



Forest Peoples Programme

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Urgent communication concerning gross and persistent violations of the rights of indigenous peoples in North East India submitted to the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the United Nations Special Rapporteur on the promotion and protection of human rights while countering terrorism

I. Summary

1. This urgent communication is respectfully submitted to the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the United Nations Special Rapporteur on the promotion and protection of human rights while countering terrorism. It is submitted by the United NGOs Mission – Manipur, a network of 103 indigenous peoples' organisations, and the Forest Peoples Programme, an international organisation based in the United Kingdom. Specific requests are set out in paragraph 36 below.

2. This communication details systematic and pervasive discrimination against the indigenous peoples of northeast India, which is sanctioned and institutionalised by the *Armed Forces (Special Powers) Act* of 1958 ("AFSPA"), as well as extended and gross violations of other basic human rights. This law, which only applies to the northeast states of India, has been specifically referred to by the Indian Government as an "anti-terror law."¹ The Committee on the Elimination of Racial Discrimination ("CERD") found that AFSPA disproportionately affects indigenous peoples because they are the predominant population of the northeast.² This situation is urgent because of the nature of the violations at issue and because India formed armed 'civil patrols' in May 2008 that will greatly exacerbate the violence and human rights violations in the northeast.³

3. Pursuant to AFSPA, gross violations of indigenous peoples' basic human rights are occurring on a daily basis, while the perpetrators enjoy *de jure* and *de facto* impunity. AFSPA was originally and specifically designed to suppress the self-determination aspirations of the Naga indigenous people. In the 1970s and 1980s, this law was extended to apply to the entire northeast region. The AFSPA, therefore, has its origins in discrimination against indigenous peoples seeking to exercise their political and other rights and it continues to be discriminatory in its intent and effect in as much as it disproportionately affects the indigenous peoples of the northeast.

4. Five UN human rights treaty bodies have called on India to repeal AFSPA, as has the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. All of these calls have been disregarded and rejected by India. The Human Rights Committee, for instance, found that AFSPA has essentially created an undeclared state of emergency spanning almost 50 years

¹ See paras. 10 & 26 *infra*.

² *Concluding Observations of the Committee on the Elimination of Racial Discrimination: India. 05/05/2007.* CERD/C/IND/CO/19, para. 12.

³ See para. 28 & Annexes 1 and 2 *infra*.

in the northeast.⁴ Nonetheless, the Indian Supreme Court upheld the constitutionality of AFSPA in a 1997 judgment.⁵ In addition to disregarding the recommendations of the treaty bodies, India has also rejected the findings of two Indian Government committees established to review AFSPA in 2004 and 2007, both of which recommended that the law be repealed.

II. Indigenous peoples in Northeast India

5. The northeast states of India are Tripura, Assam, Meghalaya, Manipur, Nagaland, Arunachal Pradesh, Mizoram and Sikkim. This region is located in the extreme northeast corner of India bordering China to the north, Myanmar to the east and southeast, and Bangladesh to the southwest. According to the 2001 Census, the total population of these seven states is 38,495,089 persons. The northeast states are home to around 270 indigenous peoples, including the Bodo, Karbi, Dimasha, Ahomia, Adi, Khasi, Garo, Naga, Kuki, and Meitei. Some of have a population in the millions while some number as few as two thousand persons. The vast majority practice a subsistence economy based on sustainable use of their natural resources, particularly in the remaining forested areas of the region.

6. Disregarding the fundamental importance of securing indigenous peoples' traditional tenure, India's laws fail to adequately recognize and protect indigenous peoples' rights to own and control their traditional territories in the northeast. Due to the construction of numerous dams (extant and proposed, and which are being constructed despite the findings of CERD that these dams severely undermine indigenous peoples' rights), the imposition of restrictive forestry laws, and the implementation of AFSPA, indigenous peoples' rights are being actively violated, and in some cases they are unable to access their traditional means of subsistence.⁶

III. The Armed Forces (Special Powers) Act 1958⁷

7. At the time of India's independence, the departing British left more than 500 previously independent princely states, most of which were incorporated into modern India by merger agreements between the newly independent Indian Government and the various rulers. Following this procedure, the Manipur Merger Agreement of 21 September 1949 was concluded between India and Maharaja Budhachandra of Manipur. The indigenous people and peoples of Manipur were however not offered any role in the decision-making process about the merger. This occurred despite a pre-independence promise that the northeast would maintain its independence from India.

8. After India's acquisition of Manipur and a massive influx of Indian army troops, armed opposition by the Naga, Ahomia, Meiteis, and Tripurians peoples broke out as they sought to restore and exercise their right to self-determination. This is confirmed by Amnesty International, which reported in 2005 that "Tensions in that region originated in demands for self-determination by the Naga people in the post independence period which led to an armed struggle."⁸ It was against this background that India adopted the *Armed Forces (Assam and Manipur) Special Powers Ordinance*, (today known as AFSPA) in September 1958. This law is based on a British colonial ordinance that was specifically designed to quell the Indian independence movement.

9. In 1972, AFSPA was amended to allow for the declaration of 'disturbed areas' by the federal government and to extend its reach to include all of the states of the northeast. The law provides extensive and largely unfettered powers to the armed forces, both regular army and paramilitary. The result, as explained by Amnesty International, was that

⁴ *Concluding observations of the Human Rights Committee: India. 04/08/97. CCPR/C/79/Add.81, para. 19.*

⁵ *Naga People's Movement of Human Rights v Union of India* [1997] ICHRL 117 (Supreme Court of India, 27 November 1997).

⁶ *Concluding Observations of the Committee on the Elimination of Racial Discrimination: India. 05/05/2007. CERD/C/IND/CO/19, para. 19* (concerning dams in the northeast). See also http://www2.ohchr.org/english/bodies/cerd/docs/India_letter150808.pdf (reiterating that indigenous peoples have the right to consent to dams in northeast India).

⁷ The full text of the AFSPA is available at: http://www.mha.nic.in/pdfs/armed_forces_special_powers_act1958.pdf.

⁸ Amnesty International, *India: A Briefing on the Armed Forces (Special Powers) Act 1958*, AI Index: ASA 20/025/2005, at p. 3 (hereinafter "Amnesty Report"). Available at: <http://www.amnesty.org/en/library/info/ASA20/025/2005>.

In Manipur, what began as a movement for self-determination for the Naga people is today far more complex. 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 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 underdevelopment, drug-smuggling and corruption. Human rights abuses are a feature of daily life in Manipur.⁹

10. Amnesty International confirms that AFSPA remains only in part about maintaining order in 'disturbed areas'. It explains that "State and army officials consider the Act necessary to protect the state against what are known as internal disturbances, uphold the 'integrity of the nation', fight 'terrorism and insurgency' and protect 'sensitive border areas.'"¹⁰ As explained below, AFSPA has both the purpose and effect of nullifying the internationally guaranteed rights of indigenous peoples in the northeast of India.

11. Endorsing the views of India's National Human Rights Commission, the Human Rights Committee stated that, "bearing in mind the provisions of articles 1, 19 and 25 of the Covenant: ... the problems in areas affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political..."¹¹ The Committee on the Elimination of Discrimination Against Women made similar comments in 2000.¹²

12. The continued application of AFSPA to indigenous peoples' territories in the northeast today coupled with the India's failure to seek a durable resolution of the underlying problems through serious and meaningful dialogue indicate that the political approach has not received sufficient attention to-date. Particularly noteworthy in this context is the reference made by the Human Rights Committee to Article 1 of the Covenant on Civil and Political Rights because this acknowledges that one of the underlying causes of the violence in the northeast is the ongoing denial of indigenous peoples' right of self-determination.

A. AFSPA and violations of basic rights

Extrajudicial executions and other naked human rights violations have been a fact of life in the northeastern states of India for the last five decades (N. Sanajaoba, Dean of the Law Faculty, Gauhati University).¹³

13. The key provisions of AFSPA contravene international human rights law and have led to gross and systematic violations of indigenous peoples' rights. Sections 4 and 6 require special mention; they provide, respectively, that:

Sec. 4 Special Power of the Armed Forces – Any commissioned officer, warrant officer, non commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area-

(a) if 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

⁹ *Id.* at p. 8.

¹⁰ *Id.* at p. 3-4.

¹¹ *Concluding observations of the Human Rights Committee: India. 04/08/97. CCPR/C/79/Add.81, para. 18.*

¹² *Concluding observations of the Committee on the Elimination of Discrimination Against Women: India, 01/02/2000, at para. 72* – "The Committee recommends a review of prevention of terrorism legislation and the Armed Forces Special Provisions Act, in consultation with the Human Rights Commission of India, the National Commission of Women and civil society, so that special powers given to the security forces do not prevent the investigation and prosecution of acts of violence against women in conflict areas and during detention and arrest. The Committee recommends that women be given an opportunity to make their contribution to peaceful conflict resolution."

¹³ N. Sanajaoba, *The Armed Forces (Special Powers) Act: An unproclaimed emergency and gross injustice*. In, *Article 2 of the International Covenant on Civil and Political Rights. Special Edition: Militarisation and Impunity in Manipur*. Vol 5, No. 6, December 2006, p. 29-34, at 29. Available at: <http://www.article2.org/pdf/v05n06.pdf>.

carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilized as a hide-out by armed gangs or absconders wanted for any offence;

(c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises and may for that purpose use such force as may be necessary.

Sec. 6-Protection to Persons acting under Act – No prosecution, suit or other legal proceeding 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.

14. Section 4 permits forcible search and arrest without a warrant in cases where the security forces believe that a person has or may be about to commit an offence; the destruction of homes and any other structure or dwelling if security forces are of the opinion that an attack has been made or may be made or that a structure may be used as a hideout; and the use of force, including killings, if the security forces are of the opinion that such force is necessary, including if persons are carrying items, such as farm tools, that are “capable of being used as weapons.” It is important to note also that under Indian criminal law the penalty for violating an order prohibiting the assembly of more than five persons is one month’s imprisonment. In the northeast, however, persons may lawfully be killed for the same act.

15. Section 6 adds that no “prosecution, suit or other legal proceeding” may be brought except with permission of the Central Government in relation to any act done under authority of AFSPA. As noted by both CERD and the Human Rights Committee, this legal immunity also extends to complaints brought before India’s National Human Rights Commission because Article 19 of its enabling legislation specifically prohibits complaints against members of the armed forces.¹⁴

16. UN treaty bodies and Special Procedures, NGOs and many others have all concluded that AFSPA has facilitated widespread and systematic violations of non-derogable and other basic human rights in northeast India. The Human Rights Committee, for example, expressed its concern about “the continuing reliance on special powers under legislation such as the Armed Forces (Special Powers) Act ... and at serious human rights violations, in particular with respect to articles 6, 7, 9 and 14 of the Covenant, committed by security and armed forces acting under these laws...”¹⁵ Amnesty International similarly concludes that AFSPA “has facilitated grave human rights abuses, including extrajudicial execution, ‘disappearance’, rape and torture by bestowing sweeping powers on the armed forces...”¹⁶ The Committee on the Rights of the Child further confirms that children in the northeast have also suffered serious abuses.¹⁷ These violations, given the racial and ethnic composition of this region, disproportionately and primarily affect indigenous peoples, and are perpetrated with *de jure* and *de facto* impunity.

¹⁴ *Concluding observations of the Committee on the Elimination of Racial Discrimination: India, 17/09/96*, CERD/C/304/Add.13, at para. 16 – “Clause 19 of the Protection of Human Rights Act prevents the National Commission on Human Rights from directly investigating allegations of abuse involving the armed forces. This is a too broad restriction on its powers and contributes to a climate of impunity for members of the armed forces;” and *Concluding observations of the Human Rights Committee: India, 04/08/97*, CCPR/C/79/Add.81, para. 22.

¹⁵ *Id.* at para. 18.

¹⁶ Amnesty Report, at p. 1.

¹⁷ *Concluding observations of the Committee on the Rights of the Child: India, 23/02/2000*, at para. 63 -- “The Committee is concerned that the situation[s] in areas of conflict, particularly Jammu and Kashmir and the north-eastern states, have seriously affected children, especially their right to life, survival and development (art. 6 of the Convention). In the light of articles 38 and 39, the Committee expresses its very serious concern at reports of children who are involved in and are victims of these conflicts. Moreover, it is concerned at reports of involvement of the security forces in disappearances of children in these conflict areas.” *See also Concluding observations of the Committee on the Rights of the Child: India, 26/02/2004*, para. 68-9.

17. In an August 2008 report, Human Rights Watch states that “The AFSPA gives the armed forces wide powers to shoot to kill, arrest on flimsy pretext, conduct warrantless searches, and demolish structures in the name of ‘aiding civil power.’ Equipped with these special powers, soldiers have raped, tortured, ‘disappeared,’ and killed Indian citizens for five decades without fear of being held accountable.¹⁸ This report documents incidents of widespread human rights violations perpetrated by the security forces in each of the northeast states. With regard to Manipur, for example, Human Rights Watch explains that “Human rights violations by security forces engaged in counterinsurgency operations in Manipur have occurred with depressing regularity over the last five decades. Torture, which includes beatings, electric shocks, and simulated drowning, is common. Arbitrary arrests and extrajudicial executions continue.”¹⁹ The report also makes clear that the vast majority of the victims are indigenous persons and that indigenous women and children suffer disproportionately.

B. The Indian Supreme Court has allowed AFSPA to remain in force

18. The state of impunity established by AFSPA is only slightly tempered by the 1997 judgment of the Indian Supreme Court in the case of *The Naga People's Movement of Human Rights v Union of India*. This case, which upheld the constitutionality of AFSPA, was prompted by a series of complaints filed between 1980 and 1991, all of which challenged the validity of AFSPA on the basis of its incompatibility with constitutional and human rights norms. No explanation was given in the judgment for the extreme delay in hearing the case.

19. In the *Naga People's Movement* case, the Supreme Court held that a declaration of ‘disturbed area’ status had to be reviewed (but not by the judiciary) every six months, elaborated on safeguards for detained persons, and declared that a pre-existing list of ‘do’s and don’t’s’ applicable to the conduct of military operations is legally binding.²⁰ The Supreme Court also held that “The powers conferred under clauses (a) to (d) of Section 4 and Section 5 of the Central Act on the officers of the armed forces, including a Non-Commissioned Officer, are not arbitrary and unreasonable and are not violative of the provisions of Articles 14, 19 or 21 of the Constitution.” With regard to Section 6, it further held that

in so far as it confers a discretion on the Central Government to grant or refuse sanction for instituting prosecution or suit or proceeding against any person in respect of anything done or purported to be done in exercise of the powers conferred by the Act does not suffer from the vice of arbitrariness. Since the order of the Central Government refusing or granting the sanction under Section 6 is subject to judicial review, the Central Government shall pass an order giving reasons.

20. As noted by Amnesty International, the Supreme Court’s “apparent lack of concern” for the preceding appeared to be related to the possibility of holding inquiries and prosecution for abuses under the *Army Act*.²¹ However, as Amnesty also observes, these inquiries consistently find complaints to be false, reflecting, in its view, “more a culture of impunity created in part by the AFSPA than by the absence of wrongdoing on behalf of members of the armed forces....”²² Moreover, a member of the Human Rights Committee stated that “Article 6 of the Armed Forces (Special Powers) Act, which prevented all legal proceedings against members of the armed forces, was extremely worrying; if the Government’s fear was that citizens would bring vexatious or frivolous actions, that was a matter better left to the courts to resolve. It was inadmissible for citizens to be deprived of a remedy as was at present the case.”²³ This

¹⁸ *Getting Away With Murder. 50 Years of the Armed Forces (Special Powers) Act*. Human Rights Watch, August 2008, at p. 5. Available at: <http://hrw.org/backgrounders/2008/india0808>.

¹⁹ *Id.* at p. 10.

²⁰ See List of Dos & Don'ts as directed by the Supreme Court in *NPMHR v. India* 1997, in Amnesty Report, Appendix 2

²¹ Amnesty Report, p. 13, quoting para. 53 of the judgment of the Supreme Court.

²² *Id.*

²³ CCPR/C/SR.1606 of 21 November 1997

statement was made in part in response to India's explanation before the Committee that Central Government sanction of legal action was required to prevent frivolous law suits.

21. In finding that AFSPA did not violate constitutional guarantees, the Supreme Court also failed to heed the recommendation of the Human Rights Committee, which noted in 1997 "that the examination of the constitutionality of the Armed Forces (Special Powers) Act, long pending before the Supreme Court is due to be heard in August 1997, [and] hopes that its provisions will also be examined for their compatibility with the Covenant."²⁴ India's international human rights and humanitarian law obligations were not directly considered by the Supreme Court. The Court's judgment also contradicts the Human Rights Committee's explicit finding that the prohibition of unsanctioned legal action under Section 6 of AFSPA "contributes to a climate of impunity and deprives people of remedies to which they may be entitled in accordance with article 2, paragraph 3, of the Covenant;" and its recommendation that:

the requirement of governmental sanction for civil proceedings be abolished and that it be left to the courts to decide whether proceedings are vexatious or abusive. It urges that judicial inquiries be mandatory in all cases of death at the hands of the security and armed forces and that the judges in such inquiries, including those under the Commission of Enquiry Act of 1952, be empowered to direct the prosecution of security and armed forces personnel.²⁵

C. AFSPA remains in force despite international and domestic condemnation

22. Indigenous peoples from the northeast have manifested their opposition to AFSPA and other denials of their rights for decades. As stated by Amnesty International:

For decades, human rights groups and women's organizations in the Northeast have expressed opposition to human rights abuses in the region and to the AFSPA. In the late 1990s, an India-wide campaign was initiated in opposition to this Act, and mobilised support for its repeal. Activism aimed at the repeal of the Act was reinvigorated following the alleged sexual assault and death in custody of a woman named Thangjam Manorama in Imphal, Manipur, India in July 2004. A group of 32 civil society organizations based in Manipur formed a coalition called the Apunba Lup to protest abuses under the AFSPA and call for its repeal. Members of Apunba Lup publicly protested for months following Thangjam Manorama's death. Others from the Northeast have expressed their opposition to the AFSPA through more extreme protests such as self-immolation, a fast until death or naked protests. In response to protests in Manipur, the Act was withdrawn from the Greater Municipal District of Imphal. Human rights activists and academics from across India have also called for the total repeal of the AFSPA, raising concerns that the Act violates basic rights and international human rights and humanitarian law. They have recorded serious human rights abuses and charge that there was inadequate debate in Parliament when the Act was initially introduced.²⁶

23. In 2004, after many months of sustained protest in Manipur, the Central Government appointed a five-person committee headed by former Supreme Court Justice B.P. Jeevan Reddy to review AFSPA. At that time, the Prime Minister of India stated that the "government would consider replacing the Act with a more 'humane' law that would seek to address the concerns of national security as well as rights of citizens."²⁷ The review committee held a number of hearings in the northeast and submitted its report to the Indian Government in June 2005.

24. The Reddy Commission's report,²⁸ which, despite CERD's 2007 recommendation,²⁹ has yet to be made public by India, states that AFSPA "has become a symbol of oppression, an object of

²⁴ *Concluding observations of the Human Rights Committee: India*. 04/08/97. CCPR/C/79/Add.81, at para. 18.

²⁵ *Id.* at para. 21.

²⁶ Amnesty Report, at p.4 (footnotes omitted).

²⁷ 'Former SC judge to head AFSPA review committee', *Outlook*, 19 November 2004, cited in Amnesty Report, at p. 6, n. 19.

²⁸ *Report of the Committee to Review the Armed Forces (Special Powers) Act, 1958*. Government of India, Ministry of Home Affairs 2005. Available at: <http://www.hinduonnet.com/nic/afa>.

²⁹ India: 05/05/2007, CERD/C/IND/CO/19, para. 12 (requesting that "the State party to release the report").

hate and an instrument of discrimination and high-handedness.”³⁰ In recommending its repeal and replacement by a revision of the 1967 *Unlawful Activities (Prevention) Act*, the Reddy Commission’s report further acknowledges that AFSPA is discriminatory, stating that:

a major consequence of the proposed course [repeal of AFSPA] would be to erase the feeling of discrimination and alienation among the people of the North-eastern States that they have been subjected to, what they call, ‘draconian’ enactment made especially for them. The ULP Act applies to entire India including to the North-eastern States. The complaint of discrimination would then no longer be valid.³¹

25. On 25 June 2007, the Second Administrative Reforms Commission (“SARC”), an Indian Government body chaired by Congress Leader Veerappa Moily, also recommended that AFSPA be repealed. The SARC stated, as did the Reddy Commission before it, that repeal of AFSPA would remove the feeling of discrimination and alienation among the people of the northeast.³²

26. India, however, has chosen to disregard the detailed conclusions and recommendations of the Reddy Commission and the recommendations of the SARC, and has refused to repeal AFSPA. For instance, on 26 June 2007, in a speech delivered at Dimapur, Nagaland, the Minister of Defense, the Hon. A.K. Anthony, explicitly rejected the SARC’s recommendations stating that the time has not come to scrap the “anti-terror law”.³³ India has also chosen to retain AFSPA despite recent and ongoing massive public protests against the continued application of the legislation.³⁴

27. Additionally, on 25 May 2007, the State Government of Manipur decreed a six month-long extension to Manipur’s ‘Disturbed Area’ status.³⁵ On 22nd November 2007, it again extended the ‘Disturbed Area’ declaration, thus ensuring that AFSPA will be in force in Manipur at least until 30 November 2008.³⁶ This most recent extension of over one year appears to contradict the 1997 ruling of the Indian Supreme Court in *Naga People’s Movement of Human Rights v. India* that ‘Disturbed Area’ declarations must be reviewed every six months.³⁷ Nonetheless, before the Human Rights Council in May 2008, India vigorously defended AFSPA and explained that its “constitutionality ... has been upheld by a Constitution Bench of the Supreme Court.”³⁸

28. Rather than seeking a political solution to the violence in the northeast – as was recommended by the Human Rights Committee³⁹ – India is presently taking steps that will cause an escalation of the violence and further threaten the rights and security of indigenous peoples. Among others things, the State Government of Manipur began recruiting and arming

³⁰ See also ‘Repeal Armed Forces Act: Official Panel,’ *The Hindu*, 08 October 2006 (containing the first leaked version of the Reddy Committee’s report). Available at: <http://www.hindu.com/2006/10/08/stories/2006100806130100.htm>

³¹ *Report of the Committee to Review the Armed Forces (Special Powers) Act, 1958*. Government of India, Ministry of Home Affairs 2005, at p. 77.

³² See *inter alia*, ‘ARC backs ‘repeal AFSPA demands’, *The Sangai Express/PTI*, New Delhi, 25 June 2007. Available at: <http://www.e-pao.net/epRelatedNews.asp?heading=15&src=260607>; ‘Administrative Reforms Commission for repealing Armed Forces (Special Powers) Act’, *HimTimes*, 26 June 2007. Available at: http://www.himtimes.com/india/index.php?subaction=showfull&id=1182845570&archive=&start_from=&ucat=1&

³³ ‘Antony holds up flag in favour of AFSPA’, *The Sangai Express/PTI*, New Delhi, 26 June 2007. Available at: <http://www.e-pao.net/epRelatedNews.asp?heading=12&src=270607>.

³⁴ See ‘Human Rights Activists to Protest AFSPA in Manipur’, *Merinews*, 10 September 2007. Available at: <http://www.merineews.com/catFull.jsp?articleID=126286>; and ‘India: Repeal the Armed Forces Special Powers Act Law Provides Impunity for Human Rights Abuses, Fuels Cycles of Violence’, *Human Rights Watch*, 10 November 2007. Available at: <http://hrw.org/english/docs/2007/11/20/india17381.txt.htm>.

³⁵ *The Sangai Express*, 23 Nov. 2007 Vol. IX/67. Available at: www.thesangaiexpress.com.

³⁶ *Id.*

³⁷ *Naga People’s Movement of Human Rights v Union of India* [1997] ICHRL 117, at para. 38.

³⁸ *Report of the Working Group on the Universal Periodic Review: India*. UN Doc. A/HRC/8/26, 23 May 2008, at para. 47 (also stating that “it is important to note that the Armed Forces of India are governed by provisions of their Acts, which also ensure that any violations are expeditiously dealt with. In so far as ensuring human rights even while being engaged in counter terrorism operations, special training and operating procedures are in place to guide the forces on the ground.”)

³⁹ The Human Rights Committee stated that – endorsing the views of India’s National Human Rights Commission: “bearing in mind the provisions of articles 1, 19 and 25 of the Covenant: ... the problems in areas affected by terrorism and armed insurgency are essentially political in character and that the approach to resolving such problems must also, essentially, be political....” *Concluding observations of the Human Rights Committee: India. 04/08/97*. CCPR/C/79/Add.81, para. 18.

civilian defence patrols, known as Special Police Officers (SPOs), in May 2008. These persons are deployed in certain areas of Manipur as support personnel for the regular army.⁴⁰ They have been deployed over the objections of local communities and civil society, whose protests have been met with repression, including the arbitrary arrest and detention of protest leaders under the *National Security Act*.⁴¹ These civilian patrols are also being established despite condemnation by the Indian Supreme Court of similar armed units in the central state of Chhattisgarh.⁴²

29. India's refusal to repeal AFSPA represents a rejection not only of Indian Government committees' recommendations, but also the long-standing concerns and recommendations of five United Nations human rights treaty bodies. CERD has twice called for the repeal of AFSPA, most recently in August 2008.⁴³ In 2007, it expressed concern about India's failure to implement its prior recommendation to repeal AFSPA, "under which members of the armed forces may not be prosecuted unless such prosecution is authorized by the Central Government and have wide powers to search and arrest suspects without a warrant or to use force against persons or property in Manipur and other north-eastern States which are inhabited by tribal peoples."⁴⁴

30. In January 2007, the Committee on the Elimination of Discrimination Against Women reiterated its previously expressed concerns about AFSPA and requested information on "the steps being taken to abolish or reform the Armed Forces Special Powers Act and to ensure that investigation and prosecution of acts of violence against women by the military in disturbed areas and during detention or arrest is not impeded."⁴⁵ The Human Rights Committee found that AFSPA has established an undeclared state of emergency, characterized by "serious human rights violations," spanning almost 50 years.⁴⁶ In May 2008, the Committee on Economic, Social and Cultural Rights conveyed its concerns about "the existence of national security legislation which grants impunity to state officials who violate human rights, including economic, social and cultural rights," and explicitly recommended that India "considers repealing the Armed Forces Special Powers Act."⁴⁷ Last but not least, the Committee on the Rights of the Child has found serious violations of children's rights in the northeast, all of which are presently sanctioned by AFSPA.⁴⁸

31. While India refuses to repeal AFSPA, violence, including killings and torture, against indigenous peoples in the northeast and impunity for the perpetrators continue unabated.⁴⁹ Philip Alston, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, has transmitted letters of allegation to India in relation to a number of recent incidents, including killings of unarmed civilians.⁵⁰ He expressed his view that AFSPA "violates non-derogable

⁴⁰ See Annex 1 hereto (containing newspaper articles about the SPOs).

⁴¹ See Annex 2 hereto (containing an alert issued by the Asian Human Rights Commission about a student leader arrested for opposing the SPOs).

⁴² See Annex 1, 'India's Manipur arms civilians to fight rebels', *Reuters*, 6 May 2008.

⁴³ *Concluding Observations of the Committee on the Elimination of Racial Discrimination: India, 05/05/2007*. CERD/C/IND/CO/19, para. 12 and; Letter of the Committee under the urgent action and early warning procedure. Available at: http://www2.ohchr.org/english/bodies/cerd/docs/India_letter150808.pdf. See also *Concluding observations of the Committee on the Elimination of Racial Discrimination: India, 17/09/96*, para. 32.

⁴⁴ CERD/C/IND/CO/19, *id.*

⁴⁵ *Concluding observations of the Committee on the Elimination of Discrimination Against Women: India, 02/02/2007*, at para. 9.

⁴⁶ *Concluding observations of the Human Rights Committee: India, 04/08/97*. CCPR/C/79/Add.81, at para. 18 & 19.

⁴⁷ *Concluding observations of the Committee on Economic, Social and Cultural Rights, 05/2008*. E/C.12/IND/CO/5, at paras. 12 and 50.

⁴⁸ *Concluding observations of the Committee on the Rights of the Child: India, 23/02/2000*, para. 63 and; *Concluding observations of the Committee on the Rights of the Child: India, 26/02/2004*, para. 68-9.

⁴⁹ See *Submission of the Committee on Human Rights (COHR) Manipur on the Human Rights Situation in Manipur (India) to the OHCHR concerning the Universal Periodic Review of the Government of India at the UN Human Rights Council in April 2008*, Annex 15, 'Some Selected Case of Human Rights Violations perpetrated by the Indian Army under the Armed Forces (Special Powers) Act, 1958 Manipur from October 2003 – October 2007' (detailing a number of cases of serious human rights violations against indigenous peoples in northeast India). See, also, *Article 2 of the International Covenant on Civil and Political Rights. Special Edition: Militarisation and Impunity in Manipur*. Vol 5, No. 6, December 2006, p. 13-26 (containing testimony of victims) & p. 38-47 (containing descriptions of recent violations). Available at: <http://www.article2.org/pdf/v05n06.pdf>.

⁵⁰ *Report of the Special Rapporteur on Extrajudicial Execution to the UN Human Rights Council, Philip Alston*. UN Doc. A/HRC/4/20/Add.1, p. 138-40, at 140.

provisions of international human rights law;⁵¹ and reiterated his prior recommendation that India “consider either repealing the (Special Powers) Act, 1958 or ensuring that it and any other such future legislative measures comply fully with international human rights and humanitarian law treaties to which India is a state party...”⁵² He further noted that India did not respond to his letters of allegation and thus failed to cooperate with his mandate.

32. The United Nations Declaration on the Rights of Indigenous Peoples is also noteworthy. In addition to affirming that indigenous peoples have the right to self-determination and to protection of that right without discrimination under the law, this Declaration provides a wide range of protections that are relevant to the application of AFSPA in the northeast. For instance, the Declaration affirms that “Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.” Article 30 of the Declaration further affirms that

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a significant threat to relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

IV. Conclusion and Request

33. To conclude, as discussed above, in addition to facilitating gross and systematic violations of basic human rights, AFSPA is also discriminatory in its purpose and effect because it was designed to suppress the exercise of self-determination by the indigenous peoples of the northeast and because it disproportionately affects indigenous peoples who are the overwhelming majority of the population in the northeast. India continues to apply this law despite its condemnation by UN human rights bodies and procedures, Indian Government-established commissions and NGOs, and despite massive public protest against the law, including self-immolation and years-long hunger strikes.

34. In addition to being racially discriminatory, AFSPA sanctions and provides immunity for pervasive violations of indigenous peoples’ collective rights as well as gross and long-standing violations of the human rights of their members. This daily assault on human rights includes violations of non-derogable rights and a state of impunity. Women and children suffer disproportionately. In addition to falling squarely within the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, this situation also falls within the mandate of the Special Rapporteur on the promotion and protection of human rights while countering terrorism given that India continues to justify AFSPA as an “anti-terrorism” measure. This is the case notwithstanding the misapplication of that term to the situation in the northeast, a fact explicitly acknowledged by the Human Rights Committee. This situation is urgent both because of the nature of the violations at issue and because India has formed armed ‘civil patrols’ that will greatly exacerbate the violence and violations in the northeast. India continues to escalate the violence in the northeast and has failed to take any steps towards seeking a non-violent solution.

35. Finally, while the preceding has focused on the acts and omissions of India, we wish to emphasize that this in no way minimizes the role and responsibility of the armed opposition groups in the northeast for the longstanding violence that has dominated the region’s daily life for generations. These groups contribute to the cycle of violence and human rights abuses in

⁵¹ *Id.* at p. 139. See, also, *Report of the Special Rapporteur on Extrajudicial Execution to the UN Human Rights Council, Philip Alston*. UN Doc. E/CN.4/2006/53/Add.1, p. 75-82 (discussing AFSPA and detailing a series of allegations of killings in Manipur).

⁵² UN Doc. A/HRC/4/20/Add.1, *id.* at p. 140.

the northeast and are equally responsible for seeking a political solution to the region's problems.

36. In light of the preceding, the United NGO Mission Manipur and the Forest Peoples Programme respectfully request that the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples and the Special Rapporteur on the promotion and protection of human rights while countering terrorism:

- a) urgently communicate their deep concern and alarm to the Government of India about the situation in the northeast, and that they recommend that India repeal AFSPA without delay;
- b) consistent with the recommendations of the Human Rights Committee, recommend that India immediately begin a process of political dialogue with the armed groups, indigenous peoples' freely chosen representatives and civil society in the northeast in order to seek a peaceful and sustainable solution to the violence in a manner that fully respects the right to self-determination and the political and other rights of the indigenous peoples of the northeast;
- c) urge India to adopt immediate and effective measures to provide effective remedies to victims of human right violations in the northeast;
- d) urge India to take immediate and effective measures to ensure the safety and security of indigenous peoples in the area and ensure that adequate resources are provided towards this end. These measures should be designed and implemented with the meaningful participation and informed consent of indigenous peoples; and,
- e) seek India's consent to undertake an on-site visit to the northeast of India at the earliest possible convenience.

ANNEX 1:

India's Manipur arms civilians to fight rebels

Tue May 6, 2008 2:09pm

GUWAHATI, India, May 6 (Reuters) - The government of India's remote northeastern state of Manipur is to arm villagers to help battle guerrilla groups seeking autonomy, echoing a controversial civilian force raised to tackle Maoist rebels elsewhere. Officials in Manipur have recruited youths from two districts as special police officers and will kit them out with a uniform, food, rifles, and motorcycles and pay them a monthly pay packet of 3,000 rupees (\$75).

"The new recruits will help security forces controlling militant activities," Joykumar Singh, the state's police chief said by telephone from the capital, Imphal, on Tuesday. "More units are in the pipeline in different parts of the state."

But human rights workers expressed dismay.

"This step will not reduce violence, but deepen violence," said Babloo Loitongbam, director of Manipur's Human Rights Alert.

"Arming of civilians in fighting insurgents has not worked anywhere in the country, and we don't understand why the government is making this mistake."

In the central state of Chhattisgarh, state authorities have since 2005 funded and armed an anti-Maoist movement made up of poor tribal people, including children, known as the Salwa Judum or Campaign for Peace.

But the vulnerable and largely untrained villagers have failed to tilt the balance in favour of the state, and their camps have regularly been attacked by the rebels.

In March, the Supreme Court condemned the movement, and said the state would be abetting a crime if the group's members killed innocent bystanders.

India's northeast is home to more than 200 tribes and ethnic groups and is racked by separatist insurgencies.

In Manipur alone, more than half-a-dozen guerrilla groups are fighting more than 50,000 troops, some battling for freedom and others for political autonomy. The conflict has left more than 20,000 people dead.

Singh said about 300 volunteers had already been recruited in the district of Thoubal, and 200 more would soon be signed up from Imphal West.

"They will have to go through medical tests and submit a formal application along with their educational qualifications," he added.

FOR IMMEDIATE RELEASE

AHRC-STM-122-2008

May 06, 2008

A Statement by the Asian Human Rights Commission

INDIA: The Manipur state government is recruiting state mercenaries

The decision of the Manipur state government to recruit, train and deploy Special Police Officers (SPO) in the state is a few steps backward in regaining peace in that state. The decision was made in a state ministerial meeting held early last week. The Indian Home Ministry has also approved this decision. Within days, the state government has started recruiting persons to be appointed as SPOs in the state.

Despite the opposition of a few civil society organisations, recruitment was held in Manipur at Heirok village on 5 May and yet another one is planned to be held in Chajing tomorrow.

The state government has tried to justify this 'dirty tactic' of providing arms, training and cash incentives for individuals on the pretext of fighting "terrorism" in the state. Justifying his government's decision, the Chief Minister of the state, Mr. Okram Ibibi Singh has said that "*the decision follows civilian demands to carry licensed weapons for self-protection, especially after the killing of four persons by armed insurgent groups in the recent past*".

The Chief Minister has also said that the initial period of deployment of SPOs in the state will be one year, which could be extended. The newly armed civilians will be given the official title of "Special Police Officers" and will be provided training by the government. The first batch of an estimated 500 persons will be paid Rupees 3,000 (US) as a monthly allowance, a motorcycle each for conveyance and also an additional allowance for fuel for patrolling.

The Asian Human Rights Commission (AHRC) is certain that the Manipur government is repeating the same mistake the state of Chhattisgarh made a few years ago. The SPOs in Chhattisgarh work closely with a parallel group called the Salwa Judum, also supported by the state government. The similarity of the two groups, and crossover of individuals between them, makes it difficult to identify who is an SPO and who is a cadre of the Salwa Judum. Both groups are notorious for the atrocities they have committed in the past few years.

The situation in Chhattisgarh is under challenge at the Supreme Court of India. The Court even though is yet to make a final decision upon the issue, has already expressed its displeasure by opining that "*the state cannot be allowed to arm factions among the citizenry, as this would imply state liability for the actions committed by such groups and could be abetting crime*". It appears that the state of Manipur lacks this legal common sense.

On the face of it, there is nothing wrong if a citizen possesses a weapon for a legitimate purpose. Possession of arms in India is regulated by the Indian Arms Act, 1959. But the situation is completely different when a faction of the citizenry is armed, trained and paid to help maintain law and order, yet the state is not accountable for its actions. This practice is comparable to engaging mercenaries. Though the usage of the term might not qualify under the definition provided in Article 47 of the Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts, in practice it is pretty much the same.

The alleged purpose of engaging SPOs in Manipur is to help the state maintain law and order. There is nothing wrong with expecting civilians to contribute to maintaining law and order, but "outsourcing" this state duty to ordinary citizens might not be a good option. Problems arise when people are trained to use arms and provided with weapons and cash incentives, particularly in a state like Manipur where there is a low intensity armed conflict going on for decades.

The Director General of Police in Manipur, Mr. Y. Joykumar, who personally monitored the first phase of recruitment held in Heirok said that the recruitment of SPOs is according to Section 17 of the Indian Police Act, 1861. This ancient law, that predates independence of India by 86 years, has attracted much criticism from all corners.

Even going by this law, it does not appear that Section 17 of the Police Act, 1861 was intended to facilitate recruitments *en masse* of SPOs in an entire state. Section 17 of the Act only provide for recruitment of persons by the police after a local Magistrate has approved an application for

the same.

The Government of India itself had indicated its displeasure in continuing the operation of this law that fails to meet international standards by constituting a committee to review this law and to draft a new law to replace the current one. This being a law that was drafted during the British colonial rule in the region is more reflective of the colonial nature of police rather than a people friendly police.

Section 18 of the Act reads "*every police officer so appointed have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of the police*".

Section 19 of the Act reads "*if any person being appointed a special police officer as aforesaid shall without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to fine not exceeding **fifty rupees** [emphasis added] for every neglect, refusal or disobedience*".

These two sections of the Police Act, 1861 clearly underline the purpose of these provisions as envisaged by a colonial administrator -- to legitimise orders requiring neighbours to fight neighbours so that the colonial master could easily maintain control of the colony. Fifty rupee, which was equivalent to the price of ten sovereigns of gold in 1861, was high enough a fine to scare a *Sepoy* and force him to obey. With this amount of money, one can hardly buy four cups of tea in India today.

However, the Chief of Police in Manipur has said that the SPOs recruited in the state will not be covered by any law concerning the state police, but by a different set of rules and regulations. The AHRC however is not aware of any other rule or regulation in India that could apply to the SPOs. The very approach of the Manipur state government to recruit persons as SPOs without any legal framework to regulate their deployment itself is an indicator of how their affairs will be managed.

In support of the recruitment the Police Chief Mr. Joykumar has made a series of farcical statements. The police chief has reportedly said that the high turnout of individuals, including men and women, for the recruitment is an indicator of the popular willingness and approval for the process. The AHRC is of the opinion that the high number in applications for appointment as SPOs in Manipur is a simple reflection of unemployment in the state, which stands at an all time high of 21.58%. This rate of unemployment is confirmed by a report published by the Department of Planning of the state government.

The incentives offered as allowances is yet another factor that motivates a large number of applicants to try for an appointment as an SPO in Manipur, especially when the number of persons living below the poverty line in the state has increased from five hundred and twenty nine thousand in 1987-88 to seven hundred and nineteen thousand in 1999-2000. Additionally, the people are also encouraged to believe that being recruited as an SPO is the best way to find a regular employment in the state police service. The statement made by the chief of police on 5 May that the SPOs will receive a priority treatment during recruitments to the state police stands proof to this.

In yet another statement the chief of police has also said that the misuse of authority or even use of arms by the SPOs beyond their designated areas will not be allowed and the SPOs who

breach this rule will be immediately expelled. This statement runs directly in contradiction to the general public perception of Manipur state police.

Everyone in Manipur is aware that as of now even in cases of rape, torture or murder committed by the state police officers the authorities fail to take credible action against the accused officer. Even a proper enquiry will not be done by the state government. In these circumstances, where the state police have thus far failed to ensure the minimum discipline of its own cadre, an assurance that the SPOs will be disciplined cannot be trusted. Even otherwise, what discipline could a state police that is considered to be the synonym of criminals enforce upon persons who are recruited for a short period?

The fact that ordinary civilians have demanded weapons to protect themselves against anti-state groups must suggest to the government that something has gone terribly wrong with its own law enforcement agencies. Arming civilians, rather than correcting the operational mistakes of the law enforcement agencies, could be viewed as a recipe for more violence.

The people of Manipur have seen enough violence in the past six decades. The armed forces, operating with statutory impunity provided by virtue of the Armed Forces (Special Powers) Act, 1958, are responsible for murder, arbitrary executions, rape, torture and disappearances in the state. The social psyche of fear generated by the misdeeds of state agencies is continuously exploited by anti-state factions. Providing the people with more arms in an attempt to curb violence in this situation makes no sense. Manipur is one of the most militarised states in the country.

There are several parallels between the engagement of SPOs in Chhattisgarh and Manipur. Most important is the fact that in both states SPOs are recruited from tribal communities -- the same communities that have lost their land and other resources to the state and corrupt bureaucrats. From these communities, SPOs are armed to fight their own people on behalf of the state. In short, this method is the continuation of the age-old practice of divide and rule which has to be condemned.

About AHRC: The Asian Human Rights Commission is a regional non-governmental organisation monitoring and lobbying human rights issues in Asia. The Hong Kong-based group was founded in 1984.

NEWS UPDATE FOR SPECIAL POLICE OFFICERS (SPOs) In Heirok (Thoubal district and Chajing Imphal West district of MANIPUR

<p><u>Arms for Heirok and Chajing : JACs reject Chhatisgarh model</u> Source: The Sangai Express Imphal, June 19: Rejecting deployment of SPOs in Heirok and Lilong Chajing on the model being adopted in Chhatisgarh after a detailed study of the plight of the SPOs there, the JACs of Heirok and Lilong Chajing have demanded to know the exact nature of the SPOs to be set up and deployed in Heirok and Lilong Chajing by the State Government for the first time in the North East region. In connection with the proposal of the State Government to set up SPOs in Heirok and Lilong Chajing in accordance with the demand of the people for providing arms to protect themselves, a joint delegation comprising seven representatives of Heirok and Lilong Chajing JACs and two representatives of Human Rights Alert (HRA) had reportedly gone to inspect and study the model of the SPOs deployed in Dantewada district of Chhatisgarh. Addressing a press conference at Manipur Press Club here this afternoon in connection with the findings of the inspection team, secretary general of Lilong JAC Lairenjam Maipak informed that there is nothing to be</p>

envied about the plight of the SPOs deployed in Dantewada district of Chhatisgarh. So, only after the people are informed of the reality, a final decision on whether the proposal of the State Government to set up SPOs to arm the people of Heirok and Lilong Chajing for self protection should be accepted or not would be taken. Recounting the findings of the inspection team which had gone to the camps of the SPOs at Donnabal and Kashuri in Dantewada district, secretary general of Heirok JAC Laishram Mandir said that the main duty of the SPOs there is to dissuade the people from joining or extending support to the Naxals who are dubbed as their enemies. Mandir informed that following deployment of SPOs, two distinct groups of people, one favouring the Naxal movement and the other opposing it have come up. As a consequence, there are villagers who have join the Naxals while those who are opposed to the Naxals and are now known as Salwa Jalums, have been compelled to stay in the relief camps set up near the camps of SPOs. Salwa Jalums have no future prospects and their fooding and lodging are being provided by the Chhatisgarh Government with PDS items doled out being their main source of livelihood, Mandir said, adding that the SPOs are equipped with 303 Rifles and are given a monthly stipend of Rs 1500 which is not enough to run their families. The land and other properties of the Salwa Jalums who are being given protection by the SPOs have also been usurped by the Naxals, he disclosed. Stating that the Cabinet decision of deploying the SPOs to be set up in Heirok only in Heirok is appreciable, Mandir, however, noted whether the Act under which the SPOs have to be set up can be actually amended by the State Government or not needs to be discussed and understood thoroughly before accepting any proposal in this regard. Considering the pitiable plight of the SPOs deployed in Chhatisgarh it would be better not to have SPOs at all. So the State Government should come up with an explanation on the exact nature of the SPOs to be set up in Manipur, he demanded. It is also essential on the part of the people to analyse and understand what would be the future implication of the SPOs to be set up in Manipur for the first time in the North East region, he said, while expressing desire that the Government as well as the UG groups should do whatever is necessary for the people of Heirok who are living in a state of confusion and fear.

**Activating process of Heirok SPOs starts
First batch head for 1 month training at Pangei**

Source: The Sangai Express

Imphal, June 20: Out of 300 SPOs selected from Heirok, 175 personnel have headed to Manipur Police Training Centre, Pangei for arms training. Thoubal District Police made the whole arrangement for transportation of the SPOs from Heirok to Pangei today. Thoubal District Police made a publicity campaign this morning at Heirok asking the selected SPOs to assemble at the IRB post located at Heirok Part II. To the publicity campaign of the Thoubal District Police, many selected SPOs responded and came to the IRB post but there were many other selected SPOs who refused to come out.



The first batch of the selected SPOs of Heirok getting ready to be taken to Pangei for training

On the other hand, there were some people who lined up the road and cheered the SPOs when they came out with their beddings, bags and trunks for arms training at Pangei. The SPOs were then taken to Pangei in eight buses amidst police escorts. The remaining SPOs who refused to come out today would be taken to Pangei after asking them to report at the Heirok Part II IRB post tomorrow morning. Interacting with media persons, some people of Heirok said that Assam Rifles troops, BSF personnel, IRB and commando personnel have been patrolling the limits of Heirok in the night time following restrictions imposed by the proscribed UNLF and KYKL upon the movement of Heirok people in the aftermath of the establishment of SPOs. Before the Government came up with the initiative to set up SPOs in response to the demand of Heirok people for guns for self-defence, Meira Paibis used to keep vigil in Heirok localities at night, they conveyed. Disclosing that the movement of Heirok people have been severely curtailed, they informed that sometimes commandos provided security escorts to some Heirok people while going to neighbouring Wangjing. Moreover, 12 passengers which earlier plied along Imphal-Heirok route has also suspended their service. If any villager wishes to travel to Imphal, he or she must go to Wangjing first in an auto-rickshaw before he/she boards a bus there for Imphal. Meanwhile, a public meeting was held today at Heirok Umang Laikol on the unfolding situation in the locality.

Candidates in waiting list make up SPO's total strength

Source: The Sangai Express

Imphal, June 22: Even as the 75 recommended youths out of total 300 who were not willing to turn up for the arms training at Manipur Police Training Centre at Pangei, Thoubal police carried out a campaign at Heirok today during which the remaining posts of SPOs were filled up from those who were in the waiting list. Talking to media persons today, SP Thoubal Clay Khongsai said all the recommended 300 SPOs would undergo one month training from tomorrow. About those recommended candidates who refused to come out for the training, the SP asserted that they might have other engagements. He noted that the youths were so enthusiastic to join SPO that even fresh youths came out and sought recruitment. The State Government's prompt move to impart arms training to the SPOs came in the back drop of threats and intimidations from two UG outfits. The proscribed UNLF and KYKL had already declared "capital punishment" to five villagers of Heirok for their alleged proactive role in setting up SPOs and obtaining arms from the Government.

Moreover, the two outfits have asked Heirol people not to venture out from their locality for defying their warning not to join the SPOs. According to the decision of the State's Cabinet adopted earlier, another 200 SPOs would be recruited from Lilong Chajing. The SPOs would be armed with .303 rifles and are entitled to a monthly remuneration of Rs 3000 each. Their working system would be supervised by the respective Superintendent of Police (SP). Interestingly, leaders of both the Heirol JAC and Lilong Chajing JAC have expressed strong objection and apprehension on setting up of SPOs in Chhastisgarh's Dantewada pattern in Manipur observing that it resulted in terrible consequences.

Dated 23-06-08 (Source : The Imphal Free Press)

52 Fresh SPOs selected:

In the ongoing process for SPOs at Heirol, the authorities have selected 52 volunteers from fresh candidates in a recruitment test conducted, a report said. Together with 30 more youths who were in the selected list of the volunteers and the fresh selected 52, the total strength of 300 volunteers had been sent to Manipur Police training School (MPTS) Pangei.

However, the whereabouts of the 4 volunteers who were missing from the MPTS, Pangei is not known, the report added.

ANNEX 3:

INDIA: Student arrested for organising meeting against SPOs in Manipur

ASIAN HUMAN RIGHTS COMMISSION – URGENT APPEAL PROGRAMME

Urgent Appeal Update: AHRC-UAC-098-2008

14 May 2008

INDIA: Student arrested for organising meeting against SPOs in Manipur

ISSUES: Impunity; arbitrary detention; fabrication of charges

The Asian Human Rights Commission (AHRC) has received information from Human Rights Alert (HRA), a human rights organisation working in Imphal, Manipur regarding the illegal arrest and detention of Mr. Sapam Cha Kangleipal, a student who was engaged in organising a protest meet against the recent recruitment of Special Police Officers (SPO) in Manipur. The AHRC is informed that Sapam who was arrested on 7 May 2008 was detained till 13 May and released, only to be rearrested on fresh charges. Sapam is a student activist in Manipur.

CASE DETAILS:



Sapam was one of the organisers for a panel discussion organised by the Manipur Forward Youth Front (MFYF). The panel discussion was held on 7 May 2008, condemning the recruitment of the SPOs by the Manipur State Police. The panel discussion was attended by members of the civil society, representing a large spectrum. Participants included university professors, senior lawyers, and journalists. The discussion was held at the Manipur Press Club on 7 May 2008.

At about 7pm on the same day, the police officers from the Manipur State Police led by Officer in Charge Mr. R. K. Kohndeon surrounded the press club and arrested Sapam. (Please see [photo](#)) The arrest was executed after issuing an arrest memo.

According to the memo, Sapam was charged for offences under Section 124 A of the Indian Penal Code 1861; Section 9 of the Punjab Security of State Act 1953 and Section 8(b) of the Assam Maintenance of Public Order Act, 1947

Sapam was initially detained in police custody at the lock up at Imphal-West Police Station. He was later produced before the local magistrate and was remanded to judicial custody for six days. In fact, Sapam was released from custody and from the original charges on 13 May and rearrested on the same day on additional charges framed under the National Security Act, 1980.

The Manipur State government has been recruiting special police officers under the pretext of countering insurgency activities in Manipur since early this month. The move to arm a faction of civilians and to train them to attack insurgents and counter-insurgent activities in the state is opposed by various civil society organisations and concerned individuals within and outside Manipur. The same tactic which is employed

in the state of Chhattisgarh was proven unsuccessful. Several individuals who opposed the state and the atrocities committed by state agents in Chhattisgarh are being countered by charging with draconian laws in that state. One of the well known voices against SPO's in Chhattisgarh is Dr. Binayak Sen who is currently detained in custody charged with similar offences that are now alleged against Sapam.

Local human rights organisations including HRA alleges that Sapam is an innocent student activist who has been targeted unfortunately as the first victim by the Manipur state police and administration after the recruitments of SPOs commenced in Manipur. The AHRC is not aware whether Sapam will be released in the coming days, but is concerned about his safety and security whilst in custody.

BACKGROUND INFORMATION:

In a decision made by the state cabinet early this month it was decided to recruit SPOs in Manipur in an alleged attempt to empower the ordinary citizen and to defend their rights against the atrocities committed by insurgent groups in Manipur. A recruitment drive was initiated by the state government, monitored by the state police, early this month.

The recruitment was carried out despite a large protest by civil society organisations and individuals. The opposition for the recruitment of SPOs was on the ground that arming a faction of the citizen for whatever reason it might be is not a correct move by the state government. Even if this recruitment was for counter insurgency activities it is reported that arming citizens for a state duty like counter insurgency activities, particularly where the state have failed in countering insurgency in the state is a dangerous move.

Examples from the state of Jammu and Kashmir and Chhattisgarh were quoted as adequate examples for substantiating that this is a wrong move by the state government. The civil society organisations also were concerned that the ordinary civilian armed with archive 303 rifles facing insurgents reportedly carrying automatic assault weapons would not only provoke the insurgents to attack the citizens but also would be a soft target for the insurgents in the state.

The Indian Police Act 1861, particularly Section 17 of the Act, is taken as an excuse by the state government to recruit SPOs is an ancient law which is still unfortunately available in India. This law that predates independence by 147 years was sought to be scraped and redrafted by the central government at least on three previous occasions. In fact, the law has been redrafted by the central government while recruitments based upon the same law is on the way in states like Manipur.