

Relevance of Hobbes' Right to life and Locke's Natural Rights in AFSPA implemented areas with special reference to Manipur.

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ABSTRACT

The Armed Forces Special Powers Act (AFSPA), 1958, was introduced in India as an emergency measure for one year in 1958 to deal with the Naga insurgency in the North Eastern part of India. The Act comprises provisions that give protection to the armed forces to carry out operations in the concerned states. The Act in many ways has been opposed by people saying how it is a mockery of human rights, which are inherent to all human beings regardless of their sex, race, nationality, etc. There have been cases of human rights violations that ranged from forced detention to rape. Manipur society is highly prone to violence which is undisputed. To understand the day to day violence in Manipur one has to delve deeper and discern the structural violence built inside the socio-economic and political structures of the society. This structural violence has led to many gross human rights violations including torture, extra-judicial execution, rape, and enforced disappearance have become endemic. The whole of North East India has been under various insurgent groups that unleashed violence, where the right to life as guaranteed by Article 21 of the Constitution of India and propagated by Thomas Hobbes is constantly under threat. The paper therefore tries to see the validity of Right to Life and Natural Rights in Manipur since news about human rights violation has become prominent and actions were justified on the plea that in the insurgent infested hills of the NE, the army people had to work under trying conditions and therefore they naturalize the way of taking law into their hands.

Locke's in his State of nature suggests that Natural Rights is that right which comes with nature and gives everyone the Right to life, liberty, and property. Locke's right to life applies to every human being who not only gives priority to individual self-preservation but also takes into consideration the preservation of others in so far not harming or killing them.

According to Locke, those rights are natural because they are pre-political that is to say that everyone in the state of nature is entitled to them. Thus, in a sense, Locke's natural rights are similar to contemporary human rights, which are somehow violated in the AFSPA¹ implemented areas. The paper also tries to understand the role of the Government in the sense of a Limited Government, proposed by Locke. Apart from that the paper also tries to understand right to life propagated by Hobbes. The right to life, a right to preserve one's life by any appropriate means, and a right to defend one's life against those who would destroy it, Hobbes ascribes to each person in the state of nature a liberty right to preserve herself, which he terms "the right of nature". The paper briefly touches upon the Social Contract Theory and State of Nature as mandated by Thomas Hobbes and how the social contract theory can be used to bring order, peace and security to the land of Manipur.

KEY WORDS: Hobbes, Locke, AFSPA, Human Rights, Natural Rights, Social Contract, Right to Life

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I. INTRODUCTION

Manipur was an independent princely state until the Anglo-Manipur War of 1891, following which it came under British rule. Before the British period, Manipur had a vast territory extending till the Kabaw Valley of present Myanmar. However, the decision of the Government of India to give up Manipur's claim to the Kabaw Valley in favor of the Burmese Government, without the consent of Manipuris continues to be contested even today by some Manipuri intellectuals. It was merged with India following Manipur Merger Agreement signed by the Maharaja Bodhichandra Singh in 1949. (Kom 2010)

After its merging with Indian Union, it took another two decades for it to gain full statehood in 1972. This delay created discontent among the Meiteis of Manipur, who later felt that their identification with mainland India has brought them no political or economic benefits. Today it is termed as 'forcible integration' by some sections of the society and perhaps is the reason for militant activities in the state. The insurgency which paved the way for the implementation of AFSPA in the periphery began with the independence of India, where many of them opposed the accession to India. (Kom 2010).

Manipuri society is inhibited by various ethnic communities with the three competing ethnic groups namely, the Meiteis, the Nagas, and the Kukis, their indulgence in seeking powers is a classic example of an

ethnic cauldron that keeps on boiling at times, which gave rise to insurgent activities and violence as a result. To understand the day to day violence in Manipur one has to delve deeper and discern the structural violence built inside the socio-economic and political structures of the society. These structural violence has led to many gross human rights violations including torture, extra-judicial execution, rape, and enforced disappearance have become endemic. Many of the non-derogable rights are routinely violated by the security forces under the Armed Forces (Special Powers) Act of 1958. Violence became the way of life in the region and administration turned out to be incapable to maintain its internal disturbances, which is when the AFSPA, the draconian law was introduced in the soils of the seven sisters. Which gave the Armed Forces¹ powers to declare areas to be disturbed.

The army in North East has been involved in armed insurrection and violence in Manipur for almost thirty years now, where the army has behaved like an occupation force and subjected entire area to violation and intimidation resulting in the mockery of basic human rights. The situation in the state is a clear case of an *internal disturbance* and *armed conflict* requiring the invocation of Article 355 which stating *Union to protect the states against "external aggression" and "internal disturbance" to ensure that the government of every State is carried on following the provisions of Constitution.* (O. J. Singh 2011)

The morning in Manipur begins with newspaper carrying the headline relating to violence, which sometimes is carried out in broad daylight and false claims of encounters are made by the authorities. The whole insurgent activity in Manipur and larger North Eastern India is due to the demand of a separate state. The secessionist activity in Manipur has been plagued by the Meiteis who strived for independence from India. The nature of conflicts in Manipur is that of liberation-armed movement with a low-intensity war against the Government of India. Instead of focusing on the root causes of the insurgent activities the government at the centre takes policies that escalate the tendency of conflict. The implementation of AFSPA is one such measure taken by the government which further aggravated the war tendencies among the people.

Both Hobbes and Locke limned the features of a secession right. Though Hobbes view of it was a bit preservationist in nature, he acknowledge that a limited right to rebel inhered subjects, however he also insisted that it is impossible to recognize in law because of the logical requirements of absolute sovereignty, while on the other hand, Locke's view is intuitionist in nature, which produce an obligation on the part of the government to recognize it as the basis for negotiation or constitutional amendment. The secessionist movement in Manipur is related to the third school of thought of secession rights theory which is the national self-determination approach. This approach views political boundaries should reflect the cultural, ethnic and linguistic national identities, since each distinct nation has a right to an independent state if they desire (Ward 2017). The secessionist demand here, therefore, is largely ethnic in a sense that it created grouping and re-grouping of tribal communities especially the Naga and Meiteis. Unfortunately, the state's intervention failed to contain protracted conflicts, they rather compounded the situation, gave rise to hybrid ethnic identities and led to the recurrence of demands for autonomy and created an atmosphere of violent activities which led to the infringement of human rights in the state. (Singha April 20, 2007)

The secessionist movement that is a result of ethnic mobilization and militancy has given birth to insurgent activities had led to gross human rights violation in these areas. Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. International Human rights lay down the obligations of Governments to act in certain ways or to refrain from certain acts to promote human rights and fundamental freedoms of individuals or groups. (Nations n.d.) These contemporary human rights have similarity with natural rights as mandated by John Locke, which consist of basic and special rights and duties and liberties. These rights are pre-political, where he lays down the need to have limited government, the importance of the right to life, liberty, and property. People also have the right to revolution if the government isn't honoring their natural rights, which we will look into in the paper. The paper also looks into the right to life or self-preservation under the state of nature, where everyone has the right to everything and how there is no limit to the right of natural liberty. Hobbes insisted us to consider what life would be like in a state of nature, it is a condition where the government is not present. Hobbes ascribes to each person in the state of nature a liberty right to preserve

¹ An Act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the state of Arunachal Pradesh, Manipur, Assam, Meghalaya, Mizoram, Nagaland, and Tripura. It has the power to declare areas to be disturbed areas, if in relation to any state or UT to which this acts extends, the Governor of the State or the administrator of the UT or the Central Government, in either case, if of the opinion that the whole or any part of the State or UT, as they may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the administration by notification in the Official Gazette, declare the whole or such part of such State or UT to be disturbed areas.

herself, which he terms "the right of nature". This is the right to do whatever one sincerely judges needful for one's preservation; yet because it is at least possible that virtually anything might be judged necessary for one's preservation, this theoretically limited right of nature becomes in practice an unlimited right to potentially anything, or, as Hobbes puts it, a right "to all things". Hobbes further assumes as a principle of practical rationality, that people should adopt what they see to be the necessary means to their most important ends. (Philosophy n.d.) The paper thereby tries to understand the relevance of Hobbes' right to life and Locke's natural right in the case of Manipur, where violence has become common over the period.

Manipur: Land of Jewels or Land of Blood Stains

.....*Prime minister lakpagi hekta bandh*

Mantri matik chade haibagi hekta bandh

Delhi na thawoibide haibagi bandh

Naga ga lam yetnabagisu hekta bandh

Bandh bandh, nangbu eigkhoigiro

Bandh bandh, nangse eikhoi Manipur giro?

Wareda ware, prajaa di hingbada ware.....

These lines are from a song by Tapta, a well known patriotic singer, who through his song highlighted the situation in Manipur. There are constant violations, *bandhs*, strikes, dharnas because of the fight between the armed forces and civilians, gross human rights violations, etc. which has made the civilians unhappy and dissatisfied with the authority. The basic structural violence in Manipur today, at the political plane, is the total denial of democratic space to the Manipuri people at the ground level for such a long time in this manner. The violence also spreads towards the economic sector of the state where nine-tenth of the state is left out of the economic pie, the figure of unemployed has gone up by numbers while in the social sectors the violence is at the top with rape, forced detention, disappearances, etc. There is a structural change in Manipuri society which further have aggravated the situation of conflicts, which was the root cause for the formation of Manipuri Armed opposition groups. To fight against them more than fifty-five thousand security forces are deployed in the state where AFSPA provides legal leaf for the use of violence and force even against innocent people of the land. The Armed Forces have played a decisive role in the affairs of the community in the name of counter-insurgency or civic action programs. There are instances of civilians being used as human shields while attacking insurgent camps are prominent. from the above incidences in Manipur we can see how there is a violation of the natural rights from the following instances:

Operation Blue Bird (Oinam, Bishunpur District, Manipur): Operation Blue Bird was launched in 11th July 1987 at Oinam of Manipur, where more than 30 Naga villages covered and human rights violations including torture and even extrajudicial killings were done in addition to sexual harassment, theft, and loot by security personals. In a petition filed by NPMHR, it was reported that many houses were burnt and dismantled, many women were tortured and people got killed in fake encounters. This operation was done for many days, the whole area was kept isolated and in a jailed condition where even civil administrative authorities were not permitted to move in. Cases were filed in courts, even registrar of a high court was denied to move in to record the statements, but so far nothing happened.

Malom (Imphal District, Manipur): It was 2nd November 2000, when at Malom, a place near Imphal, Assam Rifles fired upon 10 persons at a bus stand and they got killed. In these persons, even a 60-year-old lady and 18-year-old bravery award winner also got killed. This case sparked the anger in Manipur. The protest was organized. Irom Sharmila started her fast with the demand to repeal the act AFSPA.

Manorama Killing (Imphal District, Manipur): It was the night of 10 th July 2004, when Assam Rifles went to the house of Manorama at Imphal, Manipur at night, tortured her at her house before her brother and mother, then picked her up. In the morning, the dead body was found at Ngariyan Yairipok road with bullets injuries in her private parts. A massive protest was organized by people, even the infamous naked protest also happened but cases under criminal charges could not be lodged. A local judicial inquiry was done but the report was not made public. A PIL in the Supreme Court of India is still going on but no verdict has been awarded yet.

The above instances of gross human rights violation show how self-preservation as mandated by Locke and is an important element of natural rights is being contravened. John Locke in his theory of natural rights propagates the right to life, liberty, and property, he mandates that the highest priority is given to individual self-preservation and everything necessary to achieve the preservation of these basic rights of the individuals. Even though he highlights the right of the individual, he does not simply advocate an egoistic self-preservation, but however, calls for the need to consider others as equal. The State of liberty isn't a state of license in which there are no constraints as to what a person can do or not do. A man in this state though is absolutely free to dispose of himself or his possession, but he isn't in liberty to destroy him or even destroy any created thing unless its destruction is for some nobler purpose. The state of nature according to Locke creates obligations for everyone,

mandates that all men may be held back from invading the rights others and from harming others, so that the law of nature which aims at the preservation of peace and of all mankind may be obeyed. But, the scenario of Manipur paints a picture that is completely different in reality and flips the law of nature with perpetual violence. This is visible from the extra-judicial execution of Oinam Papakⁱⁱ on 31st October 2009 from his house by armed forces dressed as civilians in the orders of their senior officials, who suspected him of having link with insurgent groups, this makes us question the state of liberty, where is the right of individual to liberty, when the civilians are forcefully executed without any official documents, can we really say that there are no constraints as to what a person does or how he behaves. The armed forces or the authorities are too in a society bound by the law of nature, whereby they too have no right to destroy anything or harm anyone, but the armed forces having impunity hardly, in reality, follow this.

The Natural rights by Locke are pre-political which means everyone in the state is entitled to it, which makes it similar to the contemporary human rights but in states where Armed Forces are deployed hardly the people enjoy them. Court cases involving the Armed Forces like Assam Rifles, the verdict is not published and anyone talking against them is suspected to be the 'sympathizers of the insurgents in the disturbed areas', which automatically takes the rights of the individual. From AI reports it can be seen that the designation of Assam and Manipur as 'disturbed areas' since 1958 lies at the crux of human rights violations, much of which is justified in the name of national security. (Talwalker jan.19.1991)

The state of nature under natural rights ensures self-preservation, though is minimal in its moral reach, presupposes and encourages human agency and human dignity. It is a right to act randomly not merely to move or re-act passively. These rights are not like the entitlements or privileges casually claimed today in the name of rights- it is a right to do for oneself, not to have something done for given to one. The case of Manipur, which say militant activities, killing, rape, forced detention, extrajudicial execution, etc somehow fails to guarantee the right to life or self-preservation, on 30th July 2009, Thokchom Inaoⁱⁱⁱ, a young man of 26, was forcibly picked by commandos and was ultimately killed in an encounter by the 28 Assam Rifles and Thoubal Police Commandos. (Dobhal 2009) These rights which celebrate no mere human existence but the entire realm of human action- explicitly only the action of active self-preservation are indiscernible in Manipur. The right to life or self-preservation has gained importance very recently. this can be because of the viewpoint of the subject/citizen is adopted and warfare takes place, a very dangerous state of nature persists, very much like in Hobbes, and this creates a problem, for the foundational "statics" of the State. This is a possible reason why the right to Self Preservation has been included so hardly and so late in the list of constitutional rights. As long as the State preserves "civility" inside its boundary, only by pushing "incivility" outside of them, it cannot cancel its right to act according to the state of nature, i.e., to fight for its self-preservation. The right to self-preservation has taken its place in the modern Charters of rights only very late. Today it stands and ranks significantly in the Universal Human Rights Declaration,1948, (Jura Gentium October 2007) even though authorities are a miser in terms of granting basic rights to their citizens in Manipur.

The natural right of self-preservation is a foundation for human dignity, which safeguards the higher dignity of realized humanity. Any doctrine of natural human rights rests on a prior presupposition of human dignity, which forms the support base for the dignity of a human being. Though the right to life is not always available in all human relations, single-minded devotees of rights are often blind to the importance of the many human goods. Hobbes seems right to insist on the foundational importance of an individuated human life, and highlighting the importance of the right to life. But does his individuated human life holds relevance in today's conflict-prone areas like Manipur?

Thomas Hobbes in his theory discusses the natural condition of man. He begins by noting that nature has created all men equally and as equals, they all have the same right. He begins by saying how " *Right of Nature....is the liberty of each man hath to use his power, as he will himself, for the preservation of his nature, that is to say, of his own life, and consequently of doing anything which, in his judgment and reason, he shall conceive to be the aptest means thereunto*". (Toole 2011). Hobbes in his theory underlines the importance of defending one's right to life by any means, but in the 'jeweled land', the people have little or no right to life, which can be seen from the very fact that the people can be arrested on the basis of suspicion of unlawful activities by the Armed Forces and the person detained could not be taken into custody without any warrant² and

² Under section 4, an officer of the army can shoot to kill in case of the commission or suspicion of the commission of offenses such as 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, carrying weapons, or carrying anything capable of being used as a firearm or ammunition. A cursory reading of this section shows that none of these offenses necessarily involve the use of force. There is no level of proportionality in the use of force and the offense as even a lawful gathering can be suspected to be an unlawful one.

could be interrogated till the officers deem fit to release the person as can be seen from the case of Thockchom Inom, (Dobhal 2009) where he was forcefully picked up the armed forces. There are cases, where the victim's wife Salima Memcha, who lost her husband in the hands of Assam Rifles, was threatened and harassed by the police commandos. In the land where very handful of the people enjoys the right to life, even after being killed, the victim's soul does not enjoy peace. Memcha who is a member of the Extrajudicial Execution Victim Families Association and a petitioner in the 2012 Supreme Court Case, says that the action of the police instigated her to fight more for her husband's justice. (htt)

There are cases of fake encounters where every day two to three people are killed but the official records never show the correct number of people being killed, for instance in 2009, according to official data only 285 people were killed however, in reality, its nearly 1000 people. Therefore in these situations of gross human rights violation without the scope of any redress mechanism, the state police and the armed forces have been manipulating the facts and figures of incidences and as a result, enjoy impunity. (Rojesh n.d.) This makes people question the natural rights which guarantee people the right to life, liberty, individual self-preservation and rebel against the government. Not only this, Hobbes too argues that the individual's inalienable rights extend into a broader social context and are produced by the weakness of the sovereign. Here he mentions how the individual is obliged to the state as long as it protects the subjects and how a group can withdraw its loyalty from a state that will not protect its members, to protect oneself. Hobbes in his social contract theory says that, if a man is to ensure escape from the State of nature, they should agree to live together under common laws and create an enforcement mechanism for the social contract and the laws that constitute it. Within the social contract theory, they agree to limit drastically their right of nature, retaining only a right to defend their lives. Hobbes sees political legitimacy as depending not on how the government came to power but how the government can effectively protect the rights of those who have consented to obey the government at the end of the day. His analysis of political legitimacy lies on the grounds of duty and function of the ruler and if it fails to do so, it has no justification to rule. (Shepherd n.d.). He through this encourages the people to voice against the government which fails to uphold the rights of the people.

Since 2000, neither a morsel of food nor a drop of water has passed the lips of Irom Sharmila, who is a civil rights activist and protested for over seventeen years, to repeal the implementation of AFSPA in Manipur. As put by John Locke right to revolution is an important element and justification for a limited government. When the government becomes repressive or abusive of natural rights, people have the right to rebel and turn against their government. In the same light when the Iron Lady voiced against the repressive law, she was charged with a suicide attempt. It is only of late that her protest has been highlighted in the mainstream India. The state has just kept her alive but her demands are never taken into account, they are completely insensitive to not only her but thousands of civilians who lose their lives and liberty to the arbitrary arrogance of the Armed Forces. These bring into question, what is the importance of the right to revolution if your voice isn't heard of?

There have been several protests against the armed forces coerciveness and one such case is the Nibaran Bora vs Union of India and Others, where the petitioner's brother was arrested by the army on mere suspicion on 18th January, 1991 in the exercise of powers under Section 42 of the Armed Forces (Special) Powers Act, 1958, and that he has not been made over to the officer in charge of the nearest police station as provided under Section 5 of the Act. The judgment, however, failed to bring fairness to the people affected by the draconian law.

There is always a dichotomy between the state and the central government in terms of giving justice to the victims of violence. The crimes committed by the Armed Forces under AFSPA are supposed to be dealt with by the Home Ministry of the Central Government whereas for the crimes which are committed by the security forces of the state i.e. the commandos, the State government is responsible. However, the complication arises here because there is no proper mechanism for the delivery of justice to the civilians because of the centre-state dichotomy. This shows how the right to life is never properly highlighted, although it has been mentioned in the Universal Declaration of Human Rights, 1948. There is no right to social security in the state, forget about the right to express one's views or opinions. People engaged in the judicial process, the government representatives are not quite active because of which justice is delayed and ultimately denied to the people. The absoluteness of laws (of nature) is due to their being the sentence of the supreme will. The function of the laws of nature is to tell us what to do and what not to do, which makes it valid to everyone. Therefore, the laws of nature, which is in Locke's view the basis of all morality, and given to us by God, commands that we do not harm others with regard to their "life, health, liberty and possessions", keeping this in mind the rule of law, which has never been followed, with the coming in of AFSPA the situation has gone from bad to worse and the right to life of the citizens are radically challenged. Therefore it is required to be properly put in place so that there is no arbitrary exercise of power which contravenes the civilians' life and liberty.

The liberal thinker, John Locke also points out that in a state of nature people have the liberty to act within restrictions of natural laws without having to obtain the permission of anybody, which is again felicitated by Locke's idea of limited government. The doctrine of limited government by advocates that a restrained

government is the best way to protect rights. The right to life advocated by Thomas Hobbes is in that sense pre-political in nature and therefore cannot be violated by the government but in the demonstration of violence of rights in Manipur, we can see how the Government and its forces have clearly violated the right to life and other natural rights which is similar to the contemporary human rights. Though people have been protesting against the violation of human rights, in the end, they are victimized. There is no transparency in the governance, in that case, where will the people go to seek justice?

The women are victims of rape, sexual assault and what not in the conflict-prone areas and Manipuri women too have been the prey of these acts, the killing of Manipuri Activist, Thangjam Manorama Devi, by the Armed Forces have shocked the nation. Her body was found near a paddy field with multiple gunshot wounds and other injuries on her genitals. She was taken into custody the previous night on suspicion of being a key member of Myanmar based separatist outfit called People's Liberation Army. The killing of the activist is not being investigated though, under Upendra Singh, the state government constituted an inquiry, but it failed to put a lid on the billowing public anger. The Manipuri Mothers' naked protest against the Assam Rifles, challenging the army to rape them, got nationwide attention, but on the other hand, the activist was termed as a "dreaded insurgent" by the Armed Forces. Later on, after several years, it was found out that the arrest memo was allegedly forged and no women police personnel was present during her arrest. Though Manorama's case gave courage to the people of Manipur to fight against the implementation of AFSA, as said by Onil Kshetrimayum, a human rights activist, cases of human rights violation has been on the rise. (Banerjee 2018) There was call by Justice J S Verma Committee for a review of AFSPA stating that acts of violence and sexual assault by soldiers against women in conflict zones must not enjoy immunity. But this is a contradiction to what happened with Manorama Devi. The Armed Forces enjoyed immunity and no clear investigation was made to give justice to Manorama Devi and several other women who were victims of rape, forced detention, and other violence. If we look into it from the Hobbesian view, he insisted on the equality of all, and very explicitly including women. People are equal because they are all capable of being dominated and all potentially capable of dominating others, but in the case of Manipur leave alone the capability of women to dominate others, they do not enjoy the basic right of self-preservation. Women are naturally free, which means that their consent is required before they will be under the authority of anyone else, but however, in reality, the women of Manipur are lagging far in this and hardly enjoy and equality as highlighted by Hobbes.

The state of nature which is supposed to bring peace faces limitations in the sense that it lacks a known and impartial judge, with authority to settle all differences according to the established law. Where everyone becomes the judge and enforcer, and powers are in the hands of few, as in the case of Manipur, where powers solely rest in the hands of the authorities, no clear or fair judgment is passed and people hardly see the face of justice. It also often lacks the power to back up and support a correct sentence, and enforce it properly. People those who commit the crime, often resort to force to resist punishment. Thus, people are in poor shape even if though they remain in the state of nature, despite all their privileges. For in a state of nature man has, along with his liberty to enjoy innocent delights, enjoys the power to do whatever he thinks is fit for the preservation of himself and of others and power to punish crimes committed against the law of nature, so far as it permits. However the men in power give away these powers and joins in particular politic society- to bring himself into commonwealth, separate from rest of the mankind, which can be seen in how many civilians have joined hands with the armed forces which result in violation of the basic human rights, this they do just to gain profits from the authorities.

Laws that are applicable in Manipur in the present times are the International Humanitarian Law which is one of the most powerful tools to the international community ensures the security and safety and dignity of people here. Though this law is at its disposal it is equally violated by both the parties and blanket of impunity which is enjoyed by the state are the major perpetrators of human rights violation in the state. The Central Government being a party to the four Geneva Conventions should recognize the prevailing armed conflict to help facilitate the functioning of IHL that will ensure the protection of natural rights, but the situation is opposite to this. Then who to be blamed for this the Centre, State, Insurgents or the Civilians who are not able to voice against the Government.

II. CONCLUSIONS AND OBSERVATIONS

Violent insurgency in the land may end in the future, but how? This violence has already led to the infringement of human rights in these areas. Therefore the sentiments that generate the feeling of alienation of the people which leads to insurgency need to be addressed at the first place. However what is more important than this the urgency to find out the need of AFSPA which contributes to more militant activities, this law is in no way going to bring a solution to the problems of the land, but will only act a shield for the armed forces to commit endless crimes and violation of natural rights and right to life. The armed forces should act in cooperation with the administration rather than acting as the Independent body. The social contract should be kept in mind. Even though the Justice Jeevan Reddy Commission advised the AFSPA to be repealed, the Act

has not been repealed. Since there is a lot of human rights violations, the state government should function neutrally by having a separate human rights commission, which will ensure fairness to any case, where the state cannot intervene.

Even though the people from the land continuously brings the issue of violation of human rights to the forefront, the centre has not ordered an inquiry into the allegations. This, however, needs to be changed, the state's view on the grievances of the people needs to improve, because we are not living in a "state of nature" where fear and selfishness lingers, where there is chaotic condition of constant fear, which is the condition prevailing in Manipur, where people live with constant fear of violence.

Hobbes' theory of social contract which mentions how man has a natural desire for security and order, and to attain that men must enter into a contract. Therefore, keeping the social contract theory of Hobbes in mind, a proper contract or accord should be signed by the people's representatives and the authorities to bring peace, security, and order in the Manipuri Society, otherwise, violence may persist till the last dusk of the civilization. Since, Hobbes' social contract is absolutist, which is somehow a vague concept in the present scenario of democracy, the authority both Centre and State should take democratic values into account to tackle the problem of Manipur.

In a state of nature under Locke's theory, power can sometimes be absolute, but that, however, does not mean that it will be arbitrary always. Sometimes a state must function in absolute nature, like in the case of Manipur, where a positive absolute power can help to mitigate the problem of insurgency and violent activities. Because of the preservation of the army, and through that the preservation of the people, sometimes requires absolute obedience to the command of everyone. How this is the need of the hour for Manipur, even though there are serious allegations of the government not acting fairly and of the armed forces are enjoying impunity, but only when this measure is taken, the crisis of human rights can be mitigated.

There were cases where persons have been taken into custody from or killed in public spaces, the police and the other concerned authorities have not discharged their duties well, in such cases, proper measure like the absolute obedience is very important where they can be made to be obliged to higher authorities. There should also be a check on the misuse of different provisions like the National Security Act, Disturbed Areas Act, etc.

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The Armed Forces (Special Powers) Act, 1958

(1) This Act may be called [The Armed Forces (Special Powers) Act, 1958].

[(2) It extends to the whole of the State of [Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura].

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “armed forces” mean the military forces and the air forces operating as land forces, and includes other armed forces of the Union so operating;

(b) “disturbed area” means an area which is for the time being declared by notification under section 3 to be a disturbed area;

(c) all other words and expressions used herein, but not defined and defined in the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) shall have the meanings respectively to them in those Acts.

3. Power to declare areas to be disturbed areas.—If, in relation to any State or Union territory to which this Act extends, the Governor of that State or the Administrator of that Union territory or the Central Government, in either case, if of the opinion that the whole or any part of such State or Union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union territory to be a disturbed area].

4. Special Powers of the armed forces.—Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,—

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, 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) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilized as a hide-out by armed gangs or absconders wanted for any offense;

(c) arrest, without a warrant, any person who has committed a cognizable offense or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offense and may use such force as may be necessary to effect the arrest;

(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. comments

(i) Conferment of power on non-commissioned officers like a Havaldar cannot be said to be bad and unjustified; *Inderjit Barua v. State of Assam*, AIR 1983 Del 514.

(ii) The armed forces must act in cooperation with the district administration and not as an independent body. Armed forces could work in harmony when they deployed in the disturbed area; *Luithukla v. Rishang Keishing*, (1988) 2 Gau LR 159.

5. Arrested persons to be made over to the police.—Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

6. Protection to persons acting under Act.—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..

7. Repeal and Saving.—[Repealed by Amending and Repealing Act, 1960 (58 of 1960), First Schedule, sec. 2 (26-12-1960)].

ⁱⁱ When the news of extra-judicial execution spread the air of Manipur, the people started agitating and a joint action committee was formed. At the instance of the MLA, the CM made ex-gratia payment of a lakh to the family of the victim and offered suitable jobs to one of the members of the family, which so far has not been materialized.

ⁱⁱⁱ The Tribunal had its sitting for three days from December 11 to 13, 2009 at Imphal, Manipur. Facts relating to 42 killings and gross human rights violations were placed before the Jury for its consideration. Written testimonies of family members of the victims were made available to the other members in advance, the family members gave oral testimonies confirming their statements and also answered questions put to them by members of the jury.