

## MSAD Activities

After successfully circulating the second issue, MSAD is presenting the third issue of MSAD-Newsletter. MSAD received various suggestions as well as inspiration from various quarters. The editorial team is hopeful that this issue, as the earlier one, will be welcome by all our readers.

We would like to remind our readers that Publication of MSAD-Newsletter is a step to bring to the fore interaction between MSAD Executive Committee and the wider public. The Newsletter carries at least one article on every issue to engage with questions concerning various issues of democracy, rights and grassroot politics, students' movement and welfare. MSAD is of the opinion that we need to have an ambience for having talks on these issues. MSAD-Newsletter is just one small step toward this. *(Continued in page 2)*

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### Getting Away With Murder \*

#### 50 Years of the Armed Forces (Special Powers) Act

*"They kept on pouring water into my nostrils until the water came out in my ears; it felt warm inside my ears. Then they stamped on both my thighs while two persons held my feet while another man sat on my head... They touched the wires' ends to my chest and gave me shocks three times. Each time I felt as if my whole body had contracted... I keep remembering how they used to beat me and see everything that happened to me vividly."*-14-year-old child tortured by Indian soldiers in the North Eastern state of Manipur.

In August 2008, India celebrates 61 years of independence and democracy. But many are lamenting another anniversary: 50 years of the Armed Forces (Special Powers) Act (AFSPA or "the Act").

*(Continued in page 4)*

*(MSAD Activities Continued)*

### June-July, 2008

**27-06-2008:** MSAD issued a press release and submitted a memorandum to the Education Minister, Government of Manipur when many students from Manipur were denied admission to various colleges of DU on OBC category. University administration justified the denial of admission on the ground that the certificates had certain lacunae which was not clear to the students and parents. MSAD approached the Dean of Students' Welfare, University of Delhi about the matter. Following an intervention of the Government of Manipur on the matter, colleges accepted the certificate for admission.

**01-07-2008:** MSAD released the second issue of MSAD-Newsletters. More than one hundred copies were successfully circulated.

**11-07-2008:** MSAD Volunteers, Th. Chinglenkhomba Meitei, B.A. (H) Political Science, 2<sup>nd</sup> Year, Deshbandhu College, University of Delhi, and M. Indrakumar were nominated to the post of the Convenor, MSAD Human Rights Committee and member of the working advisors respectively by the collective decision of executives, advisors and volunteers.

**23-07-2008:** MSAD volunteers E. Samarendro, N. Manishwar (General Secretary) and M. Bobby Meetei (Academic & Magazine Secretary) donated three units of blood to a ten year old a heart patient from Manipur, Yumnam Gautam. He was admitted to AIIMS for heart surgery.

### July-August, 2008

**03-08-2008:** MSAD organised a gathering of the fresher students at the Buddha Park, Delhi University (North). The gathering was chaired by the General Secretary and the advisors as Chairperson and Guest of honours respectively and it was attended by more than one hundred students. After self introduction by students present on the day, welcome cards were distributed to fresher students. Students contributed for refreshment. There was discussion on the following themes - (a) introduction to the history and activities of MSAD, (b) racial discrimination on the students hailing from Northeast in Delhi and how to combat racial discrimination, (c) general counselling on career and security. The gathering

was peacefully concluded with a vow to the solemn slogan “*Apunbana Yaifarae*”.

**05-08-2008:** MSAD volunteers L. Sanju (Sports secretary), A. Bikramjoy (Cultural secretary) and Y. Ramchandra, donated three units of blood to a *livex* patient from Manipur, Yumnam Mohendro who was admitted to Apollo Hospital for organ transplantation.

**08-08-2008:** MSAD submitted memoranda to Mr. R.K. Naidu, Director, Sports Authority of India; M.S. Gill, Union Minister for Youth Affairs and Sports, India and Harbhajan Singh, President, Indian Weightlifting Federation to demand that charges of being positive levelled against Laishram Monica by the Sports Authority of India be proved on the basis of ‘facts’ and investigated with proper procedure.

**12-08-2008:** MSAD protested the Doping Conspiracy against Monica. More than 200 Manipuri students took part in the silent demonstration at ITO junction at 3 p.m. At around 5 p.m. one section of the protesters blocked the main gate of the Central Secretariat while another section of the protestors stormed the Sport Ministry office. When the delegation of MSAD representatives could not reach an agreement with the ministry officials, the volunteers decided to continue with the blocking. The Delhi Police retaliated and seventy four protestors were detained at the Parliament Street Police Station till mid night. MSAD had organised the protest on the ground that the recent controversy on Monica was a conspiracy that was cooked up to humiliate the sporting spirit of shining sportspersons of Manipur. The conspiracy had also exemplified a new terrain of racial discrimination in Indian sports. MSAD maintained that such a grossly committed crime to Monica by the vulgar intentions of the SAI can be compared with what the Indian Army did to Manorama in 2005. MSAD stood for the Manipur sportspersons, demanded immediate suspension of R.K. Naidu and CBI investigation into the doping conspiracy.

**18-08-2008:** MSAD protested 50 years of atrocities in Manipur under the Armed Forces Special Powers Act 1958. At around 11 a.m. MSAD volunteers who were on a symbolic march in front of the Indian Parliament were detained by the Delhi Police. Later on a delegation of MSAD dropped a pamphlet that condemned the Act in the Parliament Post Office. At around 2 p.m. MSAD volunteers carried out cycle rally cum pamphlet circulation in and around the Delhi University North Campus.

MSAD reminded that it was on that day, 18<sup>th</sup> August 1958, that the Armed Forces Special Powers Bill was passed in the Indian Parliament. The AFSPA has given enormous powers to the Indian armed forces to kill people on suspicion. The protest organised by volunteers were looking at the Indian Parliament asking – Will this parliament ever come out to repeal AFSPA any time throughout the celebrations of what is glorified as 60 years of democracy in India?

**26-8-08** An interactive session with the representatives of Manipur Film Forum was organised at International Guest House hall at 9 am. Various issues on identity and issues concerning morality and film were discussed upon.

**27-8-08** MSAD volunteers attended All India Convention on Indo-US strategic Alliance Programme organised by Peoples Democratic front of India at Constitution Club.

**28-8-08** More than thirty MSAD volunteers and representative of the Coordinating Committee Against the Conspiracy to Exclude Laishram Monica from Beijing By the Government of India met at 5 pm at Arts Faculty Park, DU. L. Monica narrated to the audience a long story about the humiliation she suffered in the recent doping conspiracy. The volunteers and the representatives who came from Manipur resolved to continue the struggle till justice is done to Monica.

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***(Getting Away ... continued)***

Enacted on August 18, 1958, as a short-term measure to allow deployment of the army to counter an armed separatist movement in the Naga Hills, the AFSPA has now been in force for five decades in states in India’s northeast. Similar laws have also been used in Punjab and in Jammu and Kashmir.

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. The Act violates provisions of international human rights law, including the right to life, the right to be protected from arbitrary arrest and detention, and the

right to be free from torture and cruel, inhuman, or degrading treatment. It also denies the victims of the abuses the right to a remedy. The best 61<sup>st</sup> Independence Day present for the people of India would be a repeal of this draconian legislation.

### **Facilitating Rights Violations**

The AFSPA is based on a 1942 British ordinance intended to contain the Indian independence movement during the Second World War. A new ordinance was adopted by the Indian government in May 1958, then endorsed by parliament in August 1958, and given presidential assent on September 11, 1958. Concerned legislators warned the Indian government at the time that human rights violations would ensue. Describing it as a “lawless law” during the parliamentary debate, Laishram Achaw Singh, a member from Manipur, said that the AFSPA would only “harass innocent folk and deteriorate the situation.”

Initially the AFSPA applied only to the northeast territories of Assam and Manipur and was aimed at containing an armed rebellion by Naga militants. In a 1972 amendment, the AFSPA was extended to each of the seven new states created in the region: Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh. Similar laws were also applied to counter militancy in Punjab from 1985 to 1994. A version of the Act has been active in Jammu and Kashmir since 1990.

The powers that the AFSPA extends to the armed forces come into force once an area subject to the Act has been declared “disturbed” by the central or state government. This declaration is not subject to judicial review.

The right to life is violated by section 4(a) of the AFSPA, which grants the armed forces power to shoot to kill in law enforcement situations without regard to international human rights law restrictions on the use of lethal force. Lethal force is broadly permitted under the AFSPA if the target is part of an assembly of five or more persons, holding weapons, or “carrying things capable of being used as weapons.” The terms “assembly” and “weapon” are not defined.

The right to liberty and security of person is violated by section 4(c) of the AFSPA, which fails to protect against arbitrary arrest by allowing soldiers to arrest anyone merely on suspicion that a “cognizable

offence” has already taken place or is likely to take place in the future. Further, the AFSPA provides no specific time limit for handing arrested persons to the nearest police station. Section 5 of the AFSPA vaguely advises that those arrested be transferred to police custody “with the least possible delay.”

The right to remedy is violated by section 6 of the AFSPA, which provides officers who abuse their powers under the AFSPA with immunity from legal accountability. This section of the AFSPA prohibits even state governments from initiating legal proceedings against the armed forces on behalf of their population without central government approval. Since such a sanction is seldom granted, it has in effect provided a shield of immunity for armed forces personnel implicated in serious abuses.

In practice the AFSPA also facilitates violation of the right to be free from torture, and from cruel or degrading treatment. Since the AFSPA provides powers to arrest without warrant and then detain arrested persons for unspecified amounts of time, the armed forces routinely engage in torture and other ill-treatment during interrogation in army barracks.

Areas declared “disturbed” under the AFSPA over the past 50 years vary significantly according to their conflict history, ethnic constituency, and levels of militancy. However, all these areas share a common experience of widespread human rights abuses during the imposition of the AFSPA. The AFSPA has also had the opposite effect to that intended by the Indian government: in each state where the AFSPA has been implemented and soldiers have been deployed, the armed forces have become a symbol of oppression and an object of hate.

Human rights violations have served to fuel conflicts and act as a recruiting sergeant for militant groups in many parts of the country. Arbitrary detention, torture, and the killing of peaceful critics have had the effect of closing democratic and peaceful paths of opposition, forcing organizations underground and fueling a growth in militancy. It is estimated that over 70 armed opposition groups may be operating across the northeast alone. While the conflict has died down in Punjab, there are numerous militant groups operating in Jammu and Kashmir.

Many militant groups have been responsible for human rights abuses, including torture, indiscriminate killings with bombs and landmines, hostage taking, and targeted attacks upon civilians regarded as “enemies.”

Human Rights Watch has called on all militant groups to cease attacking civilians and ensure compliance with international humanitarian law.

## Manipur

Manipuris have long campaigned for the repeal of the AFSPA, a few engaging in acts of desperation including self-immolation and stripping naked in front of an army camp. Irom Sharmila, a human rights activist, has been on a fast until death since 2000, kept alive by being force-fed by doctors while in judicial custody.

Opposition to the AFSPA came to a head following the killing of Thangjam Manorama Devi in July 2004. After being arrested by members of the Assam Rifles, Manorama was found dead near her house in the Ngariyan area the next morning. She had been shot through the lower half of her body, leading to suspicion that bullet wounds had been used to hide evidence of rape. For several weeks following Manorama's killing, ordinary Manipuris joined in protest demonstrations calling for repeal of the AFSPA.

Indian Prime Minister Manmohan Singh eventually responded by setting up the Justice B.P. Jeevan Reddy Committee to review the AFSPA. The committee recommended repeal of the Act in its report submitted on June 6, 2005. The government has yet to act upon the committee's recommendation.

## Repeal the AFSPA

Human Rights Watch urges the government of India to repeal the Armed Forces Special Powers Act (1958) and the Armed Forces (Jammu and Kashmir) Special Powers Act (1990).

The AFSPA is a symbol of abuse, oppression, and discrimination. Its application and misuse has fueled a cycle of atrocity and impunity and inflamed passions for militancy in various parts of the country. The growth of militant groups under the 50-year application of the AFSPA is evidence that countering armed insurgency with disregard for human rights is ineffective.

Human Rights Watch is not alone in calling for repeal of the AFSPA. Human rights groups in India have called for repeal for decades. Other Indian voices calling for repeal have included the:

- B.P. Jeevan Reddy Committee (2005),
- Administrative Reforms Committee headed by Veerappan Moily (2007), and
- Working Group on Confidence-Building Measures in Jammu and Kashmir headed by Mohammad Hamid Ansari (2007).

Internationally, repeal has been called for by the:

- UN Special Rapporteur on extrajudicial, summary or arbitrary executions (2006);
- Committee on the Elimination of Discrimination against Women (2007) and
- Committee on the Elimination of Racial Discrimination (2007).

In 1997, the UN Human Rights Committee expressed concern regarding the continuing reliance on the AFSPA and at human rights violations by security personnel in areas declared "disturbed." It expressed concern about the "climate of impunity" and lack of remedies resulting from the requirement of government approval for legal proceedings against armed forces acting under special powers. The Committee recommended that this requirement be abolished.

Should the AFSPA be repealed, any future legislation aimed at dealing with militancy in areas currently subject to the AFSPA must comply with international human rights and humanitarian law. Such laws must ensure that the reporting, investigation, and prosecution of unlawful acts by members of the armed forces are not impeded.

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