

CRPF
in
Manipur

*findings of an inquiry commission
on firing in Imphal*

हालाते जिस्म, सुरते जाँ, और भी ख़राब,
चारों तरफ़ ख़राब, यहाँ और भी ख़राब ।
सोचा था उनके देश में मँहगी है ज़िंदगी,
पर ज़िंदगी का भाव वहाँ और भी ख़राब ।

दुष्यन्त कुमार

People's Union for Democratic Rights
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On the morning of 7 January 1995, nine civilians were killed and another civilian and one constable of the 119th battalion of the CRPF injured, during heavy firing in and around the Regional Medical College (RMC) complex in Imphal. Six days later on 13 January, the Government of Manipur constituted a one-man Commission of Inquiry headed by Justice D.M.Sen, retired judge of the Guwahati High Court, to inquire into the shooting and killing.]

The terms of reference of the Commission of Inquiry were to ascertain :

1. the causes and circumstances leading to the firing;
2. the persons who fired upon innocent civilians;
3. whether the firing upon civilians could have been restricted or avoided;
4. the persons responsible for the incident; and
5. to recommend corrective measures and remedies to prevent the recurrence of such incidents.

Nineteen witnesses deposed before the Commission of Inquiry. These included civilians who were present around the hospital complex at the time, such as several autorickshaw drivers, a Sulabh Toilet employee, a cigarette-shop owner, a retired lieutenant-colonel, as well as members of the local police and several CRPF personnel. Justice Sen submitted his report to the Manipur Government on 15 July 1995.

The Incident

At approximately 7 a.m. on the morning of 7 January 1995, four CRPF constables were fired upon by three suspected militants during their morning ablutions at the Sulabh toilet complex within the RMC compound. Constable Yousuf was grievously injured. The CRPF personnel were part of the 79th and 119th battalions, posted there to guard their colleagues undergoing treatment in the hospital.

According to the CRPF constables, they immediately returned fire. The shooting lasted for about five to six minutes. The militants then moved away towards the Casualty Department, continuing to fire all the while. They were repulsed by the CRPF personnel deputed inside the Casualty Ward. The second exchange of fire lasted for about two to three minutes. Although nine civilians were killed in all, the CRPF personnel were completely silent about any civilian presence in the area.

The civilian witnesses however have a very different story to tell. They said that after Constable Yousuf was injured, the militants ran away. The CRPF personnel then ran to the gate of the RMC complex, shouting,

“Hamara admi mara gaya, sab Manipuri ko maro” (our man has been killed, kill all Manipuris). They called out to three people: Momi Riba, a medical student of the RMC, Laimayum Pradeep Sharma, a chowkidar at the Sulabh complex, and Mayang, another Sulabh employee. The three approached with upraised arms, pleading that they were civilians. Mayang, a non-Manipuri, was allowed to pass. The other two were shot dead. The CRPF thus specifically targetted people who appeared to be Manipuri, revealing a mindset in which every local person is regarded with suspicion, and in times of crisis as the visible enemy.

The three constables then came out of the RMC complex, where they were joined by two other CRPF personnel. They approached the rickshaw pullers who raised their arms and repeatedly tried to identify themselves. Nevertheless the CRPF personnel shot one of them down, Mohamad Jakir. The constables then moved towards the autorickshaw parking space. One of them opened fire, once again ignoring the identification given by the autorickshaw drivers. One of the latter, Sarat Singh, was injured.

After this, more CRPF personnel came running out of the Casualty Ward with their SLR rifles at the ready. One of them ordered the autorickshaw drivers to come out of their vehicles and approach the cycle shed. Even as they were doing so, they were gunned down midway between the Casualty Ward and the cycle shed. Five autorickshaw drivers—Saikhom Prem Chand Singh, Hizam Khogen, R.K. Khogen Singh, Koijam Rajendra Singh, Angom Devendra Singh and one car-driver Wangkhem Upendra Singh lost their lives in this way.

One incident among many

The CRPF was responsible not only for this incident, but also for many others. The memorandum submitted by thirteen organizations to the Chief Minister after the Imphal firing, mentioned the following incidents in the months preceding January 1995.

1. On 25 August 1994 at Terra Kethel, CRPF personnel after being fired upon by unidentified gunmen, resorted to indiscriminate firing, killing five innocent civilians including an old man, a woman and a child.
2. On 12 November 1994 when UNLF militants killed a CRPF jawan and took away an SLR at Ningomthongjao, the CRPF retaliated by cordoning off the entire area, torturing many innocent civilians and looting and destroying property and household goods worth lakhs of rupees in their ‘search operations.’

3. On 21 November 1994 CRPF personnel resorted to indiscriminate firing at a public place near the Court of the District and Sessions Judge, and beat up an employee of the Court. These excesses were in response to the escape of an undertrial belonging to the PLA from the custody of the state police and the CRPF.
4. On 30 December 1994 a cultivator was shot dead by CRPF personnel while he was working in the fields in Leimaram village.

Protests

Such atrocities committed by the armed forces, and the strain of living under virtual army rule, have left the people of the region at the end of their tether. The Imphal firing incident thus saw fairly organized and widespread protest. A peaceful demonstration was organized the same evening by autorickshaw drivers, the rickshaw-pullers' association and All Manipur Students Union. This rally was also lathi-charged and fired upon by the Manipur police in a bid to disperse the demonstrators while they were on their way to the Raj Bhavan to submit a memorandum to the Chief Minister. One autorickshaw driver was hit by a bullet on his forehead. Public pressure prompted the State Government to constitute a Commission of Inquiry.

The protests continued, however, even after the Commission was appointed. The same evening, a group of thirteen human rights organizations, social and voluntary organizations and women's organizations submitted a memorandum to the Chief Minister demanding not only action against the guilty CRPF personnel, but also the removal of the CRPF from the state.

On 19 January 1995, a protest demonstration was organized at Jantar Mantar in New Delhi by various organizations including Manipur Students Union, Manav Adhikar Sangharsh Samiti, PUDR, and All Arunachal Pradesh Students Union. A memorandum was submitted to the National Human Rights Commission demanding an inquiry into the incident.

Various teachers, doctors, and the non-teaching staff associations of the Regional Medical College formed a Joint Action Committee with Dr. Lokendra Singh as Convenor. The Committee consistently publicized the incident and also helped in the Inquiry Commission by filing affidavits of eyewitness accounts. Sustained public pressure thus actively assisted the D.M.Sen Commission in reaching its conclusions.

The Armed Forces (Special Powers) Act

In 1958 an extraordinary legislation called the Armed Forces (Assam and Manipur) Special Powers Act, was passed on the pretext of controlling the socio-political disturbances in some areas of these two states. This act was later amended and renamed The Armed Forces (Special Powers) Act (abbrev. as Armed Forces Act). Different areas in the north-east came under the operation of the Act at different times, starting from 1958. Parts of Manipur were placed under the Act in 1958 itself, while the rest of the state was declared 'disturbed' in 1980. The CRPF and army carry out their operations in the north eastern states under this Act. Once an area is declared disturbed and comes under the operation of the Act, Section 3 of the Act—which provides for the use of armed forces in aid of civil authority—becomes the basis for heavy and permanent deployment of the army and paramilitary forces like the CRPF, armed with extraordinary powers and immunity against prosecution. The lack of any checks upon their actions, leads to frequent incidents of atrocities committed by the armed forces.

Between Two Laws

The CRPF is a reserve police force under the authority of the Central Government. It becomes operative only when the situation in a particular area requires the deployment of additional forces. Members of the CRPF are governed by the CRPF Act (1949). The general duties of members of the force constitute obeying and executing warrants issued by the competent authority and detecting and apprehending offenders. In the execution of their duties the CRPF personnel have to follow warrants and a due procedure of law by which they can 'legally' arrest only those persons whom they are 'legally authorized' to apprehend (Section 7).

The powers legally conferred on the force get vastly enhanced the moment the CRPF gets deployed in a disturbed area where a law like the Armed Forces Act is in operation. Under the CRPF Act, active duty means the duty to restore and preserve order in any local area in the event of a disturbance. The pursuit of the maintenance of public order under the Armed Forces Act authorizes any officer of the rank of subedar and above to open fire, to arrest any person suspected of a cognizable offence, to destroy any position or shelter, to enter and search any premises suspected of being a threat to public order (Section 4). No warrant is required for any of these actions, it is left entirely to the discretion of the concerned personnel to decide if any such probability exists and to give

only such warning as he thinks fit. For any action done or purported to be done in pursuance of the powers and duties prescribed in the Act, no legal proceedings can be instituted except with the previous sanction of the Central Government (s.6). The CRPF Act also stipulates a necessary notice of three months' time before proceedings can be launched against one of its members. However, under the CRPF Act, an action can only be said to be done in the pursuance of duties when the concerned personnel can produce a warrant or order directing the action (s.17). Moreover, for actions purported to be done in the line of duty, members of the CRPF are subject to departmental proceedings carried out by an Assistant Commandant of the rank of magistrate. Appeals from this go to the Sessions Court (s.10). Offences not connected with the line of duty can be inquired into or tried by any ordinary criminal court (s.16). As such, when the CRPF is ordinarily deployed, it has much fewer powers and is accountable to a much greater extent and to a greater number of authorities under the civil and criminal judicial systems, as compared to when it is deployed in a disturbed area.

The Findings of the D.M.Sen Commission

1. Justice Sen has completely ruled out the CRPF version of events, on the basis of the topography of the area, accounts of eyewitnesses and other evidence. The report of the Commission repeatedly emphasizes that the CRPF opened fire only after the militants had left. Therefore, the possibility of the civilians having been killed in an exchange of fire, does not arise. The Commission of Inquiry categorically holds five constables, specifically named, and one or two other unidentified CRPF personnel, responsible for the killings.
2. The Report of the Commission holds the militants responsible for the initial firing on CRPF personnel.
3. The Commission recommended a compensation of Rs.50,000/- each to the next of kin of the deceased drivers and Sulabh toilet chowkidar, and Rs. 2 lakhs to the family of the medical student and Rs.35,000/- to the person injured.

Justice Sen has introduced differential rates of compensation for persons on the basis of their background, which sets a disturbing precedent. Moreover, he himself acknowledges that the sum of Rs.50,000/- is much less than the compensation awarded in states like Jammu and Kashmir, Punjab and Haryana. Although he cites the state's economic constraints as reason, this introduces disparity in the payment

of compensation as well, between Manipur and other states. Ironically, regional and social disparities have caused much of the political discontent in states like Manipur. Lastly, the CRPF is deployed in the state by the Central Government. The State Government does not have the authority to compel the Central Government to pay the compensation, and hence ends up paying up the entire amount by itself.

4. On the basis of his findings, Justice Sen recommends that "all firing by security forces must be controlled and aimed at definite targets." There should be no "indiscriminate firing," as the "law does not permit firing even at known or identifiable militants, when they have ceased fire, when they are trying to make their escape, when there is no immediate danger from them." Firing can be justified only "when there are no other means but to resort to firing." In the incident at the Regional Medical Complex, Justice Sen finds that the CRPF violated all norms by resorting to "needless and indiscriminate firing" in the absence of specific targets, and when there was "no reasonable apprehension" of their being overpowered. In such a situation, the firing by the CRPF personnel was "totally unwarranted and beyond their call of duty."
5. (a) As part of corrective measures the Commission suggested that the CRPF personnel be instructed in fire control and told that firing is not permissible in law unless there is an unavoidable danger to person or property which would endanger the security of state or the maintenance of public order. The Report also warned that "any deterrent, retaliatory or retributive firing or use of force is not authorized by law and may well amount to an offence of murder or culpable homicide."
- (b) Justice Sen also suggests that the CRPF be placed under the control of a civil police officer and attached to the nearest police station, when deployed in highly populated areas; as without such control by a civil authority, the CRPF might otherwise "lend itself to abuse and resort to excuses."
6. Further, the Commission recommends that further investigation of the incident be immediately entrusted to the CBI. Justice Sen also states that the CRPF could not claim the immunity available to the armed forces under S.197 and S.45 of the Cr.PC as also under S.17 of the CRPF Act, with reference to acts done in the discharge of

official duty, as “needless excessive or indiscriminate firing can never be deemed to be acts of any law.”

7. Stressing the principle of equality before the law, the Commission states that “every citizen of our country irrespective of his office, rank or status, is accountable under the law of the land for all his actions, official or otherwise.” The President’s uniform does not give the members of the armed forces immunity from legal action as they are “equally accountable under the law.”

This is the most significant of Justice Sen’s recommendations, concerning the armed forces’ plea of immunity for actions purported to be done in the line of duty. It is seldom that Commissions of Inquiry reject the plea of lawful conduct offered by security forces to escape scrutiny. Justice Sen holds that the firing by the CRPF having been indiscriminate and therefore indefensible, the culprits could not claim immunity from prosecution either under the CRPF Act or the Cr.PC. Manipur being a disturbed area, the same logic would also extend to the Armed Forces Act as well, which takes precedence over both the other laws in a disturbed area.

State Government’s Response

The Commission of Inquiry submitted its report to the State Government on 15 July 1995. The State Government accepted most of its findings and recommendations, and took the following action.

1. It accepted the culpability of the CRPF personnel for the deaths and injuries.
2. The Central Government was asked to take necessary action for a CBI investigation.
3. The State Government did not accept that part of Justice Sen’s recommendations which said that the armed forces should fire only when fired upon by militants. It also accepted the army’s prerogative to resort to firing whenever it was (a) necessary to capture militants, and (b) when there was “reason to believe” that the militants were going to commit an offence which could not be prevented in any other way.

The State Government has misreported this recommendation, which in fact lays down specific conditions when firing can not be justified: for example, in the absence of specific targets, or when the militants are in the process of making their escape. The state govern-

ment then oversimplified this recommendation of the Commission, and rejected it. It thereby obstructed any challenging of the armed forces' prerogative to decide when firing is necessary. This defeats one of the main terms of reference of the Commission: to suggest corrective measures and remedies to avert the recurrence of such incidents.

4. The recommendation that the CRPF be trained in adequate fire control was referred to the CRPF and MHAs.
5. The placement of CRPF personnel under civilian police authorities was accepted in principle, subject to the availability of civil police officers.

It must be borne in mind that CRPF personnel are not trained in normal police duties and may be apt to overstep the limits of legitimate action when deployed without adequate control and supervision. In the light of this, the above suggestion by Justice Sen is in accordance with the Cr.PC (Sections 130-131), which require that armed forces like the CRPF always be deployed under the authority of an Executive Magistrate. Further, while the army is supposed to act "in aid of civil power" in an area under the Armed Forces Act (S.3), its accountability to the civil administration is so ill-defined or

**The Continuing Story : Some recent excesses
by armed forces in Manipur**

1. 5 April 1996. Amina Devi of Nambol shot dead in her house by CRPF pursuing fleeing insurgents.
2. 3 May 1996. Prabhahini Devi of Kwakeithel shot dead in her house; her small son injured by Assam Rifles in search operation.
3. ? July 1996. Sandhyarani of Thangmeiband, constable of Customs Department dragged out of hotel and shot dead by Assam Rifles.
4. 26 July 1996. Truck driver Khama Vaiphei severely beaten up by Bihar Regiment at Churhandpur. Succumbed to injured later at J.N.Hospital.
5. 1 August 1996. Ahanjaobi of Takyel Khongban, tortured and gang-raped by Second Mahar Regiment personnel in her house, during combing operations.

(Source: Memorandum submitted to Prime Minister by All Manipur Students Union)

is simply absent, that institutional checks such as the authority of the Executive Magistrate cease to operate. The state government's response therefore neatly sidesteps the warning contained in Justice Sen's recommendation.

6. The recommendation for a separate hospital for the CRPF was forwarded to the DGP, CRPF, and various medical authorities including Director, Medical and Health Services, Manipur.
7. Orders for the payment of suggested compensation were issued.

The Commission's remaining recommendations were forwarded to the MHA, DGP (CRPF), DGP (Manipur), and IGP (Ops.)—Manipur, Nagaland, Langjing, Imphal.

Conclusion

This incident exemplifies the fact that once the Armed Forces Act is invoked and an area is declared disturbed under Section 3 of the Act, then the lives and personal liberty of the people are at the mercy of the security personnel. Except for the medical student, all the other eight persons killed in Imphal were wage earners. They were killed when they were going about their daily work. Incidents such as this, where civilians can be challenged and fired upon indiscriminately, curtail the constitutional right to freedom of movement (Art. 19(1)d), and the right to practise any profession or occupation, trade or business (Art. 19(1)g). They also violate Article 21, by which no person can be deprived of his life or his personal liberty except by due procedure of law. These incidents are not mere aberrations, but are the logical outcome of the Armed Forces Act.

Section 6 of the Armed Forces Act states that "No prosecution, suit, or other legal proceedings shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of powers conferred by this Act." This provision deprives people of the normal procedural safeguards available to them against the violations of their rights, such as access to the local courts and criminal prosecution of the guilty. For instance in the above incident, while an investigation was conducted on the basis of the Daily Diary entry, no criminal prosecution of the guilty CRPF personnel could be carried out because of the suspension of such safeguards. The only form of judicial redressal then available to citizens is the right to constitutional remedy provided through Art.32(1&2) and Art.226, that is, filing writs in the Supreme Court and High Court in case

of violation of fundamental rights. But this means getting access to the High Court or Supreme Court in the first place: a proposition not only expensive but in most instances extremely difficult for a person living in remote areas of the Northeast.

In a situation where normal procedures of investigation followed by criminal prosecution are practically unavailable in every incident involving the use of special powers by the armed forces, it is really very significant that a Commission of Inquiry produces this kind of Report. In this connection, it is also quite appreciable that the state government has accepted most of the recommendations of the Commission and even acted on them. But at the same time it should not be forgotten that this mechanism of providing checks and balances has serious limitations.

Firstly, because these Inquiries are very rare. Most of the time, despite public demand, they are not ordered. In the rare cases when they do take place, fortuitous circumstances must be present for the Commission to fix blame. Further, the findings of the Commission are only recommendatory in nature, and therefore criminal prosecution is subject to the consent of the Central Government. And under Section 6 of the Commissions of Inquiry Act (1952), the Commission's findings cannot be used as evidence in a court of law. Therefore even when an Inquiry establishes criminal responsibility, it can at most only award compensation to the victims, not punish the guilty.

Moreover, even if an Inquiry Commission indicts security personnel in such cases, despite evidence of guilt, no criminal prosecution can be effected unless and until the President gives his assent. In most cases, this permission is not forthcoming.

It remains a vexed question as to how it can be decided whether the action of the armed forces was in the line of duty or amounts to an offence committed by them. It is only on the basis of an investigation that Justice Sen could establish that the army's actions were not in the line of duty, and apportion criminal responsibility. When an area is declared as disturbed, all regular channels of prosecution against the army are suspended, at least until the Central Government gives its permission. In effect then the army merely declares all its actions as having been in the exercise of its duties and discretionary powers given to it by the Armed Forces Act. This forecloses all routine investigation. The principles of democracy and natural justice require that no person or institution be the judge of its own actions. So in every incident of an army action which

may or may not be an offence, cases should be registered and investigated. This is not allowed under Section 6 of the Armed Forces Act and the armed forces therefore escape scrutiny in most such incidents. As Commissions of Inquiry cannot be appointed in every incident, it actually means that these cannot replace the normal procedures listed under the Cr.PC and the IPC.

The very rationale for the existence of forces such as the CRPF is that extraordinary law and order situations do arise which cannot be controlled only by the local police. It is in such situations that the CRPF is supposed to be temporarily deployed to restore law and order. Acts like the Armed Forces Act however undercut the very nature of paramilitary forces like the CRPF, by allowing for their long-term, often permanent deployment in a particular area. In addition they arm the CRPF with extraordinary powers far in excess of its normal powers. The logic behind this is presumably that it will help resolve a problem faster.

The CRPF was called into Manipur to deal with the disturbances arising out of the prevailing political conflict in the region. It was also invested with excessive powers under the Armed Forces Act, presumably to help in a quicker restoration of law and order. The fact that the Armed Forces Act has been in operation in Manipur for the last 38 years without in any way bringing the problem closer to a resolution, raises serious doubts as to its efficacy. Nor does the presence of the additional paramilitary forces like the CRPF seem to have in any way contributed towards improving the situation. On the contrary, the history of the CRPF presence in Manipur is one of arbitrary use of sweeping powers, and numerous excesses against civilians, contributing to the general climate of political unrest and protests.

This story is not unique either to the CRPF or to Manipur alone, but is endemic to the operation of extraordinary legislations like the Armed Forces (Special Powers) Act, in situations of political conflict all over the country. The large-scale violation of fundamental rights of citizens by the armed forces, and the increasing alienation of people from the State, are the logical outcomes of such a situation.

PUDR therefore demands the immediate repeal of the Armed Forces (Special Powers) Act.

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