CRPC on July 29, 2000. Her statement along with the statement of her father-in-law and her husband were recorded. No arrest has been made till today. The concerned Police officials are still waiting for the result of the DNA test whose blood samples were collected on August 21, 2000 at the office of Doctor L. Fimate, Professor and Head of Department, Forensic Medicine, RIMS, Imphal. The list of individuals whose samples were sent for DNA typing as per the order of the CJM, Bishenpur are as follows.

▶▶Mrs. M. Mercy, aged about 25 years of Lamdan Kabuit village;

▶▶Mr. M. Akham R. Naga, aged 35 years, of Lamdan village;

▶▶Havildar No. 731191116, Reshanlal,

aged 48 years of Tenahar, District- Mandi, Himachal Pradesh;

▶▶Constable No. 941123454, Altaf Badesh Mujawar aged 26 years of Tasgaen, District - Sangli, Maharashtra;

▶▶Constable No. 854790029, Hari Dev Singh, aged 34 years of Rajpur Kalan, District - Pratapgarh;

▶▶Constable No. 913244296, Mahaskumar Panchal, aged about 25 years of Arniakala, District - Shahjahanpur, M.P.;

▶▶Constable No. 913183992, Sunil Prasad, aged 30 years of Newlpur, District Siwan, Bihar;

▶▶Constable no. 981190541, Jitendar Singh, aged 22 years of Palam Gaon, Delhi

▶▶Constable no. 913261288, Sailim Kalita, aged 29 years of Dumuria, P.O. Ehankamaria, Assam and

▶▶Constable no. 880892996, Arbindpal Singh, aged 31 years of Kerapur, District Gajjiabad, U.P.

The Police is awaiting the results of the DNA typing for further investigation.

IPIC Observations

The fact remains that the police have not done a proper and prompt investigation into this case. They have not held even the identification parade so far. The incident took place three months ago and the police could have easily secured the names of all the suspects and completed the investigation.

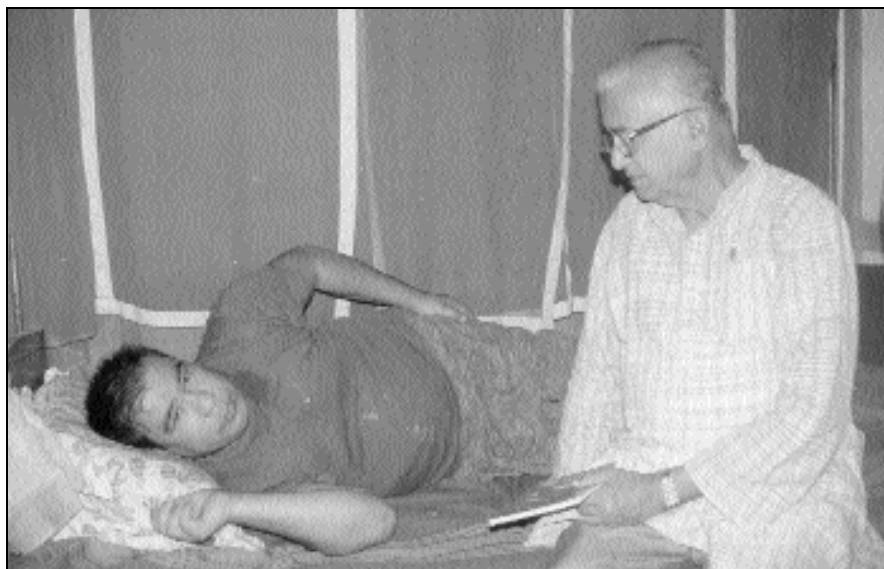
We are also not aware as to what statement the Investigating Officer L. Ishwarlal Sharma, Bishenpur police station has recorded from the Commandant of the CRPF Battalion deployed at this village.

From what we have heard and from what we have seen from the statements recorded by the Police, the said Assistant Commandant Devashis Bishwas should be treated as an accessory to the crime.

He was very much present when the heinous crime was being committed.

We have seen some of the press reports, which appeared in the press during that time.

The CRPF personnel seem to have taken up the contention that they were not involved in the crime and that the DNA



J. Suresh with Bramhacharimayum Manimohan Sharma who has been paralysed.

would show whether they were involved in the crime or not.

The press reports show that the same CRPF Battalion sent the list of certain suspects to the police station. It is not clear whether all the names were included or whether any name is left out.

We want to point out that the victim and the members of the family after undergoing the trauma are shattered and living in a state of terror.

Reportedly, the case has already been documented by the MSHRC and referred to the NHRC.

Recommendations

A proper investigation should be conducted by the police. We therefore suggest that it is not too late for the police to have an Identification (ID) parade. For this purpose, the police should call upon the CRPF to furnish a true list of all the personnel who were deployed on that day at that place and all those personnel should be included in the ID parade.

We also suggest that the officer Devashis Bishwas, the Assistant Commandant of CRPF should be considered as an accused person and should be charged for abetting the crime and also booked under 120 (B) of IPC.

The government, and in particular, the police should take initiative for the protection of the family.

NHRC and MHRC are requested to continuously monitor the development on the

investigation by periodically calling for the reports from the investigating authority and to highlighting the issue before the public.

The party or human rights groups are encouraged to move the High Court for issue of a writ in the nature of Mandamus for calling for progress reports and carrying out the investigation under the overall supervision of the High Court.

Arbitrary Killings

In the ongoing armed conflict situation in Manipur killings and counter killings is a daily phenomena. For many decades the local newspapers have been ceaselessly reporting stories of the military hunting down the "insurgents"; the "liberators" ambushing the "occupation army"; the attacked Army troops taking out their wrath on the "suspects", mowing them down in one go or torturing them, sometimes to death.

While in most cases of this spiralling violence, the general public watches helplessly; occasionally, when large number of civilians are senselessly murdered the general public gets outraged. Some such well documented case are the Heirangoithong Massacre (1984) where 13 spectators of a volley ball match were arbitrarily killed by the CRPF; the Oinam Massacre of (1987) where 15 villagers were arbitrarily murdered by the Assam Rifles; the RMC Massacre (1996) where 9

civilians including a medical student were killed inside the hospital premise by the CRPF; the Tonsem Lamkhai (1999) incident where 10 civilians including State Government employees on election duties were arbitrarily killed by the CRPF.

In order to damp down the public outcry the Government of Manipur usually, but not always, institutes Judicial Inquiries under the Commission of Inquiry Act, 1952 or Magisterial Inquiries to ascertain the facts of the incidents. But due to lack of cooperation from the armed forces and recently due to active intervention against such inquiries by the armed forces, the inquiry reports could never be made public.

Tera Bazar Massacre

The Tera Massacre is one such incident where the efforts of the public to institute even an official inquiry did not succeed. But the innocent civilians did get killed. The IPIC in coordination with the local youth club of Tera Keithel area, namely the Ideal Club, visited the spot on October 23, 2000 and recorded statements of witnesses and families of victims of the incidents.

On August 25, 1993 some unidentified youth shot at the CRPF personnel attached to the Police Out Post Tera Keithel, Imphal while they were fetching water from a nearby public hydrant. Two CRPF personnel were killed. Thereafter, the CRPF personnel rushed out of their barrack and indiscriminately fired amongst the civilians in the area. Five innocent civilians were killed and many sustained bullet injuries. The deceased are as follows:

►Ms. Naorem Ningol Soraisham Ongbi Memcha Devi, aged about 33 years, wife of S.Singh of Phousakhai, Moirand, Bishenpur District, a shopkeeper and mother of four.

►Mr. Khumbongmayum Angou, aged about 66 years, son of (late) Sandrok Singh of Sagolband Tera Keithel, Imphal West District, Retired Head Constable of Manipur Police.

►Mr. Mutum Ajit Singh, aged about 33 years, son of (late) Mutum Shamungou Singh of Sagolband Sapam Leirak, Imphal West District, Laboratory technician cum photographer of the Department

of Science & Technology and Environment, Government of Manipur.

►Mr. Phukhrambam Bihari of Langathel, Thoubal District, a rickshaw driver.

►Mr. Nongthombam Dhakeshore, aged about 72 years, son of late N. Debendra of Sagolband Tera Keithel, Imphal West District, a carpenter.

The indignant public constituted a Sagolband and Patsoi Kendra Joint Action Committee (JAC) to gear up appropriate action and demand justice for the senseless killing of innocent civilians. Thousands of people marched towards the Chief Minister's office on September 1, 1993 and submitted a memorandum requesting inter alia to institute an inquiry under the Commission of Inquiry Act, 1952 to ascertain the facts of the incident. The Inquiry was never constituted; instead, the Government of Manipur paid Rs.20, 000/- each to the families of the deceased and Rs.5, 000/- to the injured persons as ex-gratia.

Bramhacharimayum Manimohan Sharma aged about 48 years, a shopkeeper, recounted the incident of August 25, '93 to the IPIC team led by Justice Suresh from his bed. He remembered that at about 8.30 a.m., CRPF personnel stationed at Police Outpost, Tera Keithel, came out to fetch water in a nearby public hydrant. They were fired upon by unknown youths where two of them got killed. Thereafter, CRPF personnel from their Group Center at Langjing, about three kilometers from the site of the incident, came rushing and fired indiscriminately all over. He was shot in his arm and stomach; the bullet hit his spinal cord paralyzing him from waist down.

He was treated at the "Regional Institute of Medical Sciences" Imphal for one and half years. Thereafter, on the advice of the Medical board he was sent to Christian Medical College, Vellore, Tamil Nadu where his treatment continued for one year.

Thereafter, he was treated in the Down Town Hospital, Gauhati, Assam. Since then he is bed-ridden and suffers from severe bedsores and body itch. No action has been taken against the CRPF person-

nel so far.

The treatment at Vellore was reimbursed because his wife is a Government servant. Apart from payment of Rs.5, 000/- ex-gratia nothing has been given. He is likely to be bed ridden for the rest of his life.

Bramhacharimayum Ongbi Inakhumbi Devi, his wife stated that they have spent over Rs. 300,000/- on his medical treatment and have to spend Rs. 30/- per day on his drugs. The shop he was manning, which was a rented one, is lost now.

The IPIC team also visited Irengbam Mani, Sub-Inspector of the Police Outpost Tera at that relevant time. He confirmed that the CRPF on seeing their colleague's death, rushed out and fired indiscriminately at innocent bystanders, including a dhobi (Bihari washer-man), a printing press and a way-side hotel killing 3 persons on the spot and seriously injuring a woman by the name of Naorem Mema (33 years) who succumbed to her injuries in hospital the same day. He said that he pleaded with the CRPF personnel not to fire at the innocent civilians. He confirmed that all those killed were innocent bystanders including a friend of his who was a retired havildar (Head Constable) of Manipur Police.

Hema (60 years) wife of Late Khumboingmayum Angou Singh, who died in the incident, also testified before the IPIC. She confirmed that on the fateful day her husband, a retired police havildar, went out for morning tea. She heard the gun shot and later came to know that he was killed in the firing. She was paid Rs.20,000/- after 3 years. Given a chance, she stated before the IPIC that she would like to kill the murderers of her husband, but with a sense of helplessness she continued, "We have no means".

Lokendra Singh, son of Late Nongthombam Dhakeshore had a similar story. His father went out for morning tea and was shot in both the legs. He was in the hospital for months and was brought home on November 23, 1993 as the doctors said his case was hopeless. He died within half an hour after reaching home. He received Rs. 21,000/- as compensation.

Mr. Ayekpam Tomba Singh, member of the JAC, a retired Head Master of the Tera Kebol Girls' High School, said that compensation in Manipur is on an average of Rs.20, 000/- which is much lower than other States. He alongwith with W. Toni also a teacher and A.B. Meitei stated that the role of the army is very negative in Manipur and called for (a) withdrawal of Army and (b) repeal of the AFSPA.

H. Surendra Singh, president of the JAC, who is a retired Superintendent of Police of Customs Department, Manipur stated that there was fear and uncertainty in the minds of the people and although he was sure that the demands of the JAC would be acted upon nothing was done.

IPIC Comments

1.The above incident clearly establishes that the CRPF had no justification whatsoever to kill or to cause injury to those innocent persons. It is clear the incident took place within the hotel premises where the victims were having their morning tea. They were not indulging in any confrontational activity against CRPF. In other words, killing them was a clear act of murder and all the CRPF personnel involved should have been prosecuted for the same.

2.We also learnt that at the material time at the Police Outpost, there was a Sub-Inspector, who had protested against the shooting. Since the CRPF persisted in their unlawful acts, the Sub-Inspector and 2 constables even fired in the air with a view to stop them. It appears that the Sub-Inspector later on had made a detailed report to the higher officers. He regretted that the police or the Government took no action against the CRPF personnel who shot at the innocent people.

3.The Government seems to have given some ex-gratia as mentioned above but the sum was extremely inadequate. Mr. Brahmacharimayum Manimohan Sharma is still paralyzed, unable to move about and still requires treatment. He lost his livelihood and the Government seems to have not bothered about it at all.

We therefore suggested that in all the cases the Government should consider paying more compensation, which should be reasonable enough to compensate the

loss the family members have suffered.

4. All the witnesses who appeared before us categorically submitted before us that such an incident took place because of the presence of CRPF in the city.

They demanded that the Army should be withdrawn from Manipur and in any event the army should not be given such uncontrolled powers to kill the people. They also submitted that there are other States in this Country where the law and order problem is worse than that of Manipur and in those States, the army has not been deployed, and an Act like the AFSA has not been made applicable.

We are inclined to agree with this submission.

Recommendations

Prosecution of CRPF personnel involved in random firing and removal from service. Compensation for the families of the deceased persons of at least Rs. 2,00,000/- each. Compensation for Bramacharimayum Manimohan Sharma, of at least Rs. 500,000/- plus reimbursement of all medical expenses, specialized treatment at a Delhi Hospital and provision of a wheelchair and other physiotherapy facilities.

Enforced Disappearances

The phenomenon of enforced disappearances, in Manipur, is closely linked to the counter-insurgency operations conducted by the security forces. It occurs in conjunction with other forms of human rights violations like arbitrary detention, custodial torture and killings etc. Most of the disappearance cases occur when the armed forces arrest suspects. Underground members and their sympathizers are often subjected to severe torture after arrest, to extract information on their activities. The process of reversing the loyalty of the underground activist is a traumatic experience wherein terror tactics both physical as well as psychological are resorted to. Many people never come out of these torture cells. They simply 'disappear'.

When an innocent civilian disappears in the custody of security forces, the general public do not take it lying down. Citizens Committees often called the Joint Action

Committees (JACs) are formed and people come out on the streets, hold mass demonstrations, hold relay hunger strikes, submit memoranda to the authorities and the local media gives wide coverage. The law courts and sometimes even the civil administration are a little more receptive. As a result, many such cases are well documented. The IPIC visited three of such families of Tayab Ali, Laishram Bijoykumar and Kanujam Loken.

Tayab Ali Case: Mohamad Tayab Ali, aged about 35 years of Kairang Muslim Mayai Leikai, Imphal East, worked as a salesman at a shop in Thangal Bazar Imphal. He was picked up by some armed persons who came in two Maruti vans without number plates (suspected to be Assam Rifles personnel in plain clothes) at around 10.00 a.m. on July 25, 1999 near Paomei Colony, Sangakpam Lamkhai. His moped was also put into the other van. Persons known to Tayab Ali traveling in a taxi saw the incident and followed the Maruti vans and saw them entering the southern gate of the 17 Assam Rifles at Kangla.

On inquiry by relatives of Tayab Ali the Assam Rifles officials told them that he would be handed over to the Heingang Police Station the next day. However, he was never handed over. Thereafter the relatives filed a complaint to the Heingang Police Station, the Director General of Police and the Manipur Human Rights Commission (MHRC). As the police report submitted to the MHRC confirmed the arrest after examining the eyewitnesses the case was referred to the NHRC. The matter was placed before the NHRC on December 8, 1999, but no positive action is reported from the side of the NHRC.

The Families of the Involuntarily Disappeared's Association, Manipur (FIDAM) moved a Habeas Corpus petition before the Gauhati High Court Imphal Bench registered as Writ Petition (Cril.) no. 5 of 2000. The Assam Rifles filed an affidavit denying the arrest of Tayab Ali in the Court. Being dissatisfied with the reply of the Assam Rifles, on January 24, 2001 the High Court directed the District and Sessions Judge, Manipur East to inquiry into the matter and to sub-

mit the report within two months. Even though FIDAM had placed all the eyewitnesses before the Court, the matter is still pending even after the expiry of 14 months.

IPIC visited the family of Tayab Ali at his house and spoke to his wife, father, mother and brother and confirmed the above stated facts.

Laishram Bijoykumar Case: Laishram Bijoykumar, aged about 34 (at the time of disappearance) of Thangmeiband Hijam Leikai, Imphal West District, a former student leader who did Moreh business was abducted by Hindi speaking armed personnel in military uniform from his house on the intervening night of June 4-5 1996. Thereafter, he was never seen by his family and friends.

Widespread public protest followed but to no consequence as the authorities turned a deaf ear. On June 7, 1996, Bijoykumar's father moved a writ of Habeas Corpus, registered as Civil Rule (HC) No. 33 of 1996 in the Gauhati High Court, Imphal Bench. In their Counter Affidavit, the security forces denied having arrested Bijoykumar.

The High Court ordered the District and Sessions Judge, Manipur East to conduct an inquiry into the circumstances of the disappearance. After examining the statements of the witnesses, the District and Sessions Judge submitted his report and findings to the High Court on March 20, 1998.

As the report was not brought before the High Court, a Division Bench of the High Court directed the Registrar of the Imphal Bench of the Gauhati High Court to make an inquiry into the matter. On December 8, 1999, the Registrar reported that the inquiry report was found missing from the custody of the High Court. On January 28, 2000, the Division Bench directed the Central Bureau of Investigation (CBI) to investigate into the matter and reconstruct the inquiry report.

The IPIC visited the house of Laishram Bijoykumar and recorded the statements of Shri Laishram Babu Singh and his elder sister Kumari. Laishram Bisheshori Devi who was also an eyewitness to the abduc-

tion of Bijoykumar.

Laishram Bisheshori Devi told the Commission that on June 4, 1996 at about 1 p.m. she heard some noise outside her house. She also heard sounds of barking by dogs. Subsequently, she heard the knocking on her door. When she opened the door, four persons entered with their guns pointing at her. They spoke in Hindi, asking her to go inside the room. Thereafter they started searching the room even opening the doors of the Almirah (cupboard) in the room. At that time, five persons including herself, her younger sister, namely Sanjita Devi, Priya Devi and her sister-in-law Thoibi Devi and a child, namely Phileplen aged about 4 years were there while making the search. One of the armed persons picked up a photograph of her younger brother the late Surjit and asked her as to where the gun was kept. The said photograph was of her younger brother holding a gun.

The person asked about the gun in Hindi. But she replied in Manipuri, saying that her younger brother had died and she did not know as to where the gun was. At the same time her younger sister Priya Devi told him in Hindi the same thing. Out of the four armed persons who came there that night, one was Manipuri and others were non-Manipuri. Their faces were covered/ hooded. One of them did not say anything while he was in the room. When she spoke in Manipuri, one of them acted as if he understood the language and from that she presumed that he was a Manipuri. The said Manipuri was shorter than the other three persons. The four armed persons took away with them a torchlight, the aforementioned photograph of her younger brother and a Samurai sword. They were inside the room for a period of about 45 minutes.

While these four armed persons were entering into her room she could see that three or four other persons entered into the room of her younger brother Bijoy Singh who was in a room adjacent to hers.

The four armed persons prevented her younger sister and sister-in-law from following them but they were asked not to come out. They further told them not to make noise and threatened them that if

they move out of the room they would be shot at. She also could see that some of the said armed persons who entered into the room of her younger brother Bijoy Singh, took him out along with them. She did not move out of the room but she heard some persons talking near the gate, which was about at the distance of about 70 feet from her house. She also could hear some one saying in Manipuri through a Wireless set "hayeng pung nipanda" (tomorrow at 8 a.m.). Thereafter, she could not hear anything. After about 10 or 15 minutes she went out of the room but she could not see any person there.

Kangujam Loken: On September 23, 1980 at about 3.00 p.m. while Loken Singh was at his gate of Kongman Okram Chuthek Makha, a team of military personnel of Jammu and Kashmir Rifles came in two civilians jeeps and illegally arrested him. Thereafter he was taken in one of the jeeps after being blindfolded. On the same day in the same area two other youths namely Thokchom Lokendro and Kangujam Iboyaima were also arrested in a similar manner.

On September 24, 1980 the brother of Kangujam Loken filed a complaint with the Singjamei Police Station requesting for the recovery of his younger brother. The father of Thokchom Lokendro also lodged a similar complaint. Family members came to know from their own sources that the two youths were detained and tortured inside the compound of the Assam Rifles situated at Kangla, Imphal.

On September 26, 1980 at about 7 p.m. Kangujam Iboyaima was released without giving any reason for his arrest and detention. The family confirmed from him that Kangujam Laken was in the custody of the AR. Assuming that Loken would be released soon as was done in the case of Iboyaima, they waited. But that did not happen. On October 14, 1980 his brother filed a petition with the IGP Government of Manipur.

On February 27, 1981 the mothers of Loken and Lokendro filed a representation to the Government of Manipur and GOC M-sector of the India Army for tracing out the whereabouts of their sons. Having no other recourse the mothers

moved Habeas Corpus petitions to the Gauhati High Court, Imphal bench which are being registered as Civil Rule no. 128 of 1981 and Civil Rule no. 129 of 1981. The petitions were however rejected by the High Court on September 8, 1981 based on the claim of the army that the two youths were already released. Appeals were filed being Write Appeal no. 21 and 20 of 1981, which were also dismissed.

Again appeals were preferred to the Supreme Court of India, which were being registered as Criminal Appeals no. 580 and 581 of 1989. The Supreme Court directed the District Judge, Manipur to conduct an inquiry to ascertain the facts. The inquiry reports, submitted on October 6, 1990 to the Supreme Court, established that Loken and Lokendro were arrested by J&K Rifles and "were not released yet". SC also directed the Union of India to pay a sum of Rs. 1,25,000/- each to the mothers.

In 1999, the family members filed damage suits for the recovery of Rs. 15,00,000/- each before the Civil Judge Senior Division no. 1 Manipur which are being registered as Civil Miscl. Case no. 174 and 175 of 1999. The matter is still pending in the Court.

Kangujam Ranjit, brother of Kangujam Loken testified before the IPIC. According to him the Armed Force Special Powers Act, 1958 came into force in Manipur on September 8, 1980. The abduction of his brother by the army was on September 23, 1980, the first case of its kind. The J & K Army picked up three people from his locality out of which only one returned home. He gave evidence of what he saw inside the army camp namely the custody and torture of the other two.

The writ petition was filed and rejected time and again, the matter finally went up to the Supreme Court of India. A Sessions Judge conducted an inquiry. The inquiry found the evidence of abduction and torture to be accurate. Interim relief of 1,25,000/- for each of the families of the disappeared was ordered. The Supreme Court also ordered the prosecution of the officer but nothing was done.

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An Assessment of Official Inquiry Reports

This Chapter looks at the the various Official Inquiry Commissions and their reports along with the action taken by the Government of Manipur and also cases disposed by the Courts. It also looks into the cases taken up by the State Human Rights Commission and those referred to the National Human Rights Commission.

The team has also made notes of the different inquiry commissions set up and their findings and recommendations.

TABLE I
Assessment of the outcome of the Inquires instituted by the Government of Manipur under the Commission of Inquiry Act, 1952

Incident	Facts	The Inquiries conducted under the Commission of Inquiry Act		Findings	Action taken	
		Conducted by	Armed Forces		Ex-gratia	Prosecution
Heirangoithong Massacre of 14-03-1984	<ul style="list-style-type: none"> Thousands watching a volley ball match; Extremist tried to snatch CRPF weapons; 1CRPF killed 5 injured extremist fled; More CRPF joined and shot into the crowd 13 killed and 31 injured 	Shri. Y. Ibotombi Singh, District Judge, Manipur Vide Government Notification no.1/1/(45)/84-H dated 25-6-1984	Attended	<ul style="list-style-type: none"> No cross-firing; After extremist left 2 constables fired into the spectators killing and wounding them; Platoon Commander instigated to fire more instead of controlling; Platoon commander little conscious and completely forgot his duty 	Killed: Rs. 10,000/- Injured: Rs. 4,000/-	Nil
RMC Massacre of 07-01-1995	CRPF shooting, kill 9 and injured 1 civilians inside Regional Medical College Hospital	Shri. D.M. Sen, Retired Judge, Calcutta High Court	Attended	Confirmed the arbitrary and intentional shootings by the CRPF personnel	Killed: Rs. 25,000/- Injured: Rs. 5,000/-	Nil
Amina killing of 05-04-96	CRPF shoot a young mother with her infant baby inside her house	Shri. C. Upendra, Retired District Judge, Manipur	Attended	Confirmed the arbitrary and unnecessary firing	Nil	Nil
Kangujam Ojit Custodial Torture and Death 20-02-1997	<ul style="list-style-type: none"> Army arrest Ojit on 16-02-1997; Handed over to Police on 19-02-1997; Admitted in JN Hospital, same day; Died in the hospital due to blunt force injury on 20-02-1997. 	Shri. L. Rabindra, Retired Judge of Family Court Manipur Vide Government order no. 7/1(1)/97-H dated 21-2-1997	Moved the High Court to stop the proceedings of the Inquiry on the ground that the State Govt. has no jurisdiction over their act.	No report as the High Court stayed the proceeding vide its order dated 25-04-97	Nil	Nil
Sanamacha Disappearance of 14-02-1998	17th Rajputana Rifles of Indian Army abducted a school boy from his house and "disappeared"	Shri. C. Upendra, Retired District Judge, Manipur	Not Attended	Report not made public	Nil	Nil

TABLE II
The Judicial Inquiries Conducted under the instruction of the Supreme Court and the Gauhati High Court

Incident	Facts	The Inquiry under the instruction of Supreme Court and High Court		Findings	Action taken by the Court	
		Findings	Armed Forces		Compensation	Prosecution
Loken & Lokendro Disappearance case	<ul style="list-style-type: none"> ● Army abducted 3 youths on 23-09-1980; ● 1 was released but not the others 2; ● The 2 "disappeared". 	C. Upendra Singh District Judge, ManipurVide SC order dated 24-04-1990.	Attended	<ul style="list-style-type: none"> ● No cogent evidence of releasing Loken and Lokendro by the Army. 	Rs. 1,25,000/- each	Nil
C Paul & C Denial Disappearance case	<ul style="list-style-type: none"> ● Army arrested 2 youths on 10.03.1982; ● The 2 "disappeared". 	C. Upendra Singh, District Judge, ManipurVide SC order dated	Attended	<ul style="list-style-type: none"> ● No cogent evidence of releasing Paul and Daniel by the Army. 	Rs. 1,00,000/- each	Additional Register, SC lodge an FIR on 18-05-'84, but no further progress.
L. Bijoykumar Disappearance case	<ul style="list-style-type: none"> ● Suspected Army abducted Bijoy from home on the night of 5-6-'96; ● He "disappeared" thereafter. 	M. Binoykumar Singh, District Judge, Manipur EastVide HC order.	Attended	The report disappeared from the High Court.	Nil	Nil
Y. Sanamacha Disappearance case	<ul style="list-style-type: none"> ● Army arrest 3 boy from their homes on the night of 14-02-1998; ● 2 were released the next day; ● The other "disappeared". 	M. Binoykumar Singh, District Judge, Manipur EastVide HC order dated 23-07-1998.	Attended	Sanamacha was never released after arrest, nor handed over to the police; nor escaped from the Army.	Ordered payment of Rs. 3,00,000/- vide HC order dated 29.11.2001	Nil

Testimony of MHRC Member

A summary of the cases referred to the NHRC is at the enclosure.

According to the Hon'ble Member although the cases were referred to the NHRC about 1 1/2 years ago in most cases, as can be seen from the enclosure, the NHRC has not given any information to the MHRC as to whether any progress has been made in the various cases nor have the families of the victims been informed about the proceedings. In not a single case have the complainants been summoned to give evidence.

More surprisingly the Hon'ble Member informed that he too was arrested by the Army and released. He also stated that apart from a general visit some years ago the NHRC has held no sitting in Manipur even though it was a state with many human rights violations.

The ratio of troops to the lay population (age 18 - 35 years) is 1: 13,

which is very high.

Government of Manipur has not implemented the Protection of Human Rights Act, 1993 in its true spirit. As required by the Act, no Inspector General of Police has been appointed for the MHRC. The Chairperson cannot visit Manipur as the Government is providing no air tickets. The Government pays thirty lakhs rupees a month on the petrol bill of the police but only thirteen lakhs rupees per year on the MHRC. The budget of the MHRC was 30 lakhs for 1 (one) year but this was reduced to 13 lakhs for 1(one) year. The MHRC was only recently given an office. While the police is spending these amounts, the provision of milk to the children of the Anganwadis was stopped and the Commissioner was forced to intervene.

Vested interests want that Manipur be kept permanently as a "disturbed

area". Bureaucrats coming to Manipur get to retain their government quarter at Delhi. Special allowances are paid for working in a "disturbed area".

Vijaylakshmi of PUCL pointed out that during the Kargil war the army was withdrawn and people were very happy and peaceful. She pointed out that the army used up scare resources thus bringing to a halt all development works.

There are four lakhs officially registered as unemployed on the registers of the employment exchange. Manipur has one of the highest literacy rates. In the absence of any development work the educated unemployed have nothing to do. Schools are in a very bad condition. In the ration shops sub standard rice is being sold.

CASES CONCERNING ATROCITIES BY ARMED FORCES IN MANIPUR TAKEN UP BY THE MANIPUR STATE HUMAN RIGHTS COMMISSION

Sl.no.	Ref.case no.	Type	Date of application	Name and address of Complainant & Victim	Subject matter	Date Referred to NHRC no.Follow up by HRC (case no.)
1.	Of 1999	C.C.	22-1-99	Complainant & Victim Yambem Laba Hon'ble Member MHRC	Illegal arrest and detention by Major Abujam Pratap officiating C.D, 17th Assam Rifles on 9-12-1998. Reply : Major Pratap charged with -a) Criminal conspiracyb) Misuse of official powerc) Violation of the direction of the Hon'ble Supreme Court of Indiad) Maligning the usage of MHRA and the PHR Act, 1993Defence Secy., for covering him up	22-1-99
2.	2 of 1999	C.C.	22-1-99	Complainant Yambem Laba Hon'ble Member MHRC Victims 1)Laishram Bimola 2)Manishang Devi	Two sisters Laishram Bimola and Manishang Devi aged 32 and 29 yrs. Respectively were stripped naked and beaten by personnel of the 31st Bn. CRPF at their HQ at Pangei Imphal East on 14-1-99. They were picked up from their residences at Pukhao Ahallup Awang Leikai.Reply: CRPF misleading the NHRC by concealing facts.	22-1-99
3	3 of 1999	S.M.	26-3-99	Victims: 1)Jangminthang Haokip 2)Jashua Angom Sapermeina P.S. Kangpokpi Sadar hills	Arrest of 2 persons viz. Thangminthang Haoking Thaigboi and Jashua Angom of Sapermeina P.S Kangpokpi by personnels of 12 Kumaon Regiment 57 Mountain Div. Further the custodial death of Jangminthang Haokip. The other arrested Jashua Angom handed over to the police	5-5-99
4	4 of 99	C.C.	1-4-99	Young Lawyer's Forum, Manipur	Necessary actions for the excesses & atrocities committed by Security personnel under the guise ofAFSPA 1958 as amended by the Armed Forces (Assam & Manipur) Special Powers (Amendment) Act 1972	1-4-99
5	8 of 99	C.C.	12-7-99	Shri Babloo Loitongbam, Executive Director, Human Rights Alert	Harassed and intimidated by Capt. Chandan Bajaj of 7th Battalion of Assam Rifles, PO Yairipok for giving guidance to villagers to file a complaint to MHRC 20-7-99	20-7-99
6	6 of 99	C.C.	17-3-99	Oinam Sona Singh, Secretary United Clubs of Thanga	Harassment and misery caused due to the 6 day long combing operation conducted by security forces of 57th Mountain Division of the Indian Army at Loktak (Thanga Island)	26-4-99

independent people's inquiry

Sl.no.	Ref.case no.	Type	Date of application	Name and address of Complainant & Victim	Subject matter	Date Referred to NHRC no.Follow up by HRC (case no.)
7	6 of 99	S.M.	27-4-99	Meira Paibi Bishnupur, Ward No. 4	Inquiry of 3 women 'Meira Paibis' by Army Dogs of 18 Rashtriya Rifles posted at Loktak	27-4-99
8	19 of 99	C.C.	13-12-99	S. Nimaichand Singh, President Social Integrity Organising Club Mongjam, PO Mantripukhri, Manipur	Torture to workers at Thoiba brick filed by personnels of 25 CRPF battalion camped at Thanga Chingjin following bomb blast near Koirengi Lamkhai. Serious injuries caused to the victims	20-1-00
9	30 of 99	C.C.	24-4-99	Ch. Shantipur Singh, Yairipok, Bishnu Naha, Mayai Leikai, PO Yairipok, Thoubal	Arrest & torture on false charge by personnel of 7th Assam Rifles. Mental harassment & threats to daughter (14 yrs) followed by suicide	28-5-99 Case taken up. Complainant by NHRC
10	64 of 99	C.C.	25-8-99	Shri L. Nimai, Meitei, Angtha Mayai Leikai, PO & PS Yairipok, Dist. Thoubal Loiyumba	Medical treatment provided for injuries of UTP caused by 18 RR as a result of heavy torture to his son Loitongban	14-10-99 Treated at state expenses at Gauhati Medical College, Assam upon MHRC recommendation
11	104 of 99	S.M.	2-8-99		Death of 5 persons including one minor by indiscriminate retaliatory firing by 81 battalion CRPF at Churachandpur, Lower Lamka in an aftermath of an attack by underground activists.	2-3-99
12	114 of 99	S.M.	10-8-99	1) Haominlum (16) 2) Haokhosai Shomam 3) Hatsing (40) Motbung Sadar Hills, Manipur	Opened unprovoked firing and terrorised villagers Motbung by personnels of 21 Assam Rifles under the influence of liquor	10-8-99 Case taken up. Registered by NHRC
13	115 of 99	C.C.	10-8-99	A.C. Shidam, general secretary, United Chingtam Club, Sagolmang, Imphal-E	Threats, bounded hardships and missing of property while fleeing due to fear of the 112 battalion CRPF on the villagers of Ishikha, Yumnam Patlou	10-8-99
14	124 of 99	C.C.	20-8-99	Smt. Mina Khatum, Kairang, muslim village, Mayai Leikai, PS Heingang, Imphal-E	Release of Mohammed Tayub Ali. Arrested by 17 Assam Rifles form Paomai Colony, Lamkhai, Sangakpham	25-10-99 NHRC case No 31/14/99-2000
15	20-9-99	C.C.	26-4-99	Yangleman Mani, son of Yaima Toubul, Awang Leikai, Dist. Bishnupur	Arbitrary arrest and torture by personnels of 32 Rashtriya Rifles led by Major Sharma	26-11-99
16	58 of 99	C.C.	3-4-99	H. Sharad Singh, Khurai Lamlong Bazaar, Imphal	Ransacked by CRPF Personnel at Khurai Lamlong Bazaar, Imphal	7-6-99
17	9 of 99	C.C.	24-6-99	Moirangthem Mohan Singh, son of M. Thoiba Singh, Kouchak Mayai Leikai PO & PS Mayang, Imphal	Torture by army personnel belonging to 14 Punjab Regiment under of 57 Mountain Division located at Mayang, Imphal	13-7-99

independent people's inquiry

Sl.no.	Ref.case no.	Type	Date of application	Name and address of Complainant & Victim	Subject matter	Date Referred to NHRC no.Follow up by HRC (case no.)
18	16 of 99	C.C.	19-11-99	Y. Tolapishak Singh, Headmaster Ramananda High School, Angtha, Yairipok		20-11-99
19	Ref. Case 15 of 1999	C.C.	6-10-99	Complainant: Moirangthem Parijat Singh P.O. Wangjeng Thoubal Dist Lamgathel Mamang Leikai Victim: M.Kopet (18) Wangjeng Thoubal Dist. Lamgathel Mamang Leikai	Arrest of Shri. M Kopit (18) by 7th Assam Rifles from Yairipok Top Chingtha Village under Yairipok PS of Thoubal. Necessary action for release and to ascertain the whereabouts.	
20	14 of /99	S.M.	4-10-99	Newspaper report	Death of one bus owner and driver, Tata truck driver and handyman. Bullet injuries to Shri Nila Komal Singh and death of Km. Manglembi Devi Several passengers injured in retaliation of an ambush by UGs at Tonsem Lamkhai	
21	18 of /99	Ref.	20-12-99	Complainant: Shri H. Rajin Singh on behalf of Toupokpi villagers, Bishenpur ward 92/11 Victims: Toupokpi villagers	Threatening and torture of the villagers and also amassing wealth in connection of ambush by underground activists against 8th Assam Rifles posted at Loktak.	
22	21 of 99	S.M.	24-2-2000	Complainant: Imphal Free Press	Bride along with 3 others was wounded as aftermath of an attack by IRB Jawans near Lamlai Phuramakhong Police Station	
23	49 of 99	S.M.	17-8-99	Newspaper Report	Rampage firing by CRPF personnel on security duty at Radio Station, injuring many students of the adjoining Maharaja Budhachandra College after one of their colleagues blew himself to bits. Injured at least 10 students.	
24	76 of 2000	S.M.	31-7-2000	Imphal Free Press	Rape of housewife and 2 other women molested by 112 battalion CRPF posted at Lamdan village. 13 villagers injured during operation in the village by the personnel as an aftermath of an attack by underground militants.	
25	70 of 99	C.C.	24-6-99	Victim: Moirangthem Mohan Singh (21 years) son of M Thoiba Singh, Kouchak Mamang Leikai PO & PS Mayang, Imphal	Torture by Army personnel belonging to 14th Punjab Regiment under 9 sector of 57 Mountain Division	Referred to NHRC
26	21 of 2000	S.M.		Complainant: Imphal Free Press An 18 year old bride wounded as IRB personnel fired upon the marriage party as an aftermath of an attack by some undergrounds.		

**TABLE IV
Disposed cases**

Sl.no.	Ref.case no.	Type	Date of application	Name and address of Complainant & Victim	Subject matter	Date Referred to NHRC no.Follow up by HRC (case no.)
1	Misc.Case 3 of 1999	C.C.	23-3-99	Complainant: Shri. C.H. Ningthem Yairipok, Bishnunaha, Mayai, Leikai, Manipur Victim :Shri C.H Bagiroth, son of Late Shri C.H. Madhai	Arrest of Shri S.H. Bhagirot without issuing any arrest memo and kept in custody of Assam Rifles. Necessary actions to ascertain whether Bhagirot is handed over to the police	Disposed off on 25-3-99. 7th Assam Rifles handed teh arrested person to the Police on 23-3-99
2	Misc. Case 5 of 99	S.M.	3-4-99	Victim:Maisnam Dinachandra Kangmong, Maisnam Leikai Moirang PS	Non-issue of arrest memo and whereabouts untraceable by Army personnel of 18th Rashtriya Rifles	Disposed on 9-4-99 as the arrested was handed over to relatives by Moirang police.
3	25 of 99	S.M.	17-4-99	Complainant:Imphal Free Press Victim:Paokholen (18 years) Paolinlam (19 years), Nabin village, Churachandpur	To ascertain the whereabouts and to hand over to the police who were apprehended by Army Troops, at Nabin village, Churachandpur Army 18th Rashtriya Rifles	Disposed on 22-4-99 as DGP reported that they are handed over to the police
4	3 of 99	C.C.	23-3-99	Victim:C.H. Ningthem, Yairipok, Bishnunaha, Mayai Leikai, manipur	Arrested and kept in custody of Assam Rifles without arrest memo	Disposed on 25-3-99 as the arrested person was handed over to the police
5	43 of 99	C.C.	25-5-99	Victim:Aheibam Nanda Bir Singh Waiton VillagePO Pangei	Beaten up by CRPF personnels at Lamlong bazaar as an aftermath of an incident of firing.We received severe injury and was hospitalised	Disposed on 26-7-99 as the complainant did not appear even after repeate reminding
6	C/106/2000	C.C.	26-8-2000	Complainant:Salam Nando Singh, Uripok Sorbon Thingel Haorangbam Leikai Victim:Salam Ranbir Singh, son of S. Nando Singh, Uripok Sorbon Thingel Haorangbam Leikai	Arrested and severely beaten up by 17th Battalion Assam Rifles from home. Abandoned at Unipek Road After he recovered and was hospitalised again the Rashtriya Rifles arrested him without arrested memo. The whereabouts was not known by the complainant	Disposed as DGP and IGP (1/O) furnished information to the commission that the victim was handed over to the police.

bertolt brecht

on the death of a fighter for peace

He who would not give in

Has been done to death

He who was done to death

Would not give in.

The warner's mouth

Is stopped with earth.

The bloody adventure

Begins.

Over the grave of one who loved

peace

Slog the battalions.

Was the fight in vain, then?

When he who did not fight alone is done to death

The enemy

Has not yet won.

FINDINGS OF COMMISSIONS OF INQUIRY	
<p style="text-align: center;">KARWA FIRING INQUIRY COMMISSION</p> <p>On 28.2.1996 at 10 a.m. there was said to be an exchange of fire between insurgents and police. A schoolboy, Th. Netaji was killed. Police claimed the Rapid Action Police Force (RAPF) to have recovered a revolver.</p>	<p>FINDINGS</p> <ol style="list-style-type: none"> 1. Commission is very reluctant to place evidence as the version with regard to the seizure of the country made revolver. 2. Accordingly to this witness there was no exchange of fire. 3. Commission is inclined to believe ... that the country made revolver was implanted by A.S.I. Mr. Rajen Singh. 4. The country made revolver, the live round and the 5 (five) empty cases were implanted by the police to show justification for their firing. 5. Some police officers are not yet mentally prepared to accept the human rights of citizens
<p style="text-align: center;">HEIRANGOITHOING FIRING INQUIRY COMMISSION POLICE VERSION</p> <p>ON 14.3.1984 at about 3.55 p.m. while a Volleyball match was going on insurgents fired upon CRPF personnel killing 1 (one) and injuring 5 (five) CRPF. Security personnel fired on the crowd of 5 spectators killing 13 (thirteen) civilians and injuring 36 (thirty-six). Shri Y. Thatombi Singh, District and Session Judge undertook the inquiry.</p>	<p>FINDINGS</p> <ol style="list-style-type: none"> 1. There was no cross firing or exchange of firing. 2. After the extremists left the two constables Joydistrichand and P.P. Kumaran became wild and in order to avenge the death of their constable fired several rounds upon the crowds ... killing and wounding innocent spectators. The platoon commander instead of controlling them, instigated them to fire more round upon the crowds spectators. 3. The 3 CRPF personnel were fully responsible for most of the killing and wounding of the innocent spectators (they) have pulverized the innocent with deaths and wound. 4. Sushil Kumar had also completely forgotten his duty as platoon commander littlconscious of his duty.
<p style="text-align: center;">IROISHEMBA FIRING INQUIRY COMMISSION</p> <p>Inquiry undertaken by Justice Y. Ibotombi Singh This case relates to Jiban Singh, an innocent schoolboy who was hit by a bullet on his back and died at 6.30 p.m. on 25/09/1996</p>	<p>FINDINGS</p> <ol style="list-style-type: none"> 1. The firing resorted to by S.I. Budhichandra Singh was totally unwarrantedhe has killed an innocent boy. 2. Taking advantage of his authority position and helplessness of Ikdjfkla no. 13 (thirteen) the investigating officer compelled him to give false deposition while disclosing his duty as Investigating Officer (I.O.), he had allowed himself to be guided by a politician. 3. It is regrettable to note that an officer of the Manipur Police Departmentwas asjhfkfjj stoop to such depth and safe the skin of a fellow officer who has openly committed a heinous crime 4. Citizenshave shouted to develop a feeling that the Police cannot protect human rights rather they violate them the police are not trustedThe reasons for (this) are two pieces of legislation i.e. TADA and Armed Forces (Special Powers) Act, 1958 considered to be grown threat to public liberty because of its oppressive nature 5. Citizens of Manipur have suffered enough in the past and cannot tolerate any more the non-accountability of the police for the actions they do in the name of people's protection.
<p>Judgement of Guahati High Court : Imphal Bench dated 05/05/1998 in Civil Rule No. 444/1997 Kangujam Ongbi thoibi Devi vs State of Mnipur</p> <p>FACTS</p> <p>The case relate to a claim of a mother about the wrongful detention of her son Kangujam Ojit Singh aged 15 (fifteen) years and his death in custody. On 16/02/1997 Mr. Ojit was arrested by the army. On 19/02/1997 he was handed over to the police with serious injuries. He was taken to J.N. Hospital, Porompat. He died the next day.</p>	<p>CONCLUSION</p> <p>It can be easily concluded that Mr. Ojit Singh faced torture no of external and internal injuries while he was in the custody of the respondents.</p>
<p>Inquiry done by M. Binoy Kumar Singh, District Judge in respect of death of Sanamacha Singh at the hands of the army.</p>	<p>FINDINGS:</p> <ol style="list-style-type: none"> 1. It can be concluded that Sanamacha Singh was arrested from his house by the 17th Raj Rifles in the night.

<p>FACTS Inquiry conducted pursuant to the direction of the High Court dt.23/07/1998 in Civil Rule No.4/98 and 5/98.</p> <p>On 12/02/1998 at mid night the 17 Raj Rifles brought down the front door of Y. Sanamacha Singh's house at Angatha Mayai Leikai, while he was preparing for his examination, bit him, arrested him along with 2 (two) others and took them away to the army camp at Yairipok. On 13/02/1998 2(two) other were handed over to the police. On the same day villagers saw a death body lying in a pool of blood.</p> <p>The army admits taking Sanamacha away, denies beating him and claims that he ran away from custody.</p>	<p>2. Supreme Court's "List of Do's and Don'ts as Naga People's Movement for Human Rights V/s. U.O.I. (1998 2SC 109)</p> <ul style="list-style-type: none"> ● In case of opening fire..... ascertain that it is essential open fired only after due warning . ● Arrest only those who have committed cognizable offences. ● Do not harass innocent people. ● Hand over arrested persons to the nearest police station. ● Do not use any force after arrest unless when he is trying to escape. ● Do not use third degree methods. ● After arrest by armed forces he shall not be interrogated by the armed forces. ● No harassment of civilians. ● No torture. ● Avoid indiscriminate firing. ● Do not fire into crowd. ● Co-operate representatives of civil authority during sewdfts <p>3. No Civil authority was informed before launching the operation ... no civil police was associated.....</p> <p>4. There is nothing to show that any pistol or radio set was found either in the house or at any time</p> <p>5. No evidence tom show that provisions of Cr.PC governing search and seizure were followed.....no independent inhabitant of the locality was associated seizure memo was prepared at camp not at place of seizure in the pressure of the witness. (So too) the arrest memo.</p> <p>6. Sanamacha was taken to the army camp and the arrested by the assaultd by the army.</p> <p>7. Respondents failed to prove that Sanamacha Singh escaped from the custody of the army.</p> <p>8. There is a possibility that the army personnel might have killed Sanamacha Singh he has neither did released nor handed over to the police..... there is no sufficient evidence to show that Sanamacha Singh was a member UNLF</p> <p>9. There is no evidence to show that Sanamacha Singh escaped from the custody of the army</p>
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Need for Return to Normalcy

Concluding Observations and Recommendations.

These five days of Public Hearing has brought to focus a distressful account of gross and persistent violation of human rights of a large number of people of this state of Manipur, which has been going on for many years.

On the day we landed here, we were told that there was a Bandh organised to protest against the killing of an innocent van driver. We saw a large number of women in groups, standing at a number of places, requesting a stray vehicle moving about here or there, from proceeding further. However, it was a peaceful Bandh and there was absolutely no violence. Yet, we saw the police and the armed forced

moving about with guns as if they were enforcing a curfew. All over the city, on every road, police and army men with guns were stationed to watch the movements of the people.

If this is the kind of terror is prevailing in this city, which we noticed within hours of our coming into the city, imagine the plight of the people who had to remain under this stifling atmosphere for the last twenty years or more.

The terror and consequent fear on the face of everyone on seeing the armed soldiers can be witnessed all over Imphal. People, particularly the younger generation are not sure what is going to happen to them at anytime. Parents particularly the aged, are not sure whether their sons

would come home safely after their day's work is over.

There is a constant fear of these young men being taken away by force and thereafter be subjected to such cruel and inhuman torture as in the case of Pranam Singh or they might just disappear as in the cases of several disappearances brought before us. In remote villages and towns womenfolk are in constant fear of being raped as in the case of Mercy. Worse, after committing such heinous crimes and acts, the victims and their kith and kin are involved in false cases on false charges.

It is commendable that many women have organized themselves into Meira Paibis (Torch Bearers). As one of them

It is a universal feeling here that the people will get no justice from the concerned authorities.

told us, what happens in the day time could be seen, while what happens in the night nobody could see, which is why they have decided to keep vigil in the night as torch bearers. It is to their credit that their endeavor to protect human dignity for women and children has resulted in some kind of confidence amongst them to raise their voice against the armed forces.

As one of them said, Assam Rifles were sent to Manipur not to protect people, but only to terrorize them, and to reduce them to a state of meek submission to whatever the authorities do.

We are inclined to agree with this statement.

It is a universal feeling here that the people will get no justice from the concerned authorities. The army just doesn't care. The police have no initiative in investigation, particularly where the army commits crime. The Government is subservient to what the army does.

Manipur Human Rights Commission and National Human Rights Commission

We commend the role of the Manipur Human Rights Commission (MHRC) one of whose member the Hon'ble Shri Yambem Laba deposed before us. He brought to our notice that he too was arrested by the army even though he was a member of the Commission. The MHRC has shown initiative and courage in taking up cases of violations.

On the other hand the same cannot be said of the National Human Rights Commission (NHRC). Though more than 20 cases have been referred to them (many of these cases concerning death in custody) the NHRC appears not to have informed the State Commission of the

steps taken for over one year. Nor has the NHRC bothered to hold a single sitting in Manipur. This is a shocking state of affairs.

Members of the public also brought to our notice the fact that large sums of money are spent on the armed forces for new vehicles, new guns and so on, thus drying up the state funds as a result of which there is no development of any kind. The official unemployment is above four lakhs and as pointed out to us by the MHRC member even milk for the children in Anganwadis was stopped recently.

It appears that the army has been given what they call as Ten "Commandments". We got a copy of the same, which is as under:

CHIEF OF ARMY STAFF COMMANDMENTS

1. No Rape.
2. No Molestation.
3. No torture resulting in death or maiming.
4. No Military Disgrace i.e. loss of arms / military post or surrender or imbibing of un-armylike culture.
5. No meddling in Civ. Adm. i.e. land disputes or quarrels.
6. Competence in PL/Coy Tactics with Innovations.
7. Willingly carry our Civic Action with Innovations.
8. Develop Media interaction modus - Use it as a 'force multiplier' and not as 'force degrader'.
9. Respect Human Rights.
10. Only fear God, uphold Dharma (Ethical mode of life- the path of righteousness) and enjoy serving the country.

We will have no hesitation in saying that every commandment has been observed in breach only. All these are not frivolous allegations against the army for they are all well documented by the journalists, by the human rights activists and also by inquiry commissions.

In the *Naga People's Movement of Human Rights v. Union Of India* (AIR 1998 SC 431) the Supreme Court while upholding the act, the Supreme Court has observed that the Central Government has the power to send armed forces to any State "in aid of the civil power of that state." In other words the word "aid" postulates the continued existence of the

authority to be aided. The Supreme Court has further clarified by saying that the army has the power to arrest, search and seize but it shall hand over without delay, the person so arrested to the State Criminal Justice Machinery. The Supreme Court has categorically stated that the armed forces of the Union cannot supplant or act as a substitute for the civil power of the State.

In theory and on paper what the Supreme Court has stated is correct, but in reality, as the citizens of Manipur have perceived the Army is all pervading and not the State. The Criminal Justice Machinery, particularly the local police and the officials have behaved as if they are subordinate to the army.

When Pranam Singh was brought to the Police Station after three days of torture resulting in the rupture of his stomach with the intestines protruding out, no question was asked about how the army could indulge in such inhuman conduct.

In fact, the police should have at once approached the Government to seek sanction for prosecution against the army personnel concerned. The police do nothing. On the contrary the army comes with a patently false case after Pranam being in the hospital for three days, and the Police officer instead of categorizing the same as false

case, registers a case against Pranam compelling him to seek bail from the Magistrate. Even the Magistrate after observing that the case appears to be a false one, orders bail in the sum of Rs.10,000/- with a surety, which itself is not a small sum for Pranam.

So also in the case of Mercy who was raped by CRPF men with the commandant remaining outside, the Police have not

The official unemployment is above four lakhs and as pointed out to us by the MHRC member even milk for the children in Anganwadis was stopped recently.

done anything. Similarly in 1993 when CRPF men came out from the police station of Tera and killed three innocent persons having their morning tea in a wayside hotel and rendering Brahmachari a permanent paralytic, all in the presence of a Police Sub-Inspector, the Criminal Justice Machinery did nothing.

All this and many more instances clearly show that the State has abdicated its power and functions, all in favor of an autocratic army.

It is unfortunate that the Supreme Court could not visualize having regard to the dictum "Absolute power corrupts absolutely", that if armed forces are given such drastic powers as are contemplated under section 3 & 4 of the AFSP Act, that too at the invitation of civil authority, the civil power would sooner or later be relegated to a subordinate position.

In the course of the judgement the Supreme court has observed that a declaration under section 3 of the act has to be for a limited duration and there should be periodic review of the declaration before the expiry of six months. We are told that the city of Imphal and the surrounding areas have been declared as 'disturbed area' for the last twenty years. It is difficult to believe that there has been any genuine review of a such a declaration from time to time. The law and order situation in this city and the surrounding areas and in many villages appears to be much more peaceful than many of the other states, such as Bihar or UP. Therefore there is no justification whatsoever for continuing such a declaration continuously for more than two decades.

The SC itself has observed that such a declaration can be issued only in a grave situation of law and order". We find that there is no such "Grave" situation to continue the declaration any further. The SC itself has set out the consequences of continuing such a declaration for a long time as can be seen from this passage. (Para 39)

"Involvement of Armed Forces in handling such a situation brings them in confrontation with their countrymen.

Prolonged or too frequent deployment of Armed Forces for handling such situation is likely to generate a feeling of alienation among the people against the Armed Forces who by their sacrifices in the defense of their country have earned a place in the hearts of the people. It also has an adverse effect on the morale and discipline of the personnel of the Armed Forces. It is, therefore, necessary that the authority exercising the power under Section 3 to make a declaration so exercises the said power that the extent of the disturbed area is confined to the area in which the situation is such that it cannot be handled without seeking the aid of the Armed Forces and by making a periodic assessment of the situation after the deployment of the Armed Forces the said authority should decide whether the declaration is required to be continued, whether the extent of the disturbed area should be reduced."

Presence of Army - Resultant Violation of Human Rights

In fact, wherever we went, and whomsoever we talked, almost all of them have said that the army, CRPF, Assam Rifles should be withdrawn forthwith. We could perceive brooding uneasiness and feeling of uncertainty all over Manipur. No one thinks, he is safe, not because of the militants, but because of the army. Keeping people under constant fear is itself a violation of several human rights. It is a violation of right to reside anywhere of one's choice. It is a violation of one's right to move freely. It is a violation of one's right to speech and expression. It is a violation of one's right to livelihood. It is a violation of one's right to security. Above all it is a violation of right to live with human dignity. The presence of army has made every citizen suspect in the eyes of law and law enforcing agencies.

Right to remedy and relief for violation of human right is itself a human right under the International Covenants. Here in Manipur, that right has been denied in large measure. We are therefore, of the

opinion that the continued application of the AF(SP) Act, and the continuance of the army in Manipur has resulted in a situation of gross violation of human rights. It is therefore, imperative that the Armed Forces shall be withdrawn.

Request to the Supreme Court to Reconsider

We also would like to urge upon the SC for review the above Judgement, as the enforcement of the Act and the experience of the people in all those declared "disturbed areas" clearly show that Act has been grossly abused. The Act has an inherent tendency to enable any incumbent of such power to misuse. It is undoubtedly a draconian law and there is no suitable machinery to restrain the exercise of power under the Act.

No Right to Kill: Army Men Liable for Prosecution

Under the Constitution there is no provision which enables any authority to "Kill" any person. The relevant Article is Article 21 and as has been interpreted by the Supreme Court, one's life or liberty can be taken away only by a procedure which is just and reasonable, under an Act which also must be just, fair and reasonable.

Certainly, the AF(SP) Act, by no standard can be considered as just, fair and reasonable, and should have been struck down, as ultra vires Art. 21 of the Constitution of India.

The only provision that gives the right to kill is under the Indian Penal Code (s.100 IPC), as a matter of defence. This right can be exercised only to save oneself or anybody in the vicinity being killed. However this defence has to be justified in the Court, at the time of trial for the said killing.

The only other situation where killing becomes inevitable is in war. A law and order situation can never be equated with War. A situation relating to public order, however grave it could be, can never be compared to a war-like situation where the army shoots to kill the enemy. People

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independent people's inquiry

Do's and Don'ts

The Supreme Court was furnished with a list of 'Do's and Don'ts' for the armed forces, which has been incorporated in the judgement. It is the experience of the people of Manipur that most of these do's and don'ts have been observed in the breach only. We intend to set out some of those breaches as has been deposed before us.

DO's	OUR OBSERVATION
1. Action before Operation (b) Power to open fire using force or arrest is to be exercised under this Act only by an officer/JCO/WO and NCO	Firing has been resorted to by the ordinary army men, on several occasions.(The case of Bashikhong Election Firing)
2.Action during Operation. (a) In case of necessity of opening fire and using any force against the suspect or any person acting in contravention to law and order, ascertain first that it is essential for maintenance of public order. Open fire only after due warning. (b) Arrest only those who have committed cognizable offence or who are about to commit cognizable offence or against whom a reasonable ground exists to prove that they have committed or are about to commit cognizable offence. (c) Ensure that troops under command do not harass innocent people, destroy property of the public or unnecessarily enter into the house/dwelling of people not connected with any unlawful activities.	There was no necessity to open fire in the 1993 Tera incident and there was no question of maintenance of public order at all. There was no warning. The local Sub-Inspector had to intervene to stop firing. In the case of Pranam Singh he had committed no cognizable offence. Worse is that a member of Manipur Human Rights Commission, Mr. Yambem Laba was arrested by Assam Rifles without any reason whatsoever. So also a Chief Judicial Magistrate of Tamenglong District was taken into custody and physically tortured. Innocent people are harassed every day.
3. Action after Operation. Every delay in handing over the suspect to the police must be justified and should be reasonable depending upon the place, time of arrest and the terrain in which such person has been arrested. Least possible delay may be 2-3 hours extendable to 24 hours or so depending upon a particular case. 1. Do not keep a person under custody for any period longer than the bare necessity for handing over to the nearest Police Station. 2. Do not use third degree methods to extract information or to extract confession or other involvement in unlawful activities.	In the case of Pranam Singh this duty was not observed at all. In most of the cases, after arrest, they have indulged in interrogation and torture for extracting information, for which the army has no right at all. Pranam Singh was kept for three days before handing him over to the Police. Pranam Singh suffered all the injuries because of the third degree methods used by the army. The CJM was tortured by giving electric shocks.
Amongst the list of Do's and Don'ts while aiding the civil authority, the following have been patently breached.	
DO's	OUR OBSERVATION
5. In case you decide to open fire:- (a)Give warning in local language that fire will be effective. (b)Attract attention before firing by bugle or other means.	No such warning was given in may instances
7. Ensure high standard of discipline.	Mercy's rape by CRPF is the example of the Standard of discipline? Arresting a member of the MHRC is what kind of discipline?
DONTs	OUR OBSERVATION
8. Do not use excessive force.	Killing innocent people without arms, and that too while they were having their morning tea is a clear example of use of total excessive force.
11. No harassment of civilians.	Civilians are harassed even on a day of peaceful Bandh.
12. No torture	Pranam was tortured.CJM was tortured.Many others are tortured.
17. Avoid indiscriminate firing"	On the Election day, indiscriminate firing was done killing two persons on the spot and one later on and causing injuries to several persons.

within a country can under no circumstances be considered as enemies of the Government. If people are to be permanently treated as enemies, that would only make a mockery of the rule of law, above all make a mockery of democracy itself.

We may point out that even under the Armed Forces Special Powers Act, shooting to kill is permissible only within the strict parameters of S.4 of the Act. Patently, therefore, killing all those innocent persons is outside the purview of the Act itself. All those officers and army men who have killed innocent people are liable for prosecution under section 302 I.P.C.

Armed Forces Special Powers Act to be Withdrawn

We understand from the Parliamentary debate that the reason for enacting AFSP Act was..." certain misguided sections of Nagas (in the words of Mr Pant, the Home Minister) are indulging in arson, murder, loot, dacoity, etc. So it has become necessary to adopt necessary effective measures for the protection of the people, in those areas." Arson, murder, loot, dacoity take place, in all the States, and in some on a large scale. In those States this Act has not been made applicable. If the Act is for the purpose of containing insurgency, the Act must say so. In any event, there is no justification for continuance of the Act, as far as Manipur is concerned.

We understand that initially parts of Manipur were declared "Disturbed Areas" under the act, since it's inception. Gradually it was extended to other parts. In 1980 the whole of Manipur became a 'disturbed area'. Since then the Army exercises its powers all over Manipur - a de facto permanent emergency under the Act.

The UN Human Rights Committee in 1997 has observed as follows:

"The committee remains concerned at the continuing reliance on specific powers under legislation such as, The Armed Forces Special Act, Public Safety Act, national Security act in are 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 men and armed forces actin under these laws as well as by paramilitary and insurgent groups. The Committee, noting that the examination of then constitutionality of the AFSP Act, long pending before the supreme court due top be heard in August 1997. Hope that its provision will also be examined for their compatibility with the covenant.

In this respect, in mind the provision of Articles 1, 19 and 25 of the covenant, the committed endorsed the views of the national commission to the effect that the problems in are affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problem must also, essentially be political and emphasizes that terrorism should be fought with means that are compatible with the covenant.

It is unfortunate that the Supreme Court did not bother to take into account these provisions of the Covenant.

When we say that army should be withdrawn from Manipur, we are conscious of the fact that there are certain groups of extremists who indulge in violence in certain parts of the state. Perhaps the Government feels that it may not be possible to control the activities of the extremists without the army.

When any administration of a State becomes difficult on account of internal disturbance, certainly it is the duty of the Union Government to send such assistance as may be required, including the armed soldiers. For example, when riots broke out on a large scale in Bombay after the demolition of Babri Masjid, at the request of the State Government, the Central Government sent the armed forces to help in controlling the situation. Nobody found fault with this. So also after the Latur Earthquake (Maharashtra) or in Orissa after the Super - Cyclonic disaster, the army was sent to these States to help the States in distress. Again nobody

found fault with this. So also if Manipur Government wants the assistance of the armed forces to control the extremists, the Central Government may certainly send the army. In all these instances the army works under the authority of the State Government. Whatever the Army does, the same can be controlled by the local civil authorities. So also the people affected by any illegal or excessive acts, can look for redressal at the State level itself.

In other words, what we are objecting to is the application of the AFSP Act to the State of Manipur or for that matter to any State. It is this Act that has made the State instrumentalities helpless resulting in large scale violations of human rights. It is this Act that has made has army autocratic

We would like to point out that we had TADA law for more than a decade and half - a law meant for controlling Terrorists. And yet the terrorists are on the increase and the Act could not contain terrorism. It only enabled the Government to misuse the provisions against innocent persons who suffered the worst violation of human rights, by way of torture, denial of bail and loss of livelihood etc. Similarly AFSP Act has been in existence for more than two decades for the whole of Manipur. It has only resulted in more extremists groups and more armed forces. These draconian laws, therefore, only aids to the miseries of the common innocent men, women and children.

In fact, some of the persons who appeared before us plainly stated that when part of the soldiers and armed forces were withdrawn during the Kargil event, the life in Imphal was more peaceful and tension free than at present.

CL

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