

Editorial

Saturday, June 15, 2019

Chak-tangba, Overdraft and Game of Thrones

The price of rice, both locally grown and superfine, are rising every year. Now we see another steep rise this years recently. The economically weaker sections in the peasantry class are affected the most with the ever increasing price of rice. The urban poor are also getting hit very badly. These are the section who are buying rice from the shops. These sections do not own land for cultivation of rice or do not own enough land for cultivation to feed themselves after selling the rice which they grow in their paddy fields. They have no rice piled up in their kei-s to feed themselves till the crisis is over. Since the price of rice which is an everyday necessity has increased, the price of other commodities will also rise in order to make up the increased amount that people are spending on rice. The women of peasantry and the urban poor who are the road side vendors in the markets of the Valley will have to increase the price of other commodities since they are paying more for the rice.

Those who have the so-called regular income, a large section people employed by the state government, are faced with an economic crisis. They are the ones who buy the commodities from the women of the peasantry in the markets. With the state government overdrawn more money than it should, RBI has ordered the SBI to stop payments to the government of Manipur. Even if the government has assured that government employees will get their salaries on time, the memories of overdraft in 1990s still haunts the people and the assurance does not subside the insecurities of the people. Hence, the insecurity persists. Given this insecurity, the state government employees are not going to spend a lot of money these days because of the fear that they would not get paid next month. So, those who are selling the produces would want to increase their prices because of the increase of the price of rice but it remains a question whether they can increase the prices as a large section of people are not willing to spend a lot of money on things as of now. These are a recipe for disaster.

The argument that when the state is hit by a crisis and ministers and MLA are camping in Delhi playing the game of thrones puts pressure to the government to look into the crisis. It gives a hope that there will be some temporary respite if they listen. However, it will not guarantee any long term solution, given the political relationship that state has with the mainland. Who wins the game of thrones would hardly matter for the core issues such as the economic crisis. Our youths are not going to get jobs, the price of rice will continue to increase whoever gets the thrones. Manipur will reel under an agrarian crisis which the Economic Survey Manipur noted again and again, blaming it on the lack of irrigation. The solution of the crisis should lie somewhere but it is not in inviting more *meeramcha* to meddle in our affairs. Foreign Direct Investment is nothing indigenous. We should not look for answers in those places, especially when the working class of the mainland is protesting against FDI calling the policy anti-people. The situation of urban working class in the cities of India is horrifying. There are only contractual jobs where you can get fired at any point of time. We should not desire such a situation in Manipur. We need jobs for youths where they have security. We need to do away with the agrarian crisis. These are systemic economic problems. The question that where the money has gone, the timings of withdrawal of huge amounts of money by this government and the inquiry committee are all necessary but very limited.

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United Nations Human Rights: The Manipur Experience

19. The Special Rapporteur, however, regrets that India has not followed the recommendation that it repeal or at least radically amend the Act, as well as the equivalent legislation in Jammu and Kashmir, to ensure that legislation regarding the use of force is brought in line with international human rights law and to remove all legal barriers for the criminal prosecution of members of the armed forces. The Special Rapporteur also recommended that, while waiting for the necessary repeal or amendment of the Act, it must be ensured that the status of a "disturbed area" is subject to regular review and a justified decision is made on its further extension. In that regard, he has been informed that states of the North-East and Jammu and Kashmir regions continue to be declared "disturbed areas", without any deliberation, justification or reference to the scale of insurgency in the respective areas.

Public Statement by Special Rapporteur on Summary, Arbitrary or Extrajudicial Execution and Special Rapporteur on situation of Human Rights Defender

In Manipur, EEVFAM and HRA converted the memorandum to the Special Rapporteur into a Public Interest Litigation to the Supreme Court of India seeking justice for a list of 1,528 victims of extrajudicial execution carried out from 1979 to 2012. The apex court after perusing report of its own fact finding commission and acknowledging the systematic violation of the right to life under AFSPA, pronounced a historic judgment in 2016 re-asserting that the criminal cases should be registered against the police and armed forces of the union and that criminal investigation should commence in each case of extrajudicial killing.

But this is easier said than done. The Central Bureau of Investigation (CBI) was assigned to investigate 98 cases where there is already a prima facie finding. But the CBI is not only carrying out the task in a very slow pace but also demonstrate extreme reluctance to do so. Witnesses and human rights defenders involved in the case are systematically intimidated and harassed. This has compelled the present UN Special Rapporteur on Summary, Arbitrary or Extrajudicial Execution, Ms. Agnes Callamard and the UN Special Rapporteur on situation of Human Rights Defender, Mr. Michel Forst to issue a public statement on 4 July, 2018 reiterating that "the Government of India has an obligation to ensure prompt, effective and thorough investigations into all allegations of potentially unlawful killings, and a failure to do so is a violation of its international obligations. Justice delayed is justice denied." They also stated that "some of these families have been waiting decades for these cases to be fully investigated. It is unacceptable that CBI is failing to meet these deadlines and appears to lack good faith". They further stated that "we are extremely concerned that the delay appears to be deliberate, undue and unreasonable and we condemn this lack of progress." Till date only 39 FIRs have been registered and eight charge sheets have been filed against some lower ranking Manipur Police personnel. Five final reports have been submitted stating that no charge can be made out. EEVFAM is challenging the report in the Session's Court in Imphal.

No armed forces personnel of the Union involved in the killing have been indicted till date. In fact, in August 2018, when the first army officer, one Major Vijay Singh Balhara (now Colonel), was even named in the First Information Report, 356 serving army personnel moved the Supreme Court in a Writ Petition seeking class impunity from legal action in their conduct of counter insurgency operations. The number of army personnel signing the

petition swelled up to more than 750. Even though the court finally dismissed the petition on 30 November 2018, such a demonstration of military valour in the court, supported by the Attorney General, has effectively stopped the proceeding in the EEVFAM case. The Supreme Court registry has not listed the case for hearing since September 2018.

SR on Violence Against Women, Its Causes and Consequences

Ms. Rashida Manjoo was the first UN Special Rapporteur to set foot on Manipur soil as she landed in Imphal airport on 28 April 2013. She stayed over-night at Imphal. Apart from the usual meeting with the government officials she met with victims and women human rights defenders and other civil society actors from all over the North East region. When the mother of Ms. Thangjam Manorama gave her testimony and she paused for a while, Rashida also took out her handkerchief and sipped her eyes. There was pin drop silence in the fully packed Royale conference hall of the Hotel Classic as everyone paused to absorb the gravity of the moment. She also made a request to meet Ms. Ino Sharma who was under detention for carrying out hunger strike against AFSPA, which was turned down by the administration. The CSCHR also prepared and submitted a detailed memorandum on violence against indigenous women perpetrated or condoned by the State during armed conflict, entitle Manipur: Perils of war and womanhood. The immediate impact of her visit was that the National Human Rights Commission conducted the first-ever camp sitting in Manipur and disposed off several pending cases. A three member delegation of the NHRC led by the Chairperson himself visited from Sharmila inside the hospital where she is detained and issued a statement that the way she was incarcerated violated both national and international law.

In her report contained in UN document number A/HRC/26/38/Add.1 she recommended to the Government of India as follows:

(f) Repeat, as a matter of urgency, the Armed Forces (Special Powers) Act and the Armed Forces (Jammu and Kashmir) Special Powers Act and ensure that criminal prosecution of members of the Armed Forces is free from legal barriers.<sup>4</sup>

When she presented this report in the UN Human Rights Council she said from the podium that she have been to 14 missions in various parts of the world as a mandate holder of the Council, but she said she was never humiliated by the officials the way she was done during her last visit to India. Would her visit to Manipur be the reason behind this ill treatment? Human Rights Alert, as part of the Working Group on Human Rights in India and the UN (WGHRI), took the floor during the discussion in the UN Human Rights Council and thanked her for her visit and the positive contributions it has made.

SR on Water and Sanitation

The second Special Rapporteur to visit Manipur was Mr. Leo Heller, Special Rapporteur on the human rights to safe drinking water and sanitation. He made an official mission to India from 27 November to 10 November 2017 and visited Manipur. CSCHR organized civil society consultation and a filed visit the affected communities of the Thoubal multipurpose dam project.

In his report contained in UN document no A/HRC/39/55/Add.1 dated 6 July 2018, in the section on "Leave no one behind", in the sub-section "Communities living

near megaprojects" it is stated as follows:

69. Rural populations' access to water is also affected by large projects that directly or indirectly affect essential water sources used for drinking, domestic tasks or livelihoods. In Manipur, the Special Rapporteur was informed about how large infrastructure (dams, railways, roads and industrial projects) affects water sources of rural villages. In particular, he visited two communities downstream of the Thoubal multipurpose dam project that no longer relied on the river as their source of drinking water, due to the deteriorated water quality and the irregular flow, and that had to pay for access to the water source of a nearby village. The Special Rapporteur is concerned that the lack of prioritization in allocating water for domestic and personal use may negatively affect the access to drinking water of those living in vulnerable situations. In some of the villages visited, the Special Rapporteur was informed that the local authorities had only partially constructed household toilets and, while the intended beneficiaries waited for the construction to be finished, they had no choice but to defecate in the open.

Perhaps taking clues from the Manipur experience, the Special Rapporteur organized an Asia-Pacific Regional consultation of impact of mega-projects on the human rights to drinking water and sanitation on 12<sup>th</sup> November 2018 at Kuala Lumpur where the CSCHR also participated.

SR on Indigenous Peoples

Though the Special Rapporteur on Indigenous Peoples has never made an official visit to Manipur, India, the office has been closely following the issues in Manipur. Many of the ethnically distinct people of Manipur and the North East region of India self-identify themselves as indigenous peoples. In the sister state of Mizoram, the State Assembly adopted resolutions twice (8<sup>th</sup> October, 2015 and 15<sup>th</sup> March, 2019) for the implementation of the United Nations Rights of Indigenous Peoples, 2007. But this is only of symbolic significance, as the Government of India does not recognize that there are indigenous peoples in India or the entire population of India is indigenous to the country.

Prof. James Anaya, the then Special Rapporteur of Indigenous Peoples in this communication to Government of India, in context of a petition by indigenous peoples of Manipur affected by construction of Tipaimuk Dam, explained the current concept of indigenous peoples:

(...) the understanding of the term "indigenous people" in the India and general Asia context "should put less emphasis on the early definition of aboriginality... [and instead] on the more recent approaches focusing on self-definition as indigenous and distinctly different from other groups within a state; on a special attachment to and use of their traditional land whereby their ancestral land and territory had a fundamental importance for their collective physical and cultural survival as peoples; on an experience of subjugation, marginalization, dispossession, expulsion or discrimination because these peoples have different cultures, way of life or means of production than the national hegemonic and dominant model. By using this yardstick the Special Rapporteur concluded:

The affected communities belong to the Tangkhul Naga, Kukli and Meetei peoples of Manipur consider themselves to be distinct cultural groups with their own territories, culture and histories. Their grievances, stemming from their distinct cultural identities and deep

connection to their traditional territories can easily be identified as the type of problems faced by other indigenous peoples worldwide with regards to the effects of development projects within their traditional land.

SR on Freedom of Expression and Working Group on Arbitrary Detention

Manipur journalist Wangkhem cha Kishorechandra was detained under the National Security Act on 27 November 2018 for posting anti-government comments in his facebook post. He was already released on bail by the regular court on the same charge. To re-arrest, detained and incarcerate him using the preventive detention law was widely protested in Manipur.

The United Nation's Working Group on Arbitrary Detention and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression send a communication alleging violation of his human rights to the Government of India. The abstract of the communication reference number AL IND 32/2018 dated 3 January 2019 is reproduced hereinafter as follows:

We express serious concern at the arrest and detention of Mr. Wangkhem. We are concerned at the criminalization of the peaceful exercise of freedom of expression through the use of the National Security Act, which is a broad and unspecified state security legislation, may have a chilling effect on public debate in India, including on the work of journalists. We are concerned that such legislation may be used particularly to target critical and dissenting voices in India. The facts alleged, if proved correct, would be in contravention, among other norms, with articles 9, 14, and 19 of ICCPR, acceded by India on the 10 April 1979. They guarantee the right not to be deprived arbitrarily of ones liberty and to fair proceedings before an independent and impartial tribunal, the right to be treated with humanity and respect for the inherent dignity of the human person, and the right to freedom of opinion and expression.

ENGAGEMENT WITH UNIVERSAL PERIODIC REVIEW

In 2006 the UN Human Rights Council was established. The Human Rights Commission was dissolved. It is an upgrading of the human rights agenda within the UN Human Rights system as the Council and directly reports to the General Assembly where as earlier it used to be done through the ECOSOC. Now the Council can also take resolution with financial implications, whereas with the Commission it has to be approved by the ECOSOC.

The Human Rights Council has also started a new mechanism called the Universal Periodic Review (UPR). It is peer review process where all the members of the UN are reviewed by all the other members of the UN, for all their human rights records once in every four and half years. It is a new mechanism where the civil society can also submit their stakeholder's report to the UPR secretariat. Civil Society groups in Manipur have been taking full advantages of this opening and have been submitting joint reports and assisting the other governments to formulate questions to be raised to the government of India.

Till date three cycle of UPR review has been completed. India was reviewed in 2008, 2012 and 2017. CSCHR submitted stakeholder's reports in 2012 and 2017. But other civil society groups from Manipur such as COHR, HRA, etc. submitted their own reports individually or as part of a collective in the first cycle tour.

During the first review Canada, UK and Germany raised the issue of AFSPA. During the second review the governments of Slovakia,

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