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INDIA

Manipur: The silencing of youth

"I... heard his crying sometimes and then I did not hear anything and then I heard his crying again. After half an hour I and my younger brother Bimol Singh were taken into a room and from that room I did not hear the sound of [Yumlembam] Sanamacha Singh" [from the testimony of detainee Inao Singh]

In February 1998 Yumlembam Sanamacha aged 15 and brothers Bimol Singh aged 15 and Inao Singh aged 22 were picked up from their homes in Manipur by army personnel. Bimol Singh, a student at the same school as Yumlembam Sanamacha, and his brother were the last to see Yumlembam Sanamacha alive. A short time after their arrest, they witnessed him being tortured by the side of the road before the three of them were taken to a nearby army camp. The next day, Bimol Singh and Inao Singh were handed over to police.

In contradiction to their testimony and that of relatives and villagers, the army denied that they picked up Yumlembam Sanamacha (although they have subsequently admitted that they did indeed arrest him but that he escaped). The 15-year-old school-boy has not been seen since. Attempts to investigate his "disappearance" have now been obstructed by the Government of India and Amnesty International fears that he may become just another child victim of killings in Manipur. His story clearly illustrates how children in Manipur have been denied a whole range of rights -- the right to education, the right not to be arbitrarily detained, the right not to be tortured, the right to life; the right to legal redress and the right to family life. It shows how childhood and justice have been silenced.

On 22 April 1998, Amnesty International launched a campaign highlighting children's rights in South Asia. The campaign notes that children in all countries of South Asia, including India, continue to be ill-treated in the custody of the state as it administers juvenile justice, are left unprotected in the family and community and suffer the consequences of living in the midst of armed conflict (see Amnesty International's report, *Children in South Asia: Securing their rights*, April 1998, AI Index: ASA 04/01/98). This is despite the fact that all countries of South Asia have acceded to or ratified the United Nations Convention on the Rights of the Child (CRC).

In its 72-page report to the Committee on the Rights of the Child (an expert committee established under the CRC to monitor and advise governments on implementation of the Convention), India has dedicated two paragraphs to concerns under Article 38, relating to children in armed conflict. While these paragraphs refer in passing to the impact of conflict on children in Punjab and Jammu and Kashmir, no mention is made of any of the seven states of north-east India, where children have lived in the midst of conflict for decades.

Manipur, a state in the north-east region of India, has been riven by internal conflicts for decades. The troubled political history of Manipur has been perpetuated by a multitude of factors including anger at economic under-development, drug-smuggling and corruption. Armed opposition groups

have emerged, organised on the basis of community affiliations and conflicting demands for greater autonomy and self-determination.

It is against this background that abuses of human rights by government forces and by armed opposition groups have become a feature of daily life for people in Manipur. The victims do not come from any one ethnic, religious, social or economic background -- all the communities in Manipur have suffered. Even those defending the rights of others, including lawyers have been harassed. In his report to the 54th United Nations Commission on Human Rights in Geneva, the Special Rapporteur on the independence of judges and lawyers, Mr Param Cumaraswamy, detailed the harassment of four lawyers and one judge in Manipur.

I. The story of Yumlembam Sanamacha

Yumlembam Sanamacha lived with his family in Angtha village in Thoubal district of Manipur, 20 kilometres from the state capital, Imphal. He was the youngest of three brothers studying in Class X of the village school and was preparing to sit his High School Leaving Certificate (HSLC) Examinations which were due to begin on 20 March. On the evening of 12 February 1998, he was left alone in his family home to study -- his parents were out, while his sister-in-law was looking after her children in the next-door house.

Arbitrary arrest of Yumlembam Sanamacha, Inao Singh and Bimol Singh

b. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

Convention on the Rights of the Child

Article 37

At around 11.30pm, personnel of the 17th Rajputana Rifles entered the village and stopped outside Yumlembam Sanamacha's house. They kicked down the door and grabbed Yumlembam Sanamacha. Hearing the commotion, Yumlembam's sister-in-law, went to see what was happening. She later related:

"I opened the door of my room. When I came out of the room I saw some army personnel numbering about 2 or 3 bringing out my brother-in-law Sanamacha Singh from inside his room. I met Sanamacha Singh just near my door... I asked him whether he was having his school identity card... Sanamacha Singh replied that he was having that card with him. The army personnel made Sanamacha Singh to sit... I was also crying and saying that... Sanamacha Singh was going to appear in the ensuing HSLC examination this year. None of the army personnel said anything..."

After a brief search of the rooms, Yumlembam Sanamacha was slapped several times by the army personnel and questioned about the whereabouts of a gun. When he pleaded that he knew nothing about the gun, he was taken forcibly from his home. His sister-in-law heard him crying "Ei ounbigan ei parikhathagadouribani" [please do not bind me, I am going to appear in examination].

The army personnel also picked up Inao Singh and Bimol Singh from the village. The three of them were blindfolded and their hands tied with rope. They were then put in an army jeep (a "gypsy") and driven out of the village. Several villagers, many of them women activists known as Meira

Peibis [literally "Torch bearers" -- communities of women whose traditional form of protest is torch-light processions], attempted to chase the army vehicles as they left the village.

Torture of Yumlembam Sanamacha

a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Convention on the Rights of the Child

Article 37

Inao Singh and Bimol Singh have testified before a judicial officer concerning their arrest with Yumlembam Sanamacha. Both their testimonies described how all three of them were assaulted but how Yumlembam Sanamacha in particular was subjected to severe torture. Inao Singh testified the following:

"Before reaching Yairipok but after proceeding a little distance from Angtha three of us were taken out of the gypsy vehicle near a culvert which is generally known as Pangal Salam. At the said place an army personnel removed the binding of the hands of Sanamacha Singh and Bimol Singh.

Hereafter Sanamacha Singh was assaulted by some army personnel in front of the gypsy vehicle. I and my younger brother Bimol Singh were also assaulted severely by some army personnel. After sometime I and my younger brother were taken into the gypsy vehicle and we were made to sit inside it. From inside the gypsy vehicle I could see that Sanamacha Singh was made to lie on the ground with his arms out straight with his face on the ground. Some army personnel pointed his gun on the back of Sanamacha Singh. I also saw one of the army personnel taking out something which looked like iron. The thing was a bit more than ten inches in length and about five inches in breadth of thickness about three/four inches. I saw some of the army personnel holding and pressing down the legs and other parts of the body of Sanamacha Singh and I also saw one of the army personnel putting the thing on the soles of the Sanamacha Singh. Whenever the iron like thing was kept on the soles of Sanamacha Singh he started to move/shake his body violently. I heard Sanamacha Singh crying unable to bear the pain".

Following this, Yumlembam Sanamacha was returned to the gypsy vehicle where he didn't speak to Bimol Singh and Inao Singh. The three were once again blindfolded. The boys believed that they were taken to an army camp although they could not see. Sanamacha Singh was taken out of the jeep while the other two were made to sit on a verandah where they could hear Sanamacha Singh crying and groaning. They didn't see him again.

Bimol Singh and Inao Singh were given clothes and told to rest. The next morning they were given food and asked to put their thumb impressions on a piece of paper while they remained blindfolded. At 2pm on 13 February the brothers were handed over to Yairipok Police Station by army personnel. At the station, police read out from the piece of paper which the brothers had signed earlier, that a radio had been recovered from their possession along with ammunition from an AK Rifle.

In the early morning of 13 February, relatives of Yumlembam Sanamacha and several Meira Peibis went to the camp of the 17th Rajputana Rifles at Yairipok. After several hours they were told that the arrested boys had been handed over to the police. When it was found that Yumlembam Sanamacha had not been handed over and that the army was denying his arrest, several women

remained camped outside the gates. On 14 February a Major of the 17th Rajputana Rifles came out to speak to them and again denied that his forces had arrested Yumlembam Sanamacha. The same army major was identified by Yumlembam Sanamacha's sister-in-law as being present at the time of the arrest.

Inao Singh and Bimol Singh were remanded to judicial custody and continue to be held in Sajiwa Jail, Manipur, on charges relating to the recovery of weapons. Amnesty International believes that their detention should be reviewed as a matter of urgency. 15-year-old Bimol Singh is being held in violation of provisions of the Juvenile Justice Act of 1986 which states that children should not be held in jails with adult prisoners. The Act provides for the establishment of Juvenile Remand Homes where children are to be sent on the orders of a magistrate once charged. There are no juvenile remand homes in the state of Manipur and it is alleged that scores of juveniles are being held in adult jails awaiting trial. Bimol Singh is being held with several other students who have been arrested following protests against the "disappearance" of Yumlembam Sanamacha. In the aftermath of Yumlembam Sanamacha's "disappearance", the All-Manipur Students' Union (AMSU) and the National Students' Union of India (NSUI) undertook "mass class boycott" demanding action against the armed forces for human rights violations.

Evidence of the fate of Yumlembam Sanamacha

States Parties recognise that every child has the inherent right to life

Convention on the Rights of the Child

Article 6(1)

Fears are growing -- strengthened by the testimony of Bimol Singh and Inao Singh -- that Yumlembam Sanamacha may have been killed in custody and his body disposed of. The highest executive officer in Manipur himself, the Chief Minister Mr Nipamacha, is reported to have said that "circumstantial evidence shows that Sanamacha has been done to death and then buried" (The Hindu, 26 February 1998). On 13 February a fellow student of Yumlembam Sanamacha's saw a body near the Ngariyan Hills. The next day when villagers returned to the spot to try and identify the body, it had been removed. However, there were blood stains where the body had been. The description of the body and the clothes given by the friend matched that of Yumlembam Sanamacha.

Yumlembam Sanamacha's father has pleaded "I know my son is dead, but please help us in getting at least a portion of his body back. We are Hindus and have to perform his last rites" (The Telegraph, 20 February 1998).

II. Attempts to investigate the "disappearance" of Yumlembam Sanamacha

On 6 March a habeas corpus petition (No.4/98) was filed in the Imphal bench of the Guwahati High Court (the Guwahati High Court has jurisdiction over the states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura). The High Court judge hearing the petition stated that a prima facie case had been made out that Yumlembam Sanamacha had been arrested by army personnel and directed the armed forces to produce him before the court on 9 March at 10.30am "sharp". However, the army denied in court that he was in their custody, explaining that

they had instituted an internal inquiry which had concluded that he had not been arrested (the army instituted a Staff Court of Inquiry on 25 February headed by a commanding officer of the 12th Assam Rifles). As a result, on 9 March, the High Court ordered a District Judge to examine witnesses and report to the court on 19 March. The court also ordered that "necessary security" be provided to witnesses as well as to the judge.

At the hearing on 19 March, the High Court gave one month's time to the Army to file their counter-affidavit. The Army's counter-affidavit reportedly stated that Yumlembam Sanamacha had indeed been arrested but that he had escaped following his arrest and that his whereabouts were not known. No date has been fixed for the next hearing in this case.

In addition to the investigations proceeding in the High Court, on 12 March 1998 the Government of Manipur issued an order for the establishment of a Commission of Inquiry into the "disappearance" of Yumlembam Sanamacha and appointed Justice Upendra Singh, a retired District and Sessions Judge, to head the inquiry. The Commission was ordered to inquire into the following:

- (a) the sequence of events leading to the disappearance of Shri Y. Sanamacha Singh;
- (b) to find out whether the Army picked up Shri Y. Sanamacha Singh around midnight on February 12, 1998 from his house and if affirmative, to find out the whereabouts of Shri Y. Sanamacha Singh since then;
- (c) to find out the persons who are responsible for the disappearance of Shri Y. Sanamacha Singh and;
- (d) to recommend the corrective remedies and measures needed to be taken to prevent recurrence to such incident in future.

The Commission of inquiry was ordered to submit its report within two months.

However, in an alarming development, on 15 April, the army filed an objection in the High Court, arguing that the state government does not have powers to order a Commission of Inquiry into the conduct of armed forces personnel, which under the Indian Constitution are the responsibility of the central government. The petition was moved in the Imphal bench of the Guwahati High Court by the General-Officer-Commanding 3 Corps, Rangapahar (Nagaland), the General-Officer-Commanding 57 Mountain Division, Leimakhong (Manipur) and the Commanding Officer of the 17th Rajputana Rifles. On 8 May, the Guwahati High Court rejected the petition challenging the Commission of Inquiry into the "disappearance" of Yumlembam Sanamacha and ordered that the inquiry should continue. It is apprehended that the army will appeal this decision.

While protests led by Meira Paibis and students grow against ongoing human rights violations, Amnesty International is calling on the central government to immediately allow for an independent and impartial investigation to be carried out into the "disappearance" of Yumlembam Sanamacha, and for those found responsible to be promptly brought to justice.

The situation of impunity in Manipur

Redress for victims of human rights violations in Manipur, who include a growing number of children, has for many years been impossible to obtain. For nearly four decades, the Armed Forces (Assam and Manipur) Special Powers Act, 1958, has been in force in Manipur. The Act, as well as conferring broadly defined powers to shoot to kill on the armed forces, provides virtual immunity from prosecution to those forces acting under it.

In November 1997, the Supreme Court of India upheld the constitutional validity of the Act, which Amnesty International believes violates Articles 6(1), 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR). The Supreme Court suggested a few measures to protect against human rights violations under the Act including the stipulation that an arrested person should be produced before a magistrate within twenty-four hours of arrest, excluding journey time and ordered that two sets of "Do's and Don'ts" for security forces be strengthened by including all directions of the Supreme Court relating to the conduct of law enforcement officials, and to the treatment of those arrested and detained.

An article in a daily newspaper published from Calcutta, The Telegraph, highlighting the "disappearance" of Yumlembam Sanamacha and other similar cases commented: "In all these cases the public outcry died down after some time as the Army always took shelter behind the Armed Forces (Special Powers) Act" (21 February 1998). Section 6 of the Act states that "No Prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction to the Central Government against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act", thereby preventing full redress for violations and reinforcing the climate of impunity for security forces.

While in some cases investigations have been carried out, the prosecution of security force personnel found guilty for human rights violations is extremely rare. Amnesty International is particularly concerned at attempts by the armed forces to prevent judicial inquiries ordered by the state government into human rights violations, as seen in the case of Yumlembam Sanamacha. This hostility to investigation mirrors the actions of the Defence Ministry when it challenged the right of the state government to order a Commission of Inquiry into the death in custody of 15-year-old schoolboy Kanjugam Ojit Singh in February 1997. As a result of this challenge, no investigation has been carried out into the death of the Kanjugam Ojit Singh and no-one has been prosecuted for his killing.

In 1990, in its report to the United Nations Human Rights Commission, the Working Group on enforced or involuntary disappearances stated: "Perhaps the single most important factor contributing to the phenomenon of disappearances may be that of impunity. The Working group's experience over the past 10 years has confirmed the age-old adage that impunity breeds contempt for the law" (WGEID, 1990 report, paragraph 344).

III. Child victims of human rights violations in Manipur

Children are often the silent witnesses to appalling human rights violations in Manipur. In several recent incidents, children have been forced to witness their mothers being subjected to rape and sexual harassment by security forces. On 4 April 1998, a woman -- Laishram Ningol Ningthoujam

Ongbi Pramo Devi -- was raped in Keirenphabi village in Manipur. Her four-year-old son was reportedly held with a gun to his head by army personnel just outside the house in which she was being raped. Similarly, an eight-year-old boy suffering from polio was forced to witness the rape of his mother, Ahanjaobi Devi, in the outskirts of Imphal in August 1996.

Like Yumlembam Sanamacha, children are also directly targeted by security forces, and subjected to torture, "disappearance" and extrajudicial execution. Young boys in particular are often perceived by security forces as supporters and future members of armed opposition groups, thereby denying them their childhood. In February 1997 15-year-old Kanjugam Ojit Singh was killed in custody after being arrested by armed forces personnel (see above). A post-mortem report concluded that his death was caused by "contusion and oedema of lungs associated with multiple bruises resulting from blunt force injuries on the body -- Homicidal in nature". The army denied that the injuries sustained in their custody had caused his death and claimed that he had merely sprained his ankle while trying to escape.

In July 1987, several young boys were among those from the village of Oinam arrested and held in an army camp by Assam Rifles personnel where they were severely tortured. At least four children died in detention during the army operation which lasted for over two months. There were also reports of threats against children, the beating of mothers in the presence of their children and the ill-treatment of children in the presence of their mothers (see Amnesty International's report, India: 'Operation Bluebird', A case study of torture and extrajudicial executions in Manipur, October 1990, AI Index: ASA 20/17/90).

Children are often the victims of indiscriminate killings by security forces in their operations against suspected members of armed opposition groups. In February 1996 a 15-year-old school-boy, Netaji, died from a single bullet-wound to the head while waiting for a bus when security forces opened fire on suspected members of an armed opposition group in a busy street in Singjamei district (See Amnesty International's report, India: Official sanction for killings in Manipur, April 1997, AI Index: ASA 20/14/97). The petition filed in the Guwahati High Court following the violations that took place has remained pending for over a decade.

Armed opposition groups in Manipur are also responsible for subjecting children to human rights abuses -- failing to abide by international humanitarian law which prohibits the torture and ill-treatment, hostage-taking and deliberate and arbitrary killing of all persons taking no active part in hostilities. Ethnic conflict in Manipur has affected and claimed the lives of hundreds of children. Fighting between armed tribal and community groupings -- including Kuki, Meite, Naga and Peite - - in parts of the state of Manipur in recent years have left hundreds dead including children and women. Security forces have been accused of failing to protect communities from attack and steps are rarely taken to investigate incidents and bring those responsible to justice.

IV. International standards

Children are endowed with all human rights, as set down in the Universal Declaration of Human Rights of 1948 and all human rights standards developed since including the ICCPR and the International Convention on Economic, Social and Cultural Rights (ICESCR).

The United Nations Convention on the Rights of the Child (CRC), adopted by the UN General Assembly in 1989, was the first legally-binding instrument to elaborate human rights specifically and uniquely for children. It is one of the most comprehensive instruments in human rights law, covering the full spectrum of civil, political, economic, social and cultural rights. Since its adoption, the CRC has been ratified by all but two states (the United States of America and Somalia). India ratified the CRC in 1992 and submitted its first report to the Committee on the Rights of the Child in March 1997. This report (CRC/c/28/Add.10, 7 July 1997) is due to be heard by the Committee in late 1999.

In terms of the civil and political rights covered in this report, the CRC specifically prohibits torture (Article 37a) and is reinforced by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which India signed in 1997 but has yet to ratify. In addition, the CRC prohibits the unlawful or arbitrary detention of children (Article 37b). Guidelines for arrest and detention are defined in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The right to life, established in international law in Article 6 of the ICCPR to which India is a party is also reiterated in Article 6 of the CRC.

Article 1(2) of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance notes that enforced disappearance "places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life". The Declaration proceeds to call on states to take measures to prevent "disappearances", to investigate allegations of "disappearance" and to prosecute those found responsible, noting that "No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances" (Article 7).

Amnesty International's recommendations:

Amnesty International is calling on the central government and the state government of Manipur to:

- * Implement in practice articles of the Convention on the Rights of the Child, ratified by India in 1992 and ensure the protection of children in Manipur from human rights violations;
- * Do all in their power to establish the fate of Yumlembam Sanamacha and bring those responsible to justice;
- * Ensure that there are no legal or practical impediments to bringing those responsible for human rights violations to justice in accordance with international standards. In particular to allow judicial inquiries to establish the fate of Yumlembam Sanamacha, to ensure that such inquiries are carried out promptly and with the full cooperation of security forces and that if army personnel are found responsible for the "disappearance" of Yumlembam Sanamacha, they are brought promptly to justice in a civil court of law;
- * Ensure an urgent review of the detention of Inao Singh and Bimol Singh and order independent investigations into allegations that they were ill-treated by security forces following their arrest;
- * Ensure protection for witnesses, including Inao Singh, Bimol Singh and relatives of the victim;

* Ensure the right of individuals in Manipur to peacefully protest against human rights violations and to give a commitment that peaceful protests will not be met by force;

WHAT YOU CAN DO

Please write polite letters to the central and state authorities in India listed below making the following points:

* Express concern at evidence -- demonstrated in the case of Yumlembam Sanamacha -- that articles of the Convention on the Rights of the Child are being violated with impunity in India.

Urge the authorities to implement in practice articles of the Convention, ratified by India in 1992;

* Express concern about the "disappearance" of 15-year-old Yumlembam Sanamacha and urge the central and state authorities to do all in their power to establish his fate and bring those responsible for his "disappearance" to justice;

* Express grave concern to the central government in Delhi and to armed forces officials at attempts to curtail the Commission of Inquiry ordered by the state government of Manipur, given the grave nature of the alleged offence of the enforced "disappearance" of a 15-year-old school-boy;

* Urge the state and central government to ensure that the judicial inquiry ordered by the High Court in response to the habeas corpus petition is carried out promptly and that the army authorities comply immediately with the directions of the inquiring officers. Further urge that once completed the findings of the inquiry are published in full;

* Urge that if army personnel are found responsible for the "disappearance" of Yumlembam Sanamacha, they should be brought to justice promptly and trial proceedings should take place in a civil court of law.

* Call for the urgent review of the detention of Inao Singh and Bimol Singh and order independent investigations into allegations that they were ill-treated by security forces following their arrest;

* Urge that witnesses, including Inao Singh, Bimol Singh and relatives of the victim be granted protection throughout the proceedings.

* Urge that compensation be granted to the relatives of Yumlembam Sanamacha.

* Urge the authorities to ensure that security forces respect the right of individuals in Manipur to peacefully protest against human rights violations and to give a commitment that peaceful protests will not be met with force.

* Express concern to the authorities about the climate of impunity in Manipur. Urge that immediate measures be taken by the central and state authorities to ensure that there are no legal or practical impediments to bringing those responsible for human rights violations to justice in accordance with international standards.

Letters should be addressed to:

Mr Nipamacha
Chief Minister of Manipur
Office of the Chief Minister
Imphal, Manipur
India

Mr Lal Krishna Advani
Minister of Home Affairs
Ministry of Home Affairs
North Block, New Delhi 110001

India
Lt. Gen S.S. Grewal
General Officer Commanding-in-Chief
3rd Indian Army Corps
Rangapahar, Nagaland
India

Mr George Fernandes
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India

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