

Agitations in Manipur: The Trade Off Between Security and

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A crisis of security has unfolded in Manipur - a crisis because it raises questions larger than what normally come under the rubric of 'law and order' that generally characterizes the Northeastern states. The boldness to face, not suppress these questions even after the agitations subside, is of prime importance to ensure that severe unrests as in Manipur witnessed do not recur and threaten the basic tenets of governability and democracy and consequently, nation-building itself.

Some of the questions that arise are: how much freedom and rights of the people can be sacrificed in the pursuit of national security? Can there be a law that empowers the Armed Forces effectively enough to fight insurgency while requiring them to respect emotions of the people and their basic human rights? If insurgency is not a military problem, as the Indian Army has repeatedly maintained, how long is it desirable to deploy the Armed Forces to fight the same? Has the military approach to insurgency, along with the paradigm of security obtaining in Northeast India, done more harm to the efforts at creating a sense of belonging to the nation? The answers to these questions will be crucial in determining the course of nation-building as well as in preventing further emergence of conditions that encourage violence as a political means.

What Manipur has been going through since July 2004 is not a war between the Armed Forces and the people of Manipur. It is a demand that the right to life be respected by the state. It is also a warning that the discourse on security must embrace human rights and can no longer afford to dismiss the same as impractical in the context of counter-insurgency. Because, containing

insurgency militarily at the cost of human rights invites the danger of producing generations, de-capacitated to retain a sense of belonging to the nation.

The event was the protest by a group of elderly women on 15 July who disrobed themselves in front of the Assam Rifles based at the historic Kangla Fort holding banners that read: "Indian Army Rape Us". They were protesting against the custodial killing of Thangjam Manorama who they alleged was raped before being killed. It is being probed by two inquiries; one instituted by the State Government and the other by the Indian Army. What followed the news of Manorama's death were massive protests spread all over state, cutting across different communities. The anger turned into a sustained movement demanding the repeal, or withdrawal of the Armed Forces (Special Powers) Act, 1958. This transformation in the nature of demands became responsible for garnering support and solidarity from other Northeastern states, particularly from students' organizations and women's groups. The movement is being spearheaded by Apunba Lup, an apex body of thirty-two organizations in the state. The scale of the agitation led to deployment of more battalions of security forces. The police evidently ran out of smoke bombs, tear-gas shells and rubber bullets. Reports said that till 4 August, more than 20 companies of central paramilitary forces had been deployed in the state in addition to 13 battalions of the Assam Rifles, 4 of the Army and 8 of the CRPF already in place. Moreover, 44 Brigade of the Army was in the process of moving in. What is noteworthy here is the logic behind moving in massive security forces for a civilian unrest, which reinforces the continuous practice of ignoring the consequences of the militarization of civil space. The paradox

cannot be overstated in the background of the agitations demanding the removal of the special powers granted to the Armed Forces.

The response from the Government of India to the episode left much to be desired. It has shown callousness in sending wrong signals to the people. First, it expressed unhappiness over the handling of the unrest by the state government. Second, the Ministry of Home Affairs and the Ministry of Defence were engaged in a duel over the possibility of withdrawing the Assam Rifles from the state. Third, it accused the agitating organisations of being insurgent-sympathizers and finally, it maintained that it was following the policy of 'wait and watch' while ruling out the possibility of lifting the Act from the state. On the other hand, the Army maintained that Manorama was an IED expert in the outlawed People's Liberation Army. Statements from the Army including from the Chief of the Army Staff vehemently denied charges of rape. It further went to the extent of challenging the jurisdiction of the Inquiry Commission of the state government in the Guwahati High Court. The Army also failed

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Presidents Rule, acted with the aim of avoiding it as the primary task.

The failure of the Government to appreciate the legitimate grievances of the people strengthened their belief that the Central Government was deliberately sidelining their demands. What is worse, this failure came to be interpreted as a conscious policy by the Indian State which was guided by the imperatives of national security and

its understanding of frontiers. People have come to increasingly see the Armed Forces (Special Powers) Act as epitomizing this conception of security in the Northeast as nothing more than a matter of territorial integrity of the Indian state. The Act has its ancestry in the Armed Forces (Special Powers) Ordinance, 1942 which was promulgated at the height of the Quit India Movement. The Ordinance empowered commissioned officers of the British Army to open fire. The fact that representatives of the people (as different from a colonial government) chose to produce a carbon-copy of the Ordinance as an Act of Parliament and even extended the powers to shoot to non-commissioned officers is bound to raise questions about the way the Indian State views the people of the Northeast. The Act covers the entire northeastern states. Once an area has been declared "Disturbed" under the Act, any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the Armed Forces, may open fire if it is necessary in his opinion for the maintenance of public order. He may destroy prepared or fortified positions or shelter from which armed attacks "likely to be made", arrest "without warrant" any person against whom a reasonable suspicion exists that he is "likely to commit a cognizable offence" and "enter and search without warrant any premises to make any such arrests as aforesaid or to recover any person believed to be wrongfully restrained, or confined of any property reasonably suspected to be stolen property...and may for that purpose use such force as may be necessary."

From these provisions, it may be concluded that the writ of suspicion runs throughout the text of the Act. The effects of putting into practice a "legalized suspicion" over an extended period (for more than two decades in the case of Manipur and for almost half a century in certain parts of the Northeast) can hardly be expected to be positive in term of promoting oneness among Indians. Few words could be said in defence of the Act from such a perspective. Section 6 of the Act makes it more draconian by providing that "no prosecution, suit or other legal proceedings shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by

this Act.” Section 5 does not stipulate any particular time limit for arrested persons to be handed over to the police. What security analysts and policy planners should seriously ponder is whether the Act and its implementation have produced mutual suspicion between the people of the Northeast and the Indian state and whether an overemphasis on territorial security has alienated the people. Is there not a possibility of another security paradigm that takes the people on its side on an affirmative note?

The current perspective is that disturbance arising out of separatist challenges to the Indian state call for exceptional laws. Moreover, the Armed Forces cannot be expected to be engaged in internal conflicts without proper legal protection for its personnel. Comments over the Manipur situation, particularly from retired army officers who had served in the Northeast, emphasize the difficulties involved in counter insurgency operations and hence press for the continued application of the Act. Aberrations do take place but those are not grounds for repealing the Act, they contend, maintaining that the problem is with the implementation, not the Act itself. Coupled with a failure of governance under corrupt politicians and bureaucrats, the situation is going from bad to worse and enabling conditions for the withdrawal of the Act will take. Claiming that its personnel are very well disciplined, the Army declared that it has punished 66 of its men in the northeast in the last 14 years. Out of 451 complaints, only 25 stood the internal investigations of the Army, it said. The conviction rate translates to 2.4 per cent.

The draconian nature of the Act did not go unnoticed in the Parliamentary debates in 1958. However, the then Home Minister, GB Pant argued that the Act did not abrogate fundamental rights as its powers stem from Article 355 which enjoins upon the Union to protect the States against external aggression and internal disturbance, and not from Article 352 which empowers the President to proclaim a national emergency upon satisfaction that a grave emergency exists, whereby the security of India is threatened by war or external aggression or armed rebellion. The phrase “armed rebellion” substituted “internal disturbance” in 1978. The effects of a declaration under the latter would mean suspension of certain

fundamental rights but not the right to life under Article 21. It must also be pointed out that the Act does not come under the rules of preventive d e t e n t i o n .

In this background, the opinion has become rife that the Armed Forces Special Powers Act is a discriminatory Act that virtually brings the entire northeast under an undeclared emergency. The points of reference are the powers to shoot which violates the right to life, and the impossibility of approaching courts which is interpreted as a violation of the right to constitutional remedies under Article 32, which is the pillar of the Constitution. The argument is that even under an emergency, the right to life cannot

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be suspended. Prof. Naorem Sanajaoba has opined that “By considering the ‘Brutality Quotient’ of national laws, the AFSPA,1958 is a thousand times deadlier than TADA or POTA, that had never incorporated ‘Licence to kill at will’ within the POTA regime”. Considering the fact that the POTA stands repealed now, the people of Manipur are bound to question the need for a different set of laws for the Northeast.

The Supreme Court upheld the constitutional validity of the Act in 1997 while issuing guidelines to be followed by the armed forces. Constitutional validity of an Act does not however prevent the Government and the security planners from rethinking the purpose, aims and achievements and weigh them in the face of past experience and future visions. Such re-examination should be guided by the principles of affirmation and must be accompanied by an exercise in convincing people that they are not “special victims” of violence, a sense of which creates new, and reinforces existing, grounds of the cycle of revenge-violence. That exercise has to be supported by the legal system of the country and

even move beyond its fixed boundaries, if necessary. Security must mean securing freedom of the individuals rather than sacrificing freedom for security. Towards that goal, politics must be willing to take risks which security will be unwilling to. That will help in paving the way for dialogues and reconciliation



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