

# AMNESTY INTERNATIONAL INDIA

## PUBLIC STATEMENT

AI index: ASA 20/034/2013  
24 July 2013

### **India: Government must heed Manipur panel's findings and end impunity for "fake encounters"**

An independent panel set up by India's Supreme Court to investigate six alleged extrajudicial executions in the northeastern state of Manipur has found damning evidence of impunity and abuse of special powers by security forces, resulting in widespread human rights violations.

The panel found that all seven deaths in the six cases they investigated were extrajudicial executions, and not deaths resulting from "encounters" where security forces claimed they had fired in self-defence against members of armed groups.

The panel also said that the continued operation of the Armed Forces (Special Powers) Act, 1958 (AFSPA) in Manipur has made "a mockery of the law," and that security forces have been "transgressing the legal bounds for their counter-insurgency operations in the state of Manipur."

The Supreme Court appointed the panel in January 2013 in response to a public interest litigation filed by a Manipur-based victims' group and a local human rights organisation seeking investigation into 1,528 alleged extrajudicial executions committed in the state between 1979 and 2012.

The three-member panel, headed by retired Supreme Court judge Santosh Hegde, was tasked to determine whether a sample of six cases raised by the petitioners were "fake encounters," staged to cover up extrajudicial executions. The panel was also directed to analyze the functioning of the state police and security forces in Manipur.

The panel submitted its report to the Court on 4 April. The petitioners received a copy of the report on 15 July.

In its report, the panel said that none of the seven people killed in the cases it examined had any formal criminal charges against them. It stated that security forces appeared to have assumed that the seven individuals had to be eliminated and acted accordingly.

In one case, the panel noted that the victim suffered 16 bullet injuries shot at close range, indicating a clear disproportionate use of force. It said that the medical evidence in the case indicated that the security forces' intentions were to kill the suspect, not disable and arrest. The panel said, "The incident in question is not an encounter, but an operation by the security forces wherein death of the victims was caused knowingly."

In another case involving the killing of a 12 year-old boy, security personnel told the panel that they had fired in self-defence. The post-mortem report stated that the victim suffered four bullet injuries, all of which were potentially fatal, while none of the security forces were injured.

The panel concluded, "It is extremely difficult to believe that nearly 20 trained security personnel equipped with sophisticated weapons...could not have overpowered/disabled the victim." It concluded that

“the incident in which the deceased...was killed was not an encounter nor was he killed in exercise of the right of self-defence.”

The report also identified serious investigative lapses committed by investigators and persistent abuse of the Unlawful Activities Prevention Act (UAPA). It called for all deaths resulting from encounters to be investigated by senior police officials, and for the Manipur Criminal Investigation Department to be “suitably strengthened” within six months to carry out such duties effectively. It also called for the cases to be monitored regularly by a committee chaired by the head of the state human rights commission, and tried by a special court.

Crucially, the panel pointed to the AFSPA as a key contributor to rights violations by security forces.

The report stated, “The continuous use of the AFSPA for decades in Manipur has evidently had little or no effect on the situation. On the other hand, the six cases, which have been shown to be not real encounters, are egregious examples of the AFSPA’s gross abuse.”

The panel echoed a statement made by the Jeevan Reddy Commission, another government committee formed to review the AFSPA in 2005, which said that the law had become “a symbol of oppression, an object of hate and an instrument of discrimination and high-handedness.”

The panel’s report recorded how security forces in Manipur were disregarding procedural safeguards set out in Supreme Court rulings and Army directives to ensure that AFSPA powers were used with exceptional caution and with the minimum force necessary.

Moreover, the panel found no information to back the central government’s assertions to the Supreme Court that the use of AFSPA powers was being closely monitored. Rather, after repeated requests, they were told that there was no official record of basic information essential to such monitoring such as the number of civilians killed or injured by the police, army or other special forces in Manipur.

However, the panel stopped short of calling for the AFSPA’s repeal, and instead recommended that the law cease to operate in more parts of Manipur progressively.

Soldiers operating in areas where the AFSPA is in place cannot be prosecuted without the permission of the central government. Applications seeking permission to prosecute are almost always rejected, and sometimes remain pending for years. The panel recommended that the central government be given three months to respond to requests for prosecution, failing which it would be presumed to have granted permission to prosecute.

Amnesty International India welcomes the findings of the Supreme Court-appointed panel, but urges authorities to go beyond its recommendations and repeal the AFSPA in Manipur and elsewhere. The AFSPA has provided impunity for perpetrators of grave human rights violations for decades. Its continued operation in any form will allow human rights violations to continue.

In Manipur, impunity is endemic and authorities take little to no action to investigate and prosecute allegations of rights violations by security forces. A special investigation team comprising senior police officers from outside the state should be formed to conduct prompt and full investigations into all 1,528 cases of alleged extrajudicial executions brought before the Supreme Court by local groups.

Where sufficient admissible evidence is found, suspects - including those with command responsibility – should be prosecuted in fair and speedy trials meeting international standards in a civilian court, regardless of the time that has lapsed since the crime occurred. The families of the victims should receive adequate reparation, including compensation.

Amnesty International India urges both state and central authorities to heed the panel's recommendations to bolster the Manipur police and Criminal Investigation Department in six months time in order to conduct thorough, impartial and effective investigations into all future cases of alleged extrajudicial executions in Manipur.

Authorities must apply procedures laid down by India's National Human Rights Commission in cases of deaths caused in the course of police, army or other security personnel action, and follow the UN Principles and Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

The Government of India must also act on the recommendations of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions and set up a credible commission of inquiry into extrajudicial executions throughout India.

### **Background**

Impunity in cases of extrajudicial killings is a matter of grave concern in Manipur and some other parts of India. In his comments after visiting India in 2012, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions Christof Heyns observed that "Impunity for extrajudicial executions is the central problem. This gives perpetrators a free rein, and leaves victims in a situation where they either are left helpless, or have to retaliate."

The National Human Rights Commission has itself on occasion said "extrajudicial executions have become virtually a part of state policy."

The AFSPA, which has been in force in parts of Northeastern India since 1958, and a virtually identical law (The Armed Forces (Jammu and Kashmir) Special Powers Act, 1990) in force in Jammu and Kashmir since 1990, provide sweeping powers to soldiers, including the power to use lethal force against any person contravening laws or orders, and to prevent the assembly of five or more persons.

The law has provided impunity for perpetrators of grave human rights violations, including extrajudicial executions, enforced disappearances, rape, torture and other ill-treatment, and excessive use of force.

The AFSPA falls far short of international standards, including provisions of treaties to which India is a state party, and is inconsistent with India's international legal obligations to respect and protect the rights to life, liberty and security of person, to freedom from torture and other ill-treatment, and to an effective remedy.

Several UN bodies and experts, including the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the situation of human rights defenders, have stated that the AFSPA must be repealed.

A number of Indian bodies, including the Second Administrative Reforms Commission, the Jeevan Reddy Committee to review the AFSPA and the Prime Minister's Working Group on Confidence-Building Measures in Jammu and Kashmir, have also urged the repeal of the law. The Justice Verma Committee, set up to review laws against sexual assault, said in January 2013 that the AFSPA legitimized impunity for sexual violence.

ENDS

Public document

\*\*\*\*\*

For more information please call Amnesty International India in Bangalore at (080) 49388000 or email Amnesty International at [contact@amnesty.org.in](mailto:contact@amnesty.org.in).