



NORTH EAST DIALOGUE FORUM

THE FORUM SECRETARIAT

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Madam/Mr. Chair, expert members, distinguished government delegates, indigenous brothers and sisters,

Manipur, with a little over 22 thousand square Kilometer is India's North East with more than thirty (30) indigenous communities witnessed intense human rights violations against the backdrop of ongoing movement for right to self determination movement emerging after the forced merger of Manipur to India in 1949. Earlier, following the 1891 Anglo-Manipuri war, Manipur came under British suzerainty, its status remaining unchanged until the British left Manipur in 1947. A Legislative Assembly and a Council of Ministers started functioning under the Manipur Constitution Act of 1947 after duly conducting elections under universal adult franchise in June 1948.

A: Grave Human Rights Violation:

Armed Forces (Special Powers) Act, 1958 (AFSPA) is one of the most draconian legislations that the Indian Parliament has passed in its Parliamentary history. Under this Act, all security forces are given unrestricted and unaccounted power to carry out their operations, once an area is declared disturbed. The enforcement of the AFSPA has resulted in innumerable incidents of arbitrary detention, torture, rape, and looting by security personnel. Thus, the extra-judicial executions of innocent civilian populace and other forms of naked human rights violations remain a hard reality of life in the North-Eastern states in India particularly in the state of Manipur for the last more than five decades.

The massive deployment of Indian Armed Forces commenced, however after the introduction of Armed Forces (Special Powers) Act, 1958 (AFSPA) as a militaristic response to attempts of the people of the state to assert their inherent rights for survival and right to Self Determination. The entire state has been declared 'Disturbed', since 1980, under the Act¹, legitimizing full-scale operation of armed forces of India.

The Armed Forces (Special Powers) Act (AFSPA), 1958, that empowers armed forces with special powers including right to kill on suspicion and that requires seeking consent of the central government for instituting legal prosecution for armed forces personnel involved in abuses, prevents full redress for violations and reinforces the climate of impunity for armed forces. The Indian Supreme Court of India has upheld the AFSPA in 1997, legitimizing killing without trial under the Indian constitution in suppressing indigenous resistance. No wonder, with AFSPA, incidents of extra judicial execution, arbitrary detention, torture and

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

rape by the security personnel became rampant and fully acknowledged by several worldwide human rights organizations². Indigenous Youths primarily are victims of indiscriminate killings by security forces in their operations against insurgent. Young boys, in particular, readily perceived by security forces as active supporters and future members of insurgents are targeted to arbitrary killing, torture and enforced disappearances.

The nature of AFSPA makes it difficult for a person booked under it to redress their grievance and get relief such as bail. It grants extra-ordinary power to the investigating agencies to elicit confessions etc, thus empowering investigating agencies to easily frame a person whom they suspect to be guilty, the process violating human rights provisions in the Constitution and the international Bill of Human Rights. The United Nations Human Rights Committee, in 1991, described Section 4 of the AFSPA to be incompatible with Articles 6, 9 and 14 of the International Covenant on Civil and Political Rights 1966, ratified by India³.

In 2004, as an outcome of peoples' uprising as an aftermath of a case related to rape and murder of Ms. Thangjam Manorama Chanu by personnel of 17 Assam Rifles on 11 July 2004, the government of India set up a five members committee headed by Justice Jeevan Reddy to review the said Act. The committee in its report of June 2005 submitted to the government of India clearly termed this Act as – *the Act is too sketchy, too bald and inadequate in several particulars.....The Act, for whatever reason, has become a symbol of oppression, an object of hate and an instrument of discrimination and high handedness. It is highly desirable and advisable to repeal this Act altogether.....* Again, the same conclusion was also reached by the Second Administrative Reforms Commission which was chaired by ruling Congress leader Veerappa Moily. This commission's fifth report, submitted to the Government on 25th June 2007, also recommended that AFSPA be repealed.

The Committee on the Elimination of Racial Discrimination, in its concluding observation of 2007 observed that the AFSPA continues to sanction absolute impunity for serious human rights violations against the predominant indigenous population of Manipur and other northeast states. In addition, the Chairperson of the CERD submitted special communications to the government of India on different occasions thereby urging to implement the recommendation made in its Concluding Observation of 2007.

The High Commissioner for Human Rights, Ms. Navanethem Pillay, during her visit to India in March 2009 urged Indian authorities to repeal AFSPA. The European Parliament, in 14 June 2010, also raised the demand for the repeal of the AFSPA. Furthermore, Ms. Margaret Sekaggya, the Special Rapporteur on the situation of Human Rights Defender, Mr. Christoff Heyns, the Special Rapporteur on extrajudicial summary or arbitrary execution, Mrs. Rashida Manjoo, the Special Rapporteur on Violence against Women and its causes and consequences, in their visit in India, recommended for repeal of AFSPA.

Despite these recommendations, the Government of India continues to insist on full application of the Armed Forces Special Powers Act, 1958 and to militarize entire Manipur. Rather, there is an increasing trend of human rights violations and those armed forces personnel involved in multiple violations continues to remain scot free.

² Right to Life in Manipur. A Report, Committee on Human Rights (COHR), Manipur, 13 February 1997

AI, India: 'Operation Bluebird', A case study of torture and extrajudicial executions in Manipur, October 1990, AI Index: ASA 20/17/90,

AI, India: Official sanction for killings in Manipur, April 1997, AI Index: ASA 20/14/97

³ Jose Aguilar Urbina, member of the 41st Session of the Human Rights Committee, New York 26/27 March 1991 quoted in "India: Examination of the second period report by the human rights committee", March 1993, AI Index: ASA 20/05/93.

B: Mega Dams, extractive industries and its impact to the indigenous peoples:

Manipur witnessed an increasing pursuance of policies, purely extractive, exploitative by the State in favor of large corporate bodies in indigenous peoples land and resource leading to massive displacement, forceful and arbitrary dislocation of people from their survival sources, massive takeover and conversion of agricultural land, agrarian production areas for non productive initiatives. Series of mega dams, oil exploration moves, mining plans and infrastructure projects are being introduced in Manipur without the participation and consent of the indigenous peoples of Manipur. The government of India is planning to construct Tipaimukh Hydroelectric Power Project (Tipaimukh dam in short) 500 meters downstream from the confluence of the Barak and the Tuivai rivers in the southwestern corner of Churachandpur district of Manipur near the Assam-Manipur-Mizoram border. The project envisions a 390 m. long, 162.8 m. high earthen-rock filled dam across the Barak. The dam will be built at an altitude of about 180 m. above mean sea level with a maximum reservoir level of 178 m. It was originally designed to contain floodwaters in the lower Barak valley but hydropower generation was later incorporated into the project. The project will have an installation capacity of 1500 MW and a firm generation of 412 MW. The dam will permanently submerge an area of 275.50 sq. km.

The Ministry of Environment and Forest (MoEF) of the Government of India granted Environmental Clearance for Tipaimukh Dam construction on 24 October 2008 despite stern opposition of affected communities to the project and also to the public hearings held on account of absence of holistic impact assessment and non recognition of indigenous peoples rights to their ancestral domain and resources.

The site selected for Tipaimukh project is one of the most seismic sensitive in the entire world, recording at least two major earthquakes of 8+ in the Richter scale during the past 50 years. The proposed Tipaimukh HEP is envisaged for construction in one of the most geologically unstable area as the proposed Tipaimukh dam axis falls on a 'fault line' potentially active and possible epicenter for major earthquakes. Several earthquakes over magnitude 5-7 on recorded within a radius of 6 km to 100 km of Tipaimukh in the past 150 years and the epicenter.

A large number of tribal people will be displaced permanently and deprived of the livelihood. The dam will submerge areas of about 311 sq. km covering 90 villages with 1,310 families, including 27,242 hectares of forest and cultivable land and posing serious threat to the rich biodiversity, flora and fauna of the region. The forested hills are the habitat of rare and endangered species of reptiles and mammals, including tiger, pythons, gibbons, leopards and deer. The region is rich in orchids, medicinal and herbal plants. Now the government of India, for the purpose of infrastructural development of the construction of Tipaimukh dam, is planning to felling 7.8 million trees and hundreds of thousands of bamboo groves which will lead to affect 25,822.22 hectares of forest land of Manipur. Such an attempt will not only seriously impact community livelihood and survival and exacerbate species loss but also induce climate change impacts due to destruction of absorption capacity of Green House Gases (GHG).

Disregarding Peoples Voices

Both the Central and State authorities and the project proponent failed to respond to repeated calls, memorandums and other representations against the Tipaimukh High Dam from affected communities and civil society organizations in Manipur. Various organizations in Mizoram consistently maintained that the consent of the people in the affected areas of the

project has not been sought while applying for the forest clearance and that the project, which will affect 1618 hectare of forest inside Mizoram.

It is pertinent to mention here that the Committee on the Elimination of Racial Discrimination in its Concluding Observation of 70th Session in 2007 urges the State party “to fully respect and implement the right of ownership, collective or individual, of the members of tribal communities over the lands traditionally occupied by them in its practice concerning tribal peoples, in accordance with ILO Convention 107 on Indigenous and Tribal Populations (1957). The State party should seek the prior informed consent of communities affected by the construction of dams.....” Again, the Chairperson of the UN Committee on the Elimination on all forms of Racial Discrimination has written to the Government of India on 2 September 2011 on Tipaimukh Dam to respect and adhere to the Right to Free Prior and Informed Consent of Indigenous Peoples before construction of Tipaimukh Dam. However, the government of India has decided to disregard the recommendation made by the UN CERD and voices of the indigenous people.

Oil Exploration and Drilling in Manipur:

Another mega development project introduced arbitrarily in violation of indigenous peoples rights is the case of licensing for oil exploration and drilling in Manipur by the Government of India to a Multinational Company without informing and taking the consent of the indigenous peoples. The Ministry of Petroleum and Natural Gas, Government of India granted license to Jubilant Oil and Gas Private Limited, which is based in the Netherlands, for exploration and drilling works in 2009.

The Production Sharing Contract for Manipur Oil Block I (AA-ONN-2009/1) was signed on 30th June, 2010 and the Petroleum Exploration License was granted by the Manipur Government on 23rd September, 2010. The Contract for Manipur block II (AA-ONN-2009/2) was signed on 19th July 2010 and the license was granted by the Manipur Government on 20th September, 2010. And the deeds for the exploration licenses were signed on 15th November, 2010, all without the knowledge of the people of Manipur. The total area granted for oil exploration is 3850 Square Kilometres and it is estimated that Manipur has nearly 5000 billion cubic feet of oil. The Jubilant Energy is envisaged to drill oil from 30 oil wells, identified by the Alpha Geo Company based in Hyderabad, which has been conducting seismic studies for Jubilant Energy.

The indigenous peoples of Manipur are not informed so far on what kind of terms and conditions are laid down in the licensing between the Government and the Jubilant Energy and how the people of Manipur would be benefitted. Rather, innocent villagers of Tamenglong District are duped to sign NO OBJECTIONS LETTERS for Seismic surveys by Alpha Geo Company without informing them the purpose and objectives and also impacts of the surveys and oil exploration and drillings. This is a violation of the right to free, prior and informed consent of communities under International Law, especially the UN Declaration on the Rights of Indigenous peoples, 2007.

The Ministry of Environment and Forest granted environment clearance in 2008 for Tipaimukh Dam despite affected communities' objections to Tipaimukh dam in all the five public hearings held in Mizoram and Manipur.

The oil exploration move is also fraught with absence of a participatory and detailed environmental impact assessment due to exploration and drilling in Manipur. The initial EIA prepared for the public hearing has only negated the existence of endemic species of Manipur and the rich flora, fauna and biodiversity of Manipur. The report also undermines the fact that

the entire Tamenglong, Churachandpur and Jiribam is an eco sensitive zone where survival sources of wildlife and communities in the region goes beyond national parks and sanctuaries.

Oil Exploration and drilling would increase influx of immigrants in Manipur and intensify militarization, which would deepen human rights violations, including violence against women. The Indian army deployed in Manipur to counter insurgent groups and operating under controversial acts like the Armed Forces Special Powers Act, 1958 are condemned by communities' organizations already for providing protection and security to oil companies and their associate companies for survey works and other exploration processes in Manipur. The efforts to explore and drill oil in Manipur involve disrespect and clear non adherence of human rights based approach to development. There is no process to recognize, both by the Government of India and the Oil company, Jubilant Energy, that the oil and all resources in Manipur belongs to the indigenous peoples of Manipur and that they have exclusive rights to define and decide how to use, control and manage their resources.

Till the rights of communities over their land and resources are recognized and their self determined developmental rights are recognized, the Jubilant Energy and the Government of India should stop all petroleum and drilling related activities in Manipur.

In the facts and circumstances highlighted above, the North East Dialogue Forum (NEDF) humbly asks the following recommendations to be made towards the government of India at the earliest:

RECOMMENDATIONS

- Urge the government of India to Repeal Armed Forces (Special Powers) Act, 1958 and stop all militarization in the name of development that curtails the wishes and aspirations of the communities.
- Urge the government of India to fully adhere to the recommendations of the World Commission of dams and the UN Declaration on the Rights of Indigenous Peoples before pursuing for Tipaimukh Dam.
- Revoke all memorandums of agreement signed for construction of proposed Tipaimukh Dam and to revoke the Environment Clearance granted by the Ministry of Environment and Forest, Govt of India.
- Urge the Government of Manipur and India to fully adhere to the recommendations of the UN Special Rapporteur on Indigenous Peoples in 2008.
- Urge the Government of India and the Jubilant Oil and Gas Private Limited to stop all petroleum exploration and drilling in Manipur until and unless there is free, prior and informed consent of all indigenous peoples in Manipur.