

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL  
IND 10/2015:

11 September 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning allegations of the arbitrary detention, intimidation and harassment of Manipur-based human rights defenders by law enforcement authorities.**

Mr. Aribam Dhanajoy is a Manipur-based journalist reporting on human rights violations committed under the auspices of the Armed Forces Special Powers Act against indigenous peoples and women, illegal land acquisitions and corruption. He is a member of All Manipur Working Journalist Union.

Mr. Laishram Mandir Singh is Secretary of Social Action Development Organization (SADO), which works for the promotion of the rights of indigenous peoples, environmental rights and sustainability, and land rights, as well as an end to violence against women in Manipur.

Mr. Phulindro Konsam is the Chairman of Committee on Human Rights (COHR). COHR works to defend the rights of indigenous peoples, protect human rights defenders and promote their work and role within society. Mr. Konsam is engaged in the monitoring of illegal land acquisitions and the organization of peaceful protests against human rights violations in Manipur.

Mr. Laimayum Sevananda Sharma is a legal advocate associated with the Manipur Unit of the Human Rights Law Network. Mr. Sharma is engaged in

denouncing human rights violations committed by Indian Armed Forces and armed non-state groups in Manipur.

*The case of Mr. Aribam Dhanajoy*

According to the information received:

On 10 February 2014, Mr. Aribam Dhanajoy was physically assaulted by personnel of the First Indian Reserve Battalion (IRB) at the Northern Gate of Kangla Fort in the town of Imphal, in Manipur, north-east India. He was also allegedly questioned as to his participation in peaceful assemblies in the region, in particular a sit-in protest which took place on 8 February 2014 at Keimshampat Junction, Imphal, during which he had criticised the Armed Forces Special Powers Act. IRB personnel allegedly threatened to kill him if he reported the assault and also confiscated two mobile phones which belonged to him.

Mr. Dhanajoy reported the incident to the Imphal Police Station. In response, a fact finding mission into the events of 10 February 2014 was established. On 13 February 2014, an official order was issued by the Commandant of 1<sup>st</sup> Indian Reserve Battalion, which placed the Sub-Inspector of IRB, under suspension. No judicial action was reportedly forthcoming following this order and the Sub-Inspector has since returned to his post.

*The case of Mr. Laishram Mandir Singh*

According to the information received:

On 12 May 2014, Social Action Development Organization (SADO) organized a peaceful rally to demand accountability for police officers who had allegedly questioned some villagers from Heirok about their participation in an indigenous dance festival held annually in March.

On the same day, Mr. Laishram Mandir Singh, Secretary of SADO, was summoned by the Superintendent of the Thoubal District Police. Upon presenting himself at Thoubal Police Station, Mr. Singh was arrested and detained. A First Information Report (FIR) was registered by the police against Mr. Singh accusing him of multiple crimes under the Indian Penal Code, including rioting, under article 148; unlawful assembly, under article 149; mischief causing damage, under article 427; criminal trespass, under article 447; and assault or criminal force to deter a public servant from discharge of their duty, under article 353. During his detention, he was allegedly threatened by the police and was not provided with drinking water or access to a doctor. Mr. Singh was released on bail on 17 May 2014. He has not yet been summoned to appear before a court.

*The case of Mr. Laimayum Sevananda Sharma*

According to the information received:

On 13 June 2014, Mr. Laimayum Sevananda Sharma was followed by two men in a car and later stopped while he was travelling home on his scooter. One of the men in the car proceeded to throw a hand grenade towards Mr. Sharma, who was able to kick it away. The second man, who identified himself as Mr. Dhanabir of Manipur Police Commandoes, began to assault Mr. Sharma, punching him in the face, chest and head and hitting him with a small fire arm.

On 14 June 2014, Mr. Shama filed a complaint at Lamphel Police Station in relation to the assault, and an investigation was subsequently opened. It is reported that this investigation has since ceased, with no judicial action having been taken.

*The case of Mr. Phulindro Konsam*

According to the information received:

On 9 September 2014, Mr. Phulindro Konsam attended a meeting of representatives of civil society in Nongmeibung Imphel East District, to discuss strategies for the advancement of the rights of indigenous peoples in the region. In the course of the meeting, the office was raided by police officers attached to Porompat Police Station. Mr. Konsam was allegedly arrested, along with other participants in the meeting, and subsequently brought to Porompat Police Station, Imphal East District, Manipur.

On 10 September 2014, Mr. Konsam was presented before the court of the Chief Judicial Magistrate, Imphal East District. He was remanded to 15 days judicial custody, and charged with multiple crimes under the Indian Penal Code, including voluntarily causing grievous hurt, under article 326; wrongful concealing or keeping in confinement a kidnapped or abducted person, under article 368; and extortion, under article 384.

On 26 September 2014, Mr. Konsam was released from detention. No conditions as to his release were communicated and he has not reappeared before a court since his release. However, it is reported that the case against him remains open, and that he may be summoned by police at any time.

Serious concern is expressed at the abovementioned allegations of arbitrary detention, intimidation and harassment of human rights defenders in the Manipur region and at the apparent role of the law enforcement authorities in these acts. Further concern is expressed that the charges brought against them appear to be an attempt to dissuade them in the pursuance of their legitimate and peaceful human rights activities and exercising their respective rights to freedom of expression, peaceful assembly and association, including advancing the rights of indigenous peoples, silencing criticism of

activities by law enforcement authorities in Manipur, and highlighting alleged rights violations committed under the auspices of the Armed Forces Special Powers Act.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Have any complaints been lodged by, or on behalf of, the alleged victims further to those mentioned in the above communication?
3. Please provide the details, and where available the results, of any investigations carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken.
5. Please indicate what measures have been taken to ensure that human rights defenders, journalists and civil society organizations in Manipur are able to carry out their legitimate work in a safe and enabling environment without fear of threat of criminalization or acts of intimidation and harassment of any sort.
6. Please provide information on measures undertaken to improve the responsiveness and effectiveness of domestic protection mechanisms available to human rights defenders, as well as measures undertaken to ensure human rights defenders do not face retaliation after having presented complaints to the relevant authorities.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

**Annex**  
**Reference to international human rights law**

In connection with the above alleged facts and concerns, we would like to refer to the articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR) that India acceded in 1979, which guarantee the right to freedom of opinion and expression, the right to freedom of peaceful assembly and the right to freedom of association respectively. In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and necessary and proportionate to the aim pursued.

In paragraph 23 of its General Comment No. 34, the Human Rights Committee has urged that States parties should protect against attacks aimed at silencing those exercising their right to freedom of expression. The Committee has recognized that those "persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports", are "frequently subjected to threats, intimidation and attacks because of their activities." The Committee has urged that all such attacks be vigorously investigated in a timely fashion, perpetrators prosecuted, and victims receive the appropriate form of redress.

Similarly, the Human Rights Council, in paragraphs 1 and 3 of its Resolution 27/5 on the safety of journalists, has condemned all attacks against journalists, including torture, arbitrary detention, intimidation and harassment and has urged States to promote a safe and enabling environment for journalists to perform their work independently and without undue interference, as well as bringing perpetrators to justice.

Moreover, we would like to draw your Government's attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the rights of all individuals to associate and assemble peacefully, ... including persons espousing minority or dissenting views or beliefs, human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association... are in accordance with their obligations under international human rights law".

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, Article 5 of this Declaration is also relevant as it provides for the rights to meet or assemble peacefully, to form, join and participate in non-governmental organizations, associations or groups, to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to benefit from an effective remedy. Article 12 asks States to take measures to ensure the protection of everyone against violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence,

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.