

SECURITY, GOVERNANCE, AND DEMOCRATIC RIGHTS

ESSAYS ON THE
NORTH-EAST

Edited by

K.S. SUBRAMANIAN



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Contents

<i>List of Abbreviations</i>	7
<i>Preface</i>	13
Reflections on the Policy Process – <i>K. S. Subramanian</i>	17
SECURITY	
Hydropower Projects: Threat to Environmental Security in the North-East – <i>Neeraj Vagholikar and Partha J. Das</i>	45
ULFA: Peace Making without Peace – <i>Samir Kumar Das</i>	69
Corruption and Insurgency in the North-East – <i>E. N. Rammohan</i>	85
AFSPA: A Contentious Instrument in a Democratic Polity – <i>Patricia Mukhim</i>	90
Immunity, Vulnerability, and AFSPA – <i>Sanjoy Hazarika</i>	96
People's Police versus Policing the People – <i>Harekrishna Deka</i>	105

Small Arms Proliferation in the North-East: The Chinese Connection <i>-Rajeev Bhattacharyya</i>	119
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GOVERNANCE

Human Insecurity in Manipur: A Threat to Humane Governance <i>-K.S. Subramanian</i>	141
--	-----

Grassroots Corruption and Governance: The Assam Scenario <i>-Sunil Kaul</i>	170
--	-----

A Plea for Consensual Governance <i>-Vijayalakshmi Brara</i>	193
---	-----

DEMOCRATIC RIGHTS

Democracy, Development, and Justice: A Gender Perspective <i>-Sukalpa Bhattacharjee</i>	209
--	-----

Conflict, Democratic Rights, and Peace in Nagaland <i>-Lanusashi Longkumer</i>	220
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<i>About the Contributors</i>	231
<i>Index</i>	233

List of Abbreviations

AASU	All Assam (Asom) Students' Union
ACT	affected citizens of Teesta
ADB	Asian Development Bank
AFSPA	Armed Forces (Special Powers) Act, 1958
AGP	Asom Gana Parishad
AGSP	Asom Gana Sangram Parishad
AJM	Assam Jatiya Mahasabha
AJYCP	Assam Jatiyatabadi Yuba Chhatra Parishad
AMKIL	Apunba Manipur Kanba Imma Lup
AMSU	All Manipur Students' Union
AMUCO	All Manipur United Clubs Organization
ANVC	Achik National Volunteer Council
AR	Assam Rifles
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
CAG	Comptroller and Auditor General
CAPFs	Central Armed Police Forces
CBI	Central Bureau of Investigation
CCC	Concerned Citizens' Committee
CEA	Central Electricity Authority

CM	chief minister
CNF	Chin National Front
CPB	Communist Party of Burma
CPFs	Central Paramilitary Forces
CPI(M)	Communist Party of India (Maoist)
CrPC	criminal procedure code
CRPF	Central Reserve Police Force
DAA	Disturbed Areas Act
DAN	Democratic Alliance of Nagaland
DC	Deputy Commissioner
DDR	disarmament, demobilisation and reintegration
DGFI	Directorate General of Forces Intelligence
DHD	Dima Halam Deogah
DIG	Deputy Inspector General
DM	District Magistrate
DONER	Development of the North Eastern Region
DPRs	detailed project reports
DRDA	District Rural Development Agency
DSG	Delhi Solidarity Group
EAC	Expert Appraisal Committee
EIA	Environmental Impact Assessment
EIC	East India Company
FNR	Forum for Naga Reconciliation
GoI	Government of India
HQ	headquarters
IB	Intelligence Bureau
ICDS	Integrated Child Development Services
ICS	Indian Civil Service
ICSSR	Indian Council of Social Science Research
IDP	internally displaced person
IMG	inter-ministerial group
IPC	Indian Penal Code
IRB	India Reserve Battalion

IRP	integrated resource planning
ISI	Inter-Services Intelligence
J&K	Jammu and Kashmir
JAF	joint action forum
JCE	joint court of enquiry
JE	junior engineer
KIA	Kachin Independence Army
KLA	Kuki Liberation Army
KLNF	Kuki Longri National Front
KLO	Kamtapur Liberation Organization
KSA	Kangleipak Students' Association
LEP	Look East Policy
MEA	Ministry of External Affairs
MHA	Ministry of Home Affairs
MHRC	Manipur Human Rights Commission
MoA	memorandum of agreement
MoEF	Ministry of Environment and Forests
MoU	memorandum of understanding
MPs	members of Parliament
MR	Manipur Rifles
MSF	Manipur Students' Federation
NBWL	National Board for Wildlife
NCHAC	North Cachar Hills Autonomous Council
NCPCR	National Commission for Protection of Child Rights
NDFB	National Democratic Front of Bodoland
NEAA	National Environmental Appellate Authority
NEC	North Eastern Council
NEFA	North Eastern Frontier Agency
NEHU	North-Eastern Hill University
NGO	non-governmental organisation
NHRC	National Human Rights Commission
NIH	National Institutes of Health, US
NMA	Naga Mothers' Association

NNC	Naga National Council
NPC	National Police Commission
NPMHR	Naga Peoples' Movement for Human Rights
NREGS	National Rural Employment Guarantee Scheme
NRHM	National Rural Health Mission
NSA	National Security Act
NSCN	National Socialist Council of Nagaland
NSCN(IM)	National Socialist Council of Nagaland (Isak Muivah)
NSF	Naga Students' Federation
OBCs	other backward classes
PA _s	protected areas
PCG	People's Consultative Group
PD	project director
PDS	public distribution system
PF	provident fund
PHE	public health engineering
PLA	People's Liberation Army
PM	prime minister
PMO	prime minister's office
POTA	Prevention of Terrorism Act
PTSD	post-traumatic stress disorder
R&P	Research and Policy
RTI	right to information
SBI	State Bank of India
SC	Supreme Court
SGRY	Swarnajayanti Gramin Rozgar Yojana
SIA	social impact assessment
SIPHRO	Sinlung Indigenous People's Human Rights Organisation
SJA	Sanmilita Jatiya Abhibartan (United National Conference)
SP	Superintendent of Police
SSA	Sarva Shiksha Abhiyan
SSP	Senior Superintendent of Police
TIS	Transparency International Surveys

ToR	terms of reference
UAPA	Unlawful Activities (Prevention) Act, 2004
UDHR	Universal Declaration of Human Rights
UKLF	United Kuki Liberation Front
ULFA	United Liberation Front of Asom
UNC	United Naga Council
UNHCHR	UN High Commissioner for Human Rights
UNLF	United National Liberation Front
UPDS	United People's Democratic Solidarity
UWSA	United Wa State Army
VCDC	Village Council Development Committee
WB	World Bank
ZSI	Zoological Survey of India

Preface

The essays collected in this volume are the outcome of a seminar held in 2011 at the Indian Council of Social Science Research (ICSSR) Regional Centre, Shillong. Though belated, we are happy to bring out this book.

As a Senior Fellow at ICSSR during 2011–12, I undertook a study of the important issue of violation of democratic rights in the North-East, especially in Manipur, in the name of suppression of militant activities. Earlier in November 2009, I was part of a fact-finding mission which travelled to the state to investigate and report on the extrajudicial killing of two innocent youngsters, Sanjit and Ms Rabina by the Manipur police commandos in a crowded market place in the capital city of Imphal.

The Indian Constitution asks the state to undertake measures to reduce inequality and to deliver social justice. The police must play a crucial role in meeting these objectives of the government by maintaining peace and order through just methods. Unfortunately, in Manipur and elsewhere in the region, this task is not being discharged for various reasons. Across the country, the police have not only failed to play this role in most cases but have often been inflicting violence on the people, especially women and children in the North-East causing

immense hardship to the people. During the colonial and post-colonial era, the main objectives of the police have been to manage 'public order' and security of state, rather than detection and investigation of crime. Historical and contemporary factors account for this including some provisions of the IPC, CrPC, and the Police Act, 1861. Police in India today have become a 'dangerous anachronism' as noted by a Human Rights Watch report. (Broken System: Dysfunction, Abuse and Impunity in the Indian Police, 2009, New York).

In the context of the North-East in particular, the police and armed forces have been guilty of frequent extrajudicial killings taking advantage of the provisions of extraordinary laws such as the Armed Forces (Special Powers) Act, 1958. This has become particularly notorious in Manipur, a tiny north-eastern state with less than 3 million people.

On taking up my ICSSR project, I felt the need to organise a seminar, involving local scholars and experts to understand and contextualise the specific issues that arose in my mind. This volume is one of the outcomes. The other is a book being published separately titled *State Vs. People: Security Forces, Special Laws and India's North-East*.

I took the help of Dr C.J. Thomas, Deputy Director, North Eastern Regional Centre of ICSSR, Shillong, in identifying participants and organising the seminar. Scholars presented papers on the broad theme of development, conflict, and democratic governance in the region. Representatives of local thinkers, scholars, journalists, activists, bureaucrats, and police personnel were invited to provide insights. The discussions proved fruitful and illuminating and helped carry forward and clarify the thinking on the subjects discussed.

The papers in this volume are arranged under the three heads of Security, Governance, and Democratic Rights. Our concern was to take up issues and themes less focused upon in a most crowded area of studies. Thematically, after reflecting on the policy process, our eminent authors here examine, under **Security**, the themes of

environmental security, the peace process in Assam, corruption and insurgency, the Armed Forces (Special Powers) Act, 1958, policing, and small arms proliferation. Under **Governance**, human insecurity in Manipur, grass roots corruption in Assam, and consensual governance in Manipur are discussed. Under **Democratic Rights** issues of conflict and gender and conflict and democratic rights in Nagaland are examined.

The vastness and complexity of the region and the variety and intricacy of its problems have led us to believe that any hasty conclusions about the region as a whole on the basis of the data examined here would be inappropriate. We believe that intensive case studies of problems in each state of the region are the need of the hour. However, our work on the environment reported in the paper on hydroelectric projects deals with their impact on the region as a whole. The recent environmental disaster in Uttarakhand in North India has served to underline the need for a proper study of environmental security in the context of hydroelectric projects in the North-East.

I take this opportunity to thank all those who participated in the seminar and contributed papers. I regret, however, that not all papers presented could be included in this volume due to space constraints. I thank Dr C.J. Thomas and his colleagues for helping me in organising the seminar successfully. I am thankful to Mr Bikash Niyogi, Publisher and Managing Director, his colleagues, and Mr P.K. Jayanthan, editor in bringing out this volume in an admirable manner.

K.S. Subramanian

Reflections on the Policy Process

K.S. Subramanian

When I began to look into the post-independence conflict resolution scenario in north-east India some time ago, I noticed information gaps in two areas of academic studies on the subject: (1) little or no understanding and analysis of Government of India's policy structure and process with regard to conflict resolution in general and that in the North-East in particular (notwithstanding talks of 'counter-insurgency constitutionalism') and (2) lack of policy-relevant case studies of experience in individual states of the region. However, I must note that an official report makes good the former deficiency to some extent (GOI 2008a).

When the British left India in 1947 after transferring power to Indian politicians, they left behind no major institutional arrangement for policy making on conflict situations except the Intelligence Bureau (IB). Set up in 1920, IB provided some basic information though without much analysis, to what later became the Union Ministry of Home Affairs (MHA). B.N. Mullik, as the Director of IB, moved very close to Prime Minister Jawaharlal Nehru and began to play a key role in policy making (Mullik 1972) with regard to issues such as the arrest and detention of Sheikh Abdullah in Jammu and Kashmir (1953), the induction of the army into the Naga Hills of Assam (1955),

the forward policy on China (1959), the dismissal of the communist ministry and imposition of President's rule in Kerala (1959) and so on (Subramanian 2007). The Prime Minister, understandably busy with many matters including foreign policy, had perhaps little time to spare and relied heavily on Mullik in formulating his response to internal security emergencies.

It was in 1967, when the Naxalite movement emerged, that the *Research and Policy (R&P) Division* came up in MHA to explore *informed policy options* with respect to conflict situations in different parts of the country. The Division produced a well-known report on the *Naxalite movement* placing it firmly in the context of agrarian tensions, its causes, and trends. It warned that the Green Revolution could turn into a red revolution if appropriate agrarian policy reforms are not undertaken. The report was discussed in Parliament. The then Prime Minister Indira Gandhi urged state governments to institute land reform measures. However, the existence of two different institutions, IB and R&P Division of the MHA, reporting to government on *such sensitive matters* and often disagreeing with each other (IB, being primarily a police agency, was concerned more with security issues), a conflict situation arose within the ministry leading to the gradual winding up of R&P Division! The lack of institutionalisation of policy mechanisms within the ministry had paralysed the division and that led to MHA's total dependence on the reports provided by IB in understanding and trying to resolve basic conflict issues. The situation came to such a pass that MHA in 2006 found it necessary to rely on IB's understanding of the major conflict situation involving the Maoists as India's biggest 'internal security threat' ignoring other analyses such as the Planning Commission's Expert Group report, which provided a significant study of developmental responses to the Maoist challenges (GOI 2008b).

In studying the government response to violence in the North-East today, one must go back to 1955 and examine the government's decision to induct the army into the Naga Hills area of the undivided

Assam. The decision was arrived at because of the agitation by a section of the people for the independence of Nagas from India. After several years of service in IB and MHA I am clear about the inadequacy of this response. I have discussed this elsewhere (Subramanian 2007 and 2010).

The policy scenario in the Government of India has largely been messy as regards the emerging conflicts in different parts of the country are concerned, particularly in the north-east. The existing institutional mechanisms at the Centre call for drastic reform. The police machinery, a crucial part of the policy structure today, has been described as a 'dangerous anachronism' (HRW 2009). The amateurism and adhocism of policy professionals and the absence of inter-disciplinary inputs of knowledge, skills, vision, and expertise at the top have further vitiated the policy processes.

Disaggregated and policy-relevant case studies on conflict development in each state of the North-East is a prime necessity to avoid the tendency to lump all states together and to suggest policy measures for all of them, which can be deleterious (Choudhury 1999).

MHA is responsible for dealing with conflict situations in the North-East. The Ministry for the Development of the North Eastern Region (DONER) set up in 2004 and the earlier mechanism of the North Eastern Council (NEC) are concerned with development issues. MHA's reliance on past precedents, lack of transparency, its complex relations with IB, and so on are to be explicated. Further, the continued reliance on the controversial Armed Forces (Special Powers) Act, 1958 (AFSPA) and the use of CAPFs for conflict management in the region, ignoring the legitimate role of the state police force, also complicates matters considerably.

The controversial MHA decision in 1955, in spite of opposition from the then Governor of Assam, the army, and the Ministry of External Affairs (MEA), to induct the army into Nagaland, led to the emergence of the Naga rebellion, described as the 'mother of all insurgencies' in the region. The Nagas were not demanding anything

other than what the Indian freedom fighters had successfully demanded and achieved from the British (Rustomji 1983).

A former home secretary has noted the deficiencies in policy making at the Government of India level:

The available expertise at the bureaucratic level to understand, anticipate and evaluate an intricate problem was inadequate and amateurish. The situation in some cases was salvaged in the past because of the flexibility of the system, the sagacity of the political leadership and its openness to information from all quarters (Srinivasavaradan 1992).

The political response to Naxalite/Maoist violence had been based on the perception of socio-economic conditions. After the intensity of the violence had abated, however, recourse had been taken to the standard recipe of deployment of central paramilitary forces ignoring allegations of fake encounters, illegal arrests, and other similar misdeeds.

In dealing with problems of societal transition, excessive preoccupation with peace and order, ignoring issues of law and justice, can prove expensive in the long run. Lack of steadfastness of purpose is not desirable in dealing with basic nation-building tasks (Srinivasavaradan 1992).

The ad-hocism and amateurism in the field could be remedied only by 'additional inputs of knowledge, skill, and vision and multidisciplinary research and policy analysis' at the top.

The North-East is cradled by five other Asian countries—China, Nepal, Bhutan, Myanmar, and Bangladesh. The states of Arunachal Pradesh, Manipur, Mizoram, and Nagaland share a 1643 km long border with Myanmar. The states of Assam, Meghalaya, Tripura, and Mizoram share a 1880 km long border with Bangladesh. Arunachal

Pradesh, Assam, and Sikkim share a 468 km border with Bhutan. Arunachal Pradesh and Sikkim share a 1325 km border with the Tibetan Autonomous Region of China. The region's difficulties and socio-economic backwardness arising from the loss of connectivity with the rest of India after Partition are well known (Mukherjee 2007). The Look East Policy (LEP) of the Government of India, which combines foreign policy, trade, defence, security, and strategic dimensions, came into existence in 1991. It was, however, only in 2008 that north-east India appeared in a related policy document in the shape of an *NER Vision 2020* (GOI 2008c). The voluminous *Vision* document produced by the Ministry of DONER and NEC fails to provide an Index. Further, among the six authors and six research associates who produced the document, only one was from the North-East (Chakraborty 2012: 33). When the document was released in New Delhi, people in the North-East were indifferent (Chakraborty 2012: 33).

The first two volumes of the document contain general and sectoral strategies, respectively, for the development of the North-East. The third volume contains annexures. Of interest is Chapter 14 in the second volume on 'Governance and Security' (pp. 289–94). Based on the market-oriented development paradigm, the chapter prioritises 'proper law and order' so that any transaction can be carried out in the market without fear of coercion.

The North-East as a whole, minus Sikkim, has been convulsed by conflicts between the State and armed groups and popular movements fighting for a range of demands such as outright secession to greater autonomy within the Indian Constitution. Active negotiations are on to settle the Naga insurgency issue while ceasefire exists with regard to conflicts in Meghalaya, Assam, Manipur, and Tripura. A peace accord was signed in Mizoram in 1986. No less than 40 insurgent groups are said to function in the seven states but only a clutch of them are capable of causing substantial violence. About 15 groups have been banned by the Centre. Though large

parts of the region are now free of insurgency, the confrontations have been caused by poor governance, high levels of corruption and political instability. Many of the groups are extortionists and run money making rackets and illegal enterprises. The population and area statistics of the north-eastern states are provided in Annexure I. Annexure II provides data on policemen per every 100 sq. km in the region. Significantly, Assam, Manipur, Tripura, and Nagaland have higher number of policemen per unit of population than the national average.

A significant feature of Vision 2020 is its complete omission, ignoring the public feeling in the North-East, of any discussion on the impact of the controversial AFSPA (Annexure III) on the lives of ordinary people, especially women and children. The serious impact of this extraordinary law on human rights has, however, received attention elsewhere (McDuaie-Ra 2009, Kikon 2009, Fernandes 2004, Gaikwad 2009, Navlakha 2011, Barbora 2006).

Another important issue neglected in the Vision 2020 document is the role of Assam Rifles (AR), a central paramilitary force, whose functioning is linked to AFSPA. AR is a special police force created by the British in 1835 to provide security to British establishments in Assam. Subsequent to the creation of several new states in the region in 1972 and the consequent raising of new police forces by them, besides the deployment of other central armed police forces such as the Central Reserve Police Force (CRPF) and the India Reserve Battalions (IRB), however, AR has become an historical anomaly. The counter-insurgency role that AR has been performing controversially so far is best left to state police forces. It should be absolved of its responsibility in the sphere of counter-insurgency. It should be designated to guarding the Indo-Myanmar border. Taking advantage of the immunity from prosecution provided by AFSPA, AR has been guilty of many serious human rights violations in the region. Annexure II provides figures of the police forces available with states in the region between 1978 and 2011. Since

law and order is a state subject under the Constitution, it would be proper if these forces are trained adequately to discharge counter-insurgency duties now performed by AR. If this step is taken the controversial AFSPA would become irrelevant much to the relief of the local population. It will also help bring an end to the 12-year long historic fast against AFSPA undertaken by the indomitable Irom Sharmila Chanu of Manipur. The Vision document lists out the following steps taken to ensure peace, security, and human rights in the region:

- i. ceasefire agreement with the Isak Muivah Group of National Socialist Council of Nagaland (NSCN) from 1 August 1998;
- ii. ceasefire agreement with NSCN (K) group on 28 April 2004;
- iii. suspension of operations against the National Democratic Front of Bodoland (NDFB) from 1 June 2005; and
- iv. agreement with Dima Haram Deogah (DHD) on 1 January 2003 and with Achik National Volunteer Council (ANVC) on 23 July 2004.
- v. Further, the number of IRBs in the region has been raised to 51. This is in addition to state civil armed police (including district armed police) and Central Paramilitary Forces (CPFs) inducted in each state on an ad-hoc basis.

We need to examine the Vision document in terms of its implications for the region not only in terms of trade and commerce but beyond them (Phanjoubam 2007, Chakraborty 2012). It emphasises six development components, that is, (a) self-governance and participatory development, (b) creation of development opportunities, (c) developing sectors with comparative advantage, (d) capacity building of people and institutions, (e) creation of hospitable climate for investment, and (f) infrastructure building through public investment. The 600 page document stresses the need for increasing connectivity and creating employment opportunities through State

investment and encouraging private investment in natural resource harnessing, agriculture, and tourism.

LEP aims to enhance India's political and economic relations with countries of the south-east Asian region. It is entwined with India's foreign policy aspirations, strategic initiatives, economic cooperation, and security considerations. However, civil society in the North-East is divided between the State agenda of 'counter-insurgency from above' and 'ethno-nationalist politics of identity from below'.

First, there has been no recorded dissent on the Vision document of which, as already mentioned, only one of the main authors was from the region, namely, Assam.

Second, the benefits accruing from the primary, secondary, and tertiary sectors are not as significant as may be supposed. The rates of unemployment in all states are very high, raising questions on the type of education as well as the kind of development pursued in the region.

Third, border trade is mostly of an informal kind. More vibrant informal trade would be beneficial for all but high transportation costs arising from illegal payments to underground groups, police stations, and forest check posts, apart from legitimate hire charges, make things difficult. Trade openness depends on trade facilitation and transport liberalisation, which is hindered for example, by Indian reservations on the opening of the Stillwell Road between the North-East and Myanmar. The same problem arises with respect to trade liberalisation with Bangladesh.

Fourth, the development agenda spelt out for the North-East involves transfer of resources from the Centre to the state on account of local resource-raising problems. The patron-client relationship between the states and the Centre leads to corruption and lack of accountability. This means further alienation of an already alienated region. Moreover, the spatial entity in the North-East does not coincide with the economic reality with wide variations among and within states. Since each state in the region is small in size, with

serious geographical limitations and small markets, it is imperative to develop a common regional market as well as a common development programme for the entire region. Just pumping central funds and stamping of authority through big development projects in the region will lead to dysfunctional development.

Big development in the North-East is always associated with resource extraction by an external authority, usually the State. This leads to dissent and suspicion among the people. The effort to harness the hydroelectric potential of the region by building big dams has led to conflicts not only between the Indian State and the people but also between different states such as Arunachal Pradesh and Assam. The cases of resistance between the people and the state and between different agencies within the state to uranium extraction from Meghalaya and oil extraction from Rohomoria in Dibrugarh district of Assam are relevant here. Further, issues of land acquisition and displacement are caused while undertaking development programmes and must be given adequate attention. In a society in which capitalist relations of production are not dominant, resource means people's resource since the ownership of the State is not absolute (Chakraborty 2012).

Significantly, the Vision 2020 document makes no mention of the much-debated AFSPA which has been operating in the North-East for long. McDuire-Ra (2009) provides insights into the impact of this so called 'law' on the North-East.

Contestation in the North-East has taken multiple forms such as (i) armed opposition to the Indian state, (ii) violence against migrants, (iii) movements for separate federal states and autonomous units, (iv) demands for more funds from the Central government, and (v) politically generated inter-ethnic conflicts, and so on. AFSPA, operating in the region for over 50 years, provides the basic environment in which the conflicts take place. The only limited changes made in the Act relate to who can impose the law and how long a detained person can be held. The Act provides immunity to the armed forces deployed in the

region for surveillance over the people at large. It constitutes de facto martial law and affects relations between (i) soldiers and civilians, (ii) Central and state governments, (iii) industrial estates and its employees, (iv) civil society and government, and (v) India and its neighbouring countries. It aggravates the culture of identity politics in the region and puts counter-insurgency at the heart of planning and keeps the development programmes in the hands of the Central government.

In August 1958, a law was enacted by Parliament (with only Birsa Munda, the tribal MP from Bihar, dissenting) to apply to the hill areas of Assam, especially the Naga Hills and the then Union Territory of Manipur (both now full-fledged states) in order to assist them in the fight against insurgents. The law has been applied in other states as well, such as Jammu and Kashmir (J&K) and Punjab. Since Partition in 1947, the North-East is almost completely cut off from the rest of India, joined only by a narrow corridor at Siliguri in West Bengal. Centred on the Brahmaputra and Barak river valleys, and consisting of eight states sharing borders with Bangladesh, Bhutan, Myanmar, China, and Nepal, the region's various ethnicities have links to South-east Asia and the greater Himalayas. During the colonial era the hill tracts with several less advanced tribes were administered separately and classified as 'excluded' or 'partially excluded', preventing the intrusion of people from the plains to these sensitive areas. Colonial tea and oil interests were located in the Brahmaputra valley. After Independence, the politics of assimilation and integration, most notably in the Naga Hills and Manipur, provoked a violent response with separatist tendencies and called for a perceived need to impose AFSPA with special provisions for ensuring complete immunity to the armed forces in their dealings with civil society and armed opposition groups.

Section 4a of the Act allows 'any commissioned officer, warrant officer, non-commissioned officer, or any other person of equivalent rank in the armed forces' to fire 'even to the causing of death' upon any person acting in contravention of any law or order, any person

carrying weapons or anything capable of being used as a weapon, or to prohibit the assembly of more than five people.

Section 4c allows armed forces personnel to arrest without warrant and with any necessary force ‘any person who has committed a cognisable offence’.

Section 4d allows armed forces personnel to ‘enter and search premises without warrant and to make “any such arrest”’.

Section 5 instructs that the arrested person be handed over to the police with the ‘least possible delay’ (amended to ‘24 hours’ in 1997).

Section 6 prohibits prosecution of any person in respect of anything done in the exercise of the powers conferred in this Act. AFSPA applies to any area declared ‘disturbed’ by the Central or state government, the status of which is to be reviewed every six months.

A 1972 amendment provided that the Central government, without consulting the state government, could declare any state or part thereof ‘disturbed’. Unlike in 1958, this time there was no debate in Parliament even though the Act covers more than 7 per cent of India’s population and more than 7.5 per cent of the land area of the country. The status is not open to judicial review nor can it be contested by state governments (SAHRDC 1995). As of 2008, much of the North-East was designated ‘disturbed’ including the areas of Arunachal Pradesh bordering Assam, the entire state of Manipur (the Imphal valley was excluded recently), areas of Meghalaya bordering Assam, the entire state of Nagaland and the hill areas of Tripura (HRW 2008, 8–14). In this situation, militant groups appear to have flourished and even grown in numbers since the imposition of AFSPA. Official sources argue this justifies the continuance of the Act but others say that the continuance of the Act has led to the growth in the number of militant groups.

Looking back, it appears that after the Chinese intrusion into the North-East in 1962 and the already present secessionist tendencies in the Naga Hills and Manipur (and later Assam), the main preoccupation of the policy makers has been that of not just

maintaining law and order but also checking secessionism in the region. This is what has called for the imposition of AFSPA and the use of the army and central paramilitary forces in the region. The fear of secessionism and fear over the role of hostile neighbours has to be removed before AFSPA can be revoked!

Since 1990s, several international human rights organisations, including the UN High Commissioner for Human Rights (UNHCHR), have protested against the serious violation of human rights by AFSPA and appealed to the Government of India to revoke it. However, AFSPA is only one of the many laws that acts against human rights. There are several others which have been discussed at length (Haragopal and Jagannatham 2009). The Reddy Committee which reviewed the imposition of AFSPA after the killing of Thangjam Manorama of Manipur in suspicious circumstances, recommended repeal of the Act but said that its basic provisions be incorporated into the Unlawful Activities (Prevention) Act, 2004 (UAPA), to make it appear less discriminatory as compared to people in the rest of the country! The recommendation has not yet been accepted presumably because of opposition from AR, the main central agency concerned with security in the North-East. AFSPA thus continues to provide a framework for military occupation in the North-East and inevitable militarisation of daily life in the region causing huge psychological burden on ordinary people. Insurgency in Manipur appears to have become a hugely beneficial proposition to politicians, bureaucrats, and middlemen who milk the Central government of enormous funds. The simple solution is one of sitting down and talking to the insurgent leaders and listening to their problems.

The impact of state violence and counter-violence from armed opposition groups on women has been serious. Women are 'routinely questioned and exposed to sexual harassment' (Chenoy 2002, 132). A study of women in armed conflict situations in the North-East (Srikala and Goswami 2005) identifies several categories of women who are affected: women relatives of armed activists, women relatives

of state armed forces, women militants or combatants, women as shelter providers, women as victims of sexual and physical abuse, and women as peace negotiators and activists. The argument is that in militarised societies, even in locations where actual armed conflict is minimal, violence against women is far higher than in non-militarised societies. McDuire-Ra (2007) found that this was true even in respect of Meghalaya with its matriarchal society. Race and gender intersect violence and harassment directed at women, especially by non-tribal members of the armed forces. Obviously in all these cases women include children as well when it comes to harassment and ill-treatment. Another study (Gaikwad 2009) examines the naked protest by the Meira Paibis (torch bearers) in front of AR headquarters against the rape and killing of Thangjam Manorama in 2004 and in support of the on-going 12-year long protest fast by Irom Sharmila Chanu demanding the removal of AFSPA from Manipur as also to explore novel methods of struggle adopted by women in Manipur caught between a violent State and an equally violent armed opposition groups.

Another study by Haksar and Hongray (2011) provides a case study on army rule in north-east India. It focuses on the torture and violence inflicted on ordinary people by AR during a counter-insurgency operation code named 'Operation Bluebird' in 1987 in Oinam and neighbouring villages of Senapati district of Manipur. This was the response of the army to a violent attack on the local AR camp and arms seizure by an armed insurgent group.

The North-East Vision 2020 document indicates the move towards a participatory model of development by India by involving the region in its economic and other engagements with the countries of south-east Asia. The approach is important and relevant but the insistence on sticking to AFSPA could prove an impediment in shaking off the resistance of the people of the region to any attempts to promote happy relations with the Government of India.

In 1947 the princely states of Manipur and Tripura remained separated, and were later integrated into India in 1949. The rest of

the region constituted the state of Assam. In 1954, the North East Frontier Agency (NEFA) was created in what is now Arunachal Pradesh, the northern border of which is contested by China. Meghalaya state was carved out of Assam by the North-Eastern Areas (Reorganisation) Act, 1971. The Act also transformed Manipur and Tripura from Union Territories to full-fledged states. Nagaland state had been carved out of Assam by the State of Nagaland Act, 1962 and Mizoram state by the State of Mizoram Act, 1986. Arunachal Pradesh state was created by the State of Arunachal Pradesh Act, 1986. During the colonial period, the British had declared some interior tribal areas in the region 'restricted' or 'partially restricted' areas in order to protect their less advanced and 'pre-modern' tribal populations from intrusion by more advanced and exploitative elements of the Indian 'mainstream'.

The princely states of Manipur and Tripura did not have the administrative and political arrangements which the rest of the country had experienced during the colonial period. These came into existence in these states only after incorporation into India. Both states have significant tribal populations (approximately 27 and 31 per cent, respectively in Manipur and Tripura as per 2011 Census). Strangely, the dominant Meitei community in Manipur was included in the Other Backward Classes (OBCs) of the Indian Constitution, which has left the affected community unhappy. Inter-community relations in Manipur, with Meiteis as majority community, were not a big issue till recently. Tripura was, however, a tribal majority state which was steadily reduced to a tribal minority state on account of the voluntary and involuntary migration of Bengali Hindus and Muslims from East Bengal (now Bangladesh) giving rise to serious tensions.

The states of Mizoram, Meghalaya, Nagaland, and Arunachal Pradesh, once part of Assam, are tribal majority states, although increasingly subject to non-tribal immigration from outside. Assam, the largest state in the North-East with a non-tribal majority, has a significant number of different tribal people living there.

All the specificities of each state need to be taken into account while conducting research and policy studies by official agencies to make appropriate recommendations in a balanced manner.

In this context, the Jeevan Reddy Committee report (2005) on AFSPA needs to be examined since it affects the welfare of the local population and the implementation of the priorities of 'North East India: Vision 2020' policy document.

The Jeeven Reddy Committee was set up in the wake of the rape and murder of a young woman Thangjam Manorama in 2004 allegedly by AR soldiers. The public believes that Manorama was innocent but AR have maintained that she was a dangerous underground militant! Even if their contention were right, her extrajudicial execution was illegal.

The Committee consisted of four male members Justice B.P. Jeevan Reddy, Dr S.B. Nakade, P.P. Srivastava of NEC, General V.R. Raghavan, and journalist Sanjoy Hazarika, but no woman. The non-inclusion of a woman was significant in the light of the increasing violence against women in the region as documented in official reports (GOI 2002). From the report it seems clear that the setting up of the Committee was no more than a sleight of hand or prestidigitation.

The core of the report is in Part IV, Recommendations, and Part V, Suggestions to Amendments to the Unlawful Activities (Prevention) Act (UAPA), 1967. The report admits that AFSPA had become a 'symbol of oppression, an object of hate and an instrument of discrimination and highhandedness'. It, however, contradicts itself when it says that there was an overwhelming opinion in the region that the army should stay but the Act should go! At the same time, the army has made it abundantly clear that they cannot work in the region without AFSPA! Therefore, the Committee recommends that the discriminatory and oppressive provisions of the Act should be incorporated into UAPA. The 'grievance cells' recommended by the Committee are dominated by security officials, which does not have credibility in the public eye. However, the report was not implemented

and remains confined to the dark rooms of MHA! Though never made public, a reliable copy is available in the public domain.

Much discussion has taken place as to why the Government of India would not repeal AFSPA. The basic reason appears to be the concern over 'national security' and the refusal of the army to work in the region without the powerful instrument provided by the Act in dealing with the recalcitrant population. This approach is only aggravating the alienation of the public in the region.

The healing process in the North-East, examined in an excellent recent study (Mahanta 2013), may like to learn from the experience of civil society activists in the south Indian state of Andhra Pradesh. They set up and participated as members of the Concerned Citizens' Committee (CCC) to resolve the conflict between the state and the Maoists (1997–2004). The Maoists in India are similar to militant groups in the North-East and the south Indian experience, with due modifications, may be helpful in the region in exploring the possibilities of conflict resolution. In order to be successful, the experience must be painstakingly replicated from the bottom up by civil society activists in every state of the North-East because the causes of conflict differ from state to state.

CCC reports constitute a meticulously documented civil society effort to engage the State and the Maoists simultaneously. In its final report in 2006, CCC noted that the 'reform-led market oriented growth' had led to processes of exclusion of vast masses. A small segment in power perceived any mass mobilisation against the existing order as a serious security threat. In mid-2000s, the reform agenda became more aggressive than before with little scope for imaginative state intervention. This led to the CPI (Maoist) upping the ante in the states of Chhattisgarh, Orissa, Jharkhand, and West Bengal. The CCC viewed violence as arising from a 'political culture that dispensed with accountability and deepened impunity' and said its agenda was about yielding democratic space to expanding 'possibilities for political assertion by ordinary people. It was as much about restoration of

rule of law as about urging a mature and humanised and accountable revolutionary praxis' (Maringanti 2010).

Another study (Wallace 2007) states that even after the conflict is eventually resolved, the consequences of the violence and the wounds inflicted on the human survivors and the national psyche need to be healed and a reasonable degree of closure achieved so that the patterns of political violence and terrorism do not recur. He stresses the need for institutionalising efforts to attempt a healing process for societies such as India. 'Closure' should be clearly identified as a core element during periods of political violence focusing on institutionalising human rights, especially for the state, but also for the anti-state political movement. Reconciliation is an obvious element of 'closure'. So are transparency and justice. 'Closure' should include judicial measures ranging from war crime tribunals to informal village-level trials. The major achievement of 'closure' would be transparency. Setting out the facts, opening whatever records are available, and attempting honestly to answer the questions of victims provide a major impetus to healing. It promotes understanding as a first step to some degree of justice and the possibility of forgiveness and reconciliation. Transparency may be the lasting result, a willingness to live with the truth. In political violence, excessive and clandestine means are sometimes used. Similarly, because of security concerns the state often becomes a mirror image of terrorist movement, holding it necessary to use means that are illegal according to the Geneva Convention. Recent developments in Sri Lanka are a good example of what can happen (Wallace 2007). However, some studies do exist in India, which document reconciliation at the grassroots level involving civil society participation following the violence, such as in Gujarat in 2002 (Oommen 2008).

Peace building in the North-East is a complex process and must be accomplished in ways other than 'pacification' through military and paramilitary means as has largely been the case in the region.

ANNEXURE I

Area and Population of the Seven States of North-east India

State	Area (square kilometres)	Population as on 2011
Arunachal Pradesh	83,743	13,82,611
Assam	78,438	3,11,69,272
Manipur	22,327	27,21,756
Meghalaya	22,429	29,64,007
Mizoram	21,081	10,91,014
Nagaland	16,579	19,80,602
Tripura	10,048	36,71,032

Source: Census of India, 2011, Statement 3

ANNEXURE II

Police in North-east India (Total Strength in 1978 and 2011)

Sl No.	State	Population (2011 Census)	1978		2011	
			Total police strength including State Armed Police	State Armed Police	Total police strength including State Armed Police	State Armed Police
1	Arunachal Pradesh	13,82,611	112	—	11,955	3,880
2	Assam	3,11,69,272	30,343	10,130	62,149	30,195
3	Manipur	27,21,756	6,190	3,406	31,081	13,288
4	Meghalaya	29,64,007	4,570	1,095	12,268	5,779
5	Mizoram	10,91,014	1,689	693	11,249	6,976
6	Nagaland	19,80,602	8,561	5,401	24,226	15,452
7	Tripura	36,71,032	5,239	1,720	44,310	15,722
8	Total	4,49,80,294	56,704	22,445	1,97,238	91,292

Notes:

- i. Total police strength includes district armed reserves
- ii. In addition to the figures above in 2011, 46 Assam Rifles Battalions and 51 India Reserve Battalions
- iii. India Reserve Battalions (9 each for Assam, Tripura and Manipur, 7 for Nagaland, 5 each for Arunachal Pradesh and Mizoram, 4 for Meghalaya, and 3 for Sikkim (Annual Report 2011–12 of MHA, p. 25) are deployed in the region.

Sources:

- i. National Police Commission Seventh Report 1981, pp. 111–12
- ii. Bureau of Police Research and Development (BPR&D), Data on Police Organizations, 2011, pp. 40, 50

ANNEXURE III

The Armed Forces (Assam and Manipur) Special Powers Act, 1958

An act to enable certain special powers to be conferred upon members of the forces in disturbed areas in the state of Assam and the union territory of Manipur.

Be it enacted by Parliament in the ninth year of the republic of India as follows:

1. Short title and extent

- i. This act may be called the Armed Forces (Assam and Manipur) Special Power Act, 1958.
- ii. It extends to the whole of the State of Assam and the Union Territory of Manipur.

2. Definitions

In this act, unless the context otherwise requires,

- a. "Armed forces" means the military forces and the air forces of the union so operating.
- b. "Disturbed area" means an area which is for the time being declared by notification under section 3 to be a disturbed area.
- c. All other words and expressions used herein, but not defined in the Air Force Act, 1950, or the Army Act 1950, shall have the meanings respectively assigned to them in those Acts.

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

4. Special Powers of the Armed Forces

Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the Armed Forces may, in a disturbed area,

- a. If he is of opinion that it is necessary to do so for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of the things capable of being used as weapons or fire arms, ammunition or explosive substances;
- b. If he is of the opinion that it is necessary to do so, destroy any arms dump, prepared or fortified position or shelter from which armed attack are made or are likely to be made, or any structure used as a training camp for armed volunteers or utilized as a hideout by armed gangs or absconders wanted for any offence;
- c. Arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
- d. Enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises and may for the purpose use such forces as may be necessary.

5. Arrested Person to be Made Over to the Police

Any person arrested and taken into custody under this Act

shall be made over to the officer in charge of the nearest police station with the least possible delay together with a report of the circumstance occasioning the arrest.

6. Protection to Persons Acting under this Act

No prosecution, suit or other legal proceeding shall be instituted except with previous sanction of the Central Government against any person in respect of anything done or purported to be done in exercise of powers conferred by this Act.

7. Repeals and Savings

- a. The Armed Forces (Assam and Manipur) Special Powers Ordinance 1958 is hereby repealed.
- b. Notwithstanding such repeal, anything done or any action taken under the said ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 22nd day of May 1958.

The Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972 – An Act to Amend the Armed Forces (Assam and Manipur) Special Powers Act, 1958.

Be it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:

1. This Act may be called the Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972.
2. In the Armed Forces (Assam and Manipur) Special Powers Act, 1958 (hereinafter referred to as the principal Act) in the long title, for the word "in the State of Assam and the Union Territory of Manipur", the words "in the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and Union Territories of Arunachal Pradesh and Mizoram" shall be substituted.

3. In section 1 of the principal Act,
 - In sub-section (1) for the words, brackets and figures “the Armed Forces (Assam and Manipur) Special Powers Act, 1958”, the words, brackets and figures “the Armed Forces (Special Powers) Act, 1958” shall be substituted:
 - For sub-section (2) the following sub-section shall be substituted namely:
 - (2) It extends to the whole of the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram.
4. For section 3 of the principal Act, the following section shall be substituted, namely: (3) If in relation to any State or Union Territory to which this act extends, the Governor of the State or the Administrator of the Union Territory, as the case may be, is of the opinion that it is in such a disturbed or dangerous condition that the use of Armed Forces in aid of the civil power is necessary, the Governor of the State or the Administrator of the Union Territory or the Central Government, as the case may be, may by notification in the official Gazette, declare the whole or such part of such state or Union Territory to be a disturbed area.

As from the commencement of this Act, the principal Act, as extended by notification of the Government of India in the Ministry of Home Affairs No GSR 1970, dated the 25th November, shall cease to operate in the State of Tripura.

Corrected on 21 November 2012

(Source: Haksar and Hongray 2011, 343–48)

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Security, Governance, and Democratic Rights: Essays on the North-East is a collection of articles on the north-east of India. Peace-building is a more complex process than 'pacification' through excessive military and paramilitary deployment. Impunity provided under AFSPA has often been misused by security personnel. Human rights have been regularly violated. Irom Sharmila has been on hunger strike for the last 13 years demanding withdrawal of AFSPA from Manipur.

The book describes the problems in the north-east including security, governance, human rights, environment, corruption, and gender disparity. The policy process with regard to the Northeast is also examined. This is one of the first books that takes a close look into the problems of common people of the region and their fight for dignity of life and human rights.

This book will be very useful for those who are interested in the North-East, such as institutions and libraries, as well as students, academics, human rights activists, and non-governmental organisations.



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