

## State, Constitutionalism, Violence on Dissent and Manipur: How Conflict Gets Sustained in India's North East

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### Abstract

Evolving a new single nation out of a joining of pre-existing nations is a very challenging task. Use of violence should not be a principle for sustaining the joining together. This is where the problem arises in India's North East in general and Manipur in particular. The enactment of the Armed Forces Special Powers Act for unique application to the region has only led to unaccounted loss of life, and deepening and widening of the social pains. There is an imperative for contextually appreciating the demographic, institutional and geographic differentials and evolve policies accordingly as a means for creating long-term peace and development.

**Keywords:** Manipur, Armed Forces Special Powers Act, Context, Rape and Killing, Demography, Institutions, Geography

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## Introduction

Manipur originally gave the world the game of Polo. Manipur is India's borderland linking with the South-East Asia. Manipur has been in the news for mainly two things - first, her youths excel in sports; and second, there has been a sustained movement for separation from India. The second one of separatist movement shall be the concern of this paper.

The news items covering this movement concern mainly with the lives getting lost in ambushes and gunfights between the state security forces and the separatists, and the consequential collateral damages; unfortunately the collateral damages include many rapes and killings of civilians by the state security forces. There have been statements galore relating to the state ready to eliminate the separatists and the separatists, on the other hand, asserting their determination to fight till Independence is achieved. While these have been the unending headline news, the core questions of why the movement is still alive and why the youths get attracted to this one generation after another have remained unanswered. There are lots of Political Economic questions to be addressed to understand this phenomenon. The examination of these issues goes much beyond the problem of *Noise*<sup>2</sup> for the issues are deeper and wider than dissent<sup>3</sup> as there is an element for overthrowing the system

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<sup>2</sup> *Noise: A Flaw in Human Judgment*, 2021, is the title of a recent book by Daniel Kahneman, Olivier Sibony and Cass R. Sunstein and published by William Collins, London.

<sup>3</sup> "Dissent is always dangerous to those who practice it and vexatious to those against whom it is directed. For both the dissenter and her target, dissent stirs up strong emotions and often calls forth strident reactions. Dissenters seek to define and occupy an in-between space, resistant to prevailing orthodoxy but engaged with it nonetheless. Even as she points out its flaws and demands redress, the dissenter affirms her continuing allegiance to the community she criticizes." Sarat, Austin, 2005,

instead of allegiance. A common variant of the public sentiment resembles more or less of “The picturesque has its origins in war and a refusal to understand the enemy: our enlightenment about Asia actually came to us first from irritated missionaries and from soldiers. Later came travellers - traders and tourists - who are soldiers that have cooled off. Pillaging is called shopping, and rape is practised onerously in specialized shops. But the basic attitude has not changed: the natives are killed less frequently but they are scorned collectively, which is the civilized form of massacre; the aristocratic pleasure of counting the *differences* is savoured. “I cut my hair, he plaits his; I use a fork, he uses chopsticks; I write with a goose quill, he draws characters with a paintbrush; I have ideas which are straight, and his are bent: have you noticed that he is horrified by movement in a straight line, that he is only happy if everything goes sideways?” This is called the game of anomalies: if you find another one, if you discover another reason for not understanding, you will be given a prize for sensitivity in your own country. You must not be surprised if those who in this way reconstruct those who resemble them, like a mosaic of irreducible differences, then wonder how anyone can be Chinese.”<sup>4</sup> Further, most studies on India find it convenient to completely ignore Manipur.<sup>5</sup>

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“Terrorism, Dissent and Repression: An Introduction”, Chapter 1 in Sarat, Austin, ed., 2005, *Dissent in Dangerous Times*, University of Michigan Press.

<sup>4</sup> Jean-Paul Sartre, 1964.

<sup>5</sup> For instance, even a recent book - Ernst Waltraud and Biswamoy Pati, 2007, *India's Princely States: People, princes and colonialism*, Routledge/Taylor and Francis, London/New York - does not even mention Manipur even once.

## The Context

Given these imperatives, it would be realistic to appreciate the initial differences while searching for the various reasons and causes for the prevalence of separatist movements and the continual adoption of militaristic violence by the state. First, the demographic characteristics of the population in Manipur are more aligned with the people of South East Asia than to the mostly caste-based composition in the core regions of India. When I talk of demography, it necessarily includes the cultural dimension which is necessarily contextual: “As well as describing the content of libraries, museums, moral and religious codes of conduct, the word “culture” is commonly used to describe social life. As such, “culture” is the living sum of symbols, meanings, habits, values, institutions, behaviours and social artifacts which characterize a distinctive and identified human population group. It confers upon individuals identity as members of some visible community and standards for relating to the environment, for identifying fellow members and strangers, and for deciding what is important and what is not important to them.”<sup>6</sup> This is important because of path dependence<sup>7</sup> in social development and economic transformation. Second, it would be rewarding to refer to a strong observation made by Ram-Prasad that the fundamental concerns, conceptual frameworks and goals of the Indian and Chinese traditions are utterly different; it is only a romantic illusion that there is some common, mystical, wisdom tradition “that bound these cultures together and differentiated them from the West.....there is no history of

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<sup>6</sup> Guo, p. 6.

<sup>7</sup> Martin, Ron and Peter Sunley, 2006.

mutual discourse and debate between India and China”.<sup>8</sup> Very meaningfully the term India in his analysis confines to South Asia and covers up to Bengal in the east.<sup>9</sup> Now I am referring to this framework of analysis not because the region is Chinese, but to highlight in emphatic terms the need for understanding the differences between the region and the rest of India. Indian democracy has been largely a very abrupt experience for the region. We know from the Political Economy literature in general and Constitutional Political Economy literature in particular the necessity of endogeneity of political institutions.<sup>10</sup> Third, because of these backgrounds, the current international border between Manipur and South East Asia is a continuum for the regional population rather than a boundary for India; this itself is a very tricky issue.

## The Issues

Here certain things must be re-emphasised. First, India got Independence from the British Rule in 1947, and so did Manipur. Second, Manipur enacted a Constitution of its own in 1947 itself, *The Manipur State Constitution Act, 1947*<sup>11</sup> establishing representative democracy ahead of India’s in 1951. Third, Manipur merged with India in 1949. The circumstances and the conditions under which the King of Manipur was made to sign the Merger

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<sup>8</sup> Ram-Prasad, Chakravarthi, (2005), p. 8.

<sup>9</sup> *Ibid*, p. 11.

<sup>10</sup> These issues are discussed in more detailed terms in Yumnam, Amar, 2009.

<sup>11</sup> Available on the internet. A link:

[https://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/COHR\\_IND\\_UPR\\_S1\\_2008anx\\_Annex%20IV\\_Manipur%20State%20Constitution%20Act,%201947.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/COHR_IND_UPR_S1_2008anx_Annex%20IV_Manipur%20State%20Constitution%20Act,%201947.pdf)

Agreement in 1949 and in Shillong<sup>12</sup> are still irritating the minds of the people of Manipur.

This background necessarily makes it imperative to be very contextually alive to the nature of the state India is aiming to ignite. “The interpenetration of the ideal and the material - the primary and the secondary - means that our understanding of the essence is apt to be, beyond a certain point, fluid, unstable and imprecise. It is, as such, almost certain to be a source of contestation.

“Any attempt to understand the nature of the state will be, largely for this reason, an on-going effort to maintain distinctions that often appear impermanent and elusive. It is almost certainly an endless task - an effort to maintain a stable distinction between core and periphery that is likely to resist any kind of determinate and final accounting. The uncertainties inherent in such an endeavour are apt to be numerous and persistent. The orderly structure of ideas of which a state is composed is always only prospectively that. Any society’s conceptual apparatus will change constantly as experiences and perspectives change. Its coherence - its intelligibility - will be perpetually in question, and this will inevitably give rise to debate and disagreement. To be sure, we cannot passively accept the dynamic, dialectical, elusive nature of the state. We are driven constantly to seek a fixed and coherent resolution. But we must also recognize with a clear head that such a resolution may be impossible, that the solution to one conundrum may itself bring to light another, and so on ad infinitum.”<sup>13</sup>

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<sup>12</sup> A city outside of Manipur and capital of Meghalaya.

<sup>13</sup> Steinberger, p. 27.

Further, at the cost of repetition, in so far as the case of Manipur is concerned the state to be created and nurtured was out of two pre-existent nations. The ideal and the material outcomes should forever be evolving in a way different from the global experiences and unique to the new structure. “Wherever questions at the margins arise, wherever serious conversation and political action occurs regarding the outer edges of our understanding of how things in the world really are, there is a place where positive laws can be tested. If the appropriate conditions obtain - in particular, if individuals truly believe that a particular positive law does not validly express that which the state demands - then civil disobedience may be justified with a view toward influencing not just the judicial process but the entire range of instrumentalities that serve the state. Second, it should be clear, nonetheless, that the theory of civil disobedience presupposes and reinforces the absolutism of the state. The criterion of whether or not disobedience is justified is a criterion embedded in the state itself. Indeed, disobedience reflects not a disagreement with the state about the goodness or badness of a law but, rather, a disagreement with the government about whether or not a particular statute or regulation constitutes an accurate interpretation of the law. Thus, one never disobeys the state; one only disobeys what may be thought of as an invalid or otherwise faulty attempt to express the state’s demands. It seems to me that such an account would serve radically to change not only the rhetoric but also the substance of discourse concerning disobedience; and it would reinforce the notion, which seems to me true, that any doubts about the validity of particular laws and the propriety of disobedience can only be

decided, in the end, by the state itself. Finally, though, one can perhaps imagine cases in which the judgment of the state is difficult or impossible to determine, in which the individual faces a conflict of duties but is unable to come up with any plausible account as to which duty should override the other, in which the structure of truth upon which the idea of the state is based itself remains silent or otherwise unhelpful. As indicated above, in such circumstances our ultimate choice could not be other than unreasonable, unaccountable and random, essentially a matter of flipping a coin; and if the coin flip turns out a certain way, the result might be an action that has all the appearance of disobedience. But from this, one cannot derive a doctrine of civil disobedience. For civil disobedience is a moral doctrine, while a coin flip is itself evidence of a dilemma that, though perhaps moral in its origins, does not admit of a moral solution. A true and irresolvable conflict of duties is a circumstance not of politics but of tragedy, in the Aeschylean sense of the term; and if the particular issues involved are serious enough, the result is apt to be not civil disobedience but war.”<sup>14</sup>

Contrary to the seriousness to be given to the state-building process, the Indian state has been particularly violent in her approach to create a United States of India. Violence may be explained with Daniel Ross thus: “Any act of force or power can be described as violent. “Violence” means action forceful enough to produce an effect. A violent storm is one that leaves behind its marks. These marks are the disorder and destruction that wind and rain have the power to cause. Violence is thus something physical, something that affects things in the world.

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<sup>14</sup> *Ibid.*, p. 264-265.

When one imagines violence, however, what first springs to mind is not the *source* of violence, but that *against which* it acts. Before thinking of physical forces, one thinks of actions committed against *bodies*, living beings. Violence is first of all something done *to* bodies, human and animal. Violence against plant life is also certainly possible, yet it is unlikely that this is the kind of violence anyone first thinks of.

“Violence is something done to bodies. Those actions are violent that leave *marks*. It is possible to commit violence that leaves no visible mark, but in this case the marks are internal. Or else what is marked is the *experience* of the person or animal that has suffered violence. Their experience is marked by the sensation of pain.”<sup>15</sup>

There has to be, in the present context, a multidimensional understanding of truth and rationality in the sense of Putnam.<sup>16</sup> There are strong issues of morality in such situations: “The inspiration behind the liberal ideal of the neutrality of the state is certainly one with which pluralists find it easy to sympathize. If the plurality of values is good, then it would be bad to allow the state to single out some values and treat them as if they were overriding. And the danger of this becomes especially evident if we bear in

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<sup>15</sup> Ross, 2004, p. 3.

<sup>16</sup> “I argued .....that fact (or truth) and rationality are interdependent notions. A fact is something that it is rational to believe, or, more precisely, the notion of a fact (or a true statement) is an idealization of the notion of a statement that it is rational to believe. 'Rationally acceptable' and 'true' are notions that take in each other's wash. And I argued that being rational involves having criteria of relevance as well as criteria of rational acceptability, and that all of our values are involved in our criteria of relevance. The decision that a picture of the world is true (or true by our present lights, or 'as true as anything is') and answers the relevant questions (as well as we are able to answer them) rests on and reveals our total system of value commitments.” Putnam, p. 201.

mind that the state wields immense political, economic, legislative, judicial, and educational powers. It is thus one thing for individuals or groups to advocate some set of values and to try to persuade others to adopt them, but it is quite another for the state to do so with the backing of its formidable powers. Pluralists and liberals, therefore, see eye-to-eye about the danger of the state's getting into the position of dictating to its citizens what particular values they should hold."<sup>17</sup>

Harold Laski wrote in his classic that "when we know the sources from which governmental acts derive we know the sources of the State's will."<sup>18</sup> He emphasised the principle that "The power of government is the right of government in the degree to which it is exercised for the end of social life."<sup>19</sup> Now the application of this principle has to be contextually rooted given the very foundation of plurality of demography, institutions<sup>20</sup> and geography<sup>21</sup> of the Indian state. Absolutely negating this principle in a uniquely targeted manner, the violence of the Indian state gets manifested with the passing of *The Armed Forces Special Powers (Assam and Manipur) Act, 1958*.<sup>22</sup> This Act, passed way back in 1958, states: "Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces

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<sup>17</sup> Kekes, p. 224.

<sup>18</sup> Laski, 1938, p. 36.

<sup>19</sup> *Idem*

<sup>20</sup> For a recent appreciation of the meaning and implications of institutions, see, Whalen, Charles J., edit., 2022.

<sup>21</sup> For an understanding of the significance of geography, see Krugman, Paul, 1995. Contextually for the region, the celebration of 2002 as the *International Year of Mountains* is of prime significance.

<sup>22</sup> Amendments were later made to extend to the other North Eastern States other than the original Assam and Manipur:

[https://www.mha.gov.in/sites/default/files/armed\\_forces\\_special\\_powers\\_act1958.pdf](https://www.mha.gov.in/sites/default/files/armed_forces_special_powers_act1958.pdf)

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 offence; (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; (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.” It further emphatically emphasises: “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.”

## Now

Here it would be worthwhile to recall the efforts of Martin Hollis to expand on the social thought approach of Wilhelm Dilthey in his *The Cunning of Reason*.<sup>23</sup> Hollis writes: “The guiding imperative ..is that action has meanings which can be understood only from within. If why ask the historian, as typical student of mankind, differs from the physicist, as typical student of nature, four instructive thoughts about meaning suggest themselves.....Firstly *experience* has meaning for people. They find in it signs of order, both natural, as when they classify animals or systematise the movements of planets, and human, as when they respond to a gesture or celebrate the marriage of a friend. They read their experience not only scientifically but also aesthetically and morally. They extract predictions, lessons and ideals from it. They impose themselves and their concerns on it too, and do so in ways which vary between individuals, groups and cultures....Secondly *utterances* have meaning for people. Words and sentences are not just physical disturbances but communications in accordance with rules for their use. They are read and answered in a language governed at least largely by convention. At the same time speakers have both intention and motive in using them. The speaker’s meaning and the utterance’s meaning can go adrift in ways foreign to objects in nature.....Thirdly *actions* have both instrumental and expressive meaning. Both adjectives involve several kinds of meaning, depending on the context of enquiry: what the actor did, intended or aimed to achieve, what the action signified or symbolised and how it was embedded in a network of values or relations are some

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<sup>23</sup> Martin, Hollis, 1987.

of them.....There is a sort of Bermuda triangle, marked by questions of signs and symbols, of norms and principles and of means and ends, which swallows many a student of mankind.....Fourthly *ideas* have meaning. People's reading of their situation alters with changes in their beliefs and expectations....Among the ideas which move them are ideas about what moves them.....The suggestion is that an insider view is needed for every study of social life, because the social *is* what it *means*. Because life means nothing beyond itself."<sup>24</sup>

Now the coupling of the perceived violence at the time of signing the Merger Agreement in 1949 has been coupled by the enactment of this Armed Forces Special Powers Act in 1958. The violence inflicted by this Act is both ideal for the Indian state and material.

The ideal violence lies in the fact that (a) the armed security forces are given a free hand specifically in this part of the country; and (b) the exercise of this free hand is such that no accountability can be established as all the Constitutional Norms are inapplicable under this Act. The material violence is underscored by the numerous killing of youths in fake encounters, innumerable rapes of young women, killing after rapes (Manorama rape and killing by shooting at the vaginal area as the prime example), etc.

While the legislation adopted in 1958 has failed to deliver on the promises but only sustained the adversity, the adverse impacts of these governance-induced violence are further deepened by the absence of tangible and contextual interventions for development. First, instead of the indulgence in violence, the state should rather be indulging to manage the dissent and enable

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<sup>24</sup> *Ibid*, p. 3-5.

it to evolve towards a force for shared development. Or is it a case that the value system of the state is one of repression rather than a shared development process? Second, the kind of economy introduced in the region has been one of Cantillon economy for business purposes rather than an Adam Smithian economy for strengthening the production base of the region. Third, while the adoption of violence as a weapon of governance and control has failed for more than half a century, the state should rather be serious for appreciating the differentials - demography, institutions and geography - and evolve contextually-alive policies for development; this has never been the case. These are reasons and conditions enough to sustain the social irritation and pains, and thus continuously attract at least some youths in every generation to take to arms asserting their perceived values. One can argue “for the omnicompetence of the state. The purview of the state is, and must be, unlimited in principle. I have now pursued the further claim that the rediscovery and rehabilitation of certain standard intuitions about political obligation, together with an understanding of the state as a structure of intelligibility, entail an absolutist account of the state’s authority. We are, I believe, committed to some such view on pain of self-contradiction. Specifically, political obligation - formulated variously in terms of consent or gratitude - is not undermined by but, rather, closely connected to notions of moral duty, whether weakly or strongly “derivative.” As such, it is a coherent moral conception that can help explain the civic responsibilities of a great many people. But insofar as the state embodies the gamut of moral and metaphysical presuppositions upon which a society is based, questions about obligation and

authority can be addressed and answered only internal to the state itself. There is no external source of appeal; the state is always the final - indeed, the only - arbiter. Of course, none of this would in any way rule out the kind of strenuous and vociferous debate, disagreement and dissent that constitute, in many respects, the heart and soul of a state's political life. Nor would it rule out very sharp efforts to test - through "disobedience" - the relationship between the law on the one hand and particular governmental interpretations of the law on the other. Nor finally would it at all deny the justifiability of forceful resistance and collective action in the face of illegitimate and intrusive instrumentalities of violence and oppression. Indeed, far from contradicting the absolutism of the state, all of these things are directly underwritten by it; and the failure to recognize this conceptual fact - a fact about the essence or nature of the state itself - cannot but give rise to all manner of theoretical confusion and practical error."<sup>25</sup> As Jeffrey Tucker of the Austrian School of Economics put so wonderfully in the introductory chapter of his book: "...we live two realities: the one the government imposes on us and the one we adopt in our real lives..... [J]ust because government mandates certain things and forbids others does not mean that we must follow or even tolerate the official roadmap for our lives."<sup>26</sup> The region still looks forward to something like "Every State lives upon the character of its citizens; and it can use that character only as it is informed by articulate knowledge."<sup>27</sup>

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<sup>25</sup> Steinberger, *op. cit.*, p. 265.

<sup>26</sup> Tucker, p. 7.

<sup>27</sup> Laski, *op. cit.*, p 37.

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