

SUBMISSION OF Committee on Human Rights (COHR), Manipur
on HUMAN RIGHTS SITUATION IN MANIPUR (INDIA) TO OHCHR
CONCERNING THE UNIVERSAL PERIODIC REVIEW OF THE GOVERNMENT OF INDIA AT THE UN HUMAN RIGHTS COUNCIL IN APRIL 2008

INTRODUCTION

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

INDIA'S HUMAN RIGHTS OBLIGATIONS

2. The Government has ratified the ICCPR on 10 April, 1979 with reservations and declarations to articles 1 (Right to Self- Determination), Art 9 (Prohibition of Arbitrary Detention), Art 12 (Freedom of Movement), Art 19 (Freedom of Expression), Art 21 (Peaceful Assembly) and Art 22 (Freedom of Association) of the Covenant. India has signed Convention against Torture, 1984 on 14 October 1997 but still has not ratified the treaty. India also made reservations to Article 1, 4 and 8 of the ICESCR, while ratifying the treaty. Under Article 2 of ICCPR, India is obliged to ensure to all individuals within its territory and jurisdiction the rights, recognized in the covenant. The Supreme Court of India has endorsed covenants of the United Nations in public interest litigation cases as in the case of PUCL vs. Union of India (1997)2JT 3/1/1, among others. The fundamental rights under chapter III of the Constitution cannot be suspended even during times of emergency, following 44th amendment of the Indian Constitution. Under reporting obligations of Article 40 of the ICCPR, India has submitted three periodic reports; and the fourth report, already due in 2001, has not been submitted till date¹. For 7 long years, when every moment is painful to every Manipuri, India had willfully evaded the reporting obligation, in order to apparently conceal gross human right violations from UN scrutiny.

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

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

HUMAN RIGHTS SITUATION IN MANPUR

Denial of Right to Self Determination of the people of Manipur Consequential Indo- Manipur conflict

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

¹ "Revisiting Justice Reddy Report on Armed Forces Special Powers Act, 1958 by Naorem Sanajaoba, Gauhati University Journal of Law, volume Vi, 2006) ,pp. 9-42.

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

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

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

Gross Human Rights Violations in Manipur under unproclaimed Emergency

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

² (<http://www.geocities.com/CapitolHill/Congress/4568/memorandum/index.html>)

³ "British Political Agency in Manipur (1835-1947)" by Dr. Kh. Sarojini Devi, Linthoi Publications, Raid Robert. Op-cit, p. 19 N. Sanajaoba, Manipur Treaties (1110-1971), Vol I, 1993, Mittal Publications, New Delhi – British Parliamentary debate on annexation of Manipur in 1891 see pp. 59 – 239.

"British Political Agency in Manipur (1835-1947)" by Dr. Kh. Sarojini Devi, Linthoi Publications

⁴ UN General Assembly Resolution 1514(XV) of 1960

⁵ "Revisiting Justice Reddy Report on Armed Forces Special Powers Act, 1958 by Naorem Sanajaoba, Gauhati University Journal of Law, volume VI, 2006)

camps, where Havildars can shoot any man"⁶ Had the Government honored basic federal principle of constitutionalism; it should not have enacted the black, as all the MPs of Manipur had opposed the bill.

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

10. The invocation of AFSPA in Manipur and India's NE region has violated Article 4 (a) of ICCPR on declaration of "States of Emergency" since de facto emergency has been imposed without formal promulgation of any form of public emergency. Under Section 3 of AFSPA, Manipur has been declared as a "disturbed area". The UN Human Rights Committee (UN HRC) in its consideration of India's Third periodic report to ICCPR, 1997 observed that the Government is resorting to emergency powers without adhering to article 4 of ICCPR, that stated "Any State Party to the Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the Secretary-General of the UN, of the provisions from which it has derogated and of the reasons . . ."⁸. Human rights organizations including AI has maintained that declaring an area a "disturbed area" and granting the military extensive powers is in practice imposing an undeclared emergency regime.⁹

11. Section 6 of the AFSPA specifies that, "No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act". This impunity provision is found to be expressly incompatible with the obligations of the Government under Article 2 (3) of the ICCPR to ensure the provision of an effective remedy in cases involving violations of human rights¹⁰.

12, The UN HRC also expressed its recurrent and profound concern about serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by armed forces and the paramilitary acting under these laws.¹¹ The Committee on the Elimination of Discrimination against Women in 2000¹² and the Committee on the Rights of the Child further confirm that women and children in Manipur and other parts of North-East have also suffered serious abuses under the AFSPA.¹³ The Committee on the Elimination of All Forms of Racial Discrimination also urged upon the Government to repeal the AFSPA in March 2007¹⁴. Notwithstanding UN Human Right Committee's recommendations to the contrary, the Indian Supreme Court upheld the constitutionality of AFSPA in a 1997 judgment. The court ruled that the powers given to the army were not "arbitrary" or "unreasonable" and concluded that they did not violate the contested provisions of the Indian Constitution.¹⁵ **(ANNEX XXIII). The apex court owes explanation to the UN HRC in 2008.** The UN Special Rapporteur on Extra Judicial Execution, Philip Alston had called upon India to repeal the (Special Power) Act, 1958¹⁶ The Administrative

⁶ Lok Sabha Debates second series, volume XVIII, 1958 (11 August 1958), Lok Sabha Secretariat, New Delhi

⁷ Amnesty International's report, India: 'Operation Bluebird', A case study of torture and extrajudicial executions in Manipur, October 1990, AI Index: ASA 20/17/90

⁸ Concluding observations of the Human Rights Committee: India. 04/08/97. CCPR/C/79/Add.81, para. 19.

⁹ "India: Briefing on the Armed Forces (Special Powers) Act, 1958", AI Index: ASA 20/025/2005, 9 May 2005

¹⁰ Report of UN Special Rapporteur on Extrajudicial Execution to the UN Human Rights Council [A/HRC/4/20/Add.1](#).

¹¹ Id. at para. 18.

¹² Concluding observations of the CEDAW: India, 01/02/2000, at para. 72 – "The Committee recommends a review of prevention of terrorism legislation and the Armed Forces Special Powers Act...."

¹³ Concluding observations of the CRC, India, 23/02/2000, at para. 63 and 26/02/2004, para. 68-9.

¹⁴ Concluding Observation of the Committee on the Elimination of Racial Discrimination, 17th Session of CERD Committee, 19 February to 9 March 2007 (CERD/C/IND/CO/19 March 2007)

¹⁵ Naga People's Movement of Human Rights v Union of India [1997] ICHRL 117 (27 November 1997).

¹⁶ [A/HRC/4/20/Add.1](#), Report of the Special Rapporteur on Extra Judicial Execution to the UN Human Rights Council

Reforms Commission (ARC) of the Government of India, headed by M Veerappa Moily in its fifth report on Public Order has also recommended the repeal of AFSPA, 1958¹⁷.

13. The typical response of the Government to cases of rampant human rights violation both by the armed forces and the law enforcing agencies in Manipur is the institution of Commission of Inquiries under the Commission of Inquiry Act, 1952. A basic problem of setting up Inquiry Commissions lies in the lack of transparency, concealing of inquiry reports without any action taken to the perpetrators. As for instance, the tactics of commission of Inquiries constituted in response to mass uprising against the sexual harassment and torture of Maibam Naobi Chanu by Manipur Police commandoes in February 2006 and the rape and extra judicial execution of Thangjam Manorama Chanu by the soldiers of 17 Assam Rifles on 11 July 2004 has failed to prosecute and punish the perpetrators- the police commandos and the soldiers 17 Assam Rifles; the findings and recommendations of the inquires are not yet made public. The special Rapporteur on EJE, P. Alston, reported to the UN Human Rights Council in 2007 that despite the Government of Manipur ordering numerous inquiries into the alleged extrajudicial executions, none of them ultimately reached any meaningful conclusions.¹⁸ The government owes explanation to the UN HRC in 2008.

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

15. In the prevailing armed conflict situation of Manipur, not less than 50,000 Indian soldiers in addition to several thousands of police, mercenaries, spies etc in a population of 2.4 million are deployed. With the enactment of AFSPA, massive deployment of armed forces in Manipur continued; the armed forces are occupying sacred cultural sites and prime agricultural land, depriving primary survival sources of Manipuri peoples. Manipur has become one of the most militarized areas of the world. Out of **1700 sq. kilometers of land** in the central Imphal valley of Manipur, a great portion of land has already been occupied by the occupation forces. Just to cite one example, in a mere distance of hardly 5.5 Kilometers from Sangakpham bazaar and Koirengai Duck Farm, Heingang Constituency, near Imphal, capital of Manipur, the land allocated to security forces is **470 acres**, 2 acres at Sangakpham to Assam Rifles, 3 acres at MSRTC complex to CRPF, 80 acres at Tandan Pukhri Maning, Mantripukhri to CRPF including the shooting range and the hill areas, 231.47 acres to Assam Rifles at Lamlongei, Matai, Khabam Lamkhai and Luwangsangbam, 74.20 acres at Koirengai old Air field, 50 acres at Koirengai Bazaar given to BSF, two acres at Nilakuthi Vanaspati factory to Assam Rifles and another 2 acres to BSF at Nilakuthi Drug Formulation Centre²⁰.

16. The report of the Justice Jeevan Reddy Review Committee on AFSPA, [as reported by the Hindu daily on 8 October 2006] has recommended the repeal of AFSPA. The review Committee was formed as a response to stern peoples movement to repeal AFSPA in the wake of the rape and murder of Thangjam Manorama Chanu by 17 Assam Rifles on 11 July 2004 in Manipur.²¹ The report "unambiguously" recommends the repeal of AFSPA and lucidly records that "**the Act (AFSPA) for whatever reason has become a symbol of oppression, an object of hate, an instrument of discrimination and high-handedness.**" In violation of established parliamentary convention which the opposition by tacit agreement, the Government has not yet tabled the report before the parliament since 2005 and the racially discriminatory opposition parties remain silent religiously thereby approving the genocide in Manipur. They have to report the apathy to the UN HRC in 2008. The Speaker of the Lower house of parliament had supported the repeal of the black law. The NHRC of India has also recommended the repeal of AFSPA in 1997 by way of impleading in the 1997 hearing of Supreme Court of India on AFSPA. However, the Government of India has still yet to repeal the AFSPA, 1958 till this report is prepared.

17. The Government has not signed the ICC Rome Statute of 1998. By evading ICC prosecution the Government has been actively promoting impunity and immunity of Indian armed forces, who had committed heinous crimes of

¹⁷ "ARC for repeal of Armed Forces Act", The Hindu, 26 June 2007,

¹⁸ E/CN.4/2006/53/Add.1., Report of the UN Special Rapporteur on Extra Judicial Execution, to UN Human Rights Council

¹⁹ INDIA: Manipur: The silencing of youth, AI Index: ASA 20/005/1998, 1 May 1998

²⁰ "Shall We Listen: Militarization in Manipur", By Jiten Yumnam, Imphal Free Press, 1 May 2005

²¹ 'Repeal Armed Forces Act: Official Panel,' The Hindu, 08 October 2006. Available at: <http://www.hindu.com/2006/10/08/stories/2006100806130100.htm>

genocidal nature in Manipur in the process of subjugating the universally acclaimed and legitimate national liberation struggle which the colossal racist India Mass media tarnish as terrorist crime. The same media had supported national liberation in the rest of world since 1945. They owe an explanation to the UN bodies. The government does not enact penal legislations either in order to terminate impunity of individuals committing heinous crimes, as are being committed in Manipur for half a century.

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

Conclusion

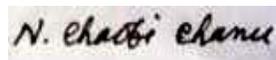
19. The sustained deployment of armed forces for half a century in the NE region implies the need for invoking international humanitarian laws. The deep structured political and nationality questions that characterize the turmoil in Manipur deserve political attention, just and fair resolution. **The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

URGENT APPEAL

- **20. Allow the indigenous people of Manipur to exercise their inalienable right to Self - Determination under Article 1 of the International Covenant on Civil and Political Rights, ICESCR and general international law.**
- **21** Repeal the Armed Forces (Special Powers) Act –the draconian emergency legislation.
- **22. The OHCHR ought to depute a fact finding commission in Manipur in order to investigate gross human rights violations in Manipur with the participation of independent experts including the UN Special Rapporteur on extrajudicial executions, on torture, on violence against women, on human rights defenders etc.**

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

- **23** Urges upon the Government of India to submit its fourth Periodic report which had been due by 2001 year end, to the UN Human Rights Committee of the ICCPR
- **24** Urges upon India to sign the Additional Protocol I and II, 1977 of the Geneva Conventions
- **25.** Urges upon India to sign and ratify the ICC Rome Statute of 1988
- **26.** Urges upon the Government of India to withdraw its reservations in International Bill of Rights



(N. Chaobi Chanu)

Co Convenor

The 14th November 2007

Imphal, Manipur