



ASIAN CENTRE FOR HUMAN RIGHTS

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Manipur: Juvenile Justice Suspended!

1. Executive Summary and Recommendations

On 22nd February 2011, the State Government of Manipur in its presentation to the Project Approval Board of the Integrated Child Protection Scheme of the Ministry of Women and Child Development stated that *“there are more than 3000 children in difficult circumstances in Manipur which includes children affected by armed conflict, ethnic clashes, orphan children and children living with HIV/AIDS. There is an alarming number of children engaged in substance abuse in the age group of 11 – 18 years who are vulnerable to adult drug peddlers. Children are also engaged as domestic help and in shops. The State is a major source of child trafficking to the States of Goa, Tamil Nadu, Delhi and Maharashtra which happens mainly on pretext of providing education and other facilities.”*¹

Manipur is one of the first States to have framed and notified the Juvenile Justice (Care and Protection of Children) Manipur Rules on 11 October 2002. However, one decade later, the implementation of the Juvenile Justice (Care & Protection of Children) Act, 2000 [hereinafter referred to as JJ(C&PC) Act] is in tatters.

This was evident during the joint field visit of the National Commission for Protection of Child Rights and the Asian Centre for Human Rights to Manipur from 18 to 20 May 2012.

Since 1980, entire state of Manipur has been declared as “disturbed area” under the Armed Forces Special Powers Act (AFSPA), 1958 and the withdrawal of “disturbed area” status from Imphal Municipality areas in November 2004 made little difference. Under the AFSPA, the Army and Para-military forces have been

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deployed across the State with the power to arrest, search and seize and fire upon or otherwise use force, even to the causing of death. However, these law enforcement personnel do not have any knowledge about the JJ(C&PC) Act. Consequently, children have been regularly apprehended, detained and subjected to torture while many were killed in fake encounters in clear violations of the JJ(C&PC) Act.

Juvenile justice remains suspended in Manipur. Given the claim of the State Government of Manipur that the Juvenile Justice Boards (JJBs) have been set up in all nine Districts, the Project

Approval Board (PAB) for ICPS of the Ministry of Women and Child Development in its 14th meeting on 22nd February 2011 approved grants for nine JJBs.² However, as the State government failed to establish the JJBs, the PAB in its 35th Meeting held on 17 January 2012 had no other option but decided not to grant further funds for the nine JJBs for the current Financial Year 2012-2013 until a report on the functioning of JJBs with complete details of Members, pendency, etc are submitted by the State Government. Further, the only JJBs functioning were sitting in or near Imphal.³ The Hill Districts are even denied access to juvenile justice.

In the entire State of Manipur, there is only one Government run Special Home at Takyelpat in capital Imphal whereas the Army and para-military forces are deployed all over the State. This indicates that children who are apprehended by the Army and para-military forces are not produced before the Juvenile Justice Boards and Observation Homes but detained in their camps and in the best circumstances sent to the police lock up or prisons.

Only on paper, the state government of Manipur constituted Special Juvenile Police Units as their functioning remained confined to mere notification.

The service delivery for institutional care is an astounding case of total mis-use of resources. For the first year grant under the IPCS i.e. for 2009-2010, the complete grant was shown to have been utilized by the State Government even though no staff has been appointed to State Project Support Unit, State Child Protection Society (SCPS) etc. The officials of the State Government of Manipur informed that "equipment has been purchased in advance". It is clear that the funds provided for providing services to children have been utilized for equipments! If that was not enough, the entire grant received under ICPS for 2010-11 too has been utilized, even though no staff has been appointed to SCPS, District Child Protection Units (DCPU) and State Adoption Resource Agency (SARA).⁴

Considering that more than 3000 children were affected by armed conflict, ethnic clashes,

orphan children and children living with HIV/AIDS, absolute and total mis-use of the financial resources under the IPCS is a case of criminal negligence. The situations of the Children Homes are far from being satisfactory. Given that no Inspection Committee has been set up as required under the JJ(C&PC) Act, the situations in the Homes established under the Act remain deplorable.

There are reports of ill-treatment of children in the Children Homes. On 15 September 2011, eight inmates of Destitute Children Home run by Leprosy Patients' Welfare Society (LEWS) at Chingmeirong Lei-Inkhol in Imphal East district fled after allegedly being subjected to ill-treatment by owner of the Home identified as Ahanthem Tolen. The inmates, all under 12 years, fled in the wee hours as they could not bear the ill-treatment.⁵ G. Satyabati Devi, Director of Department of Social Welfare, Government of Manipur confirmed to the Asian Centre for Human Rights that the inmates of this Home were transferred to a government institution due to a complaint lodged against the Home.⁶ But no action under the JJ(C&PC) Act was taken against the accused.

Further, in the absence of adequate Homes, children in need of care and protection have to be kept in a building attached to the Observation cum Special Home at Takyelpat in Imphal. Presently, at least 21 children in need of care and protection have been kept in a separate building in the Government Observation cum Special Home at Takyelpat in Imphal until further arrangement is found for them. These children in need of care and protection were shifted from the Children Home in Imphal East district.⁷

Recommendations:

Asian Centre for Human Rights recommends the followings:

I. Recommendations to the State Government of Manipur:

Issue a direction to the Army and para-military forces who are legally bound to operate in aid of and under the civil administration to ensure full respect and compliance with the Juvenile

Justice (Care & Protection of Children) Act, 2000 while dealing with children;

Issue a direction to the Manipur Police Commandos to ensure full respect and compliance with Juvenile Justice (Care & Protection of Children) Act, 2000 while dealing with children;

Operationalise the existing Special Juvenile Police Units, Juvenile Justice Boards and the Inspection Committees in letter and spirit and provide updated information on the website of the Social Welfare Department to ensure transparency, accountability and accessibility;

Provide adequate human and financial resources to the JJBs and Inspection Committees and the Child Welfare Committees;

Register a case under the Juvenile Justice (Care & Protection of Children) Act, 2000 with respect to ill-treatment of children at Children Homes' including in the Destitute Children Homes run by the Leprosy Patients' Welfare Society (LEWS);

Establish at least one Juvenile Observation Home and one Special Home in each district of Manipur; and

Conduct training programme for the judges appointed under the State Judicial Services on the Juvenile Justice (Care & Protection of Children) Act, 2000.

II. Recommendations to the National Commission for Protection of Child Rights

Adopt "Standard Operating Procedure (SOP) for dealing with apprehension, detention & death in custody and in encounter of children in Internal Security Situations" for compliance with the Juvenile Justice (Care & Protection of Children) Act, 2000 by the Army and the paramilitary forces;

Direct the State Government of Manipur to Operationalise the existing Special Juvenile Police Units, Juvenile Justice Boards and the Inspection Committees in letter and spirit and provide updated information on the website of the Department of Social Welfare to ensure transparency and accountability and accessibility;

Direct the State Government of Manipur to provide adequate human and financial resources to the JJBs and Inspection Committees and the Child Welfare Committees;

Direct the State Government of Manipur to register cases under the Juvenile Justice (Care & Protection of Children) Act, 2000 with respect to ill-treatment of children at the Children's Homes including in the Destitute Children Home run by the Leprosy Patients' Welfare Society;

Direct the State Government of Manipur to establish at least one Juvenile Observation Home and one Special Home in each district of Manipur; and

Direct the State Government of Manipur to conduct training programme for all the judges appointed under the State Judicial Services on the Juvenile Justice (Care & Protection of Children) Act, 2000.

III. Recommendations to the Ministry of Women and Child Development

Conduct an inquiry into the mis-use of resources for purposes other than stipulated including non-appointment of the staffs under the IPCS;

Develop Guidelines to provide that the IPCS funds are "non-divertible and non-lapsable";

Conduct a field investigation following submission of reports by the State Government about the constitution of the Juvenile Justice Boards before approval of further grants;

Direct the State Government of Manipur to establish at least one Juvenile Observation Home and one Special Home in each district of Manipur; and

Direct the State Government of Manipur to conduct training programme for the judges appointed under the State Judicial Services on the Juvenile Justice (Care & Protection of Children) Act, 2000.

2. State of implementation of juvenile justice in conflict afflicted areas of Manipur

Though on 11 October 2002, the state government of Manipur notified the Juvenile Justice (Care and Protection of Children)

Manipur Rules, 2002,⁸ the Act remains unimplemented in particular with respect to juveniles in conflict with the law and children suspected of or accused of unlawful activities.

Manipur has been confronting serious insurgency since 1980s. Currently, there five organizations i.e. United National Liberation Front (UNLF), People's Revolutionary Party of Kangleipak (PREPAK), Kangleipak Communist Party (KCP), Kanglei Yaol Kanba Lup (KYKL) and Manipur People's Liberation Front (MPLF) which are banned as "terrorist organizations" by the Ministry of Home Affairs, Government of India under the Unlawful Activities Prevention Act, 1967. Though not banned, there are a number of active armed opposition groups including Hmar People's Convention- Democracy (HPC-D), Kuki Liberation Army (KLA), Kuki National Army (KNA), Kuki National Front (KNF), Kuki Revolutionary Army (KRA), National Socialist Council of Nagaland — Isak-Muivah (NSCN-IM), People's United Liberation Front (PULF), United Kuki Liberation Front (UKLF), and Zomi Revolutionary Army (ZRA).

Juveniles in Manipur are regularly apprehended, tortured and detained in police stations/jails and seldom produced before the Juvenile Justice Boards. While children suspected of or accused of unlawful activities are arbitrarily picked up by security forces and subjected to torture in custody, in several cases they are also killed in alleged fake encounters.

2.1 The Supremacy of the JJ(C&PC) Act over the AFSPA

The Armed Forces Special Powers Act, 1958 (AFSPA) has been imposed in the entire State of Manipur since 1980 and the withdrawal of disturbed area status from Imphal Municipality areas in November 2004 made little difference.

Section 4 of the AFSPA empowers non-commissioned officer or any other person of equivalent rank in the armed forces, among others, to (a) "after giving such due warning as he may consider necessary, 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 for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances"; (b) "arrest, without arrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest"; (c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest; and (d) "enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary".

The Army and the para-military forces have been using the AFSPA indiscriminately including against the children. When the Armed Forces Special Powers Act was enacted in 1958, there were no juvenile laws in the country or at international level. International human rights standards on administration of juvenile justice inter alia United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) of 1989, United Nations Rules for the Protection of Juveniles Deprived of their Liberty of 1990, United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) of 1990 too were not developed.

Increasingly, universal consensus developed that children are not only entitled to the protection of all human rights instruments but they are also entitled to added protections and special protections. The universal consensus underlined that on matters relating to children, specific laws relating to children shall prevail. This overriding

principle is set forth under Article 3(1) of the United Nations Convention on the Rights of the Child which provides that *“in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”*.

By ratifying the UN Convention on the Rights of the Child on 11 December 1992, India accepted the legal responsibility to implement universal consensus on the rights of the child. Following the ratification of the Convention on the Rights of the Child, India adopted the Juvenile Justice (Protection and Care of Children) Act, 2000 to replace the archaic Juvenile Justice Act of 1986. The JJ(C&PC) Act has been defined as “an Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under this enactment”.

The Statement of Objects and Reasons provided in the Juvenile Justice (Protection and Care of Children) Bill were to achieve the following objectives: (i) to lay down the basic principles of administering justice to a juvenile or the child in the Bill; (ii) to make the juvenile justice system meant for a juvenile or the child more appreciative of the developmental needs in comparison to criminal justice system as applicable to adults; (iii) to bring the juvenile law in conformity with the United Nations Convention on the rights of the Child; (iv) to prescribe a uniform age of eighteen years for both boys and girls; (v) to ensure speedy disposal of cases by the authorities envisaged under this Bill regarding juvenile or the child within a time limit of four months; (vi) to spell out the role of the State as a facilitator rather than doer by involving voluntary organizations and local bodies in the implementation of the

proposed legislation; (vii) to create special juvenile police units with a humane approach through sensitisation and training of police personnel; (viii) to enable increased accessibility to a juvenile or the child by establishing Juvenile Justice Boards and Child Welfare Committees and Homes in each district or group of districts; (ix) to minimise the stigma and in keeping with the development needs of the juvenile or the child, to separate the Bill into two parts - one for juveniles in conflict with law and the other for the juvenile or the child in need of care and protection; and (x) to provide for effective provisions and various alternatives for rehabilitation and social reintegration such as adoption, foster care, sponsorship and aftercare of abandoned, destitute, neglected and delinquent juvenile and child.

The preamble of the Act provides as follows: “Whereas the Constitution has, in several provisions, including clause (3) of Article 15, clauses (e) and (f) of Article 39, Articles 45 and 47, imposed on the State a primary responsibility of ensuring that all the needs, of children are met and that their basic human rights are fully protected; And whereas, the General Assembly of the United Nations has adopted the Convention on the rights of the Child on the 20th November, 1989; And whereas, the Convention on the Rights of the Child has prescribed a set of standards to be adhered to by all State parties in securing the best interests of the child; And whereas, the Convention on the rights of the Child emphasises social reintegration of child victims, to the extent possible, without resorting to judicial proceedings; And whereas, the government of India has ratified the Convention on the 11th December, 1992; And whereas, it is expedient to re-enact the existing law relating to juveniles bearing in mind the standards prescribed in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the United Nations rules for the Protection of juveniles Deprived of their Liberty (1990), and all other relevant international instruments.”

Section 4(1) of Juvenile Justice (Care and Protection of Children) Act, 2000 set out the overriding principles of the Act by including a non-obstante clause which states: *'Notwithstanding anything contained in any other law for the time being in force, the provisions of the Act shall apply to all cases involving detention, prosecution, penalty or sentence of imprisonment of Juveniles in conflict with law under any such law'*.

In a number of judgements including death penalty cases, the Supreme Court upheld the supremacy of the JJ(C&PC) Act over all other legislations including those legislations which have non-obstante clause such as the Prevention of Terrorism Act, 2002.

In the case of the Prevention of Terrorism Act of 2002, the supremacy of the Juvenile Justice (Protection and Care of Children) Act, 2000 was upheld. The Madras High Court in its judgement in the W.P.No. 4511 of 2003 Prabakaran represented by his maternal aunt Nagammal Vs State of Tamilnadu and Anr while underlining the supremacy of the JJ(C&PC) Act stated the following:

"29. Both Acts, viz., JJ(C&PC) Act and the POTA are special Acts passed by the Parliament. Both contain a surfeit of non obstante clauses having overriding effect. But then juveniles have been given a special place in the scheme of things. Our country, as already noted, has been a party to various international conventions and agreements and invoking Article 253 of the Constitution enacted various Acts with children as the prime theme and ensured that all their needs are met and their basic human rights are protected. We have created greater responsibilities in ourselves when it comes to juveniles in conflict with law. The various sections in JJ(C&PC) Act already referred to vouch for the same. As pointed out in MUNNA v. STATE OF UP [1982 (1) SCC 545]. The law is very much concerned to see that juveniles do not come into contact with hardened criminals and their chances of reformation are not blighted by contact with criminal offenders. The law throws a cloak of

protection round juveniles and seeks to isolate them from criminal offenders, because the emphasis placed by the law is not on incarceration but on reformation. How anxious is the law to protect young children from contamination with hardened criminals is also apparent from Section 27 of the Act which provides, subject only to a few limited and exceptional cases referred to in the proviso, that notwithstanding anything contained to the contrary, no court can sentence a child to death or transportation or imprisonment for any term or commit him to prison in default of payment of fine. It would thus be seen that even where a child is convicted of an offence, he is not to be sent to a prison but he may be committed to an approved school under Section 29 or either discharged or committed to suitable custody under Section 30. Even where a child is found to have committed an offence of so serious a nature that the court is of opinion that no punishment which under the provisions of the Act it is authorised to inflict is sufficient, Section 32 provides that the offender shall not be sent to jail but shall be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the State government. Section 33 sets out various methods of dealing with children charged with offences. But in no case except the exceptional ones mentioned in the act, a child can be sent to jail."

The above enunciation was made by the Supreme Court with reference to U.P. Children Act, 1951, and at a time when even Central Act JJ act, 1986 had not been enacted. It will apply with greater force in the present context. JJ(C&PC) Act no doubt reached the statute book two years earlier to the POTA. It is possible to argue that at the time POTA was passed Parliament was aware of the presence of JJ(C&PC) Act as law, that still it chose to introduce Sec.56 conferring overriding powers under POTA and that therefore POTA should prevail. As pointed out in the LIC case as between ID Act and LIC Act, so far as nationalisation and insurance business are concerned the latter

Act is a special legislation but when it comes to particular problem of disputes between employer and employees, or investigation and adjudication of such disputes it makes way to ID Act. By the same logic, JJ(C&PC) Act dealing as it does with 'Alpha to Omega' of the problems facing juveniles and juveniles in conflict with law providing as it does for specialised approach towards the prevention and treatment of juvenile delinquency in its full range is a special law and will prevail over POTA which is a mere special law compared to JJ(C&PC) Act. JJ(C&PC) Act is the monarch of all that it surveys, in its field. Both are special but JJ(C&PC) Act is more special (apologies to George Orwell).

30. May be the offence committed by the juvenile is shocking like murder or rape but as pointed out in KRISHNA BHAGWAN v. STATE OF BIHAR [AIR 1989 PATNA 217 (FB)] (though under the earlier Act), the appropriate provision in the Act is quite conscious of such situations. Section 7 of JJ(C&PC) Act enjoins the Magistrate, who is not empowered under the Act to exercise the powers of the Board and before whom the juvenile or child is brought, to forward the child to the competent authority. Section 12 provides that if the release of the juvenile on bail is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or his release would, defeat the ends of justice. If a Board is satisfied that a juvenile has committed an offence it may allow the juvenile to go home with an advice or admonition or direct him to participate in group counselling; community service, etc.; direct him to be released on probation as also order such directives as it may think fit. The Board may also make the terms and conditions of supervision and furnish copy to the juvenile, parent, guardian or other person or fit institution. Thus, welfare of the juvenile is the prime concern of the law makers. The legislature had intended that the juvenile should be extended special care, treatment, development and rehabilitation. The Act overwhelmingly contemplates total

separation of juveniles from the mainstream offenders. Under no circumstance should the juvenile have anything to do with them.

31. From the foregoing it follows that the POTA Court in the present case has exceeded its jurisdiction and trespassed into another territory and the mischief has to be undone. What the learned Sessions Judge, Krishnagiri, has done is correct and that can be justified under Section 6 as contended by Mr. Chandru. The Sessions Judge had exercised the powers conferred on the Board when the proceeding came before him 'otherwise'.

32. The writ petition stands allowed. The petitioner shall be proceeded against only under JJ(C&PC) Act."

In the case of Ramdeo Chauhan, the Gauhati High Court confirmed the death sentence awarded to him by the trial court considering the case as rarest of rare deserving death penalty for the murder of a civil engineer and his family in 1992.⁹ Even the Supreme Court confirmed the death sentence.¹⁰ In 2010, the Supreme Court however finally upheld the grant of clemency by the Governor of State of Assam in accordance with a recommendation by the National Human Rights Commission (NHRC), acknowledging NHRC's wider role for promotion of human rights as Chauhan was a juvenile at the time of commission of the crime.¹¹ In a unique case of its kind, the Supreme Court admitted repeated mistakes in not dealing properly with an appeal against the death sentence of Ramdeo Chauhan.¹² The Supreme Court, granted liberty to Ramdeo Chauhan to claim juvenility in appropriate forum. Pursuant to this, Ramdeo Chauhan moved an application claiming juvenility before the Juvenile Justice Board, Morigaon district but determination of the application was inordinately delayed.¹³ On 3 July 2011, child rights activist Minna Kabir wrote a letter to the Chief Justice of the Gauhati High Court seeking intervention to expedite the proceedings before the JJB, Morigaon, on Chauhan's application claiming juvenility. The Gauhati High Court suo motu converted Ms. Kabir's letter into a public interest litigation

(No.39/2011). In the judgement dated 9 August 2011, a bench comprising Justice Amitava Roy and Justice C.R. Sharma held that *“on a rational and judicious assessment of the evidence available on record as well as the authorities cited at the Bar, we are of the unhesitant opinion that the accused applicant was a juvenile as defined in section 2(k) of the Act on the date of the commission of the offence i.e. 8.3.1992 and is thus entitled to be treated as a juvenile in conflict with law vis-à-vis the charges and was entitled at all relevant points of time to be dealt with as such.”* The court finally ordered that Ramdeo Chouhan @ Rajnath Chouhan be released forthwith from custody.¹⁴

Unlike the POTA and many other special laws, the AFSPA does not have ‘non obstante clause’ except with respect to prosecution of the armed forces under Section 6 which provides that “No prosecution, suit or other legal proceeding 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 the powers conferred by this Act”. Despite such unambiguous supremacy of the JJ(C&PC) Act, in Manipur the Army, paramilitary forces and the police frequently detain, torture and sometimes kill children in fake encounters on suspicion of associating with extremists.

2.2. The emblematic case of abuse of the JJ(C&PC) Act in Manipur

Nothing clearly demonstrates the blatant and willful violation of the provisions of the JJ(C&PC) Act, 2000 than the recent case of illegal detention of three juveniles in allegedly in conflict with law which was investigated by a team of the National Commission for Protection of Child Rights and Asian Centre for Human Rights during its two-day visit to Manipur from 18 – 20 May 2012. This case is under consideration of the NCPCR pursuant to a complaint filed by the Asian Centre for Human Rights.

As the facts and circumstances of the case reveal the rights of the victims as provided under the JJ(C&PC) Act, 2000 were repeatedly violated at every stage. The irony is that it was not only the Assam Rifles (AR) and the police but also the Magistrate and the lawyer who were active participants to the violations of the rights of the victimized juveniles in question.

From 14 February to 1 March 2012, four persons including three minors identified as Sonkhopao Mate (15 years), Ngamminlun Mate (17 years) and Ngambom Haokip (17 years) were arbitrary arrested and illegally detained in the custody of 36th Assam Rifles and at Lamphel police station in Imphal. Later, they were sent to judicial custody at Sajiwa Central Prison in clear violation of the provisions of the JJ(C&PC) Act, 2000.

At about 7.30 pm on 14 February 2012, Sonkhopao Mate, Ngamminlun Mate, Ngambom Haokip and Paokholet Haokip (38 years), two other boys and three girls were having Maggi noodles and chatting at the residence of Sonkhopao’s cousin who is also his next door neighbour. At that time, Jamkhothang Mate, father of Sonkhopao came there accompanied by some personnel of the 36th Assam Rifles based at Sehlon village under Khengjoy Block of Chandel district. He asked the children to come out of the house and all eight children followed the order. They saw that the house was rounded up by some AR personnel who were armed and had asked the children to accompany them. The children were neither informed as to why they were being taken to the AR camp nor allowed to talk to their family members. Then 36th Assam Rifles personnel took them to the camp, where one civilian Gajendra Singh pointed his finger at the three minors and one adult villager stating that they are the one who murdered his friend and business partner Mangal Ram. Gajendra Singh and the deceased were running a civil canteen (Variety store) under the 36th AR and their canteen was situated inside the AR camp at Sehlon village.

Only at that point of time, the children came to know that they were picked up by the AR in connection with the alleged murder of late Mangal Ram. While two boys and three girls were released and allowed to go home, the three minors and the adult villager as identified by Gajendra Singh were detained the whole night at a small bunker inside the Assam Rifles’ camp fully guarded by armed personnel. During the whole night, the AR personnel allegedly denied

the victims food and water. It was only in the next morning i.e. on 15 February 2012 that their family members fetched some food and water for the victims. The Assam Rifles blatantly violated Section 10 of the JJ(C&PC) Act as they have no authority under the JJ(C&PC) Act to apprehend a juvenile under any circumstance. Section 10 provides that any juvenile in conflict with the law can only be apprehended by the police who are required to place the juvenile apprehended under the charge of a Special Juvenile Police Unit (SJPU) or a designated police officer. Proviso to Section 10 (as amended in 2006) provides that “in no case a juvenile in conflict with law shall be placed in a police lock up or lodged in a jail”. Therefore, it is not only the arrest by the Assam Rifles but detention of the victims by the AR in a bunker in their camp constitutes another blatant violation of section 10 of the JJ(C&PC) Act.

By depriving the victims of food and water and detaining them at a place unfit for normal human dwelling, the AR also committed an offence under Section 23 of the JJ(C&PC) Act. Willful deprivation of food and water and sleep are acts of cruelty and are therefore punishable under Section 23 which provides that *“whoever, having the actual charge of, or control over, a juvenile or the child, assaults, abandons, exposes willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.”*

At about 1.30 pm on 15 February 2012, two policemen arrived at the AR Camp. They were taken inside the camp and came out after a while. The policemen neither met the victims nor the villagers who had gathered outside the AR camp. The AR personnel then instructed the victims to seat at one of their vehicles (409 model). As many as 10-12 armed AR personnel accompanied the victims in the same vehicle while 4-6 other AR personnel were following the bigger vehicle in a small vehicle. However, the victims were clueless as to where they were being taken to as neither the policemen nor the

AR personnel informed them. On the way, the AR personnel would stop at most of the AR camps situated on the highway and have some refreshments as well as to attend nature’s call. But the victims were even denied water not to mention any food. They were allegedly beaten up when they said they were hungry. They were not even allowed to attend nature’s call. Adding insult to the injury, the AR personnel would inform their colleagues posted at the AR camps on the way that they were taking four murderers/killers to the central jail in Imphal. Then only the victims could guess that they were being actually taken to Imphal.

The AR and the police were duty bound under Section 13 of the JJ(C&PC) Act, 2000 to inform the parents or guardians of the victims of the grounds of arrest and ask them to appear before the Juvenile Justice Board before whom the victims would appear. They were also required to give similar information to the Probation Officer in order to enable him to obtain information regarding the antecedents and family background of the juveniles and other material circumstances likely to be of assistance to the JJB for making the inquiry. The AR and the police again committed an offence under Section 23 of the JJ(C&PC) Act, 2000 by assaulting the victims, denying the victims to attend nature’s call as well as food and water during the journey to Imphal.

Around 1.30 – 2.00 am the victims reached Imphal and were taken to Lamphel police station in Imphal West district and put into the lock-up. During that night they were not given any food. Only in the next morning i.e. 17 February 2012, Sankhopao’s relative who lives in Imphal brought some food. They were detained at Lamphel Police station lock-up for 8 days (16-23 February 2012). No food was served to them while in detention at Lamphel Police Station. Sankhopao’s relative brought them food. The police again violated Proviso to Section 10 of the JJ(C&PC) Act provides that *“in no case a juvenile in conflict with law shall be placed in a police up or lodged in a jail”* as they put the victims in the police lock up.

The police further committed an offence under Section 23 of the JJ(C&PC) Act by depriving the victims of food and water for the whole night. Deprivation of food and water to the victims who were tired and starved a whole day are nothing but acts of cruelty as provided under this section and are therefore punishable.

While under detention in police custody, Sonkhopao fainted once and fell on the floor. Police took him to 1st Manipur Rifles' Hospital in Imphal. He was also once taken for check up to Regional Institute of Medical Sciences but police did not give him any record of his medical treatment.

The victims were produced once before the Chief Judicial Magistrate, Imphal West, while in detention at the Lamphel Police Station lock up. In the court, the Investigation Officer and another policeman asked all three minor boys their age. As Sonkhopao replied that he was 15 years-old, police told him that since children cannot be sent to jail they have mentioned his age as 18 years. Police also told that so long as the culprit (murderer of late Mangal Ram) is caught they would remain in prison. The Magistrate also asked their age, occupation and address and after their replies, she told them that since they (the court and police) have to carry out several legal formalities all of the victims are required to go to jail for some days.

The Magistrate failed to discharge the duties as provided under Section 7 of the JJ(C&PC) Act, 2000. Under Sub-section 1 of this section, the Magistrate was required to record her opinion pertaining to age of the victims and forward them as well as the record of proceedings to the relevant JJB for inquiry under sub-section (2). Under Section 7A(1), as amended in 2006, the Magistrate was duty bound to make an inquiry to determine the age of the victims.

The failure of the Magistrate to discharge her duties in accordance with Sections 7 and 7A landed the victims to the Sajiwa central jail.

Sadly, when the lawyer moved the bail application No.5 of 2012 before the Chief Judicial Magistrate, the age of Sonkhopao Mate, Ngamminlun Mate and Ngambom Haokip were given as 18 years!

On 24 February 2012, they were shifted to Sajiwa Central jail where they were lodged till their release on bail on 2 March 2012.

In the meanwhile, the investigation into the murder of Mangal Ram (FIR No. 2(2) of 2012 registered at the Molcham Police Station under Sections 302/34/195/203 of Indian Penal Code was continuing. After investigation, the Police arrested Gajendra Singh, who pointed fingers to the juvenile, and three others were for the murder of civilian canteen owner late Mangal Ram. They have been arrested and sent to jail. It is clear that the arrested juveniles had nothing to do with the murder case but had to undergo the trauma.

Sonkhopao who is studying in Class VII in Samaritan School in Sugnu under Chakpikarong sub-division of Chandel district has resumed his schooling. But, his elder brother Ngamminlun Mate and his cousin Ngambom Haokip have dropped out from school.

2.3. Arbitrary arrest, illegal detention and torture of children

The detention of juveniles in judicial custody or police custody is a clear violation of the Section 10 (1) and Section 7A of the JJ(C&PC) Act.

Section 10(1) of the JJ(C&PC) Act provides that *“As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended, to the Board:”*

Provided that in no case, a juvenile in conflict with law shall be placed in a police lockup or lodged in a jail.”

However, the security forces/police often arbitrarily pick up the children/juveniles and detain them in the police stations and jails in Manipur. Due to the conflict situation, the provisions of the JJ(C&PC) Act are never applied. Many of the children are merely picked up on the suspicion of having links with armed opposition groups (AOGs).

The situation is further compounded by lack of Special Homes and Observation Homes. There is only one Government run Observation Home and one Special Home for the entire state of Manipur. While the state government constituted Special Juvenile Police Units (SJPUs) in all the nine districts, these are still non-functional as the increasing cases suggest.

Since 2003, Asian Centre for Human Rights (ACHR) has taken up a number of cases of violations of the rights of the juveniles with the National Human Rights Institutions. These cases by no means indicate the actual extent of the violations of the JJ(C&PC) Act in Manipur. But these cases as cited below show that understanding and application of the Juvenile Justice (Protection and Care of Children) Act, 2000 is yet to be ingrained and institutionalized. In many cases, the perpetrators got away by producing “No Objection Certificate” from villagers or victims stating that they had not committed any offence.

Case No.1: Illegal detention and torture of a minor boy by police

On 3 April 2010, a minor (name withheld), a student of Class Xth standard, was arrested along with one Paonam Purnima Singh (60 years) in connection with a case of elopement and taken to the Moirang police station in Bishnupur district. Both the victims including the minor were produced before the court of Chief Judicial Magistrate. Surprisingly, the Judicial Magistrate remanded the minor to police custody following which the minor was detained at the Moirang police station. At night, a Manipur Police Commando identified as Robinson posted at Kumbi police station and a Security Inspector of Loktak Development Authority, Linjalian came to the Moirang police station and subjected both the victims to severe beating. Both the victims sustained injuries. Asian Centre for Human Rights intervened in the matter with the National Human Rights Commission but the NHRC forwarded the case to virtually defunct Manipur State Human Rights Commission which failed to take effective step in the matter. The case is still pending.¹⁵

Case No.2: Illegal detention of two minors by the Assam Rifles

According to information received by Asian Centre for Human Rights, on 17 November 2009 at about 3 pm, Master Sougrakpam Ingo was taking part in a football tournament held at Moreh football ground. Suddenly, a team of 31st Assam Rifles came in one private van and two auto-rickshaws. The Assam Rifles (AR) team rushed into the football ground and picked up Master Sougrakpam Ingo without giving any reason. The crowd watching the football match tried to stop the AR from taking away Master Sougrakpam Ingo. But, the AR personnel threatened them pointing their guns. Thereafter, AR whisked away Master Sougrakpam Ingo to their camp at Moreh. In the camp, AR blind folded Master Sougrakpam Ingo and tied his left hand with a rope which was held by one of the AR personnel. Thereafter, AR personnel started beating him up with club and rifle butts. Later, AR personnel threatened Master Sougrakpam Ingo to admit that he is an activist of proscribed United National Liberation Front (UNLF). Master Sougrakpam Ingo denied and stated that he is a student. Then the AR personnel told him to produce his school Identity Card (ID). Master Sougrakpam Ingo told that he kept his ID at home. Then, AR personnel told Master Ingo to run from the camp. But Master Sougrakpam Ingo, fearing that he would be killed in encounter, refused to comply and requested the AR to release him in the football ground.

In the meanwhile, the residents of Moreh rushed towards AR camp to enquire about Master Sougrakpam Ingo. In protest, they reportedly dismantled the billboard belonging to AR. The AR dispersed them by resorting to beating. Two youths namely, Mr Thangjam Sunil and Master Thangjam Robert were chased by the AR personnel. Mr Sunil and Master Robert tried to enter the Moreh Police Station while they were being chased at. But the Police closed their gate and did not allow them to enter. Later, both of them were caught by the AR personnel who beat and kicked them with boots in front of the police station for allegedly dismantling their billboard. Thereafter, the AR personnel took them to their camp.

In the camp, both Mr Sunil and Master Robert were blind folded with their hand tied at the back. Mr Sunil was beaten with club and rifle butts. One AR personnel kicked Mr Sunil at his nose which resulted in bleeding from his nose. Master Robert too was severely beaten up all over his body with club and rifle butts. He was made to lie down on the ground and hit on the soles with club several times.

The AR personnel continued to illegally detain all the three - Master Sougrakpam Ingo, Mr Sunil and Master Robert till the evening. In the evening, some community leaders went to the AR camp for the release of the three. Following this, the AR personnel took the three to Moreh Police Station. Subsequently, they were released without any charge after the AR personnel made them sign on blank papers.

On 5th February 2010, Asian Centre for Human Rights filed a complaint with the National Human Rights Commission which registered the Case as No.14/14/2/2010-PF. In response to the notice issued by the NHRC, the Superintendent of Police (SP), Chandel district, Manipur submitted his report on 28.04.2010 while Colonel G.S. (Ops.), Assam Rifles filed its reply on 29.05.2010.

The Assam Rifles while denying the allegation of illegal detention stated that the apprehended persons were detained only for about two hours. Both the reports denied allegations of torture/harassment. The Assam Rifles obtained "no harassment certificates" from the victims.

Both the reports ignored the age of the victims and there was no effort to verify the age of the victims. This is despite the fact the Sougrakpam Ingo was playing an under- 15 football tournament namely Leishangthem Shantikumar Memorial Under-15 Football Tournament at Eastern Shine School from where he was arrested. Further, Sougrakpam Ingo was a student of Class IX at the time of his arrest. The age of other two of the victims – Sunil and Thangjam Robert was 17 years at the time of the incident. In fact, the reports showed their age as major.

Asian Centre for Human Rights in its reply dated 11 August 2010 highlighted the

shortcomings of the reports of the Assam Rifles and Manipur Police as given below:

1. Illegal detention of the three victims proven by the reports of police and Assam Rifles authorities

The reports of the Superintendent of Police (SP), Chandel district, Manipur dated 28 April 2010 and Colonel G.S. (Ops.), Assam Rifles dated 29 May 2010 clearly establish beyond doubt that the three victims namely Sougrakpam Ingo Singh, son of Sougrakpam Ibungo, Thangjam Robert, son of T. Iboyaima and Thangjam Sunil, son of Late T. Thoiba were illegally detained at the 31st Assam Rifles camp at Moreh on 17 December 2009.

In its report, the Assam Rifles while rejecting ACHR's allegations of torture and illegal detention stated: ".....The apprehended persons were detained for approx two hrs w.e.f. 1700 hrs to 1900 hrs only".

However, the report of the SP, Chandel district clearly nails the lie of the 31st Assam Rifles. In its report, the SP, Chandel district stated "That, on the same day at @ 11 pm a troop of 31 Assam Rifles led by one Nb.sub.No.31300509 Mandan Singh came to Moreh Police Station and produced one Sougrakpam Ingo (19) yrs s/o (l) S.Ibungo Singh of Moreh W/No.-7 with the report that troop of 31 Assam Rifles picked-up the individual on the same day at @4.30 pm on suspicion.....Further, another two persons namely 1) Thangjam Robert Singh (18) yrs s/o Th. Iboyaima Singh of Moreh W/No.-6 and 2) Thangjam Sunil Singh (18) s/o (L) Th. Thoiba Singh of Moreh W/No.7 were also simply handed over to the Police without any report by the troop of 31 Assam Rifles."

Thus, according to the report of the SP, Chandel district it was established beyond doubt that the three victims were illegally detained for six and a half hours at the Assam Rifles Camp, Moreh not for two hours as claimed by the 31st Assam Rifles

2. Undue harassment of the three victims in custody and conduct of 31st Assam Rifles not in accordance with legal procedures

In its report, the Assam Rifles claimed that the troops of 31st Assam Rifles conducted very fairly and transparently in accordance with the legal procedures required to be followed in such cases. However, the report of the Assam Rifles itself failed to support its claim.

Nowhere did the troop of the 31st Assam Rifles conduct itself in accordance with the legal procedures required to be followed.

First, the other two victims - Thangjam Robert and Thangjam Sunil were unnecessarily taken to the Assam Rifles Camp, Moreh. In its report, the Assam Rifles accepted that the two are part of the protestors who were pelting stones at the Moreh police station and damaged one of the bill boards. The report of the Assam Rifles states:

“..... When police stepped in to assist, few of the miscreants started pelting stones at police stn and damaged one of the bill boards displaying the activities involving Assam Rifles and the social org of Moreh. To control the tense and ever deteriorating sit, two Idrs of the mob namely Shri Robart Singh and Shri Sunil Singh were apprehended by Assam Rifles tps and brought to the Bn HQ.”

It shows that Thangjam Robert and Thangjam Sunil were just part of the angry protestors and not suspects for any underground activities. However, after the protestors were dispersed, the personnel of 31st Assam Rifles instead of handing over the two victims to the police took them to the Assam Rifles Camp at Moreh and subjected to interrogation. This is despite the fact that the police were also involved in controlling the angry crowd.

Second, the two victims, Thangjam Robert and Thangjam Sunil were not immediately released and illegally detained for about six and a half hours despite it was revealed that the two are innocent. In its report, the SP,

Chandel district stated that the Thangjam Robert and Thangjam Sunil were simply handed over to the police at 11 pm on 17 December 2009 without any report by the troop of the 31st Assam Rifles.

The ACHR does not think that after arresting two persons and subjecting them to unnecessary harassment in custody and later handing them over to police without any report is in accordance with the legal procedures required to be followed.

Later, ACHR came to know the State government ordered a Magisterial Enquiry into the matter that was submitted to the NHRC. However, the Magisterial Enquiry Report (MER) was not shared with ACHR and the NHRC closed the case on the basis of the MER which mentioned that the three students were not illegally detained or tortured. Pertinently, the MER stated *“Sensing public discontentment and possible escalating agitation, the 31st AR authorities hurriedly verified the antecedents of the apprehended persons from available school records. As nothing adverse was found against any of the apprehended persons, they were released from custody....”* This suggests that MER admitted that the victims were school students.

The NHRC dismissed the petition after merely suggesting more coordination between the civil authorities and the armed forces!

Case No.3: Illegal detention of an 11-year-old girl at a police station¹⁶

In August 2009, an 11-year-old girl (name withheld), daughter of S. Dewan of Nongmaikhong Mayai Leikai, was illegally detained for five days at Mayang Imphal Police Station in Imphal. The victim, studying in 6th Standard, was picked up on the morning of 14 August 2009 by a combined team of Imphal West Police Commandos and personnel of the 12th Maratha Light Infantry of the Indian Army from her home. The combined team had gone to the house to arrest her parents who were accused of providing assistance to a banned group. As the victim's parents are not present, the personnel subjected the victim to questioning the

whereabouts of her parents. The victim could not stand the questioning and fainted. Thereafter, the combined team whisked her away on the pretext of taking her to hospital. However, the combined team handed her over to the Mayang police station. In the police station, the victim was further subjected to interrogation. She even could not take food out of fear. Finally, the victim was released on 18 August 2009.

On 19 August 2009, the minor girl was admitted to Regional Institute of Medical Sciences (RIMS) with complaints of fear, breathlessness, palpitation, increase pulse rate, sleep disorder, self withdrawal symptom, unresponsiveness, etc. In its psychological report, the Department of Clinical Psychology, RIMS recommended that the girl would require psychotherapy and counselling from time to time as long as she is not settled down in a conducive environment.

In its report to the NCPCR, the police claimed that the girl was kept in the police station with good intentions and noble human behavior to save the life of the girl who was in distress. The girl child could have been lodged in a Children Home till she was handed over to her relatives.

The case demonstrates the total lack of knowledge or willful violations of the Juvenile Justice (Protection and Care of Children) Act, 2000, not to mention about its implementation amongst the law enforcement personnel.

The NCPCR is yet to adjudicate on the matter.

Case No.4: Torture of two minor girls by Assam Rifles¹⁷

On 21 December 2007, one Md. Nasir Khan was picked up from his house by the personnel of 24th Assam Rifles stationed at Moreh, Manipur. Neither was any arrest memo issued, nor was any reason given by the Assam Rifles. When the villagers demanded explanation and to show the arrest memo as required under the law, the Assam Rifles personnel started beating some of them which included women and girls.

Two of the victims were minor girls identified as Samina Begam (17 years) and Rukshana Begam (15 years). Samina Begam was hit at the chest

and back of head with rifle butt and stick following which she fainted at the spot. Rukshana Begam was dragged by her hair by the personnel and beaten at the shoulder with a stick and hit at the abdomen with rifle butt.

After the assault by the Assam Rifles personnel, the victims were taken to the Government Health Center, Moreh. Finding that condition of two of the victims Rukhsana Begam and Sameena Begam was serious, the doctors at the Government Health Center, Moreh immediately referred them to the Regional Institute of Medical Sciences (RIMS), Imphal for specialised treatment.

The police did not lodge a complaint against the accused Assam Rifles personnel when the villagers approached the local police station.

On 7 January 2008, Asian Centre for Human Rights filed a complaint with the National Human Rights Commission which registered the case No. 46/14/2/07-08-PE. Following NHRC's intervention a report was submitted by the Commandant, 24th Assam Rifles which denied the allegations. Unfortunately, the NHRC on 4 November 2008 closed the case based on the enquiry report submitted by the Assam Rifles stating that "The allegations leveled in the complaint could not be substantiated during enquiry." This was despite the fact that the torture of the innocent victims was proven by the medical records of the victims. The NHRC opined that "The women folk who sustained injuries may have been shown resistance by them at the time of arrest of Nazir Khan."

The NHRC despite admitting that the victims suffered injuries did not take into account the fact that two of the victims were minor girls and closed the case.

Case No.5: Illegal arrest, detention and torture of civilians including a minor¹⁸

During 6-9 February 2005, six civilians including a minor identified as Manginlun Thangsing (16) of Taphou were allegedly arbitrarily arrested, detained and subjected to torture by the personnel of 14th Assam Rifles stationed at Kangpokpi on charges of having

links with underground organizations in Kangpokpi in Senapati district.

After long time, the Additional Director General of Police (ADGP) of Manipur submitted a report to the NHRC which stated, “..... the detention and release of six persons is admitted by the police. On enquiry, one women namely Miss Hengkeng of 25 years, sister of Mr. Ngulkhohao Chongloi stated to have been slapped on the face by the personnel of 14th Assam Rifles on the day of arrest of her brother without any reason. It has been further submitted that the detention and release of the mentioned persons does corroborate with the circumstances as stated by both the parties. But on the whole none of the parties lodged any complaint with the police nor were arrest memos issued; hence no investigation had been made in this regard.”

In a submission dated 26.6.2006, the Ministry of Defence, New Delhi also confirmed about taking the victims into custody. However, the MoD strongly denied illegal detention and torture of the victims. The MoD also submitted copies of “No claim Certificate/No Harassment Certificate” allegedly signed by the victims during detention.

Based on submissions of the ADGP, Manipur and MoD, GOI, the NHRC concluded that the victims detained by 14th Assam Rifles were not subjected to any harassment and torture and hence no human right violation has been committed by the 14th Assam Rifles.

This was despite the fact that all six victims suffered bodily injuries and had to take medical treatment soon after release by the 14th Assam Rifles. Their records of medical treatment have been submitted but the NHRC failed to appreciate them.

2.4. Extrajudicial killing of children in fake encounters

Children are routinely picked up and executed in alleged fake encounters. During the fact finding visit of the National Commission for Protection of Child Rights and Asian Centre for Human Rights visit to Manipur from 18–20 May 2012, human rights organizations submitted a list of 92 cases of extrajudicial executions.¹⁹

Asian Centre for Human Rights has regularly been intervening in a number of cases with the national human rights institutions. The following nine case studies explain the situation:

Case No. 1: Extrajudicial killing of Ahanthem Amajao (16 years)

On 29 January 2012, Ahanthem Amujao (16 years), s/o Ahanthem Basanta of Sawombung Gate Maning Leikai, Imphal East district, was killed by Manipur Police Commandos in an alleged encounter at Khuman Lampak Palli in Imphal West District. Ahanthem, a school dropout, worked as a mason to help his parents to meet a square meal for the family. On 27 January 2012 at around 4.30 pm, the deceased left his home but never returned. As the deceased did not return, relatives began searching for him. On 30 January 2012, police informed family members that Ahanthem was killed in an encounter between a team of Imphal West Police Commandos and insurgents at Khuman Lampak Palli on 29 January 2012.

The family members and the locals stated that the deceased was never associated in any form with any armed group and alleged that he was tortured and killed in a fake encounter. According to the family, the body of the deceased bore marks of torture as his right arm and left hand were twisted and badly fractured. Autopsy was done at RIMS, Lamphelpat on 31 January 2012 but the report was denied to the family.

Following the visit of NCPCR and ACHR, in May 2012, the state government ordered a magisterial enquiry into the alleged encounter death of Ahanthem Amujao. However, the details and particulars provided in the notification about the deceased were incorrect. The age of the deceased was given as 18 years even though the deceased was born on 5 December 1995 i.e. 16 years and one month as per the school records.

Case No. 2: Extrajudicial killing of Md Alimuddin (17 years) by the Army²⁰

On 6 July 2010, 17-year-old Md. Alimuddin, son of Salimuddin was killed by the troops of the 12th Maratha Light Infantry at Ikop Lake

Maibam Pali in Imphal East district. The deceased was a resident of Kyanmgei Muslim Awang Leikai, but residing at Hatta Golapati area at the time of his death.

The security forces claimed that the deceased was a suspected underground cadre and killed in an encounter. It was further claimed that a 9 mm pistol loaded with four bullets, a Chinese hand grenade and a mobile handset were found in possession of the deceased.

However, family members of the deceased refuted the security forces' version that Md Alimuddin was an underground cadre. According to them, Md Alimuddin went out from his Hatta Golapati house in the morning of 5 July 2010 and killed in a fake encounter.

Case No. 3: Extrajudicial killing of Salam Ratankumar alias Nanao (17 years) and Chingangbam Gogo (17 years) by the Assam Rifles²¹

On 31 October 2009, at around 11 pm, the personnel of the 28th Assam Rifles personnel killed seven persons, including two minors, in an alleged encounter at Andro Sanapat under Yairipok police station in Imphal East district. A press release by the Public Relation Officer, Inspector General Assam Rifles (South) stated that seven suspected underground cadres were gunned down in an encounter at Andro Sanapat area. According to the press release, on getting information about presence of underground cadres in the area, troops of the 28th Assam Rifles launched cordon-search operation during which an encounter ensued between the Assam Rifles and about 10-15 armed underground suspects at around 11 pm of 31 October 2009. While seven were killed, the rest managed to escape in the dark. Of the seven, five victims were identified as Oinam Girani alias Anand (21 years), son of Oinam Yaima; Oinam Maipaksana alias Pakpa (20 years), son of Oinam Bhima; Laishram Boycha (18 years), son of (late) L. Kumar; Salam Ratankumar alias Nanao (17 years), son of S. Thambalgou of Tendongyang; and Chingangbam Gogo (17 years), son of (late) Tombi of Loitang Khunou.

The family members of the two minor victims (Salam Ratankumar alias Nanao and

Chingangbam Gogo) strongly refuted the allegation that they were involved in underground activities and claimed that they were killed in a fake encounter. Salam Ratankumar's family stated that he had left home after he had a quarrel with his father some 10 days ago. The families of Salam Ratankumar and Chingangbam Gogo also alleged that they found dresses and foot wears different from what the victims wore at the time of leaving home, and "their bodies had oversized and undersized camouflage trousers and hunting boots which did not fit them". Similarly, the family members of Oinam Girani and Oinam Maipaksana (who were cousins) alleged that they were abducted from their homes at Ishikha Mayai Leikai under Imphal East police station by some unknown persons suspected to be security forces in civil dresses who came in white Maruti Van and a Jeep on the night of 22 October 2009. Boycha's family also claimed that he left his home on 22 October 2009 to work as labourer in construction of a bridge at Heirok in Thoubal district. Interestingly, some hours prior to the killings, some journalists received an SMS sent by an unidentified person informing that some persons were being brought in the Andro Army Post to be killed soon and alerted the locals for an urgent action to stop the killings.

Case No. 4: Extrajudicial killing of Md Azad (13 years) by the Assam Rifles and police commandos²²

Md Azad, 13-year-old and a student of Class VII, was killed by a combined team of police commandos and the Assam Rifles in an alleged encounter at Phoubakchao village in Imphal West district on 4 March 2009.

The Superintendent of Police (SP), Thoubal claimed that the combined team had gone to Phoubakchao village in search of militants belonging to Peoples United Liberation Front following a tip-off. The deceased Md Azad had fired at the team and was killed in retaliation. The SP further stated that the security forces have recovered a 9mm pistol with three live rounds from the deceased's possession.

However, the deceased's family alleged that Md Azad was killed after arrest and the police had

placed the weapon near the deceased's body to show that he was killed in an encounter.

Following NHRC's intervention, the state government of Manipur through its Home Department had issued a notification dated 3.2.2012 directing the District Magistrate, Imphal West to conduct a magisterial enquiry. However, the District Magistrate is yet to submit the magisterial enquiry report to the NHRC.

The NHRC in its latest proceedings directed the following:

"This proceeding shall be read in continuation of the earlier proceeding of the Commission dated 28.3.2012. The desired report has not been received from the concerned authority despite sending several communications. The Commission views the matter seriously. Issue summons to DM & SP Imphal West District, Manipur to produce before the Commission on 24-7-2012, a copy of magisterial enquiry report regarding the alleged killing of Mohammed Azad aged about 13 years s/o Mohammed Wahid Ali in alleged encounter at Phoubakchao Chatrakhon by police and security forces on 4.3.2009 (Crime no. 16(3)/09 u/s 307/384/400/34 IPC and 25 Arms Act PS Mayang, Imphal). If the desired report is received by the Commission before the stipulated date, the personal appearance of the above officers shall be dispensed with."

Case 5: Extrajudicial killing of Khundom Anil Meitei (16 years) by the Assam Rifles²³

On 2 September 2008, Khundom Anil Meitei (16 years) s/o Kh. Shamu of Nongada Makha Leikai in Imphal East district was killed by the 1st Assam Rifles in an alleged encounter at Nambashi village, Kasom Khullen, Ukhrul. Anil's family claimed that he had left home some 5/6 months back to work in Nambasi village.

Case 6: Extrajudicial killing of Samurailakpam Naobi Sharma (15 years) by the Manipur police and Manipur Rifles²⁴

On 20 August 2008 at around 7:10 pm,

Samurailakpam Naobi Sharma (15 years) son of S Ibocha Sharma of Yorbung Khunou was killed by the Manipur Police Commandos and 1st Manipur Rifles at Khuman Lampak on the Imphal river side. It was alleged that he was allegedly extrajudicially executed.

Case No. 7: Extrajudicial killing of minor Soram Rojit²⁵

Soram Rojit, a class XII student, was allegedly extrajudicially killed by the police at Hatta Golapati in Imphal district of Manipur on 15 February 2008. The police had claimed that the deceased was a militant and killed in an encounter.

However, the villagers stated that Soram Rojit was a school student and had no links with militants and was killed in a fake encounter.

The Superintendent of Police, Imphal East district submitted a letter dated 3 January 2011 to the NHRC which revealed that no magisterial enquiry has been ordered by the state government.

As the matter pertains to the alleged extrajudicial killing, the NHRC on 22 February 2011 directed the state government of Manipur and District Magistrate, Imphal East to immediately order a magisterial enquiry. The report is yet to be submitted to the NHRC.

Case 8: Killing of Md Abdul alias Sotabhai (13 years) and Md Abdul Rajak alias Inao Pikpi (11 years)²⁶

On the morning of 25 November 2007, the dead bodies of two Muslim boys identified as Md Abdul alias Sotabhai (13 years), son of Md Siddique and Md Abdul Rajak alias Inao Pikpi (11 years), son of Janab Ali of Keirao Makting Major Ingkhol were recovered with multiple bullet wound marks from Keirao Makting Maning Loubuk (paddy field). According to family members, both left their respective homes together at around 4 pm on 24 November 2007 and they heard 3-4 gunshots at regular intervals in between 6.30 pm and 8 pm. Their bodies were found in the paddy field the next morning. The Assam Rifles personnel are suspected to be behind the killings.

Case No. 9: Extrajudicial killing of Md Sabir Ahamad (16-years) by the Army²⁷

On 14 October 2007 Md Sabir Ahamad (16-years), son of Md Salimuddin of Iron Chesaba Idigah Leirak in Thoubal district, was allegedly killed by the personnel of 22nd Maratha Light Infantry. The deceased, a Class XIth student, went out with his aunt Tulalei Begum to a shop after the Eid-Ul-Fitter celebration. But on the way, the minor was detained by the personnel of 22nd Maratha Light Infantry and taken towards the southern side of Irong Chirai suspension Bridge and shot dead from point blank range.

The security forces claimed that the deceased was killed in firing by members of a militant group. However, the local people including deceased's aunt Tulalei Begum refuted the claim of the security forces and alleged that Sabir Ahamad was killed by the security forces.

The Ministry of Defence submitted a report to the NHRC reiterating the army's version of the incident which stated that the deceased was killed by the militants, not by the army. However, the statements of the deceased's family members including the deceased's aunt were not recorded during investigation. This was despite the fact that the family members including the deceased's aunt who were witnesses to the incident had refuted the army's version and alleged that the minor was shot dead by the army from point blank range.

On 17 February 2011, the NHRC sent a letter to Tulalei Begum, aunt of the deceased asking her to send an affidavit containing the details regarding the death of her nephew Sabir Ahamad within four weeks. However, Tulalei Begum being ignorant about the legal procedures could not submit the affidavit. The NHRC closed the case on that ground.

Case No. 10: Killing of 15-year-old boy by Assam Rifles and police commandos²⁸

On 13 September 2007, 15-year-old Md Razak Khan, resident of Lilong Leihaokhong, was allegedly extrajudicially killed by the combined team of Manipur Police Commandos and 32nd Assam Rifles at Leihaokhong Maru under Lilong police station in Thoubal district.

The security forces claimed that the deceased was a member of the proscribed United National Liberation Front and killed in an encounter. However, the family members of the deceased alleged that Md Razak Khan was picked up from his home by the combined team and later killed in a fake encounter.

The NHRC issued notices to the Secretary (Home), Ministry of Home Affairs, Chief Secretary, Govt. of Manipur, District Magistrate, Thoubal and Superintendent of Police, Thoubal to submit requisite reports immediately. However, all the concerned authorities failed to submit the requisite reports in violation of the NHRC order.

Case 11: Killing of Tayab Ali (15 years) by Manipur Police commandos and Assam Rifles²⁹

On 20 May 2006, Tayab Ali (15 years), son of Md Taher, was killed by a combined team of Manipur police commandos and the 14th Assam Rifles at Kanglatongbi under Sekmai police station in Imphal West district. The security forces had claimed to have gunned down two youths including Tayab Ali and claimed that both were members of Islamic National Front (INF). But Tayab Ali's father Md Taher strongly refuted the claim of the security forces that his son was a member of INF. He said that Tayab Ali, was innocent and was earning his living by working as a conductor for a passenger bus.

Case No. 12: Extrajudicial killing of nine-year old girl by CRPF personnel³⁰

On 18 January 2005, three persons including two civilians - Lourembam Maipak (55) and Thokchom Puspa (9) d/o Th. Sobita were killed by the personnel of the 132nd Central Reserve Police Force (CRPF) at Wangoo Nongyaikhong Mapal Chingongleimakhong, Thoubal district. The CRPF who were patrolling the area which was a public place reportedly opened indiscriminate fire after unidentified men fired at them. Asian Centre for Human Rights filed a complaint with the NHRC on 20 January 2005.

In its report submitted to the NHRC, the Superintendent of Police (SP), Thoubal confirmed the killing of three persons including

two civilians - Lourebam Maipak (55) and Thokchom Puspa (9) daughter of Th. Sobita allegedly in an encounter between 132nd CRPF and the armed groups.

The report of the SP further stated that since no complaint or report from any body was received by the district police, no proper legal action could have been taken up in time.

The NHRC concluded that apart from an alleged extremist Naoroibam Baboi alias Taobi, two civilians – Lourebam Maipak and Ms. Thokchom Puspa – were also killed in that encounter. On the basis of this, the NHRC recommended to the Secretary, MHA to consider providing compensation to the next of kin of the two civilian deceased.

The NHRC however failed to follow up implementation of its recommendation.

Case No. 13: Extrajudicial killing of Sanasam Ngongo Meitei (15 years) by the Assam Rifles and Manipur Police commandos³¹

On 11 January 2005 at around 11 pm, three persons identified as Saikhom Samungou (20 years), s/o of late Saikhom Amuyaima of Nongbrang Awang Leikai, Sanasam Ngongo Meitei (15 years), s/o Sanasam Naba of Nongbrang Makha Leikai, and Thiyam Sunder (23 years), s/o late Thiyam Nabachandra of Thiyam Khunjao Awang Leikai were killed in an alleged encounter by a joint team of 28th Assam Rifles and the Manipur Police commandos at Bonghol Khullen near Nongpok Keithelmanbi, about 18 kms north east of Yairipok Police Station in Thoubal district of Manipur.

A Press Information Bureau, Defence Wing handout claimed that all of them were cadres of the banned United National Liberation Front (UNLF). The handout claimed that based on intelligence report that a group of militants were harassing the local villagers by forcibly taking away rations and other essential commodities in the areas of Bunghol Khullen and Chandrakhong, the Assam Rifles along with police commandos launched a joint operation. In the operation, the three ‘militants’ were killed and one AK-47 Rifle and two Chinese made

grenades besides a huge quantity of live ammunition were recovered from them.

However, the villagers claimed that Saikhom Samungou (20 years) and Sanasam Ngongo Meitei (15 years) were students. The police also confirmed that only Thiyam Sunder (23 years) was an UNLF activist.

On 14 January 2005, ACHR filed a complaint with the NHRC for its intervention. The NHRC registered the complaint as case No. 37/14/2004-2005-AF.

In its reports submitted to the National Human Rights Commission the police admitted that Sanasam Ngongo Meitei (15 years) and Saikhom Samungou Singh (20 years) who were killed in the encounter were “innocent civilians.” The Ministry of Defence in its report also admitted that two of the three killed by the security forces were civilians, but it continued to refer all the three as “militants” and “terrorists.”

The NHRC directed the Ministry of Defence to provide compensation to the next of kin of the two innocent victims including the minor. On 10 December 2008, the Ministry submitted the proof of payment of Rs 100,000 paid to the next of kin of the each of the two civilians killed in the encounter.

Case No. 14: Killing of three children by Assam Rifles³²

On 13 July 2003, three children namely Kamkholal Haokip (17 years) and his younger brother Sumkhosat Haokip, sons of Sonthang Haokip of G Solung village and Satkholun Haokip (15 years), son of Letkhai Haokip were killed by the Assam Rifles personnel under questionable circumstances.

The security forces claimed that three deceased were hardcore members of the Kuki National Front (P) and were killed in an encounter. As per their version, based on specific information, the 14th Assam Rifles personnel launched a cordon and search operation at Sipijang and Tuljapang village when an encounter took place between the security forces and the militants in which three militants were killed while one Assam Rifles officer was injured. The security forces

have claimed to have recovered guns and incriminating documents from the 'militants'.

However, the villagers stated that the security forces had an encounter with the militants following which they cordoned off the four villages, Gelbung, G-Solung, Matjong Thangbu and L Khumnom and called out about 50 youths from their respective homes at about 3.30 am. All the 50 youths were taken to the playground at Gelbung village. Later at about 6.30 am, three children were picked out from the group while the rest were told to go home. As the rest were on their way home, they heard the loud gunfire shots. Later the Assam Rifles personnel called out another 12 youths from the villages and told them to carry down the bodies of the three youths from a hill. All the bodies bore multiple bullet injuries.

The villagers also alleged that the Assam Rifles personnel assaulted around 40/50 villagers including elders after the encounter. They broke the right hand of Sonthang Haokip, father of the deceased Kamkholal and Sumkhosat. The pastors of the local Church, Sonjang Haokip (50) and Thangjamang Haokip were also assaulted by the security personnel.

The Assam Rifles also obtained no harassment certificate from the villagers immediately following the torture and executions.

Asian Centre for Human Rights intervened with the National Human Rights Commission which dismissed the case (No. 167/14/2003-04) on 20 July 2006 on the basis of the No Objection Certificates.

3. Implementation of the JJ(C&PC) Act: Abuse, misuse and corruption

The Ministry of Women and Child Development, Government of India launched Integrated Child Protection Scheme (IPCS) in 2009-10 to bring several existing child protection programmes under one umbrella. On 9th November 2009, Manipur Government signed the Memorandum of Understanding for implementation of the IPCS in the State.

The implementation of the IPCS in Manipur is in shambles and marked by blatant mis-

utilisation of the funds meant for the children which stands exposed from the official records.

First, the State government of Manipur informed the Ministry of Women and Child Welfare that "the complete grant received under ICPS for 2009-10 has been utilized". The Project Approval Board noted that no staff has been appointed to SPSU, SCPS etc. The PAB was informed by the State government that equipment has been purchased in advance. It is clear that the funds for children have been utilized for equipments and not for children!³³

Second, the State of Manipur once again indicated that the entire grant received under ICPS for 2010-11 has been utilized, even though no staff has been appointed to SCPS, DCPUs and SARA. The Ministry of Women and Child Development has asked the State of Manipur to submit component wise Statement of Expenditure and verify where the expenditure has been made. The Ministry of Women and Child Development stated that grant would be released to the State only after this is received and considered by the Ministry.³⁴

Third, the IPCS is being implemented only in and around Imphal valley. Representative from National Institute of Public Cooperation and Child Development (NIPCCD) informed that most of JJBs were sitting in or near Imphal and Principal Magistrate has been appointed in one JJB only. It is clear that Hill Districts are being denied access to juvenile justice.

3.1 State of the statutory structures for administration of juvenile justice

A. Juvenile Justice Boards

Section 4, sub section (1) of the Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006) states that "*Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Juvenile Justice Boards for exercising the powers and discharging the duties*

conferred or imposed on such Boards in relation to juveniles in conflict with law under this Act.”

Manipur has nine districts - Bishnupur, Chandel, Churachandpur, Imphal East, Imphal West, Senapati, Tamenglong, Thoubal and Ukhul. Initially, there was only one JJB for the entire State. However, the state government of Manipur established Juvenile Justice Boards (JJBs) in all the nine districts³⁵ by 2007.

The State Government vide its order dated 25 January 2007 appointed Judicial Magistrates First Class as Principal Magistrates and Members of all the nine JJBs for a period of three years as per Rule 3(1) of the Juvenile Justice (Care and Protection of Children) Manipur Rules, 2002.³⁶ However, the services of Principal Magistrates of JJBs remained unavailable in all the JJBs. On 6 March 2009, a Division Bench of Justice Maibam Binoykumar and Justice AC Upadhyay of the Guwahati High Court issued a notice of motion to the Government of Manipur following a Public Interest Litigation seeking appropriate directive for effective implementation of JJ(C&PC) Act including non availability of Principal Magistrates in all the JJBs.³⁷ Yet no action was taken.

The State Government of Manipur however claimed before the Ministry of Women and Child Development that JJBs have been set up in all 9 Districts. On the basis of this claim the Project Approval Board (PAB) for ICPS of the Ministry of Women and Child Development in its 14th meeting on February 2011 “decided that grants would be given for 9 existing CWCs and 9 JJBs for the complete year. However, for the 9 existing CWCs rent and salary of data assistant has been approved for 5 months only. For the existing 9 JJBs salary of data assistant has been approved for 5 months only. The rent component was not approved as JJBs are not in rented premise.”³⁸

However, the falsity of the claim of the State Government of Manipur that 9 JJBs have been established stands exposed. The Project Approval Board for ICPS of the Ministry of Women and Child Affairs in its 35th Meeting held on 17 January 2012 decided not to grant

any funds for the 9 JJBs for the current Financial Year 2012-2013. The State government was directed to send a report on the functioning of JJBs with complete details of Members, pendency, etc.”³⁹

Further, representative from the National Institute of Public Cooperation and Child Development informed the Ministry of Women and Child Development that most of the JJBs are sitting in or near Imphal and Principal Magistrate has been appointed in one JJB only!⁴⁰

B. Special Juvenile Police Units

Section 63 of the JJ(C&PC) Act provides for creation of “Special juvenile police unit” in every district and city “to co-ordinate and to upgrade the police treatment of the juveniles and the children”. Police officers will be “specially instructed and trained” to handle the juveniles in conflict with the law and the children in need of care and protection, and in every police station at least one officer with appropriate training and orientation may be designated as the Juvenile/Child Welfare Officer (JWO/CWO). All such trained police officers will be members of “Special Juvenile Police Unit” created at city and district level.

The state government of Manipur vide Notification dated 20 June 2009 created Special Juvenile Police Units (SJPU) consisting of one Inspector of Police, two Sub Inspectors of Police, two Head Constables, six Police Constables, two paid social workers of whom one shall be a woman and one child expert or having relevant experience in all the nine districts.⁴¹ The State government informed NCPDR that two more SJPU were formed in the state.⁴²

The state government of Manipur in the Notification dated 20 June 2009 also designated 1 (one) Sub-Inspector of Police for each police station as the Juvenile or the Child Welfare Officer for handling of juvenile or child in co-ordination with the police. These included 9 (nine) police stations in Imphal West district, 5 (five) police stations in Imphal East district, 6 (six) police stations in Thoubal district, 5 (five) police stations in Bishnupur district, 5 (five) police stations in Churachandpur district, 6 (six) police stations in

Senapati district, 5 (five) police stations in Chandel district, 9 (nine) police stations in Ukhrul district, 5 (five) police stations in Tamenglong district, 1 (one) at Narcotics & Affairs of Border (NAB) police station and 1 (one) at Crime Branch police station.⁴³

However, the Special Juvenile Police Units exist on paper only as their functioning remained confined to mere notification.

The cases cited in this report show that the police remained ignorant of the objectives, existence and role of the SJPU in protecting children in conflict with law as well as children in need of care and protection.

C. Child Welfare Committees

The State government is required to establish at least one Child Welfare Committee in every district. Section 29(1) of the Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006) states that *“The State Government may, within a period of one year from the date of commencement of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006, by notification in the Official Gazette, constitute for every district, one or more Child Welfare Committees for exercising the powers and discharge the duties conferred on such Committees in relation to child in need of care and protection under this Act.”*

The state government of Manipur has established Child Welfare Committees (CWCs) in all the nine districts.⁴⁴ The Project Approval Board of the Ministry of Women and Child Affairs in its 35th Meeting held on 17 March 2012 approved grants for 9 CWCs.

The CWCs are the only ones which are functioning in the State.

D. Inspection Committees

Section 35 of the JJ (C&PC) Act 2000 states that

“(1) The State Government may appoint inspection committees for the children’s homes (hereinafter referred to as the inspection committees) for the State, a district and city, as the case may be, for such period and for such purposes as may be prescribed.

(2) The inspection committee of a State, district or of a city shall consist of such number of representatives from the State Government, Local Authority, Committee, voluntary organisations and such other medical experts and social workers as may be prescribed.”

The State of Manipur failed to constitute Inspection Committees year after year. As on 6 March 2009, the State Government failed to constitute Inspection Committees for Children’s Homes in the state.⁴⁵ As per the affidavit submitted by the National Commission for Protection of Child Rights in 2011 to the Supreme Court in W.P. (Civil) No. 473 of 2005 in the case of Sampurna Behrua Vs Union of India and others, the State government failed to inform the NCPCR about the constitution of Inspection Committees in the state.⁴⁶

The Project Approval Board of the Ministry of Women and Child Affairs in its 35th Meeting held on 17 January 2012 noted that “Inspection Committees have not been set up for Homes as per Juvenile Justice (Care and Protection of Children) Act, 2000” and the State Government e was advised to establish the same immediately.⁴⁷

3.2 State of the institutions providing institutional care

The Juvenile Justice (Care and Protection of Children) Act, 2000 among others provides for three types of homes: (a) Observation Homes for reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under the JJ(C&PC) Act; (b) Special Homes for reception and rehabilitation of the juvenile in conflict with the law; and (c) Children Home for reception and rehabilitation of child in need of care and protection.

A. Observation Homes

Sub sections of (1) and (2) of Section 8 of the JJ(C&PC) Act, 2000 provide for establishment of “Observation Homes”/ Certification of Fit Institutions in every district or a group of district “for the temporary reception of any juvenile in conflict with law during the pendency of any inquiry regarding them under this Act”.

The State Government of Manipur failed to implement this provision of the JJ(C&PC) Act. Presently, there is only one Government Observation Home at Takyelpat in Imphal West district⁴⁸ while two Observation Homes are run by NGOs in Churachandpur and Senapati districts.⁴⁹

These Observation Homes are far from adequate. Surprisingly, even these limited Homes are grossly underutilized.

For instance, the lone Government Observation Home, Takyelpat in Imphal West district had only four inmates as on June 2012. The Home, established on 14 August 1992, has a capacity of 50 inmates.⁵⁰

Similarly, the Observation Home run by NGO, Health Integrated Ministries, Rengkai at Shan Veng in Churachandpur district has only four juveniles in conflict with law as on June 2012. While the Home, established in 2005, has a capacity of 25.⁵¹ Both boys and girls are kept in the same Home.

The Project Approval Board (PAB) in its 35th meeting held on 17 January 2012 to discuss the annual financial proposal of Manipur under ICPS noted that the Government run Observation Home at Imphal West district was underutilized. The PAB also advised the state government of Manipur to rationalize the manpower for Observation Home.⁵²

The lack of inmates in the Observation Homes can be related to non implementation of the provisions of the JJ(C&PC) Act in letter and spirit. The juveniles in conflict with law are hardly produced before the JJBs to facilitate their stay in the Observation Homes.

Infrastructure facilities in the Observation Homes are inadequate. On 17 January 2012, the representative from National Institute of Public Cooperation and Child Development (NIPCCD) stated during the 35th meeting of the PAB that infrastructure facilities in the Homes were grossly inadequate and there are no facilities for vocational training. The representative also stated that geographically the Homes are not evenly distributed in the State.⁵³

B. Special Homes

Sub section (1) of Section 9 of the JJ (C&PC) Act provides that *“Any State Government may establish and maintain either by itself or under an agreement with voluntary organisations, special homes in every district or a group of districts, as may be required for reception and rehabilitation of juvenile in conflict with law under this Act”*.

Sub-section (2) states that the state government may certify any other institutions as Special Home if it finds them “fit” for the reception of juvenile in conflict with law.

So far, the State government of Manipur has established only one Special Home at Takyelpat in Imphal West district. Both the Special Home and Observation Home are housed in the same premises. However, no juvenile has been sent to the Special Home so far.⁵⁴

C. Children Homes

Section 34 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2000 states that *“The State Government may establish and maintain either by itself or in association with voluntary organizations, children’s homes, in every district or group of districts, as the case may be, for the reception of child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.”*

Rule 28(1) of the Juvenile Justice (Care and Protection of Children) Manipur Rules, 2002⁵⁵ provides for establishment of separate homes for children in need of care and protection, in the manner prescribed below:

“(a) While children of both sexes below 10 years, may be kept in the same home, separate facilities to be maintained for boys and girls above 5 years of age.

(b) Separate children’s homes should be set up for boys and girls in the age group of 10-18 years.”

The armed conflicts have resulted in mushrooming of children’s home in the state.⁵⁶ Many of these homes were set up by individuals/organizations. However, not all are recognized by the State government.

G. Satyabati Devi, Director of Department of Social Welfare, Government of Manipur in a RTI reply dated 22 October 2011 stated that 11 Children's Homes run by NGOs were funded by the government in the State. These included 1) Children Home, Kanglatongbi in Senapati district; 2) Children Home, Dewelahland in Imphal East district; 3) Children Home, Churachandpur in Churachandpur district; 4) Children Home, Tera Keithel in Imphal West district; 5) Children Home, Ukhrul in Ukhrul district; 6) Children Home, Chandel in Chandel district; 7) Children Home, Asa Road, Churachandpur in Churachandpur district; 8) Glory Children Home, Moiran Bazar, Near BSNL Tower in Bishnupur district; 9) Children Home Institutional Care Centre for Juvenile in need of Care and Protection in Tamenglong district; 10) Children Home for Girls, New Mata, Churachandpur in Churachandpur district; and 11) Children Home for Boys, Tera in Imphal West district.⁵⁷

The above Children Homes are far from adequate in view of the increasing number of children in need of care and protection in the state. The non-recognition of the Children Homes set up by individual/organizations compound the situation.

In the absence of adequate Homes, children in need of care and protection have to be kept in a building attached to the Observation cum Special Home at Takyelpat in Imphal. Presently at least 21 children in need of care and protection have been kept in a separate building in the Government Observation cum Special Home at Takyelpat in Imphal until further arrangement is found for them. These children in need of care and protection were shifted from a children Home in Imphal East district.⁵⁸ Although the children are kept in a separate building, these children are at risk of criminal contamination.

Rule 31 of the Juvenile Justice (Care and Protection of Children) Manipur Rules, 2002 provides as under:

“For the children in urgent need of care and protection, such as destitute, street children, run-away children etc. the Govt. shall support

creation of the requisite number of shelter homes/drop-in-Centres through voluntary organisations.”

G. Satyabati Devi, Director of Department of Social Welfare, Government of Manipur informed ACHR that two shelter Homes for Girls were functioning in Imphal West and Thoubal districts. The Shelter Homes are Punya Shelter Home for Girls run by Integrated Women and Children Development Centre, Thangmeiband in Imphal West district and Shelter Home for Girls run by Women Income Generation Centre in Thoubal district.⁵⁹

i. Condition of the Children Homes

Destitute Children Home, Liwachangning, Chandel district

The Destitute Children Home, Liwachangning in Chandel district set up in 1978 is run by the Liwachangning Women Society and funded by State and Central Governments under the Integrated Child Protection Scheme (ICPS). The state government had recognized the home as destitute children Home in 2009.⁶⁰

The total sanctioned capacity of the Destitute Children Home, Liwachangning is 25 children. However, 29 inmates were kept in the Home against the sanctioned capacity during October 2010 to November 2011.⁶¹ Surprisingly, a fact finding team of the Coalition on Children Rights Protection (CCRP) which visited the destitute Home on 17 March 2011 had not found a single inmate lodged in the Home and the infrastructure unsatisfactory to lodge the inmates. The villagers informed the team that they saw some children in the home around a month back but the children they had seen were children of the families of the caretaker and cook working in the home.⁶²

The total sanctioned number of staff is six. However, T S Morison, Secretary of the children Home vide letter dated 1 December 2011 informed ACHR that 14 staff are working in the Home. This suggests that there is over-staffing.⁶³ He further informed ACHR that the Home has two buildings, four bathrooms, four toilets, one recreation centre and one learning and training centre.⁶⁴

However, CCRP fact finding team revealed that the Home was built with earth and roofed with GI sheets and had no electricity, water supply facility, no proper toilets or any other necessary facilities which should be provided in a destitute children home.⁶⁵ The inmates were also not found to be provided education. A member of the Home told the fact finding team that the children were studying in St Paul High School and Liwa Ching High School. However, the school authorities of St Paul High School informed the team that no child from the Home had ever been admitted to the school.⁶⁶

Destitute Children Home, Ukhrul

The Destitute Children Home, Ukhrul district is run by Ningrin Club Ukhrul and funded by State and Central Governments under the ICPS.⁶⁷

The sanctioned capacity of the Home is 25 inmates. There is no overcrowding as the month-wise number of inmates lodged remained 25. Against the 15 sanctioned staff, only 10 staff have been appointed. The infrastructure of the Home includes three buildings, two bathrooms and two toilets. No vocational training is given to the inmates of the Home.⁶⁸

Kanglatongbi Children Home, Senapati district

The Kanglatongbi Children Home run by Kanglatongbi Orphanage Home in Senapati district is the oldest destitute Home in Manipur. It is funded by State and Central Governments under the ICPS.⁶⁹

The total sanctioned strength is 60 inmates. As per information provided to ACHR, there was no overcrowding except in few months in 2011. The month-wise number of inmates lodged during October- November 2011 to March 2011 is as follows: 60 in October 2010, 59 in November 2010, 56 in December 2010, 54 in January 2011, 54 in February 2011, 58 in March 2011, 60 in April 2011, 62 in May 2011, 62 in June 2011, 62 in July 2011, 62 in August 2011, 61 in September 2011, 54 in October 2011 and 54 in November 2011.⁷⁰

The sanctioned number of staff is 14. All the sanctioned staff have been appointed which include Superintendent, Case Worker, Counsellor, House Mother, House Father, Educator, Doctor (part time), Paramedical staff, Store Keeper cum Accountant, Art & Craft cum Music Teacher (part time), PT instructor cum Yoga teacher (part time), Cook, Helper, and House Keeper.

The infrastructure includes three buildings, three bathrooms, three toilets, one recreation centre and one learning and training centre.⁷¹

Punya Shelter Home for Girls , Imphal West district

The capacity of the Punya Shelter Home for Girls run by Integrated Women and Children Development Centre (IWCDC) at Thangmeiband Yumnam Leikai in Imphal West district is 25 bedded. The month-wise number of inmates lodged during October 2010 to October 2011 is as follows: 50 in October 2010; 52 in November 2010; 49 in December 2010; 48 in January 2011; 53 in February 2011; 53 in March 2011; 53 in April 2011; 52 in May 2011; 44 in June 2011; 46 in July 2011; 38 in August 2011; 36 in September 2011; and 34 in October 2011. As the Home is 25 bedded it appears that the two inmates have to share one bed. As seen above, more than 50 inmates were also lodged at the Home, which means that three inmates have to share one bed.

The total number of sanctioned staff is six – Superintendent, Caretaker, Care giver/Counselor, Care Worker, Helper and Mother/Cook. One educator is also posted in the Home. No vocational teacher is posted. Clearly, the Home is under-staff.

The infrastructure includes – one rented building measuring an area of 6159 square feet having a standing structure of a pucca building with two bed rooms, one dormitory, one dining cum kitchen room, five bathroom cum latrine, two office rooms, one hall, one reading room and a park. All rooms are fitted with electricity, fans, water facilities, etc. The infrastructure especially the bathrooms cum toilets are inadequate.

ii. Abuses in the Children Homes

There were reports of children being subjected to ill-treatment in the Children Homes.

On 15 September 2011, eight inmates of Destitute Children Home run by Leprosy Patients's Welfare Society (LEWS) at Chingmeirong Lei-Inkhol in Imphal East district fled after being subjected to ill-treatment by owner of the Home. All the inmates, all under 12 years, fled in the wee hours as they could not bear the ill-treatment of the owner of the Home identified as Ahantem Tolen. The inmates stated that Ahantem Tolen not only forced them to do hard work including earth digging but also beat them up even for some minor mistakes. The inmates were also denied food. Besides, the Home also reportedly charged Rs.1000 from each children although no money is supposed to be charged.⁷²

G. Satyabati Devi, Director of Department of Social Welfare, Government of Manipur confirmed that the inmates of the Home were transferred to a government institution following a complaint lodged against the Home.⁷³

The lack of Inspection Committees encourages abuses/ill-treatment of children in the Homes. Further, the mis-use of the funds remains high in the absence of the Inspection Committees

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