

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences**

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 26/12, 25/13, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning four cases of alleged violence against women: Ms. **Huidrom Sharda Devi**, Ms. Laishram Surmila Devi, Ms. **Nengneikim Haokip**, and Ms. **Thangjam Manorama Devi**.

According to information received:

On 26 October 2014, Ms. Sharda Devi, a 21-year-old nursing student, was kidnapped from Bishnupur bazar by a man known to her as [REDACTED]. She was forcibly held and repeatedly raped until four days later on 29 October 2014. The day after Ms. Sharda Devi went missing, her family submitted a missing person complaint. After her rescue, Ms. Sharda Devi was medically examined at the Regional Institute of Medical Sciences in Manipur (RIMS). Authorities have not reacted since the First Information Report (FIR) was filed by the victim's family at the Bishnupur Women's Police Station in Bashnupur District, Manipur. Redress has not yet been delivered to the victim's family as it is alleged that the accused's family has a close relationship with one of the ruling Members of the Manipur Legislative Assembly, whose presence and power in state authority makes for a slow probing of the case.

On 22 January 2014, Ms. Surmila Devi, a ten year old deaf and mute girl went missing after returning cows from the field. She was studying in class I at Pombikhok Primary School. Two days later on 24 January 2014, her father submitted a missing persons report to Kumbi Police Station, which was recorded in the general diary but not initially registered as a First Information Report. A

week later, on 31 January 2014, Ms. Surmila Devi's body was found by police between Phaizol Hill and Chongangkhang in Bishnupur District. No arrests have been made and the investigation continues. The FIR number of the case is 2(1)2014 Kumbi Police station.

On 13 March 2007, an Assam Rifles officer allegedly raped Ms. Haokip, an 18-year-old girl and student at a local school in Khullen Village, Manipur. When all the adult members of her village had gone to the fields to work, Ms. Haokip was allegedly washing her clothes. It is alleged that a jawan of the Assam Rifles deployed at the Kotlien post identified as [REDACTED] of Jalukie in Nagaland grabbed Ms. Haokip from behind, gagged her mouth, picked up a large stone and hit her on the head three times, as well as on the waist, knocking her unconscious. Upon awakening, Ms. Haokip found that she had been completely disrobed and her clothes had been thrown away. The incident was reported at the Sapermeina Police Station, but the authorities have not taken any action since the incident.

On 10 July 2004, Assam Rifles personnel allegedly visited the residence of Ms. Manorama Devi, suspecting her of being a member of the banned insurgent group, the People's Liberation Army. Several of the personnel allegedly entered the home from the main road, providing no explanation as they rushed in. They began searching the house and upon finding Ms. Manorama Devi, dragged her outside. The soldiers allegedly interrogated and tortured her. At around 3:30 a.m., soldiers allegedly came into the courtyard of the residence and informed the rest of Ms. Manorama Devi's family that she was being taken into custody. The family was asked to sign a 'no claims certificate' which stated that they had no claims against members of the Assam Rifles who had searched the house and made the arrest, and that the troops had not misbehaved with the women and had not damaged any property.

The next day on 11 July 2004, Ms. Manorama Devi's bullet-ridden body was found at around 5:30 am by villagers near Ngariyan Maring, about four kilometres from her house. On 12 July 2004, Ms. Manorama Devi's brother filed a written complaint at the Irilbung police station. Police registered an FIR based on the complaint to investigate the alleged murder. While doctors could not confirm that she was raped before her murder, DNA testing revealed the existence of human semen on her clothes. Police took no action after the incident.

Serious concern is expressed that the above allegations contravene the rights to life of Ms. Surmila and Ms. Manorama Devi, and the rights to physical integrity, freedom from exploitation and violence of Ms. Sharda Devi, Ms. Surmila, Ms. Haokip and Ms. Manorama Devi.

Additionally, some of the instances of violence against women and torture referred to above have been directly linked to the Armed Forces Special Powers Act of 1958, which allows members of the armed forces and paramilitary groups to be deployed

in response to internal conflicts and to exercise unlimited powers to arrest, search, and “fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order...”The Act provides immunity from prosecution to individuals carrying out its functions. The Special Rapporteur on violence against women recommended to the Government of India after her country visit in 2013 that it “repeal, as a matter of urgency, the Armed Forces (Special Powers) Act and the Armed Forces (Jammu and Kashmir) Special Powers Act and ensure that criminal prosecution of members of the Armed Forces is free from legal barriers” (para 78).

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 kindly provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please kindly indicate what measures have been taken to guarantee victims of gender-based violence access to justice and ensure that victims are able to lodge complaints in a safe and enabling environment without fear of threats, intimidation and harassment of any sort in the context of the Armed Forces Special Powers Act.
4. Please describe any existing impediments to the implementation of the recommendations in report A/HRC/26/38/Add.1, and in particular in relation to the Special Rapporteur’s recommendation that the Government of India repeal, as a matter of urgency, the Armed Forces (Special Powers) Act.
5. Please provide any additional information and any comment you may have on the above-mentioned allegations, including steps taken to redress the violations by the members of the paramilitary Assam Rifles.

We would appreciate receiving a response within 60 days.

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 responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Dubravka Šimonović

Special Rapporteur on violence against women, its causes and consequences

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

The International Covenant on Civil and Political Rights (ICCPR), ratified by India on 10 April 1979, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). Additionally in its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

In this context, we wish to draw the attention of your Government to articles 4 (c) and 4 (d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms. (Adopted by General Assembly resolution 48/104 on 20 December 1993).

The Special Rapporteur on violence against women has noted in her visit report to India (A/HRC/26/38 Add.1) that "deeply entrenched patriarchal attitudes of police officers, prosecutors, judicial officers and other relevant civil servants, with regard to the handling of cases, further contribute to victims not reporting, withdrawing complaints and not testifying" (para 66). She recommended that the Government of India ensure that all allegations of violence against women are adequately investigated by the police, and that perpetrators are punished. She further recommended that the Government ensure that women and family members wishing to lodge complaints are free from any act of intimidation, threat or harassment, and that protection is provided free of cost for the victim, if necessary. The Special Rapporteur specifically referenced the Armed Forces Special Powers Act, recommending that the Government of India "repeal, as a matter of urgency, the Armed Forces (Special powers) Act and the Armed Forces (Jammu and Kashmir) Special Powers Act and ensure that criminal prosecution of members of the Armed Forces is free from legal barriers" (para 78).

The Special Rapporteur on extrajudicial, summary or arbitrary executions has also noted in his report to India (A/HRC/23/47/Add.1) that "Women in India remain vulnerable and are too frequently victims of lethal violence. Sexual violence also occurs in the context of other forms of violence against women" (para 52). He recommended that India increase "sensitization and orientation programmes in respect of all forms of

killings of women [...] for the police, the judiciary and the public at large, especially in areas of the country which are most affected" (para 119); and review its criminal legislation to ensure that all gender-based killings, as well as killings of any member of a tribe or lower caste receive high sentences, possibly under the form of life imprisonment". (para105).

Article 7 ICCPR provides that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." We would like to draw the attention of your Government to paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that it is the duty of States party to afford everyone protection through legislative and other measures as may be necessary against the acts of torture and ill-treatment, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity. (Adopted at the 44th session of the Human Rights Committee, 1992).

In this context, we also wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by India on 9 July 1993), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that State parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation. Paragraph 9 of General Comment No. 19 makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation."

We would also like to recall the serious concern of the Committee on the Elimination of Discrimination of Women about the narrow definition of rape in the current Penal Code during the Committee's consideration of the exceptional report of India on 15 October 2010. The Committee urged India to accelerate its efforts to widen the definition of rape in the Penal Code to reflect the realities of sexual abuse experienced by women and to consult widely with women's groups in its process of reform of laws and procedures relating to rape and sexual abuse (CEDAW/C/IND/CO/SP.1, para. 27(a), (c)).

We would also like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life and wish to recall that the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Prevention and Investigation Principles), in particular principle 9, stipulate that there must be thorough, prompt and impartial investigations of all suspected

cases of extra-legal, arbitrary and summary executions. This principle was reiterated by the Human Rights Council in Resolution 26/12 on the "Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions" (OP 4).