

# INDIA

## Official sanction for killings in Manipur

### Introduction

For nearly four decades, the Armed Forces (Special Powers) Act, 1958 has been in force in Manipur, one of the seven states of the north-east region of India.[1] By conferring broadly defined powers to shoot to kill on the armed forces, this law has fostered a climate in which the agents of law enforcement use excessive force with impunity. A pattern of apparently unlawful killings of suspected members of armed opposition groups has resulted from the systemic use of lethal force as an alternative to arrest by the security forces. Civilians, including women and juveniles, have been among the victims of killing or wounding by security forces.

As well as providing powers to shoot to kill, the Armed Forces (Special Powers) Act provides virtual immunity from prosecution to those forces acting under it. Despite consistent allegations of widespread human rights violations in areas of the northeast of India where the Act is in operation, to Amnesty International's knowledge, no member of the security forces has been prosecuted for a human rights violation.

Bordering the Indian states of Nagaland, Assam and Mizoram, towards the north and west, Manipur has an extensive border with Myanmar to the east and south. Within this region insecurity prevails, owing to the internal armed conflicts which have been raging for decades in many areas.

Armed opposition has been particularly active in Manipur since the 1950s. What began as a movement for self-determination for the Naga people is today far more complex. Various other tribal and non-tribal communities have become engaged in the conflicts and a faction-ridden armed opposition has emerged, organised on the basis of community affiliations and conflicting demands for greater autonomy and self-determination. The troubled political history of Manipur has been perpetuated by a multitude of factors including anger at economic under-development, drug-smuggling and corruption.

Abuses of human rights by government forces and by armed opposition groups are a feature of daily life. Intra-factional fighting among the opposition groups is common and political killings are a regular event. Amnesty International condemns abuses by armed opposition groups and calls on all such groups to adhere to the minimum standards of international humanitarian law, by calling a halt to the deliberate and arbitrary killing of civilians, torture, ill-treatment and hostage-taking.

While recognising the security problems which armed opposition poses in Manipur, and the right

and obligation of all governments to defend themselves and their citizens against violent attacks, in fulfilling this obligation, fundamental human rights cannot be compromised.

The cases documented illustrate a pattern of human rights violations carried out by police and security forces in the state of Manipur without censure by the authorities in 1995 and 1996. The pattern of killings in the context of the continued application of the Armed Forces (Special Powers) Act leads Amnesty International to conclude that there is an official policy of sanction for extrajudicial executions in the region.

### **Shortcomings of the legal process**

Human rights and women's organisations in the region have become increasingly vocal in their opposition to the violence in Manipur and other states of the northeast region, and to the Armed Forces (Special Powers) Act. An India-wide campaign has been initiated in opposition to this Act, and has mobilised support throughout the country for its repeal [2]. Appeals challenging the constitutionality of the Act have been pending in the Supreme Court of India since 1982. Within Manipur, people from differing communities and organizations, who share a concern for the disregard of human rights have formed Joint Action Committees in response to reports of killings of civilians by the security forces.

These protests have been fuelled by frustration at the lack of redress mechanisms for victims of human rights violations. Human rights activists have reported that people are reluctant to file complaints against the security forces with the police, as investigations launched in the past have not succeeded in bringing those responsible to justice.

In several cases complaints -- known as First Information Reports (FIRs) -- have been filed with police and forwarded to judicial magistrates for investigation to determine whether a trial can commence. Advocates representing the security forces concerned have then filed review petitions challenging the right of magistrates to investigate offences alleged to have been perpetrated by members of the security forces, on the grounds that they do not have the jurisdiction to hear such cases. This has had the effect of stalling the legal process. The review petitions invoke section 197 of the Code of Criminal Procedure (CrPC), under which no court can take cognizance of an offence alleged to have been committed by a public servant or member of the Armed Forces while acting or purporting to act in the discharge of his official duty except with the previous sanction of the central or state government.

The requirement of the consent of the central or state government for the prosecution of officials under section 197 of the CrPC and of the central government under section 7 of the Armed Forces (Special Powers) Act, prevents full redress for violations, and reinforces the climate of impunity for the security forces. The National Human Rights Commission has acknowledged this in its support for the recommendation of the Law Commission in 1985, that section 197 CrPC be amended to obviate the necessity for sanction. [3] Amnesty International considers that such an amendment is necessary in order for there to be full redress, which would consist of the thorough, independent and impartial investigation of such violations, prosecution of the alleged perpetrators and reparation for the victims.

Remedies have also been pursued in the Supreme Court in the form of writ petitions seeking the observance of constitutional rights. Petitions challenging the constitutionality of the Armed Forces (Special Powers) Act have been pending in the Supreme Court since 1982. In a significant development, the Supreme Court of India, on 6 February 1997, ordered the Government of Manipur to pay Rs 1 lakh (Rs 100,000 -- approximately \$US 3,000) in compensation to the relatives of two men whom it found had been killed in a "fake" encounter with Manipur police in April 1991. Both men were suspected to have been members of an armed opposition group, the Hmar People's Convention (HPC).

The Supreme Court had ordered a district and sessions judge in Manipur to investigate the allegations and it confirmed the "administrative liquidation" of the two men. However, the judgement of 6 February 1997 referred only to monetary compensation. The court did not exercise its authority to refer the matter to the trial courts in Manipur for their criminal prosecution; the alleged perpetrators of the killings are reportedly still on active duty with the Manipur police. The Supreme Court order was a result of several years of legal action by the Peoples Union for Civil Liberties, which had filed a public interest petition in the Supreme Court in 1992 as an alternative to pursuing criminal proceedings in the Manipur courts [4], because the families of the victims were reluctant to bring legal action in the local courts for fear of reprisals. Should the families of the victims now wish to pursue the matter further, fresh legal proceedings will have to be instituted and sanction for prosecution obtained.

This case is not the first in which the Supreme Court has expressed its concern at the action of the security forces in Manipur. In a judgement in 1984, in a *habeas corpus* petition -- *Sebastian M Hongray v Union of India* [5] -- filed after the "disappearance" of two men, the Court chastised the respondents to the petition for having misled the court and distorted the facts of the case, and considered this to be contempt of court. Awarding compensation to the wives of the two men who had been illegally detained, the Court also directed that the papers relating to the case be forwarded to the Superintendent of Police, Ukhrul, Manipur, with orders that the information be treated as a cognizable offence, and that an investigation be commenced under the CrPC, 1973. To Amnesty International's knowledge, the inquiry subsequently initiated in Manipur has yet to present its findings, and the alleged perpetrators have yet to be brought to justice. The fate of the two men remains unknown.

At a political level, the Government of Manipur has responded to the public protests of Joint Action Committees by appointing several Commissions of Inquiry under the Commissions of Inquiry Act, 1951, headed by sitting and retired judges. These Commissions have been mandated to enquire into specific incidents in which civilians have been killed during operations by members of the security forces. While a Commission of Inquiry does ensure a public hearing of the circumstances of a specific case, their findings and recommendations are not legally binding and, to Amnesty International's knowledge, have not as yet resulted in security forces being prosecuted for violations.

On 7 February 1997 Mr Rishang Keishing, Chief Minister of Manipur since February 1995, was reported to have said; "So far the findings of all the judicial inquiries have justified incidents of

police firing during my tenure" [6]. However, the evidence as detailed in the cases below presents a different picture -- Commissions of Inquiry appointed by the government have found security forces responsible for violations and have suggested remedies.

Limited access to information on unlawful killings and other human rights violations exacerbates the climate of impunity which prevails in Manipur, where human rights violations in reprisal for attacks on the security forces continue. Amnesty International has not been granted regular or routine access to India, and access to Manipur is restricted even for Indian citizens through the Restrictive Areas Permit Act. In the context of restricted access to information, the incidents documented in this report are those in which Amnesty International has been able to obtain strong documentary evidence of unlawful killings.

However, the number of incidents cannot be quantified. In one report, the Committee on Human Rights, a human rights organization based in Manipur, has documented 55 selected incidents between 1980 and 1996 in which civilians have been killed by the security forces in a deliberate and arbitrary manner -- none of these cases have been resolved, and none of the perpetrators have been brought to justice [7]. Almost a decade has lapsed since at least eleven men from Oinam village, Senapati district were deliberately killed by the Assam Rifles during "Operation Bluebird" which had been launched in reprisal for the killing of nine soldiers and looting of an army camp in 1987. Many others were subjected to torture, including rape and at least four children died in detention during the army operation which lasted for over two months.

Petitions filed by the Naga People's Movement for Human Rights and the Manipur Baptist Convention Women's Union seeking redress for the victims of the violations in Oinam are still pending -- having been adjourned repeatedly on the request of lawyers for the Assam Rifles. [8] In 1996 alone, the final hearing of the petition was adjourned fourteen times. In the interim, the security officials stationed in Manipur continue to use excessive force in their counter-insurgency operations.

The effect of this impunity cannot be underestimated. Justice C Upendra, the Commissioner appointed by the Manipur Government to enquire into the killing of a young woman, Amina Devi, in April 1996 (described below), articulated this in his report:

*If the person(s) responsible for indiscriminate firing resulting to the loss of the life of innocent people on mere pretext of self-defence or for apprehending a person or persons suspected to be extremists are left scot-free, it would amount to anarchy*

The perpetrators of the deliberate and arbitrary killings documented in this report come from different arms of the security forces. A series of enquiries by sitting and retired judges have indicted the central paramilitary forces, including the Assam Rifles and the Central Reserve Police Force (CRPF), battalions of the armed forces, and the Manipur police, as also its special units the Rapid Action Police Force and the Indian Reserve Battalion.

The strong evidence of a pattern of unlawful killings by the security forces in Manipur -- some deliberate and targeted killings, others resulting from the unjustified use of lethal force in the course of arrest or apprehension -- underlines the urgent need for a review of the Armed Forces (Special Powers) Act. In addition, a clear message needs to be sent to all the forces stationed in

Manipur -- that the excessive use of force will no longer be tolerated by Indian authorities.

The cases documented below demonstrate an apparent disregard for the state's human rights obligations as set out in international human rights law.

### **The killing of two forest officers**

On the evening of 26 December 1996, two forest officers -- Mayanglambam Ibotombi (47) and Thondam Muhindro (45) -- were shot dead at Keirak in Thoubal district, by members of a combined team of state police and Indian Reserve Battalion [9] (IRB) forces while returning home from work. The team reportedly mistook them for members of an armed opposition group when they saw them on a scooter and opened fire. In response to protests and the formation of a Joint Action Committee by several local organizations, the Manipur government ordered a judicial inquiry into the incident and suspended two police constables and two riflemen of the IRB. The judicial inquiry is reportedly due to begin proceedings in April and in the meantime, the son of Thondam Muhindro was reportedly given a job in the State Forest Department by the government. No charges have so far been brought against those responsible.

The reaction of the police personnel to the apparent presence of armed opposition group members in this recent incident demonstrates that excessive force is used by the security forces in dealing with insurgency.

### **The killing of Ms Kehtrumayum Ongbi Prabhahmi Devi (45)**

In the middle of the night of 3 May 1996, personnel of the 30th battalion of the Assam Rifles raided a complex of houses in Kwakeithel Haorokchambi Soibam Leikai, Imphal. They had received information that several members of an armed opposition group were taking shelter there. They allege that while cordoning off the complex, they were fired at from within the complex.

The complex consisted of several houses inhabited by a large family of three brothers, a sister and their respective families with a common courtyard.

Members of the family awoke at 11.30 pm to the sound of a voice speaking in Hindi outside the compound saying "Should I shoot?" and an answer "shoot". This was followed by heavy firing. Assam Rifles personnel entered several of the houses in the complex and allegedly began interrogating and beating Jotin Gagan (25), and his cousin John Singh (19) both of whom were suspected to be members of an armed opposition group.

One of the houses was occupied by Kshetrimayum Sideswar Singh (49), his wife Nongthombam Ningol Kshetrimayum Ongbi Prabhahini Devi (42), his son Bungbung (12) and daughter Kumari Kshetrimayum Priyalakshmi Devi (8) who were sleeping on the first floor of the house. When they heard the firing they got down on the floor. While lying on the floor, Prabhahini Devi received a bullet wound in the head and died instantly. Her 8-year-old daughter was shot in the left shoulder.

Members of the Assam Rifles then entered the room and took the family outside to the courtyard where the rest of the family members had been rounded up. Priyalakshmi Devi and her father were taken to the hospital where pellets were removed from her shoulder. She remained in hospital for 12 days while undergoing treatment.

At about 3.30am, all the remaining members of the family, including the women, were taken to Imphal police station. Jotin Gagan and his cousin, John Singh, were taken away for interrogation by members of the Assam Rifles to Kangla, Imphal, while the rest of the family remained in the police lock-up until midday on 4 May when they were released. On the same evening, Jotin Gagan and John Singh were admitted to the RMC hospital to be treated for the injuries they had sustained -- they were discharged three days later.

Despite notification of the setting up of a Commission of Inquiry into the incident on 5 May 1996, members of the battalion did not comply with orders of the Commission to appear before it and repeatedly sought adjournments. As a result, the lawyer acting for the personnel of the Assam Rifles stood down, reportedly stating that he had no orders from his clients as to how he should proceed. In October 1996 an Adjutant of the 30th Assam Rifles refused to accept a summons to appear before the Commission on 29 October on the grounds that none of the concerned personnel were available in the unit. Subsequently, the Commission issued further warrants saying "The Commission has reasons to believe that the aforesaid personnel have been avoiding to receive the summonses".

In the absence of cooperation from the Assam Rifles, the Commission of Inquiry submitted its report to the government in November 1996. It is not known what action has been taken by the authorities subsequently.

### **The killing of Ms Oinam Ongbi Amina Devi (25) and injury to her baby Abem (1)**

On the morning of 5 April 1996, three vehicles carrying around 13 members of the CRPF entered the village of Naorem Mayai Leikai in Bishnupur district of Manipur. The CRPF personnel caught sight of a man riding a bicycle. Believing him to be a member of an armed opposition group, they shouted to him to stop. As the man got off his bicycle and ran away, the CRPF personnel began to chase him, shooting at him. The cyclist ran towards the house of Naorem Modon whose daughter, Oinam Ongbi Amina Devi, was weaving with her younger sister and four children. CRPF personnel surrounded the house and continued firing.

On hearing shots, Amina Devi put her one-and-a-half-year-old baby on her back and went to the door of the house to try and lock it. As she was doing this, a bullet passed through the house and hit Amina, killing her instantly. A further bullet passed through Amina's body and lodged in the body of her baby, Abem.

In response to protests, the Government of Manipur appointed a Commission of Inquiry to look into the causes and circumstances surrounding the death of Amina Devi. In July 1996 the Commission of Inquiry found that the CRPF personnel had opened fired indiscriminately at her house resulting in her death.

The CRPF personnel whose shots killed Amina Devi, claimed that they were being fired at from inside Amina Devi's house by the suspected member of an armed opposition group. Although a suspect was arrested from inside the house, the evidence presented before the Commission of Inquiry led it to reach a different conclusion. It found:

*The evidence on record clearly shows that no firing was made from inside the house and therefore the story of self defence asserted by the CRPF was not sustainable... The firing was unprovoked and unwarranted and could be avoided easily, if they exercised a little thought on their heads*[10]

The Commission went on to conclude that CRPF personnel had failed to give a warning before firing at the house.

In his enquiry report, the Commissioner also criticised the police investigation which was carried out immediately following the incident and pointed to serious omissions in the collection of evidence by the investigating officers -- they did not confiscate weapons carried by the CRPF personnel involved, nor did they keep the bullets found at the scene and those taken from the baby's body.

The Commission recommended that security forces should maintain close contact with the civil police and that police officials should be present at the time of such operations. It further held that security forces should resort to firing only if absolutely necessary, that it should not be aimed at "taking the life of the assailants" but only to apprehend the latter after causing the minimum injury and for avoiding immediate danger" and that special care should be taken in inhabited areas to protect the life and property of innocent civilians.

The Commission also recommended prosecution of the CRPF personnel under sections 307 (*Attempt to murder*), 302 (*Punishment for murder*) and 326 (*Voluntarily causing grievous hurt by dangerous weapons or means*) of the Indian Penal Code, and increased the amount of compensation awarded by the government, which it considered insufficient. Criminal cases were subsequently registered against eleven members of the CRPF but to Amnesty International's knowledge, no arrests have yet been made.

### **The killing of Netaji (15)**

On the morning 28 February 1996, two units of the Rapid Action Police Force (RAPF) [11] entered the village of Kakwa Nameirakpam Keikai, Singjamei district, in two jeeps. During the events that followed, two suspected members of an armed opposition group called PREPAK (People's Revolutionary Army of Kangleipak) were shot dead by members of the RAPF and a 15-year-old student, Netaji, was also killed as a result of the firing.

While passing through the busy streets of the village where people were walking or driving to work, RAPF personnel spotted two youths on a moped and suspecting them to be members of an armed opposition group signalled to the youths to stop. When the driver of the moped accelerated away, the RAPF jeeps began chasing the moped.

Members of the RAPF subsequently testified that the pillion rider of the moped turned and fired one round with his left hand from a small arm towards the RAPF vehicle, shattering the windscreen of the vehicle and forcing it to stop. The second vehicle carried on chasing the moped while the pillion rider again fired shots at the vehicle, leading to the shattering of the windscreen of the second vehicle. After crashing into a wall, the two youths fell from the moped and attempted to run away. RAPF personnel left their vehicles and fired on the two youths, killing both of them.

It was at this point that the dead body of Netaji was discovered. He had been standing on the verandah of a wooden carpentry workshop waiting for a bus to take him to school. He received a bullet injury on the right side of his fore-head and died instantly.

Following a public outcry at the killing of the young boy, the Government of Manipur instituted a Commission of Inquiry on 16 March 1996.

Justice Ibotombi Singh, a retired judge of the Guwahati High Court who was appointed as Commissioner, found much of the RAPF evidence unreliable and stated:  
*The evidence of the six witnesses indicates the causes and circumstances leading to the firing incident. As he suspected the two youths to be members of the unlawful organization, ASI Krishnatombi and his driver gave signals to them to stop driving so as to enable them to make a body search. But, the pillion rider, instead of stopping their two-wheeler, had fired one round towards their vehicle thereby breaking the entire windscreen glass. When the vehicle of X-Ray 16 had stopped, ASI Rajen and his party overtook it and chased the two youths and while chasing them ASI Rajen and Constable Jiten Singh resorted to firing all along from the weapons held by them. When the two youths fell down on the ground after their two wheels had dashed against the wall of the culvert, ASI Rajen Singh and other members of X-Ray 17 fired upon them resulting in their death. And there was no exchange of firing between the militants on the one hand and the police personnel on the other side.*

The Commission of Inquiry was not mandated to investigate the circumstances surrounding the killing of the two suspected members of an armed opposition group by RAPF personnel. It was restricted to looking at the firing on innocent civilians. However, in his report, Justice Singh noted that despite testimony by RAPF personnel claiming that they had recovered a revolver near the body of the driver of the moped and that a constable had picked it up with a plastic sheet so as to keep the fingerprints intact, this testimony was contradicted by compelling evidence from a ballistics expert and the fact that no attempt had subsequently been made to match fingerprints on the revolver with those of the dead men. Therefore, it appears that the two men may have been deliberately and arbitrarily killed by the security forces.

Although the findings of the Commission were not conclusive, it was held to be "unfortunate" that a stray bullet had killed the 14-year-old. Justice Singh pointed to the need for a "*thorough investigation by a competent police officer after registration of a case for the death of Netaji*". To Amnesty International's knowledge, no such case has been registered or investigation initiated.

**Shooting at the Regional Medical College (RMC) Hospital, Imphal, Manipur[12]**



On the morning of 7 January 1995, several CRPF personnel were fired at by suspected members of an armed opposition group in a toilet complex attached to the RMC Hospital, Imphal. Together with other CRPF personnel who arrived on the scene, twelve CRPF officials returned fire. A total of nine civilians were killed. They were:

<b>Name</b>	<b>Profession</b>
<b>Momi Riba (m)</b>	A medical student at the RMC
<b>Laimayum Pradeep Sharma (m)</b>	An employee of toilet complex
<b>Wangkhem Upendra Singh (m)</b>	Unknown
<b>Saikhom Premchand Singh (m)</b>	An auto-rickshaw driver
<b>Hijam Khogen (m)</b>	An auto-rickshaw driver
<b>R.K. Khogen Singh (m)</b>	An auto-rickshaw driver
<b>Angom Debendra Singh (m)</b>	An auto-rickshaw driver
<b>Koijam Rajendra Singh (m)</b>	An auto-rickshaw driver
<b>Mohammad Jakir (m)</b>	A rickshaw puller

The CRPF claimed that the civilians had been killed during an exchange of fire with members of an armed opposition group. However this version was disputed by local people who claimed that the nine men died as a result of indiscriminate and deliberate firing by CRPF Personnel.

A Commission of Inquiry was constituted by the Government of Manipur on 13 January 1995 to inquire into the causes and circumstances leading to the firing incident; who fired upon the innocent civilians; whether there was a possibility of avoiding or restraining from firing upon the innocent civilians and who were the persons responsible for the incident. It was also asked to recommend corrective measures and remedies to prevent recurrence of such an incident in future.

According to evidence presented before the Commission of Inquiry, there were three periods of shooting in which civilians were killed.

The first followed an incident in the toilet complex in which members of an armed opposition group shot at CRPF officers and then fled the scene. One of the officers was hit and CRPF personnel subsequently ran from the toilet complex shouting "*hamara admi mara hai, sab Manipuriko maro*" (our man has been killed - kill all Manipuris). As they came out of the toilet complex three men were making their way towards the gate of the hospital. Two of the men -- Momi Riba and Pradeep Sharma -- were Manipuris. The other was non-Manipuri. They were all unarmed. According to several witnesses examined by the Commission, the CRPF personnel allowed the non-Manipuri to pass. Although the other two men shouted that they were civilians and raised their hands, the CRPF personnel opened fire and shot and killed the two men.

The second shooting took place as CRPF personnel walked out of the gate of the hospital to where several rickshaw pullers were standing. According to a witness who testified before the Commission:

*"... the said 5 CRPF personnel came out from the gate and went towards the main road shouting to the rickshaw pullers. One of the rickshaw pullers was non-Manipuri and other one was a Manipuri Muslim. The CRPF personnel then talked with the non-Manipuri rickshaw puller in Hindi language, but the Manipuri Muslim did not speak anything. At that time, the two rickshaw pullers had raised their hands. I saw the shawl of the non-Manipuri falling down on the ground, while raising his hands. However, the CRPF personnel picked the shawl and handed it over to him. Thereafter, one of the CRPF personnel pushed the non-Manipuri behind him. Soon after, one of the CRPF personnel shot at the chest of the Muslim rickshaw puller. On getting the bullet injury the Muslim rickshaw puller shouted "Allah Hu Allah" (calling on the name of God) and he fell down on the ground. At that time, one of the CRPF personnel again approached him shouting "Kya Allah" and shot him again".*

Further shooting ensued. After they heard shots being fired, CRPF personnel on duty inside the hospital ran out through the Casualty Department with rifles in their hands. A witness saw a CRPF officer calling to several auto-rickshaw drivers to come with him. The officer reportedly took six of them -- Saikhom Premchand Singh, Angom Debendra Singh, R.K. Khogen Singh, Hijam Khogen Singh, Toijam Rajendro Singh and Wangkhem Upen Singh -- towards a nearby cycle shed and shot them at close range.

Attempts by the CRPF to claim that they were firing in self-defence after being fired at from outside the hospital compound were refuted by the Commission of Inquiry which found that it would have been impossible for members of an armed opposition group to have fired from outside the compound. It found that:

*"... there can be no other explanation for the death of nine civilians and injury to another, except that they were fired upon by the CRPF after the militants had already retreated and when there was no further need for resorting to any firing by the CRPF."*

In recommending that the incident be further investigated by the Central Bureau of Investigation (CBI - a non-state investigative body), the Commission referred to the requirement of sanction for the prosecution of officials under various legal provisions (referred to above). It dismissed possible contentions that these provisions be invoked in this case and commented that "Needless, excessive or indiscriminate firing can never be deemed to be acts done in course of official duty or under the authority of law".

The CBI reportedly investigated the incident and in November 1996 registered cases against members of the CRPF. It's findings were submitted to the Chief Judicial Magistrate, Imphal, on 22 November 1996 but no action is known to have been taken against members of the CRPF since that date.

In addition, to recommending the prosecution of CRPF personnel, the Commission of Inquiry recommended corrective measures to be taken by the CRPF to avoid such incidents occurring in the future. They included the instruction of CRPF personnel in the use of minimum force and a warning to personnel that "the retaliatory or retributive use of force or firing is illegal" and could amount to an offence of murder or culpable homicide. As with subsequent Commissions of Inquiry, it recommended that CRPF personnel should be placed under the command of the civil police. Despite the fact that the government formally accepted these corrective recommendations, Amnesty International is concerned that subsequent incidents of unlawful

killings by security personnel as described above, demonstrate that these recommendations have not been implemented in Manipur.

### **International standards relating to law enforcement**

Section 4(a) of the Armed Forces (Special Powers) Act confers a power on the security forces to "shoot to kill", providing official sanction for violation of the right to life, as protected by Article 21 of the Constitution of India and Article 6 of the International Covenant on Civil and Political Rights (ICCPR). In response to the concern expressed by many within India, the National Human Rights Commission has announced that it is studying provisions of the Act and will make recommendations to the Government.

When hearing India's second report on its adherence to the ICCPR, the United Nations Human Rights Committee held that the Armed Forces (Special Powers) Act (and other special legislation in force in India) effectively derogated from the right to life and other rights in the covenant. A member of the committee said:

*"These laws greatly concern me because when we give a person powers and for very subjective reasons powers to be able to deny the lives of citizens that is far too much power. I think it is excessive, particularly when that person is immune and can act with impunity because he or she will not be punished. I am convinced that these laws are contrary to Article 6 of the Covenant"*  
[12]

Despite the existence of remedies in the Constitution of India and the general criminal law, the requirement of obtaining sanction from the central government, under section 7 of the Armed Forces (Special Powers) Act has provided virtual impunity from prosecution of the armed forces deployed as a result of its application. This impunity has been reinforced by the effect of the need for sanction from the state or central authorities for prosecution of any official or member of the armed forces, under section 197 of the CrPC. These provisions have the effect of denying the right of an effective remedy to victims of violations as set out in Article 2(3)(a) of the ICCPR.

In seeking to ensure that human rights are protected at all times, in 1978, the United Nations General Assembly adopted the Code of Conduct for Law Enforcement Officials. Article 3 of the Code specifies that force should be used only when necessary, that the use of force should be exceptional and that force should be used only as is reasonably necessary under the circumstances. The Code of Conduct specifies that force should be used for only two purposes: the prevention of crime and effecting or assisting in the lawful arrest of offenders or suspected offenders.

The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted in 1990, restrict the situations in which firearms should be used, and specify the intentional lethal use of firearms only when strictly unavoidable in order to protect life.

In 1989 the United Nations also adopted Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary executions which establish the prohibition of such killings and specify detailed measures for their prevention.

## **AMNESTY INTERNATIONAL'S RECOMMENDATIONS:**

### **To the Government**

**Amnesty International urges the Government of India to ensure that it fulfils its obligations under international law to respect and uphold the human rights of all people, at all times. In this connection it is calling for the implementation of the following recommendations:**

#### **Safeguards**

Amnesty International urges the Government of India and the Government of Manipur:

- to publicly demonstrate its opposition to extra-judicial executions and deliberate and arbitrary killings by giving a clear message to members of the security forces that such violations will not be tolerated;
- to ensure that the security forces only use force when necessary and only to the minimum extent required under the circumstances; to ensure that lethal force is not used except when strictly unavoidable in order to protect life;
- to ensure that senior officers of the forces of law enforcement maintain strict control to ensure that officers under their command do not commit extrajudicial executions, or other human rights violations;
- to ensure that the training of members of the security forces fully reflects their obligations to protect human rights;
- to remove the requirement of sanction for the prosecution of police or armed forces personnel under section 197 of the Code of Criminal Procedure; to remove other provisions requiring sanction for prosecution of officials, for example under section 45 of the CrPC.

Amnesty International urges the Government of India:

- to review the Armed Forces (Special Powers) Act to ensure there are strict legal limitations on the use of force and firearms by law enforcement officials;
- to remove the requirement of sanction for the prosecution of police or armed forces personnel under section 7 of the Armed Forces (Special Powers) Act.

#### **Redress**

The victims of extrajudicial executions or their families should be entitled to obtain prompt, fair and adequate redress from the state. In this connection, Amnesty International is calling on the Government of India and the Government of Manipur:

- to ensure the independent and impartial investigation of all allegations of human rights violations in Manipur; to make public in full the methods and findings of such investigations; to suspend officials suspected of such violations from active duty during investigation; to protect complainants, witnesses, lawyers and others involved in the investigations from intimidation and

reprisals; to ensure that the security forces cooperate fully with investigations and judicial proceedings;

- to take action to bring to justice anyone against whom there is reasonable evidence of involvement in human rights violations including extrajudicial executions;
- to provide full compensation to the families of the victims.

## To Armed Opposition Groups:

**Amnesty International urges all armed opposition groups to abide by the minimum humane standards of international humanitarian law. In this connection it is calling on all armed opposition groups to refrain from the deliberate and arbitrary killing of civilians, torture, ill-treatment and hostage taking.**

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(1) A government notification of 8 September 1980 declared the entire state to be "disturbed" under section 3 of the Act. Prior to this the Act, the full title of which is the Armed Forces (Assam and Manipur) Special Powers Act, 1958, had been applicable in parts of the state.

(2) Known as "National Campaign Committee Against Militarization and Repeal of Armed Forces (Special Powers) Act"

(3) National Human Rights Commission: Annual Report, 1995-6 at 95

(4) The "Inquiry and Report on the Disputed Question of Encounter in Nungthulien Village in Churachandpur District, Manipur resulting in the death of (i) Lalbeiklien s/o Thatngur of Nungthulian village and (ii) Saikaplien s/o Tenga of Tingvum village of Mizoram on 3/4/1991" was ordered by the Supreme Court in *People's Union for Civil Liberties vs Union of India and Another* (Writ Petition (Criminal) No 612 of 1992 ), and was submitted to the Supreme Court on 8 April 1996

(5) Order of 23 April 1994 by Justice D A Desai and Justice O Chinappa Reddy, reported AIR 1984 SC 1026.

(6) *Telegraph*, 8 February 1997.

(7) *Right to Life in Manipur. A Report*, Committee on Human Rights (COHR), Manipur, 13 February 1997

(8) *Naga People's Movement for Human Rights v Union of India and others*, Civil Rule No 1043 of 1987 and *Manipur Baptist Convention and another v Union of India and others*, Civil Rule No 1355 of 1987. The Guwahati High Court disposed of the first petition to be filed on the events at Oinam, *Civil Liberties and Human Rights Organisation v State*, Civil Rule No 2 of 1987, in an order in 1987.

(9) The IRB is was set up under the command of the Manipur police to undertake counter-insurgency operations.

(10) Naorem Village Inquiry Commission, headed by Shri C. Upendra Singh, retired District & Sessions Judge, Manipur, to enquire into the firing incident resulting the death of Amina Devi on April 5, 1996 at Naorem Village, established under sub-section (i) of Section 3 of the Commission of Inquiry Act, 1952 (60 of 1952) by an order issued by the Chief Secretary, being No.7/1(7)/96-H dated 6 April 1996.

(11) Under the Manipur police there is a special unit called the Rapid Action Police Force (RAPF). Established in mid-1995 to deal with insurgency.

(12) Now the Regional Institute of Medical Sciences (RIMS).

(13) Jose Aguilar Urbina, member of the 41st Session of the Human Rights Committee, New York 26/27 March 1991 quoted in "*India: Examination of the second period report by the human rights committee*", March 1993, AI Index: ASA 20/05/93.

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