

**DEMOCRACY
'ENCOUNTERED':
RIGHTS' VIOLATIONS
IN MANIPUR**

**Independent Citizens'
Fact-Finding Report to the Nation**

November 2009

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Rights’ Violations in Manipur**

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Dedicated to the memory of
Prabhash Joshi

Introduction

A team of concerned citizens comprising Dr.K.S. Subramanian, I.P.S (retd.), formerly of the Manipur-Tripura cadre and currently Visiting Professor, Jamia Millia University, New Delhi, Sumit Chakravartty, Editor, *Mainstream*, Kavita Srivastava, human rights activist and National Secretary of PUCL, and Vasundhara Jairath representing the Delhi Solidarity Group went on a fact-finding mission to Manipur from November 5 to 10, 2009 in the wake of heightened tensions in the State since July 2009. The visit was broadly confined to Imphal and not the other districts.

Prabhash Joshi, the veteran journalist and a consistent voice in favour of freedom of the press and against the violation of human rights was to have joined the team on November 6. He had expressed grave concern over the situation prevailing in Manipur and had requested that he would take the permission of his doctor for this trip, probably his last to the North-Eastern State. However, he sadly passed away due to a massive cardiac arrest on November 5 night, leaving the team members and other human rights workers in Manipur deeply shocked and greatly saddened by the sudden loss. This has left a void in both journalism and the polity that will be difficult to fill. His undaunting commitment to justice, peace and free speech shall continue to inspire young and old particularly in the media world.

The Present Context of Human Rights Violation in the State of Manipur

Manipur has been home to sustained conflict and an exceptionally high degree of violence and is today amongst the worst affected by the imposition of the Armed Forces Special Powers Act, 1958 (from hereon AFSPA). The political situation in this tiny conflict-affected state (population: 2.6

million) in the north-eastern region of India has been all the more explosive ever since the market shootout in Imphal on July 23, 2009 that resulted in the killing of a five-month pregnant woman, Thokchom (o) Rabina Devi, and a young man, Chungkham Sanjit, alleged to be a militant insurgent, along with injuries to five persons in what is widely believed by the public at large to be a fake encounter, even as the authorities continue to brand it as an encounter between the alleged insurgent, Sanjit, and police commandos. It was because of the people's sustained campaign against the cold-blooded killings that the government eventually suspended the seven police commandos involved in the incident and instituted a one-person Judicial Commission headed by Justice (retd.) P.C. Agarwal to investigate the matter.

The killings of Sanjit and Rabina in July 2009 evoked people's anger that spilled on to the streets, thereby bringing Imphal and Manipur to a halt. This was not a stray incident that just happened in a random shoot out. According to media reports and human rights activists, Imphal and other hill districts have had about 300 extra judicial killings since January 2009, literally averaging the count of one to two such killings a day. There was a sense of frustration amongst the people that there existed no Rule of Law and the State Police was functioning with complete impunity. Apart from such a large number of extra-judicial killings, several hundreds had been picked up and detained under the NSA on the ground that they were allegedly working with or supporting militant groups. Even eminent environmental activist Jiten Yumnam was picked up and booked under the NSA. The message to the human rights community was very clear – that activists and human rights defenders were also being targeted so that the voices of protest are throttled.

The sense of frustration was deeper as the rest of India and the powers that be in Delhi refused to respond despite bringing all these issues to the notice of the Union of India and through the media to the country. The historic peaceful and non-violent struggle of Irom Sharmila Chanu demanding the repeal of the AFSPA, that entered its tenth year on November 5, 2009, had become a rallying point of all believers in human rights and democracy instilling hope in their minds that eventually justice will come, and this was reflected in the Festival on Justice, Peace and Hope that took place around the same time.

Our main concerns were centred on two key questions:

1. To examine allegations of fake killings and illegal detentions in the State by looking at a few cases.
2. What was the response of the State machinery to these allegations?

Our Terms of Reference were:

1. Visit and interact with families of those killed in alleged fake encounters.
2. Take account of the number of people killed, arrested, tortured, detained, etc. by forces.
3. Interact with those in jail or those released after detention/arrest.
4. Meet the CM, and other officials concerned with the law and order situation.
5. Prepare a narrative and photo documentation of the visit.
6. Compile a comprehensive report of the facts collected with analysis and recommendations and present it to all the stakeholders and national/regional media.

Those whom we met

While in Manipur, we met Irom Sharmila Chanu, who has been on indefinite fast since November 2000 demanding repeal of the AFSPA; Okram Ibobi Singh, the Chief Minister; Yunman Joykumar Singh, the Director General of Police; Anand Prakash, the Inspector General of Prisons, Arms and Operations and Human Rights; the families of Sanjit and Rabina; members of the Extra-Judicial Execution's Victim Families' Association, Manipur (EEVFAM); members of the Joint Action Committees (JAC) of Sanjit and Rabina's killings; the family of NSA detainee Yumnam Jiten; Retired Sessions Judge C. Upendra, who has headed twelve judicial enquiries relating to law and order in Manipur; member of the Manipur Human Rights Commission, Lt. Col.(retd.) R.S. Rajkumar; the family of former NSA detainee, Lourembam Nganbi Devi; and senior civil society leaders, academics and mediapersons.

What Happened on July 23

The Official Story

On July 23, 2009 morning, a pregnant woman and a young man were killed, and five others injured in a shooting incident in the crowded Khwairamband Keithel of Imphal.

The Manipur State Assembly was in session. Okram Ibobi Singh, the Chief Minister of the State, read out a statement prepared by the police stating as follows:

“A suspicious looking youth was asked to stop by a team of Imphal West Police Commandos, while they were on frisking duty, near the Bhagyachandra statue at about 10.30 a.m.

When the youth was asked to stop, he pulled out a gun and fired towards the frisking party. The youth managed to flee along the BT Road. The police party dived and retaliated immediately and chased the fleeing youth, who fired towards the public indiscriminately, in a bid to escape.

But the youth was finally cornered inside Maimu Pharmacy at the BT Road. The youth was asked to surrender but instead of surrendering, the youth again opened fire but he was killed in a retaliatory fire. The Chief Minister further stated that the police could recover one 9mm pistol (Mauser) loaded with three live rounds in the chamber and one driving license issued in the name of one Chungkham Sanjit, son of Ch. Khelson of Khurai Kongpal Sajor Leikai, Manipur, issued by the Licensing and Registering Authority, Transport Department, Senapati”.¹

The SSP of Imphal West District, Manipur, L. Kailun, in his press release that evening not only dished out a similar statement as above, but went further to build an argument that Sanjit was a militant with a past record of several cases and arrests. Para 3 of the release began with the line that “Chungkham Sanjit alias Ramesh alias Ngongo alias Chingkei (27) was arrested earlier on two occasions under (i) FIR No 245(11) 2000 u/s 10/ 13 of the UA (P)A Act, Sec 5 Explosives Act and 212 IPC at Porompat Police Station on 27/11/2000 by CDO Imphal East and (ii)FIR number 189(7) 07 u/s 17/20 of UA (P)A Act of Imphal P.S. on 2/07/2007 by CDO Imphal West. He was also detained under NSA on 19/07/2007. At the time of his first arrest he was holding the rank of corporal in PLA under army no. 2338”.

But what did the family of Sanjit and Rabina have to say?

On November 6 morning the team went to Sanjit's house and met his mother, grandmother, sister and friends. The family was still in mourning, there was a small plate with a few marigolds and a bowl with water lying in the centre of the courtyard which had a fresh coating of clay. We were told that the ritual would continue for at least a year.

We were told that Sanjit was a house painter and the main breadwinner of his family. Apart from painting he also worked in the nights as a care giver (attendant) in the hospital, Raj Polyclinic. Through the earnings made by working day and night he looked after the needs of his eleven-member joint family. His father is a mechanic and he had three younger brothers. Vishal, the eldest of the three, sat at some distance from us and looked deeply disturbed. Chungkham Taratombi Devi, Sanjit's mother, told us: "I am 45 years old, my son was 23 years. On July 23 morning, at about 8.30 am Sanjit left home for the hospital with food for his uncle, who was admitted in the Medicine ward of the Jawaharlal Nehru Hospital. "At 9.30 am he left the hospital and came to the marketplace to buy medicines as all the medicines were not available at the hospital store. He travelled by auto and came to BT road. Sometime later in the morning we received the news about the firing in the bazaar. A friend who stayed behind at the hospital when Sanjit went to the market, got worried when he heard about the firing and started locating him. He called him several times on the mobile, but there was no response. His cousin called the family and asked whether they knew about his whereabouts. The family also kept calling his number but there was no response. Eventually the phone was answered by someone and there was a very rude reply. His cousin did not understand what was happening. After a while the phone was switched off.

“At around 3 pm, some policemen came from the Imphal West P.S. and informed us that Sanjit had been killed in an encounter. They said that Sanjit had refused to be frisked and instead fired indiscriminately at the crowd killing one woman and injuring five others. They first used the loudspeaker asking him to surrender; he instead fired back. So the police chased him and retaliated by firing back at him which proved fatal.”

All this the police has written in the FIR that they filed in the case of Rabina. The police lodged an FIR number 75/07/09, u/s 302, 326, 307, 506 IPC, 17/20 UAPA, Sec 1(b) Arms Act. It is against Sanjit filed by Herojit Singh, CDO, West Imphal district.

Sanjit’s mother told us that he had joined the People’s Liberation Army (PLA) when he was only 12 years old. He was arrested twice and also detained in jail under the NSA. He was released from jail in 2007 when he left the PLA on health grounds. He was regularly appearing before the court. Since his conduct was very good the court even exempted him from appearance.

Sanjit’s mother said that she would oppose the police story till she breathed her last. He could never have fired at the crowd. She said she never went inside the mortuary. The family refused to take the body for three days; later they did. They had said that they will not take the body till justice is delivered.

She said that the local press had been writing that the killing was a fake encounter till *Tebelka* published the photos of the fake encounter in its August 8 issue, which came into the market on the 1st. The photos shocked the family as all others in Manipur. The family went to lodge an FIR against the police. There was a powerful agitation and the government on

August 6, 2009 suspended the seven commandos who were involved in the July 23 incident.

“It was a long struggle to get the FIR lodged. We went to the Police Station on the 7th of August to get the FIR lodged. They refused. We then went to the High Court in Imphal on 17th September. It took time and the High Court directed the police to lodge a case.”

“The government has sent feelers to us that it will give Rs. 10 lakhs if we do not pursue the case and stop supporting the movement for justice for Sanjit and Rabina. But we refuse to be purchased. We will not give up till justice is meted out. We want justice for Sanjit.”

On the killing of Rabina

In the evening of November 6, the team members visited the residence of Rabina Devi, who was killed by a stray bullet that pierced through her head. There they met Thokchom Chinglensana, her husband, and Russel, her child, along with other family members. Thokchom said he had gone to his mobile shop (where he worked) early in the morning on that day (July 23). Rabina was to go for a medical check-up that day — she had already conceived and was five months pregnant. “I asked her to come to the shop and told her that we would go together to the doctor,” Thokchom informed, adding: “I was in the shop when the firing took place. It was only at 3.30pm that a friend came and told me about Rabina’s death due to firing. My mobile was not working that day, so I could not get the information earlier.” Asked as to who killed her, Thokchom replied: “I think the (police) commandos did it — the men in Khaki”.

It was learnt from Rabina's family that her relatives went to the police to file a complaint. Initially, the police refused to accept the complaint. The next morning they prepared a report and gave it to the Lamsang P.S. under which their residence falls. They also sent a petition to the Manipur Human Rights Commission (MHRC), which then initiated the investigation proceedings, but the police, when summoned by the Commission, declined to make any statement before it. Thereafter, the government asked the MHRC to stop the investigation, but the MHRC refused to do so. The government then went to the Imphal Bench of the High Court and got a stay. Thockchom further added that to avail of the compensation they had to make an application to the authorities and he was not interested in doing so.

Thokchom was asked about whether he would depose before the Judicial Commission that had been set up to inquire into the July 23 incidents; he bluntly said: "I don't believe in the Judicial Commission. I only believe in the Manipur Human Rights Commission."

According to the local media reports and human rights activists perhaps the following construction of events could be traced:

On July 23, 2009 in the forenoon, the Manipur Police commandos were carrying out frisking operations against suspected terrorists on BT Road. A young man with a firearm was apprehended but escaped police custody. While chasing him to recover the firearm, the commandos resorted to indiscriminate firing/or fired carelessly (whichever may be the case). Or perhaps the safety device on one of the firearms was not on. One of the bullets from the automatic weapon carried by a commando hit and killed the 23-year-old pregnant woman, Rabina, and injured five others. The police

commandos were discomfited by the unplanned killing and started looking for an appropriate scapegoat for the killing. Luckily, they were able to locate former militant Sanjit who was doing some medical shopping for his uncle. They caught hold of Sanjit, dragged him into a nearby pharmacy/watch-repair shop, shot him dead at point blank range and planted a weapon on him to convince the public that he had shot and killed Rabina. Both the bodies were then placed in a truck and taken away. The police thereafter put out the story that Sanjit, the former militant, was the man behind the killing of Rabina. This provoked massive public outcry against the killings. On August 1, the photographs published in the *Tehelka* magazine told a tale that disproved the police story. Further, the two violent killings by the police commandos and the explanation put out by the authorities did not carry any conviction with the public who disbelieved the official version. There was outrage and protest which led to demonstrations on the streets.

Nevertheless, at the team's meeting with him, the State DGP maintained that Sanjit was a hardened militant who fired recklessly killing Rabina and that the *Tehelka* photos were fake!

After the public outcry

In the wake of the public outcry against the killings in the middle of the busiest market in the heart of Imphal in broad daylight, a spontaneous people's movement was thrown up coordinated by several organizations, prominent amongst them being the Apunba Lup, an umbrella body of over thirty groups spearheading the struggle against the AFSPA, joined and supported by student unions such as the All Manipur Students Union (AMSU), Manipur Students Federation (MSF) and Kangleipak Students Association (KSA), along with two Joint Action Committees that were formed simultaneously, a

day after the killings of Sanjit and Rabina, by the residents of their respective areas.

The various groups made the following demands to the Government of Manipur:

- i) Resignation of the CM on moral grounds. (The general feeling among the public was that since the CM also happened to be the Home Minister of the Government of Manipur, he had misinformed the State Assembly about the sequence of events that resulted in the killing of Sanjit, till it was exposed by *Tebelka*. They demanded that if he was not willing to step down as the Chief Minister, he must at least step down as the Home Minister).
- ii) Suspension of top police and administrative officials under whom these killings have taken place, including the DGP, SSP and SP.
- iii) Strict legal action against the police commandos directly involved in the incidents and termination of their services. (Some groups even demanded that they should be sentenced to life imprisonment).
- iv) Handing back documents and other materials collected from the office of the member organisations of Apunba Lup.
- v) Unconditional release of the activists arrested during the agitation in this period.
- vi) Repeal of the AFSPA.
- vii) End the practice of fake encounters.

The two JACs also presented these demands to the Union Home Secretary and other delegations that came from Delhi. They included the parliamentary team of the BJP on August 18; the National United Women's Front on August 20; the Union home Secretary on August 22; Dr. Ramachandran, a CPI(M) MP, on September 4. A memorandum to the PM was delivered to Union Minister, Agatha Sangma, on October 20. They also pursued their demands with the local Congress party leaders in Imphal.

All Opposition political parties also demanded dismissal of the Congress-led SPF Government headed by Ibobi and imposition of President's Rule.

The government's response was three fold:

Initially on August 1 the Additional Secretary (Home) ordered that the District Magistrate of West Imphal district carry out a probe of the July 23 killings. The report was to be submitted in 30 days. The notification issued by the DM stated that the enquiry would begin on August 4 in the court room of the DM, Imphal West, Lamphlepat.

In this connection the authorities decided to seize all the newspapers published between July 24 to 27 and copies of the relevant *Tebelka* issue.

It may be added here that since the 2006 amendment of the Cr.P.C., every custodial killing has to be mandatorily investigated by a judicial magistrate. The law of the land does not seem to be applicable in this matter in Manipur as the Executive Magistrate was asked to investigate.

When the people's pressure through bandhs, marches, demonstrations continued to rise and did not show any signs of abating, the CM announced on August 5 that the members of the Manipur Police force responsible for the incident of July 23 would be suspended and that a judicial enquiry would be instituted. Consequently,

1. Six of the Manipur Police commandos and one Sub-Inspector, who were allegedly involved in the killing of Sanjit, were suspended on August 6, 2009. They included Sub-Inspector Koijam Punshiba Meetei, Head Constables Thokchom Herojit and Oinam Keshor, and constable Wahengbam Binoy of the Imphal West District Police.
2. Retired Chief Justice of Guwahati High Court Justice P.G. Agarwal on August 28 agreed to conduct the judicial enquiry that was instituted under the Commission of Enquiry's Act, 1952, to investigate the firing incident and to give suggestions so that such incidents are not repeated.

However, the Government of Manipur refused to respond to the people's demand for justice and an end to arbitrary killings in the State. The government instead arrested several of the agitators between August 4 and September 14. Upto 26 people were arrested, and the NSA was slapped on ten of them but was later revoked in the case of six. Four, including Jiten Yumnan, continue to be detained in the Sajiwa Central Jail under the NSA. Besides the NSA, the UAPA was also slapped on eleven activists. While bail has now been granted to most besides the four still in custody under the NSA, several have refused to take bail, demanding withdrawal of the false charges. Amongst those arrested are office-bearers of organizations leading the protests, such as the Apunba Lup, AMUCO (All

Manipur United Clubs Organization), AMKIL (Apunba Manipur Kanba Imma Lup) and Poirei Leimarol Apunba Meira Paibi Lup, the latter being constituent organizations of the Apunba Lup.

In early September when the people of Manipur felt that the government had shown no sincerity to the people's call for justice and an end to arbitrary killings, one group, All Manipur Students Union, gave a call for an indefinite boycott of classes in schools in the districts of the valley. This was supported by the MSF and KSA amongst other student unions, as well as by the Apunba Lup.

Despite appeals made by the Education Minister, the call of indefinite boycott of classes was implemented; this affected about a hundred thousand students. Although this call has been implemented by many schools, several organizations of parents and other groups have appealed and even protested to the student bodies that it would affect the future of students and therefore this should be called off while agitating for justice.

To break the current impasse the first round of talks was held on October 31 between the leaders of the people's movement and the CM and other senior Ministers and officials of the Government of Manipur, including police representatives. The members from the public who had been formally invited included Coordinators and Assistant Coordinators of the Apunba Lup, the Presidents of the AMSU, MSF and KSA along with the convenors of the two JACs.

However, little was resolved. The only matter that the government claimed to act on was the transfer of the SP of

Imphal (West) where the killings took place, to ensure a free and fair enquiry process. However, the SP was transferred to Imphal (East), where Sanjit's family lives, and the SP of Imphal (East) was brought to Imphal (West).

On Fake Encounters in Manipur

Official Version

In the team members' meetings with the official representatives of the State, including the Chief Minister (on October 7), DGP (on October 6) and IG Prisons (on October 5), it was clear that the State's prime concern was tackling insurgency. The DGP confirmed that over 260 people have been killed since January 2009 and affirmed that all of them were underground militants/activists/insurgents. The State in Manipur does not recognize any such thing as 'extra-judicial killing' in Manipur since, according to the DGP, there had not been a single proven case of this. He said that they had foolproof, hundred per cent evidence that those who were killed were members of the underground, none of them was innocent. However, his contention left unanswered why they could not instead be arrested and faced with trial. The IG Prisons, in the context of combating insurgency in the State, stated: "When a surgical operation takes place, there must be pain".

Official sources have given the following information about the police manpower deployed in the State as of November 1, 2009:

The data on all cases registered and number of persons/cases convicted for the last two years were as follows:

- i) Number of cases registered in 2008: 3349;
convicted 67 persons in 64 cases.

ii) Number of cases registered in 2009 (up to 8/11/09): 3348; convicted 26 persons in 15 cases.

Battalions	Strength
Manipur Rifles (MR) and India Reserve Battalions (IRB)	10,396 (six battalions each)
Various Civil Police units	5,056
Central Paramilitary Forces (CRPF and BSF)	10, 450
Army/ Assam Rifles	10 battalions and 26 battalions respectively (approx. 1000 per battaion)
Home Guards	2,312

From the above it is clear that i) Manipur with a population of only about 2.6 million, has too many military, paramilitary forces and too few civilian police forces, which means that the basic purpose of policing, namely, service delivery to the public is down-graded at the cost of maintenance of order which is prioritised; ii) the number of cases registered per year (including those relating to normal crime and extraordinary crime) is not large and the rate of conviction is poor. Both the features are disturbing.

When the team members expressed concern that more than a fourth of the prisoners in Manipur were detained under the NSA and brought up the case of human rights defender Jiten Yumnam, the DGP defended his detention and asserted that he too had connections with the underground militants. In the DGP's view, all forms of public protest taking place in the State of Manipur was coming only from amongst armed militant and insurgent groups. That there exists in the public mind a sense of anger against and strong opposition to the way the government was functioning was simply denied. His

logic was based on the assumption that the people of Manipur, being tired of the armed militants would find no reason to oppose the killing of yet another militant (Sanjit). From this it followed that all those protesting on the streets were cadres of armed militant groups. He also insisted that the Apunba Lup was basically a front of the armed militant groups.

The same logic was applied in the case of Jiten's active involvement in the the public opposition to the Tipaimukh dam in Manipur. The DGP insisted that the dam could not provoke public opposition since there was nothing to oppose – waterways, irrigation, electricity and security forces. It was thus taken for granted that the Tipaimukh dam (proposed height 160 mts) gives *no reason* for people to protest, and the protest was instead linked with the fact that the area where the dam is to be built was allegedly a UNLF stronghold. When asked point blank if this meant that the state sees all those who are opposing the Tipaimukh dam today as insurgents, the DGP's response was a simple "yes".

It is also worth mentioning here that while the DGP drew such a connection between Jiten's involvement in resistance to the Tipaimukh dam and the UNLF, the FIR lodged by the police against Jiten accuses him of links with the PLA. It so happens that the UNLF and the PLA, both proscribed groups, are rival insurgent groups in Manipur. On the matter of prisoners in Manipur the IG Prison, who is also IG Human Rights and Home Guards Training and IG Arms and Operations, in a response to a query as to why there were such a large number of prisoners in Manipur's jails, particularly those detained under NSA, stated: "We have a capacity of 900 in our jails and there are only 600 prisoners. We want 300 more to fill the vacancy".

Regarding the agitation led by the Apunba Lup as a reaction to the July 23 incident in particular, the CM and DGP together claimed that the Apunba Lup was nothing but a front organization of insurgent groups. The student unions, AMSU, MSF and KSA, who have together called for a boycott of classes until action is taken against those responsible for the killings, including top State and police officials under whom those killings had taken place, were also claimed to be false student unions and front organizations of armed insurgent groups. The photographs published by *Tebelka* and reproduced by various local media were also claimed by the DGP to have been “doctored”. He further refuted the post-mortem report of Rabina that showed that she was killed due to long range rifle fire (and not because of fire from a 9 mm pistol that Sanjit allegedly possessed), stating that the concerned doctor did not know his duty and it was none of his business to speak of what firearm was used in the killing.

While stating all of the above, the CM did say he was ready for a second round of talks with the agitating groups. The first round was held on October 31, but few issues were resolved. However, he also underlined that several of their demands – repeal of the Armed Forces Special Powers Act, 1958; resignation of the CM on moral grounds; removal of several top officials like the DGP; termination of the services of the seven commandos suspended after the July 23 incidents and sentencing them to life imprisonment – could never be met. As regards the AFSPA, he disclosed that it had been lifted from seven assembly constituencies of Imphal but the decision of its repeal could be taken by the Centre alone. He informed that while the Nagaland Government attempted to withdraw the AFSPA from certain areas twice the GoI opposed this move and instead prevented them from taking it off from any of the districts.

The DGP also stated that while all operations against militant Kuki groups have been suspended and the Naga groups are on a ceasefire, the valley groups are yet to come to the table for talks.

He however, also said that they were in a dialogue with the GoI regarding fencing the Indo-Myanmar border on the Manipur side and deployment of troops in a POP manner.

IG Prison and Human Rights, Anand Prakash, asked why social activists do not agitate when non-Manipuris are attacked. According to him, several attacks had taken place on non-Manipuris by suspected militant groups. Since November 1, in separate incidents two killings of Biharis had taken place — one a scavenger and another a butcher. These killings were with bullets fired from point blank range. One was shot in the forehead. According to Prakash, a possible explanation for these killings could be that they were retaliatory killings following an ambush by Assam Rifles on October 30 where seven alleged militants were killed. He, however, added that this was mere speculation and needed to be probed further as no armed group has taken responsibility for these killings.

He also stated that the underground leaders were extortionists and could kill anybody for a contract. He alleged that they killed Prof. Islamuddin in the University of Manipur campus (we learnt from other sources that one of those involved in the killing of Prof. Islamuddin was a personnel of the India Reserve Battalion; he is detained under the NSA. The matter was handed over to the CBI for enquiry) as also an SDPO who was brutally murdered last year.

He also stated that the Government of Manipur as part of preventing cash from being diverted had completed the first phase of putting in place transfer of all salaries through banks.

In Manipur, 97 per cent of employees have bank accounts. In the second phase all the work of contractors and of other programmes, including payments in NREGA, were to be carried out through banks. He felt that this would make a difference.

Victims' Families Version

We met more than 12 women whose husbands or sons had been killed in encounters in the last few years. These women have formed the Extra-Judicial Execution's Victim Families' Association, Manipur (EEVFAM) and they meet regularly to take up their common battle with the State. Most of the wives belonged to the age-group 20 to 35 and had with them small children. Some of the mothers also came and shared their woes and struggles. All of them broke down when they shared their stories. The loss of their husbands and sons, often the main breadwinner, from their lives has left them shattered. FIRs were not lodged in any of the cases and no compensation was ever provided at any level. They have also to live with the stigmatized label of being the wife/mother of a terrorist.

Some of the distinctive features in the so-called encounters are isolated locations; absence of casualties on the part of security forces; recovery of 9 mm pistol or hand grenades in most cases; combination of force from the police commandos units and central security forces; the slain victim being taken away from home or elsewhere and killed at another place; theft of money, mobile phones and other valuables from the victims; and so on. What was clear was that after the killing:

- No NHRC guidelines are followed.
- No magisterial enquiry happens, under Cr.P.C. 176.

- Postmortem reports are never provided to the families if they happen and video recording happens only on written request.
- No inquest happens at the site of occurrence.
- No FIR gets lodged when relatives want the death investigated.
- If the NHRC or the High Court does intervene then the State Government keeps the cases pending for years.
- No rehabilitation of families ever takes place.

In this meeting when the women spoke many of them wept. They were still coping with raw wounds keenly awaiting for justice to be delivered as they all believed their husbands had been wrongfully killed. But equally worse was that they had been left behind to look after the children and old parents with no support of the State.

Renu Hangzo (28 years), President of EEVFAM, told us of her husband's death: "On the fatal day of April 6, 2007, my husband along with two of his friends were returning from the market in a scooter (Activa). A team of Police commandos were frisking passerbys at Kwakeithel which is about 1 km from my house. Apparently, they had been asked to stop but they might not have heard the police as there were many others who were also being stopped by the police. Within the short time, the police commandos' team reportedly chased after them by firing at them. Mr. Paka who was the pillion rider was hit at the back which led the scooter to skid and they fell on the side of the road. The two of them, including my husband, were still alive.

Immediately, the police surrounded the two, pointing their gun at them. Thereafter, they were asked to remove their shirt and made to sit and then stand up while raising their hands. All the while, the police was laughing and threatening them. The

scene was witnessed by the local people who were trying to help them. Since the police fired at witnesses, they were not allowed to intervene. The two youths were brutally and mercilessly subjected to torture and shot dead at point blank range on the forehead and inside the mouth.”²

No action was taken against the killers but she still awaits justice in her case and that of the other women. While a magisterial enquiry was made, the report was not made public.

Edina (29 years), General Secretary of the Association, told us that on January 21, 2009 her 31-year-old husband left for work on his scooter at 10:30 am. At 3 pm the police picked him up from in front of the DM College in Imphal and took him to Makhal village in Senapati district in a white Gypsy. The police insisted that he belonged to the outlawed organisation called the KYKL. He never returned. He was the main breadwinner of the family and was an auto driver. He is survived by his wife, 7-year-old son, 4-year-old daughter and an ailing mother with a heart disease. When Edina attempted to file an FIR at Porompat P.S. in Imphal (East), the police did not lodge it. She struggled and got an NHRC enquiry instituted. The NHRC asked the Home Department of the Government of Manipur to look into the allegations; nothing has come of this.

According to 25-year-old **Ranjita's** husband, Satish Loithongbom, had been picked up on May 16 and killed on May 18. Her husband and his friend had gone to Sajiwa jail to meet his brother who had been arrested in a case relating to a builder. According to eyewitnesses, after they came out of the jail and were on their way back they were picked up by five police persons in a gypsy and handed over to the Assam Rifles. On May 18 the friend was released by the Assam Rifles and handed over to the Manipur Police. Satish was taken and killed in Laikot hills in Imphal (East).

When an MLA raised this issue to the Manipur State Assembly, the CM reportedly asked him if he was an eyewitness to this. The family members moved the Guwahati High Court. Two of the police commandos were suspended. However, according to the affidavit filed by the Assam Rifles, the encounter happened in Laikot hills.

The application is still pending. Ranjita met us with her 1-year-old son and mother-in-law.

Mumtaz told us that her husband Azad, a highly educated lecturer who was planning to pursue his Ph.D., was killed on March 7, 2009 in Dimapur transit camp. Azad was teaching Chemistry in Waikhon Mani Girls College in Imphal. He was first picked up on October 30, 2009 by the 34 Assam Rifles along with another boy and charged with carrying illegal weapons and jailed. He was granted bail on health grounds and he moved to Delhi as he was keen to pursue his Ph.D. His wife met him midway in Guwahati to hand over his documents. He thought he would do his Ph.D. from Siliguri.

However, she last heard from him on March 2 when he told her he was going to be involved in talks with the PULF (a largely Muslim self-determination group in Manipur) for the Suspension of Operations as a local elderly. Mumtaz mentioned she was not happy with her husband's decision to get involved and pleaded him not to go ahead with this. On March 6 the Suspension of Operations was to be signed and declared in Delhi on March 15. On March 6 he was at the Dimapur Army transit camp and on the 7th he was killed along with three others including a young boy.

In the case of Azad no FIR had been lodged. Mumtaz also did not have a death certificate and no document to show that her husband had been killed in a false encounter.

Sanaa lost her husband Iboyaima, a businessman who was killed on July 1, 2008 in a false encounter. Her husband was carrying 3.5 lakh rupees when he was picked up by the police and killed. There were huge protests by their community when the news of his killing reached them. However, no FIR got lodged and no inquest took place. She is in a very vulnerable situation even today as she has no support.

According to **Neena**, Treasurer of the Association, on November 4, 2008 her husband Michael (34 years) had gone out with a friend after lunch. After some time he called them and said that he had been arrested. He also did not know why he had been arrested. She said after that she could not speak to him as the phone went unanswered. They rushed to the close by police station but he was not there. It was only later that they saw the body of her husband with a hand grenade on ISTV. The Imphal (West) police gave out the story of an encounter. The encounter happened in the Lamsang P.S. area. Her family members went and met the local Meira Paibi women who said that there was no encounter. Her husband was said to be caught from Wahengbam Leikai.

She feels that he was killed as he had invested in some capital projects and the killing happened for money by the Manipur commandos. No FIR has been filed and no case in the Commission has been lodged.

Chandrakala informed us that her 24-year-old son, Priyobrata, of Mangsangei Boroimakhong village, was killed on March 15 at the Longol Game village. He had gone out of the house on his bike with Rs 8000 as he had planned to buy a

camera. The police killed him for the money and claimed that he was a member of the underground group KCP and was killed in retaliatory fire; this she vehemently denies.

She said she was informed about his murder on the 16th. She refused to take the body for eight days. The local MLA then convinced her to take the body which she did subsequently; but she never got back his belongings and his bike.

Sakhi lost her son, Somendro, who had gone out to get some money from the house of his girlfriend whom he was to marry shortly. Even before he reached her house he had been killed. From the ISTV they learnt of his death. He used to run a hotel. Here also they felt that he had been killed by the commandos for money. The police claimed that he was killed in an encounter.

Sanjukta: According to her, on March 29 her husband, like any other usual day, went to work on his scooter. On his way back he was trailed by two armed men in civil dress on a scooter; it later turned out that they were policemen and they shot him dead in front of his mother in his own courtyard. They did not take back the body for 10 days; the NHRC directed the State Government to conduct a magisterial enquiry; she was not sure as to what happened to it. They had received no summons to depose.

On the matter of rehabilitation of the families of those killed the CM and DGP told us that a rehabilitation centre was being set up seventy kilometres away from Imphal where hundred acres of land had also been acquired.

We told them that the rehabilitation had to be at multiple levels and these women would face a situation of displacement if they had to be sent hundreds of kilometres away; this would

also result in losing the support of their families which was essential in this situation of their lives. We tried to press upon the CM that rehabilitation would consist of guarantee of life long education for the children, cash guarantee (pension-like scheme) for the parents and a job for the wife.

The CM said that other than the rehabilitation centre there was no other scheme being planned. The DGP added that if a person was killed then an ex-gratia payment was made to the survivors; however, the family had to make an application. They said that Rabina's family deserved it but they were not interested in taking it as they were under the influence of the Apunba Lup.

Meeting with Member, Manipur Human Right Commission

Lt. Col. (retd.) R.S. Rajkumar, Member, Manipur Human Rights Commission, told the team that after the July 23 incident, he took the statements of 31 persons including those injured in the incident. He added in his interim report that Rabina's post-mortem report had clearly stated that she was killed due to rifle injury from a distance whereas "the cause of death of Ch. Sanjit Meitei was due to the firing from short-range firearm, like a pistol". He further informed, in his interim report, "there was no evidence of cross-firing...Therefore the statement of the police witnesses are urgently necessary...The police witnesses should give statements for the their own defence...Absence without any response will go against them." However, the police did not respond.

We also learnt that the Government of Manipur sought a stay on the MHRC enquiry because of a judicial commission that had later been set up.

Additional points on fake encounters, police recruitment and culture of impunity in consultation with civil society members

1. The Manipur Police force is awarded with large numbers of awards by the GoI. Of the total number of police gallantry awards given away by the President of India, one-third went to the Manipur Police. 220 were the total number of awards and 74 were from Manipur. The team is yet to see the citation for these awards.
2. Some of those policemen who have been implicated in the killings of Sanjit and Rabina have also received the President's medal. We do not know what citations were made to give the award.
3. Recruitment of constables in Manipur is reportedly based on a bribe of a minimum of Rs. 2 lakhs and of Rs. 12 lakhs for the recruitment of ASIs.
4. Head Constable Herojit Singh, who lodged the FIR after the killing of Rabina and Sanjit and was later suspended in the wake of public outcry, has reportedly killed more than 80 people in the name of counter-insurgency operations and roams freely without charges.
5. We were told that a number of cases of sexual violence by the police often take place.
6. The AFSPA has created a culture of impunity for all security forces. Although the Manipur Police force are accountable under the law, the prevailing culture of impunity affects them as well since the AFSPA has

been in force in the Manipur valley ever since 1980 and in the hills even longer. This has made the Manipur Police trigger happy. It was stated to us that the culture of impunity was legal, socio-political and even cultural.

7. We were informed that although in the West and East Imphal districts the AFSPA did not apply; still the Manipur commando force often inflicted violence on innocents.
8. A senior retired police officer informed us that the police force were deficient in training, that Manipur Police does not have a new Police Act as recommended by the Supreme Court in the Prakash Singh case. He added, police recruitment is a big money-spinner and this recruitment continued apace while there was complete ban on recruitment to all other departments.

Judicial Enquiries in Manipur

While speaking to a cross-section of people who have been agitating against the practice of fake encounters in Manipur, a few broad points emerged. The first is that while these fake encounters continue as a regular practice, the demand of those protesting has been to investigate the cases, and punish the guilty. However, the Manipur Government has not made a single judicial enquiry report public. That is why there is a general public skepticism and little faith in these enquiries. Retired Sessions Judge C. Upendra told us that he had headed twelve such enquiries himself, and found in all cases the encounters were fake, though none of his reports was made public. The Manipur Human Rights Commission (MHRC) has also been made dysfunctional. In the case of the July 23 killings, the police has refused to depose before the MHRC

and orders have come from the State Government to end its enquiry. There is presently a stay order by the High Court on the State Commission's enquiry and a decision is still pending with the court.

On August 27, 2009, the State Government issued a notification vide order No. 2/1(81)/2009-H to constitute a one-man Judicial Commission of Enquiry presided over by Justice (Retd.) P.G. Agarwal of the Guwahati High Court to inquire into the incident with two Terms of References which are as follows:-

(a) "Fact and circumstances leading to the incident of firing and death of Smt. Thokchom (o) Rabina Devi (23) w/o Th. Chinglensana Singh (24) of Lamshang Bazar, Lamdeng Khunou and Shri. Chungkham Sanjit Meitei (22) s/o, Ch. Khelen Meitei of Khurai Sajor Leikai and bullet injury to 5 others viz, (i) Smt. Wangkheirakpam Gitarani Devi (40) w/o, (L) W. Nongyai (a) Nongyaijao Singh d/o Ningthoukhongjam Nobin Singh of Tendongyang, (ii) Golmei Mangal Rongmei (59) s/o. G. Lemba Rongmei of Mahakabui Nameihing Keithelmanbi New Cachar Rd, (iii) Ningthoujam Kishorani Devi (43) w/o N. Raghumani Singh of Narankonjin, (iv) Pangambam Lukhoi Singh (30) s/o (L) P. Pakchao Singh of Heingang Makha Leikai and (v) Kangabam Subhachandra Singh (40) s/o K. Shamungou Singh of Kha Potsangbam".

(b) "Recommendation to prevent recurrence of such incident in future".

C. Upendra told us that two points which were there in the previous judicial enquiries — whether the killing was avoidable, and who were responsible for it — were missing in these Terms of Reference.

The Meeting with Irom Sharmila and saluting her non-violent struggle for repealing the AFSPA

On November 6, the team had the opportunity to meet Irom Sharmila Chanu, now on the tenth year of her heroic fast demanding repeal of the Armed Forces Special Powers Act, 1958. Being allowed only a limited number of visitors, she expressed her desire to meet, see and speak to more people more often. Her strength and courage in undertaking the longest satyagraha in the world, completely peaceful and non-violent, left the team members in awe of her struggle. She expressed her anguish over the situation in Manipur. In a message during the meeting she said: "When will we get back our human rights? The government asks why we are making such a hue and cry over the death of one or a few. But we need to ponder over how the deaths occurred – by a disease or by the pangs of separation of our beloved.....we need to think...Do we have anything to feel proud of while surviving in this land? Everywhere you see the emptiness and hollowness and subjugation. Are we made so differently by god that we as humans do not deserve justice? My heart pains as a human."³

It is necessary to mention here a comment made by the IG Prisons when asked about Irom Sharmila and her mode of resistance. While he chose not to comment on her struggle he made an insensitive remark relating to the expenses the government was incurring to 'nurse' Sharmila – Rs. 9-10,000 per month on nose feeding alone, besides several dedicated staff (nurses), to constantly monitor her condition. Added to this were several security personnel.

Since Mahashweta Devi was denied permission to meet her the previous day, Sharmila handed over a letter for the respected Magsaysay Award winner.

Major Findings

- There exists a huge gap between the official version and the version of the families of victims and public opinion in Manipur with regard to the practice of alleged encounters, and the July 23 incident in particular. In order for democracy to sustain in the light of the massive public protests, the government must necessarily investigate each one of these questionable killings.
- The precedent set by the Government of Manipur has been to engage the public in magisterial (judicial or executive) enquiries or commission of enquiries, none of which has ever been made public. This has shattered the faith of the people of Manipur in such processes.
- Cr.P.C. 2006 Amendment of Section 176 provides for mandatory judicial enquiries in all incidences of custodial deaths and rapes. (As in most of the cases studied by us the person was picked up from one place and shown to have been killed in another implying custodial killing.) This Section is being completely violated. This Section was not implemented in any of the killings that happened in 2009. This Amendment has brought in transparency to the entire evidentiary part in an investigation and it mandates the victim or the kin to get a report.
- The ease with which the Manipur Government at the highest level confirmed that more than 260 people were killed in encounters in 2009 in the State of Manipur and that they were all insurgents implied that killing an insurgent was justified under any circumstance and that from being a law-enforcing agency the police was acting

as an executioner without following the due process of law. If for argument's sake one accepts that all those killed were insurgents, even then there is no reason why the normal legal procedure should not be followed instead of killing them outright.

- Manipur today should be a cause for a great deal of anxiety to the people of India, a constitutional democratic republic, since democracy in the State is at a discount; additionally the alienation of the people from the state seems almost complete. In this connection the Government of India appears to be as much indifferent as the State Government of Manipur to the agony of the people.
- Together with the official version that goes on reasserting itself irrespective of public outcry, and a history of the absence of legal action against those responsible for the murders, the imposition of the AFSPA which grants legal immunity to the Central armed forces has bred a culture of impunity that has percolated right down to the State Police force. While the Manipur Police enjoys no special provisions of legal immunity, the complete absence of Rule of Law in the State as an extended consequence of the imposition of a draconian law like the AFSPA for over 25 years in the valley and for over four decades in the hills and the protection granted to it by the State authorities have given it a high degree of impunity. It is worth mentioning here that where the July 23 killings took place – in Khwairamband market of Imphal – the AFSPA was not in force. Following the rape and murder of Thangjam Manorama by the Assam Rifles in 2004, the AFSPA was lifted from the Imphal area in seven assembly seats. But more importantly, the

Manipur Police commandos are a part of the State Police force and are not covered by the AFSPA. Such a degree of impunity has resulted in the alienation of the citizens of Manipur from the State. As a result of a conspiracy of circumstances these citizens have been caught in a cross-fire; and the State's approach is increasing this sense of alienation.

- The ratio of security forces to civilians is exceptionally high in the State of Manipur which has a population of 2.6 million; there is approximately one security personnel for every 40 civilians.
- In a situation where the state in Manipur traces all forms of peaceful public protest to armed insurgent groups, the call for dialogue with agitationists is rendered meaningless. By its behaviour and actions reflected in its refusal to accept the people's voices of protest and even the existence of a democratic Opposition, the state is ensuring that there remains no space for democratic forms of articulation of people's desires. Laws like the National Security Act (NSA) and the Unlawful Activities (Prevention) Act (UAPA) which deny the basic human rights guaranteed under the Constitution and open up avenues for misuse of arbitrary powers have been repeatedly applied to smother the citizens' aspirations, engendering a stifling atmosphere. Such an environment can only reinforce the prevailing insurgency and armed militancy.
- There is a strong public perception of a high degree of corruption in the police in Manipur. This is buttressed by the large number of gallantry awards (reportedly 74 out of 220 in the country) won by the Manipur Police personnel this year. This is alleged to be a kind of

- material incentive to the extra-judicial measures being allowed to be taken by the guardians of law and order.
- There is apparently a complete breakdown of the Rule of Law - instead of arresting those claimed to be insurgents and following such procedures as shooting without the intent to kill, State security forces are resorting to indiscriminate killing, protected as they are by extraordinary powers derived from Manipur's 'disturbed area' status. The restoration of peace and order must go hand in hand with the promotion of Rule of Law and justice for the sustenance of democracy. While the state highlights the importance of national security even as a substantial number of people continue to assert the demand for self-determination, the high degree of violence, breakdown of the Rule of Law, and the climate of impunity have together resulted in a vicious circle with multiple actors (state and non-state) capitalizing on the existing lawlessness for furthering their own vested interests, which have no relationship with either national security, safety of citizens, or the political right to self-determination.
 - This situation breeds a sense of fear psychosis among the citizens and security forces alike, thereby aggravating instability and frustrating the efforts at normalization for a return to peace, justice and stability.

Recommendations

To Government of India:

- Repeal the Armed Forces Special Powers Act (AFSPA), in all its different forms across the country

- Prevent misuse of National Security Act, Disturbed Areas Act and the Unlawful Activities (Prevention) Act
- Ensure the rule of law in Manipur by making the Ibobi Singh Government accountable for the present situation
- Issue orders for immediate withdrawal of NSA and other preventive detention charges on all arrested since July 2009 public demonstrations
- Enforce Cr.P.C. 2006 Amendment in Manipur
- Stop awarding or rewarding police personnel, for encounter killings, which have become a root cause of many ‘fake encounters’ staged in Manipur today. Any police personnel awarded should be after having their name cleared in such cases

To Manipur State Government:

- Immediately initiate transparent and thorough investigations into each one of the alleged ‘fake encounters’ and ‘custodial killings’
- Strictly enforce the procedural guidelines issued by the NHRC with regard to “encounters”: a) treat every such death as a cognizable offence and take immediate steps to investigate the circumstances leading to the death; b) as the police themselves are involved, entrust the investigation to an independent agency
- Make public all reports of magisterial (judicial or executive) enquires and commission of enquiries set up to investigate incidents of fake encounters or other extra-judicial killings
- Immediately rusticate those found guilty and initiate criminal proceedings

- Stop misuse and abuse of preventive detention laws including NSA & UAPA
- End all intimidation to those resorting to peaceful and democratic forms of protest and engage in meaningful dialogue to address their concerns, redress their grievances and resolve outstanding problems
- Withdraw the paramilitary forces from the Manipur University
- Provide a just rehabilitation for the families of the deceased and injured
- End Irom Sharmila's custody and restore her civil liberties
- Engage in dialogue with struggles against environmental destruction and displacement, including the Tipaimukh and other anti-dam resistance groups

Footnotes

¹ From the Report prepared by Human Rights Alert

² From Renu's written testimonial

³ Recorded by Ranjeeta Sadokpam, Translated by Shreema Ningombam