

# CIVIL SOCIETY AND STATE IN MANIPUR

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9 July, 2003

Certified that the Dissertation entitled, *Civil Society and State in Manipur* by *D. Jangkhola Haokip* in partial fulfillment of the requirements for the Award of the Degree of Master of Philosophy of this University, is an original work of his own. This Dissertation has not been submitted for any other degree in this University or any other University.

I recommend that this work be placed before the board of examiners for evaluation.

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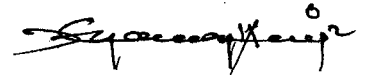
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**D. Jangkhohal Haokip**

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## INTRODUCTION

The heavy militarization of Manipur 'to aid civilian authority', has led to innumerable instances of human rights violations against innocent civilian populations. Reports of various kinds of interceptions of democratic rights and civil liberties like, extra-judicial killings, including faked encounter, rape, tortures, custodial death, disappearance, etc. have been the rule rather than the exception in this strife-torn State. Miserably, militarist ideology legitimizes authoritarian measures of such violations. While the Centre has failed to acknowledge the ethnic, social and economic chasm that lies between the people of Manipur and the rest of the country, huge deployment of the armed forces vis-à-vis the violations of human rights accentuates the sense of *alienation and discontentment*.

In this deteriorating situation, the issues of human rights become a matter of utmost concern. For, human beings have an intrinsic, unique value; possessing not only the right to life, but also the right to live a life worthy of human beings. The basic concept of rights is that each and every individual is endowed with a kind of 'sovereignty' over his/her own life. In this, sovereignty implies that 'there is a zone of protected activity within which he or she is to be free from encroachment by others - and most especially from encroachment by government. It was to underscore that personal sovereignty and to insure freedom from encroachment by government.'<sup>1</sup> It is truism that human rights are inalienable in that these are the natural rights of every individual; the protection of which lies solely in the state.

To ensure such inalienable, inherent rights, the Constitution of India provides a set of provisions to its citizens, irrespective of caste, creed or religion. By and large, the realization of the promises in the Constitution's preamble—of securing for all Indian citizens "liberty of thought, expression, belief, faith and worship" and "justice, social, economic and political" still remains a distant dream for large sections of the people of Manipur. On the other hand, the Universal Declaration of Human Rights in the year, 1948 was 'one of the UN's first major achievements, as it still remains a powerful instrument, which continues to exert an enormous effect on people's lives all over the world. It represented a world milestone in the long struggle

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<sup>1</sup> Margaret Stimmann Branson, 'Rights :An International Perspectives', <http://www.civiced.org/rights.html>

for human rights.<sup>2</sup> It is pertinent to note the milestone Declaration, which states: 'All human beings are born free and equal in dignity and rights; they are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'<sup>3</sup> Inasmuch as it regulates the relationship between individuals and the state, 'human rights ensure prosperous in society by having a satisfied and productive people.'<sup>4</sup> Moreover, Article 3 of the Universal Declaration of Human Rights provides that, 'everyone has the right to life, liberty and security of person.'<sup>5</sup> Above all, 'human rights state that all people are born free and are equal in their value and the rights to which they are entitled. This basic theory forms the basis for the entire great system of legal rule created in the field of human rights.'<sup>6</sup>

Notwithstanding all this important legal provisions, the militarization of the armed forces in Manipur vis-à-vis the violation of human rights is one of the foremost aspects of the failure of democratic rights in India since independence.' Such brutalized acts by the armed forces 'retain little respect for democracy, civilian rule or international commitments. For them, human rights violations become equivalent to breaking traffic rules.'<sup>7</sup> The rule of law, which protects individual freedoms and civil liberties, has been subsumed, which is in fact, a mockery of Indian democracy. In fact, insurgency is strong and synonymous with the State as it caused law and order problem, posing a threat to internal security. Due to the failure of the government a number of insurgencies in the northeast India, in general and Manipur, in particular came into existence, which is branded anti-national, and secessionists as well. As a result the Armed Forces (Special Powers) Act, 1958 has been introduced in Manipur with the cherished goal; 'to nip insurgency in the bud.' Without tracing the 'root causes' of insurgency, the Government of the day was too quick to apply a *quick-fix solution* to counter-insurgency! In the light of the experiments during the last 23 years, it is imperative to have a re-look on the larger implications the Armed Forces (Special Powers) Act, 1958.

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<sup>2</sup> *Universal Declaration on Human Rights : Fiftieth Anniversary, The Times of India, December 10, 1998.*

<sup>3</sup> R.S Verma, *Human Rights : Burning Issues of the World, vol.1* (ed.), (New Delhi : India Publishers Distributors), 2000, p.2

<sup>4</sup> Ashok Srivastava, *Global Human Rights : Wishful Protection*, (New Delhi : India Publishers Distributors), 2001, p.191

<sup>5</sup> Verma, *Human Rights* ....p.3

<sup>6</sup> 'Human rights and Democracy', <http://www.sida.se/Sida/jsp/Crosslink.jsp?d=514&a=9175>

<sup>7</sup> Kamal Mitra Chenoy, " Militarism, Civil Society and Inter-Group Relations in North-East India" in Kailash Agarwal, *Dynamics of Identity and Intergroup Relations in the North-East India* (New Delhi : ), p.74

Given the complex situation, where insurgency and military interface each other, the role of civil society becomes important. Like in any other Indian states, civil society in Manipur is in its nascent stage. However against all odds, it has been the rallying point for those who are conscious with their rights and liberties. There is no gainsaying the fact that 'it is the duty of civil society to ensure that the rule of law is maintained, that power is not unduly concentrated, and that all civil liberties and human rights are given the fullest protection'<sup>8</sup> in a situation where such rights have been seriously curtailed. While divergent theories of civil society doing the round, the Tocquevillian Tradition (associationalism) is a fit case for Manipur, like any other Indian states. In this, the role of associations, organizations, clubs, or voluntary organizations hold a centrestage in encountering with the State for securing the rights of the people.

#### **SCOPE AND PROBLEM OF THE STUDY:**

The distinguishing common features of the Northeast Indian states have been underdevelopment and insurgency. Its geo-strategic or demographic locations are a crucial importance for India's national security. 'The population of the North-East has a history of isolation from the mainstream of events in the sub-continent. Hostile terrains coupled with the British policy of isolation, to further their designs, made contact with outside centers of trade and culture difficult to maintain.'<sup>9</sup> Such process of isolation of the northeast from the rest of the country had been initiated by the Britishers. 'Through the creation of backward tracts, excluded areas and partially excluded areas, the colonial administration had drawn an Inner Line, marking the extent of revenue administration beyond which the tribal people of the region were left to manage their own affairs. Independent India followed the same policy.'<sup>10</sup> One of the major consequences of this policy has been that modernization has a minimal impact on the people as they have remained in isolation for a long period of time. There are more than 116

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<sup>8</sup> I.K. Gujral, 'Governance of India', *Mainstream*, August 14, 1999

<sup>9</sup> Mohammed Asif, 'Development Initiative and the Concomitant Issues of Displacement and Improvement in the North-East States', in Kailash Agarwal, *Dynamics of Identity and Intergroup Relations in the North-East India* (New Delhi : ), pp.24-25.

<sup>10</sup> Sreeradha Datta, 'What Ails The Northeast: An Enquiry Into The Economic Factors', *Strategic Analysis*, vol.xxv, no.1, April 2001

tribes inhabiting the region, who consider themselves (with the exception of Assam and some parts of Tripura) as separate people, having little in common with the rest of the country.<sup>11</sup>

Leaving aside all other states, however, the present study will emphasize on Manipur, taken into account its manifold problems. Manipur lies between latitude 23.80 degree and 25.68 degree North and longitude 93.03 degree and 94.78 degree East and is bounded by the Naga Hills (now Nagaland), on the East by Burma (now Myanmar), on the south by the Chin Hills (Myanmar) and Lushai Hills (now Mizoram) and West Cachar District (Assam).<sup>12</sup> Manipur has a total area of 22,356 sq. km, sharing a 357 km. long border with Myanmar. The population of the State as per the 2001 is 2,388,634.149 of which 60 percent are Hindus, 29.68 per cent Christians, 6.90 per cent Muslims and 3.9 per cent other socio-cultural group.<sup>13</sup> In fact, 'Manipur is a mosaic of cultures of what is probably, the maximum number of tribes and cultures inhabiting any one state of the northeast. Apart from others, three main communities, viz, *Meiteis*, *Nagas* and *Kukis* inhabit the State. The presence of these multi-ethnic communities often disturbed the peaceful co-existence of these ethnic communities. To a large extent, 'the political situation is complex, with a large and long-standing insurgency seeking autonomy, many smaller ethnic insurgencies, numerous armed groups, and several thousand political and economic migrants and refugees from Burma. A state of low-intensity chronic civil war pervades, and armed clashes, human rights abuses, and violence are endemic.'<sup>14</sup> High population growth, underdevelopment, fragile law and order situation, etc. has been the major characteristic features of Manipur. Insurgency has become an 'industry' for generating thousands of the misguided youths. No wonder that the State hosts more than 21 insurgent groups, who are operating both in the plains and hills area. Moreover, ethnocentrism, or identity politics remain the hallmark in this land-locked State. This entire problem has been further accentuated by the 'militarization of the armed forces' since 1980, following the declaration of Manipur as 'disturbed area' and the subsequent imposition of the Armed Forces (Special powers) Act, 1958. The various Army and paramilitary forces of the Union and the State includes:

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<sup>11</sup> See Ved Marwah, *Uncivil Wars :Pathology of Terrorism in India*, (New Delhi: HarperCollins Oublishers), 1995, p.225

<sup>12</sup> L.I. Singh 'Problems of Law and Order in Manipur', in C.Joshua Thomas, et al (eds.) *Constraints in Development of Manipur* (New Delhi : Regency Publications), 2001, p.30

<sup>13</sup> *Ibid.*

<sup>14</sup> <http://www.rebound88.net/01/feb/18.html>



- (a) Units/Regiments of the army such as the Sikh Light Regiment, the Bihar Regiment, Rashtriya Rifles, Rajputana Rifles, Mahar Regiment, Gorkha Rifles;
- (b) Battalions of Assam Rifles;
- (c) Battalions of Central Reserve Police Force, Indian Reserve Battalions, and other paramilitary forces of the Union;
- (d) Manipur Rifles, a force raised by the State of Manipur.<sup>15</sup>

This in turn, has led to gross violations of human rights against all constitutional norms, as it has also alienated the people to a great extent. Little wonder that the army is seen by the people as an "occupation force" due to its "blatant violation" of human rights.<sup>16</sup> In this complex situation, it is imperative to study the role of civil society, in protecting, if not enhancing, the democratic rights and civil liberties of the people.

#### **STRUCTURE:**

Chapter-I will explore the conceptual history of civil society, its origins, growth and re-emergence. Despite its contradictory nature of its concepts, constructing a firm, theoretical framework is imminent. As such a brief conceptual history of the term, 'civil society' will be discussed, tracing far back to Aristotle. Subsequently, its growth and development in the later years (till contemporary conception) will be outlined. The reasons for the rebirth or re-emergence of civil society will also be examined in order to contextualize it to the contemporary social and political theory. However, mere presentation of the concepts may not yield deep insights into the nature of civil society. Hence the study will also attempt to locate the role and functions of civil society vis-à-vis the state.

Chapter-II attempts to examine the nature of the State, selecting the armed forces as a single element. It has been argued that huge deployment of the armed forces in Manipur has led

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<sup>15</sup> Where 'Peacekeepers' Have Declared War : Report on Violations of Democratic Rights by Security Forces and the impact of the Armed Forces (Special Powers) Act on Civilian Life in the Seven States of the Northeast. Published by : *National Campaign Committee against military action and Repeal of Armed Forces (Special Powers) Act*, 1997, New Delhi, p.27

<sup>16</sup> See 'Centre's apathy a reason for Manipur insurgency', <http://in.news.yahoo.com/020728/16/1suvi.html>

to “gross human rights violations.” There arises, then, the need to gauge the extent of such violations. In this, both major and minor incidents of security forces’ brutalities and atrocities will be examined. The study will mainly rely on the reports of journals, documents, newspapers (both local and national), etc. As the unrestrained powers of the armed forces flows from the Armed Forces (Special Powers) Act, 1958, it requires in-depth, critical analysis which will give new insights; its illegality, irrationality, or constitutionality.

Like in any other Indian states, civil society in Manipur is in its nascent stage. Nevertheless, the role/functions of various civil society groups (large or small) in this quasi-military State, where there have been scant regards/respect to human rights, occupies a centrestage. Against all odds civil society in Manipur tends to find its niche, encountering against the onslaught of the State upon the people through its armed forces.

Chapter-III will outline the role of civil society, the *raison d’etre* of which has been securing the citizens, of their rights and liberties. Since the hydra-headed Act, which was enacted to counter-insurgency, has brought more ‘problem’ rather than the ‘solution’, it is pertinent to explore alternative approach (es) to counter-insurgency. In this process, the study will attempt to trace out the root causes of insurgency, thereby suggesting remedies to solve this age-old menace. This will also attempt to devise multi-pronged strategies for effective counter-insurgency operations and inter-groups relations. In addition, various ethnic communities of diverse cultural identities inhabit Manipur. The perceptions of these communities about the ‘common good’ or their socio-economic and political interests have often contradict/clash one another. Resultantly, peace and stability has been often disturbed. Therefore, to ensure the mutual co-existence of all the people, the role of civil society—in enhancing mutual understanding of all become a matter of prime importance.

Chapter IV will summarize the discussion, with a tilt towards suggesting, if any, remedial measures to solve the menace of insurgency.

## **HYPOTHESES:**

1. The militarization of Manipur has resulted in the gross human rights violations.
2. The military approach to counter-insurgency in Manipur has accentuated the problem of insurgency.
3. In the face of repressive State, civil society in Manipur strives for securing democratic rights and civil liberties of the people.

## CHAPTER-I

### CONCEPTUAL HISTORY OF CIVIL SOCIETY

After a spell of hundreds of years, the theme of civil society and the state is have become a central theme in the social and political theory.<sup>1</sup> In fact, 'the idea of civil society is a cause *celebre* for social scientists these days, partly inspired by recent East European democratic experiments. As a concept, civil society means different things to different people. In relation to democracy, it is primarily used in two senses — consolidation and rejuvenation of democratic institutions.<sup>2</sup> Till the end of 18<sup>th</sup> century, there was no distinction between civil society and state as such. This shows its classical origins. While there have been divergent opinions doing the round, 'civil society was more or less a direct translation of Cicero's *Societas Civilis* and Aristotle's *Koinonia politike*,<sup>3</sup> Here, one learns the idea that civil society is historically bounded which is not a systematically organized concept in every tradition<sup>4</sup>. In the present scenario, however, civil society is seen as a type of domestic political space, and the 'term is used to identify and privilege agencies-markets, social movements, cultures-whose effective political causality, is today rocked by causalities which escape its bounds and which condition the possibility of its continuing viability as a habitat for civil human relations...It is best thought of as a complicating term, one that embodies a range of historical idioms intended to establish a legitimate political order. Recovering its rich and unshapely forms in the history of Western political thinking can help to clarify why the project of constructing and sustaining democracy today is so vexed, why it can never be merely a question of introducing forms of competitive politics, or of establishing markets.'<sup>5</sup>

<sup>1</sup> John Keane, *Civil Society and the State: New European Perspectives*, (ed), (London: Verso), 1998, p.1.

<sup>2</sup> See Michael W. Foley and Bob Edwards, 'The Paradox of Civil Society', *Journal of Democracy* Vol.7 no. 3, July 1996, pp.38-52.

<sup>3</sup> Krishnan Kumar, 'Civil Society: 'an inquiry into the usefulness of an historical term.' *British Journal of Sociology*. Vol-44, No. 3, September 1993, p. 376.

<sup>4</sup> Nancy L. Rosenblum and Robert C. Post, (eds) *Civil Society and Government*: (Princeton University Press), 2002, p.1

<sup>5</sup> Sudipta Kaviraj 'The Development of Civil Society' in *Civil Society: History and Possibilities* (eds.), Kaviraj, and Khilnani; (Cambridge: Cambridge University Press), 2001, p. 26

Notwithstanding its contradictory nature, it is imperative to trace the origin and growth of civil society, right from the Aristotelian tradition to the Gramscian tradition vis-à-vis its divergent views, its resurgence and its re-emergence to help enrich our understanding of the term.

## **I. Aristotelian Tradition**

Aristotle occupies the centrestage as far as the birth/origin of civil society is concerned. He was the first to use the concept which appeared 'under the heading of *politike koinonia*, political society/community. It is this term the Latins translated as *Societas Civilis*. The concept represented the definition of the *polis*, understood as the *telos* of the human being as a political animal, *Zoon Politikon*. *Politike Koinonia* was defined as a public ethical — political community of free and equal citizens under a legally defined system of rule.'<sup>6</sup> In fact, Aristotle related civil society to a hierarchy of associations, where 'the role of the family and the village was to rapport the needs of the life itself and the role of the polis existed for the good life. Like Plato, Aristotle developed a theory of presuppositions for this good life on the basis of division of labour and the fear of individual interest. However against Plato, Aristotle saw the importance of heterogeneity. He argued that the core of civil society lies in the middle class because it is likely to have fewer enemies than the rich and the poor'<sup>7</sup>. Through the immense contributions of Aristotle, The concept, for the first time entered into the realm of political philosophy; leaving a far-reaching influence in the later phase'<sup>8</sup>

## **II. Roman Jurisprudence Tradition**

The concept of civil society had been enriched in the Roman Jurisprudence tradition by the time the Church became prominent-in every aspect of life in that the papal fully controlled the relations between the state and society. In a situation, where the unchallenged, all-powerful 'divine right of God', became the guiding factor, '*Societas Civilis*' was coined to depict a zone, which was free from papal influence, and was governed by laws that were not of divine origin. As such, civil

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<sup>6</sup> Keane, *Civil Society and State*. p.84

<sup>7</sup> Martti Muukkonen, '*Presentation to the Civil Society Working Group in Annual Meeting of Finnish Sociologists*. 24-25/03/2000. Turku; [http://cc.joensuu.fi/~muukkone/Civil\\_Society.rtf](http://cc.joensuu.fi/~muukkone/Civil_Society.rtf)

<sup>8</sup> M.I Finley, '*Politics in the Ancient World* in Jean Cohen and Andrew Arato (eds), *Civil Society and Political Theory*, (Cambridge: Cambridge University Press), 1994, p.85

society symbolized the autonomy of the temporal realms in relation to ecclesiastical.<sup>9</sup> Moreover, 'one of ancient Rome's greatest achievements was its creation of civil law, which underwent further centuries of development, reaching its apogee in the codifications achieved under Justinian in the early sixth century. In a sense, society for the Romans was the creature of civil law, which came to regulate numerous features of social relations, including family and economy. Cicero extolled the function of law; for the Romans, to be civilized meant being subject to civil law.'<sup>10</sup> In this tradition, civil society was synonymous with the state as they were interchangeable terms, where membership in a civil society implied a citizen, or a member of state. More importantly, the state was obligated to act in accordance with the laws for the good of all.<sup>11</sup>

The classical understanding of civil society, however, remained unchallenged in Britain, France and the German states as 'it is evident in Hume's observation that "Liberty is the perfection of civil society, but still authority must be acknowledged essential to its very existence"<sup>12</sup>. In this view, civil society reflected the growth of civilization, where society could be called 'civilized'. As such, 'it is, as classically expressed in the Athenian *polis* or the Roman republic, a social order of citizenship, one where men (rarely women) regulate their relationships and settle their disputes according to a system of laws; where 'civility' reigns, and citizens take an active part in public life. In such a social order, the connection of citizenship with civil society was never entirely lost. It forms part of the association that lends its appeal to the current championing of civil society.'<sup>13</sup> As the concept had been enriched with the notion of 'citizenship' or 'participation', 'civil society heralded the process of secularization, which paved the way for the centrality that was previously accorded to religious institution and religious explanations, and allowed for the emergence of an alternative pattern of society and government.'<sup>14</sup>

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<sup>9</sup>Gurpreet Mahajan, "Civil Society and Its Avatars: What happened to Freedom and Democracy?" *Economic and Political Weekly*, May 15, 1999 p.1188

<sup>10</sup> Charles F. Bahmueller. 'Civil Society and Democracy Reconsidered', <http://www.civnet.org/journal/journal.htm>

<sup>11</sup> Foley and Edwards, 'The Paradox of Civil Society'

<sup>12</sup> David Hume 'Political Essays', (eds) Charles W. Hendel, (*Indianapolis and New York :1995*) in John Keane (ed), p. 36.

<sup>13</sup> Rosenblum and Post, p. 377

<sup>14</sup> Mahajan, p.1188.

### III. Liberalism

Subsequently, the idea of civil society was associated with liberalism in the later phase. This was possible with the coming of enlightenment where 'reason' or 'rational understanding' became the hallmark in every aspect of life. In fact, liberalism tailored both the Aristotelian and the medieval conception of civil society in that the notion of political life became prominent. At this stage, the concept of civil society entails free citizens associating together to further their collective goals.<sup>15</sup> Given that rational understanding of causal effects became the prime concern, Locke played a pivotal role in the development and growth of civil society, whose contributions had far-reaching influences on the later philosophers or political scientists as he closely associated the concept of civil society with democracy.<sup>16</sup>

One of Locke's greatest contributions lies in his distinction between state and society. He distinguished civil society both from state of nature and the political society,<sup>17</sup> as 'he distinguished the political order from "the community" and placed the moral basis of the political order on the consent of the "community", that is, on society. The political order springs from and is authorized by society. Society creates political institutions to protect itself and it changes them whenever it likes to do so.'<sup>18</sup> Civil society, according to Locke's view, evolved out the rights of the citizens, viz- right to life, liberty and property is guaranteed by law.<sup>19</sup> The *raison de'etre* of civil society was to secure 'the rights of men, and within it the actions of the sovereign are supposed to create conditions by which individuals can enjoy their rights and liberty fully.'<sup>20</sup> For him, the rule of the government must be based on consent. He even goes to the extent of overthrowing if the government was despotic. As a matter of fact, 'the dissolution of the legislative power is proposed as the end of a society, but Locke inconsistently assigns the possibility of providing for a new legislature to the same society when the legislature is dissolved, or even when it acts contrary to its trust.'<sup>21</sup> He emphasized that 'civil society entailed devotion of legitimate powers in collective

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<sup>15</sup> Finley, *Politics in the Ancient World* in Cohen and Arato

<sup>16</sup> Mahajan, p.1188

<sup>17</sup> *ibid.*,

<sup>18</sup> Foley and Edwards, 'The Paradox of Civil Society..'

<sup>19</sup> John Locke, (1924) *Two Treatises of Civil Government*, J.M. Dent, London, quoted in Mahajan, p.1189

<sup>20</sup> Mahajan, p. 1189.

<sup>21</sup> *ibid.*,p.88

bodies for securing against arbitrariness of the government.’<sup>22</sup> To put in a nutshell, ‘civil society is a specific kind of political society: one where the rights of individuals receive primacy over all else. And it is this principle of ‘primary to rights’ that distinguishes civil society from other forms of political society, collective bodies, community institutions and associations...As civil society signifies a collective body that cherishes individual rights and legally protects the freedom of its members, it symbolizes a condition that is necessary for the existence of a democratic state.’<sup>23</sup>

The breakdown of the classical concept of civil society, however have been manifested in Adam Ferguson’s book, *An Essay on the History of Civil Society* (1967). In this, he outlined the transitional stage of the human species from ‘rude’ forms of life to a ‘polished’ or civilized society.<sup>24</sup> For Ferguson, ‘civil society appears to mean a modern society whose manners are ‘polished’ whose arts and letters flourish and above all, whose government is not despotic. In this society urban life and commerce flourished; we know it today as pluralist society.’<sup>25</sup> In other words, ‘civil society is a type of political order which protects and ‘polishes’ its mechanical and commercial arts, as well as its cultural achievements and sense of public spirit, by means of regular government, the rule of law and strong military defences.’<sup>26</sup> He ‘emphasizes that the success of modern civil societies in establishing regular government and promoting commerce and manufacturing does not immune them automatically against self-paralyzing dangers. Modern civil societies are civilized to an insufficient and reversible degree. They may be called ‘civilized’ or ‘polished’, but they are subject nonetheless to various powerful forms of corruption and decline.’<sup>27</sup> Further, Ferguson also strongly stressed the need for benevolence, fellow feeling and humanity as well as virtuosity.

Ferguson was too concerned about the degenerative trends of the modern civil societies as ‘corruption’ became prevalent in all spheres of lives.<sup>28</sup> In view of the prevalent corruption during his time, the way he treated ‘[t]he problem of the corruption of manners is very much linked to the idea of social progress. He says that corruption leads to despotic government because it makes men unfit for liberty. Ferguson goes on to say that democracy is really being condemned

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<sup>22</sup> Sudha Mohan, *Ideas on Civil Society*. *Economic and Political Weekly*. November 20, 1999, p. 3291

<sup>23</sup> Mahajan, p. 1189

<sup>24</sup> Keane, pp. 39-40

<sup>25</sup> Charles Bahmueller, ‘Civil Society and Democracy Reconsidered’, <http://www.civnet.org/journal/journal.htm.7k>

<sup>26</sup> Keane, p. 40

<sup>27</sup> *ibid.*, pp. 40- 41

<sup>28</sup> *ibid.*, p. 42



when it is corrupted by wealth, as he was particularly against dehumanization under crass commercial civilization. To him, the great danger is not party conflict, but political indifference, which destroys the civil society.<sup>29</sup> Besides, 'somewhat uniquely, for Ferguson, participation is central to the definition of civil society; 'it is in conducting the affairs of civil society, that mankind find the exercise of their best talents, as well as the object of their best affections'<sup>30</sup>. He also strongly emphasized on 'participation'. He 'defends participation on both intrinsic grounds—political activity is part, indeed the best part, of human nature—and instrumental grounds—we need to participate, to be active, in order to defend the liberal, passive freedoms. He argues further that, if liberty is lost, we cannot blame those political leaders who trample upon popular right—as what else can be expected them—instead our fingers must point to those who allow their liberties to be taken away.'<sup>31</sup> For him, 'to speak of liberty is, ultimately, to speak of political participation. He goes on to say that if liberty is to be preserved; it can only be done so through the active participation of a virtuous citizenry.'<sup>32</sup> But his weakness lies in the fact that rights-based arguments is absent in his discussion on civil society. However, his contributions on the growth and development of civil society is no less important; though he 'continued to use the concept of civil society in its classical sense, he was effectively making the analytical distinction that paved the way for the modern concept. Though there is no explicit distinction between civil society and the state in Ferguson's Essay, a clear notion emerges of a sphere of society apart from the state with forms and dynamics of its own.'<sup>33</sup>

'Thus, Ferguson comes close to saying that the survival and progress of modern civil society require the development of independent social associations — the development of a civil society within a civil society. Thereafter, civil society for the first time came to signify not the whole of an ordered polis, but society apart from the state, its foundation but also potentially in tension with. Ferguson's thought reflected, in this respect, the changed circumstances of the emerging modern polity.'<sup>34</sup>

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<sup>29</sup> See Keane, pp.42-43.

<sup>30</sup> Quoted in John Varty, 'On Liberalism, Republicanism, Civil Society: Adam Ferguson and the Importance of Being Active' (University of Sussex), p.1141

<sup>31</sup> *ibid.*, p.8

<sup>32</sup> *ibid.*, p.3

<sup>33</sup> *op cit*, n 34, p. 2.

<sup>34</sup> Michael W. Foley and Virginia A. Hodgkinson, *Introduction, From the Civil Society Reader*, <http://www.arts-science.cu.edu/P01/faculty/foley/civilsociety.htm>

#### IV. Hegelian/Marxian Tradition

In the conceptual development of civil society, Hegel's significant contributions have been of far-reaching influences. For, 'all strands of the history of the conception of civil society so far presented meet in Hegel's *Rechtsphilosophie*. He is the representative theorist of civil society because of the synthetic character of his work and even more, because he was both first and most successful in unfolding the concept as a theory of a highly differentiated and complex social order.'<sup>35</sup> As he was impressed with Ferguson's work, he 'called in question the optimistic solution of the liberal theorists, insisting that the conflict of interests inherent in civil society could never resolve by itself.'<sup>36</sup> Indeed, 'Hegel is the pivotal figure in shaping contemporary understandings of the idea of civil society. His solution tried to integrate the individual freedoms specified by the natural law tradition from Hobbes to Rousseau and Kant with a rich vision of community, existing under conditions of modern exchange.'<sup>37</sup>

For Hegel, 'the newly autonomous state expressed the "universal" as opposed to the particularistic diversions of civil society, which was first and foremost an expression of a "system of needs." Civil Society, nevertheless, encompassed the "ethical" ideal in its concrete pre-occupation with everyday relationships. It is thus characterized by arbitrary inequalities, class diversions, and bewilderingly diverse efforts to meet the growing variety of human needs. But it is also the realm in which human beings shape themselves through ethical norms to master their environment and find ways to work together.'<sup>38</sup> Moreover, 'civil society is a process of mediation. The 'concrete person' of civil society differs from the isolated subject of the sphere of morality (*Moralitat*) in that sense he gradually comes to recognize himself as a member of society and realizes that to attain his ends he must work and through others.'<sup>39</sup> For him, 'civil society arises out of individual needs and attempts to satisfy them. These attempts cannot succeed except through cooperation in which then become dependent on one another.'<sup>40</sup> Yet in the absence of a higher authority, or the surveillance of the state, civil society cannot remain civil. Herein lies the close relationship between the state and civil society in that civil society and the state are

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<sup>35</sup> Cohen and Arato, p. 91

<sup>36</sup> Foley and Hodgkinson,

<sup>37</sup> Kaviraj, p.23

<sup>38</sup> Foley and Hodgkinson...

<sup>39</sup> Kumar, p.378

<sup>40</sup> Elie Kedourie (eds).and Helen Kedourie, *Hegel and Marx : Introductory Lectures*,p.1  
MIT:Blackwell Publishers, 1995). P.1

complementary. Given the indispensability of the state, 'only a supreme public authority--a constitutional state managed by monarchy, the civil service and the Estates--can effectively remedy its injustices and synthesize its particular interests into a universal political community.'<sup>41</sup>

Subsequently, 'Hegel supposes two conditions under which state intervention (in his word, the state's 'purging of privileges and wrongs') is legitimate. First, the state may intervene in order to remedy injustices or inequalities within civil society — for instance, the domination of one or more classes by another, the pauperization of whole groups or the establishment of local obligation (within a region or municipality, for example). Secondly, the supreme public power is justified in intervening directly in the affairs of civil society to protect and further the universal interest of the population -which the state itself defines!'<sup>42</sup> Given the two conditions, it 'constitutes a very broad license indeed for state regulation and dominance of social life.'<sup>43</sup>

Thus, Hegel played a pivotal role as he broke the historical equation of state and civil society. Indeed, 'his theory was based on the idea that there are three spheres of social life, which are also three stages of ethical development. The family is the natural phase and tends to suppress the differences between its members because of the common destiny. Civil society is the antithesis of the family and it is marked by diversity and competition. Finally, the state reconciles the two.'<sup>44</sup> 'Given that the process of human history is in this sense 'the movement of God in the world', the universal state conceived by Hegel must be regarded as a secular deity whose claims upon its male citizens and female and other subjects are always for the benefit and ultimately, unquestionable and irresistible.'<sup>45</sup> From his observation, we can argue that 'Hegel saw the civil society basically in the same way as liberalism. The writings of Hegel have a special place in the debates on civil society not simply because contemporary discussions take their lead from him but because he more than others, elucidates the idea of civil society and reflects upon its relationship with democracy. His analysis gives a systematic and coherent form to the theme that had, in one way or another, been associated with civil society in previous usages: namely, that the idea of 'freedom for all' animates civil society.'<sup>46</sup>

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<sup>41</sup> Keane, *p. 52*

<sup>42</sup> *ibid.*, *p.53*

<sup>43</sup> *ibid.*, *p.54*

<sup>44</sup> Muukkonen...

<sup>45</sup> Keane, *pp. 54-55*

<sup>46</sup> Mahajan, *p. 1191*

The period between 17<sup>th</sup> and 19<sup>th</sup> century held the conception that '[a] limited democratic state, and even a constitutional monarchy was perceived to be a vehicle of democratization and secularization...However, the second half of the 20<sup>th</sup> century witnessed a loss of faith in the institutions of the state, and this led to a reconsideration of the earlier conception of civil society.'<sup>47</sup> Subsequently, 'the Marxian tradition became prominent as it challenged the network of relations — structures and institutions — based on the principle of individual rights where it allowed space for the pursuit of private interests.'<sup>48</sup> In his book, 'The Critique of Hegel's Philosophy of Right', 'Marx emphasized the nexus between economic interests and political institutions. Focusing on the right to property sanctioned by civil society, he maintained that the latter lacked the ability to express universal interests common to society as a whole.'<sup>49</sup> He strongly criticized inequalities, arising out of civil society, and argued that 'any separation of spheres between state and civil society had to be overcome entirely.'<sup>50</sup> He '[c]learly distinguished civil society as a sphere of economic activity unlimited by political considerations, from 'bourgeoisie as social class'.<sup>51</sup> In other words, for Karl Marx, the concept of civil society was almost equivalent to political economy. This attempt to give civil society a largely socio-political character does not however really square with Marx's normal treatment of it. [A]s Alvin Gouldner says, "Marx normally emphasized that the social structures of civil society were not independent entities generating bourgeois society but were, rather, forms in which bourgeois society had emerged; that is, they were the products rather than the producers of the bourgeois class"<sup>52</sup>. In his analysis, 'Karl Marx rejected both terms of the Hegelian synthesis, while retaining Ferguson's insights and the basic structure of Hegel's portrait of modern societies. Civil society as the realm of inequality, plurality and competing interests meant little more than "man's exploitation of man" in Marx's eyes, and the supposed universalism of the liberal state, with its "rights of man" and rule of law, were abstract masks for the oppressive relations at the heart of liberal society, embodied especially in the work place.'<sup>53</sup>

In view of this unequal social order, Marx advocates for the abolition of state. Because, "civil society embraces all the material relations of individuals within a definite stage of the

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<sup>47</sup> *ibid.*,

<sup>48</sup> See Mahajan, '*Civil Society and its Avatars : What Happened to ...*,' pp.1191-1192

<sup>49</sup> *ibid.*,

<sup>50</sup> Gideon Baker, *Civil Society and Democratic Theory: Alternative Voices*, (London: Routledge), 2002, p.5

<sup>51</sup> Kumar, p. 379

<sup>52</sup> quoted in Kumar's *Civil Society: An Inquiry to the usefulness of its historical term*, p.379

development of productive forces. It embraces the whole commercial and industrial life of a given stage and, hence, transcends the state and the nation, though; on the other hand again, it must assert itself in its foreign relations as nationality and inwardly must organize itself as state.'<sup>54</sup> For Marx, the state was the manifestation of the bourgeoisies' selfish interests, which was used to further their own needs and desires, where 'oppression' and 'inequality' became the rule, rather than the exception. '[T]he formal 'freedoms' of civil society was, for Marx, a sham masking the deep structure of class inequality that defined this sphere in the first place. Real political freedom could only be attained if the working class took over state functions which, in being alienated from civil society reinforced the latter's individualistic, egoistic and therefore socially atomizing character.'<sup>55</sup> Furthermore, Marx holds the view that civil society does not mediate individual interests but was in the service of them. He calls for the transformation of civil society. Above all, this explains why the Marxist tradition opposes both the civil society and the state.

#### V. Tocquevillian Tradition

Alex de Tocqueville is another prominent figure for the growth and development of civil society. From his study on the American society vis-à-vis his book, *Democracy in America*, he had drawn a paradigm for the individuals' freedom, by stressing the need to form associations to achieve the collective goals. He 'attempted to define the state-society dichotomy, common not just in Marxism but in such other discussion of the time, and introduced a third region, a third term, that kept alive the idea of a political culture below or perhaps better around, the state.'<sup>56</sup> As a result, 'he was more optimistic than Hegel or Marx in his appraisal of the diverse associational life of the new United States, and he gave the civil society tradition a significant twist in arguing that America's diverse associations produced the habits of the hearth and civic skill necessary for political life in a democratic republic. In giving civil society a new twist, [h]e was the first to... articulate the need for strong, independent associations — 'corps intermediaries' as he terms them — to stand between the individual and the state.'<sup>57</sup>

Despite the nonexistence of civil society in Tocqueville's analysis, his contributions on the importance of "association" have a great impact in contemporary social and political theory.

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<sup>53</sup> Foley and Hodgkinson...

<sup>54</sup> quoted in Norberto Bobbio, 'Gramsci and the Concept of Civil Society', in Keane, (ed.), p.82.

<sup>55</sup> Baker, p. 5.

<sup>56</sup> See Kumar,, p.381.

<sup>57</sup> Baker, p. 6

Yet, '[d]iverse thinkers in the late nineteenth and early twentieth centuries continued to worry over the new associational complexity of industrial society. According to Tocqueville, arguments in defence of a state, which governs civil society in the name of the universal interest, are implicated in a dangerous development: the growth of a new type of state despotism which is popularly elected. Drawing on his study of American Government and society (as well as his re-examination of the French Revolution in *L' Ancien Regime et La Revolution*), Tocqueville emphasizes that it is not conflict and disorder generated by particular interests but this new form of elected state despotism, which is the principal hazard confronting modern nations.'<sup>58</sup> He further '[o]bserves that in the political realm [*societe politique*] everything becomes disputed and uncertain...Those who live in democratic nations consequently look upon political power with a jealous eye; they are prone to suspect or despise those who wield it and are thereby impatient with arbitrary state regulation. The state and its laws lose their divinity. Coming to be regarded as necessary and/or expedient and as properly based on the voluntary consent of the citizens.'<sup>59</sup> Moreover, he maintained that '[t]he dilemma of modern civil societies is that they must extend social right to everybody or to nobody.'<sup>60</sup> Thus, '[f]or Tocqueville, looking in bewilderment at the totalitarian implications of statist, centralizing and, as he saw it, potentially stifling and conformist developments in post-revolutionary France, and for the Central Eastern European oppositions considering their weakness in the face of even greater 'totalization' from above, the importance of the 'self-defence' of society against the state must *have* been equally apparent.'<sup>61</sup> Moreover, as he strongly believes in associations, 'he is certain that these kinds of political checks upon despotism must be reinforced by the growth and development of civil associations, which lie beyond the control of state institutions.'<sup>62</sup> '[T]ocqueville claims that the associational experience has an effect on *the inner, moral life of those who participate*, that is, the experience of participating in cricket teams, *Sampradays*, choral societies and political clubs builds in members a sense of fellow feeling and efficaciousness, a capacity to trust and influence others.'<sup>63</sup> To achieve these goals, an all-encompassing civil society, which is independent of the state is indispensable.'<sup>64</sup> Above all, civil society is needed for the sustenance of democracy. Thus, 'Tocqueville removed the

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<sup>58</sup> *ibid.*,

<sup>59</sup> Keane, pp. 55-56

<sup>60</sup> *ibid.*, p. 57

<sup>61</sup> Baker, p. 6

<sup>62</sup> Keane, p. 60

<sup>63</sup> Hoerber Susanne Rudolph, "Civil Society and the Realm of Freedom". *Economic and political weekly*, May 13, 2000, p. 1763

<sup>64</sup> Keane, p. 62

ambiguities from the discussion of publicity, discovered in voluntary associations a modern equivalent compatibility of civil society and democracy, albeit in a context (America) that he considered to be an uncharacteristic version of modern society.<sup>65</sup>

With the thought of Tocqueville, 'civil society's 'liberal substance' comes to full consciousness. His sophisticated political sociology leads us to a clearing understanding of the role of free association in liberal democracies...In these circumstances: individuals seldom attempt to act alone, on their own accounts. Rather, they must associate together to do what government would do otherwise.'<sup>66</sup>

## **VI. Gramscian Tradition: Innovation of Civil Society**

Antonio Gramsci became foremost in the Marxian tradition as he modified, or for that matter, innovated the concept of civil society to a great extent. Unlike other Marxists, his contributions to the development of social and political theory have wide influences. Gramsci '[i]solated civil society as a category of importance in its own right.'<sup>67</sup> as 'he was the first and most important Marxist to abandon the economist reduction of civil society to political economy and to insist on its autonomy and distinctiveness from the state (political society).'<sup>68</sup> In his view, civil society belongs to the super structural sphere, rather than the general Marxian views; i.e, the substructure.<sup>69</sup> With these views, it came to light the existence of hegemony and domination, consent and coercion in every existing system.

Gramsci's chief contribution to the conceptualization of civil society lies in 'his emphasis on its politically relevant cultural dimension: Civil Society is construed both as a symbolic field and a network of institutions and practices that is the locus for formation of values, action-orienting norms, meanings, and collective identities.'<sup>70</sup> Like the other Marxists, the state is the manifestation of the bourgeoisie class, '[ t]hough holders of state power may have their own interests, at times at variance with those of economic elites. But state power is not just

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<sup>65</sup> Cohen and Arato, p. 117

<sup>66</sup> Bahmueller, ' *Civil Society and Democracy Reconsidered...*

<sup>67</sup> Baker, p. 6

<sup>68</sup> Jean Cohen: "Trust, Voluntary Association and Workable Democracy: The Contemporary American Discourse on Civil Society in Democracy and Trust (ed.), Warren, Marke, E: Cambridge University Press, 1999. p. 214

<sup>69</sup> Keane, p.82.

<sup>70</sup> *ibid.*, p. 214.

domination, not simply a matter of brute force; it is also, in the stable state, a matter of “hegemony”, or the ideological and cultural acceptance of class rule by members of dominated classes. Civil society, in Gramsci’s view, is the arena in which the struggle for hegemony unfolds. Thus it provides an opening for counter-hegemonic projects to gain strength.<sup>71</sup> In his views, ‘this hegemony is built on the web of interactions and connections of family, economy, law and informal norms. Gramsci described civil society in a much different sense from his forerunners: as an arena in which battles for class power and against capitalism are fought. That arena is occupied by a struggle for material, ideological and cultural control over all of society including the state, which is not, as in Hegel, the expression of universal will but, as in Marx, the instrument of class domination.’<sup>72</sup> Gramsci holds the conception that the dominant class established its ideological and political hegemony through civil society alone. He was not only analyzing the prevalent problem in a given time. Like other Marxists, he devised ways and means. Therefore, to counter that hegemony, he calls for class struggle in the civil society.<sup>73</sup> For him, ‘[c]ivil society is a constitute factor of two different processes which happen interdependently but without fully overlapping: the process which moves from the base to the superstructure, and the one which takes place within the superstructure itself. The new historical bloc will be the one where this ambiguity also will be resolved by the elimination of dualism in the superstructural sphere. In Gramsci’s thought, the end of the state consists precisely in this elimination.’<sup>74</sup>

Indeed, he ‘[w]as the first to articulate the idea that Civil society, in a moment for counter-hegemony, could actually be resistant state power as, in his well known phrase, so many ‘earthworks and buttresses’ Despite the difficulties of interpretation, Gramsci’s thought had considerable impact on the Left in the West and the Third World, but also in the Communist world. Thanks to Gramsci; “Cultural Struggle” became a part of the repertoire of oppositionist movements around the world. Gramsci’s influence can also be traced in the decision by dissidents such as Adam Michnik in Poland and Vaclav Havel in Czechoslovakia to develop the struggle against the “post-totalitarian” dictatorships of Eastern Europe. Michnik opened the eyes of the secular Polish opposition to the importance of the Catholic Church as a source of independent life

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<sup>71</sup> See Norberto Bobbio : “*Gramsci and the concept of Civil Society*”, in , John Keane (ed), pp. 73-100, provides a more subtle (and controversial) reading of Gramsci’s intent and his relation to Orthodox Marxism.

<sup>72</sup> Dan Gallin, “*Civil Society - A Contested Theory*” *Euro-WEA Seminar on Workers’ Education and Civil Society*, Budapest, June 16-17, 2000.

<sup>73</sup> See Sanjay Kumar, “*Civil Society in Society*” *Economic and Political Weekly*. July 29, 2000. p. 2777

<sup>74</sup> Keane, p. 96



in Polish society, while Havel developed an analysis of the ways in which even subtle forms of “living with the truth” could become the basis for social change under the oppressive weight of the “post-totalitarian state.” Nevertheless, the result in case after case was not “social transformation” but a return to forms of liberal democracy that, in the difficult economic circumstances of the 1980s and 90s, were largely incapable of realizing the aspirations for a better way of life that had driven forward much of the struggle on the left. In these circumstances, “Civil Society” quickly became the slogan of new generation of professionally staffed non-governmental organizations committed to public advocacy around narrow questions of policy.<sup>75</sup>

### *Re-emergence of Civil Society*

We have discussed that liberal democratic theory has always been associated with the concept of civil society, as ‘it has acquired a new resilience and visibility in recent decades. It has been maintained by theorists that two contemporary developments have contributed to this. One was the break-up of the communist regimes in Eastern Europe. The other impulse, which contributed to the contemporary focus on civil society was the rejuvenation of the Tocquevillian tradition of celebrating associational pluralism in the U.S. So, [d]espite its western European pedigree, we must look outside west European thought to account for the re-emergence of the idea of civil society in recent years. This re-emergence had much to do with the events surrounding solidarity, the independent trade union, with its unique activities in communist Poland during 1980-81, and thus also with the theoretical – political models worked out by the polish democratic opposition during and when before this period.’<sup>76</sup> In this resurgence, ‘Andrew Arato helped to restart the debate on civil society in the west with his 1981 analysis in the then left –wing journal *telos*, of the solidarity events the State (Arato 1981). Arato was thus the first to use previously contextualised polish debate about civil society as a category of political theory generally ---- that is, as connected to notions of the public sphere allegedly applicable to all societies (Ely 1992 : 176).’<sup>77</sup>

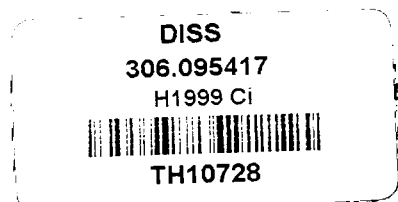
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The prevailing conditions in the eastern European communist states had drawn a worldwide attention. Accordingly, ‘Rupnick and other western commentators took the emergence

<sup>75</sup> Foley and Hodgkinson..

<sup>76</sup> Baker, p. 13.

<sup>77</sup> *ibid.*, pp. 13-14



of the dissident movement in Poland seriously as an exciting and significant development within communism, there was, however, until August 1980, an air of utopianism and wishful thinking about the rebirth of civil society. The strikes of that month and the signing of the agreements between workers and the government representatives in Gdansk, Szczecin and elsewhere, which allowed the formation of independent, self-governing trade union, suddenly turned the dream into reality or at least the beginning of reality.<sup>78</sup> Hence the need to strongly emphasize the suddenness; 'the tiny group of worker and their intelligentsia backers, who in the 1970s had set up committees to spread the idea of free unions, expected years to pass before it became practicable.'<sup>79</sup> But to their relief, the Polish party leadership gave in to their unprecedented demands instead of suppressing them by military force which ultimately led to the birth of solidarity.<sup>80</sup> Indeed, 'the changes which the establishment of solidarity brought about in the Communist power system and in Polish society gave the phrase 'rebirth of civil society' a new and far deeper meaning. A sizeable body of literature interprets the event of 1980-81 in the light of the concept of civil society. The subsumption of the history of Polish dissent, and Solidarity in particular, under the category of civil society is a truly remarkable intellectual development.'<sup>81</sup> In view of this situation, it is pertinent to discuss the Poland's Solidarity, which 'came to epitomize civil society as a seedbed of more active human rights claims and dissident movements.'<sup>82</sup>

Poland, apart from other eastern European states, stands foremost in the sense that the idea of civil society occupied a center stage as a 'means' of resistance to communism. Because, 'with the advent of solidarity in 1980, a new hope arose that civil society could save society as a whole from a limitless feature of bleak communist rule. Here at last was a glimmer of social activity independent of state domination; here was the self-organization of society, a new home for solidarity movement used the concept (civil society) to describe" democratic political government of the people and for the people but also the hope of liberal society with freedom of thought, freedom of belief and market economy.'<sup>83</sup> In view of the prevalent situation, it is noteworthy to quote Michnik, who stressed that; '[t]he institutional form of solidarity must be left open... No nation has ever been given human rights as a present. These rights have to be won through struggle. The

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<sup>78</sup> Z.A. Pelcynski, 'Solidarity and The Rebirth of Civil Society in Poland, 1976-81', in Keane (ed), p.363.

<sup>79</sup> *ibid.*,

<sup>80</sup> See Keane, p.363

<sup>81</sup> *ibid.*,

<sup>82</sup> Stephen Macedo, *Liberal Virtues: Citizenship, Virtue and Community* (Oxford: Oxford University Press), cited in Rosenblum and Post (eds.), p.17

<sup>83</sup> See Muukkonen...

question is: how should this struggle be conducted? I know that no generalized moral values can replace political perspectives.’<sup>84</sup> In fact, the Solidarity’s preamble had been a great thrust as it united the people against the repressive tendencies of the State.<sup>85</sup>

As the resistance movement became strong, ‘the shock of Solidarity forced the Polish communist party to seek ways of winning back the support of the working class and a measure of acceptability from society as a whole. Battling against various internal and external obstacles, it pursued a renewal policy of its own: ‘socialist renewal’, as it was called.’<sup>86</sup> Besides, ‘the creation of the Solidarity trade – union movement gave a boost to the genuine civil society within the framework of an economy dominated by the state, which was in turn dominated by the communist party.’<sup>87</sup> Above all, ‘the solidarity movement in Poland was one of the most dramatic developments in Eastern Europe during the Cold war. It was not a movement that began in 1980, but rather a continuation of a working class and Polish intelligentsia movement that began in 1975, and continued in two other risings, in 1970 and 1976. It originated in the working class, but unlike the previous three risings, it also worked with and was involved with the Polish intelligentsia was one of the most important groups to emerge during this period. They remained a distinct social class that is composed of those with higher education, or those who at least share similar tastes.’<sup>88</sup> Such a united effort greatly contributed to the transformation of the Polish society. ‘[T]he significance of the Polish theorists’ model of civil society, then, especially in its recovery... of the totalitarian paradigm, was that it helped to conceptualize and apply to political practice a critique of the state dominance that sought to radicalize the insight of liberalism.’<sup>89</sup>

Apart from the Polish Solidarity movement, the influence of the Tocquevillian tradition in America helped contribute to the re-emergence of civil society in the contemporary social and political theory. To a large extent, ‘the current American debate has strong affinities with the approach of the pluralist school of the 1950s. Both draw on the socio-cultural tradition of political analysis introduced in the nineteenth century by Alexis de Tocqueville’s study of American democracy. The pluralists developed the Tocquevillian concept of a civic culture and focused on

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<sup>84</sup> Michnik, ‘*A New Evolutionism*’ (1985:55) cited in Baker, p.27

<sup>85</sup> For details of the preamble, see, Keane, p.370

<sup>86</sup> <http://www.planetpapers.com/assets/35.php>

<sup>87</sup> Keane, 377

<sup>88</sup> <http://www.planetpapers.com/assets/35.php>

<sup>89</sup> Keane, p.31.

the relation of cultural and social factors (including participation in the autonomous associational life of civil society) to responsive and effective democratic government'.<sup>90</sup>

In Tocquevillian Tradition, the idea of associationalism remains the cent restage. Associations can empower citizens. The citizens, therefore, have to act collectively to confront the state as agents and participants. Tocqueville strongly emphasizes 'group action', because in isolation, or individually, they cannot achieve their desired goals. In other words, the collectiveness can resist or influence the state to a greater extent.

Putnam, in his book, *Bowling Alone*, 'examines trends in the United States over the last 30 years and argues the obverse: weakening society, weakening economy; weakening the society, weakening state. According to Putnam the basis of "civil community" has been eroding in the United States since 1960s. We have been depleting our national reserves of social capital, social trust, and generalized reciprocity for mutually beneficial collective of "traditional secondary associations like the boy scouts, parent – teacher associations (PTAS), the league of women voters, and even weekly bowling leagues.'<sup>91</sup>. He went on to 'argue that "social capital"-- defined as social networks and the social trusts and norms of reciprocity that sustained them ---- was crucial to a healthy democracy and healthy economy. Though roundly criticized by a variety of authors'<sup>92</sup>, 'Putnam's arguments have been tremendously influential both in the social sciences and the popular press. He maintained that; "[S]ocial capital... refers to features of socialization, such as trust norms, and networks, than can improve the efficiency of society by facilitating co-ordinated action (1993:169).'<sup>93</sup>

Further, 'Robert Putnam claims...that democratic government is more responsive and effective, when it faces a vigorous civil society...He argues convincingly that horizontally organized voluntary associations that cut across social cleavages are more likely to nourish wider social cooperation, to reinforce norms of reciprocity and thus to "make democracy work" than hierarchical segmental organization or clientelistic structures (Putnam 1993: 173 – 175).'<sup>94</sup> Yet,

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<sup>90</sup> Warren, Democracy and Trust, p. 209

<sup>91</sup> Michael W. Foley & Bob Edwards, 'The Paradox of Civil Society', *Journal of Democracy*, Vol. 7, no. 3, (1996), pp-38-52

<sup>92</sup> Foley and Edwards, 'The Paradox of Civil Society'

<sup>93</sup> Rudolph, p.1763

<sup>94</sup> Cohen, p.217.

his weakness lies in the sense that 'he reduces civil society to the dimension of voluntary associations and construes the latter as the sole source of what he calls social capital.'<sup>95</sup> Despite his limitations, 'Putnam's historical chapters provide a rich description of the emergence of civiness and what it needed to take root, at least in the north of Italy. Here in addition to the dense network of associational life and the oaths of mutual assistance sworn by members of associations in the early, communes, Putnam mentions the importance of institutions and institutionalized norms, such as the professionalization of public administration and credible state impartially in the enforcement of laws, for the maintenance of social trust.'<sup>96</sup> Robert Putnam, 'though he misinterprets his own data, his research suggest that well – designed political institutions--apolitical opportunity structure --- that could become an incentive to civic action to engage, and a target of influence for them once they do.'<sup>97</sup>

### *Contemporary Conception of Civil Society*

By analyzing the conceptual history of civil society from the Aristotelian Tradition to the Gramscian Tradition and its subsequent re-emergence/resurgence, one finds the indispensability of creating an autonomous space— independent of the state to further the rights and liberties of the individuals. As the consciousness of such ideals grows deeper, 'the concept of civil society is gathering momentum today as the search continues for forms of community and political action outside what is often seen as a discredited state.'<sup>98</sup> However, 'in contemporary discussion, there is no agreement about the proper location of the sources of civil society, sources, which ought to and actually can restrain and moderate the state. One response, which for convenience might be called a 'liberal position, sees the effective powers of civil society as basically residing in the economy, in property rights and markets where such rights may be freely exchanged. Another view, a 'radical' position, locates civil society in a 'society' independent of the economic domain and the state, where ideas are publicly exchanged, associations freely formed, and interest discovered...'<sup>99</sup> As stated above, 'in its original sense, it allowed no distinction between 'state and 'society' or between political and civil society: It simply meant a community, a collection of human beings united within legitimate political order, and was seriously rendered as 'society' or 'community'. It

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<sup>95</sup> *ibid.*, p.217

<sup>96</sup> *ibid.*,pp.217-218

<sup>97</sup> *ibid.*, p.223

<sup>98</sup> Baker, p. 1.

<sup>99</sup> Kaviraj, pp.13-14

was Hegel who first bifurcated the concept, but in a way whereby state and civil society functioned in his account as redéscriptions of one another.<sup>100</sup> As a matter of fact, 'civil society is almost always associated with democracy. Yet there continues to exist vast differences of opinion about what is civil society and the precise manner in which it is linked to democracy.'<sup>101</sup> Having discussed the various strands developed in the conceptual history of civil society, let us further analyze as to what extent the contemporary political and social theorists carry forward the concept, and develop their own conception of civil society.

In the views of For Jurgen Habermas, the most influential of New Left theorist, 'civil society is the source of self-reflexivity in society, without which democracy itself dries up. That is, the institutions of civil society must act to protect the autonomous development of public opinion in the public sphere from being undermined or colonized by state bureaucracy—the system of power—and by the economic power of the market—the system of money.'<sup>102</sup> He 'argues that system integrating and symbolic integrating functions characterize societies. Symbolically integrating aspects are those such as the family and the inter-personal relations, which are based on consensus. Systems integrating ones are those that relate to political power and economy. Traditionally, according to Habermas, these two modes of integration functioned in tandem, but in modern societies have uncoupled them. The 'life world', which is the zone of consensus and easy inter-subjectivity, is now overwhelmed by the system integrating forces of money and power.'<sup>103</sup>

Habermas strongly stressed the concept of 'public sphere'. As a matter of fact, 'the category of public sphere was already present in eighteenth-and nineteenth century understandings of civil society, but its normative weight and its role in mediating between the particular and the general were not classified until recently.'<sup>104</sup> Moreover, he 'developed a communicative, deliberative conception of public sphere. The public sphere is where people can discuss matters of mutual concern as peers, and learns about perspective of other. Discourse on values, norms, laws and policies generate politically relevant public opinion.'<sup>105</sup> It is interesting to note that 'Habermas also recognized institutionalized civil and political publics such as legislatures and constitutional courts.

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<sup>100</sup> *ibid.*, p. 17

<sup>101</sup> Mahajan, p.1188

<sup>102</sup> Habermas; 1992:444, cited in Baker, p.7

<sup>103</sup> Dipankar Gupta, *Culture, Space and the Nation State*, (New Delhi : Sage Publications), 2000, p.163.

<sup>104</sup> Cohen, p. 215.

<sup>105</sup> *Ibid.*

Public opinion is meant to influence the debates within these institutions, and bring under informal control of the actions and decisions of rulers and lawmakers'<sup>106</sup>, so that the rule of law can prevail in a given system through the assertive and active role of the public opinion. It is worthwhile to mention that 'the normative conception of the public sphere also has a democratic-theoretical component; openness of access, free discursive contestation and debate, and parity of participation (equal voice) are at its core... The concept of the public sphere thus brings together the normative and the empirical, the universal and the particular.'<sup>107</sup> As he reformulated the Kantian categorical imperative<sup>108</sup>, we have seen that Habermas has a strong attachment to the civic tradition from Machiavelli through Rousseau and Arendt as his political vision entails deliberative communication rather than a struggle among interests.

On the other, Michael Walzer made a significant impact in the contemporary understanding of civil society. Stressing on the development perspectives, he maintained that civil society--which is independent of the state should be the "space" to empower the citizens democratize the delivery of welfare services. Walzer emphasizes that civil society, 'requires a new sensitivity for what is local, specific, contingent-and above all, a new recognition...that the good life is in the details.'<sup>109</sup> For him, 'civil society is the realm of "uncoerced human associations" and the set of relational networks-formed for the sake of family, faith, interest, and ideology-that fills the space"<sup>110</sup> The new attention to civil society, in Walzer's view stems from the use of the term in the Eastern European struggles against tyranny, but it responds to long-standing dissatisfaction with competing visions of the basis for the good life-democratic citizenship, socialist citizenship, free markets, nationalism. In fact, what Walzer calls "the civil society argument" is a corrective to the narrow focus of these visions of humankind as active citizen, worker and maker, consumer, and patriot, respectively-to the neglect of human relationships outside these narrow spheres. Yet civil society alone does not provide a lasting solution to the organization of modern life, in Walzer's view because civil society itself depends upon a functioning political community. There is no escape from power and coercion, no possibility of choosing, like the old anarchists, civil society alone.'<sup>110</sup> Moreover, what Michael Walzer calls "the paradox of the civil society argument" is that a democratic civil society seems to require a democratic state, and a strong civil society seems to

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<sup>106</sup> Ibid.,

<sup>107</sup> Cohen, p.216

<sup>108</sup> See Cohen and Arato, p.349.

<sup>109</sup> Michael Walzer, 'The Idea of Civil Society', *Dissent*, Spring, 1991, p.304

<sup>110</sup> Foley and Hodgkinson...

require a strong and responsive state. The strength and responsiveness of a democracy may depend upon the character of its civil society reinforcing both the democratic functioning and the strength of the state. But such effects depend on the prior achievement of both democracy and a strong state.’<sup>111</sup>

Besides, Walzer ‘recognizes that in actually existing civil societies, many associations do not teach the virtues of democratic citizenship. As he puts it, “people are trapped in one or another subordinate relationship, where the civility’ they learned was deferential rather than independent and active”. In these circumstances, he says that we have to ‘reconstruct’ the associational network ‘under new conditions of freedom and equality’. Similarly, when the activities of some associations ‘are narrowly conceived, partial and particularist’, then ‘they need political correction’. Walzer calls his view ‘critical associationalism’ to signify that these associations of civil society may need to be reformed in the principles of citizenship.’<sup>112</sup> Stressing on the importance of civility, Walzer says, ‘the civility that makes democratic politics possible can only be learned in the associational networks’ of civil society.’<sup>113</sup> However, Walzer is concerned about the grave prevalent circumstances as he says that, ‘there is growing fear that the civility and public-spiritedness of citizens of liberal democracies may be in serious decline.’<sup>114</sup>

Nevertheless, central to Walzer’s views lies in his conception of civility. Because, ‘civil society involves upholding norms of equality within the public life of a society, including civil society, and thereby upholding essential liberal norms and values.’<sup>115</sup> So, ‘in reflecting on the prospects for civility and democracy, it is useful to remind ourselves that pluralism is by no means a uniquely modern problem. Societies in which people from varied religious, ethnic, linguistic, and racial backgrounds live within a single political order have existed at least since ancient times. More recently, such states as *Mughal India*, the *Ottoman Empire*, *West African Asante*, and *Majapahit Java*, all incorporated a diverse array of peoples and cultures and were involved with a social and economic macrocosm extending far beyond their borders. To borrow an image from John Hall, premodern political integration was usually organized around a “civility” of social cages.’<sup>116</sup>

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<sup>111</sup> Michael Foley and Edwards, ‘The Paradox of Civil Society’, *Journal of Democracy*, Vol.7, no.3, 1996, pp.38-52

<sup>112</sup> Will Kymlicka, ‘Civil Society and Government: A Libertarian-Egalitarian Perspective’ in Nancy L. Rosenblum and Robert C. Post (eds); (Princeton: Princeton University Press), 2002, p.85

<sup>113</sup> quoted in Kymlicka, ‘Civil Society and Government,,’ in Rosenblum and Post

<sup>114</sup> quoted in Kymlicka, “ “

<sup>115</sup> Robert W, Hefner, ‘Civil Society and Democracy’ ,*Features*; May-June, 1998, Vol. 2, no,3

<sup>116</sup> *ibid.*,



More importantly, '[d]emocratic civility is not an ideological illusion or mere instrument of hegemonic control. On the contrary, it is an idea that has mattered in modern history, and mattered greatly.'<sup>117</sup> Thus this indicates that civility can conjoin people across diverse civilization, which can facilitate interaction despite social divides.

Edward Shills, who has a strong attachment to the modernization theory dichotomies...thought 'civility' is greatly concerned with the common good, 'because ascribed associations were incapable of being concerned with the common good, they could not be a path to civil society. The public spirited citizen is one 'who thinks primarily of the civil society as the object of his obligations, not of the members of his family, or his village, or his party....'<sup>118</sup>. 'In a speech delivered at the Athenaeum club in London in 1991, Shills claims that the association between virtue as public spirit or civility, and republican governments, has unfortunately been neglected by academics. He goes on to argue that understanding the term *Civil society* is critical to the elaboration of virtue of a political regime. Shills (1991) notes that civil society has three main components:

- (a). That part of society comprising a complex of autonomous economic, religious, intellectual—and political institutions which are distinguishable from the family, clan, locality or state,
  - (b) A complex of relationships with formal rules and procedures and practices to safeguard the separation of state and civil society, yet which maintain effective ties between them,
- © A widespread pattern of refined or civil matters.'<sup>119</sup>

Thus, 'civil society, as understood by Shills, provides the distinguishing characteristic of decency which differentiates a well-ordered from a disordered liberal democracy.'<sup>120</sup>

Apart from Edward Shills, Benjamin Barber has a great conviction as he 'rightly set out to fix the confusion over 'civil society' from the notion of Adam Smith to Hegel—who holds a contemporary conception of the term. The idea of civil society, he notes in *A Place for Us*, has been championed by zealous partisans of almost every ideological persuasion.'<sup>121</sup> His goal, 'which is both theoretical and practical, is to convince the people that the best notion of civil society is one

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<sup>117</sup> Hefner, p.1766

<sup>118</sup> Shills, 1992: 1-15, cited in Rudolph, p. 1766.

<sup>119</sup> Bryan H. Massam, *An Essays on Civil Society*, <http://sfu.ca/cedc/research/civilsoc/massam2.htm>

<sup>120</sup> *ibid.*,

<sup>121</sup> Anne Kornheiser on Benjamin R. Barber, *Civreviews*, January-february, 1999, vol. 3, no.1

that can 'mediate between public and private, between community and individual, and between the power of public communities and the liberty of private individuals.'<sup>122</sup> Analyzing on the diminishing trend of the western states, he says, 'For all the talk about politics in Western democratic regimes, it is hard to find an all the daily activities of bureaucratic administration, judicial legislation, executive leadership, and party policy-making anything that resembles citizen engagement in the creation of civic communities and in the forging of public ends'<sup>123</sup>. Therefore, stressing on the necessity of civil society, he says, 'Without a civil society to nourish engaged citizens, politicians turn into professionals; out of touch with their constituencies, while citizens are reduced to their whining antagonists or turn into ungrateful clients of government services they readily consume without being willing to pay for.'<sup>124</sup> Moreover, in his 'taxonomy of civil society, libertarians and communitarians, who are generally at odds with one another, share one very important premise: that civil society is an essentially private realm.'<sup>125</sup>

As he strongly believes that civil society can enhance the growing human wants and needs, in his *Strong Democracy*, he 'sees civil society precisely as a key ingredient in reviving Aristotelian and Tocquevillian notion of active citizenship nurtured in 'strong democratic community'. By the latter, he means a community characterized by active participation grounded in on-going civic education, open arenas for participation, and real decision-making possibilities for ordinary citizens, in Aristotelian vein. '[H]e argues that civic virtue grows out of civic practice, not the reverse.'<sup>126</sup> Above all, 'civil society is in fact the domain of citizens; a mediating domain between private markets and big government. Imposed between the state and the market, it can contain an obtrusive government without ceding public goods to the private sphere, while at the same time it can dissipate the atmosphere of solitariness and greed which surround markets without suffocating in an overly energetic big government's exhaust fumes.'<sup>127</sup> From this observation, it has been observed that civil society exists in the arena between state and market.

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<sup>122</sup> *ibid*,

<sup>123</sup> quoted in Brendan Howe, 'Democracy, Participation, the State and the People..' *People for International Conference on Civic Education*, Seoul Korea, December 10, 2001, [http://www.civnet.org/journal/journal\\_frameset.htm](http://www.civnet.org/journal/journal_frameset.htm)

<sup>124</sup> quoted in Benjamin Barber, *Three Challenges to Reinventing Democracy*, in Hrist and Sunil Khilnani (eds) (Oxford: Oxford University Press), 1996, p.148

<sup>125</sup> Kornheiser...

<sup>126</sup> Foley and Hodgkinson

<sup>127</sup> Barber, *Strong Democracy*, p.152.

Adam Seligman, a Weber-oriented sociologist, has also made significant contributions to the growing concept of civil society. In the light of the Lockean tradition, '[S]eligman begins by tracing both the origins and the metamorphosis of the concept of civil society. Pointing out that the late medieval breakdown of Catholic *universitas* required at least among Protestants, a new symbolic representation of the nature of society; i.e., *communitas*.'<sup>128</sup> In his views, the concept of civil society grows out of 'secularization'.

In addition, the contributions of Adam Smith have also been of no less significance. In his book, *The Idea of Civil Society*, written immediately after the fall of *Iron Curtain* in Hungary and published in 1992, Seligman notes that the concept of civil society 'has come to mean different things to different people'. Yet he observes that the social 'embodies for many an ethical ideal of the social order, one that, if not overcomes, at least harangues, the conflicting demands of individual interests and social good.'<sup>129</sup> His concept 'seems to imply that *society* to qualify, as 'civil' should seek 'the social good' while permitting the need for some 'diversity'. Some notion of 'individual' interest, he asks why individuals should trust in or sacrifices for their society. In what ways do we reconcile our private interests with the demands of social existence.'<sup>130</sup> To put in other words, 'not wishing to appear libertarian in any way, Seligman is quick to point out that 'the problem of liberal-individualist ideology...is how to contribute a sense of community among and between social actors who are concerned of interests of autonomous individuals. Above all, civil society [for Seligman] seems to be a vicious circle encompassing 'autonomous' individual interests and the (logically and empirically presumed opposite) social good and 'a sense of community.'<sup>131</sup>

### Functions/ Role of Civil Society

We have discussed the various views on civil society by the different social and political theorists across the world in a divergent, contradictory way. From their definitions, and conceptions, we could thus somehow grasp the idea of what role/function the civil society play should. Yet, it may still missed out the specific functions, which could justify the *raison d'être* of

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<sup>128</sup> Alan L. Mittleman, Book Review of *The Idea of Civil Society*, *First Things*, vol. No.40. January, pp. 44-46, <http://www.leaderu.com/ftissues/ft9401/reviews/mittle.html>

<sup>129</sup> *ibid.*

<sup>130</sup> *ibid.*...

<sup>131</sup> *ibid.*,

civil society in a democratic polity. To get clearer insights, let us discuss some of its specific role and functions. As a matter of fact, 'it is generally recognized in the literature on the topic that the existence of an active civil society in a country is linked to the vitality of political democracy. Moreover, the literature on the subject emphasizes that civil society has a number of functions for democracy: (a) protecting the citizens against the state arbitrariness. (b), maintaining a balance between society and the state, based on the rule of law, (c) disseminating the democratic values of tolerance, honesty and mutual acceptance, (d) the creation of a public sphere of discussion and finally that of (e) moderating social conflict, by crisscrossing socio-cultural loyalties.'<sup>132</sup> Having listed down some of its important role and functions, let us analyze them by clubbing together under the following:

### *Citizenship, Civility and Humane Governance*

Citizenship, civility, and humane governance, apart from others, are closely associated with the notion of civil society. To realize these goals, citizens in a democratic country, collectively put their trust solely on civil society. Indeed, '[m]odern citizenship-the package of legal, political, social, cultural and economic rights and duties that regulate the relationship between rulers and ruled-is the outcome of the rationalizing activity of the rising modern state, accelerating from the 17<sup>th</sup> century onwards.'<sup>133</sup> However, it is unfortunate to note that 'citizenship in a modern state, even in a liberal democracy with its positive norms of public respect and venues of effective participation, is often circumscribed.'<sup>134</sup> Moreover, it is difficult to see how a political democracy can survive if individuals' private lives are so controlled by undemocratic elements. If 'politicians see themselves as managers of a state to be devolved to managers, using financial controls and supervisory auditing to control lesser officials and contractors.'<sup>135</sup>, then, the role of civil society in counter-balancing such degenerating tendencies is the need of the hour. This necessitates the role of civil society in cultivating robust, or *avant garde* citizenship, who can remain as the 'watchdog' on the functioning of the government. Unarguably, the 'function of the

<sup>132</sup> <http://www.knaw.nl/indonesia/transition/workshop/chapter6Wolters.pdf>

<sup>133</sup> Schopfin, *Civil Society, Ethnicity & the State: A Threefold Relationship*, <http://www.ssees.ac.uk/gsl.htm>

<sup>134</sup> Rosenblum and Post, p. 10

associational life of civil society is its role as school of arts of democratic citizenship.<sup>136</sup>; therefore, “[w]e need a ‘fuller, richer and yet more subtle understanding of citizenship’, because ‘what the state needs from the citizenry cannot be secured by coercion, but only cooperation and self-restraint in the exercise of private power.’”<sup>137</sup>.

Again, ‘citizenship is explicit, open to questioning directly and subject to continuous political engagement. [W]ithout the stabilizing element of citizenship, the exercise of power becomes arbitrary and generates insecurity...’<sup>138</sup> Therefore, ‘[c]itizens in a deep democracy must be aware of these ever-present tensions and liabilities, be vigilant in monitoring the action and effects of both state, economy and civil society and actively promote the limitation and balance of each by others.’<sup>139</sup> In the era of ever-increasing government power, public officials tend to bypass the citizens in decision-making vis-a-vis the formulation and implementations of policies and programs. Hence, an ‘important responsibility of citizens is to monitor those officials and judge their conduct. The need to engage in public discourse arises from the fact that the decisions of government in a democracy should be made publicly, through free and open discussion.’<sup>140</sup> Forecasting on the nature of governance, Aristotle claimed that ‘the pooled judgements of many different persons are likely to be wiser on the whole, and certainly less subject to gross error, than the judgement of one person or few.’ This explains the need for democratic accountability of leaders, and some of the reasoning behind that democracies are less likely to go to war.<sup>141</sup>

Indeed, participation is one of the most ingredients of a liberal democracy. Robert Dahl asserts that participation in the body politics gives one the opportunity for gaining a more mature sense of responsibility for one’s actions, a broader awareness of the others affected by one’s actions, a great willingness to reflect on and take into account the consequences of one’s actions for others and so on.<sup>142</sup> But without franchise, the idea of participation cannot really be realized.

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<sup>135</sup> Paul Q. Hirst ‘Democracy and Civil Society’, in Paul Hirst & Sunil Khilnani (eds.), p103

<sup>136</sup> Woldezhghi, ‘Civil Society, Civility and Democracy: The Role of Civil Society in the Promotion and Maintenance of Constitutional Liberal Democracy,’ [http://news.asmarino.com/Comments/August2001/WoldezhghiAlem\\_08\\_30.asp](http://news.asmarino.com/Comments/August2001/WoldezhghiAlem_08_30.asp)

<sup>137</sup> Alan Cairns and Cynthia Williams, *Constitutionalism, Citizenship, and Society in Canada* (Toronto: University of Toronto Press, 1985) as quoted in Rosenblum, Post (eds), p.84

<sup>138</sup> *ibid.*,

<sup>139</sup> Carolyn Hendrix, ‘The ambiguous role of Civil society in deliberative democracy’, paper presented to the Jubilee conference of the Australasian Political Studies Association, Australian National University, <http://arts.anu.edu.au/sssa/apsa/Papers/hendriks.pdf>

<sup>140</sup> Robert Dahl, quoted in Brendan Howe...

<sup>141</sup> quoted in Brendan Howe, “Democracy, Participation, the State and the People”, [http://www.civnet.org/journal/journal\\_frameset.htm](http://www.civnet.org/journal/journal_frameset.htm)

<sup>142</sup> *ibid.*

Stressing on the need for enfranchise of all, Mill maintained that, 'though everyone ought to have a voice-that everyone ought to have an equal voice is a totally different proposition'<sup>143</sup>.

Thus, '[w]ithin democracy, active and direct participation of citizens in decision-making is a valued goal, but it must also be realized that the majority is not the best guarantor of equal rights. Participation allows for the expression of popular will but it will also ensure that the decision of the majority prevails.'<sup>144</sup> Given the fact that government tends to behave in a despotic, or an authoritarian way, an "informed citizen" is a must to counter-check such tendencies. Therefore, the 'civil society should mould responsive, active citizens to check the undue behavior of the government. It has to educate [Citizens for Democracy].'<sup>145</sup> Moreover, 'democracy...must train each new generation in the ideas and practices of citizenship. The organizations of civil society can provide training ground for democratic action. Participating in meetings, recruiting members, organizing activities, public speaking, and the practice of quiet persuasion are some of the activities in which civil society can cultivate skills the arts of civil membership.'<sup>146</sup> The values of civil society also lie in the fact that 'it can promote of social pluralism by acquainting individuals with others unlike themselves. These experiences may go far toward fostering essential democratic values as respect and toleration for others.'<sup>147</sup> Thus civil society shall strive to cultivate "civility" amongst the citizens, the absence of which would ultimately be disastrous.

While there are many notions on civility doing the round, one stress that 'civility is more than good manners; it is also a form of political action which strongly implies that antagonists are also members of the same society. Treating others *civilly* marks them out as members of the same moral universe, just as doing so excludes them.'<sup>148</sup> It 'allows a degree of mutual recognition between individuals of different social groups.'<sup>149</sup> So, '[L]iberal citizens must learn to interact in everyday settings on an equal basis with people for whom they might harbor prejudice.'<sup>150</sup> Further, '[t]he ability to disperse power is also another important function and the hallmark of civil society. Membership in civil society associations can act psychological, social and economic barriers

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<sup>143</sup> *ibid.*

<sup>144</sup> Mahajan, p.1194.

<sup>145</sup> See Woldezghi, *Civil Society, Civility and Democracy.*

<sup>146</sup> *ibid.*,

<sup>147</sup> See Rosenblum, *Civil Society and Government*, (eds)

<sup>148</sup> Woldezghi...

<sup>149</sup> Kaviraj, p 29.

<sup>150</sup> Kymlicka, ' Liberal-Egalitarian Perspectives' in Rosenblum and Post (eds.), p.88

between individuals and political or social forces that demand submission against the individual's will. In addition, the activities of some organizations of civil society supplement, or substitute for government program by providing similar services of their own. Caring for the sick, the aged, the disabled, as well as the able-bodied who are poor, homeless, or mentally deficient are some of its other role and functions.<sup>151</sup> To put in a nutshell, civility implies upholding liberal values and norms.

On the other side, 'the role of civil society as mediator' between the individual or family and the state, is another major function. Because, in this space, different types of labour union, religious organizations, or other kinds of organizations discuss public issues, while they involve themselves in political issues, by virtue of membership and participation in their individuals can ultimately hear their voices in the councils of power more clearly than through formal political representation alone. Further, membership in voluntary associations encourages individual's moral and ethical concern for others, which ultimately fosters an ethic of responsibility towards the government and the society as a whole. Civil society, as a whole, enhances cooperation and civic action by mobilizing people through democratic process like dialogue and debate.<sup>152</sup>

Civil society shall also strive for the realization of humane governance. Humane governance implies an all-round development of a given system; it must, therefore 'enable the state, civil society, and the private sector to help build capacities, which will meet the basic needs of all people, particularly women, children and the poor. It requires effective participation of people in state, civil society and private sector activities that are conducive to human development.'<sup>153</sup> Besides, 'civil society organizations can have a constructive impact on political life -- by helping to foster fairer, more honest, transparent, democratic and accountable governance which is more tolerant of diversity and pluralism -- in two ways. First, these organizations can appeal to governments (or even pressure them) to improve their performance in these areas. Second, and in a subtler manner, they can encourage these things by practicing this sort of governance themselves, within their own organizations. This sets an example for government institutions. It also acquaints ordinary people both with the possibility of better governance (which puts pressure on government

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<sup>151</sup> Woldezghi...

<sup>152</sup> See Rosenblum and Post, pp.3-10

<sup>153</sup> <http://www.angelfire.com/wizard/trainingnet/govern.htm>

to improve) and can provide people with participatory experience that inculcates the skills needed to make such governance a reality.<sup>154</sup>

Apart from that, the involvement of civil society is vital in the fight against corruption. As such, 'civil society will increasingly become active where government does not reach and where the forces of market leave us with unwanted results.'<sup>155</sup> More importantly, 'towards government, civil society will have to play the roles of critic, catalyst and advocate of those interests unrepresented or underrepresented. Where government fails-because it is too weak or because problems cannot be solved through central planning or from above-civil society comes in. It can mobilize the people and it is needed to reach the hearts and minds of the ordinary citizens...It is essential to raise public awareness, to awaken society to the disastrous effects of corruption and to get across the message that fighting corruption is possible.'<sup>156</sup>

In summary, from the discussion on the conceptual history of civil society, it came to light that the concept itself is closely related to democracy, as it provides a 'space', a private realm-independent of the state to further not only individual's interests but also the development of both society and state. Indeed, '[e]arly modern political thought can teach us, its heirs, much about the 'perennial problems' of the modern state and civil society...The contemporary viability of a forward-looking normative theory of civil society and the state arguably depends in part upon its ability to look backwards, so as to build upon and imaginatively transform a heritage which becomes more precious the more it is half-forgotten, or abolished outright.'<sup>157</sup> Thus, it has been observed that early political philosophers/theorists, too, had devised ways and means so that the state and society could co-exist peacefully in their thinking about the conditions of citizenship and the character of good society. '[F]rom Aristotle, western thinkers and the societies they helped shape inherited perennial questions about what shapes citizens and contributes to civic virtue and civic engagement. But the consolidation of the modern state as the predominant form of political organization and the increasing division of labour and social complexity that went with it not only raised that question anew but provoked new question about the role that the ordinary occupations

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<sup>154</sup> <http://www.eldis.ids.ac.uk/static/DOC10892.htm>

<sup>155</sup> <http://magnet.undp.org/Docs/efa/corruption/Chapter05.pdf>

<sup>156</sup> *ibid.*,

<sup>157</sup> Keane, pp.28-29



and preoccupations of citizens play in the public sphere [civil society] and in building the good society.<sup>158</sup>

Yet, the term *Civil Society*, as we have argued, is still a contradictory one. One needs to develop a richer conception. For '[a] richer conception would allow one to consider the role of various paradigms of law, conception of rights, and designs of political institutions not only in establishing and protecting civil society and public spaces, but also in opening up key institutional arenas to multiple voices, projects, critical contestation.'<sup>159</sup> From the Eastern European experiences, we learn that 'democracy must be complemented by civil society'<sup>160</sup> as it provides the hope for the future-to fosters and defends liberal rights and freedom; the right to life, liberty, freedom of religion, association, speech, the press and the like.

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<sup>158</sup> Foley and Hodgkinson...

<sup>159</sup> Cohen, p.241

<sup>160</sup> Dotota I. Pietrezyk, 'Democracy or Civil Society, Politics: 2003, Vol. 23 (1), p.44

## CHAPTER – II

### NATURE OF THE MANIPUR STATE

The varied nature of the state is becoming interesting in contemporary political theory. The state regulates the conditions of individual life from 'birth registration to death certification. Yet, the nature of the state is hard to grasp... There is nothing more central to political and social theory than the nature of the state, and nothing more contested.'<sup>1</sup> Yet, the state which is not a unified entity is a multi-dimensional phenomenon, the nature of which varies across time and space.'<sup>2</sup> Before discussing the nature of Manipur state, let us take a brief look at the nature of the Indian State as a whole.

#### An Overview of the Indian State

The Indian state still bears more of the colonial legacy, 'which emerged from the independence movements inherited two rather contradictory legacies. It was, in a way, the direct success of the colonial state. Some of its institutions were shaped by the needs of colonial rule, and governed by principles formulated by the demands of colonial power. The structures of the army, bureaucracy, the police, the administrative rules through which government worked, and its larger relation of repressive aloofness from the ordinary people, were obviously consequences of this legacy. At the same time, the national state was also the product of the national movement committed, at least formally to the transformation of this structure in the interest of greater popular control.'<sup>3</sup> However, it is distressing to note that even after fifty years of independence, 'the foundational principles of the Indian nation state have been called into question, not least the very project of the nation itself.'<sup>4</sup> There has disarray or deterioration in the Indian democracy.<sup>5</sup>

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<sup>1</sup> David Held, 'Central Perspectives on the Modern State', in David Held, James Anderson, et al (eds) *State and Societies*, (Oxford : Martin Robertson & Ltd.), 1983, p. 1

<sup>2</sup> *ibid.*, p. 17

<sup>3</sup> Sudipta Kaviraj, 'Introduction, Sudipta, Kaviraj, *Politics in India*, (ed), Delhi : Oxford University Press, 1999, pp. 37-38

<sup>4</sup> Niraja Gopal Jayal, 'The State and Democracy in India or What happened to Welfare, Secularism and Development', in Vinita Damodaran and Maya Unnithan Kumar (eds) (Delhi : Manohar Publishers), 2000, p. 95 , *Post Colonial India*

<sup>5</sup> Bipan Chandra, et al (eds) *India After Independence*, (New Delhi : Viking Penguin India), 1999, p. 471

The degenerative tendencies of the Indian democracy, crisis or other problem have been manifested in various forms. 'The omnipresent but feeble state — has vacillated; its responses have varied over a wide range: indifference, sporadic concessions, and repression. [Therefore], in order to protect themselves, citizens in some parts of the country have begun organizing private armies. The growing political violence has periodically brought the armed forces into India's political arena, whereas the armed forces once were considered apolitical.'<sup>6</sup> To a large deteriorating scale, 'contemporary India is in a state of turmoil. This is a result of two main factors : a deep commitment to the democratic norm on the part of large sections of society giving rise to new stirrings of both consciousness and organization, and the powerful impact of the modern theory of development... which — produced profound dislocation in the economic, technological and resonance base of the Indian people.'<sup>7</sup> Furthermore, '[t]he sharp decline in the role of the state as mediator in social conflicts and the growing loss of faith in the political process among both the 'operators of the system' and the people at large are producing conditions of not just political instability but of incipient breakdown of the social order.'<sup>8</sup>

Given the degenerating tendencies, 'central to this scenario of social and political erosion is the sharp decline in the legitimacy and authority of what was till recently considered the key institution of civil society, namely the modern civil society. Both the conception of the state as a negative good in which an authoritative assumption of disproportionate power was considered essential for providing order and security and the more positive conception of the state as an instrument of liberation and transformation have of late suffered a decline in credibility.'<sup>9</sup> The concept of 'legitimacy may be defined as that political condition in which power-holders are able to justify their holding of power in terms other than those of the mere fact of power-holding.'<sup>10</sup> However, it crystal clear that 'the Indian state has been facing the crisis of legitimacy to such an extent that a dangerous degenerative trend in the

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<sup>6</sup> Atul Kohli *Democracy and Its Discontents*, (Cambridge University Press), p.3.

<sup>7</sup> Rajni Kothari, Kothari, 'Pluralist Politics in India-Cultural Roots, Recent Erosions, in D.D. Khanna and Gert W. Kueck , *Principles, Power and Politics*,(New Delhi: Macmillan Press), 1999, p.75

<sup>8</sup> Rajni Kothari, *State Against Democracy : In Search of Humane Governance* (Delhi : Ajanta Publications), 1998, p. (i)

<sup>9</sup> *ibid.*

<sup>10</sup> Paul G. Lewis, 'Legitimacy and the Polish Communist State' in Held & Anderson (eds.), p. 431

Therefore, '[t]he too frequent use of the armed forces to aid the civil power should seriously concern the nation. In the 20 years between 1951 and 1970, the armed forces were summoned to aid civil power on 476 occasions. In the 5 years between 1980 and 1984, the number was 369, that is an average of once every four days. As an institution, the nation is proud of its armed forces. If we are going to call out the soldiers day after day to messy political situations in all parts of the country like the anti-Mandal agitation, it can have a most deleterious fall out.'<sup>17</sup>

In view of this coercive nature of the state vis-à-vis its violations or interceptions of democratic rights in India as a whole that we shall examine the nature of Manipur state in this chapter.

### *A Short Historical Sketch of Manipur*

The state of Manipur remained as an independent kingdom until the Anglo-Manipuri war of 1891. Her sovereignty was lost to the Britishers as a sequel to this war as she became a British colony under a system of indirect rule.

The independent kingdom of Manipur was merged into India on 15 October 1949. 'This historic event marked the end of an era of "independent" kingdom of Manipur and the beginning of a new one, that of a "constituent state" within the Indian Union. This political integration was a significant development in the political history of Manipur.'<sup>18</sup> Subsequently, 'after the passing of the North-Eastern Areas (Re-organization) Act, 1971, the Manipur (Hill Areas) District Councils Act, 1971 was also passed. The State was given statehood w.e.f. 1972, and the Manipur (Hill Areas) District Councils Act, 1971 was introduced in the Hill area of the state as a process of democratic decentralization in the tribal areas of the state.'<sup>19</sup> From its historical perspective, it is clearly evident that Manipur is a politico-social formation with historical postulate of monarchy having existed as one of the ancient kingdoms. However, 'this history has been consistently and persistently overlooked, marginalized and sidelined, with

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<sup>17</sup> B.L. Fadia, *Indian Government and Politics* (Agra : Sahitya Bhawan Publications), 1997, p. 842

<sup>18</sup> N. Joykumar Singh, 'The Merger of Manipur into India in Lal Dena, *History of Modern Manipur* (1826-1949), (New Delhi : Orbit Publishers & Distributors), 1991. P.

<sup>19</sup> *Manipur Fact File 2001*, Compiled by All Manipur College Teachers Association, p.38

explicit policies to erase and obliterate historical realities, by the Indian state ever since Manipur's dubious integration into the Indian Union in 1949.<sup>20</sup> The statehood of Manipur had been a distant dream for the people as it took more than 21 years to regain its lost status of full-fledged state of Indian Union. Though the statehood was given belatedly in 1972, the Union Government did not try catching up with the rest of the states in the country. Rather Manipur was made to face constant menace from the indifferent attitude of her northern neighbours.<sup>21</sup> Moreover, '[t]he historical perspective takes a sharp turn with an altogether new twist to the saga provided by the infamous and dubious merger of Manipur into the Dominion of India on October 15, 1949. Democratic aspirations, institutions and values that materialized through the Manipur State Constitution Act, 1947 and the popular democratically elected government under a system of constitutional monarchy was brutally and arbitrarily obliterated by the Indian Central government's act of forceful "merger."<sup>22</sup> With the signing of the merger agreement, there arisen disillusionment, frustration, anger and disenchantment in the midst of the people, which ultimately paved the way for grooming of insurgents in the State. To a great extent, 'decades of political, economic and social subjugation and the subtle divisive politics played by the "state" all along in its bid to contain and repress dissent and opposition have given rise to conflicts of different hues which are in tense. All this have been the consequences of the commercial, parochial and elitist politics.'<sup>23</sup>

### Nature of Manipur state

Manipur has been riven by internal conflict and has been under permanent state of emergency for decades, fuelled by economic under-development and corruption.<sup>24</sup> Throughout history, Manipuris had always resisted against colonial regimes, and they still do. Despite India's claims to the contrary, 'its policies and political agenda in Manipur have all the manifestations of past colonial regimes. The Armed Forces Special Powers Ordinance, 1942 of British India is an instrumental predecessor of the Armed Forces Special

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<sup>20</sup> Ibo Tongbam & Dhanabir Laishram. "Conflicts and Civil Responses in NE India : Polemics and Perspectives on Manipur (November 21), [http://: www.manipuronline.com/features/conflictresponses2.htm](http://www.manipuronline.com/features/conflictresponses2.htm)

<sup>21</sup> Manipur Factfile.

<sup>22</sup> Tongbam & Laishram, "Conflicts and Civil Responses in Manipur"

<sup>23</sup> *ibid.*,

<sup>24</sup> Threats and Violence Against Human Rights Defenders in Manipur, <http://www.amnesty.org/library/print/ENGASA200142000>

Powers Act, 1958.<sup>25</sup> On the other hand, the economic condition of the state is appalling. No wonder that Manipur stands one of the lowest levels in terms of economic development as its poverty line rises to 97.51. The State has been witnessing a series of bandhs/strikes, etc. the situations which often arises out of conflict within the society, the state's repressive nature, and the like. The state's deficit to the Centre culminated in the form of "overdraft"-to the tune of Rs. 442.33 crores in 2001-02 alone. In fact, 'the year 2001-2002, had seen a host of turmoil in the State. The mass agitation after the extension of cease-fire without territorial limit, and the general strike by the various employees associations demanding restoration of various perks, had taken a heavy toll on the economy of the State...'<sup>26</sup> Massive unemployment, rampant corruption, political instability, and above all, failures of law and order has been the rule, not the exception. Apart from others, centralizing tendencies have been manifested in the frequent imposition of the president's rule.

To a larger deteriorating repercussion, the Indian state is using Armed Forces Special Powers Act, 1958 in the manner of colonizers to plunder the land and labour of this resource-rich region... On 22 May, 1958, just days after the budget session of parliament was over, the Armed Forces (Assam-Manipur) Special Powers Ordinance was passed. A bill was introduced in the monsoon session of parliament that year and promptly passed effective retrospectively from 22 May, 1958. The Act was introduced in Manipur in 1980. The 'disturbed area' of the entire area of the state of Manipur under the AFSPA has been reaffirmed by the parliament ever since then.<sup>27</sup> The political situation is complex, with a large and long-standing insurgency seeking autonomy, many smaller ethnic insurgencies, numerous armed groups, and several thousand political and economic migrants and refugees from Burma. A state of low-intensity chronic civil war pervades, armed clashes, human rights abuses, and violence are endemic.

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<sup>25</sup> Irengbam Arun, 'The Search for Light', *Manipur Update*, Vol.1, December 1999

<sup>26</sup> Budget Speech: 2002:03, *Delivered By Okram Ibobi Singh*, March 18, 2002,

[http://www.neportal.org/northeastfiles/Manipur/Economy/budget/Budget\\_Speech\\_2002-03.asp](http://www.neportal.org/northeastfiles/Manipur/Economy/budget/Budget_Speech_2002-03.asp)

<sup>27</sup> *People Voice*, December 16-31, Published by: *Communist Ghadar Party of India*, under the title "The Problems of Manipur Cannot be addressed without Returning the Army to the Barracks."

### Armed Forces Special Powers Act, 1958

In its 46 years of history, the Armed Forces (Special Powers) Act of 1958 is one of the most draconian legislations that the Indian Parliament has passed. The Act was passed amidst all hues and cries to counter insurgency in the northeast in particular! 'Under this Act, all security forces are given unrestricted and unaccounted power to carry out their operations, once an area is declared disturbed. Even a non-commissioned officer is granted the 'right to shoot to kill' based on mere suspicion, in order to "maintain public order."<sup>28</sup> Moreover, the Act does not give anyone the right to question the declaration of any region as disturbed area. The 1972 amendment to this Act gave the Central Government the authority to overrule the opinion of the state government for declaring an area affected.<sup>29</sup> Commenting on the enactment of the Act, Mr. Mohanty said, "[T]his (Indian) parliament is giving its seal of approval to a legal monstrosity to quell another kind of monstrosity."<sup>30</sup>

As shown above, the rationale behind the passing of the Armed Forces Special Powers Act, 1958 was to 'strike first and nip insurgency in the bud.' But before examining the uses and abuses of this act, let us take a brief look on some of the provisions of the Act.

#### Section I : Short Title and Extent

- (a) This Act may be called the Armed Forces (Assam and Manipur) Special Powers Act, 1958.
- (b) It extends to the whole of the state of Assam and the Union Territory of Manipur.

#### 3. Power to Declare Areas to be Disturbed Areas

If the Governor of Assam or the Chief Commissioner of Manipur is of the opinion that he whole or any part of the State of Assam or the Union territory of Manipur, 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, he may by notification in the official Gazette declare the whole or

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<sup>28</sup> *Armed Forces Special Powers Act : A Study in National Security Tyranny*

<sup>29</sup> Irengbam, 'The Search for Light.'

<sup>30</sup> Quoted in Irengbam, 'The Search for Light'

any part of the State or Union territory to be a disturbed area.

#### **4. Special Power 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 on 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 utilised 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; 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.<sup>31</sup>

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<sup>31</sup> Where 'peacekeepers' have declared war : Report on violations of democratic rights by Security forces and the impact of the Armed Forces (Special Powers) Act on civilian life in the seven states of the northeast. Published by : *National Campaign Committee against military action and Repeal of Armed Forces (Special Powers) Act, 1997*, New Delhi,



## 6. Protection to Persons acting under Act

No persecution, 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.

Thus, the Act gives very wide discretion to the army. Since its enactment, the armed forces have been violating the rights and liberties of the people of Manipur, in particular in the name of counter-insurgency, which has resulted in the loss of hundreds of innocent civilian's lives. Untold miseries and woes, deep anguish, and anger have been the order of the day. The patterns of human rights violations included:

- (a) Extra-Judicial killings
- (b) Extra-Judicial deprivation of the liberty of the people especially in villages due to : (i) grouping of villagers and villages; (ii) illegal imposition of curfew; (iii) detention for long periods at army posts and campuses; and (iv) use of churches and schools as detention or interrogation centres.
- (c) Rape, molestation and sexual harassment of women.
- (d) Tortures including: (i) hitting with rifle butts, kicking with boots and striking with blunt weapons; (ii) giving electric shocks, (iii) depriving persons of food, water and sleep; (iv) hanging persons upside down and beating on the soles of their feet, and (v) threats to shoot, interrogation at gun point with the weapon placed against the forehead and inside the mouth.
- (e) Desecration of Churches
- (f) Forced Labour
- (g) Large-scale looting of homes and granaries.<sup>32</sup>

In the series of gross human rights violation by the armed forces, let us briefly discuss the 'Bluebird Operation' and 'Operation Loktak', let alone the daily torture and pain meted out to the people of Manipur in their every day lives.

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<sup>32</sup> Kamal Mitra Chenoy, Militarism, 'Civil Society and Inter-Group Relations in North-East India', in Kailash Agarwal, *Dynamics of Identity and Inter-Groups Relations in the North-East India*, (ed.), 1999

## Operation Bluebird

The Oinam incident is one of the most important cases in the history of the human rights violations by the Indian security forces. While 'the Oinam incident of 1987 has gone down in history as a symbol of the terror that security forces can unleash on an innocent populace.... It remains deeply etched in the minds of the people of Manipur, and in fact, most of the Northeast. The facts of the incident are hence important to recall.<sup>33</sup> 'The Operation was conducted after armed secessionists belonging to the National Socialist Council of Nagaland attacked an Assam Rifles' outpost in the village of Oinam on July 9, 1997, killing nine soldiers and removing arms and ammunition.'<sup>34</sup> In retaliation, 'the Assam Rifles launched Operation Bluebird to recover the looted arms and ammunition. Carried out in Oinam and 30 of its surrounding villages, Operation Bluebird lasted till the end of October 1987. During these 4 months, the Assam Rifles went on a rampage, subjecting villagers to all kinds of torture and breaking every code of human conduct.'<sup>35</sup>

To let loose their anger, 'villagers were made to stand for weeks under the scorching Sun and torrential rain. Local churches were used as concentration camps where hundreds of villagers were severely beaten up. Men were hung upside down, buried alive and given electric shocks. Scores of women were raped, while two women were even compelled to give birth to their babies in full view of the jawans. Personnel of the Assam Rifles also destroyed hundreds of houses, churches and schools.'<sup>36</sup> Besides, '[t]he military also forced the villagers to work for them and provided them with no compensation. In fact, the situation was so bad that the Chief Minister, in a Confidential Communiqué to the Union Home Minister wrote, "The civil law has unfortunately, ceased to operate in Senapati District, Manipur due to excesses committed by the Assam Rifles with complete disregard shown to the civil administration... the Deputy Commissioner and the Superintendent of Police were wrongfully confined, humiliated and prevented from discharging their official duties by the Security

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<sup>33</sup> Where 'peacekeepers' have declared war : Report on violations of democratic rights by Security forces and the impact of the Armed Forces (Special Powers) Act on civilian life in the seven states of the northeast. Published by : *National Campaign Committee against military action and Repeal of Armed Forces (Special Powers) Act*, 1997, New Delhi, p. 33

<sup>34</sup> See "Operation Bluebird" A Case Study of Torture and Extra Judicial Executions in Manipur, October 1990. Amnesty International (AI Index : ASA, 20/1; 7/90 <http://www.nscnonline.org/webpage/amnesty/amnesty2.htm>

<sup>35</sup> Where peacekeepers have....

<sup>36</sup> Ibid.

Forces.”<sup>37</sup> According to the Amnesty International Report, 15 men were allegedly illegally executed by the Assam Rifles during the counter-insurgency operation. The tortured victims includes older people, teachers, while four children died in detention due to lack of medical care.<sup>38</sup>

### Operation Loktak

Loktak is the largest fresh water lake in North-Eastern India which is a favourite haunt for tourists. It is also a ‘home to migratory birds and the local fishing community as well. A few thousand fishermen depend entirely on the Loktak for their livelihood. [However], all normal activities in the lake came to a complete halt for six days as the fishermen residing in the *phum* (floating huts) were virtually kept under house arrest.’<sup>39</sup> In this operation, ‘around 2000 personnel of Indian Army sieged Loktak Lake in the midnight of Wednesday, the 10<sup>th</sup> March, 1999. The operation lasted for 6 days up to Monday, the 16<sup>th</sup> March, 1999. According to Press Information Bureau (Defence Wing) ‘the operation was launched to flush out ‘insurgents’ from Loktak area. The operation completely cordoned off the islets of *Thanga*, *Karang* and *Ithing* in the Loktak Lake... During all these six days of operation, people could not buy or collect the essential commodities... Many people were reported to be virtually starving during the operation. All men above the age of ten including the old and infirm were held and paraded under the sun for four to eight hours daily at selected locations.’<sup>40</sup> To make matter worse, on 11<sup>th</sup> March 1999, Army troops conducting cordon and search operations fired upon and assaulted the *Meira Paibis* (Women Human Rights Activists) at *Toubul*, a village located at the shore of the Loktak Lake. As a result of which, Thiyam Ebema Devi (24) and Soibam Sunibala Devi (24) sustained bullet injuries in the leg while Sagolsem Ongbi Sana Devi (45) also sustained injuries on the head.<sup>41</sup> In this operation, most of the patterns of human rights violation by the armed forces listed above<sup>42</sup>, had not been spared. Arbitrary arrest, severe physical and mental torture, giving electric shocks and the like, had been the patterns in this

<sup>37</sup> quoted in ‘Where ‘Peacekeepers’ have Declared War..

<sup>38</sup> See “Operation Bluebird”

<sup>39</sup> Kelen Thokchom, ‘Operation Loktak’, *Northeast Sun*, April 1-14, 1999

<sup>40</sup> *Operation Loktak (A Case Study of Human Rights Violation)* Report of Joint Fact Finding Team, prepared by Committee on Human Rights (COHR), Manipur. <http://www>.

<sup>41</sup> *ibid.*,

<sup>42</sup> Almost all the pattern of abuses listed by Chenoy had been used in this operation. See Chenoy, pp. 69-70

case too. Indeed, cordoning of the mentioned area for six days had denied the people the right to life or food, let alone other basic human rights and liberties.<sup>43</sup>

### Tabunglong Massacre

Like other grisly incidents, the memory of *Tabunglong Massacre* still persists in the minds of the people. In this massacre, eight innocent civilians were shot dead by the personnel of the Indian Army 15<sup>th</sup> Jat Regiment in cold blood after a gap of 4/5 hours of an ambush on 28<sup>th</sup> December, 2000 at *Tabunglong* village, Tamenglong District, Manipur.<sup>44</sup> On that fateful day, personnel of the 15 Jat Regiment came to *Tabunglong* village, where there were only 10 male villagers (other male villagers run out of the village for their safety on hearing the firing sound). The army forced the male persons to gather at the village volleyball court, were beaten up one after another. Then the army forced the arrestees to lie down on the ground, who were not allowed to move, not even to raise their faces were fired and killed by the army.<sup>45</sup> All these indiscriminate incidents glaringly exposed the ruthless, illegal behaviour of the state machinery in Manipur as the perpetrators are above the law which has had cost hundreds of innocent civilian lives, including women and children.

Let us further list down the excesses committed by the central armed forces of Manipur in the early 90s.

(i) In their efforts to nab the insurgents, *Thangkholet* was killed by the 7<sup>th</sup> Para Regiment Army on September 1, 1992.<sup>46</sup>

(ii) The 6<sup>th</sup> Manipur Rifles set ablaze *Mulam* village on 12 August, 1993. Such vandalism acts of the armed personnel led to the loss of properties worth lakhs of rupees. A number of 15 villagers had been abducted, only to face the brute force of the inhumane acts of the attackers. Besides, the other villagers were forced to hide in the jungle for weeks.<sup>47</sup>

(iii) On November 20, 1993, the 7<sup>th</sup> Bn. of the Assam Rifles conducted a search operation in *L. Songphel* ( a village within Sadar Hills, Manipur).The villagers were excruciated for no

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<sup>43</sup> For a clear understanding of the human rights abuses, see Operation Loktak...

<sup>44</sup> <http://www.geocities.com/CapitolHill/Congress/4568/publications/20001228.html>

<sup>45</sup> See *Naga Peoples Movement for Human Rights*, Vol. 6. No. 01, Quarterly publication, April 2002, pp. 6-7

<sup>46</sup> *Thinghang Post*, September 22, 1992

<sup>47</sup> *ibid.*, July 24, 1993.

fault of theirs. As the reign of terror was unleashed by the so-called 'security' forces, in the face of insecurity and anxiety, the villagers were fled to the nearby village, namely *Molnom*.<sup>48</sup>

(iv) The 9<sup>th</sup> Manipur Rifles burnt down *Bongbal* village on November 24, 1993. Such an act of barbarism led to the death of a man who was burnt alive.<sup>49</sup>

(v) On July 25, 1998, the army resorted to indiscriminate firings in *Tuibuong* District Headquarter. Amidst such frenzy, anyone who appeared in the sight of the army were arrested and beaten up severely. The victims include even some govt. employees. All the arrestees were locked up at DC office, Churachandpur, where they endured the clement force of the army for the whole night.<sup>50</sup>

(vi) The CRPF personnel shot dead 3 civilians on June 6, 1998 at *Moirang* in the aftermath of the attack being carried out to them by the insurgents.

(vii) On May 25, 1998, the CRPF personnel conducted a search operation in and around several *Kuki* villages in the aftermath of the ambush being carried out against them by the valley underground outfits. Among the many tortured, villagers of *T.N. Vaison* bore the severest of the CRPF's brunt in that four villagers were abducted, and were thrashed badly. The victims include women and children. What drew public attention more was that even an old lady of 95 was not spared.<sup>51</sup>

(viii) On July 21, 1999, the CRPF, in retaliation to the ambush being carried out upon them by the insurgents, resorted to indiscriminate firings upon the civilians at Lower Lamka, causing the death of 5 civilians. It has been observed that after the underground activists fled, the CRPF opened fire indiscriminately for around 1 hour.<sup>52</sup>

(ix) In the crossfire between CRPF and UNLF, 10 civilians were killed on October 3, 1999 at *Tonsen Sognu Lamkhai* (a village within Thoubal district).<sup>53</sup>

(x) A student of class ten, Baharul Islam, 14 years of *Moining Wangmataba Makha Leikai* was arrested by the 7 Assam Rifles. He was later found dead on 22<sup>nd</sup> November 1993.

(xi) On 30<sup>th</sup> December 1994, CRPF brutally shot dead *Ningthoujam Ingocha* (29 years) who was working in his paddy field. 19 people were arrested and tortured by CRPF personnel.

(xii) On 14<sup>th</sup> August 1995, *Soibam Sanjoy*, a student was gunned down by personnel of 2 Mahar Regiment and 2 persons suffered bullet injuries.

(xiii) At about 10:45 a.m. on 5<sup>th</sup> April 1996, personnel of 127 CRPF batallion fired indiscriminately, killing *Keirakpam Ningol Cinam Ongbi Amina Devi* (24 years). Her 2 years old son suffered bullet injuries.<sup>54</sup> The case of the state's security forces is of no difference when it comes to

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<sup>48</sup> Ibid., May 1, 1993

<sup>49</sup> Ibid., November 25, 1993

<sup>50</sup> Ibid., July 25, 1998

<sup>51</sup> Ibid., May 26, 1998

<sup>52</sup> *Northeast Sun*, August 15-31, 1999

<sup>53</sup> Ibid.,

<sup>54</sup> See 'Where the Peacekeepers have declared war...'

violation of the rights and liberties of the people of Manipur. The Manipur Police shot dead *Thokchom Netaji* on February 28, 1996, while he was waiting at a bus stop. Senjam Dhananjoy Singh of *Taotchong Khunou* was shot dead by a guard of the *Lamshang* Police Station on 8<sup>th</sup> October 1993 when he entered the Police Station to ask for help after an incident. Moreover, a team of the 2<sup>nd</sup> battalion Manipur Rifles shot down *Thingbaijam Amrabati Devi* of *Nagirangbam Mayai Leikai* on 20<sup>th</sup> November 1993.<sup>55</sup> These apart, several kinds of excesses have been committed by the security forces since the application of the Act.

In addition to violations including death, maiming, serious injury and mental trauma caused to innocent citizens by various security forces, there are disturbing cases of custodial deaths in Manipur too. Some recent representation cases documented by the Committee On Human Rights, Manipur are presented here:

(a) *Md. Nashir Khan* of *Lilong Haoreibi Chandrakhong* was found dead with both hands handcuffed after arrest by police on 28<sup>th</sup> July 1991.

(b) On 16<sup>th</sup> February 1994, *Mr. Wahangbam Deban Singh* of *Oinam Mayai Leikai* was found dead in the custody of Nambol Police Station.

(c) On 6<sup>th</sup> April 1994, *Mutum Premjit Singh* was found dead in the custody of the Lamlai Police.<sup>56</sup>

The arbitrary powers of the armed forces, given by this Act have also resulted in the worst form of sexual harassment on the women of Manipur. There have been countless reports of rape cases being committed by the armed personnel. In these acts of crimes, not only the *jawans*, but also the officers of the armed forces too are involved. The first one of such crime occurred in the year, 1974 where a girl, named *Rose*, was raped by a member of the Indian Security forces.<sup>57</sup> In the midst of fear and anxiety, she committed suicide on the day she was raped by two Army officers — Major Pundir and Captain Negy of 95 BSF on 4<sup>th</sup> March 1974, before the eyes of the helpless village elders who were held at gunpoint. She wrote in her suicide note that she did not see any reason for living in a world where such nasty crimes could be committed in the full knowledge of her people and nothing could be done against it.<sup>58</sup> In another related cases, Ngashingla, a girl of 24 years from *Grihand* village of *Ukhrul* district

<sup>55</sup> For a full account of the incidents, see 'Where the peacekeepers have declared war...'

<sup>56</sup> *ibid.*, p. 30

<sup>57</sup> 'The Fear of Rape : Crime and Punishment', *Manipur Update*, Vol. I, Issue II, January 2000

<sup>58</sup> Desai (ed.) *Repression and Resistance in India*, p. 290

was tortured and raped for three days; from 3 to 5 March, 1974, by a group of 95 BSF personnel, who were under the command of Major Brahm Prakash. On the third day the woman was dragged by her hair around the classroom, kicked and beaten, and stripped. She also endured the harshest forms of such brutalities as sticks were forced into her private parts causing profuse bleeding.<sup>59</sup> Worst as the case may be, however, '[t] he perpetrators went scot-free, due to lack of sufficient evidence.'<sup>60</sup> As long as the security forces exercises unlimited, unrestrained powers in Manipur, women have become the main 'bait' to satisfy the sexual desires of the long-deployed armed forces. Such an act of crime against humanity came to light time and again. Documented, if not official sources, provides one details of such acts of crimes since the enactment of the Armed Forces Special Powers Act, 1958 in Manipur. Toeing in line with other security forces, the case of Manipur police personnel makes no difference. To illustrate, 'a teenage girl, *Tinlam Khongsai*, was forcefully kidnapped and raped by 3 police personnel, stationed in *Saikul*, Manipur, on April 14, 1989.'<sup>61</sup> Both the security and dignity of the women in particular have been at great risk due to the excesses of the security forces. Repeatedly, 'some security forces personnel sexually abused the women of New Lamka, in Churachandpur district on Nov.20, 1989. As they used such abusive words, public anger outburst; the fracas resultantly led to the filing of 20 inquiry cases.'<sup>62</sup> In addition, a student of CI-X ( P. Lodha) was raped by a jawan of Manipur Rifles along with the involvement of 3 others.<sup>63</sup> What makes matter worse and surprising is that the crimes were committed even by the higher echelon of the army. 'On September 5, 1990, two Majors of the Assam Rifles posted at *Hengbung* village forcefully raped two *Kuki* women.'<sup>64</sup> Sadly, the officers, meant to discipline the jawans, become the culprits instead.

However, 'the *Ahanjaobi* case of 1996 was a turning point in public attitude towards the crime and its victimization. A married woman (*Ahanjaobi*) of Imphal was raped by two personnel of Indian army in front of her disabled 12 year-old son, during an operation. Overcome by a sense of humiliation, she came out in the open.'<sup>65</sup> In yet another incident, in June, 2002, *Naorem Ongbi Thoinu Devi* was reportedly raped by a soldier in her house in

<sup>59</sup> 'The Fear of Rape...'

<sup>60</sup> *ibid.*,

<sup>61</sup> *Thinglhang Post*, April 27, 1989

<sup>62</sup> For the causes and nature of the incident, see *Thinglhang Post*, November 23, 1989

<sup>63</sup> *Thinglhang Post*, March 1, 1990.

<sup>64</sup> *ibid.* September 11, 1990

*Kakching* village in Manipur.<sup>66</sup> Further, it may also be recalled that soldiers of the 112 Bn. Of CRPF molested two women and raped one besides beating several villagers at *Lamdan* village on July 19, 2002, after four CRPF personnel were killed in a PLA (People's Liberation Army) ambush.<sup>67</sup> The series of sexual assault on the women of Manipur have remained unabated. Besides, in one of the recent cases, a woman was raped by 25<sup>th</sup> AR man at *Luwangsangbam Matai* village on Oct. 6, 2001, while another Nepali housewife was allegedly raped by IRB<sup>68</sup> man near *Bolkot*, under Churachandpur police station.<sup>69</sup> As pointed out by Radhika Coomaraswamy in the report of the Special Rapporteur on Violence against Women: "By using the honour paradigm, linked as it is to concepts of chastity, purity and virginity, stereotypical concepts of femininity have been formally enshrined in humanitarian law." This has far-reaching psychological impact on the victims for as pointed out by Coomaraswamy, "when rape is perceived as a crime against honour or morality, shame commonly ensues for the victim who is often viewed by the community as "dirty" or "spoiled." Consequently, many women will neither report nor discuss the violence that has been perpetrated against them. The nature of rape and the silence that tends to surround it makes it particularly difficult to investigate women's rights violations."<sup>70</sup>

Thus political killings, extra-judicial executions, torture, arbitrary detention, rape and several kinds of atrocities have been committed in different corners of the State by the armed forces. Meanwhile, '[t]he counter-insurgency operations have come under fire from various quarters for the necessary harassment and rude behavior of the security forces. Apart from (varied kinds of killings), "disappearance" of suspected insurgents and innocent citizens being picked up by central Para-military forces and state forces are being reported.<sup>71</sup> In fact, '[o]f all the human rights violations, the cruelest must be the pain and grief inflicted on the families of the disappeared.'<sup>72</sup> Likewise, on 23 September, some army personnel came and took *Lokendro* away, detained him in the custody of the dreaded Jammu and Kashmir Rifles at

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<sup>65</sup> *Amnesty Report*, <http://www.geocities.com/indianfascism/fascism/amnesty-99.htm>

<sup>66</sup> 'The problem of Manipur Cannot be Addressed...'

<sup>67</sup> *ibid.*

<sup>68</sup> Indian Reserve Battalion

<sup>69</sup> See '2001- A Chronology of Events', *Manipur Online*, January 4, 2002 for detail accounts of state atrocities and violence in Manipur during 2001.

<sup>70</sup> Roshmi Goswami, 'Reinforcing Subordination: An analysis of Women in Armed Conflict Situations', <http://www.isiswomen.org/wia/wia399/pea00001.html>

<sup>71</sup> Bit Irom, 'CI Operations Draw Flak', *Northeast Sun*, October 1-14, 2002, p.10



*Kangla* fort. In her efforts to rescue her son, *Thokchom Ibemcha Devi*, the mother of Lokendro ran from pillar to post, pleading with the authorities, but to no avail.<sup>73</sup>

*Kangujam Loken of Khongman Makha* was another youth arrested by the army on 28 September 1980, who also 'disappeared' from their army custody.<sup>74</sup> Also, *M. Kaizalal Paite*, a signal operator of the 20 Battalion of Assam Rifles 'disappeared' from his headquarters at *Somsai*, Ukhrul district, on September 25, 1994. After initial attempts to trace him failed, his mother, *Chingkhobung* filed a habeas corpus {Civic Rule HC No. 49 of 1996} before the Imphal bench of Gauhati High court.<sup>75</sup> As they were unable to locate the disappeared, the family had on erected a memorial stone of *Kaizalal* 'presumed dead' on 19 December 1998. There have also been instances of unreported disappearance cases. One of the most recent cases is of '[a] 15 year-old *Yumlembam Sanamacha*, who disappeared from his home in 1998 and was never seen again nor was his case ever satisfactorily clarified by his alleged perpetrators or through the Courts of law.'<sup>76</sup>

The cases of disappearance are other endemics in Manipur. For, in the case of killings, the bereaved families can somehow console themselves by performing the last rites. However such a show of respect/tribute is impossible in the case of 'disappeared.' Therefore, one asks; 'was it safe for them to conclude on possible death or should they go on praying for a miracle? Should they perform the last rites or postpone it? The dilemma, the grief and the frustration is theirs alone.'<sup>77</sup> As a result of these large-scale state repressions, the police, and all the para-military formations of the state like the CRPF, the BSF, the CISF, the RR and various PACs are feared all over the country for their ferocity and not respected for strength of their law-enforcing resolve. The reputation of the Indian Army often called the last bastion of discipline and honour in a rapidly degenerating polity is equally tarnished in the Northeast and Kashmir.<sup>78</sup>

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<sup>72</sup> K. Sarojkumar Sharma, 'Forever in Grief: An Account of the Bereaved Families', <http://www.geocities.com/manipurupdate/report1.htm>

<sup>73</sup> See Sharma 'Forever in Grief.'

<sup>74</sup> *ibid.*,

<sup>75</sup> *ibid.*,

<sup>76</sup> Laifungbam Debabrata Roy. 'Enforces Disappearance'.

<http://www.manipuronline.com/features/march2002/disappearance 08-2htm>

<sup>77</sup> *ibid.*,

<sup>78</sup> Ashok Agarwal, 'The Mask of Democracy : Repression and the Rule of Law', *Combat Law; The Human Rights Magazine*. Vol. I issue I, April-May, 2002, p. 8

On the other hand, torture common in India. Everyday, in police cells and military barracks throughout the land, pain and indignity are deliberately inflicted by paid agents of the state on men, women and even children. They are beaten senseless, given electric shocks or have their limbs crushed by heavy rollers. Sexual torture, including rape is common.<sup>79</sup> Such an inhuman, brutal act of the security forces was unleashed on *Isho* of *Haobam marak* from *Paona Bazar*, Imphal, who was arrested on May 18, 2003. in which 'a stick was inserted in the rectum of *Isho*, while he was badly beaten up.'<sup>80</sup> Thus, the pains and sufferings meted out to him could never be imagined. After heavy torture throughout the night he was finally dumped at *Hiyangthang* by the suspected security personnel.<sup>81</sup> Apart from *Isho*, the other two arrested on the same night had to be hospitalized after they were badly thrashed by the security forces.<sup>82</sup> All these tales tell the unlimited, unrestrained powers of the so-called security forces, being enforced upon the innocent civilians of Manipur, who are totally left at the mercy of the state's security apparatuses.

In view of the unabating atrocities/brutalities perpetrated on the innocent civilians of Manipur, it is pertinent to illustrate more examples- highlight the chronology of events in the year, 2001.

### **2001: A Chronology of Events:**

- (i) February 20 : Four persons, including senior PREPAK<sup>83</sup> man shot dead by AR troops at Nambol Ishok Chingpu. Dead include two civilians.
- (ii) April 30: Two civilians shot dead by AR after picking up from their homes.
- (iii) June 2: Manipur placed under President's Rule. Assembly to be kept under suspended animation.
- (iv) June 3: Two civilians killed, at least nine others hospitalized after rampage BSF jawans storm the Panglian village in Churachandpur... Dead includes a three year-old who was reportedly shot in the arm of his mother.

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<sup>79</sup> <http://www.geocities.com/manipurupdate/report1.htm>

<sup>80</sup> *The Times of India*, May 22, 2003, p. 4

<sup>81</sup> *Sangai Express*, May 20, 2003

<sup>82</sup> See *Imphal Free Press*, May 27, 2003 for details of incident.

<sup>83</sup> *Manipur Online*, January 4, 2002.

(v) June 18: Manipur erupts. At least 13 persons killed and more than 50 injured, in CFPF firing after large-scale riots breaks out in Imphal against the extension of cease-fire between the Government of India and NSCN (I-M) into the territory of Manipur.

(vi) July 21: One BSF lancenaik killed, two jawans injured in ambush at *Tera Khongsangbi*, two civilians were killed and 60 others were injured in subsequent reaction of the personnel.

These are some of the major events occurred in the year, 2002. But above all, “June 18 uprising” would ever remain a black chapter in the history of Manipur. For, on this fateful day, people come out in the open as they collectively challenged the illegitimate, injudicious policy of the government. The gruesome incident reflects the unilateral, authoritarian policy of the central government against the state of Manipur. More prominently, the Indian government high-handedness had been revealed as the sense of ‘alienation’ reached its acme with the announcement of the extension of the cease-fire. Given that the grisly situation was the manifestation of the role of various civil society groups, the cease-fire (agreement) extension “without territorial limits” and the unilateral decision taken by the Centre glaringly announced that, bypassing the various civil society groups of Manipur, or the concerned communities, would ever be disastrous in future too. In other words, in its appeasement towards one community against another, the Centre has caused a catastrophe, which has resulted in the loss of both innocent civilian lives and incalculable properties.<sup>84</sup>

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<sup>84</sup> Ibid.

## CRITICAL ESTIMATION OF THE ARMED FORCES SPECIAL POWERS ACT, 1958

Since the discussion revolves around the Armed Forces Special Powers Act, 1958, the nature of the state (Manipur) has been widely reflected by this Act; it then, is imperative to reevaluate this Act in the legal point of view. While justifying the introduction of the Armed Forces Special Powers Act, the then Home Minister, Mr. G.B. Pant stated on 18 August 1958, "There (Assam and Manipur), they are indulging in arson, murder, loot, dacoity, etc., So it has become necessary to adopt effective measures for the protection of the people in those areas. In order to enable the armed forces to handle the situation effectively wherever such problem arises hereafter, it has been considered necessary to introduce this Bill (AFSPA)."<sup>85</sup> [Nevertheless], 'if arson, murder, loot, dacoity, etc. are the yardsticks for the imposition of the Armed Forces Special Powers Act, then the Act has been imposed discriminatorily on the Northeast. There have been equal number of such incidents, if not more, in Uttar Pradesh and Bihar, the incidents of violence and insecurity of common citizenry has been systematic and persistent. Armed insurgents have taken place also in parts of India other than the Northeast: by the Maoist Communist Centre in Bihar and by other Maoist groups generally known as the Naxalites in Bihar, Andhra Pradesh, West Bengal and Madhya Pradesh.'<sup>86</sup> The declaration of Manipur as 'disturbed area' holds no convincing arguments.

As a matter of fact, '[s]tate terrorism is only one of the manifestations of state repression in modern India. The extension of state repression to the various spheres of civil society and in the economy, are other forms of state repression.'<sup>87</sup> To repeat, the Armed Forces Special Powers Act is one of the most repressive laws passed by the parliament. As it contravenes to all democratic norms, it gives the central government, in consultation with the Governor, the right to declare an area 'disturbed' and impose the Act, even if the state government does not deem such action necessary. Once in force, the Armed Forces (Special Powers) Act gives unbridled powers to the armed forces personnel.<sup>88</sup> Further, it gives armed

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<sup>85</sup> quoted in *Alternative Report and Commentary to the United Nations Human Rights Committee on India's Third Periodic Report under Article 40 of the International Covenant on Civil and Political Rights*, July 1997.

<http://www.hri.ca/partners/sahdru/alternative/fulltext.shtml>

<sup>86</sup> *ibid.*

<sup>87</sup> Girish Patel, 'Human Rights-Indian Society and State Repression', *Combat Law*, April-May, 2002, p.10

<sup>88</sup> *Where 'Peacekeepers' have Declared War...*

forces personnel near total immunity for their actions; thus excluding the possibility of enquiry or investigation into the legality of their actions or redressal for excesses committed by them as it fails to provide any safeguard against violations of the people's rights.<sup>89</sup> It is no surprising to note that 'the large scale violations of fundamental rights in the Northeast is a direct consequence of areas being declared as "disturbed areas" under section 3 and the simultaneous acquiring of wide powers by army personnel under section 4 of the Act... The definition or the rest of the provisions of the Act offer no guidelines and lay down no objective criteria to adjudge an area as disturbed.'<sup>90</sup> Without any proper established procedures, any area, large or small, can be arbitrarily declared as 'disturbed areas'. Much to the disappointment of the people, no periodic review to assess whether an area continues to be 'disturbed' could also be found in Section 3 of the Act. Thus declaration of an area as a disturbed area resulted in the virtual handing over of the civil administration to the army. [Moreover], 'in the absence of a concrete method, the army hierarchy and chain of command has no place for co-ordination with a civil administration.'<sup>91</sup> To examine further, under the AFSPA, the use of 'least possible delay' (section 5) language has allowed the security forces to hold people for days and months at a time.<sup>92</sup> On the other hand, the members of the armed forces in the whole of the Indian territory are protected from arrest for anything done within the line of official duty by section 45 of the Cr PC, section 6 of the Act provides them with absolute immunity for all atrocities committed under the AFSPA.<sup>93</sup>

The Indian Penal Code, Indian Evidence Act and the Criminal Procedure Code, which are designed to protect the rights of a victim or an accused, have nothing to do with in this 'quasi-martial law' State. The purpose of all this criminal system is that 'the right to live with dignity is maintained in the course of interrogation of the accused; and to ensure that "due process of law" is established. Nevertheless, the study has shown contradictorily grim picture of human rights abuses, tortures, disappearances, undue harassment, and excesses being committed not only to the guilty but also the 'innocent' civilians; a mockery of the principles of fairness, equality, both in the investigation and trial of criminal cases. Since the armed forces are above the law, there is no rule of law! Also 'there is no public accountability on their deeds.

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<sup>89</sup> *ibid.*,

<sup>90</sup> 'An Illusion of Justice': Supreme Court Judgement on the Armed Forces (Special Powers) Act. *People's Union for Democratic Rights*, <http://education.vsnl/pudr/illusion.htm>

<sup>91</sup> *ibid.*

<sup>92</sup> *ibid.*,

Instances of human rights abuses by the army have shown that unless there is no public accountability there is no incentive for the army to change its conduct.<sup>94</sup>

There is no doubt that India is the largest democracy in the world and whose nation may be governed by the law. In view of the situation prevalent in Manipur, however, one argues that 'genuine democracy' remains a distant dream! In fact, 'law is supreme and the most fundamental of the rights conferred is 'equality before the law' and 'equal protection of the law'. Theoretically, we have wonderful laws with no practicalities; the civil society seem to be ruled by a democratic elected body of politicians, functioning with the able guidance of highly qualified bureaucrats and an independent judiciary. In the words of Sudha Ramalingam; 'we are a nation with hypocrites at the helm of affairs and innocent gullible as subjects.'<sup>95</sup> Above all, the wide-ranging implications of the AFSPA in Manipur have glaringly exposed the total absence of 'the rule of law'.

The Armed Forces Special Powers Act has many loopholes which contravenes both to the Indian law and international law standards. Therefore, it is pertinent to critically estimate from the legal point of view both the Indian law and the international law

### Indian Law

#### **Violation of Article 21-Right to Life:**

Article 21 of the Indian constitution guarantees the right to life to all people. [However], under section 4 (a) of the Armed Forces Special Powers Act (AFSPA), which grants armed forces personnel to shoot to kill, the constitutional right to life is violated. Much to the chagrin of the people, '[t]his law is not fair, just or reasonable because it allows the armed forces to use an excessive amount of force.'<sup>96</sup> [Indeed], 'the power to shoot to kill for violation of an order under section 144 of the Cr P C is totally disproportionate and violative of the right to life. Furthermore, the power to shoot to kill if a person is carrying a firearms, weapons or 'things

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<sup>93</sup> *ibid.*,

<sup>94</sup> *ibid.*,

<sup>95</sup> Sudha Ramalingam, 'Do We Really Adhere to the Rule of Law?', *PUCL Bulletin*, September 2002.

<sup>96</sup> *Armed Forces Special Powers Act: A Study in National Security Tyranny...*

capable of being used as weapons' is also bad in law as being too vague and broad in that any traditional agricultural implement like a hoe habitually carried in the northeast can be construed as a weapon and the person carrying it killed for it. The Act [also] does not provide for an inquest or investigation into the death of a person killed by the army. There is no check or accountability.<sup>97</sup> This shows how wide the interpretation of the offences may be illustrating that the use of force is disproportionate and irrational.<sup>98</sup> A deep analysis of the other sections of the Act speaks of itself the impending danger and atrocities being committed by the security forces upon the innocent civilians. As a result of this hydra-headed, obnoxious Act, innumerable lives have been lost; houses, schools, or places of worship like churches have been destroyed, and the people are totally left at the mercy of the security forces.<sup>99</sup>

Further, 'Article 14 of the Indian constitution guarantees 'equality before the law'. Whereas the AFSPA is in place in limited parts of India and the people residing in areas declared 'disturbed' are denied the protection of the right to life, denied the protections of the Criminal Procedure Code and prohibited from seeking judicial redress, they are also denied equality before the law<sup>100</sup>, and under the Indian Penal Code, at section 302, only murder is punishable with death. Murder is not one of the offences listed in section 4 (a) of the AFSPA. Besides, the 4 (a) offences are assembly of five or more persons, the carrying of weapons, ammunitions or explosive substances, none of which are punishable with life imprisonment under the Indian Penal Code... This again violates the constitutional right to equality before the law. Different standards of punishments are in place for the same act in different parts of the country, violating the equality standards set out in the constitution.<sup>101</sup> Yet, in a state of emergency, fundamental rights may be suspended under Article 359; since 1978 amendment to this article, rights under Articles 20 and 21 may not be suspended. As shown above, the AFSPA results in the suspension of Article 21, the right to life, therefore AFSPA is more draconian than emergency rule.<sup>102</sup> Above all, the Act supplants local government, suspending citizens' rights and liberties while shielding those guilty of crimes against the people.

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<sup>97</sup> 'An Illusion of Justice...'

<sup>98</sup> 'Armed Forces Special Powers Act...'

<sup>99</sup> For larger implications of this Act, see *An Illusion of Justice...*

<sup>100</sup> *ibid.*,

<sup>101</sup> *ibid.*

Body. 'The second article of the Code requires that, " In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.' In contrast to this, multiple provisions of the basic human rights standard in the ICCPR are violated under the AFSPA.<sup>109</sup> In addition to this, 'The Body of Principles on Detention or Imprisonment which was passed by the UN General Assembly resolution no. 43/173, on 9 December, 1988 is also another significant provisions. Principles 10 clearly established that the requirement of the arrestee (s) shall be informed the reason of his arrest and shall be informed of the charges against him.<sup>110</sup> Of all the principles, it is the Principle 14 which entitles the detainee (s) to receive information in his known language in case; he does not understand the language used by the authorities.<sup>111</sup> Yet, the sorry state of affairs is that innocent civilians have been tortured and harassed by the army as most of the people of Manipur, especially residing in rural areas does not understand Hindi. Despite all this established laws, the Indian state in general and Manipur in particular, fail to uphold them for a long period of time. Unarguably '[o]ne of the greatest revolutionary developments in the annals of human history is that under the aegis of the United Nations for the first time, a comprehensive list of human rights has been recognized by in International Relations which every individual, can claim these rights as member of human society...One of the four purposes of the UN is the promotion and end encouragement of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion irrespective of his/her social, ethnic attributes (Article 1).'<sup>112</sup> To fully realize all this established laws, code of conduct and norms, the Indian state has a great responsibility to set its house in order.

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<sup>108</sup> *Human Rights and Human Rights Instruments...*

<sup>109</sup> *ibid.*,

<sup>110</sup> *See Armed Forces Special Powers Act..*

<sup>111</sup> *ibid.*,

<sup>112</sup> Abdulrahim P. Vujapur, ' Minorities and Human Rights: A Comparative Perspective of International and Domestic Law' in D.L. Seth & Gurpreet Mahajan, (eds), *Minority Identities and the Nation-State*, ( New Delhi: Oxford University Press), 1999, p.242



## Supreme Court of India's Stance

Notwithstanding the contravention to both the Indian law and the international law, the judgement of the Supreme Court of India unleashed a death blows as it upheld the dubious Act in November 1997. Unfortunately, 'The judgment on the constitutionality of the Armed Forces (Special Powers) Act is one of the most conservative judgements in the annals of the Supreme Court of India.'<sup>113</sup> Specifically, 'the hearing of the case starkly brought forth the basic difference of approach between those pleading for the striking down of the legislation and that adopted by the court. It was the alarming rate of heinous crimes against the populace perpetrated by the army and the paramilitary personnel and the need to end it, the virtual non-existent space for redressal of victims' grievances and the inaccessibility of people to the military courts where such crimes were to be tried, that prompted various democratic rights organizations and individuals to file cases before the court. Such concerns were, however, not shared by the highest court.'<sup>114</sup> No wonder that the Supreme Court held the definition of "disturbed area" to be precise while stating that Section 3 does not confer an arbitrary power to declare an area as a 'disturbed area'. The judgement simply states ". . . we do not find any substance in this contention. Section 2(b) has to be read with Section 3 which contains the power to declare an area to be a disturbed area."<sup>115</sup> A further analysis shows that the governor's power in declaring an area to be 'disturbed' is similar to that of the imposition of Article 356 of the Indian constitution, which have been in used to suit the interests of the ruling power at the Centre. Again, 'the judgement while upholding the power directs that while exercising power under section 4 (a) the army officers should use minimum force required for effective action. However, this supposed restriction bringing wide power to kill within the ambit of constitutionality does not amount to anything...The innumerable incidents of atrocities demonstrate the consequences of giving independent powers to the army.'<sup>116</sup>

Sadly, the giving of warning or the use of minimum necessary is non-existent as far as the role of the armed forces in the 'disturbed area' is concerned. The end result: excessive use of force and gross human rights violation. The innumerable incidents of atrocities demonstrate

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<sup>113</sup> 'The Judgement : In Theory and Practice', *Manipur Update*, December Issue, Vol.1, Issue 1, [http://www.geocities.com/manipurupdate/december\\_features\\_3htm](http://www.geocities.com/manipurupdate/december_features_3htm)

<sup>114</sup> 'An Illusion of Justice...'

<sup>115</sup> <http://education.vsnl.com/pudr/illusion.html>

<sup>116</sup> *ibid.*,

the consequence of giving independent powers to the army. It is clear that 'the court did not give any criteria for objective assessment of the situation before declaration as 'disturbed area'. Thus in practice, the review is a routine bureaucratic exercise, as it had always been in the past. Besides, the Do's and Don'ts (the guidelines issued by the army to be followed while exercising powers under section 4 (a) to 4 (d) of the Act) are often violated with the knowledge of, and violations covered up by, the higher army authorities... Even if a complaint is lodged against army personnel, the procedure followed in Indian military courts under Army Act, 1950 falls short of an 'equitable, impartial and independent administration of justice, which is the internationally accepted standard under Article 14 of the ICCPR.'<sup>117</sup> Consequently, '[t]he difficulties faced by the victims of violations by the army, or their kith and kin, are numerous and probably insurmountable. Filing a complaint against the army carries the risk of further attacks. Thus willing to testify in court also bears a similar risk.'<sup>118</sup>

Illustratively, 'the Supreme Court, in the judgement between Kartar Singh and Union of India states; 'No doctrine, involving more pernicious consequences, was ever invented by the wit of man that any of its provisions can be suspended during any of its grave exigencies of government.'<sup>119</sup> As a result, '[s]uch a doctrine seem to have been at work in justifying the continuation of a legislation which suspends every fundamental right for all citizens inhabiting the region comprising seven states of our country, denying citizens redress to the judiciary and shielding those guilty of committing heinous crimes against the people... The insignificant changes or petty restrictions read into the Act by the Supreme Court therefore came to be visualized as sufficient impediments to the abuse of power.'<sup>120</sup> Above all, '[t]he judgement has sanctified the Armed Forces (Special Powers) Act. It has emboldened the armed forces to operate with impunity against the racially and culturally distinct minorities in the Northeast India. Much against the Supreme Court's wishes, it is likely to generate more feeling of alienation among the people against the armed forces.'<sup>121</sup>

While the Supreme Court of India upheld the Act, there have been no convincing arguments provided by the authorities. The Act is inimical, vague and irrational. '[T]hese

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<sup>117</sup> *The Judgement: in Theory and Practice...*

<sup>118</sup> 'An Illusion of Justice.'

<sup>119</sup> See *An Illusion of Justice...*

<sup>120</sup> *ibid.*,

<sup>121</sup> 'The Judgement: in Theory and Practice...'

provisions give a broad 'licence to extrajudicial execute' innocent and suspected persons under the guise of maintaining law and order.[Therefore], it violates every norms of civilized society: the primary responsibility of the State is the protection of the lives of the people, not the taking of those lives.<sup>122</sup> In other words, the state, which is required to be the protector and guarantor of human rights, has become the major violator.

On the other hand, the tussle between the State and the Centre is not a new, outlandish cases in Manipur. The 'judicial inquiry' in to the death of a young student, Kangujam Ojit, on february 15, 1997 have shown the authoritarian tendencies of the centre vis-à-vis Manipur.<sup>123</sup> In this case, 'the Union Government along with the Army has challenged the Manipur Government Order of a judicial inquiry in to the death of Kangujam Ojit at the Gauhati High Court.'<sup>124</sup> It challenged 'the state Government's order saying it has no right to order such an inquiry on the armed forces, [while] the petitioners argued that any enquiry in respect of armed forces should fall under the seventh schedule of the Constitution'.<sup>125</sup> They [Central Govt.] said that the Army being a force of the Union Govt., the state has no right to order the judicial inquiry would amount to interference in the discharge of its duty.<sup>126</sup> However, the state Government opposed the petition. Subsequently, Chonjohn, the counsel of Indramani (the deceased father), 'defended the state Government's order saying judicial enquiry was essential as it was a matter of public importance' and added that 'constitution of inquiry was absolutely under the jurisdiction of the state'.<sup>127</sup> Thus , the order reflects the Centre's motive of shielding the army and the security personnel or their crimes and human rights abuse which have strengthened the power of the Army against the populace of Manipur .In fact ,this [was] not the first time that the Army has tried to interfere in judicial inquiry .For example on Nov. 1996, the centre Government had filed a writ petition in the High Court Seeking the quashing of "Kwakeithel Firing Inquiry Commission",<sup>128</sup> which was probing the death of a government employee, Prabhahini Devi in the Assam Rifles' indiscriminate firing.

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<sup>122</sup> *Alternative Report and Commentary...*

<sup>123</sup> .For more understanding of the tussle, See A.B.Singh ,'Centre Challenges State's Order',*NorthEast Sun*, May 1-14,1997.

<sup>124</sup> .Ibid.

<sup>125</sup> .ibid.

<sup>126</sup> .ibid

<sup>127</sup> .Ibid.,

<sup>128</sup> .ibid.

In this 'quasi-martial law' state, where people have been 'terrorized' and 'fear psychosis' engrossed the minds of the people, the ordinary citizens have their last hope. Their trust in civil society could at least mitigate, if not fully, their untold hardships and sufferings arising out of the unwanted forces of the State.

## CHAPTER - III

### THE ROLE OF CIVIL SOCIETY IN MANIPUR

Despite the repressive nature of the state, it is distressing to note that civil society in Manipur could not perform its role and functions much to the expectations of the people. Notwithstanding its limitations, it is pertinent to discuss the way it address the problems of gross human rights violations by the armed forces, leave alone the myriad socio-economic and political problems

The term civil society may be as new as it is in nascent stage in Manipur. Nevertheless the consciousness of creating an autonomous space for citizens to encounter with the state may be traced far back to pre-independence India. As a matter of fact, 'the women's agitation (Nupi Lan) was one of the most important events in the colonial history of Manipur. The deep-rooted cause of the movement was directly related to the irregularities and malpractices in the administration of the state.<sup>1</sup> In fact, Meira Paibi became the rallying point for protests against oppression and colonial manifestations of the Indian policies.<sup>2</sup> It was the first time during the first *Nupi Lan*, which was in the year 1904, that Meitei women realized their collective potential as a strong pressure group.<sup>3</sup> Since then, they have been playing a pivotal role as a 'watchdogs of their society for the maintenance of social order while protecting the citizens from the clutch of the state. In the present repressive political landscape, 'they hold *Meiras/Mashaal* and roam in the locality to keep a watch on drunkenness and drug-abuse. They make a human wall in cases where innocent local youths are forcibly being taken away by the Armed Forces in the name of insurgents...They are the Mothers. Like any other mother they can go to any extent to safeguard the lives and interests of their children, i.e., their society.<sup>4</sup> Their organizational skills and their non-violent means, even in the face of barbaric violence can be wonderful learning and sharing experience within the South Asian Region.<sup>5</sup>

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<sup>1</sup> N. Joykumar Sing, "The Women's Agitation of 1939," in Lal Dena (ed.) *History of Modern Manipur* (1826-1949) (New Delhi's Orbit Publishers ~ Distributors), 1991 p. 145

<sup>2</sup> Irengbam Arun, "The Search for Light" *Manipur Update*, December issue, Vol - I issue, December 1999.

<sup>3</sup> N. Vijaylakhsmi Brara, "Meira Paibi ~ An Introspection"

<http://www.manipuronline.com/features/Dec2001/meirapaibi23.htm>

<sup>4</sup> *ibid.*

<sup>5</sup> *ibid.*

For instance, in the incident in which the 8<sup>th</sup> Assam Rifles shot dead ten innocent civilians on November 2, 2000 at *Malom Makha Leikai*, the local *Meira Paibi* played a vital role. While strongly condemning the incident, the women's group demanded for the removal of the 8th Assam Rifles from Manipur and the withdrawal of the Armed Forces (Special Powers) Act as well. The demands for compensation for the families of the deceased, as well as the injured persons were also made by them.<sup>6</sup> In this strife-torn State, women become the soft-target by the security forces. While addressing the social issues — or the evils like, drug-abuse, trafficking, corruption and the like, the '*Meira Paibis*' have been playing an important role for the revocation of the Armed Forces Special Powers Act. Collectively, they encounter with the state for securing the rights and liberties of the people of Manipur. As a matter of fact, they are [t]he rallying point for protests against oppression and colonial manifestations of Indian policies.<sup>7</sup> The Meira Paibi was formed primarily with the aim of removing alcoholism as many people, especially women in the family, suffer from the impact of the widespread use of alcohol among men.<sup>8</sup> The group punishes the drunkard in public and destroys liquor. However, as law and order situation worsened, these groups are now effectively involved in fighting against violations of human rights and other social evils.<sup>9</sup> Thus, 'the *Nupi Lan*, which started as a "rice agitation" directed against the economic policies of the Maharaja and the Marwari monopolists, later on, changed its character to become a movement for constitutional and administrative reforms in Manipur. The uniqueness of the movement, however, lies in the fact that in the emergence of a new Manipur after the end of the Second World War, it was the women of Manipur who were in the vanguard of change.'<sup>10</sup>

The *Malom Massacre* was one of the most horrendous incidents in recent years. The incident had drawn strong condemnations from different corners of Manipur. The Peoples' Union for Civil Liberties Manipur demanded for the order of a judicial inquiry and brings forth the

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<sup>6</sup> *Malom Massacre*, Published by : Department of Communication & Publicity, Revolutionary People's Front, Manipur, 1998-2003, November 2000. <http://www.geocities.com/CapitolHill/Congress/4568/publications/20001102.html> - 36k

<sup>7</sup> Arun, "The Search for Light"...

<sup>8</sup> Gina Sangkham, "Women's Movements in Manipur", p.126 in C. Joshua Thomas, et al (eds.) *Constraints in Development in Manipur*, (New Delhi: Regency Publications), 2001 p.126

<sup>9</sup> *ibid.*

<sup>10</sup> Sanamani Yambem, "Nupi Lan : Women's Agitation, 1939", *Economic and Political Weekly*, February 21, 1976

guilty personnel to book.<sup>11</sup> In its press release, it stated that, 'the PUCL stands committed to the repeal of Armed Forces Special Powers Act, and other black laws, which is 'convinced that such heinous acts by our own security forces in the name of insurgency under the cover of such black law has only alienated the people of this land.'<sup>12</sup> It further stated that the 'central government is only interested in suppression by brutal force rather than finding a solution'. It also condemned Manipur being declared a 'proclaimed Area', meant to suppress the freedom of expression, which is 'tantamount to denying the fundamental right guaranteed by the Constitution of India. For the realization of 'genuine freedom, the Union urged the democratically elected government of the State to revoke this Black law with immediate effect.'<sup>13</sup> Besides, both the collective and individual efforts caught public attention in this incident. Sharmila has launched her 'fast unto death' agitation soon after the *Malom Massacre* took place. She demanded for the removal of the infamous Armed Forces Special Powers Act, 1958 and other 'draconian laws' from Manipur.<sup>14</sup> However, she was lodged at the Sajiwa jail in the Imphal East District after being arrested on the charge of attempting to commit suicide. She was eventually brought for medical check up to the J.N. Hospital as her health condition deteriorated on November 13, 2001. The woman in question has completed 669 days of fasting till July 14, 2003.<sup>15</sup> As a sequel to her bold, self-less action, various women activities deplored the then government and also assured that they will continue to extend support to Sharmila's demand. The Centre has heard their voices<sup>16</sup> though their demands have not yet been met till date.

Apart from the *Meira Paibis*, a number of women's groups also play a remarkable role in the field of human rights- protecting citizens from the onslaught of the state, especially by the armed forces in strife-torn state of Manipur. They all express their desire for peace and condemn violence in one way or the other. The most prominent among such groups are the *Kuki Women's Union*, the *Naga Women's Union of Manipur*, etc. Women's groups in Manipur not only engage themselves in encountering the state, but also involve in resolving conflicts across ethnic communities. Their remarkable role in this process came to light during the ethnic feud between

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<sup>11</sup> Press Release, PUCL Bulletin, December, 2000, <http://www.pucl.org/reports/Manipur/Assam Rifles.htm#letterformManipur>

<sup>12</sup> *ibid.*

<sup>13</sup> *ibid.*

<sup>14</sup> *North East Sun*, May 1-14, 2001.

<sup>15</sup> "Sharmila Completes 669 days in Fast: CM", <http://e-pao.net/epArcDisplay.asp?src=150703>

<sup>16</sup> *ibid.*

the *Nagas* and the *Kukis* during the early 90s. Against heavy odds, they toured the hills<sup>17</sup> of Manipur, appealed to their respective insurgents to cease-fire, and devised every possible means to resolve conflicts. Such a constructive role had been initiated by their initiatives. But 'when the state initiates to involve them, it is really to be go-betweens, to play the role of the "healer" or the "pacifier." There has been no effort on the side of the state or non-state agencies to involve women in actual negotiations. This merely goes to re-emphasize the lack of understanding of peace in terms of mutuality and equality, and of viewing the peace process as a kind of "settlement." Furthermore, the non-participation of women in these processes has resulted in de-focusing the fall out of armed conflict on women and in marginalizing women's needs and aspirations.<sup>18</sup>

Manipur had experienced a mild form of student protest and saw the growth of student politics during the colonial period.<sup>19</sup> In the later years, 'the All Manipur Students' Union (AMSU) came into being in 1965 following a bloody confrontation on 27 August 1965, when police fired upon students protesting artificial scarcity of rice and killed four person, and injured many others.<sup>20</sup> Since then the students' body has been the rallying point of students from various sections of the society .In its efforts to safeguard individual liberties and civil rights a concerted efforts for repealing the Act (Armed Forces Special Power Act, 1958) began in the late 1960s.<sup>21</sup> To inculcate general awareness on basic human rights among the citizens, it organized seminars, workshops where the pros and cons of the Armed Forces (Special power) Act,1958, were analyzed and discussed. The Union used mass agitation like protest rally and various forms of agitation whenever and wherever the state's security mechanism violates the rights and liberties of the people. Taking strong exceptions to this horrendous incident, the All Manipur Students' Union asked, 'how long the people should remain as silent spectators when the Army is killing unarmed and innocent people recurrently.'<sup>22</sup> The students' body further stated, 'it is urgent to take collective resolutions of the people to encounter those killers of innocents.'<sup>23</sup>

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<sup>17</sup> For example, the *Kuki Women's Union* appealed to the Kuki insurgent groups in Manipur to cease hostility

<sup>18</sup> Roshmi Goswami 'An Analysis of Women in Armed Conflict Situations', <http://www.isiswomen.org/wia/wia399/pea00001.html>

<sup>19</sup> M.C.Arun, 'Student politic in Manipuri society 'in C. Joshua Thomas,et.al (eds)

<sup>20</sup> .Ibid.

<sup>21</sup> .Irengbam ,Arun , 'The Search for vLight' Manipur update , December Issue ,Vol. 1,issue 1,1999,Opinion 3.

<sup>22</sup> N. Vijaylakshmi Brara, <http://www.manipuronline.com/geocities.com>

<sup>23</sup> ibid.



In its efforts of counter-insurgency, the security forces tend to become as a part of problem, rather than the solution. The *Do's and Don'ts* issued by the Army Headquarter remains only on paper. More often than not, innocent civilians become the victims. Illustratively, the method of 'search operation' conducted at *Mulam, Songphel Khulen* and the surrounding villages in the year, 1993 had drawn strong condemnation from various civil society groups of Manipur. In view of the grave situation, where large chunk of the villagers fled their respective villages after personnel of the Manipur Rifles tortured innocent villagers; the All India Kuki Youth Federation, in its Press Release, stated that 'it is unbelievable the manner in which such responsible members of the state forces behaved themselves with impunity by taking away such essential items without any compunction.' It further added; 'there is no justification for subjecting the innocent civilians to third degree method, and arresting the whole villagers without any reasonable causes'<sup>24</sup>. Whether or not the demands were met is another case, it is worthwhile to mention that various organizations/associations have been the "space" for encountering with the State whenever incidents of human rights take place.

On the other hand, in relation to the incident,(April 19, 1993) where some Manipur Police personnel, accompanied by the CRPF (Central Reserve Police Force) picked up 23 odd villagers of *Khengjang*<sup>25</sup>, which left some villagers maimed, crippled or injured severely; the Kuki Students' Organization, Manipur, strongly condemned 'the drunken barbarism, nazism and vindictive acts of the attackers, demanded that appropriate action be taken against the persons concerned with these barbaric tortures'<sup>26</sup>. The students' body, though its success was minimal, had been voicing out against the unwarranted acts of the armed personnel.

In another gruesome incident- of gross violations of human rights by the armed forces on July 12, 1997 at *Thingkangphai*, Churachandpur, where 9 innocent civilians were brutally shot dead by the Rashtriya Rifles, various associations/organizations voiced out openly against such outlandish crime. The Kuki Students' Organization (Delhi) and Kuki Women's Union, Delhi, among others, came in the forefront. In their joint memorandum submitted to the National Human Rights Commission, the Organizations/Union sought the

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<sup>24</sup> *Thinglhang Post*, November 23, 1993

<sup>25</sup> \_\_\_\_\_, April 21, 1991

<sup>26</sup> *Thinglhang Post*, April 21, 1993

'Commission's immediate and effective action, and demanded for the commissioning of a judicial inquiry.'<sup>27</sup> Moreover, an appeal was made for the protection of human being's most basic universal human rights — the right to life. From this account, one maintains that the safeguarding of human rights from the security forces have been one of their cherished goals and objectives. This clearly shows that citizen's trust on the so-called security forces has been waning down as they (security forces) often become the violators of human rights. In the face of such extreme abuses of the 'right to life', the role of the security forces have been called into questioned and challenged by the active role of various civil society groups.

The series of human rights abuses by the armed forces is long. No wonder that armed forces themselves involve in arson, looting and various acts of crime. For instance, the burning down of houses at *Mongjang village, Churachandpur*, on 2-1-1997<sup>28</sup>, it is worthwhile to note the condemnations from the human rights group. While condemning the incident, the Kuki Movement for Human Rights (KMHR) appealed to the government 'for relinquishing/terminating the 9 Manipur Rifles involved, and asserted that the security forces, instead of securing the lives of the people, becomes like criminals/dacoits which ruin the lives of the youths'<sup>29</sup>. Further, the rights body 'pressed the government that a judicial inquiry be instituted. In the same vein, the Kuki Students' Organization, after 'on-the spot inquiry/visit' released a statement and refuted the claims of the security forces baseless, unwarranted and uncalled for. The surprising and baseless claims of the security forces were that —in the mentioned village, insurgents had carried out an ambush against them.

The Central Reserve Police Force went on rampage on July 21, 1999 at Lower Lamka, Churachandpur, in the aftermath of an attack by underground activists on their colleagues. In view of the indiscriminate firings, which resulted into the death of 5 innocent civilians, various civil society groups vehemently condemned the excesses of the armed forces. The Churachandpur District Students' Union (CDSU), in its Press Release stated, "We condemn the indiscriminate firing upon the mob by the security forces when incident takes place everywhere." Regarding the incident of 21/7/1999, eyewitnesses reported that the security

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<sup>27</sup> "Against Human Rights Violation", Press Release of the Kuki Students' Organisation and Kuki Women's Union (Delhi), New Delhi, July 25, 1997

<sup>28</sup> *Thinglhang Post*, June 13, 1997

<sup>29</sup> *ibid.*

forces killed 5 persons though they pleaded their innocence... People take the security forces as their 'protectors' but when incident takes place they become 'predators'. This kind of atrocity on the part of the security forces should be stopped in future to save the lives of innocent persons. Shoot at sight on innocent people is violation of human rights'<sup>30</sup>. Subsequently, under the leadership of CDSU, over 20,000 people, including students and women folk took out a protest rally at Churachandpur bazaar to Churachandpur DC's office. However, the peaceful rallyists were stopped by the police, which ultimately led to the hospitalization of 25 persons. As public outcry, tension and chaos doomed the town; A *Joint Action Committee on Churachandpur Town Firing* was formed. The Committee, in turn, submitted a memorandum demanding for a 'judicial probe into the firing, grant of Rs. 5 lakhs as ex-gratia for each of the dead victims and Rs. 2 lakh for the injured to meet medical expenses. Above all, the memorandum demanded for the securing of the rights and liberties of the people. The Committee's role was influential in the fact that the then Chief Minister, Wahengbam Nipamacha Singh instructed — for commissioning of magisterial inquiry. He further stated that 'if the public were not satisfied with the findings of the magisterial inquiry, a judicial inquiry would be held.' The incident was brought up in the State Assembly under the leadership of the Manipur Peoples Party's MLA, T.N. Haokip where MLA L. Jatra charged that the CRPF saw the entire people of the state as their enemy, and deliberately targeted them wherever attacked by the underground militants. Maintaining that the CRPF personnel are operating under the Armed Forces Special Powers Act, he demanded that this Act should be repealed; warning that otherwise more innocent would continue to lose their lives.

Unsatisfied with the Armed Forces Special Powers Act of 1958, which give the security personnel unlimited powers to shoot to kill anyone on mere suspicion, the Central government had done another *faux pas*: the sense of *alienation* and *deprivation* of Manipur was complete when the Government of India and the National Socialist Council of Nagaland (NSCN- IM) signed a ceasefire agreement on June 14, 2001. No sooner had the agreement been announced than the affected states, especially Manipur erupted in outraged protests: bewilderment, chaos and confusion doomed the people of Manipur. One argues that the agreement was the total manifestations of the 'step-motherly' attitude of the Centre towards Manipur for more than 3

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<sup>30</sup> *ibid.*

decades. Indeed, the callous handling of the matter was acutely shallow and superfluous and abysmally parochial in approach and administratively unsound. In view of the massive civil society's responses to the State, it is therefore, pertinent to discuss the ceasefire agreement. Subsequently, different organizations like Manipur Students' Federation, NIPCO (National Identity Protection Committee), UPF (United Peoples Front), AMKIL (*Apunba Manipur Kanba Ima Lup*), IPSA (International Peace and Social Advancement), and almost of all the existing associations/organizations, clubs followed suit, who pledged to support the movement of AMUCO (All Manipur United Club Organization), AMSU (All Manipur Students' Union), etc. Meanwhile, political parties of all hues strongly condemned the ceasefire extension to Manipur.<sup>31</sup>

Subsequently, various leading student's organizations, like AMUSU called a 24-hour Manipur Bandh from midnight against the extension of ceasefire to Manipur on June 17, 2001. The following day, i.e. June 18, 2001, protestors from all directions gathered spontaneously in front of Raj Bhawan [Manipur] after overcoming security barricades amidst the *lathi*-charge, tear gas shells, etc. By openly denouncing the ceasefire, angry mobs braved the mighty power of the armed personnel. The Centre rushed additional companies of paramilitary forces to the State. For two days, Manipur remained cut off from the rest of the country as all flights to Imphal were cancelled. The entire State was brought under curfew, which was relaxed for a brief period during the day. Fearing an outbreak of similar violence, the Assam and Arunachal Pradesh governments took elaborate security measures.<sup>32</sup> Resultantly, angry mobs set afire the Manipur Assembly Secretariat, political party offices, MLA quarters including Chief Minister's Office. The Central Reserve Police Force personnel in turn, shot dead 13 protestors. In this outlandish incident, 18 people lost their lives for the 'territorial integrity' of Manipur on that fateful day!. So, 'it was obvious that the Centre had failed to foresee the consequences of extending the ceasefire to the contiguous Naga-inhabited districts of *Senapati*, *Ukhrul* and *Chandel* in Manipur. A Home Ministry official said: "The Government was apprehensive of some reaction in the form of protests and demonstrations against the latest truce with the NSCN(I-M). But the scale of violence that rocked Imphal was beyond our expectation."<sup>33</sup> Various organizations issued strong condemnations from different corners of the state. However, it is pertinent to note

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<sup>31</sup> *Manipur Factfile, 2001* has documented details of the events; cease-fire agreement and its aftermath consequences. The role of various organizations, clubs or associations is chronologically documented.

<sup>32</sup> Kalyan Chaudhuri, "*Truce and violence*", *Frontline*, Volume 18 - Issue 14, July. 07 - 20, 2001

<sup>33</sup> This statement reflects the Centre's lack of full knowledge of the ground reality and the impending consequences

that an umbrella organization namely United Committee Manipur (UCM), consisting of AMSU, NIDCO, IPSA and UPF was formed on July 2, 2001 to further demand withdrawal of the ceasefire extension. Soon after its formation the UCM called a 24 hour general strike from midnight on July 23, 2001. The resultant effects of the strike, apart from others, crippled lives in the Churachandpur and four other valley districts of Manipur. Thus, the center's underestimation of the gravity of the situation caused a violent agitation in Manipur for over a month. Therefore, in order to prevent the recurrence of this violent mass agitation, the center should draw a lesson in view of the large-scale loss of human lives and properties.

The ceasefire-related developments in Manipur evoked mixed feelings and uncertainties. For one, it was the most undemocratic/violent form of mass agitation, where the unruly mobs reacted in a most horrendous way, and which must be condemned in total. For another, it was the manifestation of the undermining/marginalisation of civil society groups in the State, as the sense of long deprivation and alienation reached its acme, for which the Centre alone was responsible. In any given circumstances, 'ceasefire' is an important step for creating conducive environment for peace talks between the two warring groups. However the latest ceasefire agreement discussed above reflected Centre's dubious policy of counter-insurgency. Ceasefire *per se*, is not discarded. Yet the way both the parties 'derived' the ceasefire agreement, devoid of the concerned/affected public was, undemocratic, and it was obvious that any decision taken which lacked transparency would result into disaster. Worst as the case may be, the ceasefire agreement, which was intended to bring home peace and security (solutions), has instead produced fear, insecurity, chaos and confusion (problem) in Manipur! In other words, it had brought more problem than solutions. Whatever cases it may be; there is a lesson to learn. The lesson to be drawn from the fiasco is that, a closer interaction should be maintained between the Centre and the State, both in decision-making and its executions; and that marginalization of civil society would ever be catastrophic in strife-torn Manipur!

The Naga People's Movement for Human Rights (NPMHR) is another civil society groups in Manipur. Formed and established in the year 1978, it has been playing a prominent role for the protection of the rights of the people, especially the *Nagas*. One of the most important roles taken by the NPMHR, in its initial phase, came to light on March 23, 1982, where two of its members were sent to *Ukhrul*, Manipur, for 'On the Spot' study on the gross violations of human

rights by the 21 Sikh Regiment.<sup>34</sup> In fact, the reign of terror was unleashed by the security upon the civilians as a sequel to an ambush carried out by undergrounds, which resulted into the loss of 24 personnel of the security forces. Subsequently, the NPMHR filed a writ petition in the Supreme Court on 14<sup>th</sup> April 1982. [T]o strengthen [its] case NPMHR sponsored a Fact-Finding Team of eminent women in Delhi from all walks of life. The team after visiting the affected District of *Ukhrul* gave their findings in black and white.<sup>35</sup> Thus, the year [1]982 was a rewarding year and a hallmark as far as human rights problem in Naga areas is concerned. For the first time, the Government of India and the Army were taken to court.<sup>36</sup> The rights body has made significant contributions, especially with respect to the '*Oinam Operation*'<sup>37</sup> whereby it challenged (filed a writ petition) the excesses of the armed forces/security forces in the court. [T]he most comprehensive case was brought in the Gauhati High Court on 5 October, 1987 by the NPMHR. It described the attack on the Assam Rifles' Camp at Oinam and the subsequent combing operation. It listed the people reportedly killed, tortured and raped by the Assam Rifles during the combing operation, and the detention and torture of local politicians and student representatives. The Rights Body categorically stated [t]he actions of the security forces during the Oinam Combing Operation resulted in the abuse of the fundamental rights not only guaranteed in the Indian Constitution but also in the International Covenant of civil and political Rights., to which India is a signatory. It [therefore] asked the High Court to direct the Assam Rifles to pay exemplary damages to the families of people who were killed, tortured, beaten, illegally detained and raped. Finally it requested that criminal prosecutions should be initiated against Assam Rifles soldiers and officers responsible for the abuses alleged.<sup>38</sup>

Accordingly, the Gauhati High Court ordered the Imphal Sessions Court to start recording the evidences of the many witnesses brought by the NPMHR. The judges directed the Sessions Court to record evidence on nine specific charges made in the petition, namely, murder, torture, rape and sexual assault, illegal detention, dismantling and desecration of Churches, dismantling of houses, dismantling of schools, forced labour and looting. [Subsequently], the Sessions Court at

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<sup>34</sup> For a more understanding of the incident, see NPMHR, Vol. III, No. 06, New Delhi, December 1997, pp. 8-20.

<sup>35</sup> *ibid.*

<sup>36</sup> *ibid.*

<sup>37</sup> Legal Proceedings, Court Cases Brought Against the Assam Rifles, <http://www.nscnonline.org/webpage/Amnesty/legal-proceedings.htm>.

<sup>38</sup> *ibid.*

Imphal started work on 22 August 1988.<sup>39</sup> The case was, indeed, comprehensive and interesting as both sides made claims and counter claims. For example, [t] he NPMHR claimed that the affidavits presented by the Assam Rifles were false as they had been obtained duress as it produced affidavits recorded in the magistrate's Courts at Imphal and *Ukhrul* as well as memoranda and letters written by the state officials and various political and voluntary groups describing the abuses to the state and Central Government.<sup>40</sup>

Moreover, in the aftermath of the Operation Loktak<sup>41</sup> a thirty-six (36) member Fact Finding Team of human rights activists and volunteers from various voluntary organization of Manipur visited Thanga and Karongon on 20 March 1999.<sup>42</sup> The Team was drawn from the *Committee on Human Rights (COHR)*, *All Manipur United Clubs Organisation (AMUCO)*, *Poirel Leimarol Meira Paibi Apunba*, *Manipur Youth Centre (MIYC)* and *Meira Paibi Apunba Lup (MPLA) of Bishnupur District*.<sup>43</sup> In fact, this was one of the biggest operations ever conducted by the Army in Manipur. In its effort to assess the affects of the operation, the team employed every possible method so as to get full accounts from the people. The team stayed for two days and met the people of Thanga Karong, the team was divided into 7 (seven) groups and 6 (six) team visited the most affected villages of *Thanga* and *Karang*. They collected facts about the Operation, affidavits and victims and damages reports of properties.<sup>44</sup> It is pertinent to note some of the statement on affidavits:- one of the statements stated that “...after beating me for about half an hour in my house, I was blindfolded and brought to their temporary camp at *Thanga Chaoba Chingdol*. Soon after I reached the camp I was tortured again including administering electric shock on my body,” (From the statement on affidavits of *Ningthoujam Singh* of *Thanga* ).<sup>45</sup> Such was the method of the torture perpetrated upon the people. In yet another affidavits , it reads “.....they dragged me out of my house by pulling on the hair ....the Army personnel started beating me with their rifle butt, kicking and slapping on my face without giving any reason, when I asked about the reason for beating me, instead of giving answer, they continued the beating.....”(from the statement on affidavits of *Ningthoujam Momon Devi* of *Thanga Salem*

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<sup>39</sup> For details, see the 'Legal Proceedings'...

<sup>40</sup> *ibid.*

<sup>41</sup> *Operation Loktak: A case study of Human Rights Violation: Report of Joint Fact Finding Team,*

<sup>42</sup> *ibid.*

<sup>43</sup> For more accounts on the activities and functions of the Team, see *Operation Loktak*

<sup>44</sup> *ibid.*

<sup>45</sup> *ibid.*

*Leikai*).<sup>46</sup> This affidavits evidently shows that even the Womenfolk were not spared to meet the brunt of the security forces. Various organizations like, the *Apunba Jiribam Meira Paibi*, *All Jiribam Women Vendors Association*, the *All Manipur Women Voluntary Association*, *Jiri Branch*, etc publicly condemned the Operation<sup>47</sup>. All in all, the whole repercussions of the Operation Loktak came in to light as a result of the arduous, remarkable role taken by the Fact Finding Team. In its summary report, the Team observed that Army operations, like the Operation Loktak is against the Universal Declaration of Human Rights and other International Covenants. Human Rights Violations are galore in such Operations. Such Operation is symptoms of a disease. The disease are the Internal Armed Conflict, can only be solved politically and not militarily.”<sup>48</sup> It further stated that ‘every individual and organization, who wants to put an end to such human rights violations permanently, should strive to bring an end to the existing armed conflict by political means.’<sup>49</sup> From the above, one sees that the role of various civil society groups in Manipur, especially in the Operation Loktak, earned accolades from different sections of the people, which was indeed worthwhile. ‘The Operation Loktak may have given a big blow to the insurgent as claimed by the Army but it is clear that the Army has not been able to make the achievement they had expected’.<sup>50</sup>

The Committee On Human Rights (COHR), which was formed in the year 1992, is one of the prominent rights bodies, espousing the need for safeguarding human rights in Manipur. The Committee consisted of representatives from 18 frontline organizations. A ‘state-wide campaign against the Armed Forces Special Powers Act and other black laws has been launched, succeeded in creating a wider base for the human rights movement. It also took up the work of systematic documentation of the incidents of human rights violations and networking with different human rights organizations in India and abroad.’<sup>51</sup> In 1997, delegates of COHR apprised the UN Human Rights Committee on the actual human rights situation in Manipur.<sup>52</sup> Resultantly, ‘the UN Committee *inter alia*, recognized the political nature of the North –east region and pressed India to look for political solutions, keeping in mind its obligations under Articles 1, 19, and 25 of the ICCPR. The Committee unequivocally

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<sup>46</sup> .Ibid

<sup>47</sup> .Ibid.,

<sup>48</sup> .Ibid.,

<sup>49</sup> .Ibid.,

<sup>50</sup> See Khelen Thokchom, ‘North East Sun’ April, 1-14, 1999.p.17.

<sup>51</sup> Irengbam Arun, “*The Search for Light*”, Manipur Update, December Issue, Vol.1



declared that under the Armed Forces Special Powers Act, the Government used emergency powers without resorting to Articles 4 (3) of ICCPR.<sup>53</sup> As it is an encompassing, wide-ranging nature both in its composition and functions, the Committee generates a popular support to a great extent

The Human Rights Alert (HRA) is another vibrant, wide-encompassing rights group, which is not confined only to the state of Manipur, but to the whole northeast. It is non-governmental, voluntary organization of individuals committed to the cause of human rights. Its members are drawn from human rights defenders, journalists, lawyers, academicians, health workers and community workers of Manipur.<sup>54</sup> Some of its important activities are listed below:

- (a) Runs a resource centre at Manipur and services the local human rights initiatives with information, advice and guidance.
- (b) Monitors and documents the human rights situation in Manipur and the North East region. (Print & Audio Visual)
- © Conducts grass-root level human rights workshops in the North East region.
- (d) Campaign on individual cases of human rights violations using the law courts, domestic human rights institutions, international NGOs and the UN human rights mechanisms.
- (e) Networks with the human rights groups in the region and outside work closely with Amnesty International, London; International Service for Human Rights, Geneva; International Human Rights Internship Program, Washington DC. HRA is also a partner of the Witness Program of the Lawyer Committee for Human Rights, New York.<sup>55</sup>

Apart from engaging in various kinds of human rights violations by the security forces, it has also played a notable role in cases of 'Disappearance'<sup>56</sup> For example, 'in 1999, the

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<sup>52</sup> *ibid.*

<sup>53</sup> *ibid.*

<sup>54</sup> Manipur Update February Issue Volume I Issue III, February 2000

Human Rights Alert, [http://www.geocities.com/manipurupdate/human\\_rights\\_alert.htm](http://www.geocities.com/manipurupdate/human_rights_alert.htm)

<sup>55</sup> *ibid.*

<sup>56</sup> Disappearance cases are rampant in Manipur; for more details, see Kangujam Ranjit, "In Pursuit of Justice," *Manipur Update*, February 2000, [http://www.geocities.com/manipurupdate/feature\\_2.htm](http://www.geocities.com/manipurupdate/feature_2.htm) Manipur Update

WITNESS program of the Lawyers Committee of Human Rights produced a short video film on the disappeared boy (Yumlemba Sanamacha), entitled *Sanamacha's Story*. The video film was screened before the UN Working Group in New York in May 1999. Thus, 'in solidarity with the families of the victims in other parts of Asia, on September 1999, Human Rights Alert (HRA) contributed a paper entitled *Involuntary Disappearances and the Struggle for Justice in Manipur* at the Seminar on the International Phenomena of Involuntary Disappearances organized by Asian Federation Against Involuntary Disappearances (AFAD) at Sri Lanka.'<sup>57</sup> As a result, 'with efforts from Amnesty International, thousands of letters and cards expressing hope and sympathy from all over the world flooded the parents of *Yumlembam Sanamacha*, during the Christmas and New Year season.'<sup>58</sup> Moreover, a simple function was organized to mark the day on which *Sanamacha* was arrested, at his school in *Angtha* village in *Thoubal* District on 12 February 1999. At the initiative of Human Rights Alert, the families of the other victims of disappearance were also invited at the function and an Adhoc Committee of the Families of the Victims of Enforced Disappearances was formed. One year later on 12 February 2000 the adhoc committee was rechristened as the *Committee of the Families of Enforced Disappearances* (COFED), Manipur. Subsequently, the initiative to consolidate and organize the families was finally on. The Organisation's activities in the field of securing the rights and liberties of the people have been immense as it bridges a close link with other international organizations. Through its Internet edition of news and information, it features a regular report of human rights violations (condemning the authorities and pressing them for delivering of justice to victims) in and around Manipur, in particular and the whole northeast India in general.

As shown by the documentary evidences above, women of Manipur are susceptible to be sexually assaulted by the armed forces. In an incident related to the rape of a girl (*Tinlam Khongsai*) on April 14, 1989 by Manipur Police Personnel, namely, *Kh.Thoiba Singh, K.Yaiba Singh and Th. Lala Singh*, the Saikul Area Welfare Association demanded for the termination of three culprits with condition to band providing them any facilities for re-deployment/employment in government Service<sup>59</sup> The demand also include to compensate the victimized girl according to the customary law'. Public anger was too high that the area people,

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<sup>57</sup> Kangujam Ranjit, " In Pursuit of Justice, *Manipur Update*, February 2000, [http://www.geocities.com/manipurupdate/feature\\_2.htm](http://www.geocities.com/manipurupdate/feature_2.htm) Manipur Update

<sup>58</sup> *ibid.*

<sup>59</sup> "Documents", *Memorandum submitted to the Chief Minister, Thinglhang Post*. April 27, 1989.

under the leadership of this association decided en masse, to hold mass agitation if the demands were not met before April 30, 1989. Thus due to the initiatives of the association general awareness of the citizen's rights and liberties grew slowly in this area where the level of illiteracy, unemployment remains high.

The role of political leadership in creating schism, partisan politics and communal animosity between the tribals and non-tribals remain unabated in Manipur. Such a communal politics cherished and propagated by the so-called 'leaders' or men-in power has been greatly challenged and resisted by the people. To illustrate, the All Tribal Students' Union of Manipur (ATSUM) took a decision to 'socially boycott' A. Romenkumar, I PS (the then superintendent of police, Churachandpur District) in the Hill district of Manipur for creating communal disharmony.<sup>60</sup> In its *Press Release* of March 10, 1989, the students' body charged that, 'he [A.Romenkumar] is the 17<sup>th</sup> Superintendent of Police of *Churachandpur* District but the first to blindfold and beat innocent students' like bloody criminal', and further stated that 'he is the one who provoke tense atmosphere during CM's visit to Churachandpur on the last 24th February, 1989, keeping the Chief Minister into unnecessary delusion.'<sup>61</sup> As a matter of great concern, his (the SP's) uttering of abusive and derogatory words against the tribals contradicts himself. To recall his own words; 'a policemen...is to protect citizens and maintain law and order in the society... the mandate of the police to use force to curb greater violence and disorder raises the key issue that the police themselves should not indulge in abuse or misuse of force.'<sup>62</sup> However as shown above, he was strongly criticized by the ATSUM in his role in maintaining law and order, which reads: '.... let nobody take law into their own hands anymore.'<sup>63</sup> Upholding the rights and the dignity of the people (which even the officials categorically stated) is easier said than done!

With regard to the indiscriminate firing resorted to by the security forces at *Sapormaina* village (May 1,1997) which resulted in to the death of one person and the subsequent arrest and detention of 36 (thirty six) innocent villager by the armed forces, the Kuki Students' Organisation (Delhi), in its Press Release strongly condemned such deplorable acts. In its condemnation, the

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<sup>60</sup> *Thinglhang Post*, March 23, 1989.

<sup>61</sup> Press Release of Churachandpur District Students' Union, *Thinglhang Post*, March 11, 1989

<sup>62</sup> A.Romenkumar, "Human Rights And Police", [http://www.manipuronline.com/Features/December%202002/humanrightsandpolice30\\_2.htm](http://www.manipuronline.com/Features/December%202002/humanrightsandpolice30_2.htm)

<sup>63</sup> *Thinglhang Post*, March 23, 1989

students' body stated; 'these total disregard to, and violation of basic human rights resorted to by the security forces are but an attempt to cover up their own ineptness and incompetence for their failure to apprehend the suspected militants.'<sup>64</sup> As shown by the documentary evidences above, women of Manipur are susceptible to be sexually assaulted by the armed forces. In an incident related to the rape of a girl (*Tinlam Khongsai*) on April 14, 1989, by Manipur Police Personnel, namely, *Kh.Thoiba Singh, K.Yaiba Singh* and *Th. Lala Singh*, the *Saikul Area Welfare Association* demanded for the termination of three culprits with condition to band providing them any facilities for re-deployment/employment in government Service.<sup>65</sup> The statement further holds that, 'the Rishang Keishing government remain a mute spectator and has turned a deaf ear to the pleas of the people.' Under such circumstances, 'the KSO (D) calls upon its fellow citizens of India in the media, citizens rights groups, intellectuals, etc., to join hands and to ensure proper constitutional safeguards to its citizens in every part of the country'<sup>66</sup>

The Manipur Human Rights Commission has been exercising enormous role in addressing the human rights issue of the State. It has encompassed on its agenda almost all aspects of human rights, including cases of failure on the part of the concerned authorities to provide basic minimum services to the people.<sup>67</sup> Not only engaging in protecting innocent citizens against abuses of power by the armed forces, the MHRC also address the issues ranging from civic amenities to environmental issues as a whole

The Commission extensively deals with various cases like arbitrary arrest, or arrest without issuing 'arrest memo', illegal detention, killings, torture, etc. For example, in a complaint against abduction and torture of *L. Ludimliu* (*MHRC Case No. 67 of 2001*), who was abducted by the combined forces of 17 Assam Rifles and Manipur Police commando on May 6, 2001,<sup>68</sup> underwent a third degree torture, the MHRC took up the case and issued notice to the Director General Police (DGP), Manipur with copies of the complaint –petition and the proceedings to submit report on the matter along with the injury reports of *Ludimliu* to the commission.<sup>69</sup> In a similar way, the MHRC took up the complaint petition from *Pukhram*

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<sup>64</sup> Document: Kuki Students' Organisation, Delhi

<sup>65</sup> "Document" *Memorandum submitted to the Chief Minister ;Thinglhang Post*, April 27, 1989.

<sup>66</sup> Press Release of the Kuki Students' Organisation, Delhi

<sup>67</sup> MHRC.to cover all aspects of Human Rights, <http://www.nenanews.com/OT%20Apr%20May>

<sup>68</sup> MHRC case No. 76 of 2001

<sup>69</sup> *ibid.*

*Yaima*, who stated that a Rifleman, *Ningthoujam Priyokumar Singh* of 1st Bn. Manipur Rifles, killed his son, *Pukhrabam Kunjeshore* on 29 February 2000, while he was undergoing medical treatment. Subsequently, the commission issued notice to the commissioner (Home) Govt. of Manipur for prompt and necessary action in to this killing. As there was response /report from the Commissioner (Home), Govt. of Manipur and DGP, Manipur, the MHRC asked the Commissioner (Home) Govt. of Manipur to furnish a copy of the order /Notification of the Government, constituting a magisterial enquiry in to the death of the said person.

As the investigation went on, the Manipur Human Rights commission, on March 29, 2000 , issued notice to the Commissioner (Home) Government of Manipur. The commission directed that the (Commissioner's) report /comments should also include progress made during the investigation in the case,<sup>70</sup> the Commission directed the commissioner (Home) to submit the requisite information /report on or before 15-4-2000.<sup>71</sup> Thus by observing the complainant's letter to the MHRC,<sup>72</sup> it is evident that justice had been delivered—at least in part, if not fully, as he thanked the commission for its proactive action.<sup>73</sup>

Taking a step further, the MHRC has been dealing with the arbitrary arrest—arrest without issuing arrest memo to a great extent, accordingly, the Secretariat, Home Department, Govt. of Manipur endorsed a copy of its letter No. 2/11(23)/2000–H/3711, asking the District Magistrate, Imphal East District to submit the Magisterial Enquiry Report to the Government.<sup>74</sup> The Commission in turn asked the District Magistrate, Imphal East to submit the report, in the course of investigation into this case, the Superintendent op police in, 'confidential letter to the MHRC<sup>75</sup> stated that the accused person (into this case ) namely, *Ningthoujam Priyokumar Singh* of Lilong Chajing, Rfm.No.14664of 1<sup>st</sup> Bn. Manipur Rifles was arrested on 29/2/2000,who was being produced before the Hon'ble court of JMIC/IE on 1/3/2000 remanding him into Police custody for a period of 7 (seven) days for interrogation ...' Meanwhile, the complainant , in his letter , dated 15 March,2000 asked the commission

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<sup>70</sup> MHRC,(Law Division) No.3/1/99–MHRC.

<sup>71</sup> Ibid.

<sup>72</sup> The complaint addressed to MHRC on April 6, 2000.

<sup>73</sup> The complainant's letter was received by MHRC on 6/4/2000, Receipt

<sup>74</sup> MHRC, complaint Case No.33 of 2000.

<sup>75</sup> A confidential letter , No.C-5/17/SP-1E/98(HRC)

to deliver justice in connection to the arbitrary execution of (his) son in the custody of the state.<sup>76</sup>

The Manipur Human Rights Commission had also entertained the complaint petition, dated 6 May 2000, from *N.Jugol Singh* 'regarding the death of a youth, namely, *Ningthoujam Premkumar Singh*'.<sup>77</sup> The Commission issued notice to both Commissioners (Home) Govt. of Manipur, and DGP, Manipur—directing them to submit report/information regarding the matter on or before 27.5.2000. The Commission, in fact took an arduous task, as this case was one of the longest cases it ever dealt with. Intermittently, if not persistently, the Commissions issued 'reminder'<sup>78</sup> as the responses and cooperation of the political establishment (s) seemed to be minimal. The commission examined every detail leading to the cause of death—from microscopic examination of the tissues of a lung, liver, etc, to the law and order situation the time the incident took place.<sup>79</sup> In this case, the list of police personnel could be established and the nature/cause of the death was categorically maintained—after histopathological examination, which shows the brutal killing of the person.<sup>80</sup> All this was made possible for the active/strenuous role of the Manipur Human Rights Commission. In this case, the Commission asked 'the Principal Secretary (Home), Govt. of Manipur to submit the required information or the matter and to take necessary action for the appointment/to make available to the commission, one IGP and investigation team of police officers for the Commission as required by the provision of section 27(1)b of the Act on or before 13-11-2000.'<sup>81</sup>

In a complaint addressed to it by *Toijam Ongbi Kamala Devi*, where her son was arrested by personnel of the Assam Rifles without issuing any arrest memo<sup>82</sup>, the Commission took up the case, and accordingly initiated the proceedings on 16<sup>th</sup> sept.2002. Taking a serious note on the nature of the case, the Commission issued notice to the Director General of Police, and asked the DGP to locate the whereabouts of *Toijam Bhogendra* who

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<sup>76</sup> MHRC Receipt Register No. 1081,16/3/2000

<sup>77</sup> Manipur Human Rights Commission complaint case No.42 of 2000.

<sup>78</sup> The MHRC issued reminder to the DGP, Manipur to submit the report on 13.7.2000.

<sup>79</sup> In this case, post Mortem /pathological examination of the deceased was rough by the Commission—to be submitted on or before 12.7.2000.

<sup>80</sup> The nature of the death has been clearly shown by this histopathological; for example, deformed organs, breaking of bones, etc.

<sup>81</sup> .Complaint case No. 42 of 2000 . Manipur Human Rights Commission .,p. 6.

<sup>82</sup> .MHRC,Receipt /arrest No.3397, 16/9/02.

was arrested on September 13, 2002<sup>83</sup>, and directed the DGP, Manipur to 'submit his report within 48 hrs'<sup>84</sup>. In pursuance to the directives served to him, the DGP, Manipur stated that the arrestee 'had been handed over to O.C., Imphal P.S .On 16.9.2002 by the 17<sup>th</sup> Bn. Assam Rifles.<sup>85</sup> This is some of the cases –of arbitrary arrest by the security personnel in securing the rights of the people.

Apart from the cases discussed above, there are numerous cases of this nature. One finds distressing by observing the way the MHRC has been entertaining it .The *MHRC's No. 96 of 2001, 92 of 2001, 139 of 2001, 116 of 2001 167 of 2002, 99(A) of 2001* etc; all speaks of itself the way the security forces often take the law into their own hands! This is also reflective of the civil society's unrelenting role in the protection of individual's rights and freedom.

### *Challenges of civil society in Manipur*

As stated, corruption is rampant in Manipur. This menace is spreading to every machinery of the State. In this, the role of civil society is vital to curb this ever-growing menace. To a large degenerating scale, experiences in the last decades have shown that corruption stands in the way of development of Manipur, which has retarded the economic development of the State for a long period of time. Unarguably, the epidemic of corruption in the socio-economic and political institutions spread like wildfire, shaking the foundations of the democratic polity. Thus corruption has become a handy, catchword in all aspects of life in Manipur. Lack of accountability on the part of the bureaucracy and the politicians has been a direct corollary to the pervading corruption in the State. It is truism that no nation or state can survive if corruption is rationalized/institutionalized. Thus, various civil society groups in Manipur have challenging tasks ahead; - eradicating the age-old disease, 'corruption' and 'inter-groups relations.' Manipur is inhabited by various ethnic communities of diverse cultural identities. The perceptions of these communities about the 'common good' or their socio-economic and political interests have often contradict/clash one another. As a result of which, peace and stability has been often disturbed.

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<sup>83</sup> .MHRC(Ref)Case No.132 of 2002

<sup>84</sup> .Ibid.

Moreover, civil society has an important role in inter-group relations. As stated above, Manipur is inhabited by various ethnic communities, who are endowed with different cultural rights and values; the presence of whose distinct identities often disturbed their mutual co-existence. The Kuki-Naga ethnic rivalry<sup>86</sup> and the Meitei-Pangal (Muslim)<sup>87</sup> strife in the early 1990s are cases in point. Due to ethno-centricism, numerous lives have been lost. Little wonder that the State's partisan politics too, fuelled up these ethnic rivalries, turning the situations into a worsening situation. Therefore, to ward off distrust or misunderstanding between communities, a vibrant civil society--devoid of ethnicity, creed, or religion--formed on the principles of democratic values, is the need of the hour. Conflict-resolution through dialogue/negotiation should be the hallmark of such a civil society. Besides, cutting across ethnic lines, all the existing civil society groups strive forward for the peaceful co-existence of all by imparting civility and liberal-democratic values in the society. For instance, the role of Committee for Restoration of Normalcy (CRN) and the All Manipur Christian Organisations (AMCO)<sup>88</sup> during the heightened tension between The Kukis and the Nagas in the early 1990s was remarkable in that conflict-resolution through peaceful means, like dialogue/negotiations had been initiated.

Meanwhile, it is distressing to note that most of the civil society groups in Manipur seem to be ethnic-based, which are formed for promoting their own ethnic interests. Since the very concept of civil society has been re-defined along ethnic lines, the foremost role of civil society-- protecting individuals' rights and liberties-- is not effective enough in encountering with the State. Therefore, until and unless all this, marginal, parochial tendencies are subsumed, civil society in Manipur would ever remain ineffective

One should learn that *weak* civil society could not effectively encounter the *strong* state. Strong and vibrant civil society can only be realized if each and every community of

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<sup>85</sup> Ibid The DGP Report bears No.15/354/2002/HR/PHQ/621 dated 18.9.2002.

<sup>86</sup> The ethnic strife between the two communities in the loss of thousands of lives from both sides. For details, See documents of Kuki Inpi Manipur

<sup>87</sup> Though the clash between these two communities was short-lived, the nature of the incident was horrendous.

<sup>88</sup> For a clearer understanding of the role of AMCO, See Lal Dena, 'The Role of Churches in Containing the Ethnic Conflicts in Manipur' in C.Joshua Thomas, et al (eds.) *Constraints in Development of Manipur* (New Delhi : Regency Publications), 2001, pp.76-80



Manipur acquired “civility” within themselves. Moreover, civil society can also impart democratic ideals or values across various ethnic communities.

### **Counter-Insurgency Operation: Exploring Alternatives**

Since the crux of the problem revolves around ‘insurgency’ and its wide-ranging ramifications, it is imperative to explore alternative approach, if any, to counter-insurgency. To repeat, the Armed Forces Special Powers Act, 1958 was applied in Manipur to ‘*nip insurgency in the bud*’. Yet, under this Act, the armed forces act with impunity, which have, more often than not, resulted in large-scale violations of human rights! This in turn breeds more civil society groups, for the obvious reasons for securing citizens’ rights and liberties against the onslaught of the State through its armed forces.

In the context of Manipur, however, it is distressing to note that insurgency seems to be synonymous with the State. In fact, insurgency is not a new phenomenon. Its origins and growth may be traced back to pre-independence India. Insurgency in Manipur has a long and complex history, whose origin can be traced back to 1960s, ‘in the form of a shadowy Pan-Mongoloid movement and the Revolutionary Government of Manipur.’<sup>89</sup> Insurgency seems to be the main sources of legitimacy, or sustenance in every aspect of life. Counter-insurgency in Manipur is a complex, if not vexed, issue that the Government of the day is facing.

By the time the Act was introduced in the State, there was negligible number of insurgent groups in the State. With the changes of political landscape, however, new insurgencies have been mushrooming up in Manipur! There are 36 underground organizations in the India’s northeastern states fighting for their causes; out of which Manipur alone has 21 of them.<sup>90</sup> No wonder that with the introduction of the Armed Forces Special Powers Act, 1958, there arose more underground outfits in this strife-torn State. Having examined the large-scale violations of human rights, coupled with the ever-growing trend of underground outfits in Manipur, it is clear and self-explanatory that “military approach” to solve the problem of insurgency has yielded no positive results. Therefore, in order to devise effective

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<sup>89</sup> E. N. Rammohan, “*Manipur: Blue Print for Counterinsurgency*”, <http://www.satp.org/satporgtp/publication/faultlines/volume12/Article1.htm>

<sup>90</sup> *NORTH-EAST, The Assam Tribune*, Guwahati, Saturday, April 12, 2003

method (s) to deal with this menace, there arisen the need to trace out the 'root cause' of insurgency and subsequently devising the best possible means to tackle it.

Indeed, various socio-economic and political factors may contribute to the growth of insurgency: a firm conviction of the people-- of being different from the rest of the country, a fear of cultural assimilation vis-à-vis losing of identity, negligence and deprivation from the mainstream India, and the like are some of the attributes for the growth of insurgency in Manipur.<sup>91</sup> Moreover, in the analysis of the 'problem' facing the northeast in general and Manipur, in particular, there have been divergent views doing the round: For politicians, it is merely law and order problem, a low intensity, which threats national security, while sociologists view it from the sociological perspectives, ---a clash between the traditional social structure and the changes and challenges of economic development and modernization. Meanwhile the separatists and insurgents have blamed the 'colonial' policy of the Union government for the woes and maladies of the people.<sup>92</sup> In the words of V.K. Nayar ' the paradigms of conflict resolution and management relevant to the situation in the East are *idealpolitik*, a cooperative approach and identification of key factors for interaction and escalation of conflicts as they have bearing for conflict management.<sup>93</sup> Drawing out from his experience, he firmly believed that *idealpolitik* which focuses on the people's deprivations can resolve the problem.<sup>94</sup> Here, it involves the prime role of the policy-makers. On their part, they need to understand the causes of people's frustration and demonstrate a willingness to work towards removing them.<sup>95</sup> In order to effectually employ this approach, legitimacy, credibility and transparency in government functioning of the government should be established in the absence of which, it can result into disjointed, inconsistent and motivated responses, both by the politicians and bureaucrats.

While there are various theories doing the round, *economic factors* remain common to all. In discerning the factors responsible for the rise of insurgency, one finds that massive unemployment among the 'misguided/disenchanted youths have been one of the main driving

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<sup>91</sup> Rao has discussed the concept of insurgency and its remedial measures in a comprehensive way. For detail analysis of insurgency, see K.V. Khrishna Rao, " Insurgency in the Northeast'

<sup>92</sup> Sreeradha Datta,"*What Ails The Northeast: An Enquiry Into The Economic Factors*" *Strategic Analysis* ,April 2001, 1.April 2001 (Vol. XXV No. 1)

<sup>93</sup> V.K. Nayar, "*Moving away from Realpolitik*", <http://www.india-seminar.com>

<sup>94</sup> *ibid.*

factors. For, insurgency has become the only source of employment that guarantees regular and easy income to the unemployed youths.<sup>96</sup> This raised a crucial task on the part of the government to enhancing economic development policies and programmes. To achieve this ends, sincerity and credibility in the implementation of the projects, coupled with political will are the foremost requisites. Yet, it may be unrealistic on the part of the developmental protagonists to argue that mere developmental efforts would automatically solve the menace of insurgency. Paradoxically, the continuation of insurgency remains a stumbling block for development in the State. There is no denying that diversion of developmental funds through insurgent-politician nexus has been the distinguishing characteristics of the State. Given this situation, then, is there a way out? This cannot, however, be the sole 'justification' for the long-deployment of the armed forces in Manipur. The answer lies in the proper utilization of the funds albeit, minimal, in its contents or amount.

Another important impetus, which germinated insurgency, is 'corruption' and capturing of power through 'guns' and 'money'. The collusive nexus between the politicians, bureaucrats and insurgent has become the breeding ground. Hence insurgency has become an "industry" which maximizes profit for all profit-seeking groups.<sup>97</sup> For instance, 'Army sources in August 2001 stated that the NSCN-IM is offering Rs.500,000 each for new recruits.'<sup>98</sup> Creating of job opportunities (employment) among the people especially, the youths would, therefore, be one of the effective means to divert the youths from the path of insurgency. It has been argued that insurgencies in the northeast in general, and Manipur, in particular, are devoid of any commitment to ideology, the manifestations of which is their 'criminal in nature.'<sup>99</sup> More disturbingly, the general belief is that alienation/isolation, modernization, ethno-nationalism or cultural insecurity has cumulatively created the effect of deprivation. Therefore, unless the sense of deprivation and unemployment, especially among the youths are eliminated, the problem of insurgency cannot be solved. Counter-insurgency should also be waged on the psychological front. Winning over the 'mind' and 'heart' is as important as winning the 'battle'. In this, 'the strategy should not only concentrate only on the

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<sup>95</sup> *ibid.*

<sup>96</sup> *ibid.*

<sup>97</sup> See V.K. Nayar, "*Moving away from Realpolitik*"

<sup>98</sup> Bibhu Prasad Routray, "Securing the Indian North-east, BHARAT RAKSHAK MONITOR - Volume 4(4) January-February 2002

<sup>99</sup> *ibid.*

hard-core militants, their many sympathizers and supporters are just as important.<sup>100</sup> Therefore, de-linking the bond between the insurgents and their sympathizers is another prerequisite for effective counter-insurgency operations. It has been observed that political deprivations are likely to cause violent strife than purely economic deprivation. Therefore, by reducing the social, economic and political inequalities can be of much useful to lead the youths from the path of insurgency. However, it has been pernicious exercises that the 'security forces frequently make the mistake of treating the militants and their sympathizers alike.'<sup>101</sup> Also, 'the unfamiliarity of the security forces with the history, origin, growth and mass support of the movement imposes a handicap on their operational performance, which is further impaired by ego clashes with the civil administration.

More importantly, respect for human rights has to be inculcated into the minds of the armed forces. Such a basic knowledge of human rights, its values, and the need to respect it, should be imparted among them while they were undergoing training. Above all, human rights education should be highly promoted in the field of military. Besides other various social and economic issues, regular violations of human rights aggravated public anger to a great extent that people often seek 'refuge' in the hands of the insurgents as the hostile relations between the people and the security forces remain high; the resultant effect: counter-insurgency operations becomes more complicated. The enforcement of the 'rule of law' is therefore, an important mechanism to counter-insurgency.

Furthermore, 'while the use of force is necessary to bring the situation under control, concurrently, political, economic, administrative and sociological measures will have to be taken to deal with the main causes of insurgency. It is vital that there is great understanding, cooperation and coordination between the civil and the military, for success to be achieved.'<sup>102</sup> To realize the sense of cooperation and coordination between the two, the hostile attitude of the armed forces towards the people of 'Mongoloid'<sup>103</sup> race should be eradicated. Moreover, 'civic action should also be on the agenda as it helps the people see the human face

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<sup>100</sup> Ved Marwah, *Uncivil Wars :Pathology of Terrorism in India*, (New Delhi: HarperCollins), 1995, p.339

<sup>101</sup> *ibid.*, p.342

<sup>102</sup> K.V. Khrishna Rao, " Insurgency in the Northeast of India"

<sup>103</sup> For example, in counter-insurgency operations, discriminatory measures have been meted out to the people; for the non-Hindi speakers, undue harassment/tortures remains high

of the army. Concepts like Operation Goodwill in J&K or Operation Good Samaritan in Nagaland/Manipur are typical examples.<sup>104</sup>

In fact, solving of insurgency problem is an uphill task. if not impossible as it is engrossed with many complexities. Given that this is not an easy task, however, adopting a 'quick-fix-solution' approach, like the Armed Forces (Special powers) Act, 1958 shall, in no way, hold good in the future, as shown above. Rather, policy-makers should adopt a multi-pronged strategy/approach, which should be gradual, sustained and visible, as the system at all level has been subverted over a long period of time. This approach can be successful if there is 'political will' which can rejuvenate the lethargic, insensitive and corrupt administrative machinery. Above all, the combined effort of both civil and military will yield effective results in counter-insurgency operations with the civil at the forefront.<sup>105</sup>

In addition, the proximity of international borders has to be taken into account while devising ways and means to counter-insurgency. The Inter Service Intelligence of Pakistan has opened up new routes through neighbouring countries bordering the North-East to infiltrate into the country in the wake of tightening of vigil along western and north sectors.<sup>106</sup> Besides, the major rebel outfits of the region like ULFA, PLA, NSCN (K) and NSCN(IM) have been using Tripura as a transit route to Bangladesh taking advantage of the hostile terrains and long distances between the border outposts (BOPs).<sup>107</sup> Besides, 'it must be borne in mind that India's powerful neighbour China is not far from Manipur and the North East. All the major insurgent groups in the North East have at one time or the other met the Chinese government and secured arms from them.'<sup>108</sup> Thus, fencing of the porous borders would also be one of the most effective means to check insurgency in the northeast in general, and Manipur in particular.

The failure of the State in curbing corruption is another major factor for ineffective counter-insurgency. Manipur is afflicted by high level of corruption, which has retarded the growth and development of the State. The political establishment of Manipur lacks a popular

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<sup>104</sup> S. Padmanabhan, 'Fighting Insurgency in India – II', <http://www.newindiaigest.com/paddy.htm>

<sup>105</sup> E. N. Rammohan, "Manipur: Blue Print for Counterinsurgency",

<sup>106</sup> ISI using NE to infiltrate : MHA', *The Assam Tribune*, 3 July 2003

<sup>107</sup> "Fencing off Influx, Insurgency", *The Sentinel*, 12 July 2003

<sup>108</sup> E. N. Rammohan "Manipur Blue Print for Counterinsurgency"<http://www.satp.org>.

base and legitimacy largely because governments have mostly been corrupt, unaccountable, non-transparent and non-performing. Public funds have been diverted to the 'corrupt elite' to further their personal gains: the state's existing agencies of development have neither the power nor the will to reach out into this hazardous 'war zone'. In substantial measure, moreover, all critical activities, policies and decisions relating to the conflict are progressively taken over by the Central Government and are defined and co-ordinated by bureaucrats located thousands of miles away...The shrinking role of the State Government has historically been associated with disproportionate and increasing unproductive expenditures in administration.'<sup>109</sup> In fact, 'the 'collusive arrangements' between various political groupings, administrators and officials, on the one hand, and different militant factions, on the other, has been the rule rather than the exception.'<sup>110</sup> The nexus between politicians and insurgents is not a thing of the past. For instance, following submission of reports from different agencies, 'the Centre has instructed Chief Minister O Ibobi to drop all tainted Ministers.'<sup>111</sup> What is more complicated is that large number of arrested insurgents rejoined undergrounds, which also demoralized the police and the administration. This is one of the manifestations of the irresolute nature of the police, judiciary and the administration; paving more impetus for insurgency.

In view of these degenerating tendencies, some underground outfits have taken a significant, exemplary step in checking this menace. For instance, the '*Kanglei Yawol Kanna Lup (KYKL)*, a banned underground Organisation, has been in the forefront of fighting corruption in the Education Department, which it considers as the backbone of building any society. It has been quite some time since the KYKL, under a specific programme, "Operation New Kangleipak" has been drastically campaigning to cleanse the Department of corrupt elements. In its efforts to curb corruption, the Organisation picked up at least five persons, including a Deputy Secretary of Education.' It has been evidently proved that 'a huge sum running into lakhs of rupees was exchanged for recruiting 36 project officers for the *Sharva Shiksha Abhiyan (SSA) Scheme*'. *Maniruddin Sheikh* was also implicated in the corruption charge. Others who were implicated are Deputy Secretary (Education) *Khwairakpam Raghmani* (45), *Md. Nasir Ahmed* (46), an excise inspector and three former project officers

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<sup>109</sup> <http://www.satp.org/satporgtp/publication/faultlines/volume4/Fault4-JG&ASf1.htm>

<sup>110</sup> *ibid.*

<sup>111</sup> "CM told to drop Ministers with UG links", <http://www.e-Pao.net>, June 26, 2003

of the non-formal education project—*Ningombam Shyamcharan* (37), *Oinam Priyo Kumar* (38) and *Sagolshem Ranjit* (40).<sup>112</sup> Despite the Organisation's award of death sentence to all the six, they were released later on.

By and large, politician-insurgent nexus has remained the main problem for the increasing trend of corruption in Manipur. Worst as the case may be, 'some of these 'collusive arrangements', are often institutionalized by the various secret or public 'peace agreements' that are forged, from time to time, between government negotiators and extremist factions.'<sup>113</sup> As such, it is pertinent to recall the words of an ordinary man: 'the bulk of the money is collected by the insurgents from Government servants...and people here would rather pay the insurgents than pay income-tax.'<sup>114</sup> which implies that he is, at least paying to his own people. Corruption stands in the way of effective counter-insurgency operations in Manipur. In the words of Lord Acton; 'powers corrupts, and absolute power corrupts absolutely', holds immense relevance in Manipur. Lamenting on the nature of corruption in Manipur, Ved Marwah (formerly Governor of Manipur) said, "It is relatively a new state and the party system is still very weak. Individuals keep floating from one party to another to make quick money."<sup>115</sup>

Unarguably, insurgency is more of a political struggle, the solution of which requires political measures. To achieve this ends, both the Central and the State Government faces a challenging tasks-in devising well-defined policies. Such a policy should be implemented with the co-ordinated efforts of both the governments. The 'military approach' to counter-terrorism in a state like Manipur, has gained minimal results, if not totally failed. The calls of civil society groups in the State and the overall grievances of the people should be redressed by a dedicated and committed political and administrative system. The more it is delayed, the more complicated the problem will be. Revamping of devolution of power to the traditional administrative system of the ethnic communities, among others, will be a major step in achieving towards the goals.

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<sup>112</sup> Kh. Anil Singh, "*Manipur insurgents unearth corruption in education*", <http://www.dayafterindia.com/feb1/manipur.html>

<sup>113</sup> *ibid.*

<sup>114</sup> In the words of a shopkeeper in Imphal, who has been regularly contributing to the "defence council" of a prominent insurgent group. For details, see <http://www.thehindubusinessline.com/bline/2002/08/06/stories/2002080600600200.htm>

The struggles for the protection of human rights and civil liberties of different civil society groups in Manipur reflects the gross violation of human rights and the concern for the protection of individuals against such abuses. Nevertheless, it is poignant to note that even the highest judiciary of the Country, the Supreme Court of India has turned a deaf ear on the calls of the people, who have for long been subjected to the armed forces' brutalities. Nonetheless, the protection of human rights ever remains civil society's foremost role.

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<sup>115</sup> <http://www.rediff.com/news/2001/jun/13onk.htm>



## CHAPTER-IV

### CONCLUSION

In the process of situating civil society in Manipur, a theoretical framework has been established, thereby laying a foundation on the varied concepts of civil society. A brief account of the conceptual history of civil society, right from the Aristotelian tradition to the Gramscian tradition (resurgence/re-emergence) has shown that the concept of civil society is historically bounded, and deeply rooted in political philosophy. As contradictory the term as it has been, various social and political theorists view it differently through different perspectives. It has been observed that the conceptions of 'good life', citizenship, rights and liberties, ethical life, associationalism, exploitation or hegemony, have been associated with the term, civil society. As a matter of fact, Aristotle occupies the centrestage, whose remarkable contributions helped the concept enter into the tradition of political philosophy. While the notion of citizenship had been strongly emphasized by the Roman Jurisprudence Tradition, the Lockean tradition (liberalism), which gives 'primacy to rights and liberties', helped enrich the concept to a great extent. Besides, Adam Ferguson's views of 'polished' or 'civilized society' - and his subsequent modifications of the classical concept of civil society paved the way for modern concept. The Hegelian Tradition, on the other hand, provides a clearer understanding of civil society as all strands of the conceptual history of civil society can be met in his *Rechtsphilosophie*. The significance of Hegelian conception lies in that he was not only the first to break the historical/classical equation of civil society and state, but also the concept of 'freedom' has been widely associated with civil society ever since then. Yet, Marx still equates civil society with inequality, exploitation and domination in a given society. As a result, he advocated for the abolition of the state through class struggle. In the later years, the idea of associationalism, (or associational life) had been gaining momentum in the mid 19<sup>th</sup> century. Alex de Tocqueville was deeply concerned with the despotic rulers as he strongly stressed the need to curb such degenerative tendencies through associations. By and large, he firmly believed that such forces could be resisted or challenged by the collective power of the people through associations. Thereafter, this paradigm/model has been widely adopted in different parts of the world, as a counter force against the undemocratic/repressive tendencies of the states.

In its innovative phase, civil society found a new twist in the Gramscian tradition as it has drawn a wider acceptance. The Marxian tradition of civil society had been innovated and re-defined by Antonio Gramsci to a great extent. As he relates civil society with 'hegemony', Gramsci maintained that the hegemonistic tendencies of the state could be challenged through the 'space' provided by the civil society. Both the Tocquevillian and Gramscian traditions helped re-emerge the concept of civil society, especially in the United States and the Eastern European states. In fact, the Solidarity movement in Poland (resistance against communism) and Putnam's idea of associationalism (revival of Tocquevillian tradition) in America greatly helped the rebirth of civil society as it has enriched the concept in contemporary political philosophy. The discussion on the contemporary conception of the term has outlined that civil society is closely associated with democracy, which principal role lies in securing individuals' democratic rights and civil liberties.

Despite India claims to be the largest democracy in the world, there has been certain kinds of deterioration in the political institutions. Such a degenerative tendencies have resulted into the crisis of legitimacy and authority. As a matter of fact, the coercive/repressive nature of the state has been manifested in human rights violation against innocent civilians. Ever since the declaration of Manipur under 'disturbed area' in the year, 1980, the Armed Forces (Special Powers) Act had been imposed, much to the chagrin of the people. Unarguably, it is one of the most draconian Acts that the Indian government has enacted since independence. This hydra-headed, obnoxious Act gives unrestrained powers to the armed forces in that 'license to shoot to kill' has been granted to the armed forces, which has resulted in human rights abuses in a large-scale. Hundreds of innocent lives have been lost; leave alone the destruction of properties and other cruel treatments meted out to the civilian populations. No wonder that such acts of crime have been committed with impunity as there are many loopholes and leeways in the Act. In essence, the rule of law, which protects citizens' democratic rights and civil liberties, has been denied to the civilian populations of Manipur. Such a subversion of the law by the political leadership is the anathema of democracy. It is no exaggeration to say that democracy is in shamble in Manipur as there has been crisis of legitimacy. The military power is too broad that democracy has been sacrificed at the altar of the armed forces for decades

Human rights have been under serious attacks in Manipur for decades. Gruesome incidents like the *operation Bluebird*, *Operation Loktak*, or *Tabunglong Massacre*, etc.—all speak out in different tones. Scores of women have been raped, while children and the aged too, are not spared by the brutalities of the armed forces. Instances of tortures or disappearances worsen the situation in the State, but those guilty of crimes continue to go on scot-free. The mighty powers of the security forces are too broad and virulent that the anger of innocent civilians aggravated to the extent of christening the security forces as “insecurity forces.” In the midst of insecurity, fear, and anger, the people of Manipur are denied of their rights and freedoms guaranteed by the Constitution. In essence, democracy still remains a wishful dream for them.

A critical examination of the Armed Forces (Special Powers) Act, 1958, has shown that there are many loopholes in it. This draconian law is in contravention to all canons of Justice and human rights, which is in complete violation of both national and international law. By and large, singling out a state, like Manipur as ‘disturbed area’ is inequitable in nature; the yardsticks of declaring a state as ‘disturbed area’ raised more questions than answers. Comparatively, there have also been incidents of routine violence in other Indian states like Bihar, Andhra Pradesh, etc, similar to, or worse than that of Manipur’s. Nevertheless, in the absence of any objective and clear-cut criteria to declare an area as ‘disturbed’, the civilian administration of Manipur have been virtually handed over to the armed forces. A deep-delving into the Act has also brought to light that it not only contravenes the Indian laws but the international laws as well. The ‘right to life’ is the most important of all rights guaranteed by both the Indian Constitution and the Universal Declaration of Human Rights. It has been observed that section 4 (a) of the Act, which gives the ‘licence to kill’, is the most undemocratic and irrational ones. It implies that not necessarily the insurgents/militants, but also the innocent civilians can be killed at any moment of time. With these unlimited powers, the armed forces have been committing series acts of atrocities against the people, while their acts of crime often remained unquestioned, if not punished. Above all, ‘these unlimited powers have created a situation where the entire people of Manipur live in a state of perpetual siege in their own land by armed forces which belong to their own country. In this part of the country, fundamental guarantees like freedom of speech, freedom of movement, freedom to reside in any place and the right to lead a

dignified life virtually do not exist.’<sup>1</sup> Wherever, and whenever the government transgresses the “rights” of its citizens, it is violation of human rights. Violation of human rights in any form is a ‘crime.’

Thus the civilian populations are totally left at the mercy of the security forces of India. In the face of this grave situation, some civil society groups challenged the Act in the Supreme Court of India. Much to their consternation however, the highest judiciary of the Country upheld the Act, finding nothing wrong (illegality) in it. Indeed, the stance of the Supreme Court unleashed a deathblow as it sanctified the obnoxious Act. This has given a new fillip to the armed forces to ever perpetrate atrocities against the people.

In view of this complex situation, and the eventual dismay of the people to the judiciary, civil society has become their last hope, in that the functions and role of civil society has become too important. Its role ranges from the protection of citizens against the state arbitrariness to the prevalence of the rule of law, etc. Its important functions, among others, lies in moulding true citizenship, civility and humane governance. Moreover, in its wider conception, civil society has to act as checks and balances or ‘watchdogs’ for a responsive, accountable government. Above all, the realization of true democracy in a given society is the foremost task main role of civil society.

The history of insurgency in Manipur calls for introspection and hard decisions. Introspectively, the Central government should take into account the brutalities of the armed forces, vis-à-vis the untold hardships of the civilian populations. There are also lessons to be learned from the ramifications of the ‘military approach’. There arises the utmost need to address the complex aspirations of the people, increasing trend of insurgency, gross violations of human rights, and the like. As such, to trace out the root causes of insurgency and devising a pragmatic/rational approach is the need of the hour. The study has brought to light myriad factors for the rise and growth of insurgency. The half-baked conception, which

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<sup>1</sup> Where ‘Peacekeepers’ Have Declared War : Report on Violations of Democratic Rights by Security Forces and the impact of the Armed Forces (Special Powers) Act on Civilian Life in the Seven States of the Northeast. Published by : *National Campaign Committee against military action and Repeal of Armed Forces (Special Powers) Act*, 1997, New Delhi, p.27

maintained that insurgency as mere law and order problem, and the subsequent implementation of the military approach to solve the problem have instead, resulted into a complex situation. In fact, it was unwise on the part of the Government of the day to adopt a 'quick-fix' solution without tracing the root causes of insurgency. Indeed, in contrast to the general view, insurgency is not mere 'law and order problem.' Given the prevalent situation, the aspirations and grievances of the long-deprived people should be addressed, and multi-pronged strategies devised. This could range from ethno-racial to historical, geographical, economic and governance factors. Economic development, which focuses on the needs of the poor; revamping and empowerment of traditional institutions of the ethnic communities of the State will serve the interests of the people to a great extent. The use of force can win the battle temporarily. Nevertheless, a rational approach backed by strong political will, and national consensus can solve the problems of insurgency in Manipur. There is no denying that insurgency is strong-- an ever growing hazard which causing law and order problem in Manipur. However, there exists a complex socio-economic and political issue that needs to be addressed for an effective solution. Devoid of this, military approach to counter-insurgency has yielded negative effects. Rather, it has brought more problems than solutions. The comparative analysis of pre and post-1980 (increasing trend of insurgency) has justified the arguments.

Citizenship is one of the most important rudiments in a state. The concept of citizenship involves the rights and obligations of the member of a nation-state, which are given by the state; and its protection solely lies in the state itself. In addition 'civil society can [also] be understood only in the context of the threefold relationship between (i) state, (ii) citizenship, and (iii) mediating institutions.'<sup>2</sup> A distinguished sociologist, T.H Marshall, defined citizenship as "a status, which is enjoyed by a person who is a full member of a community. Citizenship has three components: civil, political, and social.'<sup>3</sup> While the other two rights are relatively important, 'civil rights are necessary for individual freedoms and are institutionalized in the law courts.'<sup>4</sup> Hence the importance of citizenship in a given society/state. From the above study, however, it has been observed that the civilian populations of Manipur do not enjoy such citizenship rights due to the atrocities of the

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<sup>2</sup> Andre Beteille, 'Citizenship, State and Civil Society', *Economic and Political Weekly*, September 4, 1999, p. 2589

<sup>3</sup> B.A.Sridhara, 'Media, Democracy and Citizenship', <http://www.indiatogether.org/2003/jan/med-hoot0301.htm>

<sup>4</sup> Ibid.

security forces being committed against them. Most importantly, citizenship entails, or underscores “rights” and “status” of an individual person. Nevertheless, in a state, where the feelings of “otherness” remain deeply entrenched in the minds of the people, it is obvious and self-explanatory that disenchanted, frustrated youths would themselves seek the “other”<sup>5</sup> way. In other words, “exclusion” in a political community is bound to lead, and has led, large number of people to the path of insurgency. Above all, denying citizens of their rights implies denying ‘full membership’ in a nation-state. If and when the sense of belonging, or attachment to the political community is absent in the minds of the people, it is no wonder that people often lead the path of insurgency. In a culturally-embedded, ethno-centric society, like Manipur, the role of civil society should not be concentrated to encounter with the State—limiting State’s power and the ensurance of State’s accountability alone. It also has great responsibility in the strengthening of inter-groups relations. Despite the ‘strain’ [or the tug-of-war] relationship between the State and civil society (arising out of State’s repressive tendencies), civil society should strive for the prevalence of ‘communal harmony’ and ‘peace’ in the State. It would be no exaggeration to say that Manipur is sheathed by a “timebomb”, where insurgency bears the colors of almost all ethnic communities. While the wounds of the ethnic rivalries of the early 1990s between different communities against another remain fully unhealed, the repercussions of the ceasefire agreement between the Government of India and the NSCN (I-M) in June, 2001 have created ‘enmity’ between communities as it have widened up ‘differences’ amongst them. In the face of the Centre’s divisive, parochial tendencies, however, civil society should assert its rightful role in the promotion of peace and mutual co-existence. Peace can be achieved when people involved in ‘communicative action’. Mutual or peaceful coexistence of peoples with different ethnic communities in a state like Manipur can also be achieved through communication aimed at conflict resolution. This necessitates the importance of leadership. As such civil society should strive forward in moulding of democratic leadership, who have a strong vision for the common good of the people, and who can strive for the betterment of all- irrespective of caste, creed or religion. To a great extent, the values of multiculturalism, which emphasized cross-cultural understanding, can be promoted with a strong commitment for the common good of all. The bond of inter-group relations can be strengthened through cultural exchange programmes, seminars, workshops, etc. This underscores the values, or importance, of ‘discourse’ in conflict-resolution. To achieve this end,

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<sup>5</sup> The ‘other’ way implies the adoption of the *kalashnikov culture* of the disenchanted youths in the State

a vibrant civil society should be institutionalized, which can serve for the common good of all existing communities in Manipur.

Throughout the study, it has been strongly argued that the revocation of the Armed Forces (Special Powers) Act, 1958 is the need of the hour! In a liberal democratic state, like India, the application of this Act is undemocratic, and irrational too. In fact, military approach to solve insurgency, or the presence of armed forces in civilian areas is a 'threat to peace.' Rather than that, by upholding the values and norms of liberal democracy, problems of a wretched, decadent state (Manipur), especially 'insurgency problem' should be solved through democratic principles by adopting a holistic/realistic approach, backed by strong political will. From the study, it came to light that 'problems' in Manipur arisen due to the failure of the State to 'deliver goods' to the people. Above all, the tall promises made in the Constitution should be realized. The longer the constitution remains in theory alone, the more complicated the problems will become. The people of Manipur are caught between 'alienation' and 'anger.' Twenty-three years have been too long a period to keep large chunk of people under the veil of suppression and oppression. Decades of military rule in the State have 'affected people's livelihood, their attitudes, and in fact, even their notion of 'normalcy of life.' It is almost as though they cannot imagine a life that is not at the barrel of the gun.'<sup>6</sup> The curtailment of people's rights and liberties further alienated them from the mainstream India. Thus the unfinished agenda of 'integration process' should be initiated at all cost. 'Recognition' and membership in 'political community' would help develop sense of belonging to the political community. In the words of Michael Ignatieff; 'without civil society, democracy remains an empty shell, without civil society, the market becomes a jungle.'<sup>7</sup> Above all, the existence of a vibrant civil society is the necessary condition for democracy as the founding principle of civil society is democracy, and democracy alone. Having evidently shown the extent of gross violations of human rights of the people of Manipur, there is no hope for justice until and unless this draconian law, Armed Forces (Special Powers) Act is repealed.

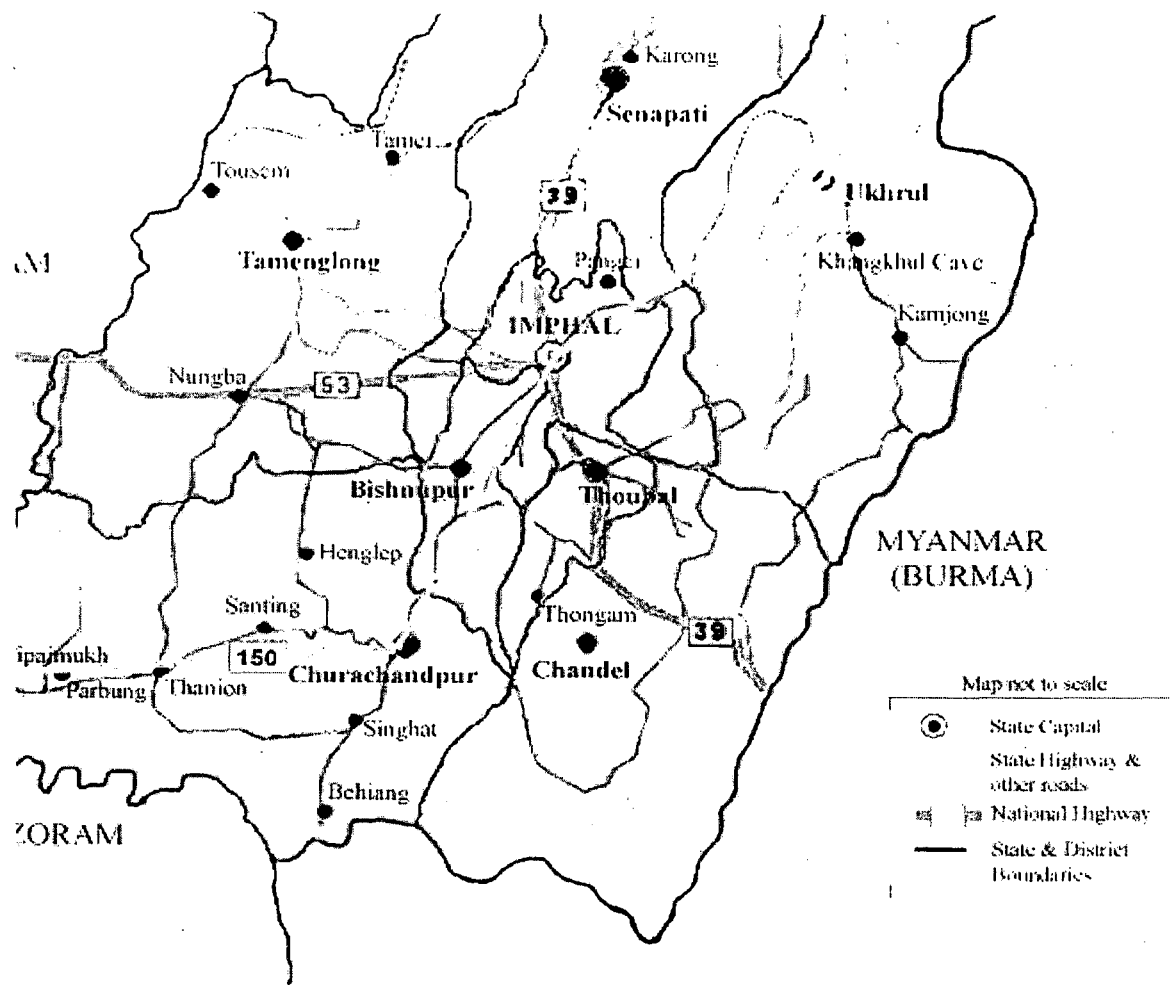
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<sup>6</sup> *Where 'Peacekeepers' Have Declared War : Report on Violations of Democratic Rights by Security Forces and the impact of the Armed Forces (Special Powers) Act on Civilian Life in the Seven States of the Northeast.*

Published by : National Campaign Committee Against Military Action and Repeal of Armed Forces (Special Powers) Act, 1997, New Delhi, p.45

<sup>7</sup> Michael Ignatieff, 'On Civil Society : Why Eastern Europe's Revolution Could Succeed', *Foreign Affairs*, vol. 74, no. 2 March/April 1998, p.136

Note: The road map of NH-150 is indicative and not accurate.





**Security Situation in North Eastern States**

		<i>Assam</i>			<i>Nagaland</i>			<i>Manipur</i>			<i>Tripura</i>		
		'98	'99	'00	'98	'99	'00	'98	'99	'00	'98	'99	'00
1	Incidents	735	451	536	202	294	195	255	281	245	568	616	826
2	Extremists killed	180	212	321	69	118	84	95	78	102	26	22	38
3	Extremists arrested	742	804	423	64	39	81	267	142	117	399	335	798
4	Security forces killed	72	79	76	14	4	4	62	64	51	25	42	17
5	Arms looted	125	44	11	13	15		58	147	140	6	26	14
6	Arms recovered	191	168	223	17	16	86	95	65	78	154	76	137
7	Extremists surrendered	227	797	1755	36	6	25	1	1	86	3	57	95
8	Civilians killed	531	220	419	26	26	13	87	89	93	229	248	360
9	Kidnappings	164	119	105	91	107	58	27	18	32	442	455	558

					<i>Mizoram</i>			<i>Arunachal</i>			<i>TOTAL</i>		
		'98	'99	'00	'98	'99	'00	'98	'99	'00	'98	'99	'00
1	Incidents	16	52	73		4	14	2	45	74	1778	1743	1963
2	Extremists killed	1	9	15			1	3	3	24	374	442	585
3	Extremists	3	85	61			13	10	42	43	1485	1447	1536

	arrested												
4	Security forces killed	9	14	7		5	7			3	182	208	165
5	Arms looted	9	4	43			5			3	211	236	216
6	Arms recovered		22	33			5	1	8	12	458	355	574
7	Extremists surrendered			22		44	18		3	14	267	908	1962
8	Civilians killed	6	11	11		2	4	2	3	7	881	599	907
9	Kidnappings	5	12	12			21		21	25	729	732	811

Source: <http://mha.nic.in/AR01-CHP3.htm>

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