

**JOINT
STAKEHOLDERS'
REPORT**

**CIVIL SOCIETY
COALITION ON
HUMAN RIGHTS
IN MANIPUR
AND THE UN**

India

STATUS OF HUMAN RIGHTS IN MANIPUR

North-Eastern Region

Submitted to the
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CONTENTS

- A. Introduction**
- B. International human rights and humanitarian laws obligations**
- C. Human Rights Violations in Manipur**
- D. Economic, Social and Cultural Rights of Indigenous Peoples in Manipur**
- E. Specific Cases of Development Processes in Manipur and Indigenous Peoples**
- F. Recommendations**

A. Introduction

1. This stakeholders' report is the joint submission by the Civil Society Coalition on Human Rights in Manipur and UN, prepared through a collective consultative process, consisting of informal and formal meetings, conducted from September to November 2011. This coalition is the outcome of the collective engagement with the Special Rapporteur on Human Rights Defenders during her visit in January 2011.
2. The report highlights key features of the unacceptable human rights situation prevailing in the frontier State of Manipur in the so-called North-Eastern region of India. It provides vital supplemental information in the examination of India's human rights situation during the second cycle of the Universal Periodic Review conducted by the UN Human Rights Council.
3. The North East region is inhabited by over 220 distinct peoples or communities, classified as tribes, ethnics or backward classes, with as many languages. Over the last two decades, these communities asserted their identities as "indigenous peoples".
4. Manipur is one of the seven Himalayan provinces in the region, which includes Arunachal Pradesh, Nagaland, Meghalaya, Mizoram, Sikkim and Tripura. Manipur, inhabited by more than 30 indigenous communities, is rich in biological diversity and natural resources.

The constituent members of the Civil Society Coalition on Human Rights in Manipur and the UN endorsing this submission are:

Centre for Organisation Research & Education (CORE)

Civil Liberties and Human Rights Organisation (CLHRO)

Civil Liberties People Forum (CLPF)

Committee on Human Rights Manipur (COHR)

Citizens Concern for Dams and Development (CCDD)

Extra-judicial Executions Victims' Families Association Manipur (EEVFAM)

Families of the Involuntarily Disappeared's Association Manipur (FIDAM)

Human Rights Alert (HRA)

Human Rights Law Network Manipur (HRLN-M)

International Peace and Social Advancement (IPSA)

Just Peace Foundation (JPF)

Movement for Peoples' Rights to Information Manipur (M-PRIM)

Threatened Indigenous Peoples Society (TIPS)

United Peoples Front (UPR)

5. Manipur was a sovereign state¹ until its subjugation by British in 1891. With the lapse of British paramountcy she regained her sovereign status on 14 August 1947. A constitutional monarchy was established under the Manipur Constitution Act, 1947 after electing a Manipur State Assembly and a Council of Ministers, through adult franchise. But the nascent democracy was summarily dissolved with the annexation of Manipur into the Dominion of India in 1949. No referendum or plebiscite of the people of Manipur was solicited thereby denying the right to self-determination of the nation. The forcible annexation and subsequent military occupation was resisted democratically ever since and escalated into an open armed conflict by 1978.
6. The Government of India (GoI) continues to insist on a military response to the political struggle in Manipur, by enacting emergency legislations. Massive deployment of armed forces and military actions are undertaken under the Armed Forces (Special Powers) Act, 1958 (AFSPA). Security apparatuses and legislation, such as the (i) Unlawful Activities (Prevention) Act, 1967 (UAPA), (ii) Prevention of Seditious Meetings Act 1911, (iii) Official Secrets Act 1923, (iv) Maintenance of Public Order Act 1947, (v) Punjab Security of the State Act 1953, (vi) National Security Act, 1980 (NSA), (vii) Prevention of Terrorism Act, 2002 (POTA), (viii) Code of Criminal Procedures (Manipur Amendment) Act 1983, and (ix) National Investigation Agency Act 2008 (NIA) were introduced.

B. International human rights and humanitarian laws obligations

7. This submission emphasises that GoI has failed to widely and constructively involve civil society in all stages of follow up and implementation of the recommendations of the first UPR. The recommendations have neither been disseminated across the country nor has the civil society been engaged in its implementation.
8. India played a crucial role in adopting UN General Assembly resolution declaring the right of the peoples to self-determination in 1960 (Resolution 1514 [XV] adopted 14 December 1960). However, by putting reservations to common Article 1 of the two International Covenants, ICCPR and ICESCR, India deliberately denied the inalienable right to self-determination of the people of Manipur. India continues to declare the non-state organisations of Manipur demanding the right to self-determination as “terrorist” under the Unlawful Activities (Prevention) Act. The UN Human Rights Committee has pointed out that the problem is political and that the approach to resolving it must also, essentially, be political in nature. In doing so, the Committee also reminded GoI to bear in mind the right to self-determination, the right to freedom of expression and the right to participation in governance².
9. India also continues to disregard recommendations of other human rights treaties monitoring bodies. The UN Human Rights Committee specifically requested the Indian Supreme Court to examine the Covenant compatibility while examining the constitutional validity of the Armed Forces (Special Powers) Act 1958 (AFSPA). The request was completely ignored by the

¹ Reaffirmed, among others, by the Anglo-Manipuri Defence Treaty, 14 September, 1762 A.D and the Anglo-Burmese Yandaboo Treaty of 24 February 1826 A.D

² UN Human Rights Committee (HRC), ICCPR: Concluding Observations, India, 3rd Periodic Report, 1997, Paragraph 18 (CCPR/C/79/add.81of 4 August 1997).

judgement pronounced by the apex Court on 27 November 1997. As a matter of fact, India has ceased to report to the Human Rights Committee ever since. The report is overdue since 2001.

10. Further, the Committee on the Elimination of Racial Discrimination (CERD)³ has urged the government of India to repeal the discriminatory AFSPA in February 2007, and to report on the steps taken within a year. India has not responded to various reminders from the Committee. Similar recommendations on AFSPA have come from the Committee on Economic, Social and Cultural Rights (CESCR)⁴, Committee on Elimination of All Forms of Discrimination Against Women (CEDAW)⁵ and the Committee on the Rights of the Child (CRC)⁶. This issue of non-compliance was raised by the governments of the United Kingdom, Canada and Germany in the first UPR of India.
11. Pertaining to international humanitarian law, India has ratified the four Geneva Conventions of 1949 and enacted the Geneva Conventions Act, 1960. However, the Government is yet to ratify the Additional Protocols of 1977. In the North Eastern region especially in Manipur, India acknowledges the *de facto* existence of armed conflict by undertaking military operations and related activities under different operational code-names, such as, inter alia, operations “Blue Bird” (1988), “Sunny Vale” (1993), “Loktak” (2005), “Tornado” (2005), “Dragnet” (2006), “Somtal I” (2006) and “Somtal II” (2008), and “Summer Storm” (2009)⁷, while refuting a *de jure* armed conflict situation, thereby denying the civilian population and the combatants from the protection of international humanitarian law, and the services of the International Committee of the Red Cross (ICRC).
12. The situation of armed conflict reflected in the militarisation scenario vis-à-vis combatants is summarised below:

Table No.1

State Forces	Non-state organisations who ceased hostility with the State Forces	Non-State Organisations having active hostility with State Forces
Indian Army Units under 57 Mountain Division	Ethnic based armed organisations in cease-fire arrangement with government of India (2)	Organisations fighting for independence of Manipur declared as unlawful, terrorist organisations under UAPA (6)
Para-military Forces [Assam Rifles (IGAR South), Border Security	Ethnic based armed organisations in suspension of operations with government	

³ UN Committee on the Elimination of Racial Discrimination (CERD), UNCERD : Concluding Observations, India, 5 May 2007, CERD/C/IND/CO/19

⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), ICESCR: Concluding Observations, India, 8 August 2008, E/C.12/IND/CO/5, Para. 50

⁵ Concluding observations of the CEDAW: India, 01/02/2000, at para. 72 – “The Committee recommends a review of prevention of terrorism legislation and the Armed Forces Special Powers Act....”

⁶ UN Committee on the Rights of the Child (CRC): Concluding Observations, India,

⁷ Please see, for some references, http://www.satp.org/satporgtp/countries/india/states/manipur/data_sheets/majorincidents.htm

Force, Central Reserve Police Force]	of India (18)	
Indian Reserve Battalions (8)		
Manipur Rifles Battalions (6)		
Manipur Police Commandos (specially trained in counter-insurgency) in all the 9 districts of Manipur		
Manipur Police (Civil)		
Home Guards		
Village Defence Forces (officially armed vigilante groups)		

13. The key recommendations of the first Universal Periodic Review of India in April 2008 have not been implemented. India has not ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) as well as the International Convention for the Protection of All Persons from Enforced Disappearance (CED).
14. The standing invitation to UN Special Thematic Procedures extended by India in September 2011 is welcome. There is a very strong apprehension, however, that Thematic Procedures visiting India on mission would be denied entry into Manipur, such as the denial of the request of the Special Rapporteur on Human Rights Defenders in January 2011.

C. Human Rights Violations in Manipur

15. The promulgation of AFSPA for the last 53 years in Manipur, which grants the Indian armed forces special powers to kill on mere suspicion, search without warrant, destroy property institutionalises impunity, blatantly violating the non-derogable rights to life, right against torture, right against arbitrary detention and right to fair trial as provided by the ICCPR.
16. During the first UPR GoI submitted that the Supreme Court has upheld the constitutionality of AFSPA. However, India has failed to inform the international bodies the recommendations of the officially constituted Committee to Review AFSPA (2005), headed by Justice Jeevan Reddy, which stated that *“It is true that the Hon'ble Supreme Court has upheld its constitutional validity but that circumstance is not an endorsement of the desirability or advisability of the Act. When the constitutional validity of an enactment is challenged in a Court, the Court examines (i) whether the Act is within the legislative competence of the Legislature which enacted it and (ii) whether the enactment violates any of the provisions of the Constitution. The Court does not - it is not supposed to - pronounce upon the wisdom or the necessity of such an enactment. It must be remembered that even while upholding its constitutional validity, the Hon'ble Court has found it fit and necessary not merely to approve the "Dos and Don'ts" in the instructions issued by the Army Headquarters from time to time but has also added certain riders of its own viz., those*

contained in clauses 8, 9 and 14 to 21 in para 74 of its judgment (at pages 156 and 157 of the judgment in *NAGA PEOPLES' MOVEMENT OF HUMAN RIGHTS v UNION OF INDIA - (1998) 2 SCC 109*). The Committee is of the opinion that legislative shape must be given to many of these riders. We must also mention the impression gathered by it 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 highhandedness. **It is highly desirable and advisable to repeal this Act altogether...**"

17. The view of this Committee has been concurred by other official bodies of India, such as the Second Administrative Reform Commission, 2007 as well as the Prime Minister's Working Group on Confidence Building Measures in Jammu & Kashmir, 2007.
18. AFSPA in Manipur and India's NE region violates Article 4 (a) of ICCPR on declaration of "States of Emergency" since *de facto* emergency has been imposed without formal promulgation of any form of public emergency. Under Section 3 of AFSPA, the entire Manipur has been declared as a "disturbed area" since 1980. Section 6 of AFSPA specifies that, "*No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act*". This impunity provision is found to be incompatible with the obligations of the Government under Article 2 (3) of the ICCPR to ensure the provision of an effective remedy in cases involving violations of human rights.
19. *Extrajudicial Executions*: In the continuing pattern of extra-judicial executions since the last UPR review till December 2010, the government of India has extra-judicially executed more than 668 persons.

Table No. 2

Year	Killed in officially claimed "encounter"	Refutation by family members as killed after arrest/abduction	Family claims deceased to be not related to armed organisation
2010	73	11	1
2009	298	43	34
2008	297	50	51
2007	121	15	12

Based on documentation of **Human Rights Alert** (2011)

20. The law enforcing agencies in Manipur are also responsible for a wide range of human rights violations, often committed in close coordination with the Indian armed forces. The Manipur police commandos are also primarily responsible for a series of extra-judicial executions in the pretext of encounter killings in Manipur. The case of the extra-judicial execution of Chungkham Shanjit and Thockchom Rebina on 23 July 2009 by Manipur police commandoes, in the middle

of Imphal in full public view, remains an infamous case and stark evidence of how the law enforcing agencies perpetrate human rights violations with impunity in Manipur.

21. The National Human Rights Commission has written a letter (refer No. 22/14/2004-2005-DB-II/FC dated 28 January 2010) to the Chief Secretary of Manipur asking why the Government of Manipur has not submitted reports of 111 cases of police encounter killings. Inquiries regarding extra-judicial executions are conducted by an Executive Magistrate rather than a Judicial Magistrate, violating Section 176 of the Criminal Procedures Code (Amended 2005). Executive Magistrates have limited knowledge of law and are not mandated to make judicial opinions. The prevailing climate of impunity coupled with the lack of witness protection discourages witnesses to cooperate in the inquiries. The ignorance of the families on legal matters and imposed time limitation, under the Protection of Human Rights Act 1992, of making complaints render most extra-judicial executions unregistered. All inquiries completed are never made public, and action taken reports are not placed in the public domain. The former Special Rapporteur on Extra-Judicial Executions, Mr. P. Alston, reported to the UN Human Rights Council in 2007 that despite the Government of Manipur ordering numerous inquiries into alleged extra-judicial executions, none of them ultimately reached any meaningful conclusions⁸.
22. Extra-judicial executions in Manipur, mostly of young men, resulted in the proliferation of young widows and orphans. The widows face the double burden of being a young widow in a traditional patriarchal society as well as the stigma of being branded as families of terrorists. They are denied access to social welfare schemes. The families of the victims of extra-judicial executions formed an association in 2009 called 'Extrajudicial Executions' Victim Families Association, Manipur' (EEVFAM). Their requests to register under the Societies Registration Act 1989 were denied by the Government of Manipur, thereby also denying their right to freedom of association.
23. *Enforced Disappearances*: Notwithstanding Government of India's commitment to ratify CED, no concrete position steps have been taken by the Government of India to ratify the CED. On the other hand, the phenomenon of enforced disappearances continues in Manipur. The practice of secret detention and elimination persists.

Table No. 3

No.	Name of the victim	Sex	Year of Submission	Alleged Agency Involved	Present Status
1	Gurumayum Jeeteshwor Sharma	Male	2011	Assam Rifle an Indian Para-military Force	Still 'Disappeared'
2	Longjam Suresh Singh	Male	2011	12 Maratha Light Infantry of Indian Army stationed at Mayang Imphal	Still 'Disappeared'

⁸ Report of UN Special Rapporteur on Extrajudicial Execution to the UN Human Rights Council A/HRC/4/20/Add.1.

3	Leimakhujam Kokulo Singh	Male	2010	12 Maratha Light Infantry of Indian Army stationed at Patsoi Police Station	Acknowledged detention
4	Raj Kumar Sanayaima	Male	2010	Agencies of Government of India and Government of Bangladesh	Staged managed arrest

Based on documentation of Human Rights Alert

24. The practice of torture continues with impunity. In Manipur, almost every person who is arrested or detained is tortured; and the common methods include verbal abuse, psychological torture, blind-folding, hooding, beating, electric shocks to the genitalia, water-boarding, etc. Only a few survivors of torture dare to make formal complaints to the authorities; however, the institutional response of the lower judiciary as well the State and National Human Rights Commissions is to re-traumatise the complainant, discourage and demoralise them.
25. *Human Rights Defenders*: Human rights defenders are targeted for promoting and defending indigenous peoples' rights. Human rights defenders are labelled as terrorists, and charged under criminal laws. Human rights defenders are also arbitrarily arrested, detained and subjected to severe torture. Human Rights defenders and their organizations are subjected to close monitoring and surveillance including phone and email tapping, email and postal intercepting, hacking, post restrictions and postal theft, restrictions to movement, etc. Right to Information activists have been subjected to systematic targeting by the incorrigibly corrupt and abusive state bureaucracy through threats, arbitrary detention and torture.
26. *Torture and arbitrary detention of Miss Irom Sharmila*: The continued solitary confinement and detention of Miss Irom Sharmila who has been on a hunger strike demanding the repeal of AFSPA since November 2000 constitutes severe mental and physical torture. Miss Sharmila has been charged for attempt to commit suicide under Section 309 of the Indian Penal Code and kept in detention for the past 11 years. An executive order issued by the Home Department, Government of Manipur dated 8 October 2004 "not to allow anybody" to meet her without "clear permission of the Home Department"⁹ severely curtails her basic human rights and fundamental freedoms including her right to communicate with her family, friends and supporters.
27. The Manipur Human Rights Commission (MHRC) and Manipur State Women's Commission were established, but the MHRC has remained defunct since 2010 as no new members has been appointed by the Government despite an order of the Gauhati High Court.¹⁰ The MHRC also

⁹ State Home Department vide Order No. 5/6(2)/88H(J)(Pt-I) dated 8 October 2004

¹⁰ Order dated 19 October 2011 following PIL (Writ Petition) No. 15 of 2011 (<http://kanglaonline.com/2011/10/hc-directives-to-appoint-mhrc-chairman-within-four-weeks/>)

receives most inadequate financial and personnel support from the government, despite repeated appeals by the members of the Commission.

28. The State and National Human Rights Commissions are not in compliance with the Paris Principles. Section 19 of the PHRA 1993 specifically barred the armed forces of the Union from the jurisdiction of the Commission.

D. Economic, Social and Cultural Rights of Indigenous Peoples in Manipur

29. *Development in Context of Denial of Right to Self Determination of Indigenous Peoples:* A serious challenge with the initiation of developmental projects in Manipur is the non-recognition of indigenous peoples' rights to control and manage their own land and resources, define their development priorities and their rights to be consulted and seek free and prior informed consent (FPIC) before such projects are implemented. Indigenous peoples' right to self-determination, as enunciated in Article 3 of UN Declaration on the Rights of Indigenous Peoples (UNDRIP) has not been recognized. India also practices the doctrine of *eminent domain* in her policies and legislation regarding land, natural resources and acquisition.
30. The Government continues to perpetuate a policy of assimilation of indigenous peoples in developmental decision making process and implementation, as in ILO Convention 107, rather than partnership as enunciated in ILO Convention 169. India has not ratified ILO Convention 169 though it has supported the adoption of UNDRIP.
31. *The rights of the indigenous child:* The rights of indigenous children are a major concern in Manipur for several decades. Violations of indigenous children's rights in Manipur constitute a wide range of rights. Despite a number of national laws to protect children in vulnerable situations and from exploitation, such as those involved in armed conflicts or in conflict with law, the government of India has failed to protect indigenous children. Trafficking of indigenous children from Manipur continues unhindered. More than two hundred trafficked children have been rescued from across the country, and returned to Manipur according to the Social Welfare Department of the government of Manipur. However, children who have been rescued have been returned to their home districts without appropriate measures to rehabilitate them.
32. The Indian Supreme Court has passed an order that armed forces, particularly paramilitary forces, are to vacate educational institutions in the North Eastern region on 1 September 2010. The Supreme Court's order sought an urgent report on matters related to the occupation of educational areas or their adjoining spaces by army and military forces. The Ministry of Human Resource Development was directed to submit a list of schools and hostels, in the North Eastern states that have been occupied by armed/security forces. This order has not been fully complied with till date.¹¹
33. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) was supported by India. However, India stated during the first Universal Periodic Review that, at independence, after the departure of the colonizers, its entire people, including the tribal people, were considered as

¹¹ <http://indianmilitarynews.wordpress.com/tag/ministry-of-home-affairs/>

indigenous (Human Rights Council's Working Group on the Universal Periodic Review, in its report of 23rd May 2008 (A/HRC/8/26). This position, effectively and deliberately, denies all the rights of India's indigenous peoples as elaborated in the UNDRIP, while trivialising its constructive engagement in the UN Permanent Forum on Indigenous Issues (UNPFII), the Expert Mechanism on Indigenous Peoples (EMRIP) and other UN bodies.

E. Specific Cases of Development Projects and impacts on Indigenous Peoples

34. The Government of India introduces destructive, unsustainable development projects in Manipur such as the construction of *Loktak Multipurpose Hydroelectric Project (HEP)*, *Mapithel Dam* and the proposed *Tipaimukh Dam* without the free, prior and informed consent of the people of Manipur. The commission of the 105 MW Loktak HEP in 1984 by the National Hydro-Electric Power Corporation (NHPC), has led to submergence of an estimated 83,450 hectares of agricultural land. At least 30,000 indigenous persons were affected. The government has failed to resettle and rehabilitate them. Likewise, the construction of Mapithel Dam has undermined the survival of the people dependent on the river, agricultural land and the forest along the Thoubal River.¹² Military and security cover for large-scale infrastructure construction has become the norm in the region. The proposed 1500 MW Tipaimukh HEP in Manipur has been accorded statutory clearances despite stiff objections by the indigenous peoples in the States of Manipur, Assam and Mizoram in India's North Eastern region. A large number of Zeliangrong and Hmar people will be displaced permanently, and the environmental destruction envisaged is of international concern. The CERD stated that India does not fully implement the right of ownership, individual or collective, of members of indigenous communities over the lands traditionally occupied by them.
35. *Oil Exploration in Manipur and Violations:* The Ministry of Petroleum and Natural Gas, Government of India granted license to Jubilant Oil and Gas Private Limited, a Multinational Oil Company in 2009 for exploration and drilling works without the free, prior and informed consent of people of Manipur¹³. The total area granted for oil exploration in Manipur is 3850 Square Kilometres or 20% of the area of the State. The contract and licensing to the companies is on the premise that all hydrocarbons deposits in India belongs to the Union¹⁴, contradicting UNDRIP provisions guaranteeing rights of communities to control and manage their resources.¹⁵

F. RECOMMENDATIONS

36. Recognize the rights of people of Manipur to their inalienable right to Self-Determination under Article 1 of the International Covenant on Civil and Political Rights and International Covenant on Economic Social and Cultural Rights by dropping the reservations

¹² Report by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya, Addendum, Cases examined by the Special Rapporteur (June 2009 – July 2010), A/HRC/15/37/Add.1

¹³ Signing of PSC for AA-ONN-2009/2 Under NELP-VIII, Source: <http://www.dghindia.org/nelpviiiiblock.aspx>

¹⁴ The Oil Fields (Regulation and Development) Act, 1948, The *Oil Industry (Development) Act, 1974*; Petroleum and Minerals Pipelines (Acquisition of Right of User in Land), Act, 1962; and Petroleum & Natural Gas Rules, 1959,

¹⁵ Circular of the Director, Commerce and Industry Department, Government of Manipur, Date 31 March 2011, Memo no. D (5)-15(1)/IND/2010/IH7

37. Immediately repeal the Armed Forces (Special Powers) Act, 1958
 38. Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) as well as the International Convention for the Protection of All Persons from Enforced Disappearance (CED)
 39. Recognise distinct indigenous peoples in India, integrate the provisions of the United Nations Declaration on the Rights of Indigenous Peoples into state policy, legislation, programmes and schemes; and ratify ILO Convention No 169 concerning Indigenous and Tribal Peoples in Independent countries
 40. Government of India to submit its fourth Periodic report which had been due by 2001 year end, to the UN Human Rights Committee
 41. Government of India to accede to Additional Protocol I and II, 1977 of the Geneva Conventions, and give unconditional access to the International Committee on the Red Cross (ICRC) to the North Eastern region, especially Manipur
 42. Stop rights violations of human rights defenders in Manipur and implement the UN Declaration on the Rights of Human Rights Defenders, 1999
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