

NONGOVERNMENT ORGANISATION REPORT

UNIVERSAL PERIODIC REVIEW (UPR)

HUMAN RIGHTS COUNCIL

In accordance with Resolution 5/1 of 18 June 2007

INDIA: Manipur
Persistence of Impunity in Northeast Region

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Submitted by



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PART I

Introduction

1. The human rights violations perpetrated in the North Eastern region of India, and particularly in Manipur¹, by the Indian armed forces (including paramilitary forces and the Central Reserved Police Force) under cover of the Armed Forces (Special Powers) Act of 1958 and similar draconian legislation² effectively conferring *de jure* and *de facto* impunity for all actions taken by officers of the armed forces and military personnel are a matter of long and detailed record. These records have been compiled by human rights activists and organizations of repute on the situation of on-going armed conflict, substantiated by national and international non-governmental monitors and agencies such as Amnesty International, Human Rights Watch, the Asian Commission on Human Rights, South Asia Human Rights Documentation Centre, the Asian Centre for Human Rights and others.
2. The antecedents of the long-standing armed conflict lies in the history and political economy of the indigenous peoples and communities of Manipur, which comprise a typical multi-ethnic, multi-cultural Asian indigenous nation of the Indo-Burma region that lost its sovereignty through a complex process of political and cultural colonization initiated by British colonial intervention and continued by successor states in the region, in this instance, the Union of India³.
3. The main agents of this loss or erosion of sovereignty were widely acknowledged illegal military coercion, the forcible re-structuring of indigenous land holding and territorial patterns, the disenfranchisement of indigenous economic and judicial processes and the induction of alien systems and institutions of governance and the economy by the paramount British. All this occurred under a mantle of progress, continued by the successor governments of India.
4. Only fresh information since the last four years or current information of unchanged situations will be submitted in this report, in accordance with the review process, though we will recall to the Council that outstanding reports of such violations have till date received neither redress nor attention in any supportive and positive manner from the government of India or its concerned agencies and may thus be perceived as retaining validity for consideration as on-going cases of violation.

Self-determination

5. The armed conflict situation and its direct and indirect consequences of counter-insurgency military options, human rights violations including impunity are all rooted in the interpretation and expression of the fundamental right to self-determination, a right protected and promoted by the United Nations Charter and core human rights treaties, of which India is a State party. This is true of the situation in Manipur and many parts of the Northeast region of India.
6. Many armed opposition groups (AOGs) claiming as representing the aspirations various peoples, ethnic minorities and communities have emerged in Manipur since the late 50s of the last century. Armed struggles and conflicts are thus a reality of

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

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

³ The British government of India was succeeded on 15 August 1947 by the two Dominion governments of India and Pakistan (headed by Governor Generals appointed by the British Crown). India only became a Republic with a Constitution of its own in 1950.

Manipur for five decades, as also the issues of human rights and the State's responsibilities and obligations in protecting the citizens' fundamental freedoms.

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

Repressive military presence

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

High incidence of violations of rights to life and bodily integrity

9. Recently, the Chief Minister of Manipur, Mr Okram Ibobi has publicly stated that 8,000 civilians and 12,000 members of Government Forces and AOGs had been killed till 2005 since the armed resistance began in 1970s⁶. This does not take into account those killings unrecognized by the Government or those victims of torture, disappearance or extended illegal detention and who have died as a later consequence of their injuries
10. Over the last 40 years, allegedly in the attempt to eliminate armed opposition groups, government military forces have been committing gross human rights violations⁷; massacre, extrajudicial execution, enforced disappearance, rape, torture, human shield, arson, plunder, forced labor and forced displacement, etc.

Threats and violence to Human Rights Defenders

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

Lack of public peace and security disrupts normal life

12. There are about 50 general strikes every year over the last few decades⁹. These have caused acute economic and social problems to the population in conducting normal life.
13. The on-going general ambience of unprovoked and unpredictable violence has also provoked high levels of large scale trauma sequelae, affecting the physical, mental and social health of the population, that have been recognised for many years.

⁴ These have included cease-fire and talks, laying down of arms (surrender) in exchange for gainful employment by the government, call for a free plebiscite, re-organisation of territories and constitutional provisions, etc.

⁵ Annexure III: Deployment of Indian military forces in Manipur (an informal compilation, unpublished), CORE

⁶ AFSPA-Lawless law enforcement according to Law: editorial Sangai Express, 16/06/2003

⁷ Annexure IV: Some incidents of human rights violations by Indian armed forces.

⁸ Irom Sharmila agitation to repeal AFSPA - timeline 2006 -2007

http://www.e-pao.net/epPageExtractor.asp?src=related_news.timeline_Sharmila_AFSPA_2006.html.

⁹ Survey of Public Strikes and Bandhs in Assam and Manipur, 2005 -2007; independent CORE documentation, unpublished

Involuntary Displacement

14. Widespread and frequent instances of involuntary displacement of indigenous populations, villages and groups have been reported and documented in Manipur. There are two main reasons for this displacement, which may be temporary or permanent, internal or external in character. The first is due to the armed conflict, related violence including military operations and fear for the safety of life and property.
15. The second type of displacement is due to a skewed development agenda pursued by the government under advisement of private corporate interests including financial and international cooperation institutions. Large multi-purpose projects, such hydroelectric and infrastructure projects¹⁰ result in larger and permanent displacement.
16. Both types of involuntary displacement in Manipur has been associated with violence, killings, repressive action by State agencies (police or paramilitary forces), loss or alienation of land and other properties, reversal of economic and social conditions, loss of cultural and natural heritage, and a range of inter-related human rights violations.
17. The state obligations to domestic and international human rights standards and agreements are neglected routinely in such instances where involuntary displacement has either taken place or is planned.

Victimization, assimilation and repression of indigenous religions

18. Indigenous Meitei institutions such as the *Maibi*, *Pena* and *Pandit Loisangs* have become controlled by legislation that hands over the control to a dominant religious board, viz., the Manipur Govindaji Temple Board Act. The Gauhati High Court routinely identifies indigenous Meitei deities as Hindu deities and thereby alters the identity of the deity and its cultural context and ownership. The freedom to practice the indigenous religion is violated.
19. Sacred sites including sacred groves and water bodies are routinely taken over by development projects and privatised, by infrastructure installations and by the military. The military also regularly installs temples of dominant Hindu deities at indigenous sacred sites.

PART II

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

20. Repeal the Armed Forces (Special Powers) Act 1958 unconditionally;
21. Ensure that provisions taken from the AFSPA are not introduced into the recently Unlawful Activities (Prevention) Act, (UAPA) 1967, and amend the UAPA to bring it into line with international human rights law;
22. Ensure that law enforcement personnel, including armed forces deployed for law enforcement purposes, respect the standards set out in the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
23. Amend Section 19 of the Protection of Human Rights Act which prohibits the

¹⁰ For example, the 1500 MW Tipaimukh Hydroelectric Multipurpose project will result in a super high dam and massive reservoir in Manipur. The project has been rejected and resisted by the indigenous people of Manipur since the late 80s, but state plans to build the dam have still not been abandoned for better options.

National Human Rights Commission and State Human Rights Commissions from independently investigating allegations of human rights violations by members of the armed or paramilitary forces;

24. Repeal/review

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

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

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

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

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

Concerns pertaining to Indigenous Peoples

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

National Human Rights Institutions, Access and Monitoring

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

PART III

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

¹¹ Annexure V Note on extrajudicial execution of Miss Thangjam Manorama

¹² Annexure VI Note on Article 136 (2), Constitution of India

23. India should immediately ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which it signed in 1997.
24. India should comply with the recommendations made by independent expert monitoring mechanisms for international conventions and treaties to which it is party.
 - The UN Human Rights Committee in 1991 gave its observation that Government of India violates the non-derogable rights with official sanction in Manipur even without the declaration of state of emergency¹³
 - In 1997, the Committee remains Concerned at the continuing reliance on special powers under legislation such as the Armed Forces Special Powers Act, the Public Safety Act and the National Security Act in areas declared to be disturbed and at serious human rights violations, in particular with respect to Article 6,7,9 and 14 of the Covenant, committed by security and armed forces acting under these laws as well as by paramilitary and insurgent groups¹⁴
 - In 2007, the Committee on the Elimination of Racial Discrimination urged India to repeal the Armed Forces (Special Powers) Act and seek the prior informed consent of communities affected by the construction of dams in the Northeast or similar projects on their traditional lands in any decision-making processes related to such projects and provide adequate compensation and alternative land and housing to those communities.¹⁵
 - The Committee on the Elimination of Discrimination against Women in 2007 also expressed concern about the review of the Armed Forces (Special Powers) Act.¹⁶
 - The Committee on the Rights of the Child has also made recommendations in regard to the situation of indigenous children and children in Armed Conflict in response to the two periodic reports on India that have been reviewed. These have not been implemented.¹⁷
25. India has made certain specific commitments when it bid for its election to the Human Rights Council in the document “Note verbale dated 1 December 2006 from the Permanent Mission of India to the United Nations addressed to the Secretariat” (A/61/718; General Assembly, 61st session) with “Voluntary pledges and commitments by India” in its campaign seeking re-election to the Human Rights Council this term, in its Annex;
26. India must extend a standing invitation for all Special Procedures under the UN Charter.
27. India must respond positively and expeditiously to specific requests for visits by Special Procedures mandate holders such as the Special Rapporteurs on Torture and Extrajudicial Execution, the Working Groups on Enforced Disappearances and Arbitrary Detention, and the Special Representative on Racism.
28. India must respond appropriately and promptly to interventions from special procedures mandate holders, set up specific mechanisms for the monitoring of the implementation of international treaties and the recommendations of their monitoring bodies, and submit its treaty-based periodic reports in time.

¹³ Annexure VII

¹⁴ Annexure VIII

¹⁵ Consideration of Reports submitted by States Parties under Article 9 of the Convention; Concluding observations of the Committee on the Elimination of Racial Discrimination: INDIA (CERD/C/IND/CO/19); Paragraphs 12, 19

¹⁶ Annexure IX

¹⁷ See Concluding observations of the Committee on the Rights of the Child