



**“These Fellows Must Be Eliminated”**  
**Relentless Violence and Impunity in Manipur**

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# Manipur District Map



## I. Summary

*It takes us a long time to raise our children. Then, when they grow up, they are shot. This cannot go on. We no longer want to look for our children in the morgue.*

—Yumlembam Mema, women’s rights activist in Manipur

A woman is arrested at her home at night. The authorities provide her family a signed document acknowledging her arrest. The next morning, villagers find her bullet-ridden corpse some four kilometers away from her home. There are widespread protests following the woman’s death. Promises are made by the highest authorities of the country, and yet, after four years, justice remains undone. No one is punished for this crime.

This is the story of Thangjam Manorama Devi, a 32-year-old resident of India’s Manipur state. The paramilitary Assam Rifles suspected her of links to an underground separatist group and detained her on July 11, 2004. The soldiers raided her home in Bamon Kampu village a little after midnight, asking the family to wait outside while they questioned her. They then signed an “arrest memo,” an official acknowledgement of detention put in place to prevent “disappearances” and took her away. Her body was found outside a nearby village. She had been shot through the lower half of her body, raising suspicion that bullets had been used to hide evidence of rape.

Human rights violations by security forces engaged in counter-insurgency operations in Manipur state have occurred with depressing regularity over the last five decades. Separatist militants have also committed widespread human rights abuses. According to the police, nearly 3,000 civilians have died in the conflict since 1990. At least 1,300 militants and nearly 1,000 members of the security forces have also been killed. According to unofficial sources, at least 20,000 people may have died due to violence since the conflict began in the 1950s. But Manipur, a small state of two million people, is tucked away in the country’s remote northeastern region. Not

much that happens there makes the national news—unless it is a particularly brutal attack by militants.

However, the security forces' clear role in Manorama's killing captured widespread media attention. Protests erupted in Manipur, while domestic and international human rights groups demanded an immediate investigation and the prosecution of those responsible. Concerned that the government would fail to hold soldiers accountable for the killing, as had repeatedly been the case in the past, for several weeks Manipuris took to the streets. Students, lawyers, traders, mothers, journalists, and human rights activists marched every day, demanding justice. One man committed self-immolation in protest, several others attempted suicide.

The paramilitary Assam Rifles claimed that Manorama was shot dead while trying to escape. In later affidavits, the soldiers implicated said that she was helping the army locate another militant when she instead tried to escape. It is a difficult account to accept: an unarmed, handcuffed woman, wearing the tightly-bound Manipuri sarong that does not lend itself to big strides, supposedly managed to escape the custody of an armed escort. And if she did, it does not explain why the soldiers were unable to catch her and had to shoot to kill. There has also been no explanation why Manorama had not been handed over to police custody by the arresting officials of the Assam Rifles, as the law requires. Or why no female official had been brought in at the time of this night arrest, as is the rule.

Soldiers were able to arrest Manorama because they are empowered to do so under India's Armed Forces (Special Powers) Act (AFSPA), the 1958 emergency law under which the armed forces are deployed in internal conflicts and enjoy broad powers to arrest, search, and shoot to kill. This 50-year-old law also provides security forces immunity from prosecution and has thus protected members of the Assam Rifles—as well as soldiers in Jammu and Kashmir, and other states in India's northeast—responsible for killings such as Manorama's from being brought before a civilian judge to be prosecuted for murder and other offenses.

Manipuris have long campaigned for the repeal of the AFSPA. Demanding that the act be scrapped, human rights activist Irom Chanu Sharmila has been on hunger

strike for nearly eight years. Her protest began after Assam Rifles gunned down ten civilians on November 2, 2000. She remains in judicially ordered custody, force-fed through a nasal tube.



Sharmila has been on hunger strike to demand a repeal of the AFSPA since November 2000. © 2007 AFP/Getty Images

After Manorama’s killing, 32 organizations formed a network called Apunba Lup in a campaign to repeal the AFSPA. The most heart-wrenching protest was by a group of Manipuri women, members of the Meira Paibi (“torch bearers”), who on July 15, 2004 stripped naked in front of the Assam Rifles camp in the state capital, Imphal, wrapped in a banner that said, “Indian Army Rape Us.”

Forced to respond, the state government of Manipur ordered a judicial enquiry by retired district judge C. Upendra Singh. Judge Upendra Singh submitted his report in November 2004. Almost four years later, the report is yet to be made public. As court proceedings continue, no action has been taken.



Women protest the killing and alleged rape of Thangjam Manorama Devi with a banner reading "Indian Army Rape Us" at the army headquarters in Imphal in July 2004. © 2004 AFP/Getty Images

Indian Prime Minister Manmohan Singh meanwhile promised justice in the Manorama case and a review of the AFSPA. In November 2004, he set up a committee headed by B.P. Jeevan Reddy, a retired judge of the Supreme Court. The report was submitted in June 2005. While the Jeevan Reddy committee report has also not been made public, the contents were leaked, and it is now known that the committee recommended repeal of the AFSPA. The report however remains with the cabinet in New Delhi for consideration, and no action has been taken.

In the Manorama case, Assam Rifles said that it ordered an internal inquiry. The army and paramilitaries never reveal the findings of internal inquiries, and thus it remains unknown if any member of the Assam Rifles was found responsible for Manorama's killing and whether they were appropriately punished. Making a concession to public outrage, the defense ministry did release a statement on July 28, 2004 saying only that the court of inquiry had found some "lapses" by Assam Rifles personnel. In an

interview with Human Rights Watch, a spokesman for the Assam Rifles said he could not say what action was taken by the court of inquiry “because the concerned officials from that time are no longer in Manipur and the records are not available.”

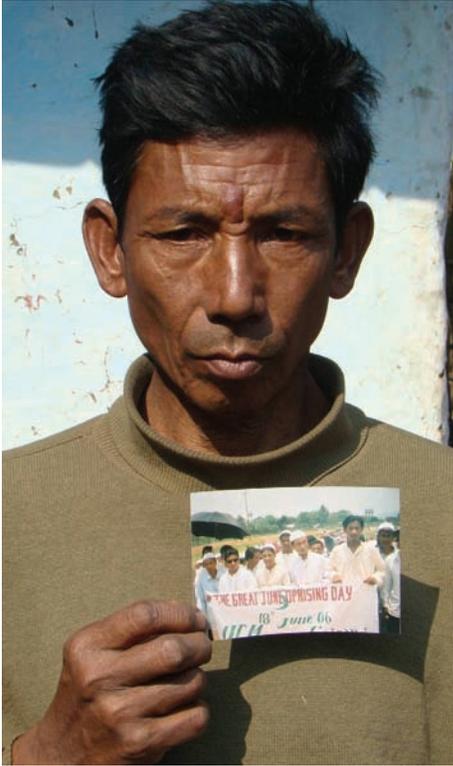
Meanwhile, Manorama’s family is still waiting for justice to be done. It may be a long wait. Political leaders and government officials may privately agree that Manorama’s killing was unlawful, but the Indian state has failed, yet again, to hold soldiers responsible for a serious human rights violation accountable.



Shrine in memory of Thangjam Manorama Devi outside her house. © 2008 Human Rights Watch

## Continuing Security Force Abuses

After Manorama’s death, the security forces appeared to curtail their human rights violations. This did not last long. Since 2006, extrajudicial killings, torture, and other abuses have once again become common practice. According to Human Rights Alert, an Imphal-based voluntary group, in 2006 there were 17 cases in which security forces allegedly extrajudicially executed civilians; in 2007, 12 cases were documented by the group; and as of July 2008, at least 23 such cases had been listed.



Father of Ayub Khan. Ayub Khan who was last seen in the custody of the Assam Rifles. A day after he was last seen, the Assam Rifles claimed that Ayub Khan had been killed in an armed encounter. © 2008 Human Rights Watch

For this report, Human Rights Watch investigated several cases of alleged extrajudicial killings committed by the security forces since 2006. In one case, Mohammad Ayub Khan and six others, traveling in a van, were stopped during a routine check by the 19<sup>th</sup> Assam Rifles on August 26, 2007 at Gwaltabi in Ukhrul district. The soldiers found that Ayub Khan, a mason, was carrying a large sum of money. He explained that this was cash to pay his workers. The soldiers insisted that the van, with all its passengers, be driven to the Assam Rifles camp at Litan. At the camp, Ayub Khan was separated from his co-passengers, who were released. When Ayub Khan's family heard of the detention, they went to the camp but were not allowed to enter. His brother filed a missing person complaint at the Litan police station, saying that Ayub Khan was last seen in the custody of the 19<sup>th</sup> Assam Rifles.

On August 30, 2007, the Litan police contacted the family. They said that the Assam Rifles had informed the police that a person had been killed in an armed encounter. They suggested that the family check to see if the unidentified person was their missing relative. The family identified the person as Ayub Khan. The Assam Rifles issued a statement claiming that a suspected militant had been shot in an armed exchange and weapons had been recovered from him. Ayub Khan's father, Mohammad Karimuddin, told Human Rights Watch that the Assam Rifles are lying:

How can there be an armed encounter with someone who is already in custody? There are witnesses who saw my son being detained. If they [Assam Rifles] thought my son was a militant, they could have arrested him. But they only wanted his money and did not want the truth to come out. So they killed him. They know that no one questions the army in Manipur.

## Police Abuses

The behavior of the army appears to have encouraged the Manipur state police to act similarly. The culture of violence has become so deep-rooted that the police have in recent years committed the same abuses as the army and paramilitary forces. In several of the recent cases documented by Human Rights Watch, the alleged perpetrators belonged to the Manipur police. The Manipur state police chief, Yumnam Joykumar Singh, told Human Rights Watch: “My people have been told not to commit human rights abuses and none has occurred.” However, in the same conversation claiming that many of the militants were not political fighters but petty extortionists, he also said, “I have told my people. These fellows must be eliminated. Nothing else can cure us of this disease.”



Premananda's mother. Premananda was killed by Manipur police on January 30, 2006. © 2008 Human Rights Watch

The message to eliminate militants seems to have resonated with the police. Human Rights Watch was repeatedly told that police commandos were among the worst human rights violators in Manipur. Leitanthem Premananda was picked up on January 30, 2006 and, according to relatives, executed later that same day. Together with their neighbors and friends, the relatives formed an action committee to protest the killing; the police threatened retribution. On February 10, 2006, two leaders of the protest committee, Pechimayum Yaima Singh and Leikapokpam Bisashini, were arrested by the Manipur police. Pechimayum Yaima Singh remained in custody for two months. “My family was very worried,” he said.

“Finally, we were released. But we had to promise that we stop the protests, and were threatened that we would be arrested again if we followed up on this case.”

Abujam Shidam, a well-known member of the opposition Manipur People's Party, was arrested on January 7, 2008. While in custody, he says he was tortured by police commandos claiming to be members of a joint interrogation cell.

I was blindfolded. They started beating and kicking me, saying that I must admit I was a member of the PLA [militant group called People's Liberation Army]. They filled buckets of water and poured it on my face. They pressed on my joints with their boots. I kept shouting that I was not a militant, but they would not stop.

While the legal impunity under the AFSPA does not formally extend to the state police, police commandos now routinely get away with serious crimes including torture, and fake "encounter killings." As one activist described it to Human Rights Watch, "The long-term pernicious influence of the AFSPA on Manipur society is its trickle-down effect. One can argue that the rampant corruption in civil administration is a fallout of the climate of impunity generated for many decades by AFSPA in Manipur."

## **Armed Groups**

Indian officials and many Manipuris point out that the armed groups, commonly called "UGs" (short for "underground"), also commit serious human rights abuses. Some of these groups have a tremendous hold over Manipuri society, with ordinary citizens forced to build alliances with one group to ensure protection from the rest. Many impose a variety of diktats, including a ban on some television channels, on women wearing western clothes, the use of drugs, tobacco, or alcohol and implement such orders with force. Some groups have been responsible for attacks on ethnic minorities. For example, in March 2008, militants killed 14 migrant laborers from other Indian states and left behind a note warning others to leave Manipur. In January 2006, armed cadres belonging to United National Liberation Front (UNLF) and Kangleipak Community Party (KCP) allegedly raped 21 Hmar tribal girls in Manipur's Churachandpur district. Militants have also been responsible for the indiscriminate use of landmines, bombs, political killings, and attacks upon those they consider to be informers or traitors.

Manipuris complain most about militant groups' culture of extortion. The state is unable to provide protection from these extortion demands—in fact, many government officials pay themselves. Recently, there has been a spate of abductions by militant groups to recruit children into armed groups involved in fighting. At least 24 school children were reported missing in June and July 2008, leading to widespread protests. One faction of the militant group People's Revolutionary Party of Kangleipak (PREPAK) admitted that they had recruited some of the missing children.



Protest against attack by militants in Imphal, the capital of Manipur. © 2008 Human Rights Watch

## Impunity

Manipuri activists do not dispute the need for strong law enforcement to end the violence perpetrated by militants. Some want the army to remain deployed to combat the UGs, while others want the army withdrawn. But all want the AFSPA to be repealed because of the open license it provides for abuses.

More fundamentally, Manipuris want the culture of impunity to end. Not only has the failure to punish Manorama's killers shattered any existing faith in the justice system, many Manipuris feel it has also emboldened security officials to take the law into

their own hands and to believe they can get away with murder. As one government official admitted to Human Rights Watch, “Known criminals are sometimes killed, but it never happens to innocents.” In this way the security forces have become judge, jury, and executioner—and have become comfortable in adopting this role.

The more or less free rein given to government forces for decades in Manipur and other parts of the northeast has had a significant impact on the country generally. Similar policies have since been adopted to stamp out armed separatist movements in various other parts of India. Some argue that this is the only way to ensure that separatists who they “know” are guilty do not evade justice. But in the world’s largest democracy, many in the security forces appear to believe it is easier to kill suspects than to gather evidence to secure convictions, while others kill for money or promotions, as they are often rewarded for their actions.

The Indian government, while claiming a firm commitment to the protection of human rights, has consistently ignored violations by its security forces, at best attributing such acts to a few “bad apples.” As this report demonstrates, however, the problems are systemic and require systemic changes in law, policy, and practice. And even assuming the problem is “bad apples,” they are rarely investigated, let alone tried and convicted. This culture of impunity, fostered both by a lack of political will and by laws shielding the perpetrators, has led to an atmosphere where security forces believe they can get away with the most serious crimes without the threat of punishment.

Not only has the Indian government disregarded the demands of Manipuris and the findings of its own government-appointed committees, it has ignored concerns and recommendations by United Nations human rights bodies. For example, in 1997 the UN Human Rights Committee said that the continued use of the AFSPA in Manipur was tantamount to using emergency powers and recommended that the application of these powers be monitored to ensure compliance with the International Covenant on Civil and Political Rights (ICCPR).

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip 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.” In 2007 the Committee on the International Convention on Elimination of All Forms of Racial Discrimination called for India to repeal the AFSPA and to replace it “by a more humane Act” in accordance with the recommendation contained in the leaked Jeevan Reddy committee report. The Committee on the Convention on the Elimination of All Forms of Discrimination against Women in February 2007 urged India to provide information on the steps being taken to abolish or reform the AFSPA and to ensure serious investigations and prosecutions of acts of violence against women by the military in so-called disturbed areas.

### **Key Recommendations**

- The government of India, the state government of Manipur, and all militant groups should place human rights protection mechanisms at the center of any attempt to resolve the conflict and ensure compliance with international human rights and humanitarian law.
- The government of India should repeal the Armed Forces (Special Powers) Act, 1958 as recommended by the government-appointed Jeevan Reddy committee.
- The government of India and the state government of Manipur should investigate and prosecute government officials, including members of the armed forces, police, and paramilitary, responsible for human rights violations.
- The government of India should arrest and prosecute to the fullest extent of the law all those found responsible for the 2004 murder of Thangjam Manorama Devi.
- Armed groups should publicly denounce abuses committed by any militant group and ensure that there is appropriate accountability for such abuses.
- Armed groups should immediately stop the abduction and recruitment of children into their forces.

## **Methodology**

In early 2008, Human Rights Watch travelled to Manipur to investigate the human rights situation. With the assistance of human rights activists and lawyers, we investigated 18 cases of torture and extrajudicial killing since 2006. We interviewed government officials, army officers, police officials, politicians, lawyers, journalists, and human rights defenders. We conducted over 60 interviews in Manipur and supplemented with follow-up research through August 2008.

For Manorama's case, we met with Manorama's family, the lawyers who are pursuing her case, and Judge Upendra Singh, who conducted an investigation into the incident.

Most interviews with victims or their families were conducted privately. In some cases we used local NGO partners as translators. We also held group discussions with some activists, such as the members of the Meira Paibi.

Since there is an ongoing dialogue between the government and some of the groups operating in the hill districts of Manipur, counter-insurgency operations have reduced in scale. Most of the operations are in the Manipur valley to contain the Meitei and Muslim groups. Our investigations were thus limited to the valley areas.

In order to protect victims and others who might face reprisals by either side for speaking about them, names and any information that might identify them, such as places where interviews were held or specific dates of those meetings, have in certain cases been withheld.

## II. Background: Conflict in Manipur

The northeastern part of India is linked to the rest of the country by a narrow corridor through the hill districts of West Bengal state. Surrounded by Bhutan, Bangladesh, Burma, and the Tibetan region of China, the northeast is a strategically sensitive area. A large deployment of troops has long been stationed to guard the borders.

The region is populated by diverse ethnic, linguistic, and religious groups, including a number of indigenous tribes.<sup>1</sup> It makes up roughly 7 percent of India's total area and is home to about 3 percent of its total population.<sup>2</sup> The northeast now includes the states of Manipur, Assam, Nagaland, Tripura, Meghalaya, Arunachal Pradesh, Mizoram, and Sikkim.<sup>3</sup> Many of these states were created to win the allegiance of ethnic groups and to accommodate political aspirations.<sup>4</sup>

Integrated into India after the end of British colonial rule in 1947, most people from this region have little ethnically in common with the bulk of the Indian population. The landlocked region has endured decades of neglect, widespread corruption, and a failure by successive governments to deliver economic growth and sustainable development.<sup>5</sup> Separatist armed groups from the Naga tribes first started resisting integration with India in the mid-1950s.<sup>6</sup>

Manipur is an area of roughly 22,000 square kilometers, about half the size of Switzerland, made up of a valley surrounded by hills. Two-thirds of the population lives in the valley, which is roughly 10 percent of the total area. The population of 2.2 million, according to the 2001 census, includes the majority Hindu Meiteis, who

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<sup>1</sup> Ministry of Home Affairs, Government of India, *Annual Report 2006-2007*, p. 16.

<sup>2</sup> According to projections based on 2001 census, the population in India's northeast is estimated to be around 43.56 million out of a total population is 1.14 billion. Census of India, "Projected Population for the year 2008," [http://www.censusindia.gov.in/Census\\_Data\\_2001/Projected\\_Population/Projected\\_population.aspx#2008](http://www.censusindia.gov.in/Census_Data_2001/Projected_Population/Projected_population.aspx#2008) (accessed April 21, 2008).

<sup>3</sup> Apart from the kingdoms of Tripura, Manipur and Sikkim, the rest of the northeast was initially part of Greater Assam.

<sup>4</sup> Sikkim was an independent kingdom until it merged with India in 1975.

<sup>5</sup> B.G. Verghese, "Building Northeastern Futures, Looking East," *Eastern Quarterly*, vol. 4, October 2007-March 2008, Manipur Research Forum, New Delhi, p. 158.

<sup>6</sup> South Asia Human Rights Documentation Center, "Armed Forces Special Powers Act; A Study in National Security Tyranny," November 22, 1995, [http://www.hrdoc.net/sahrdc/resources/armed\\_forces.htm](http://www.hrdoc.net/sahrdc/resources/armed_forces.htm) (accessed April 21, 2008).

occupy the valley, and tribal groups, including the Naga and Kuki tribes, who practice Christianity and live primarily in the surrounding hill districts.<sup>7</sup> Muslim immigrants, known as Pangals, are about 8 percent of the population. There is also a small population of migrants from other parts of India who are called Mayang (“outsiders”).<sup>8</sup>

Manipur was an independent kingdom until defeated by Britain in 1891. It remained a princely state under British suzerainty until the end of colonial rule. The maharajah (king) of Manipur then signed an Instrument of Accession, placing Manipur within the dominion of India and granting it exclusive power over Manipur’s defense, foreign relations, and communications. However, a movement demanding an end to the old feudal system had already begun in Manipur which, in 1948, led to the establishment of an elected legislature with the king becoming only a constitutional head of state.<sup>9</sup> But King Bodhchandra signed a Merger Agreement with the Indian state on September 21, 1949,<sup>10</sup> and Manipur formally merged with India on October 15, 1949. It was directly governed by New Delhi until January 21, 1972, when it became a state with the right to elect its own legislative assembly.

Many Manipuris believe that their right to self determination was violated in 1949 when the Manipuri king, who apparently went to Shillong to meet the governor of Assam and other Indian officials to discuss the law and order situation in the region, was instead, allegedly forced to sign the Merger Agreement.<sup>11</sup> Such an agreement had not been discussed by the newly formed legislature, and was not ratified by it. Instead, the assembly was dissolved and Manipur placed under the direct administration of New Delhi.<sup>12</sup>

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<sup>7</sup> Population of North-Eastern States, Ministry of Home Affairs, Government of India, <http://mha.gov.in/nemain.htm> (accessed April 5, 2008). The population in 2008 is estimated to be 2.6 million according to the Census of India, “Projected Population for the year 2008.”

<sup>8</sup> R.Upadhyay, “Manipur-In a Strange Whirlpool of Cross-Country Insurgency,” Paper No. 1210, South Asia Analysis Group, January 3, 2005, <http://www.southasiaanalysis.org/papers13/paper1210.html> (accessed March 14, 2007).

<sup>9</sup> South Asia Human Rights Documentation Center, “Armed Forces Special Powers Act; A Study in National Security Tyranny.”

<sup>10</sup> Agreement between Governor General of India and the Maharajah of Manipur, “Merger of Manipur with India,” September 21, 1949, Text of the Agreement, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/COHR\\_IND\\_UPR\\_S1\\_2008anx\\_Annex%20V\\_ManipurMergerAgreement.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/COHR_IND_UPR_S1_2008anx_Annex%20V_ManipurMergerAgreement.pdf) (accessed March 13, 2008).

<sup>11</sup> Jiten Yumnam and Phulindro Konsam, “Militarization and Impunity in Manipur,” *Article 2*, vol. 5, no. 6, Asian Legal Resource Center, Hong Kong, December 2006, p. 2.

<sup>12</sup> South Asia Human Rights Documentation Center, “Armed Forces Special Powers Act; A Study in National Security Tyranny.”

Many Manipuris believe that Indian government actions in 1949 justified an armed response. One elderly woman, referring to the events of that year, described her outrage as follows:

What happened in Manipur was a denial of rights. They tried to snatch what was left to us by our ancestors. What do you do then? If you have guns, you use guns. If you have knives, you use knives. If all you have is a spade, then that is what you will use.<sup>13</sup>

Because of separatist activity by Naga tribes that spilled over into Manipur, the Indian government enacted the Armed Forces (Assam and Manipur) Special Powers Act in 1958, which provided troops with extraordinary powers during counter-insurgency operations.<sup>14</sup> This law became applicable in the areas of present-day Nagaland and in the hill areas of Manipur. Later, when armed groups from other ethnic communities started their own insurgencies, the law was extended to the remaining parts of Manipur and remains in effect today.<sup>15</sup>

The first armed opposition group in Manipur, the United National Liberation Front (UNLF), formed in November 1964 demanding independence. Since then many armed groups led by Meiteis were established with similar objectives. The People's Revolutionary Party of Kangleipak<sup>16</sup> (PREPAK) was formed in 1977. The People's Liberation Army (PLA), which received arms and training from China, was formed in 1978.<sup>17</sup> The Kangleipak Communist Party (KCP) was formed in 1980. These groups began a spree of bank robberies and attacks on police officers and government buildings.<sup>18</sup>

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<sup>13</sup> Human Rights Watch interview with a Manipuri woman (name withheld), Imphal, February 26, 2008.

<sup>14</sup> Ministry of Home Affairs, "Armed Forces (Special Powers) Act, 1958," [http://www.mha.nic.in/acts-rules/armed\\_forces\\_special\\_powers\\_act1958.pdf](http://www.mha.nic.in/acts-rules/armed_forces_special_powers_act1958.pdf) (accessed April 20, 2008).

<sup>15</sup> The Armed Forces (Assam and Manipur) Special Powers Act was amended in 1972 to extend to the new states that had been formed in the region and its name was changed to the Armed Forces (Special Powers) Act.

<sup>16</sup> Kangleipak is the historical name for Manipur.

<sup>17</sup> The People's Liberation Army is the armed wing of the Revolutionary People's Front, Manipur, <http://www.geocities.com/CapitolHill/Congress/4568/> (accessed March 13, 2008).

<sup>18</sup> South Asia Terrorism Portal, "Terrorist/Insurgent Groups- Manipur," [http://satp.org/satporgtp/countries/india/states/manipur/terrorist\\_outfits/index.html](http://satp.org/satporgtp/countries/india/states/manipur/terrorist_outfits/index.html) (accessed April 24, 2008).

In 1980, all of Manipur was declared “disturbed” and the Armed Forces (Special Powers) Act was imposed in the state because the state government said that “the use of the Armed Forces in aid of the Civil powers is necessary.”<sup>19</sup>

The violence in Manipur has not simply been between security forces and armed groups (called “undergrounds,” or “UGs” by Manipuris). There is also a history of differences between the Meiteis, Nagas, Kukis and other tribal groups.<sup>20</sup> Once the Naga tribes in Manipur began to support the separatist groups in Nagaland in their demand for a sovereign “Nagalim”—a large swathe of Naga majority areas that include parts of Manipur, Assam, and Burma—the Meiteis began to form organizations to demand independence and protect their territories from Naga claims. In 2001 widespread protests broke out when Meitei Manipuris feared that a peace agreement between Naga insurgents and the Indian government would lead to the truncation of Manipur.<sup>21</sup> In the riots that followed, a number of government offices came under attack and the Manipur State Assembly building was burned down.<sup>22</sup>

The Kukis and Nagas have had numerous clashes, with hundreds killed in the 1990s.<sup>23</sup> The Kukis support the demand of a separate Kukiland that would include the Kuki tribes of Burma.

Satkhojai Chongloi of the Kuki Movement for Human Rights told Human Rights Watch that the primary concern of the Kukis has been land. He summarized Kuki views of the situation as follows:

There are many different groups in Manipur. Some want a separate state under the Indian Constitution. Others demand a sovereign nation. But the main concern of the Kuki people is that the customary law should be protected. The real issue in the hill areas is land. Some are out to grab it by force.... We are caught in between the army and the

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<sup>19</sup> Government of Manipur, Home Ministry Notification No. 183, September 8, 1980.

<sup>20</sup> Sanjay Hazarika, *Strangers of the Mist*, (New Delhi: Penguin Books, 1995), p. 242-245.

<sup>21</sup> Subir Bhaumik, “Analysis: Manipur’s Ethnic Bloodlines,” BBC News, June 19, 2001, [http://news.bbc.co.uk/2/hi/south\\_asia/1396751.stm](http://news.bbc.co.uk/2/hi/south_asia/1396751.stm) (accessed April 24, 2008).

<sup>22</sup> “13 Killed, Indefinite Curfew in Imphal,” *Press Trust of India*, June 19, 2001, <http://www.rediff.com/news/2001/jun/18mani5.htm> (accessed April 5, 2008).

<sup>23</sup> Subir Bhaumik, “Analysis: Manipur’s Ethnic Bloodlines,” BBC News, June 19, 2001.

Nagas. The Nagas killed over 900 people in the 1990s. Over 350 villages were uprooted. The army has continued human rights abuses.<sup>24</sup>

There is particular resentment among the Meiteis for the secessionist demands of the Nagas and Kukis because of the special protections reserved for tribal groups under the Indian Constitution including quotas in universities and government jobs. The Meiteis are not eligible for these privileges. Under Manipuri law to protect indigenous tribes, they are also not allowed to settle in the hill districts. However, there is no such restriction on Nagas and Kukis settling in the valley.

Despite the deployment of the Indian army, the insurgencies have continued.<sup>25</sup> Militant groups have split and new ones formed, all of them representing their own community interests.<sup>26</sup> The three largest Meitei groups—the UNLF, PLA and PREPAK—have operated under a unified platform called the Manipur People’s Liberation Front (MPLF) since 1999, though they maintain their independent identities and command structure.<sup>27</sup>

After clashes between Meiteis and Muslims in 1993, Islamist groups such as the People’s United Liberation Front, North East Minority Peoples Front, Islamic National Front, Islamic Revolutionary Front, and United Islamic Liberation Army were formed.<sup>28</sup> Conflicts between the Nagas and the Kukis of Manipur led to the emergence of a number of Kuki armed opposition groups such as Kuki National Army, Kuki National Front, Kuki Revolutionary Army, and the United Kuki Liberation Front.<sup>29</sup> The Nagas back the National Socialist Council of Nagaland-IM, which is led by a Manipuri Naga called Thuingaleng Muivah.

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<sup>24</sup> Human Rights Watch interview with Satkhøjai Chongloi, Imphal, February 26, 2008.

<sup>25</sup> Somini Sengupta and Hari Kumar, “A Forgotten Civil War in Northeast India,” *The International Herald Tribune*, September 3, 2005, <http://www.ihf.com/articles/2005/09/02/news/india.php> (accessed August 21, 2008).

<sup>26</sup> Lianboi Vaiphei, “Addressing Multiculturalism for Ethnic Equations in Manipur,” *Eastern Quarterly*, vol. 4, October 2007-March 2008, Manipur Research Forum, New Delhi, p. 229-237.

<sup>27</sup> Bobby Sarangthem, “Revolutionary People’s Front,” IPCS Database on Armed Groups in South Asia, Institute of Peace and Conflict Studies, New Delhi, <http://www.ipcs.org/agdb12-rpf.pdf> (accessed August 22, 2008).

<sup>28</sup> Sanjay Hazarika, “100 Dead in India Religious Strife,” *The New York Times*, May 5, 1993, <http://query.nytimes.com/gst/fullpage.html?res=9FoCE4DD163CF936A35756CoA965958260> (accessed April 24, 2008).

<sup>29</sup> Hazarika, *Strangers of the Mist*, p. 242-244.

There are now an estimated 30 armed groups belonging to various ethnic or religious groups operating in Manipur.<sup>30</sup> At present there is a cessation of hostilities by most of the Kuki groups.<sup>31</sup> The main Naga groups have also ceased hostilities against the state because of ongoing talks with the Indian government.<sup>32</sup> However, counter-insurgency operations have continued against the Meitei and Islamist groups.

The continuing violence in Manipur since separatist conflicts began has led to fear, anxiety, and terror for many residents, greatly impacting daily life and the region's development. Since the beginning of the conflict, the armed groups have been responsible for torture, targeted killings, the indiscriminate use of bombs and landmines, abduction for ransom, and forced recruitment into combat.<sup>33</sup> In the villages, militants also demand food or shelter from civilians. While Manipuris complain about the daily abuse and human rights violations by the state security forces, they are also held hostage by the stranglehold of the militants.

The biggest problem Manipuris face from militants is extortion, euphemistically called "taxes" by various armed groups. Many of these groups are so powerful that even government officials, including very senior officials, allegedly pay these "taxes."<sup>34</sup> Manipuris describe how they have been forced to seek the protection of one group from the threats and extortion of another, thereby risking arrest by the security forces for collusion with militants.

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<sup>30</sup> These groups include the Peoples Liberation Army (PLA), United National Liberation Front (UNLF), Revolutionary Peoples Front (RPF), Peoples Revolutionary Party of Kangleipak (PREPAK), Manipur Liberation Front Army (MLFA), Kanglei Yawol Khenna Lup (KYKL), Revolutionary Joint Committee (RJC), Kangleipak Communist Party (KCP), Peoples United Liberation Front (PULF), National Socialist Council of Nagaland (NSCN-K), National Socialist Council of Nagaland (NSCN-I/M), Naga Lim Guard (NLG), Kuki National Front (KNF), Kuki National Army (KNA), Kuki Defence Force (KDF), Kuki Democratic Movement (KDM), Kuki National Organisation (KNO), Kuki Security Force (KSF), Chin Kuki Revolutionary Front (CKRF), Kom Rem Peoples Convention (KRPC), Zomi Revolutionary Volunteers (ZRV), Zomi Revolutionary Army (ZRA), Zomi Reunification Organisation (ZRO), and Hmar Peoples Convention (HPC).

<sup>31</sup> "Manipur Govt to hold talks with underground groups," *North East News Agency*, August 1-15, 2007, <http://www.nenanews.com/ANE%20Aug%201-15,%2007/mj4.htm> (accessed April 3, 2008).

<sup>32</sup> "Govt, NSCN (I-M) Agree to Extend Ceasefire," *Press Trust of India*, January 15, 2001, <http://www.rediff.com/news/2001/jan/15nscn.htm> (accessed April 5, 2008).

<sup>33</sup> The abuses have continued even after some groups committed to comply with the Geneva Conventions. The Revolutionary People's Front announced its "unequivocal intention to comply" with common article 3 of the Geneva Conventions in its "Declaration Made by RPF during the 49th session of the Human Rights Sub-Commission at Geneva," August 6, 1997, <http://www.geocities.com/CapitolHill/Congress/4568/documents/index.html> (accessed August 23, 2008).

<sup>34</sup> This claim was made in numerous Human Rights Watch interviews with lawyers, journalists, politicians and activists.

A prevailing lawlessness has prevented private business enterprises from emerging, since traders and entrepreneurs are reluctant to share their profits with a number of different extortionists. In February 2008, transporters went on strike, protesting against extortion demands by some militants.<sup>35</sup> In April 2008, government engineers went on strike following numerous attacks by militants, including the murder of one engineer.<sup>36</sup>

The militants have also imposed moral diktats, such as on the sale of cigarettes and heroin or the screening of Hindi movies, and implement their orders violently. In 2001, there was outrage when one group imposed a dress code for women.<sup>37</sup> Many of them also punish perceived corruption and other crimes without due process.<sup>38</sup> A former militant told Human Rights Watch that his commanders implemented strict restrictions on alcohol use and punished violence against women. “The people from the area are consulted and they decide on the punishment,” he said. Suspected informers “are taken very seriously and usually killed.”<sup>39</sup> Forced recruitment by militants has been an overwhelming problem since the beginning of the conflict. In July 2008, there were protests against the abduction and recruitment of children into combat.<sup>40</sup>

Government officials in Manipur say that armed groups operate under varying ideologies. One senior government official told Human Rights Watch that because of widespread unemployment in Manipur, “militancy has become a low risk, high

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<sup>35</sup> Neelesh Misra, “Manipur: Going, Going, Nearly Gone,” *The Hindustan Times*, July 8, 2007, <http://www.hindustantimes.com/StoryPage/Print.aspx?Id=9a00654c-3ec6-4dd6-927d-81f9c646f717> (accessed March 30, 2008).

<sup>36</sup> “Engineers Stir, CM Assurance Fails to Cut Ice, Agitation On,” *The Sangai Express*, April 5, 2008, [http://www.thesangaiexpress.com/News\\_pages/Local\\_page-02.html](http://www.thesangaiexpress.com/News_pages/Local_page-02.html) (accessed April 5, 2008).

<sup>37</sup> “Islamic Outfit Bans Skirts for Girls in Manipur,” *The Times of India*, December 9, 2007, [http://timesofindia.indiatimes.com/India/Islamic\\_outfit\\_bans\\_skirts\\_for\\_girls\\_in\\_Manipur/rssarticleshow/2607419.cms](http://timesofindia.indiatimes.com/India/Islamic_outfit_bans_skirts_for_girls_in_Manipur/rssarticleshow/2607419.cms) (accessed April 22, 2008) and Syed Zarir Hussain, “Militants’ Dress Code Outrages Manipuri women,” *echarcha.com*, August 28, 2001, <http://www.echarcha.com/forum/showthread.php?t=3021> (accessed April 22, 2008).

<sup>38</sup> “PULF alleges, sets 5 days deadline from Feb 28,” *The Sangai Express*, February 29, 2008, <http://e-pao.net/GP.asp?src=14..290208.febo8> (accessed April 15, 2008).

<sup>39</sup> Human Rights Watch interview with a former militant, Imphal, other details withheld, February 2008.

<sup>40</sup> “Many anti-child abduction protests held in state,” *The Imphal Free Press*, July 22, 2008, [http://www.kanglaonline.com/index.php?template=headline&newsid=42783&typeid=1&Idoc\\_Session=19fd103cb9afcb01ce03596b25c4d8af](http://www.kanglaonline.com/index.php?template=headline&newsid=42783&typeid=1&Idoc_Session=19fd103cb9afcb01ce03596b25c4d8af) (accessed July 26, 2008). Also Teresa Rahman, “Jackboots Too Large For Them,” *Tehelka Magazine*, vol. 5, Issue 30, August 2, 2008, [http://tehelka.com/story\\_main40.asp?filename=Neo20808jackboots\\_toolarge.asp](http://tehelka.com/story_main40.asp?filename=Neo20808jackboots_toolarge.asp) (accessed July 26, 2008).

returns option.”<sup>41</sup> Many of these groups use “overground workers” for house-to-house tax collections and also make money through abductions for ransom.<sup>42</sup> Officials say it is possible for the groups to intimidate civilians because they all have access to weapons; they receive arms and training in Burma, and safe havens in Bangladesh.<sup>43</sup>

Civil society activists in Manipur say that while some militants might be in the business of making money, most are fighting for independence in a cycle of violence that has been fueled, at least in part, by decades of government neglect and corruption and human rights violations by Indian security forces.

R.K. Anand, a human rights lawyer and an elected legislator with the Manipur People’s Party, said that civilian suffering has peaked:

People are caught between the state actors and the non-state actors. People think we need the militants to gain our independence. And we need the military to control the militants. The underground groups go beyond tolerance because of threats and extortion. And whenever you meet the army they are always shouting and being rude. The army has proved counterproductive because it has alienated the common man.... Unfortunately, the Indian government treats the violence in Manipur as a law and order problem. But it is a political problem. There are sovereignty issues that have to be addressed for the violence to end.<sup>44</sup>

According to the army, at least 53 civilians have been killed by militants in Manipur in 2008, while 108 were killed in 2007.<sup>45</sup> The army arrested 771 alleged militants and

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<sup>41</sup> Human Rights Watch interview with senior official (name withheld), Government of Manipur, Imphal, February 26, 2008.

<sup>42</sup> Ibid.

<sup>43</sup> Subir Bhaumik, “Guns, Drugs and Rebels,” *Seminar*, June 2005, <http://www.india-seminar.com/2005/550/550%20subir%20bhaumik.htm> (accessed April 24, 2008).

<sup>44</sup> Human Rights Watch interview with R.K. Anand, human rights lawyer and MLA, Imphal, February 25, 2008.

<sup>45</sup> Eastern Command, Indian Army, “Acts of Violence by Militants,” <http://www.eastarmy.nic.in/combating-militancy/human-rights.html> (accessed August 23, 2008).

killed 111 alleged militants in 2007. Through August 2008, 54 alleged militants had been killed and 207 arrested.<sup>46</sup>

A large number of police and other security forces are deployed in Manipur. The state has over 14,000 police. Estimates suggest that at least 50,000 soldiers and paramilitaries are deployed in the state.<sup>47</sup> These forces include the army, the Central Reserve Police Force, the Border Security Force, the Assam Rifles, and Indian Reserve Battalions. According to Manipuri activists, the extent of militarization is such that it is estimated that there is one member of the security forces for every 20 Manipuris.<sup>48</sup>

Because of the overwhelming influence of various militant groups, since the beginning of the conflict, most civilians have been forced to interact with at least some militants. The security forces have not acknowledged their own failure to provide adequate security to Manipuris, which drives civilians to seek the protection of militants. Instead, the security forces have treated ordinary citizens with suspicion and subjected them to random checks, arbitrary arrest, coercive interrogation and torture. There are numerous allegations of custodial deaths, enforced disappearances, and extrajudicial killings disguised as armed exchanges (“encounter killings”) with combatants.

When there are protests after a human rights violation by the armed forces or other security forces, typically the Manipur government sets up a commission of inquiry.<sup>49</sup> However, these commissions usually lack transparency during the investigation. The reports are rarely made public, nor is it ever clarified whether any action was taken based on the findings.

The state government also established the Manipur Human Rights Commission over ten years ago, in 1997. The dismal state of the commission reflects the government’s

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<sup>46</sup> Eastern Command, Indian Army, “Counter insurgency operations by security forces,” <http://www.eastarmy.nic.in/combatting-militancy/militants-killed.html> (accessed August 23, 2008).

<sup>47</sup> Committee on Human Rights, “Submission concerning the Universal Periodic Review of the Government of India at the UN Human Rights Council,” April 2008.

<sup>48</sup> Laishramcha Jinine, “The Militarization of Manipur,” *Article 2*, vol. 5, no. 6, Asian Legal Resource Center, Hong Kong, December 2006, p. 6.

<sup>49</sup> Commission of Inquiry Act, 1952, <http://www.vakilno1.com/bareacts/comminquiryact/comminquiryact.htm> (accessed April 21, 2008).

lack of commitment to ensure the protection of human rights. The commission operates without a proper office, with skeletal administrative support, and no investigative staff all. Under section 19 of the national Human Rights Protection Act, the commission is not empowered to investigate violations by the army.<sup>50</sup> However, it has the right to ask for information from civilian authorities. But commission chairman, retired justice W. A. Shishak, complained that, “Often, there is no response when we seek information from them. That is not surprising because we do not have the status where our autonomy is retained. In fact, we are nothing but a ‘signboard’ commission.”<sup>51</sup>

The director general of police confirmed the commission chairman’s remarks, telling Human Rights Watch, “I am tired of these inquiries by the human rights commission. Often, I just shove their letters in a drawer and forget about them.”<sup>52</sup>

In Jammu and Kashmir, where security forces have also been deployed in large numbers to quell a separatist rebellion, there have been some genuine efforts to protect human rights. For instance, the government of India signed a Memorandum of Understanding with the International Committee of the Red Cross (ICRC) in June 1995 to ensure the protection of all those in jails or detention centers.<sup>53</sup> The presence of journalists representing the national and international media, and regular visits by diplomats and human rights workers have also acted as some sort of deterrence.

But foreigners seeking to enter Manipur require a special permit called the Protected Area Permit.<sup>54</sup> This permit is not easy to secure, and often valid for only a few days making proper investigations by international groups or journalists extremely difficult. It thus leaves human rights violations unnoticed and unreported.

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<sup>50</sup> Human Rights Act, 1993, <http://nhrc.nic.in/HRAAct.htm> (accessed August 22, 2008).

<sup>51</sup> Human Rights Watch interview with W. A. Shishak, Chairman, Manipur Human Rights Commission, Imphal, February 24, 2008.

<sup>52</sup> Human Rights Watch interview with Manipur police chief, Yumnam Joykumar Singh, Imphal, February 26, 2008.

<sup>53</sup> “Jammu and Kashmir: the government of India grants the ICRC access to detainees,” ICRC, June 22, 1995, <http://www.icrc.org/web/eng/siteengo.nsf/htmlall/57jm96?opendocument> (accessed April 21, 2008).

<sup>54</sup> “Protected Area Permit,” Guidelines/Instructions of Ministry of Home Affairs regarding grant of Protected Area Permit (PAP) to foreign nationals visiting Manipur, <http://cicmanipur.nic.in/html/PAP.htm> (accessed August 25, 2008).

Manipuris, by and large, do not wish for the security forces to be withdrawn. They simply want human rights violations by troops to end, and for the perpetrators to be punished. As Phanjoubam Ongbi Sakhi, a Meira Paibi leader, explained:

People cannot sleep at night because they are scared of a knock on the door. Everyone is responsible, not just the army. These are people that snatch sons from their mothers. The brutality is beyond limit... The army people are also human beings. We are mothers. There is no reason not to love them. When we were young the army used to make us feel safe and secure. But now they are behaving like beasts... We are not saying that the UGs should not be arrested. But why rape? Why kill? We can no longer look upon these people as mothers.<sup>55</sup>

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<sup>55</sup> Human Rights Watch interview with Ph. Sakhi, Imphal, February 26, 2008.

### III. The Killing of Thangjam Manorama Devi

Security officials say that Thangjam Manorama Devi was a dangerous member of the separatist People's Liberation Army.<sup>56</sup> According to the army, she was responsible for a number of bomb blasts, including one that killed some soldiers.<sup>57</sup> Her family insists she was a peaceful activist and not involved in any criminal activities.<sup>58</sup> Most human rights activists and journalists agree privately that she was a member of an underground group but differ on the details, including what role she played.<sup>59</sup>

The truth may never be fully known because no police complaint was ever filed against Manorama; she was never given an opportunity to be tried in court and found guilty or innocent. Instead, on July 11, 2004, the 32-year-old was arrested from her home by the soldiers of the paramilitary Assam Rifles and killed while in their custody. Her bullet-ridden corpse was left in a field not far from her home where it was discovered by villagers.<sup>60</sup> The Assam Rifles claimed she had been shot dead while trying to escape.

#### A. The Arrest

According to the Assam Rifles, on July 10, 2004, officials gathered reliable information that a member of the banned People's Liberation Army, identified as "PLA No. 1262, Corporal Manorama Devi alias Henthoi," a militant since 1995, was in the area of Bamon Kampu Mayai Leikai. She was identified as an expert in improvised explosive devices (IEDs) and as an informer for the PLA.

A petition filed by Col. Jagmohan Singh, the commandant of the 17<sup>th</sup> Assam Rifles, says that officials posted at Sinjamei were alerted to her presence in the area. A little

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<sup>56</sup> "Writ Petition No. 5187," Col. Jagmohan Singh and others Vs The State of Manipur & Others, Gauhati High Court, August 19, 2004. Copy on file with Human Rights Watch.

<sup>57</sup> "Statement moved by Assam Rifles of the summary of events as to the factual matrix per records before the Commission of the Judicial Inquiry into the death of Kumari Th. Manorama Devi," August 2, 2004. Copy on file with Human Rights Watch.

<sup>58</sup> Human Rights Watch interview with Thangjan Dolendro Singh, brother of Manorama Devi, Bamon Kampu Mayai Leikai, Imphal East District, Manipur, February 23, 2008.

<sup>59</sup> Human Rights Watch interviews with journalists and human rights lawyers, Manipur, February 2008.

<sup>60</sup> Geeta Pandey, "Woman at the centre of Manipur Storm," BBC News, August 27, 2004 [http://news.bbc.co.uk/2/hi/south\\_asia/3604986.stm](http://news.bbc.co.uk/2/hi/south_asia/3604986.stm) (accessed August 25, 2008).

after midnight, on July 11, a preliminary check post was set up in the area, which confirmed that Manorama was at her residence in the village. The Assam Rifles immediately launched an operation and troops were dispatched to cordon off the area. At around 3 a.m. troops knocked on the door to arrest Manorama.<sup>61</sup> The soldiers provided an arrest memo and took her into custody.

This version of events is disputed by Manorama's relatives, who claim that seven or eight Assam Rifles personnel first arrived a little after midnight, around the time the army claims a preliminary check post had been set up to confirm her presence at home.

Manorama's home was set back from the main road leading to Imphal, the state capital. There is a narrow passage that provides access to the house. The family compound has two cottages, one where Manorama stayed with her mother and younger brother, and another occupied by a married brother and his family. There is a common courtyard.

According to her younger brother, Dolendro Singh, several personnel from the 17<sup>th</sup> Assam Rifles entered their home from the main road. No explanation was provided as they rushed in. They began searching the house.<sup>62</sup> Manorama's elderly mother, Thangjam Khumanleimai Devi, was awake. One soldier pointed his gun at her and asked for Manorama. Meanwhile, Manorama had woken up and came out of her room.<sup>63</sup>

The men began to drag Manorama out of the house. When her brothers tried to stop the soldiers, they were beaten up. Manorama's mother, brothers, and other relatives were told to wait in the courtyard at the back of the house while she was taken to the front.<sup>64</sup> Her relatives claim that the soldiers interrogated Manorama and tortured her. "We heard her cries," said Dolendro Singh. "They were torturing my sister."<sup>65</sup>

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<sup>61</sup> "Writ Petition No. 5187," Col. Jagmohan Singh and others Vs The State of Manipur & Others.

<sup>62</sup> Human Rights Watch interview with Thangjan Dolendro Singh, February 23, 2008.

<sup>63</sup> "Manorama's Mom Testifies," *The Sangai Express*, August 1, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=6&src=020804> (accessed April 17, 2008).

<sup>64</sup> "Arrested Woman Found Brutally Killed," *The Sangai Express*, July 11, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=1&src=120704> (accessed April 16, 2008).

<sup>65</sup> Human Rights Watch interview with Thangjan Dolendro Singh, February 23, 2008.

At around 3:30 a.m. soldiers came into the courtyard and informed the family that Manorama was being taken into custody. Havildar Suresh Kumar of the 17<sup>th</sup> Assam Rifles (Army number 123355) signed an arrest memo. Rifleman T. Lotha (Army number 123916) and Rifleman Ajit Singh (Army no. 173491) signed as witnesses.<sup>66</sup>

Manorama's mother and brothers were also asked to sign a "No Claims Certificate" which said that they had no claims against members of the Assam Rifles who had searched the house and made the arrest and that the troops "haven't misbehaved with women folk and not damaged any property."<sup>67</sup>

According to the Assam Rifles, "one Singapore made Kenwood Radio Set and one Chinese made fragmentation Type Hand Grenade" were found in Manorama's house.<sup>68</sup> However, Manorama's brother Dolendro Singh said that he had not seen anything being recovered.

Manorama was still alive when she was taken away from her home in the custody of the Assam Rifles.

## **B. The Killing**

Manorama's bullet-ridden body was found at around 5:30 a.m. on July 11, 2004 by villagers near Ngariyan Maring, about four kilometers from her house.

According to the Assam Rifles, after taking Manorama into custody the soldiers had intended to hand her over to the nearest police station. They said that Manorama claimed that one of her militant colleagues, a woman called SS Lt. Ruby, had an AK-47 assault rifle and that this information "led to a hot chase."<sup>69</sup> However, when the group reached the area based on Manorama's directions, she said that she had made an error and then proceeded to lead the soldiers to a number of different locations, each time saying that she had made a mistake. According to the Assam

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<sup>66</sup> Arrest Memo provided by 17<sup>th</sup> Assam Rifles, July 11, 2004. Copy on file with Human Rights Watch.

<sup>67</sup> "No Claims Certificate" signed by Manorama's relatives. Copy on file with Human Rights Watch.

<sup>68</sup> "Writ Petition 5187," Col. Jagmohan Singh and others Vs The State of Manipur & Others.

<sup>69</sup> Ibid.

Rifles account, after almost two hours of driving around like this, at daybreak, Manorama tried to escape.

According to the legal petition of the Assam Rifles:

[T]he apprehended cadre requested to allow her to ease herself. Thereupon, vehicle was stopped and the party with whom she had been travelling, took position at about 30-35 meters away from her to allow her privacy to ease herself. It was approximately 5:30 AM. That all of sudden the arrested lady cadre started to flee through a gap in the nearby hedge. That the guard commander happened to see her attempting to flee and shouted for her to stop and fired a short burst in the air to warn her. That instinctively other members of the guard party fired towards her legs. That as a result she suffered bullet injuries resulting in her death.<sup>70</sup>

Even if this account were accurate, the troops involved acted in violation of Indian law. As Justice D. Biswas of the Gauhati High Court, who heard the Assam Rifles petition quoted above, noted in his final verdict:

It is evident that the raid was conducted without presence of a lady constable; though the house was cordoned off, no attempt was made to contact the Superintendent of Police to provide the services of a lady constable; the arrested person was not handed over to the nearest police station; she was interrogated after arrest and moved from place to place in search of another lady cadre and there was no FIR [First Information Report] pending against Km Th. Manorama Devi at the time of her arrest.<sup>71</sup>

The Assam Rifles claimed that there was an attempt to procure a female constable before taking Manorama into custody but their request was refused by the Imphal

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<sup>70</sup> Ibid.

<sup>71</sup> "Judgement and Order," Writ Petition 5187 of 2004, Col. Jagmohan Singh and others Vs The State of Manipur & Others and Writ Petition 6187 of 2004, JC-172262F Nb Digambar Datta and others vs The State of Manipur and others, Gauhati High Court, June 23, 2005. Copy on file with Human Rights Watch.

West police station. However, the police later said that the person who had come to the police station was asked to make a formal application to the superintendent of police. This is a standard procedure and the superintendent is always available to attend to such requests. According to the police, the person simply left and did not return.<sup>72</sup>

Apart from these procedural failures, there are numerous other reasons to doubt the version of events described by the Assam Rifles. On July 12, 2004, the state government of Manipur ordered a commission of inquiry into Manorama's killing. Although the commission's final report has not been made public, lawyers representing Manorama's family at the hearings had access to depositions made by members of the Assam Rifles, investigating officials, doctors, witnesses, and relatives to the commission. The lawyers told Human Rights Watch that:

- Members of the arresting party who later deposed before the inquiry commission said that Manorama's hands were tied while she was in custody. Her relatives also said that she was wearing the traditional Manipuri sarong when she was arrested. It would have been impossible for Manorama to run very far with her hands tied up and in a tightly bound sarong.
- No member of the Assam Rifles claimed that any member of the patrol party actually ran after Manorama to try and stop her. They said that after shouting a warning, troops opened fire, causing her death.
- Manorama was unarmed while in custody which makes it hard to understand why the soldiers chose to keep a safe distance and open fire. No empty cartridges were found in the area, bringing into question the patrol party's claim that desperate shots were fired to try and stop her.
- No blood was found near the body despite the fact that Manorama had suffered at least six bullet wounds, raising suspicions that she was killed elsewhere and her body later dumped.
- The police surgeon and forensics specialist who was a commission witness said that the nature of the bullet wounds suggested that the shots were fired

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<sup>72</sup> "Police Contradict AR report," *The Sangai Express*, August 4, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=6&src=050804> (accessed April 17, 2008). "Major Listed in Accused List With 4 Others," *The Sangai Express*, August 5, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=2&src=060804> (accessed April 17, 2008).

at close range and that Manorama was lying down when she was shot. He also deposed that the body bore a number of other injuries that indicated that Manorama had been tortured before she was killed.

- A report from the Central Forensic Science Laboratory found semen stains on Manorama's skirt suggesting that she may have been raped before her death.<sup>73</sup>

After the autopsy, the police offered to hand over Manorama's body to the family for cremation, but her relatives said that they would not claim the body until the perpetrators had been punished and the AFSPA withdrawn from the state.<sup>74</sup> On July 24, 2004, the Manipur government ordered the police to cremate the body.<sup>75</sup>

### C. The Protests

When Manorama's body was found, it bore scratch marks and a gashing wound on her right thigh, probably made by a knife.<sup>76</sup> Her body, according to her relatives, bore other signs of torture, such as bruising.<sup>77</sup> There were also gunshot wounds to the genitals, which lent credence to the theory that she was raped before being shot dead.<sup>78</sup>

There was a widespread eruption of rage in Manipur after Manorama's killing. On July 12, 2004, several civil society groups called a 48-hour protest strike.<sup>79</sup> Tires were burnt and marchers carried placards demanding justice.

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<sup>73</sup> Human Rights Watch interview with Meihoubam Rakesh, lawyer representing Manorama's family, Imphal, February 22, 2008. See also "Writ Appeal 5," Smt Thangjan Ongbi Khumaneiei Devi & Another vs JC-17226F Nb. Sub Digambar Datta & Others, filed by Manorama's family to appeal against the judgment and order of Gauhati High Court, January 21, 2006. Copy on file with Human Rights Watch.

<sup>74</sup> "Family Still Refuse to Take Back Body," *The Sangai Express*, July 22, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=5&src=230704> (accessed April 17, 2008).

<sup>75</sup> "Police Perform Last Rites for Manorama," *The Sangai Express*, July 24, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=3&src=250704> (accessed April 17, 2008).

<sup>76</sup> Thangjam Manorama: Fact Sheet, *Sify.com*, August 19, 2004, <http://sify.com/news/othernews/fullstory.php?id=13547733> (accessed April 16, 2008).

<sup>77</sup> Sapam Aruna, "Manorama's Family: Waiting Forever," *Kangalonline*, <http://www.kangalonline.com/index.php?template=kshow&kid=1086> (accessed April 16, 2008).

<sup>78</sup> Sushanta Talukdar, "Manipur's Protest," *Frontline*, vol. 21, Issue 17, August 14-27, 2004, <http://www.flonnet.com/fl2117/stories/20040827002903700.htm> (accessed April 16, 2008).

<sup>79</sup> "Protest Erupt Over Custodial Death of Woman, Many Nail AR," *The Sangai Express*, July 12, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=1&src=130704> (accessed April 16, 2008).

A protest on July 15, 2004 made Manorama's killing national news. A group of elderly women gathered in front of the 17<sup>th</sup> Assam Rifles headquarters and then stripped their clothes off, calling the army to come rape them as Manorama had been raped.<sup>80</sup>

The women belonged to the Meira Paibi, literally "Torch Bearers," but also often called the Mother's Front, which had started out as a support group to address social issues, particularly problems of alcoholism among men and drug abuse among children. But as the armed conflict deepened, the Meira Paibi also became involved in activities to prevent human rights abuses, and joined the campaign to repeal the AFSPA. L. Gyaneshori was one of the women who took part in the protest. She told Human Rights Watch that:

Manorama's killing broke our hearts. We had campaigned for the arrest memo to protect people from torture after arrest. Yet, it did not stop the soldiers from raping and killing her. They mutilated her body and shot her in the vagina. We mothers were weeping, 'Now our daughters can be raped. They can be subjected to such cruelty. Every girl is at risk.' We shed our clothes and stood before the army. We said, 'We mothers have come. Drink our blood. Eat our flesh. Maybe this way you can spare our daughters.' But nothing has been done to punish those soldiers. The women of Manipur were disrobed by AFSPA. We are still naked.<sup>81</sup>

Soon the protests had spread all over the state, with many defying curfew orders. A number of government offices were torched.<sup>82</sup> Many were injured as police tried to control the crowds.<sup>83</sup> On July 24, 2004, five young men attempted self-immolation in front of the chief minister's office, calling for the repeal of the AFSPA. Three of them were severely burnt.<sup>84</sup>

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<sup>80</sup> "Women Give Vent to Naked Fury in Front of 17 AR in Kangla," *The Sangai Express*, July 15, 2005, <http://www.e-pao.net/epRelatedNews.asp?heading=1&src=160704> (accessed April 16, 2008)

<sup>81</sup> Human Rights Watch interview with L. Gyaneshori, President, Thangmeiban Apunba Nupi Lup, Imphal, February 26, 2008.

<sup>82</sup> "Agitators Set Fire to Govt Offices in Manipur," *Press Trust of India*, July 18, 2004, <http://in.rediff.com/news/2004/jul/18mani.htm> (accessed April 16, 2008).

<sup>83</sup> "Protests Spread Beyond Imphal," *The Sangai Express*, July 17, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=1&src=180704> (accessed April 16, 2008).

<sup>84</sup> "Self Immolation Bid Near Manipur CM's Office," *Press Trust of India*, July 24, 2004, <http://in.rediff.com/news/2004/jul/24mani.htm> (accessed April 16, 2008).

In August, in an attempt to quell the protests, Chief Minister O. Ibobi Singh decided to withdraw the use of the AFSPA in Imphal city.<sup>85</sup> But the protests continued, with demands to fully repeal the AFSPA. On August 15, 2004, there was another attempt at self immolation. This time, Pebam Chittaranjan of the Manipur Students Federation lost his life.<sup>86</sup>

Chittaranjan's death sparked yet another round of protests that continued until November, when Prime Minister Manmohan Singh went to Manipur.<sup>87</sup> After meeting a delegation of the Apunba Lup, Singh said he would order a review of the law "and also consider how a more humane Act can be put in place."<sup>88</sup>

#### **D. Failure of Justice**

On July 12, 2004, after the discovery of Manorama's body, her brother Thangjam Dolendro Singh filed a written complaint at the Irilbung police station. Based on the complaint, police registered a First Information Report, to investigate the alleged murder. The police ordered forensic tests to determine if rape had occurred and DNA testing to identify the perpetrators.

Few believed that the police would investigate an allegation of murder against members of the Assam Rifles. As a result of the protests, the Manipur government immediately ordered a commission of inquiry headed by retired district judge C. Upendra Singh to "inquire into the facts and circumstances leading to the death," "identify responsibilities on the person/persons responsible," and "recommend measures for preventing recurrence of such incident in the future."<sup>89</sup>

The commission was given a month to submit its report. Judge Upendra Singh promptly issued an order calling for statements and affidavits and issued summons

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<sup>85</sup> G. Vinayak, "I have Taken a Risk: Manipur CM," *Rediff.com*, August 12, 2004, <http://in.rediff.com/news/2004/aug/12mani3.htm> (accessed April 16, 2008).

<sup>86</sup> "Self Immolation: Pebam Chittaranjan Dead," *Press Trust of India*, August 16, 2004, <http://in.rediff.com/news/2004/aug/16mani1.htm> (accessed April 16, 2008).

<sup>87</sup> "Panel to Look Into Armed Forces Act," *Press Trust of India*, November 2, 2004, <http://in.rediff.com/news/2004/nov/02mani.htm> (accessed April 16, 2008).

<sup>88</sup> Siddharth Varadarajan, "Anybody Remember Manipur?" *The Hindu*, June 29, 2005, <http://www.hinduonnet.com/2005/06/29/stories/2005062905731100.htm> (accessed March 7, 2008).

<sup>89</sup> Secretariat Home Department, Government of Manipur, Notification, July 12, 2004. Copy on file with Human Rights Watch.

to Manorama's relatives, the commandant of the 17<sup>th</sup> Assam Rifles, and the three men that had signed the arrest memo. However, when the commission sent someone to deliver the summons to the 17<sup>th</sup> Assam Rifles, the office refused to accept it, saying that the personnel listed had all been posted elsewhere.<sup>90</sup>

The Assam Rifles personnel repeatedly failed to appear before the commission. Initially the counsel for the Assam Rifles claimed that the men were not available because of an ongoing army court of inquiry. Then he cited safety concerns, saying that armed groups had planned to attack personnel who attended the hearing, and filed an application requesting that the hearings be held inside the army camp.<sup>91</sup> It was finally agreed that some witnesses would be examined privately in the judge's chambers (in-camera). However, the Assam Rifles was slow to provide the list of personnel who participated in the operations that led to Manorama's death. Nor was a list of witnesses provided.

Judge Upendra Singh told Human Rights Watch that the Assam Rifles clearly did not want to cooperate in the inquiry. On August 1, 2004 he was forced to place public notices in a Manipur daily summoning the personnel. He said:

I have conducted a number of inquiries. Every other time, the army appeared. But in the Manorama case, they contested all the time. At first they did not turn up. Then I gave their names to the police, but the police are too shy to go to the army camp. Finally, based on other testimonies, I came up with four or five names. I put them in the newspaper.<sup>92</sup>

In its later writ petition before the Gauhati High Court, the Assam Rifles said that a "vicious and false propaganda was let loose against 17<sup>th</sup> Assam Rifles by UG elements and their sympathizers alleging rape of Th Manorama.... [And] that due to the distortion of facts... a mass hysteria was generated... thus posing a serious threat

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<sup>90</sup> Order Sheets of the Upendra Commission. Copy on file with Human Rights Watch.

<sup>91</sup> "Commission Rejects AR Plea," *The Sangai Express*, August 7, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=4&src=080804> (accessed April 17, 2008).

<sup>92</sup> Human Rights Watch interview with Justice C. Upendra Singh, Imphal, February 26, 2008.

to the lives of the personnel of 17<sup>th</sup> Assam Rifles.”<sup>93</sup> The Assam Rifles also claimed in its petition that there were intelligence reports that a bounty had been placed on the soldiers and officers who had participated in the operation.<sup>94</sup>

The doctors who conducted the autopsy testified before the Upendra commission that they could not form a conclusive opinion on whether Manorama was raped or not because of the injuries in the lower part of the body.<sup>95</sup> The Central Forensic Science Laboratory in Kolkata submitted a report saying that forensic tests had detected stains of human semen on Manorama’s clothes.<sup>96</sup> A day later Judge Upendra Singh issued arrest warrants against the four Assam Rifles personnel who failed to appear before the commission and instructed the director general of police (DGP) to execute the warrant.<sup>97</sup>

However, on August 19, 2004, the Assam Rifles filed a writ petition before the Gauhati High Court saying that the state government of Manipur had no authority to appoint a commission of inquiry to examine the conduct of federal armed forces and thus the personnel could not be compelled to appear before such a commission. It also claimed that an army court of inquiry was in progress and thus there was no need for another inquiry covering the same aspects.<sup>98</sup>

The petition said that Assam Rifles operated in Manipur under the AFSPA, which provides under section 6 that “[n]o prosecution, suit or other legal proceedings shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.”<sup>99</sup> The Upendra commission, the Assam Rifles said, could be described as “other legal proceedings.” As no sanction from the central

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<sup>93</sup> “Writ Petition 5817,” Col. Jagmohan Singh and others Vs The State of Manipur & Others.

<sup>94</sup> Ibid.

<sup>95</sup> Sushanta Talukdar, “Manipur’s Protest,” *Frontline*, vol. 21, Issue 17, August 14-27, 2004, <http://www.flonnet.com/fl2117/stories/20040827002903700.htm> (accessed April 16, 2008).

<sup>96</sup> “Manipur: Semen Found On Manorama’s Clothes,” *Press Trust of India*, August 26, 2004, <http://www.rediff.com/news/2004/aug/26mani.htm> (accessed April 16, 2008).

<sup>97</sup> G. Vinayak, “Arrest Assam Rifles Personnel,” *Rediff.com*, August 27, 2004, <http://in.rediff.com/news/2004/aug/27mani.htm> (accessed April 16, 2008).

<sup>98</sup> “Writ petition 5817,” Col. Jagmohan Singh and others Vs The State of Manipur & Others and Writ Petition 6187 of 2004, JC-172262F Nb Digambar Datta and others vs The State of Manipur and others.

<sup>99</sup> The Armed Forces (Special Powers) Act, 1958, sec. 6, [http://www.mha.nic.in/acts-rules/armed\\_forces\\_special\\_powers\\_act1958.pdf](http://www.mha.nic.in/acts-rules/armed_forces_special_powers_act1958.pdf) (accessed April 17, 2008).

government had been obtained, the notification by the Manipur government setting up the commission was “null, void and of no legal effect.”<sup>100</sup> While the petition was being considered, the Assam Rifles asked for a stay on the proceedings of the commission.

In an August 28, 2004 interim order, the High Court refused to stay the proceedings of the Upendra commission. However, the judge said that the final report could not be published without prior leave from the court and that the findings would be subject to a final decision on the writ petition. The court also ordered that Assam Rifles personnel be allowed to be deposed in-camera with access limited to the concerned parties and their lawyers.<sup>101</sup>

Judge Upendra Singh submitted his final report to the Manipur government in November 22, 2004, but it was not made public because of the court order.<sup>102</sup>

On June 23, 2005, in its final verdict, the High Court found that the state government of Manipur did not have administrative control over the armed forces deployed in the state, which are controlled by the central government. The judge thus asked the central government “to deal with the report and take follow-up action as may be necessary in accordance with the provisions of the law.”<sup>103</sup> The judge, however, specially said that the findings of the Upendra Commission should not be in vain:

This report may be treated as a report by a fact-finding Committee/Body appointed by the State of Manipur. However, the interim directions given by the learned Judges of this Court under Article 226 permitting the Commission to proceed with the enquiry attributes some amount of legality to the report inasmuch as the report can be assumed to have been prepared under direction of the Court.

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<sup>100</sup> “Writ petition 5817,” Col. Jagmohan Singh and others Vs The State of Manipur & Others.

<sup>101</sup> “Gauhati HC For In-Camera Hearing,” *The Sangai Express*, August 28, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=2&src=290804> (accessed April 17, 2008).

<sup>102</sup> Human Rights Watch interview with C. Upendra Singh, February 26, 2008.

<sup>103</sup> “Judgment and Order,” Writ Petition 5187 of 2004, Col. Jagmohan Singh and others Vs The State of Manipur & Others and Writ Petition 6187 of 2004, Nb Digambar Datta and others vs The State of Manipur and others, Gauhati High Court, June 23, 2005. Copy on file with Human Rights Watch.

Therefore, it is a valuable document available for consideration and initiation of appropriate action against those found guilty.<sup>104</sup>

To make clear that the court expected the central government in New Delhi to ensure the prosecution of those responsible, the judge also said, “Since the subject matter of dispute is a definite matter of public importance, the Union government is required to take appropriate action without least possible delay.”<sup>105</sup>

The Manipur government appealed the Gauhati High Court order to protect its right to set up such inquiries in the interest of “public order,” which is a state government responsibility, saying that incidental encroachment during the course of the inquiry into the activities of the armed forces should not oust the jurisdiction of the state government. Manorama’s family’s also appealed the order. Agreeing that under the AFSPA, the armed forces were deployed “in the aid of civil power,” the family submitted that:

Merely because the State of Manipur has been declared a disturbed area under the Armed Forces (Special Powers) Act, 1958, can it be said that all actions of the security forces, including rape, torture and killing of unarmed citizens will fall within the definition of ‘in aid of civil power’ as set out in section 3 of the Act?<sup>106</sup>

The Assam Rifles also filed an appeal saying that since the Manipur government did not have legal authority to establish the inquiry commission, the report should be considered invalid.

Since these appeals are still pending at the Gauhati High Court, the Upendra Commission’s findings on the circumstances leading to Manorama’s death have not been tabled before any authority. Thus, no action has been taken against the perpetrators based on the commission’s findings.

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<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> “Wri Appeal 5,” Smt Thangjan Ongbi Khumaneiei Devi & Another vs JC-17226F Nb. Sub Digambar Datta & Others, filed by Manorama’s family to appeal against the judgment and order of Gauhati High Court, January 21, 2006. Copy on file with Human Rights Watch.

The court of inquiry instituted by the Assam Rifles concluded on July 27, 2004 but the report was not made public.<sup>107</sup> Major SD Goswami, defense spokesman in Imphal, only said that, “There were some lapses by the Assam Rifles personnel in the implementation of the instructions by army authorities for such operations. We are holding further enquiries and anyone found guilty will be dealt with severely.”<sup>108</sup>

The court of inquiry could not be concluded until forensic tests had been completed. Once the laboratory sent a report that semen had been found on Manorama’s clothes indicating sexual assault, the army ordered DNA testing to identify the perpetrators. Over 30 personnel of 17<sup>th</sup> Assam Rifles including two majors provided blood samples for DNA testing.<sup>109</sup>

There are unconfirmed reports that a major and four others were accused in the killing at the court of inquiry.<sup>110</sup> There is no information from the army on whether the five men were found guilty or whether they were punished.

Manorama’s family is still waiting, four years after her death, for her killers to be identified and punished. A shrine, built in Manorama’s memory outside the family house, is still standing. But the banners are faded; her photographs covered in dust. Said Dolendro Singh, her brother:

It is very difficult. Obviously we are facing a lot of disappointment. It’s been three, four years. Even the people’s movement has died down. But we remain in prolonged mourning.<sup>111</sup>

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<sup>107</sup> “Army Probe Concludes With A Rider,” *The Sangai Express*, July 27, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=5&src=280704> (accessed April 17, 2008).

<sup>108</sup> Geeta Pandey, “Midnight Knock and a Killing Too Far,” BBC News, August 12, 2004, [http://news.bbc.co.uk/2/hi/south\\_asia/3555024.stm](http://news.bbc.co.uk/2/hi/south_asia/3555024.stm) (accessed April 16, 2008)

<sup>109</sup> “Remaining two AR men hand over blood samples,” *The Sangai Express*, September 6, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=3&src=070904> (accessed April 17, 2008).

<sup>110</sup> “Major Listed in Accused List With 4 Others,” *The Sangai Express*, August 5, 2004, <http://www.e-pao.net/epRelatedNews.asp?heading=2&src=060804> (accessed April 17, 2008).

<sup>111</sup> Human Rights Watch interview with Dolendro Singh, February 2, 2008.

## IV. Human Rights Violations by Government Forces in Manipur

The protests after Manorama's killing should have served as a warning to the government that continued abuses by the security forces would be met with public anger and make it harder to reach a political settlement in Manipur. Although civilian authorities promised that human rights violations would not be tolerated, the police, the army, and paramilitaries have continued to commit abuses with impunity, employing extrajudicial executions, torture, and other unlawful methods in their campaign to defeat militant groups.

While security forces operate under difficult circumstances, it is crucial that the state ensure that the fundamental rights of citizens are protected at all times. For this, it is important to implement legal checks and balances against violations by the security forces. This includes international human rights standards applicable to security forces carrying out law enforcement and investigative operations, such as the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.<sup>112</sup> These standards also apply to military forces, as well as to the police, when they are operating in a law enforcement context.<sup>113</sup>

Indian national security law goes far beyond permitting soldiers to use lethal force in genuine combat situations. Instead of complying with international norms, India provides extraordinary powers to military personnel involved in law enforcement operations. The Armed Forces (Special Powers) Act empowers officers in the armed forces, including non-commissioned officers, to arrest and conduct searches without a warrant, and even to shoot to kill if the officer is "of the opinion that it is necessary to do so for the maintenance of public order" and only give "such due warning as he may consider necessary."<sup>114</sup> The National Security Act, 1989 allows authorities broad

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<sup>112</sup> U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, U.N. Doc. A/CONF.144/28/Rev.1 (1990); U.N. Code of Conduct for Law Enforcement Officials, G.A. res. 34/169, annex, 34 U.N. GAOR Supp. (No. 46) at 186, U.N. Doc. A/34/46 (1979), adopted by the U.N. General Assembly on December 17, 1979.

<sup>113</sup> In accordance with the commentary to article 1 of the Code of Conduct for Law Enforcement Officials, in countries where police powers are exercised by military authorities, whether uniformed or not, or by state security forces, the definition of law enforcement officials shall be regarded as including officers of such services.

<sup>114</sup> The Armed Forces (Special Powers) Act, sec. 4.

powers to detain individuals to prevent them “from acting in any manner prejudicial to the defence of India, the relations of India with foreign persons, or the security of India.”<sup>115</sup>

India provides immunity to its armed forces by forbidding any criminal prosecution without permission from the federal government. This provision is used to prevent court proceedings when an individual soldier is accused of murder and other offenses.<sup>116</sup> While by its terms the AFSPA only covers the Army and Air Force, the Assam Rifles, which was created by a separate act of parliament but placed under the operational control of the Army, also enjoys full protection under the act.

Similarly, section 197 of the Code of Criminal Procedure provides immunity from prosecution to all public officials unless the government approves the prosecution.<sup>117</sup> For instance, if police officers are to be prosecuted for human rights violations, prior approval is required from the relevant state government; for paramilitary forces, the central Home Ministry must approve prosecution. Thus prosecutions are rare. While the government claims that many cases are dealt with through disciplinary proceedings, it is rare for punishments meted out by internal courts of inquiry to be made public, making it impossible to know whether such disciplinary action actually occurs.<sup>118</sup>

It is in this legal context that the following human rights violations have occurred.

## A. Extrajudicial Killings

Indian security forces have been responsible for a number of custodial killings that they later claimed occurred during an “armed encounter.” The incidence of such killings dropped after Manorama’s death and the protests that followed. However,

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<sup>115</sup> The National Security Act, enacted December 27, 1980, <http://www.satp.org/satporgtp/countries/india/document/actandordinances/NationalSecurityact.htm> (accessed April 21, 2008).

<sup>116</sup> The Armed Forces (Special Powers) Act, sec. 6.

<sup>117</sup> Code of Criminal Procedure, 1973, <http://www.vakilno1.com/bareacts/CrPc/Criminal-Procedure-Code-1973.htm> (accessed April 21, 2008).

<sup>118</sup> Section 197(2) of the Code of Criminal Procedure provides that: “No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government.”

since 2006 there has once again been an increase in such killings. Human Rights Watch investigated several cases where relatives alleged that a person was taken into custody in front of eyewitnesses, but was later declared to have been killed in an armed encounter. Human Rights Alert, an Imphal-based NGO, has documented 45 cases since 2006 where relatives have alleged that civilians were deliberately killed by security forces.<sup>119</sup> Of grave concern is that the number of such cases has shot up from 17 in 2006 to 23 in the first eight months of 2008.<sup>120</sup>

“Encounter” killings often occur when security forces suspect that a person is a militant but do not have enough evidence to ensure a conviction. Maibam Ratankumar Singh, a college lecturer in history, survived such an attempt and recounts a chilling tale. Singh was detained by army personnel a little after midnight on July 30, 2007. The soldiers first searched his house and then asked him to change out of his nightclothes and accompany them to their waiting vehicles. In the car, he was questioned about his association with the armed groups, which he denied. Singh, however, believes that the army had planned to kill him because they were already convinced that he had links to the militants. He told Human Rights Watch:

After I was picked up, I was first taken to a place in the hills. I was blindfolded, but I could hear a stream nearby. I was asked again about my links to the UGs. Then one Manipuri-speaking man asked me to run. I did not. He then asked me to bend down and sit on the ground. I said I would not. I could hear them talking about killing me. Then they must have changed their mind.<sup>121</sup>

Mohammad Ayub Khan, a mason, was not so fortunate. He left home on August 26, 2007 to collect dues for a church that he was constructing and then to pay his workers. Four others, Mankanmi Ashim, Horni Ashim, Shimriha, and Raiping, accompanied him. They rented a vehicle that was being driven by a man named Peter. When Ayub Khan failed to return the next morning, his brother Yahiya Khan

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<sup>119</sup> Human Rights Watch interview with Babloo Loitongbam, Executive Director, Human Rights Alert, July 11, 2008. Human Rights Alert is nongovernmental, voluntary network of human rights defenders, journalists, lawyers, academicians, health workers and community workers in Manipur that visits victim families to document cases where there are allegations of human rights abuse.

<sup>120</sup> Ibid.

<sup>121</sup> Human Rights Watch interview with Maibam Ratankumar Singh, Singjamei, February 25, 2008.

went to seek information from the van driver. According to Yahiya Khan, Peter said that Ayub Khan had been arrested by members of the 19<sup>th</sup> Assam Rifles. He told Human Rights Watch:

Peter told me that the 19<sup>th</sup> Assam Rifles were conducting search operations on the highway. All the cars had been stopped. When they searched the van, they found that Ayub Khan was carrying cash, which he was carrying to pay the workers. The soldiers had allowed the other cars to go through, but they demanded that Peter drive the van to the Assam Rifles camp at Litan. Peter and an attendant driver were asked to drive away as soon as they reached the camp. But the others were told to stay back.<sup>122</sup>

Yahiya Khan and other relatives immediately went to the Assam Rifles camp at Litan. But the sentry at the gate refused to let them enter. They then filed a missing person complaint at the Litan police station, saying that Ayub Khan was last seen in the custody of the 19<sup>th</sup> Assam Rifles. At the Litan market, Yahiya Khan bumped into Makanmi Ashim, one of those detained with Ayub Khan. Said Yahiya Khan:

Makanmi told us that at the camp my brother was separated from the others. They had all been released, but no one had any information about my brother. I located the other workers. They all said that they had no information about my brother.<sup>123</sup>

Several days later, on August 30, 2007, the Litan police contacted the family. They said that the Assam Rifles had informed the police station that a person had been killed in an armed encounter. They suggested that the family check to see if the unidentified person was their brother. Ayub Khan's father, Mohammad Karimuddin, says he began to fear the worst:

The army had told the police that there was an encounter and a body was lying on the road. We immediately rushed towards Namthirok,

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<sup>122</sup> Human Rights Watch interview with Yahiya Khan, Heingang, Imphal East District, February 22, 2008.

<sup>123</sup> Ibid.

where the encounter had been reported. In my heart I had begun to fear that they had killed my son. As we were driving there, we saw a police pickup truck approaching from the opposite side. We stopped the truck. My son's body was inside. It was taken to the morgue.<sup>124</sup>

On the same day, the Assam Rifles issued a statement claiming that a suspected militant had been killed in an armed exchange and weapons had been recovered from him.

Ayub Khan's brother went to the police to lodge a complaint of extrajudicial execution against the Assam Rifles. But the police predictably refused to register the case against the army. The family then wrote to the National Human Rights Commission, which to date has only asked the district magistrate for further information.<sup>125</sup> According to the government autopsy report, the police reported that the deceased had been killed in "a firearm encounter between 19AR [19<sup>th</sup> Assam Rifles] party and terrorist party... on 30-8-07 at about 5.15 a.m."<sup>126</sup>

Human Rights Watch has documented several cases in which government officials or members of the armed forces later admitted to relatives that a person had been killed by "mistake." For instance, 15-year-old Razak Khan was preparing with his family to break the Ramadan fast on September 13, 2007 when security forces arrived. Mohammad Abdul Hakim remembers that he was plucking a duck when his son came running up to say that soldiers had gathered around the village of Lilong Leihakhong: "I told him, 'Sit down beside me and don't worry. They must be looking for something and will go away when they are done.'"<sup>127</sup>

According to Hakim, a joint team of police and members of the 32<sup>nd</sup> Assam Rifles came up to the house and asked for a man called Khajing, an alleged militant. Hakim said he did not know a person by that name. The security forces surrounded the house, and Razak Khan was asked to accompany the soldiers to the back, to a neighboring house. There, according to Mohammad Abdul Hakim, his son was killed:

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<sup>124</sup> Human Rights Watch interview with Mohammad Karimuddin, Singjamei, Imphal East District, February 22, 2008.

<sup>125</sup> National Human Rights Commission, Case Number 22/14/13/07-08-AF/UC.

<sup>126</sup> "Postmortem Report," Ref No. 333/OC, provided to the family of Ayub Khan.

<sup>127</sup> Human Rights Watch interview with Mohammad Abdul Hakim, father of victim, Thoubal district, Manipur, February 24, 2008.

We were beaten and told to collect in the courtyard. Soldiers went inside to search the house. Suddenly, I heard my son's voice shouting, 'I am not Khajing!' One of the neighbors later told me that he saw the soldiers push my son to the ground. He was crying. They shot him as he lay on the ground. We only heard the gunshots and then my son stopped shouting.<sup>128</sup>

Hakim said that when he tried to run to his son, he was stopped by the security forces. After a few hours, the soldiers left, taking Razak Khan's body with them. The next morning the family read in the newspapers that a militant named Khajing had been gunned down in an encounter.

Abdul Hakim tried to file a police complaint after his son was killed, but was refused. He was told there was already a case registered with the police by the army reporting the killing of a militant in an armed encounter. However, after relatives and villagers appealed to the local legislator and to district authorities, a senior army official came to the village and admitted that the killing was a case of mistaken identity. No formal letter was issued.

In similar circumstances, 18-year-old Longjam Surjit was shot and killed by members of the 22<sup>nd</sup> Maratha Light Infantry battalion of the Indian army on August 31, 2006. At approximately 8:30 p.m. he went outside to stable his horse for the night. Surjit's father, Longjam Mera, said that district authorities later admitted that his son had been killed by mistake. Longjam Mera told Human Rights Watch:

I was told that it was dark [when the incident occurred]. The army was patrolling the area. They thought my son was a UG. They shot at him. He was injured and died on the way to the hospital. The army tried to hand over the body to the police and to register that they had killed a militant. But the police recognized my son and refused to take the body. They said he was not a militant. So the army dumped his body in the morgue.<sup>129</sup>

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<sup>128</sup> Ibid.

<sup>129</sup> Human Rights Watch interview with Longjam Mera, Samurou Makha Leikai, Imphal West District, February 24, 2008.

Initially, the army issued a statement claiming that Surjit had been killed in an armed exchange and that a pistol had been recovered from him.<sup>130</sup> The villagers formed a Joint Action Committee to protest against Surjit's killing. On September 2, 2006, the state's chief minister, O. Ibobi Singh, ordered a magisterial enquiry. According to Longjam Mera, some army officers later apologized for the killing of his son:

I testified before the magistrate. So did some other villagers. After we appeared before the magistrate, some soldiers came to our house and invited me and my brother to the army camp. There they gave us wine and bread. The officers said, 'Sorry, we made a mistake.' They said that they would give a job to a member of the family as compensation. Next day, my older brother went back the camp so that my nephew would get a job. But they asked him to come back later. We went many times, but nothing happened. Later we heard that the major who made that promise was transferred. We accepted the army's apology because they said they made a mistake. But they should have kept their promise and given us compensation.<sup>131</sup>

In the cases of Razak Khan and Longjam Surjit, police records continue to identify the victims as militants killed in armed encounters. As in other accounts of fake encounters, the army filed false police reports listing weapons that were recovered. No one has been held accountable for the killings or false reports.

Despite the widespread powers provided under the AFSPA, soldiers violate even the requirements provided under this law. There was no evidence that Ayub Khan or Razak Khan were "acting in contravention of the law," or carrying weapons. In both cases, there were eyewitnesses who saw the soldiers take an unarmed person into custody, after which the person was found dead in an alleged armed exchange.

Privately, army officers admit to Human Rights Watch that people are killed by mistake, and describe them as "errors in judgment." Yet they don't question the

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<sup>130</sup> "Victim Party Rejects Probe Deal," *The Sangai Express*, September 2, 2006, <http://www.e-pao.net/GP.asp?src=1..030906.sep06> (accessed April 18, 2008).

<sup>131</sup> *Ibid.*

basic premise on which they use lethal force against individuals in custody instead of arresting people and turning them over to the justice system for prosecution. Clearly, the responsible security forces officials believe they are entitled to act outside the law and execute individuals they believe to be militants. The regularity with which such cases occur can in part be attributed to the AFSPA, which allows the armed forces to shoot to kill, and a deeply engrained culture of impunity, through which no one in the security services expects to be held accountable.

The police, too, have been responsible for extrajudicial executions. Leitanthem Premananda's relatives believe that he was killed because police commandos wanted to rob him. Premananda had left his home on the afternoon of January 30, 2006, to make some purchases for his sister's wedding. He was carrying a large amount of money because he had to stop at the timber merchant and place an order for furniture. He was accompanied by his friend, Keisham Boy. They were driving a two-wheeled motor scooter. According to his uncle, Leitanthem was picked up by the Manipur police:

Keisham Boy told us that the two of them had stopped on the roadside because they wanted to go to the toilet. They walked a little apart for privacy. Boy saw some police commandos drive up. They stopped and searched Boy. He was then told to go away. The commandos then drove further up towards Premananda. Boy drove the scooter a little away and then waited for his friend. Later, when he heard the cars drive away, he went to search for Premananda. But no one was there. Some children told him that the police had taken someone away. He rushed back to inform us.<sup>132</sup>

The family waited anxiously for Premananda to arrive. That evening, a local news channel reported that an unidentified militant had been killed by the police in an armed encounter. Since Manipuris are well aware that missing persons can turn up as dead militants, family members immediately rushed to the morgue. They identified the body as that of Premananda.

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<sup>132</sup> Human Rights Watch interview with Leitantham Dilip, Porompat, Imphal East District, February 22, 2008.

The police did not take action against those responsible for his death. Instead, they attacked protest meetings and later arrested two of the organizers. Chief Minister O. Ibobi Singh, replying to a motion in the Manipur assembly by an opposition legislator asking about the Premananda killing, said that Leitanthem Premananda “had died in an encounter and that explosives, a hand written extortion letter, and a mobile phone were recovered from him.”<sup>133</sup>

Angom Brajamani was also picked up by the police and then killed. On November 18, 2007, he was standing on the road near his house with some friends. His older brother, Angom Ingobi, saw a car drive past slowly and then make a U-turn and stop near the group. One man came out and beckoned Brajamani. Ingobi was too far away to hear what was said, but he saw his brother pushed into the car. Angom Ibochou, Brajamani’s father, said his older son immediately ran to the house:

He was very worried because he had not recognized the people in the car. Brajamani used to work in Bombay and had only returned one year ago to start a business at home. He did not know many local people, so it was strange that he was taken by people in the car. We contacted his friends, but no one knew anything. He had his mobile phone with him. We tried to reach him all night, but the phone was switched off. In the morning someone told us that there was a report in the paper about an encounter nearby. The police said they had killed a militant. We feared that perhaps my son had been killed. It is not uncommon for such things to happen in Manipur. We confirmed that it was my son who was killed.<sup>134</sup>

The police said that Brajamani was a member of the militant group PREPAK who had been killed in an armed encounter and a pistol had been recovered from him.<sup>135</sup>

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<sup>133</sup> Manipur Legislative Assembly, Bulletin for 13 March 2006, <http://manipurassembly.nic.in/Ses13Asm8/Bulletin-13Mar06.htm> (accessed April 18, 2008).

<sup>134</sup> Human Rights Watch interview with Angom Ibochou, Lamshang, February 23, 2008.

<sup>135</sup> “Twin Blockades to Protest Killings,” *The Telegraph*, November 27, 2007, [http://www.telegraphindia.com/1071127/asp/northeast/story\\_8597088.asp](http://www.telegraphindia.com/1071127/asp/northeast/story_8597088.asp) (accessed April 18, 2008).

While the army and paramilitary claim to hold internal courts of inquiry to investigate allegations of human rights violations, there is no such oversight when the police are alleged to have committed a serious crime. Despite protests after Angom Brajamani's killing, Chief Minister O. Ibobi Singh in February 2008 told the Manipur assembly that the police had shot dead a Burmese-trained militant in retaliatory firing.<sup>136</sup>

## B. Torture and Other Mistreatment

Torture remains endemic in Indian police stations, where suspects are routinely beaten or subjected to the "third degree" to extract information or confessions. In 2006 the National Human Rights Commission (NHRC) stated that "violations in police custody are reported during investigations resulting in death and physical torture."<sup>137</sup> The NHRC issued detailed instructions and guidelines to prevent torture and deaths in custody.<sup>138</sup> Saying that custodial torture was preventable, the NHRC suggested that "full use of scientific techniques and forensic science should be made to obviate resorting to physical torture during interrogations. Training in interrogating skills is sine quo non of all investigations by the police."<sup>139</sup> It also recommended penalties for those responsible for human rights violations and said that police work should be split between investigations and law and order implementation.

Interviews conducted by Human Rights Watch showed that torture of detainees, in particular severe beatings during interrogations of suspected militants and their supporters, remains common. Other methods of torture include electric shocks, cigarette burns, and simulated drowning ("water boarding").

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<sup>136</sup> "CM Assures Increment In SBI Loan," *The Sangai Express*, February 28, 2008, <http://e-pao.net/GP.asp?src=9..290208.febo8> (accessed April 18, 2008).

<sup>137</sup> National Human Rights Commission, "NHRC's Recommendations on Custodial Justice," <http://nhrc.nic.in/disparhive.asp?fno=1375> (accessed June 24, 2008).

<sup>138</sup> National Human Rights Commission, "Instructions/Guidelines Issued by the Commission," <http://nhrc.nic.in/> (accessed June 24, 2008).

<sup>139</sup> *Ibid.*

In Manipur, both the police and armed forces, including commandos deployed for counter-insurgency operations, have been responsible for severe torture. Since 2006, Human Rights Alert has documented as many as 48 cases of torture in custody.<sup>140</sup>

One brutal example is the case of Maibam Naobi Chanu, who was tortured by members of the Manipur police in an act of reprisal against a militant group. On February 20, 2006, four police officers and a member of the separatist People's Liberation Front were killed during an armed encounter. The body of the dead militant, Khundrakpam Romen, also known as Bikash, was handed over to his family. On February 21, 2006, even as his funeral rites were being performed, a large number of police officers raided his house. Bikash's brothers and sisters were beaten up.<sup>141</sup>

Maibam Naobi was known to be Bikash's girlfriend. When the police found her at the funeral, she was beaten and then dragged out of the house.<sup>142</sup> The police took her away without issuing an arrest memo. The villagers immediately went to the police station to secure her release and a petition was filed with the Manipur Human Rights Commission. She was eventually produced before a magistrate two days after she was arrested and accused of associating with a militant group as the "girlfriend of Bikash."<sup>143</sup>

Manipuris then staged strikes and protests demanding her release and punishment of police officials responsible for the attacks on Bikash's family. On March 2, 2006, Maibam Naobi was released by a magistrate, citing lack of evidence to substantiate the charges. After her release, Maibom Naobi alleged at a press conference that she had been beaten and sexually assaulted in custody.<sup>144</sup> She said that she was barely

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<sup>140</sup> Human Rights Watch interview with Babloo Loitongbam, Executive Director, Human Rights Alert, July 11, 2008.

<sup>141</sup> Asian Human Rights Commission, "INDIA: Murder, assault, torture, failure of rule of law and intimidation," UA-073-2006, February 25, 2006, <http://www.ahrchk.net/ua/mainfile.php/2006/1552/> (accessed April 10, 2008).

<sup>142</sup> "Strike Called Against Torture of Woman," *The Hindu*, March 4, 2006, <http://www.hindu.com/2006/03/04/stories/2006030405411300.htm> (accessed April 16, 2008).

<sup>143</sup> Asian Human Rights Commission, "India: Murder, assault, torture, failure of rule of law and intimidation."

<sup>144</sup> "Naobi freed, recounts sordid tale," *The Sangai Express*, March 2, 2006, <http://www.e-pao.net/epRelatedNews.asp?heading=3&src=030306> (accessed April 10, 2008).

conscious because of the beatings that she had suffered but could remember being “disrobed” and “groped.”<sup>145</sup>

Manipuris were particularly shocked by the attack on Maibam Naobi because the perpetrators were Manipuri, members of the local police force, and not members of the army, who are viewed as outsiders.<sup>146</sup>

In an encouraging development, on March 4, 2006 the Manipur government suspended five police commandos and transferred the superintendent of police for the alleged torture of Maibam Naobi.<sup>147</sup> A judicial inquiry by S.P. Rajkhowa, a retired High Court judge, was ordered. Although his report was submitted to the state government in August 2006, it has yet to be made public.<sup>148</sup> Based on police investigations, a criminal case was also prepared, but charges cannot be filed until the government authorizes the prosecution under section 197 of the Code of Criminal Procedure. Maibam Naobi’s lawyer, Kh. Mani, said his client was determined to gain justice:

I have filed a writ petition in the High Court asking for an order to the government to provide sanction to prosecute. My client has withdrawn another petition filed on her behalf seeking compensation because it is not money she wants. She wants the guilty punished. The state government has not proceeded properly in this matter.<sup>149</sup>

For decades, human rights activists have called upon the government to repeal the AFSPA which has caused Manipuris to suffer abuse at the hands of the army and paramilitary. They have called for the recruitment and training of a more professional Manipuri police force that would not rely on torture to extract information and be more sympathetic to the plight of civilians caught

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<sup>145</sup> Ibid.

<sup>146</sup> Oinam Anand, “Manipur Police, You Too!” *The Sangai Express*, March 6, 2006, [http://www.e-pao.net/epSubPageExtractor.asp?src=news\\_section.opinions.Opinion\\_on\\_Killing\\_of\\_Manorama.Manipur\\_police\\_you\\_too](http://www.e-pao.net/epSubPageExtractor.asp?src=news_section.opinions.Opinion_on_Killing_of_Manorama.Manipur_police_you_too) (accessed April 10, 2008).

<sup>147</sup> “Five Personnel Suspended in Naobi’s Case,” *The Sangai Express*, March 4, 2006, <http://www.e-pao.net/epRelatedNews.asp?heading=1&src=050306> (accessed April 10, 2008).

<sup>148</sup> Human Rights Watch interview with Kh. Mani, Maibom Naobi’s lawyer, Imphal, February 26, 2008.

<sup>149</sup> Human Rights Watch interview with Kh. Mani, Maibom Naobi’s lawyer, Imphal, February 26, 2008.

in the middle of an armed conflict. That hope appears to have been misplaced. The Manipuri police have demonstrated no greater willingness than the army and paramilitary to abide by domestic and international law in their treatment of persons in custody.

The case of Abujam Shidam, a college teacher and prominent member of the opposition Manipur People's Party, exemplifies custodial abuse by the police. On December 16, 2007, seven people were killed near Shidam's home in a bomb blast, which the separatist People's Liberation Army admitted planting. Shidam took a number of the injured to the hospital. A few days after the blast, he left on a pre-scheduled college excursion to Calcutta. While he was away, the police arrived and searched his house. They also detained his brother-in-law for a day. When Shidham returned from Calcutta and heard about the police inquiries, he went to the police station. On January 7, 2008 the police arrested him on charges that he was responsible for the December 16 bomb blast. Not only does Sidham assert that he was falsely charged, he says he was tortured in custody. He told Human Rights Watch:

After my arrest I was remanded to police custody. On January 8, some police commandos came to my cell. They took me out and brought me to a toilet. There I was blindfolded. They started beating and kicking me, saying that I must admit I was a member of the PLA. They filled buckets of water and poured it on my face. They pressed on my joints with their boots. I kept shouting that I was not an UG, but they would not stop. I don't know who these people were, though one of them said they were members of the Joint Interrogation Cell.<sup>150</sup>

Shidham was granted bail on January 11, 2008. He immediately sought medical assistance for the torture that he suffered in custody. His right elbow has been disfigured and he suffers a constant pain in his chest. He has filed a police report complaining about the torture. However, as of July 2008, he said that no action had

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<sup>150</sup> Human Rights Watch interview with Abujam Shidham, Imphal, February 22, 2008.

been taken. Instead, police officials asked him to withdraw his complaint. According to Shidham:

They said, ‘You have a bright future. You will become an MLA [Member of Legislative Assembly]. Maybe a minister even. Why do you want to complain against us?’<sup>151</sup>

Sidham says he has little expectation that the police commandos who tortured him will be punished.

The army and the paramilitaries also continue to torture suspects in interrogation centers. Detainees are usually first interrogated by the detaining security force, which violates the guidelines laid down by the AFSPA, which requires that individuals picked up by the armed forces be immediately handed over to police custody. The armed forces have exploited a loophole created by an Indian Supreme Court order in August 2001 allowing the armed forces to interrogate detainees to gather “operational intelligence” but not “substantive intelligence.”<sup>152</sup>

After Elangbam Sanayaima was detained by members of the 21<sup>st</sup> Assam Rifles on November 29, 2007, he was accused of being a member of the separatist United National Liberation Front (UNLF), forced into an army vehicle and taken to the Kakching camp. According to Sanayaima:

At the camp, I was blindfolded and my hands were tied behind my back. Then they started interrogating me. They insisted over and over again that I was Sanayaima of UNLF. They asked me about my training and my colleagues. When I said that I was innocent, they beat me. Then they pushed my head back until I was almost upside down. They poured water into my nose and mouth until I could not breathe.<sup>153</sup>

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<sup>151</sup> *Ibid.*

<sup>152</sup> Supreme Court order in Criminal Original Jurisdiction, Criminal Miscellaneous Petition no. 4198 of 1999 in Writ Petition (Crl) No. 550 of 1982, Naga People's Movement for Human Rights vs Union of India, August 17, 2001.

<sup>153</sup> Human Rights Watch interview with Elangbam Sanayaima, Thoubal District, February 25, 2008.

After several hours of torture and interrogation, Sanayaima said that a man, speaking in Manipuri, told him that he was going to be taken to the police where he must admit to being a member of the UNLF. At the police station, however, Sanayaima again said that he was innocent. He also said that he had been tortured. The police took him to a doctor for a medical check-up and then placed him in custody. The next morning he was brought before a magistrate. The magistrate remanded him to police custody. A week later, he was released on bail. Sanayaima has trouble breathing because of his mistreatment and continues to require medical attention.

Torture in Manipur often occurs due to false information gathered by government forces. Ratankumar Singh, whose case is cited above, was picked up a little after midnight on July 30, 2007 and taken to an army camp in Khwairapan. He was blindfolded and handcuffed. He told Human Rights Watch:

My legs were tied together with a rope and my hands at the back. They interrogated me. I replied that I am innocent. That I have never been with any underground groups. They put a cloth on my face and poured water on my face. They also gave me electric shocks. The torture must have lasted at least two hours. I can't even remember how many buckets of water they poured over me.<sup>154</sup>

The next morning, Ratankumar Singh was untied and an officer came to see him. The officer offered tea, which he refused. Ratankumar Singh was handcuffed and blindfolded again, but after a few hours was once again brought before the same officer. The blindfold and handcuffs were removed and the officer apologized to him. Said Ratankumar Singh: "He requested me to excuse him as he had the wrong information. He said he would release me and let me talk to my wife on the phone. Later my relatives came to the camp and we were asked to sign a paper which said that nothing incriminatory was found from me. Then I was released."<sup>155</sup> Apparently, the army thought he was someone else.

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<sup>154</sup> Human Rights Watch interview with Maibam Ratankumar Singh, February 25, 2008.

<sup>155</sup> *Ibid.*

Soraisham Gopeshor Singh, a teacher in Imphal, woke up when there was heavy knocking on his front door around midnight on August 17, 2007. When his wife answered the door, several uniformed members of the 22<sup>nd</sup> Maratha Light Infantry battalion of the Indian army entered the house. They said that Gopeshor Singh was a militant named M.C. Luwang of the UNLF and that he was responsible for extortion on behalf of the underground group. The soldiers searched the house, looking for Rs50,000 [US\$1,200] that they said had recently been collected by the UNLF. According to Gopeshor Singh, when no money was found in the house he was asked to come in the morning to the army camp. At the camp, he denied the allegations against him.

On September 1, 2007 at around 11 p.m., security forces once again arrived at his house. The soldiers identified themselves as members of the 57<sup>th</sup> Mountain Division. Gopeshor Singh explained that he had already been questioned earlier, but the soldiers dragged him out of the house. He was not allowed to change out of his night clothes. Once inside the vehicle, he was blindfolded and handcuffed. According to Gopeshor Singh:

Half an hour later, we arrived at a room and I was made to sit at a wooden table. I was questioned in Manipuri and asked which underground group I worked for and about the money that I had collected. They also asked me where I kept the guns. I said I knew nothing. First they slapped me. Then they made me lie down on the ground on my back. They covered my face with a cloth. Some of them held me tightly by the arms and legs while others poured water on my face. It was horrible. I could not breathe. The water was in my nose, in my mouth. I felt my stomach was full of water. It continued for almost 20 minutes.<sup>156</sup>

Gopeshor Singh was released the next morning. He has not filed a police complaint: “Under the circumstances, just that I was out alive, complaining about torture was not possible.” He still needs psychiatric assistance to recover from the torture. “At

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<sup>156</sup> Human Rights Watch interview with Soraisham Gopeshor Singh, Tuliha, Imphal West District, February 22, 2008.

least if you are a UG, you are mentally prepared for these things,” he said. “But I am destroyed.”<sup>157</sup>

History lecturer Maibam Ratankumar Singh is also on constant medication due to psychological trauma. “I saw you walk into the house,” he told a Human Rights Watch researcher. “You are strangers. Immediately my hands started shaking and I needed medicines.”<sup>158</sup>

The army also probably made a mistake when they arrested another young man, who asked for anonymity, from his house in January 2008. He was kept in custody for six days and eventually released.

They put me in a car and blindfolded me. Then they started beating and kicking me, asking which party I belonged to. Then the car stopped and I was taken inside. My hands were tied up. Then the interrogation began again.... They beat me and asked me questions. After six days, I was taken out of the room and put in a vehicle. It was a very long drive. When we stopped, I was pulled out of the car. The men said they would kill me. They made me kneel down. I thought I was going to be shot. Then I heard the car drive away. I was not sure if anyone was there. I waited and, finally, I managed to push my blindfold away. No one was there. It was dark. I saw lights in the distance. I ran and eventually got home.<sup>159</sup>

Indian security forces routinely ignore procedural safeguards designed to prevent torture and other mistreatment of persons in custody. Sections 330 and 331 of the Indian Penal Code forbid the causing of “hurt” or “grievous hurt” to extract a confession, and prescribe prison terms and fines for officers found guilty of torture.<sup>160</sup> The Code of Criminal Procedure also contains clauses to protect detainees from torture, such as section 54, which provides the right to a medical examination,

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<sup>157</sup> Ibid.

<sup>158</sup> Human Rights Watch interview with Maibam Ratankumar Singh, February 25, 2008.

<sup>159</sup> Human Rights Watch interview, all details withheld.

<sup>160</sup> Indian Penal Code, 1860, Sections 330 and 331, <http://www.vakilno1.com/bareacts/IndianPenalCode/indianpenalcode.htm> (accessed September 6, 2008).

section 164, which requires a magistrate to ensure that a confession is voluntary, and section 176, which requires a magisterial inquiry into any death in custody.<sup>161</sup>

However, the best protection from torture in custody came from the Supreme Court in *D.K. Basu v. State of West Bengal*. This 1996 judgment led to what is commonly known as the eleven-point “Basu guidelines” to prevent torture in custody. Among the requirements are that all police personnel involved in arrests and interrogations should display accurate and clear identification; a register should be created to record the names of those responsible for individual interrogations; and the arrestee should be subjected to a medical examination at the time of arrest to record all major or minor injuries, and then subjected to further examinations every 48 hours during detention.<sup>162</sup>

India is also a state party to several major international human rights treaties that prohibit torture and other mistreatment, including the International Covenant on Civil and Political Rights (ICCPR). Article 7 of the ICCPR states that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>163</sup> India has signed, but not ratified, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture).<sup>164</sup>

### C. Enforced Disappearance and Arrest Memos

A “disappearance” occurs when a person is taken into custody by forces acting for a state who later refuse to acknowledge taking the person into custody or reveal their whereabouts. According to the International Convention for the Protection of All Persons from Enforced Disappearance (the Convention against Enforced Disappearance), which India has signed but not yet ratified, an enforced

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<sup>161</sup> Code of Criminal Procedure, 1973, <http://www.vakilno1.com/bareacts/CrPc/s1.htm> (accessed September 6, 2008)

<sup>162</sup> Guidelines Laid by the Supreme Court in *D.K. Basu vs State of Bengal*, <http://chandigarhpolice.nic.in/spcourt.htm> (accessed April 19, 2008).

<sup>163</sup> International Covenant on Civil and Political Rights (ICCPR) (1976), <http://www.ohchr.org/english/law/ccpr.htm> (accessed April 12, 2008).

<sup>164</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, <http://www.unhcr.ch/tbs/doc.nsf/o/o82560404004ff315c12563b005e1c83>. India signed the convention in 1997 but is yet to ratify it.

disappearance is “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.”<sup>165</sup>

“Disappearances” were common in the early days of the armed conflict. Sustained efforts of Manipuri civilians including local human rights groups, relatives of victims, and other civil society organizations, succeeded in getting the Manipur state government to take steps to prevent enforced disappearances. No new cases of enforced disappearances have occurred since 2000. However, under international law, enforced disappearances are a continuing offense—meaning the crime continues to be committed until the whereabouts or fate of the victim becomes known.<sup>166</sup> The Convention against Enforced Disappearance calls on states to investigate and prosecute individuals directly responsible for “disappearances” and as a matter of command responsibility.<sup>167</sup>

Petitions seeking the whereabouts of 17 persons who “disappeared” between 1980 and 2000 are still pending in the courts, although in some cases the court, unable to proceed because of a lack of information, has dismissed the cases after ordering the state government to pay compensation to families.<sup>168</sup> The government failed to provide a satisfactory response to these petitions and no one has been held accountable.

Manipur activists say that the problem of “disappearances” decreased after the government in the 1990s introduced a system of providing “arrest memos.” An arrest memo is a one-page document created by the Home Department of the government of Manipur in 1997.<sup>169</sup> It lists the name of the arrestee, address, place, date and time

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<sup>165</sup> International Convention for the Protection of All Persons from Enforced Disappearance, G.A. res. 61/177, U.N. Doc. A/RES/61/177 (2006), adopted Dec. 20, 2006, available at <http://www1.umn.edu/humanrts/instreet/h4paped.html>. India signed the treaty on February 6, 2007, the day it was opened for signature.

<sup>166</sup> *Ibid.*, art. 8(1)(b).

<sup>167</sup> *Ibid.*, art. 6.

<sup>168</sup> See Appendix I.

<sup>169</sup> Arrest Memo, Annexure to Home Department, Government of Manipur, Office Memorandum No. 2/8 (86)/96-H. June 5, 1997.

of arrest, the reason for arrest, and the name of the person or relative who has been informed of the arrest. It is signed by the arresting officers and two witnesses. Once an arrest memo is provided, security forces can no longer deny that a person has been taken into custody. Relatives are also able to identify the unit or battalion responsible for the arrest and thus ensure that the detainee has access to legal counsel.

However, in some recent cases documented by Human Rights Watch, arresting officials have refused to provide an arrest memo. For instance, when Elangbam Sanayaima was arrested on November 29, 2007 by members of the 21<sup>st</sup> Assam Rifles, his mother and other village women surrounded the official vehicle, demanding an arrest memo. However, the soldiers refused to provide it and instead pushed Elangbam Sanayaima into the car and drove away.<sup>170</sup> Elangbam Sanayaima is out on bail, awaiting trial.

Mohammad Manawar was arrested from his home on June 27, 2007 by soldiers of the 22<sup>nd</sup> Maratha Light Infantry. When his teenage nieces, who were sitting on the verandah of the hut next door, saw their uncle being taken into custody, they stopped the soldiers, demanded an arrest memo, and asked why he was being arrested. One niece told Human Rights Watch that the army officers responded with brutality:

The soldiers were very angry. They were going to take our uncle away. When I asked for an arrest memo, they started beating us. One of them said, 'How can a young girl like you even know about an arrest memo?' Everyone knows that the army must give an arrest memo. But when we said this, they were furious. They beat me so hard, I fainted. I was taken to the hospital. In the hospital I found that my leg had been broken.<sup>171</sup>

When Human Rights Watch met the family in February 2008, the niece had still not recovered and could not walk without assistance. Doctors have recommended

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<sup>170</sup> Human Rights Watch interview with Elangbam Sanayaima, February 25, 2008.

<sup>171</sup> Human Rights Watch interview (name withheld), Mayang Imphal, Imphal West District, February 24, 2008.

further surgery, which the family cannot afford. Mohammad Manawar remains in custody, detained without charge under the National Security Act.

The army denied that they used excessive force during Mohammad Manawar's arrest. An army spokesman said that women in the village refused to accept an arrest memo, attempted to obstruct the military while performing their duty, and even assaulted the troops.<sup>172</sup>

The reluctance to provide arrest memos could be the result of the Manorama case, where soldiers from the Assam Rifles signed an arrest memo and were therefore identified as prime suspects in her later killing.

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<sup>172</sup> "Ibobi Faces Ire Over Assault On Three Girls," *The Telegraph*, July 3, 2007, [http://www.telegraphindia.com/1070703/asp/guwahati/story\\_8007503.asp](http://www.telegraphindia.com/1070703/asp/guwahati/story_8007503.asp) (accessed April 10, 2008).

## V. The Armed Forces (Special Powers) Act

The Armed Forces (Assam and Manipur) Special Powers Ordinance came into force on May 22, 1958. It was adopted by the Indian parliament on September 11, 1958.<sup>173</sup> The AFSPA was based on a 1942 British colonial ordinance that was intended to contain the Indian independence movement in the midst of the Second World War.<sup>174</sup>

In the decade that followed, the northeast was divided into separate states to accommodate the ethnic claims of various tribal and other ethnic groups. In 1972, the AFSPA was amended to extend to all the new states.<sup>175</sup> In 1983, an almost identical law was enacted to counter militancy in Punjab state.<sup>176</sup> While the law was allowed to lapse in Punjab once violence ended, a similar law has remained in force in Jammu and Kashmir state since 1990.<sup>177</sup>

The AFSPA has led to widespread human rights violations ever since it was enacted. Though the law was initially intended to be a short-term measure, for five decades many areas of the northeastern states have routinely (now every six months) continued to be declared “disturbed” so that the law can remain in force.<sup>178</sup>

### A. Provisions of the Armed Forces (Special Powers) Act

Section 3 of the AFSPA provides that the government can decide that the whole or part of a state “is in such a disturbed or dangerous condition that the use of armed

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<sup>173</sup> Ministry of Home Affairs, Armed Forces (Special Powers) Act, 1958, [http://www.mha.nic.in/acts-rules/armed\\_forces\\_special\\_powers\\_act1958.pdf](http://www.mha.nic.in/acts-rules/armed_forces_special_powers_act1958.pdf) (accessed April 20, 2008).

<sup>174</sup> “The Armed Forces (Special Powers) Act- Repressive Law,” *Combat Law: The Human Rights Magazine*, vol. 2(1), April/May, 2003. Also Amnesty International, “Document - India: Briefing on The Armed Forces (Special Powers) Act, 1958,” ASA20/025/2005, May 9, 2005, <http://www.amnesty.org/en/library/info/ASA20/025/2005> (accessed April 20, 2008).

<sup>175</sup> Following the 1972 amendment, the AFSPA was extended to cover the states of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh.

<sup>176</sup> Ministry of Home Affairs, Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, <http://punjabrevenue.nic.in/armsact.htm> (accessed August 24, 2008).

<sup>177</sup> Ministry of Home Affairs, Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, [http://www.mha.nic.in/acts-rules/Armed%20oforces%20\\_J&K\\_%20Spl.%20powers%20act,%201990.pdf](http://www.mha.nic.in/acts-rules/Armed%20oforces%20_J&K_%20Spl.%20powers%20act,%201990.pdf) (accessed April 20, 2008).

<sup>178</sup> The Armed Forces (Special Powers) Act, sec. 3, provides if the governor of a state or the administrator of Union territory or the central government are of the opinion “that the whole or any part of such State or Union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil powers in necessary, the Governor of that State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union territory to be a disturbed area.”

forces in aid of the civil powers in necessary.”<sup>179</sup> Under Indian law, there is no clear definition of what constitutes a “dangerous or disturbed condition.” Instead, this depends on the decision of federally appointed government officials and is not subject to judicial review.<sup>180</sup>

The maintenance of law and order is the responsibility of the state government under the Indian Constitution.<sup>181</sup> As originally enacted, the power to declare an area to be “disturbed” was conferred only upon the state government. In 1972 the AFSPA was amended to provide that same power concurrently to the central government. An elected state government thus cannot refuse the deployment of federal armed forces. On the other hand, the state government has no authority to reprimand or prosecute those members of the armed forces that commit human rights violations against citizens of that state as this power is reserved for the central government.<sup>182</sup>

The AFSPA provides broad powers to military officers to use force, including lethal force. Section 4(a) empowers any commissioned or non-commissioned officer in the armed forces, to:

[I]f he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances.”<sup>183</sup>

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<sup>179</sup> Armed Forces (Special Powers) Act, 1958, sec. 3 (“Power to Declare Areas to be Disturbed Areas”).

<sup>180</sup> Asian Center for Human Rights, “Review of AFPSA: Too Little, Too Late,” November 3, 2004, <http://www.achrweb.org/Review/2004/45-04.htm> (accessed April 20, 2008).

<sup>181</sup> Constitution of India, Article 246, to be read with the 7<sup>th</sup> Schedule of the Constitution of India.

<sup>182</sup> Armed Forces (Special Powers) Act, 1958, sec. 6 (“Protections to Persons Acting Under Act”).

<sup>183</sup> Armed Forces (Special Powers) Act, 1958, sec. 4 (“Special Powers of the Armed Forces”).

Human rights activists say that this section of the law effectively provides security forces operating under the AFSPA with a “license to kill.”<sup>184</sup>

While the security forces are required to file a report with the police when a combatant is killed in an armed exchange, there have been widespread allegations that people are actually killed after they have been taken into custody and false claims filed with the police constructing a fake encounter.

Officials have previously admitted to Human Rights Watch that the military sometimes extrajudicially executes detained militants to prevent hijackings or abductions to secure their release.<sup>185</sup> Independent judicial and police investigations have found that individuals unaffiliated with armed groups have been executed and falsely described as armed combatants.<sup>186</sup>

Section 4(c) of the AFSPA also empowers members of the armed forces to “arrest, without warrant, any person who has committed a cognisable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognisable offence and may use such force as may be necessary to effect the arrest.”

This power has been routinely abused by the armed forces amid allegations of enforced disappearances.<sup>187</sup> The power to arrest without warrant also leads to increased risk of torture or extrajudicial execution.

Under the AFSPA the armed forces are not obliged to communicate the grounds for the arrest. The only protection provided under the AFSPA is that any person arrested

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<sup>184</sup> Asian Center for Human Rights, “Review of AFSPA: Too Little, Too Late,” November 3, 2004.

<sup>185</sup> Human Rights Watch, *India - “Everyone Lives in Fear:” Patterns of Impunity in Jammu and Kashmir*, vol. 18, no. 11(C), September 2006, <http://www.hrw.org/reports/2006/india0906/index.htm>, chapter V.

<sup>186</sup> “India: Investigate All ‘Disappearances’ in Kashmir,” Human Rights Watch news release, February 15, 2007, <http://hrw.org/english/docs/2007/02/15/india15336.htm>. See also Human Rights Watch, “*Everyone Lives in Fear*,” chapter IV, part E (“Chattisinghpura massacre and ensuing killings”).

<sup>187</sup> Enforced disappearances are defined by the Convention against Enforced Disappearances as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the U.N. General Assembly on December 20, 2006, opened for signature on February 6, 2007, art. 2. Although the newly adopted convention has yet to enter into force, India has signed the convention and its definition of enforced disappearance is consistent with definitions contained in earlier international instruments.

has to be handed over “to the officer-in-charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.”<sup>188</sup> To be in accordance with the Constitution of India, however, no person should be detained “without being informed, as soon as may be, of the grounds for such arrest.”<sup>189</sup> However, the AFSPA provides no definition of what constitutes the least possible delay and it is usually interpreted as depending on the specific circumstances of each case. In practice, the armed forces routinely detain people in barracks for interrogation before handing them over to the police.

The AFSPA allows the authorities to detain a person for an unspecified amount of time, and thus without review by a magistrate. Under the Constitution of India, anyone taken into custody has to be “produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.”<sup>190</sup> The military’s use of the AFSPA in disregard of this constitutional requirement constitutes arbitrary detention under international law.<sup>191</sup>

Section 4(d) of the AFSPA allows the armed forces to “enter and search without warrant any premises” and to “use such force as may be necessary.” According to Manipuri activists, this power has often been abused by government forces to destroy property, harass residents, and in some case, plant false evidence.<sup>192</sup> The powers provided under this section can again lead to unnecessary and excessive use of force in violation of domestic and international laws.

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<sup>188</sup> Armed Forces (Special Powers) Act, 1958, sec. 5 (“Arrested Persons to be made over to the Police”).

<sup>189</sup> Constitution of India, art. 22, states: “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.”

<sup>190</sup> Constitution of India, art. 22 (2), provides that: “Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.” However, AFSPA only recommends that a person be produced before a magistrate with the “least possible delay,” allowing security forces to hold people for days, even months, which courts have found be excessive. For example see *Nungshitombi Devi v. Rishang Keishang, CM Manipur, 1982*. In several habeas corpus cases, the Gauhati High Court has told the army to comply with the Code of Criminal Procedure, but there is no enforcement of these rulings.

<sup>191</sup> See, e.g. ICCPR, art. 9, which guarantees liberty and the security of the person, states: “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”

<sup>192</sup> Human Rights Watch interview with Babloo Loitongbam, Human Rights Alert, Imphal, February 24, 2008.

Section 6 of the AFSPA provides government security forces with immunity from prosecution:

No prosecution, suit or other legal proceedings shall be instituted, except with the previous sanction of the Central Government against any person in respect of anything done or purported to be done in exercise of powers conferred by this Act.<sup>193</sup>

This provision, allegedly necessary to protect officials from harassment, displays a lack of faith in the judiciary, which has the authority and capacity to decide whether charges are vexatious, abusive, or frivolous. While the judiciary is deemed capable of making such decisions in cases involving ordinary citizens, soldiers are given special status and provided immunity from prosecution, leaving victims of abuses without any remedy.

Although the central government may waive immunity under the act to permit a prosecution, this provision is routinely used to protect those whom independent investigations have found responsible for serious crimes. For example, the Central Bureau of Investigation (CBI) found five soldiers responsible for the murder of villagers in Kashmir in 2000 in what the army claimed was an armed encounter with Pakistan-based militants. The CBI argued that murder charges could be filed in this case because the victims had been deliberately abducted and murdered by the soldiers. Yet the army cited the immunity provisions in the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, which is based on the 1958 law. The case is still pending.<sup>194</sup>

In 2007, police investigations found that the police and army in Kashmir had plotted to abduct and kill civilians and falsely identify them as foreign militants because they wanted rewards or promotions. While the police officers involved have been charged with murder, the army has refused to produce the soldiers for trial.<sup>195</sup>

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<sup>193</sup> Armed Forces (Special Powers) Act, 1958, sec. 6 (“Protection to Persons Acting Under Act”).

<sup>194</sup> Human Rights Watch, “*Everyone Lives in Fear*,” chapter IV, part E (“Chattisinghpura massacre and ensuing killings”).

<sup>195</sup> Riyaz Wani, “NBW Against 5 Army Personnel in Valley Encounter case,” *The Indian Express*, April 3, 2008, <http://www.indianexpress.com/story/291641.html> (accessed April 22, 2008).

The army claims that members of the armed forces are tried before courts martial. However, such proceedings, if they take place, are not open to the public and the findings are not published. Government officials say that details of the incidents and names of those punished cannot be made public because this could endanger the lives of the soldiers in question and damage troop morale. Neither of these reasons is compelling and appears to be contrived to cover up human rights violations and pervasive impunity.

Immunity provided under the AFSPA violates India's treaty obligations under the ICCPR. Each state party to the ICCPR undertakes:

To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

To ensure that the competent authorities shall enforce such remedies.<sup>196</sup>

In July 1997, the UN Human Rights Committee, the expert international body that monitors compliance with the ICCPR, considered India's Third Periodic Report. In its Concluding Observations, the Human Rights Committee noted "with concern that criminal prosecutions or civil proceedings against members of the security and armed forces, acting under special powers, may not be commenced without the sanction of the central Government. This contributes to a climate of impunity and deprives people of remedies to

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<sup>196</sup> ICCPR, art. 2(3).

which they may be entitled in accordance with article 2, paragraph 3, of the Covenant.”<sup>197</sup> It went on to say that:

The Committee regrets that some parts of India remain subject to declaration as disturbed areas over many years. For example, the Armed Forces (Special Powers) Act has been applied throughout Manipur since 1980 and in some areas of that state for much longer, and that in these areas, the State party is in effect using emergency powers without resorting to Article 4, paragraph 3, of the Covenant.... The Committee recommends that the application of these emergency powers be closely monitored so as to ensure its strict compliance with the provisions of the Covenant.<sup>198</sup>

In November 1997 the Supreme Court of India ruled that a declaration of “disturbed” status under section 3 of the AFSPA should be reviewed every six months.<sup>199</sup> However, since the court did not provide any criteria for an objective assessment before such a declaration, in practice the review has remained a routine bureaucratic exercise.

## **B. Campaign for Repeal of the AFSPA**

Campaigns to repeal abusive counter-terrorism laws adopted by India, such as the Terrorist and Disruptive Activities (Prevention Act), 1985 and the Prevention of Terrorism Act (POTA), 2002, have met with considerable success. Both laws were allowed to lapse under public pressure because of widespread abuses related to these laws. In 2004, some provisions of these laws were incorporated into the 1967 Unlawful Activities (Prevention) Act.<sup>200</sup>

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<sup>197</sup> United Nations, Human Rights Committee, “Concluding observations of the Human Rights Committee: India, Report of the Human Rights Committee,” (United Nations, August 4, 1997) CCPR/C/79/Add.81, <http://daccessdds.un.org/doc/UNDOC/GEN/G97/177/39/PDF/G9717739.pdf?OpenElement> (accessed April 20, 2008).

<sup>198</sup> *Ibid.*

<sup>199</sup> Naga People’s Movement of Human Rights, etc. vs. Union of India, Supreme Court of India, Final orders, Writ petition (Cr) 550 of 1982 with Writ Petition (C) Nos. 5328/80, 9229-30/82, Civil Appeals Nos. 721 to 724 of 1985, 2173-76/1991, 2551/81 and Writ Petition (C) Nos. 13644-45/84, November 27, 1997.

<sup>200</sup> Unlawful Activities (Prevention) Amendment Act, 2004, [http://www.commonlii.org/in/legis/num\\_act/uaaa2004438/](http://www.commonlii.org/in/legis/num_act/uaaa2004438/) (accessed August 22, 2008).

However, despite an intense campaign by domestic and international human rights groups to repeal the AFSPA and the recommendation of government committees in favor of repeal, the Indian government has been unwilling to act.

### *The Supreme Court*

The AFSPA has been challenged in the courts. In 1980, a Manipuri group named the Human Rights Forum filed a public interest litigation in the Supreme Court, challenging the constitutional validity of the AFSPA. The Naga People's Movement for Human Rights and the People's Union for Democratic Rights also moved separate writ petitions on the same issue in 1982. However, the Supreme Court did not proceed in the matter for 15 years. In 1997, a five-member bench headed by Chief Justice J.S. Verma finally ruled on the petitions challenging the act. The various petitions were combined into the case of *Naga People's Movement of Human Rights, etc. vs. Union of India*.<sup>201</sup>

The Supreme Court upheld the Armed Forces (Special Powers) Act in its final verdict on November 27, 1997. However, while concluding that parliament had the right to enact such a law, the judges ordered measures for the protection of human rights, ruling that the armed forces should “use minimal force required for effective action” and “strictly follow the instructions contained in the list of “Do’s and Don’ts” issued by the army authorities which are binding.”<sup>202</sup>

Leaving it to the armed forces to respect “Do’s and Don’ts” issued by the army authorities has proven to be inadequate and ineffective.

The Supreme Court also said that any complaint alleging the misuse or abuse of powers conferred by the act “shall be thoroughly inquired into and, if on enquiry it is found that the allegations are correct, the victim should be suitably compensated

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<sup>201</sup> *Naga People's Movement of Human Rights, etc. vs. Union of India*, Supreme Court of India, Writ petition (Crl) 550 of 1982 with Writ Petition (C) Nos. 5328/80, 9229-30/82, Civil Appeals Nos. 721 to 724 of 1985, 2173-76/1991, 2551/81 and Writ Petition (C) Nos. 13644-45/84.

<sup>202</sup> *Naga People's Movement of Human Rights, etc. vs. Union of India*, Supreme Court of India, Final orders, November 27, 1997. The court said that the army should not be deployed for long periods since the primary task of the armed forces “is to defend the country in the event of war or when it is faced with external aggression,” and that an internal conflict puts the armed forces in a situation that “brings them in confrontation with their countrymen.” The judges concluded that “prolonged or too frequent deployment of armed forces for handling such situation is likely to generate a feeling of alienation among the people against the armed forces.”

and the necessary sanction for institution of prosecution and/or suit or other proceeding should be granted.”<sup>203</sup>

In practice, local police usually discourage victims from registering a case against the armed forces, or simply refuse to register such complaints. Efforts to investigate such complaints by the police, in any case, are usually futile since the armed forces use the immunity provisions of the AFSPA to refuse to produce the relevant officials for questioning.

### *The Jeevan Reddy committee*

Following the widespread protests after the killing of Manorama in Manipur in 2004, Prime Minister Manmohan Singh agreed to a review of the AFSPA. A five-member Committee to Review the Armed Forces (Special Powers) Act, 1958, headed by Justice Jeevan Reddy, a retired Supreme Court judge, was set up on November 19, 2004.<sup>204</sup> It came to be known as the Jeevan Reddy committee and was established to review the act and determine whether it should be amended “to bring [its provisions] in consonance with the obligations of the Govt. towards the protection of Human Rights,” or whether the government should “replace the Act by a more humane Act.”<sup>205</sup>

Various human rights groups, the concerned governments of the affected northeastern states, and representatives of the army and the paramilitaries, including the Assam Rifles, presented their views to the Jeevan Reddy committee. Suggesting that the authority and safeguards provided under the AFSPA should form the framework for any new law or amendment to the existing act, the army said that it requires “adequate authority” to conduct its operations:

Such authority should cover actions involving entry and search without warrant, seizure of weapons and explosives, use of force including opening fire when needed, and destruction of armed camps and military stocks held by insurgent groups. The Army also requires

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<sup>203</sup> *Ibid.*

<sup>204</sup> Ministry of Home Affairs, Order issued on November 19, 2004. Copy on file with Human Rights Watch.

<sup>205</sup> Terms of Reference of the Committee to Review the Armed Forces (Special Powers) Act, 1958.

adequate safeguards against spurious and motivated accusations of excesses leveled and legal proceedings commenced against its personnel. Such authority and legal safeguards are provided by the AFSPA.<sup>206</sup>

The Ministry of Home Affairs told the committee that the armed forces and other forces provided by the central government would be “progressively withdrawn from the north-east, once the capabilities of the State armed police are up to the required standards.”<sup>207</sup> The Assam Rifles and the Central Reserve Police Force both said that the continuing insurgency in the northeast required measures such as the AFSPA.

The Jeevan Reddy committee submitted its report to the Home Ministry on June 6, 2005.<sup>208</sup> While the report has still not been made public, it was leaked and is widely available on the internet.<sup>209</sup> It recommended that the act be repealed, concluding that:

The Act is too sketchy, too bald and inadequate in several particulars.... We must also mention the impression gathered by [the Committee] during the course of its work viz, the Act, for whatever reason, has become a symbol of oppression, an object of hate and an instrument of discrimination and high handedness. It is highly desirable and advisable to repeal this Act altogether, without, of course, losing sight of the overwhelming desire of an overwhelming majority of the region that the Army should remain (though the Act should go).<sup>210</sup>

The Jeevan Reddy committee recommended that while the AFSPA should be repealed, some provisions should be incorporated into the Unlawful Activities (Prevention) Act, 1967.<sup>211</sup> The proposed amendments include a provision for an independent

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<sup>206</sup> “Report of the Committee to Review the Armed Forces (Special Powers) Act, 1958,” Government of India, 2005, chapter VIII (“Views of Army, Assam Rifles, BSF, CRPF and State Governments”).

<sup>207</sup> *Ibid.*

<sup>208</sup> “Armed Forces (Special Powers) Act Review Committee Submits Report,” *Press Information Bureau*, Government of India, June 6, 2005, [http://pib.nic.in/release/re\\_print\\_page.asp?relid=9607](http://pib.nic.in/release/re_print_page.asp?relid=9607) (accessed April 21, 2008).

<sup>209</sup> “Report of the Committee to Review the Armed Forces (Special Powers) Act 1958,” *The Hindu*, <http://www.hinduonnet.com/nic/afa/> (accessed April 21, 2008).

<sup>210</sup> “Report of the Committee to Review the Armed Forces (Special Powers) Act, 1958,” Government of India, 2005, part IV (“Recommendations”).

<sup>211</sup> *Ibid.*

“Grievances Cell” to inquire into complaints of human rights violations, and a requirement that the commander or local headquarters of the unit or appropriate police authorities furnish relevant information to the Grievances Cell within 24 hours of receiving a request.<sup>212</sup>

Though the final report was submitted in June 2005, at this writing the government had not acted on its findings and recommendations.

### *Others that have recommended repeal of AFSPA*

In June 2007, the Second Administrative Reforms Commission appointed by the president of India and headed by Veerappa Moily recommended that the AFSPA be repealed.<sup>213</sup> Upholding the findings of the Jeevan Reddy committee, the Moily Commission said that the suggested revision of the Unlawful Activities (Prevention) Act:

incorporates the directions of the Supreme Court of India on the matter with regard to deployment of armed forces of the Union and the conduct of such armed forces during deployment. It also provides for a grievance redressal mechanism. Most importantly it does not in any way dilute or compromise the paramount importance of ensuring national security in these disturbed insurgency affected areas.<sup>214</sup>

Mohammad Hamid Ansari, chairman of the National Minorities Commission, was asked by Prime Minister Manmohan Singh to head the Working Group on Confidence-Building Measures in Jammu and Kashmir. In April 2007, the Working Group submitted its report, making several recommendations for the protection of human rights.<sup>215</sup> The Working Group said that “certain laws made operational during the period of militancy (for example the Armed Forces Special Powers Act or the

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<sup>212</sup> Ibid.

<sup>213</sup> R. Suryamurthy, “Moily Panel for Repeal of AFSPA,” *The Tribune*, June 26, 2007, <http://www.tribuneindia.com/2007/20070626/nation.htm#1> (accessed April 21, 2008).

<sup>214</sup> Constitutional Issues and Special Laws, The Armed Forces (Special Powers) Act, 1958, Fifth Report, Second Administrative Reforms Commission, June 2007, p. 235-242. The Administrative Reforms Commission is appointed by the President under Resolution No. K-11022/9/2004-RC.

<sup>215</sup> “PM’s Opening remarks at Third Roundtable Conference on Jammu & Kashmir,” The Prime Minister’s Office, April 24, 2007, <http://pmindia.nic.in/speech/content.asp?id=529> (accessed April 21, 2008).

Disturbed Areas Act) impinge on [the] fundamental rights of citizens and adversely affect the public” and recommended that these laws be revoked.<sup>216</sup> The recommendations of the working group were adopted in principle.<sup>217</sup>

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<sup>216</sup> Praveen Swami, “Bit of Consensus,” *Frontline*, vol. 24, Issue 9, May 5-18, 2007, <http://flonnet.com/fl2409/stories/20070518002902500.htm> (accessed April 21, 2008).

<sup>217</sup> “Statement adopted at the Third Round Table Conference on Jammu and Kashmir,” *The Press Information Bureau*, April 24, 2007, <http://pib.nic.in/release/release.asp?relid=27105> (accessed April 21, 2008).

## VI. Recommendations

### To the Government of India

- Repeal the Armed Forces (Special Powers) Act, 1958 as recommended by the government-appointed Jeevan Reddy committee.
- Repeal all legal provisions providing effective immunity to police and other security forces, particularly section 197 of the Code of Criminal Procedure, which prohibits the prosecution of state officials without permission of the government.
- Amend the Human Rights Protection Act to allow the National Human Rights Commission to independently investigate allegations of abuse by members of the armed forces.
- Investigate and prosecute central government officials, including members of the armed forces, police, and the Assam Rifles found responsible for human rights violations.
- Given the continuing failure of the military justice system to fully and transparently prosecute those responsible for human rights violations, prosecute fairly in civilian courts members of the armed forces and other security forces of all ranks implicated in serious rights abuses. Prosecutions should not be limited to those directly responsible for abuses, but should include persons implicated as a matter of command responsibility, when superiors knew or should have known of ongoing crimes and failed to take action.
- Protect from possible reprisals all witnesses, victims, and others who provide information for criminal prosecutions against government officials, including by establishing an adequately funded witness protection program.
- Strengthen and enforce laws and policies that protect detainees from torture and other mistreatment, including strict implementation of requirements that all detainees be brought before a magistrate or other judicial authority empowered to review the legality of an arrest within 24 hours.
- Allow independent humanitarian and human rights organizations full and unimpeded access to all army and paramilitary interrogation and detention centers. Remove all restrictions on foreigners traveling to Manipur.

- Arrest and prosecute to the full extent of the law all those responsible for the 2004 murder of Thangjam Manorama Devi.
- Call upon the Manipur state government to promptly make public the progress of and findings from its investigations against individuals implicated in serious human rights abuses.
- Urge the Manipur government to strengthen the Manipur Human Rights Commission so that it effectively pursues all complaints of human rights abuses. Ensure that the Commission uses all authority at its disposal including powers of *suo motu* investigation and subpoena.
- Indian security forces involved in military operations should take all necessary steps to ensure compliance with international humanitarian law. India should ratify the 1977 Protocols Additional to the Geneva Conventions of 1949.
- Thoroughly revise the training curriculum for police, army, and paramilitary forces operating in areas where there is internal conflict to include appropriate training on human rights issues, including lawful interrogation techniques and best practices. All training should be consistent with international human rights standards, such as the UN Code of Conduct for Law Enforcement Officials.
- Ratify the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention for the Protection of All Persons from Enforced Disappearance.

### **To the State Government of Manipur**

- Establish an independent, transparent, and impartial commission of inquiry into serious violations of international human rights and humanitarian law by security forces. Prosecute members of the Manipur police force who have been responsible for human rights violations. Call upon the Indian central government to promptly prosecute those within its jurisdiction found responsible.
- Immediately make public the progress of and findings from investigations against individuals implicated in serious human rights abuses.
- Strengthen the Manipur Human Rights Commission by promptly providing all information required to investigate allegations of abuse by the security forces

and militants, ensure that all government officials respond to queries from the commission, and take appropriate action based on the commission's recommendations.

- Strictly implement the D.K. Basu guidelines issued by the Supreme Court of India to strengthen and enforce laws and policies that protect detainees from torture and other mistreatment, including strict implementation of requirements such as providing an arrest memo and that all detainees be brought before a magistrate or other judicial authority empowered to review the legality of an arrest within 24 hours.
- Immediately take action to determine the fate of those who "disappeared," including those arbitrarily detained in police stations, all persons detained in army camps or unofficial detention facilities, and those killed, and provide this information to family members.

### **To Armed Groups**

- Take all necessary steps to ensure compliance with international humanitarian law, specifically common article 3 to the 1949 Geneva Conventions and customary international humanitarian law.
- End human rights abuses and laws of war violations against civilians, including killings, the use of threats, extortion, the indiscriminate use of landmines, and reprisals against individuals suspected to be informers or supporters of another group.
- End killings of members of immigrant communities, including those in Manipur seeking livelihood opportunities.
- Publicly denounce abuses committed by any militant group and ensure that there is appropriate accountability for such abuses.
- Cease using landmines, bombs, and other forms of attack in a manner that does not discriminate between military objectives and civilians.
- Permit civil society organizations to undertake the full range of protection activities including investigations of abuses committed by militants.
- Immediately stop the abduction and recruitment of children, forced or otherwise, into militant forces.

## To Concerned Foreign Governments

- Encourage India to repeal the Armed Forces (Special Powers) Act, 1958.
- Urge the government of India and all militant groups to place human rights protection mechanisms at the center of any attempt to resolve the conflict. Press these parties to ensure responsibility for abuses, thereby bringing impunity to an end, without which no sustainable settlement will be possible. All parties should accept responsibility for the excesses committed by each of them, and ensure that an end to impunity and accountability for abuses is the touchstone for a sustainable end to the conflict.
- Publicly and privately condemn violations of international human rights and humanitarian law by the Indian security forces.

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## Appendix: Habeas Corpus Petitions in the Gauhati High Court on Enforced Disappearances in Manipur as of August 2008

Sl. no.	Last Seen	Name of the Person	Alleged Perpetrator	Present Status
1	September 23, 1980	Mr. Th. Lokendro	15 <sup>th</sup> Jammu and Kashmir Rifles, Indian Army	Still Missing
2	September 23, 1980	Mr. Kangujam Loken	15 <sup>th</sup> Jammu and Kashmir Rifles, Indian Army	Still Missing
3	December 2, 1980	Mr. M. Tomba	JK Light Infantry, Indian Army, stationed at Wapokpi	Still Missing
4	January 15, 1981	Mr. Chandam Chaoba	Central Reserve Police Force stationed at Mantripukhri	Still Missing
5	March 1982	Mr. C. Daniel	21 <sup>st</sup> Sikh Regiment Light Infantry, Indian Army, stationed at Ukhrul	Still Missing
6	March 1982	Mr. C. Paul	Sikh Regiment, Indian Army, stationed at Ukhrul	Still Missing
7	October 1984	Mr. Kh. Budha	Indian Army stationed at Leimakhong	Still Missing
8	July 9, 1987	Mr. R. S. Issac	Assam Rifles, Indian Army, stationed at Ukhrul	Still Missing
9	July 25, 1994	Mr. M. Kaizalal Paite	20 <sup>th</sup> Battalion, Assam Rifles, stationed at Somsai, Ukhrul	Still Missing
10	April 29, 1995	Mr. Kingsutlin Kom	Central Reserve Police Force stationed at Imphal	Still Missing
11	June 4, 1995	Mr. Ng. Angpok	6 <sup>th</sup> Madras Regiment stationed at Chandel District Headquarters, Manipur	Still Missing
12	August 11, 1995	Mr. N.S. John	Rifleman No. 3101307 of 31 <sup>st</sup> Assam Rifles, Charduar Head Quarters, Sonitpur (Assam)	Still Missing
13	June 4/5, 1996	Mr. L. Bijoykumar	Unknown Hindi-speaking armed personnel in military uniform	Still Missing
14	June 6, 1996	Mr. T. Mahaimi	Combined Forces of 3 <sup>rd</sup> Corps of Indian Armed Forces	Still Missing
15	February 12, 1998	Mr. Y. Sanamacha	17 <sup>th</sup> Rajputana Rifles, Indian Army, stationed at Yairipok	Still Missing
16	September 24/25, 1998	Mr. Kh. Yaima	317 <sup>th</sup> Field Regiment, Indian Army, stationed at Jiribam, Imphal East	Still Missing
17	July 25, 1999	Mr. Tayab Ali	17 <sup>th</sup> Assam Rifles, Indian Army, stationed at Kangla	Still Missing

Source: Human Rights Alert, Imphal