

India: In Solidarity with Irom Sharmila

Tuesday 15 December 2009, by [MARIK Soma](#) (Date first published: 7 December 2009).

Edited translation of a speech delivered at a Calcutta meeting organised by the Nari Nirjatan Pratirodh Mancha to express solidarity with Irom Sharmila, on 7th December 2009.

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Irom Sharmila Chanu has been on hunger strike since early November 2000. We are gathered here to express our solidarity with her. To express solidarity with her means not merely to express solidarity with one courageous individual, but to support the cause for which she has been on hunger strike, under arrest for “attempted suicide”, and continually force-fed, sometimes in Manipur, sometimes in Delhi.

Chanu has been on a hunger strike demanding the repeal of the Armed Forces (Special Powers) Act (AFSPA) since November 2, 2000, after soldiers of the Indian Paramilitary Assam Rifles killed ten innocent bystanders in Malom. We need to understand the Armed Forces (Special Powers) Act, and state violence using ‘anti-terror laws’, as well as the use of women’s bodies. Such Acts now dot the country and are used extensively in various contexts. Yet the AFSPA holds a special position, because no other act has been used so systematically and for such a long time.

The Background

Manipur was a princely state, forcibly integrated into India in 1949, ignoring the democratic Legislative Assembly the Maharaja had agreed to set up. Indian attitude became even clearer, when Nagaland was granted statehood in 1963, while Manipur, which was annexed in 1949, remained a Union Territory till 1972. The Armed Forces Special Powers Act was initially promulgated in 1958. It has been used to establish martial law in a number of provinces, at first in Assam and Manipur, and subsequently in the entire North East, as well as in Jammu and Kashmir. According to the AFSPA, in an area that is proclaimed as “disturbed”, an officer of the armed forces has powers to:

- Order the shooting and killing of anyone “who is acting in contravention of any law” or has deadly weapons.
- Arrest without a warrant anyone who has committed certain offences or is suspected of having done so.
- To enter and search any premise in order to make such arrests.

- In all such cases, the officers have legal immunity. They cannot be taken to a court for any action committed under the provisions of that law.
- The government's decision to identify an area as "disturbed" is not subject to judicial review.

In 1991, the United Nations Human Rights Committee questioned the constitutionality of the AFSPA under Indian law and asked how it could be justified in light of Articles 4 and 6 of the International Covenant on Civil and Political Rights. Article 4 of the ICCPR limits the rights of states to curtail the civil liberties of people living in those states. Article 6 prohibits the taking of human life without due legal process. The AFSPA very obviously disregards that provision, making the UN complaint an extremely valid one. The Attorney General of India responded that the AFSPA is a necessary measure to prevent the secession of the North Eastern states. In other words, by using a political label, the government of India proclaimed that it would commit any civil rights violation.

But why should there be such a strong current of "separatism"? And what is the practice of the Indian state?

"Integration" of the North East into the "national mainstream" is based on a set of assumptions. First of all, it meant the imposition of capitalist exploitation, with little attention to the development of local economy. The traditional trade routes with South East Asia and Bangladesh were kept closed in the name of tackling secessionism. The development programmes of the first few Five Year Plans also gave the North East a miss. Manipur is 22% behind the national average for infrastructural development, and the entire North-Eastern region is 30% behind the rest of India. A study by Hanjabam Isworchandra Sharma, titled 'Manipur's Economy from 1949 to 1972: Birth and Nurturing of a Dependent Economy' (published in ALTERNATIVE PERSPECTIVES Volume II Issue I October-December 2006 published by the Centre For Alternative Discourse Manipur, Imphal) shows that the period when Manipur was a Union Territory governed from Delhi, was crucial for its deepening development as a colonial type economy, reinforcing and strengthening the tendency begun under the British, whereby a formerly self-sufficient agrarian economy was transformed into a dependent economy.

Secondly, the so-called mainstream is a misnomer. It is actually an attempt to impose customs and rules derived from a highly casteist Hindu society into an area, where society, while not absolutely egalitarian, was certainly less hierarchical than in the bulk of India.

The shifting demographic balance was another cause of tension. Labouring people from Bengal, Bihar, immigrants from Nepal and Bangladesh, have poured into the area, and in the absence of democratic politics, these migrations have heightened tensions. Given the treatment of Manipur as a kind of internal colony, locals have perceived such migrations tempts to drown their voices, rather than as the normal occurrence in a complex economy.

For the Government of India, the primary response in the North East has always been strategic and security centric. No democratic scruples have ever tied its hands. Thus, the AFSPA was initially promulgated as an Ordinance in 1958, only 12 days after the ending of the budget session of the Parliament. This clearly suggests the government wanted to present Parliament with a fait accompli, giving it less scope to modify or reject the proposal. A bill was introduced in the Monsoon session of Parliament that year. Merely, 3 and 4 hours discussion respectively in the Lok Sabha and the Rajya Sabha, empowered the Parliament to approve the Armed Forces (Assam- Manipur) Special Powers Act with retrospective effect from 22 May 1958. As early as 1966, the operations under the AFSPA included the Air Force in Mizoram resorting to aerial bombardment.

The AFSPA: A Recipe for Military Rule

The AFSPA only requires that the Central Government and the Governor be “of the opinion that whole or parts of the area are in a dangerous or disturbed condition such that the use of the Armed Forces in aid of civil powers is necessary.” The vagueness of this definition was challenged in *Indrajit Barua v. State of Assam* (AIR 1983 Del. 514) case. The High Court decided that the lack of precision to the definition of a disturbed area was not an issue because the government and people of India understand its meaning. So the government has full freedom to impose the AFSPA at will, and has done so, keeping it going for over half a century.

The crucial aspect of the Act is the State-endorsed license to kill with impunity, granted to any member of the Indian army. Moreover, the AFSPA says that after the military has arrested someone under the AFSPA, they must hand that person over to the nearest police station with the “least possible delay”. There is no definition in the act of what constitutes the least possible delay. So several days can and do pass between arrest and handing over, at times the gap being enough to murder the person. Murders are common, as with Thangjam Manorama in July 2004. Section 6 of the AFSPA provides the army officers with absolute immunity for all atrocities committed under the AFSPA. A person wishing to file suit against a member of the armed forces for abuses under the AFSPA must first seek the permission of the Central Government.

In a report on the AFSPA to the UN Human Rights Committee in 1991, Nandita Haksar, a lawyer who has often petitioned the Guwahati High Court in cases related to the AFSPA, explained how in practice this law leaves the military’s victims without a remedy. Firstly, there has not been a single case of anyone seeking such permission to file a case in the North East. Given that the armed forces personnel conduct themselves as being above the law and the people are alienated from the state government, it is hardly surprising that no one would approach Delhi for such permission. Secondly, court martial judgments are not published. The only, fragile remedy is the filing of Habeas Corpus cases. By a Habeas Corpus case, the state might be compelled to produce the arrested person in court and this might save her or his life. However, a habeas corpus case will not lead to the repeal of the Act nor will it punish particular officers who committed the abuses. Also, only people who have access to lawyers will be able to file such a case.

Using this law, the Armed Forces of India have carried on a five decade long brutalization of the people of Manipur, along with other North Eastern areas. Human Rights Watch, a civil liberties organization, put out a 16 page dossier chronicling how systematically the AFSPA has been used to destroy rights of people. Sections of Manipur were declared disturbed areas after the 1958 adoption of the AFSPA, and the entire state of Manipur was brought under the act on September 8, 1980. 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. New “disappearances” stopped after the Manipur government introduced a system for providing “arrest memos” but at least 17 people remain missing since they “disappeared” in the 1980s and 1990s.

Since it was imposed, by official admission alone, more than 20,000 people have been killed in Manipur. Rather than curb insurgent groups, it has engendered a seething resentment across the land, and fostered new militancies. In 1980, there were only four insurgent groups in Manipur. By the middle of the present decade, there were 25 on the government’s own watch-list. When ordinary people leave their homes, they are uncertain if they will return. There is no electricity. The countryside is dark. Everyone is fair game. The army on one side, rival insurgents on the other.

On November 1, 2000, an insurgent group had bombed an army column. Enraged, the 8th Assam Rifles retaliated on November 2 by gunning down 10 innocent civilians at a bus-stand in Malom. The local papers published brutal pictures of the bodies the next day, including one of a 62-year old woman, Leisangbam Ibetomi, and 18-year old Sinam Chandramani, a 1988 National Child Bravery Award winner. An enraged Irom Sharmila Chanu, then 28, began a protest fast. On November 6, she was arrested on charges of 'attempt to suicide'. The administration began force-feeding her nasally, from November 21, confining her to the Jawaharlal Nehru Hospital in Imphal. Released as a part of the Government's occasional carrot phase of policy, she went to Delhi and re-started her fast. This time she was arrested and put in the AIIMS. The arrests and force-feeding imply additional attacks. While in other parts of India, hunger strikes are met by government attempts at negotiation, her protest was not even given the recognition of a protest. So the arrest, on the charge of "attempt to suicide", and the force-feeding.

Sharmila is not alone in her struggle. The state erupted in flames in July 2004, after the brutal rape and murder of a young woman, Thangjam Manorama Devi, by the Assam Rifles personnel. Manorama was a 32 year old woman, who sustained herself and her family by weaving. On 11 July 2004, she was arrested from her home by paramilitary forces of the 17 Assam Rifles. The arrest memo given to her mother stated no weapons had been found at her home. Her body was found some hours later, at about 5:00 PM, without proper clothes on, and shot at various places, including her vagina. The Assam Rifles version of the episode is the same as the one given out in all such incidents of the killing of "hardcore militants" while in the custody of the security forces. A statement issued by the paramilitary force stated that self-styled "Corporal" Thangjam Manorama, alias Henthoi, was gunned down as she made a bid to escape by jumping down from the vehicle that the force used. This of course did not explain why she was shot in the vagina. It was widely felt that had been done to cover up traces of rape. The heinous incident triggered an unprecedented form of protest by Manipuri women that briefly shook India. In an attempt to draw the attention of an insensitive and cold-blooded security and political establishment in Imphal and Delhi, (as well, one would suggest, as the bulk of civil society in mainstream India), Manipuri women, calling themselves Mothers of Manorama, turned to their bodies to give vent to their resentment. They stripped themselves in front of the Assam Rifles headquarters in Imphal and challenged the army to rape them. "Indian Army, Rape Us," said their banner, as they protested, naked. On August 15, 2004, India's independence day, Pebang Chittaranjan doused himself in kerosene and set himself in fire. He died soon after. He too demanded the abolition of the Armed Forces (Special Powers) Act. A 32-organisation network called for further protests, to which Chief Minister Ibobi Singh responded by branding Thangjam Manorama a hardcore terrorist, following the lead of the Assam Rifles. Clearly, in Manipur it is the army and the paramilitary who dictate terms to the "elected" civilian governments.

Laws Helping State Violence Elsewhere in India

The violence in Manipur does not stand alone - not anymore, not after 62 years of independence. We have similar state violence everywhere. And as with the rape of Manorama, as with the brutalization of women's bodies in Manipur, we have similar cases everywhere. As an all-India women's meeting called to discuss state violence and its impact on women noted in Bhopal (24-25 October 2009):

- In land acquisition, in privatization of natural resources and water, in clearing the country to suit national and multinational capital, new laws have been introduced to suppress any resistance, peaceful or otherwise.
- There has been systematic violence on women in Manipur

- There have been repeated cases of violence on women in Kashmir from Kupwara to Shopian
- In a case where the atrocity is committed by a state agency, the accountability of the crime has to be broadened to encompass not just the rapist but all the other authorities as well as the state administration and the judiciary which is duty bound to protect the rights of women as citizens.
- Presently, driven by aggressive corporatisation, sustained state violence in Chhattisgarh, Jharkhand, Orissa, and West Bengal and other states has become the single mantra to evict people from their land and livelihood.
- Tribal women in Bastar in Chhattisgarh have been subjected to the most extreme forms of violence since 2005, by Salwa Judum, a civil militia created and funded by the state, to counter the Maoists. There have been incidents of gang rapes, custodial rape, mutilation of private parts, murder and continuous sexual abuse in villages, police stations and the relief camps set up by the state government in the area. The extra-judicial murder in 2006 of a tribal for being a Maoist, and the subsequent gang-rape of his wife in front of her child for several days inside a police station in Sarguja by police personnel including the SP is one such documented case. There are not even official records and FIRs of the cases of sexual violence in Dantewada district. Despite more than 90 sworn affidavits filed in cases pending before the Supreme Court, statements made before the National Human Rights Commission, and letters to the Superintendent of Police, the police in Bastar refuse to register cases of rape by Salwa Judum goons. Finally when six women dared to file private complaints and make their statements before a Magistrate in Konta, there is inexplicable and inordinate delay of months together in registering the cases.

Sexual violence is a systematic weapon of the rulers to try and smash women's increasing participation in resistance movements and struggles. In many remote areas the security forces, operate with impunity, as if they have a "license" to rape women, especially those belonging to the tribal and dalit communities - in the AFPSA indeed they do have such a license. When the state directly does not inflict violence, it aids the upper class/caste forces etc who commit such violence.

This is the case not only in areas where there are so-called "insurgency" movements, but also in cases of non-violent mass movements. Since the neo-liberal turn of the 1990s there has been an increased onslaught by the state on the lives and livelihoods of large sections of our population in the name of "development" projects such as mining and special economic zones, and large communities are being deprived of their lands, rivers, forests, and other common property resources. Pushed to desperation people are organizing in several ways to resist this large-scale displacement and dispossession (Singur, Nandigram, POSCO, and other cases). In several cases women have been at the forefront of these struggles. It has been seen that women are specifically targeted in such cases, and such political participation is being repressed by use of rape and other kinds of violence on women in mass movements.

And everywhere now, we have AFPSA-like laws. In Chhattisgarh, there is the Chhattisgarh Special Public Security Act, 2005 (CSPSA). Although this Act was ostensibly meant to combat growing Maoist violence, all the Maoist groups operating in Chhattisgarh were already banned and declared unlawful organisations after the 2004 amendment to the Unlawful Activities (Prevention) Act, 1967 (UAPA). The CSPSA provides provisions that authorize the police to detain a person for committing acts, which among other things, show a "tendency to pose an obstacle to the administration of law". The act also states any person whose actions "encourage(s) the disobedience of the established law" will be considered "unlawful".

The present definition of "unlawful activities" imperils free exercise of fundamental freedoms set out under Article 19 of the Constitution and illustratively it appears to restrict the right to hold public

meetings; organise public protests; and oppose government policies through the media. Six organisations were banned under this act. Dr. Binayak Sen, General Secretary, Chhattisgarh PUCL, was detained under this Act on 14 May, 2007 allegedly for his linkages with the Communist Party of India (Maoist). The Act also allows the government to attach the property of accused persons. This point was clearly highlighted by the PUDR in its analysis of the Act submitted to the President of India.

And finally we have the UAPA, as amended in 2008. By this Act, a terrorist act is defined as one that may use “bombs, dynamite... other explosive substances or inflammable substances or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substances... of a hazardous nature or by any other means of whatever nature” (emphasis added). This last sentence means that any physical act could be deemed a terrorist act, if the government could satisfy the very low burden of proof threshold - that the act was likely to cause terror in the people. When coupled with the denial of the presumption of innocence, the 2008 amendment empowers the government to construe anything as a terrorist act. This last point needs to be stressed. By normal Indian law, any person is innocent till proved guilty in a court of law. Under the amended UAPA, this safeguard has been removed. Now the court is to presume guilt unless the accused proves otherwise. During the scant parliamentary debates, the Home Minister Mr. P. Chidambaram justified this reversal of the burden of proof on the ground that in the past, terrorists have evaded conviction because they were permitted to remain silent.

The 2008 amendment echoes POTA by specifying that a terrorist act is one carried out with the intention to “threaten the unity, integrity, security or sovereignty of India or... to strike terror... in the people”. The amendment in fact broadens the POTA definition by further specifying that any act “likely to threaten” or any act “likely to strike terror in the people” is also a terrorist act (emphasis added). In effect, any protest can be construed as terrorist action. The 2008 UAPA Amendment extends the maximum period of pre-charge detention to 180 days in place of the existing 90 days. Moreover, anyone arrested under the UAPA can be placed in police custody for up to 30 days, instead of the 15 prescribed in other laws, and even when placed under judicial custody, can be interrogated by the police any day.

Under the UAPA the Central Government has the power to “freeze, seize... attach” and prohibit the use of “funds, financial assets or economic resources” of individuals “suspected to be engaged in terrorism” (emphasis added). This provision essentially empowers the Indian government to exercise control over the finances or movements of an individual on the basis of mere suspicion. How the UAPA can be easily abused was seen in the case of the arrest of Chhatradhar Mahato. He was not produced in a court for hearings. The police finally submitted a charge-sheet after five months. Yet daily there were briefings by police officers or state bureaucrats, that he was in no position to deny, such as his ostensibly having an LIC policy of Rs 1 crore (which would mean he pays an annual premium of over Rs. 600,000 or US\$12900 !!). He was supposed to have confessed to his Maoist links. But the widely known fact is, his Peoples Committee Against Police Atrocities had sought votes without police presence, whereas Maoists have always been calling for election boycotts.

And here too, the UAPA can be and is an instrument that falls so easily on women, can be used to inflict violence on them. In expressing our solidarity with Sharmila Chanu, we also condemn all such so-called anti-terror laws that in fact strengthen state terrorism and cause violence on innocents.

State Violence and Class Struggle

At the same time, I want to draw your attention to a news and its implication. On November 27, a

demonstration was organized, (reportedly larger than the one organized by sugarcane farmers) which marched from the Ramlila Maidan to Parliament in New Delhi. It was a demonstration by women in the unorganized sector, demanding maternity benefits, higher pay for Anganwadi workers, equal pay for equal work, and an end to sexual harassment at workplace. The Finance Minister of India met a delegation, and told them that while the demands were just, it would be difficult for the state to do anything about it. So the state is willing to spend ever more money to crush popular resistance, but none for the basic rights of working women. And in this no state government is any different.

In West Bengal too, the struggles in Singur, Nandigram and Lalgarh have shown the readiness of the state to use violence, and its unwillingness to spend comparable sums to improve living conditions. The military style operation, including the hiring of helicopters, cost crores of rupees. No comparable funds have been spent on basic amenities of the people. While shoot to kill, like the AFPSA, may not have been imposed, for years, violence on opponents, rape and sexual harassment of women, and all manner of repressive acts by the state apparatus and state backed party cadres have become routine. In West Bengal, no longer an 'oasis of peace' the UAPA is in force and the people are living under constant threat since the invasion of Lalgarh and regions adjacent to it by the joint forces from June 17, 2009. It must be remembered that the 2008 UAPA amendment was passed with support from all MPs, including the Left. And in West Bengal, no solution to hunger, lack of medicine, lack of schools, etc has been proposed for the areas where the most deprived tribals live. Yet the West Bengal government too has applied the UAPA without developing the areas. It is evident that as with other provinces, so with Bengal.

** Posted on Radical Socialist, 11 December 2009:*

<http://radicalsocialist.in/index.php/articles/national-situation/132-in-solidarity-with-irom-sharmila>

Kolkata Programme in Solidarity with Irom Sharmila

13 November 2009

A 12 hour dawn to dusk (6 am – 6pm) hunger strike was organised at Kolkata on November 5, 2009 in solidarity with Sharmila Irom Chanu. Sharmila, a poet and activist from Manipur entered the 10th year of her hunger strike demanding the repeal of the Armed Forces Special Powers Act (AFSPA), 1958. She started the hunger strike on November 2, 2009 at the age of 28 when the Indian Army massacred ten civilians in Malom, Manipur. On 6 November 2000 she was arrested by the police and charged with attempt to commit suicide under section 307 of the Indian Penal Code. Her health deteriorated gradually and she did not accept even a single drop of water.

The hunger-strike was organized by various little magazines and rights groups viz. Manthan, Akinchan Patrika, Swayangnijukti Patrika, Radical, Bigyan Manosikota Bikash Kendro, Sangbadmanthan Patrika, Ahalya Patrika, Kathak Patrika, Yuba Bharat, APDR and others from Kolkata and around. Around 50 people participated at the event apart from Jiten Nandi, Bharati Das, Mohidul Mondal, Bankim, Suman Raj, Arun Bhattacharya, Alok Dutta, Shamik Sarkar, Amita Nandi, Prashanta Haldar, Pradeep Jana and Sushovan Dhar who sat for the hunger-strike the whole day. Famous poet Shankhya Ghosh, leader of Janasangharsha Samiti Dr. Sanmathanath Ghosh, Gandhian activist Dr. Krishna Sen, Secretary of Little Magazine Library and Research Center Sandip Dutta met the strikers to extend their solidarity for the cause.

In this context is important to bear in mind that the Armed Forces Special Power Act introduced in 1958 grants the Indian military special powers throughout North-East India to:

- Arrest citizens and enter their property without warrant;
- Shoot and kill anyone on mere 'suspicion';
- Enjoy immunity against legal action.

Under the cover of the Act the Indian armed forces have indulged in killing, torture, enforced disappearances and rape, bringing great shame to India and much misery to the people of Manipur.

The people of Kolkata assembled at the event demanded the repeal of AFSPA and all other draconian laws like the UAPA and saluted the heroic struggle by Sharmila and the people of Manipur.

Fragrance of Peace

*When life comes to its end
You, please transport
My lifeless body
Place it on the soil of Father Koubru*

To reduce my dead body
To cinders amidst the flames
Chopping it with axe and spade
Fills my mind with revulsion

The outer cover is sure to dry out
Let it rot under the ground
Let it be of some use to future generations
Let it transform into ore in the mine

I'll spread the fragrance of peace
From Kanglei, my birthplace
In the ages to come
It will spread all over the world.

from Sharmila
