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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

SHOULD STATE EMERGENCY HAD BEEN IMPOSED ON THE INCIDENT OF MANIPUR: AN ANALYSIS?

AUHORED BY - VIVEK KUMAR

Abstract

“Manipur” the small hilly north-east Indian State had faced its harsh time in 2023 as an ethnic violence broke out between its two largest groups, the one majority Meitei and the other minority Kuki as Meiteis were demanded the status of Schedule Tribes which have its own advantages like reserved public job quotas and college admissions as a form of affirmative action. In Manipur, Myanmar and surrounding areas the roots of Meitei have been traced. They are almost Hindu though some follows the Sanamahi religion. On the other hand Kukis are mostly Christian. Many heinous crimes had been happened during the clashes like women were being paraded naked, assaulted and ganged raped. Many houses as well as public properties were destroyed. Many people were killed and in huge numbers they left their homes. No Fir was being lodged by any Police Station. The situation of the state was worst. Internet were shut down. Weapons of the police personnel were being looted but nothing had been done by the state functionaries. These are the facts of incident occurred in the Manipur. On the other hand, constitution of India provides that in case of a failure of constitutional machinery administration of State will be carried by the Union this is known as “State Emergency”. So in this paper I will discuss whether there was a breakdown of constitutional machinery in the Manipur. Should state emergency had been imposed on the incident of Manipur?

Introduction

Manipur, one of the states of India bordered by the Nagaland to the north, Assam to the west, Mizoram to the southwest and by Myanmar to the South and East whose capital Imphal is situated at the centre of the State. State consists of two main regions namely Valley region which is located at the centre of the State which consists of ten percent of total areas of Manipur where the capital Imphal is situated and the remaining areas are the Hills region which consists of ninety percent of the total area of Manipur. The State consists of two communities namely Meitei community who consists of fifty three percent of the total populations which are situated at the valley area which are located at the centre of Manipur and they are mostly Hindus and they have been given status

of OBCs, and Schedule Castes. Since they have been living in the valley areas they have been treated more advance than other people's of different communities because hospitals, educational institutions and infrastructures are easily available to them. The other community are Kuki & Nagas who are in minority consisting forty percent of the total populations of the Manipur situated in the hilly areas of Manipur. They are majorly Christians and come under the list of Schedule Tribes. By the virtue of included in the list of Schedule Tribes they have given various privileges such as to buy and sell land across the Manipur whether it is valley or hilly region, reservations in government jobs and educational institutions. On the same instance Meitei have no right to buy land in the hilly areas because they are not included in the list of Schedule Tribes. These are the facts of the Manipur. Now, I discuss about what was the major reason behind the clashes that arose between these two communities. There was three main reasons behind this clashes, first one is the order which was issued by the Manipur High Court which asked the State Government to consider for the Schedule Tribe Status for the Meitei community, the second one was the action taken by the Manipur government to remove illegal occupants in the hilly areas and the last was drug trade angle. These three mentioned triggers led to the ethnic clashes in the Manipur whose consequences were impaired that was seen by whole Manipur as well as the country. On the other hand State emergency is given under Article 356 of the Constitution. It will be applied when constitutional machinery of any state will be failed or breakdown. In that circumstances administration of State will be taken by the Union. Article 355 of the Constitution obliged the Union to ensure that all states are carried their functions according to the provision of the Constitution. So in the present scenario whether constitutional machinery had been break down. To come to this answer I discuss about under which circumstances we can say constitutional machinery has been breakdown and discuss about the past instances since independence till now where state emergency had been imposed or internal failures was occurred for instance in 1983, Nellie Massacre was happened, in 1984 Anti- Sikh Riots was happened and in the year 2002, Godra- Rights was happened.

The main rationale behind the ethnic clashes

Central as well as State government was being requested since 2013 by the Meitei community that they should be given status of Schedule Tribe but no action was taken but this year Manipur High Court issued an order and asked the Manipur Government to consider for the Schedule Tribe status for the Meitei community. Being unsatisfied due to an order passed by the High Court Naga-Kuki or other tribes on May 3 in Churchandpur starts an tribal solidarity march during which clashes

was occurred between the Meitei community and the Naga-kuki and other tribes. India being a democratic country where constitution is the supreme law of the land maintains different category of list regarding the cast to uphold the weaker section of the society by providing them reservations in jobs, educational institutions. It generally contains three lists such as general, other backward class and schedule tribe and schedule caste. In Manipur Meitei has OBC and Schedule Caste status but they demanded for Schedule Tribe status so they can protect their culture, identity and language and the main concern was that being under OBC and Schedule Caste they are unable to buy land in the hilly areas where Kukis-Nagas are situated and they argue that Kuki-Naga and other Tribes can buy land in the valley area but they cannot and due to that privileges which was granted to Kukis-Nagas and other tribes their area will slowly be captured by them. The other main reason behind the clashes was Manipur Government eviction drive. Government was trying to evict the illegal occupants from the reserved and protected forest of the hills area and it was issuing a notice to evict those areas and finally it was succeeded to vacate those areas. Those areas were vacated because it was the part of drug trade area. There is a golden triangle consisting of different country such as Myanmar, Laos and Thailand where huge drug trade of Opium and brown sugar is being ran and the some cities in Manipur are the exchange hub of this trade and cultivation which means golden triangle were describing the north eastern part of India as its drug trade hub. Instead of being receiver Manipur was become the producer of this drug. The mostly drug affected area in the Manipur is churchandpur. Manipur shares a long border with Nagaland, Assam, Mizoram as well as Myanmar. Due to sharing border with Pakistan the extreme level of alertness we are keeping in the same way by sharing border of Manipur with Myanmar highly sensitive situation are created because Myanmar was considered as Asia next failed State because there is no political stability, no control on the citizen by their government and lastly there is no law enforcement agency as well as an influence has been seen over Myanmar of the Chinese country China. In that scenario infiltrator may be come, arms may be supplied and might drugs be supplied. A special attention should be given these problems and there should be strict laws in these respects.

Consequences of Clashes

On 3rd May, 2023 when there was a protest in Churchandapur district against the High Court Order to consider for status of Schedule Tribe to Meitei community and a clashes were broken between the protesters tribal and Meitei community in which around eleven civilians were injured and two were died due to bullets wound in kangpokpi district and nearly 50,000 people were misplaced.

Due to the violence an order was issued and security forces rushed to the place where clashes were occurred. There is apprehension that the protester was the suspended militants which belongs to the Kuki tribe and carried very dangerous weapons like Ak 47. A video was surfaced on July 19 which shows that On 4th of May, again violence was occurred in the valley areas where two women were paraded naked and allegedly one gang-raped by them and two males were murdered. Several houses were burnt and around 130 peoples died. Four accused were arrested for this horror two months after FIR and a day after video was surfaced. First zero FIR of the incident was lodged on May 18 after approx two weeks of the incident. As per the FIR a third women was also forced to strip, but she is not seen in the video. According to her husband who was a retired Army subedar, a Kargil Vetran they have lost everything such as dignity, their homes, and other material possessions. After the video was surfaced Supreme Court of India took suo moto cognizance and asked the Centre and State to take action or it will pass order. Prime Minister also broke his silence and gave a remark that no accused will be spared. Due to the broke out of the violence civilians suffered a lot as it is ruled out that wherever and whenever any violence took place in any place of India three major rights of common people were surrendered such right to move freely which is the fundamental rights guaranteed by the constitution, right to internet without which no basic work will be done such as banking transactions, online businesses, online education. Educational institutions such as schools, colleges were also closed. These rights are also surrendered during the Manipur horror as Sec 144 of the CrPC was imposed on the first day of violence.

Whether the conditions of Article 356 were satisfied in the Manipur horror?

Emergency is given under part XVIII of the Constitution which means an abnormal situation different from the normal governmental machinery set up by the Constitution. There are three different types of situations where emergency will be imposed. When there is a ground of war, external aggression or armed rebellion then according to the constitution national emergency will be imposed. When there will be failure of constitutional machinery in any state then state emergency will be imposed also known as President Rule. And the last is Financial Emergency. Constitution provides that an administration of States will be carried by the Union in the failure of constitutional machinery. It must be mandatory for all state government in India to carry their function in accordance with the provision of the constitution and there is a duty of the union to ensure that all state is carried on in accordance with the provisions of the constitution. President has been given power for proclamation in any state if he is satisfied with the report of the governor

of that particular concerned state or is satisfied that the government of that concerned state is not carried on in accordance with the provisions of the constitution. Now on Manipur horror governor reacted after the video was surfaced and told the whole India is shameful as the horrific video in which two women were paraded naked and assaulted and allegedly one gang-raped. Governor took the cognizance of the incident and asked the DGP to issue notice to the officer of the police department in case they were also in fault then take strict action against them. According to her state government was acted as per the constitution as executive was active during the violence, orders was issued in the place where clashes broke out, peoples were rescued by police personals, internet was shut down and constant appeal from the government to maintain peace otherwise the will face the consequences. As we look state emergency was firstly imposed in Punjab in 1951 and after that in 1977, it was imposed in twelve different states and besides this in the year 1996, it had been imposed in six other states and totally Article 356 had been imposed hundred and nineteen times till April, 2015. It is crystal clear that imposing Article 356 in the State has nothing to do with any external aggression or armed rebellion. Union is empowered to declare Article 356 after the condition political breakdown is satisfied. It is one of the crucial powers of the union to maintain the democratic form of government and prevent the state from becoming unstable due to failure of its constitutional machinery. In case of Manipur horror, there was complete breakdown of law and order as police stations were being looted, several houses were burnt, and many properties were lost. That period seems like a situation where law did not exist. If this will be classified as failure of constitutional machinery then Article 356 would be imposed but can this be a permanent solution of this ethnic clashes as from 1951 to 2019, Article 356 has ten times been imposed but did not stop the violence permanently. As I discussed Manipur High Court order was one of the trigger points behind this violence but should it be. In India misinformation travels more speedily than information due to lack of communication between civilians and state as High Court in its order only talked for consideration and Supreme Court had said that there will be no effect on the list of Schedule Tribe due the order passed by the High Court.

Conclusion

India has seen much violence but the incident of Manipur was horrific. It's the first time where the dignities of women were harmed to this level in open space in front of many. Two women were paraded naked, assaulted and allegedly one was gang-raped. In India constitution are the supreme law of land which provides all human beings irrespective of their cast, class & creed the right to live with dignity. The incident took place in the Manipur between two communities only

for status was extremely shameful. Due to the suspension of internet in the Manipur, the horrific video of the incident came in the limelight after three months that shows the reality of the fourth pillar of the government. The condition of Manipur during that period frames a huge question mark on the stability of the government. As in country like India where rule of law prevails, where constitution is the supreme law of the land, police station was being looted by the mob and no FIR was registered spontaneously. Due to the ethnic clashes, civilians were suffered a lot as right to move freely, right to internet were surrendered. Article 356 had been imposed many times in the Manipur but no permanent solution was determined as a result once again in 2023, ethnic violence broke out between these communities. Many remarks have been given on this issue like Manipur government is shielded by the centre because in that state BJP is in rule and that was the main reason behind not imposing president rule. The PM gave his first reaction just before the commencement of monsoon session. He said no culprits will be spared but not even a single statement was given by him regarding the complete failure of that state government. It shows that how much centre was biased towards that particular government. As it is the duty of the union to ensure that all government is carried on in accordance with the provisions of the constitution. But in Manipur there was complete failure of constitutional machinery as there was absolute violation of laws and order. Despite the order passed on May 3, violence occurred on May 4 and no FIR was lodged of that incident and the first FIR was lodged nearly after fourteen days. This shows the failure of executive organ of the government. So lastly, I would like to say on that circumstances emergency should had been imposed but government should more be focused on finding permanent solution of this issue.

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