From the SelectedWorks of Thongkholal Haokip

2017

Dereliction of Duties or the Politics of ‘Political Quadrangle’? The Governor, Hill Areas Committee and Upsurge in the Hills of Manipur

Thongkholal Haokip, *Jawaharlal Nehru University*

This work is licensed under a Creative Commons CC_BY-NC-SA International License.

Available at: https://works.bepress.com/haokip/24/

Dereliction of Duties or the Politics of 'Political Quadrangle'? The Governor, Hill Areas Committee and Upsurge in the Hills of Manipur

Indian Journal of Public Administration, 63(3), September 2017.

Thongkholal Haokip
Assistant Professor,
Centre for the Study of Law and Governance,
Jawaharlal Nehru University,
New Delhi – 110067.

Abstract
This article looks into the role of the Governor of Manipur, particularly its 'special responsibility' under Article 371C of the Constitution of India, 'in order to secure the proper functioning' of the Hill Areas Committee (HAC), and attempts to explore whether there is dereliction of duties on the part of the Governor in fulfilling what the constitution intents. Consequently it examines whether the HAC is able to perform its functions under the Manipur Legislative Assembly (Hill Areas Committee) Order 1972, to 'safeguard the interest of the people of the Hill Areas'. The article identifies the existence of the politics of 'political quadrangle' which unleash a peculiar 'political process' in which the role and functions of the Governor and HAC are constrained in protecting the rights and interests of the hill people. This 'politics' is largely shaped by the very peculiar political process in the state, particularly the electoral trend and government formation, in which there is propensity to change government with the corresponding change in the ruling party at the Centre. This has significant factor to play as the majoritarian sate Government's reluctance for tribal autonomy is perpetuated by the existence of the same political regime at the Centre, with a politically affiliated and politically appointed Governor, in which acting on the 'advice of' largely becomes 'diktat of' the Council of Ministers, thereby circumscribing the role and functions of the Governor and the HAC. The recent upsurge in the hills of Manipur is a clear case of the State Legislative Assembly overriding the HAC on scheduled matters that affect the hill areas.

Keywords: Manipur, Governor, Hill Areas Committee, Dereliction of Duties, Political Quadrangle

Introduction

Manipur is a geopolitical entity located in the far northeastern corner of the Indian subcontinent. It has a neat geography of valley and hills, and distribution of people based on this division. At the centre lies the valley, which is about 10 per cent of the total geographical area, inhabited by the Meiteis and Meitei Pangals with a history of two millennia. Along with them reside business groups who had migrated in the last century. They totally constitute about 64.6 per cent of the total population of the state.[1] The valley is surrounded by hills populated by different ethnic groups who are loosely categorised as Kukis and Nagas – while various Kuki tribes mainly settle in the southern hills, the Nagas occupy the northern hills, thought not neatly distributed. They occupy about 90 per cent of the total geographical area, with 35.4 per cent of the population.

Giving the first account of topography and the tribes of the then Manipur kingdom and its surrounding hills R. B. Pemberton (1835, p. 21) described in his report:

> The territory comprised within the boundaries thus specified, occupies an area of 7,000 square miles, of which a valley of 650 miles of rich alluvial soil constitutes the central portion; the remainder is formed by an encircling zone of hilly and mountainous country inhabited by various tribes… the southern boundary of the Muneepoor Territory is very irregular and ill defined; unconquered tribes, of whose existence we have but recently become acquainted.

What constitutes Manipur before the British rule is a matter of debate that continues to linger in the ethnic politics today. More than two decades after Pemberton submitted his report on the eastern frontier, M. McCulloh (1980, p. 75), the then political agent of Manipur, in his account of the valley of Manipur and of the hill tribes wrote:

> Before the connection of the British Government with that of Manipur took place, the latter, not to speak of exerting influence over the tribes, was unable to protect the inhabitants of the valley from their exaction of black mail, and even after the conclusion of peace with Burma, and the fixation of a boundary for Manipur, the majority of the tribes were independent, and known to us little more than by name.

This independent kingdom of Manipur was conquered by the British after the Khongjom Battle in April 1891, and the surrounding hills were incorporated after the Anglo-Kuki War, 1917-19. After the defeat of the Kukis in the so called 'Kuki rebellion', the British brought about tighter administrative control and as such 'the hill people were for the first time brought under intensified political and administrative control of an imperial power' (Dena, 1991, 134). Subsequently Manipur was divided into four subdivisions - one with headquarters at Imphal and three in the hills under a Sub Divisional Officer (SDO) each, viz., for the Southwest, inhabited by Kukis with headquarters at Churachandpur under B.C. Gasper; for the Northwest area, inhabited by Kukis, Kabui Nagas and Kacha Nagas with headquarters at Tamenglong under William Shaw; and Northeast area, inhabited by Tangkhul Nagas and Kukis with headquarters at Ukhrul under L. L. Peter (Reid, 1942, p. 85). These three subdivisions in the hills were abolished on 1 January 1930 and the whole hill areas were placed under the President of Manipur Durbar from Imphal, who was assisted by two SDOs, one being in charge of the South and one of the North (Ibid 86). On 1 May 1933 a new arrangement was made whereby the hill areas were divided into three subdivisions: Sadar, Tamenglong and Ukhrul.

With the signing of 'Merger Agreement' with the Union of India on 21 September 1949 by the Maharajah of Manipur Bodhachandra Singh, the state became "Part-C State" of the Indian Union. In 1969 Manipur was divided into five districts: Central (Imphal), North (Karong), South (Churachandpur), East (Ukhrul) and West (Tamenglong). The reorganisation of districts placed Sadar Hills as a subdivision of the North District (Karong). To fulfill the aspirations of the hill people the Government of India enacted the Manipur (Hill Areas) District Council Act, 1971. With the attainment of statehood by Manipur in 1972, the state government adopted this Central Act by issuing the Manipur (Adaptation of Laws) Order, 1972,[2] and in exercise of the power vested on him under Section 3 of the Act, the then Governor of Manipur vide notification dated 14 February 1972 constituted six Autonomous District Councils (ADC) under the aforesaid Act

of 1971, viz.: (1) Manipur East ADC, now Ukhrul ADC, (2) Manipur North ADC, now Senapati ADC, (3) Manipur South ADC, now Churachandpur ADC, (4) Manipur West ADC, now Tamenglong ADC, (5) Tengnoupal ADC, now Chandel ADC, and (6) Sadar Hills ADC. However, unlike their counterparts in other states of the Northeast created under the Sixth Schedule of the Indian Constitution, the Manipur (Hill Areas) District Council Act, 1971 merely provides limited administrative powers to the Autonomous District Councils (ADCs) under the control of the state government. The councils have no legislative powers, but can only make recommendations to the government about legislations on appointment and succession of chiefs, inheritance of property, marriage and divorce and social custom (Chaube, 1973, 230).[3]

Categorising 'Hill Areas', 'Hill Tribes' and 'Hill People'

The terms 'Hill Areas' and 'Hill Tribes' have historical precedent in Manipur. It was during the high noon of colonial rule in Manipur that the Maharaja of this princely state passed the Rules for the Management of the State of Manipur in 1935, which included 'rules for management of justice in the hill areas' for hill tribes (Ghosh, 2012, p. 142). This rule largely, as historian Kamei (2012) would posit, 'was the application of Chin Hills Regulation of 1896 in spirit but not in letters,'[4] even though the Manipur hills were not included in the extension of this Regulation to the North Cachar Hills, the Garo Hills, the Khasi and Jaintia Hills (excluding the Shillong municipal and cantonment area), the Naga Hills and Mikir Hills on 9 October 1911. These Rules and Regulations were basically intended to protect their identities and their customs and traditions, allow them to govern themselves in their own genius 'with just the amount of control from above' (Syiemlieh, 2014, p. 4). The term 'Hill Tribe' was replaced by another similar term 'Hill People' in the Manipur Hill People's Regulation, 1947 and provided for four-tier judicial system in the hill areas – the village authority, the circle authority, the hill bench and the chief court with nominal powers given to the village authority.

With the Merger of Manipur to the Union of India as 'Part-C state' after the signing of the merger agreement by the Maharaja of Manipur in Shillong on 21 September 1949,[5] the hill people eventually came to be categorised as any Kuki, any Lushai and any Naga tribes as per the Order of the President of India under the Constitution (Scheduled Tribes) Order, 1950, and they were placed under the rubric 'Schedule Tribes' for administrative purposes. However, the Scheduled Castes and Scheduled Tribes (Modification) Order, 1956 identify these groups in their own tribe identities. Today, the state has as much as 34 recognised tribes, and some still clamour for recognition.

Post-independence Governance of the Hill Areas

Manipur attained statehood on 21 January 1972 and subsequent upon this a special provision with respect to the hill areas of the State was provided under Article 371C of the Constitution of India. Sub-clause 1 of the article reads:

> Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Manipur, provide for the constitution and functions of a committee of the Legislative Assembly of the State consisting of members of that Assembly elected from the Hill Areas of that State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of such committee.

The second sub-clause obligates that:

> The Governor shall annually, or whenever so required by the President, make a report to the President regarding the administration of the Hill Areas in the State of Manipur and the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas.

The expression 'Hill Areas', as explained in the article itself, means such areas as the President may, by order, declare to be 'Hill Areas'; and not necessarily the historical hill areas inhabited by the tribes of the state.

As per the directives of Article 371C of the Constitution of India and through the Constitution (27th Amendment) Act, 1971, the then President of India, V.V. Giri, make an order, The Manipur Legislative Assembly (Hill Areas Committee) Order, 1972. The order provides for the formation of the HAC: 'There shall be a Hill Areas Committee of the Assembly consisting of all members of the Assembly who, for the time being represent the Assembly constituencies situated wholly or partly in the Hill Areas of the State'. It excludes the Chief Minister of the State and the Speaker of the State Assembly from being members of the HAC.

Functions of the Hill Areas Committee

As listed in the Manipur Legislative Assembly (Hill Areas Committee) Order, 1972, the functions of the HAC are enormous. They are:

1. All Scheduled matters in so far as they relate to the Hill Areas shall be within the purview of the Hill Areas Committee.
2. Every Bill, other than a Money Bill, affecting wholly or partly the Hill Areas and containing mainly provisions dealing with any of the Scheduled matters shall, after introduction in the Assembly, be referred to the Hill Areas Committee for consideration and report to the Assembly Provided that if any question arises whether a Bill attracts the provisions of this sub-paragraph or not, the question shall be referred to the Governor and his decision thereon shall be final.
3. The Hill Areas Committee shall have the right to consider and pass resolutions recommending to the Government of the State any legislation or executive action affecting the Hill Areas with respect to any Scheduled matter, howsoever that the executive action relates to general questions of policy and the legislation or executive action is in conformity with the overall financial provisions for the Hill Areas made in the Annual Budget or contemplated in the Plans of the State.
4. The Hill Areas Committee shall have the right to discuss the Annual Financial Statement in so far as it relates to the Hill Areas and to facilitate such discussion the said statement shall, as far as may be practicable, show separately the estimates of receipts and expenditure pertaining to the Hill Areas which are to be credited to, or is to be met from the Consolidated Fund of the State.
5. In its functioning, the Hill Areas Committee shall endeavour to:-
   (a) safeguard the interest of the people of the Hill Areas, particularly through accelerated development of these areas; and

> (b) promote unity between the people of the Hill Areas and other areas of the State by aiming at an integrated and evenly based economic growth of those areas and augment the resources of the state as a whole.

The Governor may also, in consultation with the HAC, entrust to the District Councils in the field of agriculture, animal husbandry, community development, social and tribal welfare, village planning or any other matter.[6] Looking into the intent of the functions bestowed upon the HAC, it can be said that the committee can act as a body to safeguard the interest of and give autonomy to the 'Hill Tribes' in the state through district councils.

Tribal Autonomy in Retrospect

The debate on the constitutional position of the hill areas of Assam is evident since the Simon Commission in 1928. Despite the recognition that the tribals should be 'able to maintain their individuality by their exclusion than by inclusion in the Province of Assam' (Rao, 1975, p. 59) the hills were included in the reformed Council of Assam. N.E. Parry, the then Superintendent of Lushai Hills, categorically pointed out that 'the union of the hills and the plains was unnatural. The marriage of so ill assorted couple could only end in a speedy divorce which would leave feelings of resentment in the minds of both the parties' (cited in Rao, 1975, pp. 69-70). Since the colonial period the administration of tribal areas particularly categorized as 'Excluded Areas' were placed under the Governor.

After independence there have been several debates, legislation and administrative reorganisations for the tribals in Northeast India. 'In response to the worldwide debate as to what should be the approach of the developed complex societies towards the simple tribal structures coexisting within the same political boundary, two different alternatives to the policy of isolation, i.e. either assimilation or integration, have been discussed. The main question is whether to establish unity by integration or by assimilation' (Haokip, 2010, pp. 87-88). Keeping in mind the tribal socio-economic structures, culture and value systems, and ways of life are unique and considering that assimilation will be counter-productive in the long run, the policy of gradual integration was adopted despite several sceptics. During the Constituent Assembly of India Debate on the Sixth Schedule B. R. Ambedkar made a justificatory comment on tribal autonomy:

> The tribal people in areas other than Assam are more or less Hinduised, more or less assimilated with the civilisation and culture of the majority of the people in whose midst they live. With regard to the tribals in Assam that is not the case. Their roots are still in their own civilisation and their own culture. They have not adopted, mainly or in a large part, either the modes or the manners of the Hindus who surround them. Their laws of inheritance, their laws of marriage, customs and so on are quite different from that of the Hindus. I think that is the main distinction which influenced us to have a different sort of scheme for Assam from the one we have provided for other territories.[7]

Jaipal Singh Munda, a member of the Constituent Assembly of India, also made a succinct observation on the tribal people during the Constituent Assembly Debate. He said:

> You cannot teach democracy to the tribal people; you have to learn democratic ways from them. They are the most democratic people on earth. What my people require is

> protection from Ministers. That is the position today. We do not ask for any special protection. We want to be treated like every other Indian.[8]

In fact India is regarded as 'village republic', and in the hill areas of the north east each village has been a 'republic' with its own way of democracy. 'The idea behind the scheme contained in the Sixth Schedule was to provide the tribal people with simple and inexpensive administration of their own which would safeguard their tribal customs and ways of life and assure them maximum autonomy in the management of their characteristically tribal affairs' (Rao, 1975, pp. 194-195). Regarding this Schedule Tillin (2007, p. 56) observed: 'The varieties of special status in the north-east are the closest India comes to *de jure* asymmetric federalism'. Way back in the early 1970s V. Venkata Rao (1972, p. 130), while assessing the Sixth Schedule, recommended for the provision of a committee which 'must be like the Scottish Affairs Committee in the House of Commons'. The intention of the Sixth Schedule is to give sub-state level tribal autonomy in areas where tribals are concentrated within undivided Assam.

For many tribal areas in the then Assam the idea of 'tribal autonomy' under the Sixth Schedule had undergone different shifts. With the granting of statehood this provision is rendered meaningless by the Nagas and Mizos. The Nagas under the leadership of A.Z. Phizo rejected the offer of district councils and demand for more autonomy. However, as in the case of Mizoram where the Lushai Hills Autonomous District Council was dissolved and smaller Councils such as Lai, Mara, and Chakma Autonomous District Councils were created after statehood was granted for the Lushai Hills, such smaller councils could have been created in the state of Nagaland for other indigenous minority tribes of the state like the Kukis, Kacharis, Garos and Mikirs/Karbis.

Considering the various aspirations of groups beyond the inner line,[9] several administrative reorganisations were carried out. The Naga Hills-Tuensang Area Act of 1957 provided for the creation of an administrative unit in Assam comprising the Naga Hills district and Tuensang Division of the North-East Frontier Agency (NEFA), and which later on was granted statehood as Nagaland to become the sixteenth state of India on 1 December 1963. Some of the other hill districts of composite Assam, such as the Lushai Hills district, and the Khasi-Jaintia and Garo Hills districts, have been gradually granted statehood with the passage of the North- Eastern Areas (Reorganisation) Act, 1971, along with the princely state of Manipur and Tripura. With the granting of statehood to NEFA as Arunachal Pradesh on 20 February 1987, the relevance of tribal autonomy in such tribal dominated states become irrelevant.

No special provisions were made for the hill areas of the then princely states of Manipur and Tripura. S.K. Chaube (2012: 94) alluded: 'Perhaps the Constituent Assembly felt that, as the integrated Indian states would be constituted as part B and part C states under *the rigorous control of the centre*, no special scheme for their minorities would be necessary' [emphasis mine]. Since the attainment of statehood by Tripura and Manipur the hill tribals increasingly clamour for the extension of Sixth Schedule. In Tripura the Tribal Areas Autonomous District Council came into being in 1979 and the provisions of the Sixth Schedule of the Constitution was applied in 1984 to the tribal areas of the state. The Constitution (Forty-Ninth Amendment) Act, 1984 clearly stated the justification for this application: '…it was considered necessary to give it Constitutional sanctity with a view to meet the aspirations of the tribal population'. However, the Tripura state government maintained conspicuous silence when the governments of Assam, Meghalaya and Mizoram consented to the proposed amendments to the Sixth Schedule mooted by the Central government to give more powers to the ADCs in 2013.[10]

With regard to the hill areas of Manipur the Union Territories Act, 1963 specifically provided for the constitution of a standing committee of all the elected members of the assembly representing the hill areas. This committee had jurisdiction over matters relating to the management of land and forest, use of canal water for irrigation, shifting cultivation, village and town committees, appointment and succession of chiefs and headmen, inheritance of property, marriage and social customs. The act also provides for the scrutiny and approval of this committee on every bill moved in the legislative assembly relating to the hill areas.[11]

On the eve of the statehood of Manipur the Manipur (Hill Areas) District Councils Act, was passed in 1971, and six ADCs were created in the hill areas and the first elections to these ADCs were held in 1973. The HAC in 1974 passed a resolution demanding the extension of Sixth Schedule provisions for the hill areas of Manipur, and reaffirmed its 1974 resolution in 1978, 1983, 1990, 2002 and 2003. Since the boycott of the 1988 ADC elections the demand gained momentum with the formation of Sixth Schedule Demand Committee, Manipur (SSDCM). This committee met the state and central governments to demand and explore the possibilities of the extension of the Schedule in the hill areas. Rishang Keishing, a tribal congressman and one of the longest serving Chief Ministers of Manipur, during his tenure in 1995 did attempted to introduce Sixth Schedule in the hill areas of Manipur. However, his condition to bring Sixth Schedule was to combine the existing six ADCs into one council with its headquarters at Ukhrul.[12] This was considered as unacceptable by the Kukis as they regarded it as a ploy by Nagas to capture power. After further consultations he suggested for four ADCs and two Autonomous Regions with certain amendments of the Sixth Schedule provisions for Manipur hills. Holkhomang Haokip, the then Outer Manipur Member of Parliament during 13th Lok Sabha, also wrote to the Chairman, National Constitution Review Committee, for the extension of Sixth Schedule to the six ADCs arguing that: 'the working of these Councils for the past 15 years and its experiences was found to be inadequate with no empowerment to the people in any manner. It has, in fact, belied the hopes, rights and aspirations of the Tribal people of Manipur'.

There is also a unanimous demand for the extension of the Sixth Schedule of the Indian Constitution in the Hill Areas of Manipur by the six ADCs in recent times. The members of the ADCs of Manipur protested at Jantar Mantar, New Delhi on 5 September 2014 demanding the upgradation of the present ADCs to the Sixth Schedule of the Constitution. They claim that 'the devolution of power to the ADCs by the state government in 26 subjects under the Manipur (Hill Areas) District Council (3rd Amendment) Act, 2008 has not happened in more than half of the subjects'. The Manipur government has no objection to the extension of the Sixth Schedule but 'with certain local adjustment and amendments'. It had recommended for the extension in May 1991, August 1992 and March 2001 respectively. However, the Government of Manipur has, so far, not sent details of local adjustments/revised proposal in this regard.[13] Regarding the delay, if not reluctance, of the state government in sending the details of local adjustments Hausing (2015, p. 80) noted: 'Another major reason for not extending the Sixth Schedule to the hill areas has been the opposition and fear of powerful segments within the Meities, the state's majority community, who are concerned that doing so would eventually lead to the disintegration of Manipur'.

On a different note Phanjoubam (2010, p. 11) commented: 'It is also untrue that the ADC elections are being forced on the hills with valley interest in mind. All hill affairs, including the amendments to the ADC Act, in Manipur are looked after by the HAC formed by all 20 hill MLAs of the Manipur assembly (which is 60 strong – 20 reserved seats and 40 general). As a

government clarification stated recently, the HAC functions like a mini assembly within the Manipur assembly, and the latter cannot interfere in the decisions of the former'. This is exactly the intent of the District Councils Act of 1971 and the purpose of formation of the HAC. However, the practice is very different from the intent, which is mired by sectional majoritarian politics of the state government, leading to an intractable hill-valley divide in the state.

The workings of ADCs are far from perfect. A Commission headed by Pataskar in its report to report on the Hill Areas of Assam complained against maintenance of accounts by the district councils.[14] In recent times the siphoning money off in such areas are a common happenings.

Functioning of the Hill Areas Committee

The functions of the HAC as elaborated in the Manipur Legislative Assembly (Hill Areas Committee) Order, 1972, is compendious. The Committee is regarded as a 'virtual mini Assembly within the Manipur Assembly', and 'the assent of which is mandatory under Article 371C of the Constitution, on any law made with respect to the hills, except in cases of money bills' (Phanjoubam, 2016, p. 14). However, in practice it is reduced to a toothless tiger, and a largely unwanted Committee in the general scheme of majoritarian state politics. The state government has been giving limited powers to the committee thereby limiting their credibility. The only time it is conspicuously heard is the ceremonious appointment of the Chairman for a term of five years.

The right of the HAC to discuss the Annual Financial Statement relating to the hill areas is limited. Their obligation to bring about accelerated development of the hill areas, by 'aiming at an integrated and evenly based economic growth' is far-fetch without a non-lapsable annual financial allocation at the disposal of the committee. It is totally up to the prerogative of the Chairman whether to intervene into matters of concern particularly in the preparation and allocations of budget for the hill areas of the state. A proactive and interventionist committee is viable to, as the 1972 Order pointed out, 'safeguard the interest of the people of the Hill Areas, particularly through accelerated development of these areas'. This can only happen when the Chairman is elected from the opposition party without any political patronage. However, in most cases the Chairman is appointed from the ruling party who will not raise much voice against the government in order to 'safeguard the interest of the people of the Hill Areas'.

Article 275(1) of the Constitution of India provides for grants-in-aid to certain States as Parliament may determine to be in need of assistance for administration and development of tribal areas in each year, 'Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the *approval of the Scheduled Tribes* in that State or raising the level of administration of the *Scheduled Areas* therein to that of the administration of the rest of the areas of that State' [emphasis mine]. Despite the fact that district councils elections were not held in Manipur for more than 20 years from 1989 till 2010,[15] the Manipur state government drew grants-in-aid from the Consolidated Fund of India and largely met the remaining 10 per cent of the annual budget to be raised by the state, while the remaining 90 per cent of the budget is received as grants.[16]

In 2015 the state government bypassed the HAC while trying to introduce a controversial three bills as money bills. The aggrieved hill people felt betrayed by their representatives as they raised no objection to the bills. The Committee has merely become an instrument to 'promote unity between the people of the Hill Areas and other areas of the State' not by any means of 'an

integrated and evenly based economic growth' but by being a mute spectator to all exploitation.[17] The newly elected chairman of the HAC noted that if the full functions of the Committee are exercised Imphal valley will erupt in protest and there will be chaos in the state.[18] An open letter written to the Members of HAC by Tribal Youth Council reveals the failure of the Council: 'You failed to raise your voice against the finalisation of the State Annual Budget/Plan 2014-15 which was presented by Chief Minister Okram Ibobi Singh on 15th July 2014 and the 12th Five Year Plans (2012-17) by the Assembly without the matter being referred to the HAC and also did not submit a separate Budget/Plans for the hills during the Assembly' (The Sangai Express, 2014). Former Member of Parliament from Outer Manipur B.D. Behring also observed that the HAC 'is totally ineffective as it is powerless', and 'the HAC which aimed at providing legislative protection to the interest of the hill areas has become a toothless committee as it has failed to act as an effective body' (Morung Express, 2015). From the above inferences it can be drawn that the HAC is largely an ineffective body. This ineffectiveness is brought about by peculiar political process of the state and the emergence of, what I call, politics of 'political quadrangle'.

Upsurge in the Hills

On 31 August 2015 the State Legislative Assembly of Manipur in a special session passed three bills - the Protection of Manipur People Bill, 2015, the Manipur Land Revenue and Land Reforms (Seventh Amendment) Bill, 2015, and the Manipur Shops and Establishments (Second Amendment) Bill, 2015. These bills were primarily a response to the agitations spearheaded by Joint Committee on Inner Line Permit System demanding the implementation of colonial era's Inner Line Permit System in Manipur. As soon as the bills were passed in the State Assembly there was upsurge in the hills in which the homesteads of Member of Legislative Assembly (MLAs) and Ministers from Churachandpur and Sadar Hills, and the lone Member of Parliament (Outer Manipur) were set ablaze. As the agitation intensified nine youths were killed by the state security forces. Some government offices were also burnt down to show its protest by the frenzied agitators.

One of the reasons why the public, particularly in Churachandpur and Sadar Hills, was so outrageous is linked with how the State is viewed by marginal identities in the hills as promoting the interest of, as well as, acting at the behest of the dominant community. As per the provisions of the Manipur Legislative Assembly (Hill Areas Committee) Order, 1972, 'Every Bill, other than a Money Bill, affecting wholly or partly the Hill Areas and containing mainly provisions dealing with any of the Scheduled matters shall, after introduction in the Assembly, be referred to the HAC for consideration and report to the Assembly'. However in the case of these three bills, which contain provisions on scheduled matters that affect the Hill Areas, it was not referred to the HAC for their consideration.

According to The Protection of Manipur People Bill, 2015, 'Manipur people' means persons of Manipur whose name are in the National Register of Citizens, 1951, Census Report 1951, and Village Directory of 1951 and their descendants who have contributed to the collective social, cultural and economic life of Manipur. The insistence on the contribution 'to the collective social, cultural and economic life of Manipur' implies that non-contribution tantamounts to the categorisation as 'Non-Manipur Person'. In light of this it is imperative to examine whether there was ever a collective life in Manipur. The hill areas of the present-day Manipur had been a free hill country and largely unadministered even during the British rule till the Kuki uprising 1917–19 (Haokip, 2015a, pp. 84-85). It is treated as 'illegible space', and a separate sub-cultural zone within the larger region known as 'Zomia' and the people are regarded

as ‘non-state peoples’ (Scott, 2009, p. 23). They are a part of ‘the largest remaining region of the world whose peoples have not yet been fully incorporated into nation-states’ (Ibid, p. ix). In such illegible space village was the unit of administration, and interaction beyond the village was external affairs of the village. People only contributed for the welfare of the village until the late arrival and penetration of the nation-state system into the hill areas of today’s Manipur. The state system slowly dilutes the self-sustained local system of governance. In such lived experience calling for a ‘collective life’ beyond the village is to exclude such areas from the imagination of Manipur; or worst it is mischievous in the eyes of such hill people - an ‘exercise of domination over the hills of Manipur’ (Haokip, 2016, pp. 186-187).

The bill also talks about ‘the native people of the State of Manipur’. Who is native, and how will ‘native of Manipur’ be determined? If the intention of the three bills were to protect the insecure ‘people of Manipur’, one needs to be reminded of the existence of legal frameworks to protect tribal rights in land and resources in central India. However, there are tribal proxies and middlemen who would be hand in glove of capitalists and the exploitation of them continues. The word ‘Notwithstanding’ in The Manipur Land Revenue and Land Reforms (Seventh Amendment) Bill, 2015 indirectly takes away all the ‘rights and powers’ guaranteed to the tribals by the original Manipur Land Revenue and Land Reforms Act, 1960, which was enforced before the existence of an Indian state called Manipur.

The three bills when examined on the well accepted jurisprudence of the ‘principles of legality’ (Fuller, 1969), they do not conform these ‘principles’. According to Fuller all purported law must meet eight minimal conditions in order to be counted as genuine laws. They must be, amongst others, sufficiently general, publicly promulgated, prospective (i.e., applicable only to future behavior, not past). The secretive process of legislation, without making the bills public, rendered them not general enough and thereby carrying and reflecting the will and wishes of a certain group. Thus, this totally ignored the marginal identities and the idea of multiculturalism focusing on minority rights is obtuse and sidelined in the so-called liberal democratic space.

The state government made an explanation to the passage of the three bills that these were money bills. In the recent past there is a huge debate and controversy on certain bill in the Parliament which was otherwise considered as ordinary bills; and also particularly over the decision of the Speaker on this, which is final and cannot be challenged. Article 199(3) of the Constitution also empowers the Speaker of State Legislative Assembly with similar powers. This clause is being misused often today. The Manipur government attempt to introduce the three bills as money bills was aimed at bypassing the Hills Area Committee. This type of ‘move is being termed by some as “colourable legislation”, wherein under guise of power conferred for a particular purpose, the legislature seeks to achieve another purpose, for which it is otherwise not competent to legislate on’ (Bhatnagar 2016).

A seasoned social activist R. Sanga (2013, p. 160) said: ‘The Manipur Government has always been attempting to subjugate and control the tribals and suppress their interest in various ways’. He continues: ‘There is no specific protection of the interest of the tribals of Manipur in the Constitution of India except Article 371(C). The Manipur (Hill Areas) District Councils Act, 1971 is practically meaningless because the Sixth Schedule provisions of the Constitution of India are not extended in the hill areas of Manipur. There is no provision for “autonomy” and as a result it does not in any way protect the interest of the tribals. It exists entirely at the mercy of the State Government of Manipur’. Then what is holding back the state government to furnish the ‘local adjustment and amendments’? The hesitation of the state government is clearly echoed in a statement made by the President of International Meeteis’ Forum (IMF), R.K. Rajendro who

regarded that implementation of the Sixth Schedule of the Constitution in the hills of Manipur, 'will bring *chaos* in the State'.[19] This also means that the constitutional endeavour on the HAC to 'safeguard the interest of the people of the Hill Areas' and to bring about equitable economic growth is a 'no-no' to the majoritarian state government. This, in particular, is a kind of political blackmailing tactics in an attempt to promote and perpetuate one group interests at the expense of the others.

Politics of 'Political Quadrangle' in a Quagmire?

The history of post-colonial India is the history of political integration of its constituent units, and the tensions and contestations that followed in the centre-state relations. The main tension areas in the Indian federal system are the overwhelming financial power of the centre and its preponderance not only on matters of the concurrent lists, but also to the extent of intrusion into the state lists. Since the time of Indian independence and the integration of different tribal states in the province of Assam and the adjoining two princely kingdoms, tribal rights in ownership of forest, land and its resources were recognized. The recognition and preservation of the pristine state has inhibited resource exploitation and generation of revenue. As such, most of the states in the North Eastern region are excessively dependent on central government for their funds. From the dependency of Assam to about 70 per cent, most hilly states of the region depend on the centre's grant up to 90 per cent for their annual budgets, excluding the grants-in-aid for the hill tribal areas.[20] This huge dependence has enormous impact on state politics, and the political regime at the centre can always superimpose any subject matter on these small states.

Since Manipur attained statehood in 1972, the last 45 years of state politics had been unduly affected by the political regime at the centre mainly due to its sheer financial dependence. This perpetual state of financial dependency has often caused configuration and reconfiguration of the ruling parties depending upon the political regime at the centre making the state government inherently unstable. For instance, in the 2017 state assembly election the Indian National Congress (INC) won 28 seats out of 60 and was just short of 3 seats for absolute majority, while the Bharatiya Janata Party (BJP) won 21 seats. Even though the second largest, the BJP was able to get the majority mark and won the floor test through the indomitable influence from the centre. Going back to 1997, the INC formed government but soon a group of MLAs led by Wahengbam Nipamacha defected from the INC and floated a new party the Manipur State Congress Party (MSCP) and formed a non-Congress government as soon as the BJP led National Democratic Alliance (NDA) government was formed at the centre. As such there is a peculiar political trend, particularly the electoral trend and government formation, that the party ruling at the Centre generally forms government in Manipur; thus the state normally has government formed by the same political party or a coalition which can have alliance with political regime at the centre. This peculiar electoral trend of Manipur has shaped the emergence of another politics, and what I call, - 'political quadrangle'.[21] In this politics of 'political quadrangle' there are two political entities, the State Government and Central Government, and two constitutional entities, the Governor and the HAC, in which the role and functions of the latter two constitutional entities are constrained by the previous two political entities, particularly with regards to the protection of the rights and interests of the hill people. In this process there is politics of collusion between two political entities – the Central Government, State Government, along with Governor, against the fourth - the HAC, in terms of political bargaining, transaction, etc.

In this strange quadrangle relationship the majoritarian state government triggers the process by convincing the central government and the Governor of the state in due course of time, who has mostly been former politician or ex-bureaucrat and closely associated with the party that appoints them, remains complacent of its special responsibility for the proper functioning of the HAC. As against the initial idea of tribal autonomy during the colonial period in which the governor was able to exercise discretionary powers under the Government of India Act, 1935 in the administration of Excluded Areas, under the Constitution of India the governor acts on the advice of the Council of Ministers. The Governor must also act in accordance with the advice of the Council of Ministers with regard to the application of the laws passed by Parliament and the State Assembly in order 'to bring about the gradual integration of the tribal areas with the plains' (Rao, 1975, pp. 185-186). Pankaj (2017, p. 13) further explains this post-independence phenomenon: '…as against the intentions of the constitution-makers, the majority of Governors appointed between 1950 and April 2015 have been from active political backgrounds including former chief ministers… Except for a few who rose above partisan considerations, Governors have often obliged on the political demands of the union government and worst on the ruling party at the centre. This hiatus between constitutional intents and practices has widened since 1967'.

At any given time, there is the tendency for the two political entities and the governor to 'gang-up' against the fourth to satisfy the majoritarian state government. And in the case of the HAC, the Chairman is normally appointed from the elected legislature of the ruling party or at least the coalition partners. The challenge of harmonising the government's policies and programmes and safeguarding the interests of the hill people is perennially with the Chairman. However, as seen in the case of the three bills issue of 2015, the politics of 'political quadrangle' has much to do with the omissions of the HAC. Even in the selection of Chairman of the HAC ethnopolitics as well as the 'Manipur integrity' project also played its significant role. In the last two decades the Chairmen of this Committee were from the Kuki-Chin ethnic groups, who are considered not to pose too much threat as much as the Naga elected state legislatures would be to the interest of the political majority. This 'political quadrangle' couple with majoritarian ethnopolitics has unfortunately placed the hill people's interests in a quagmire. These are mere highlights of the mechanisms and processes at work in this complex political system. Besides this hill-valley political divide, there are intermittent inter-tribal as well as intra-tribal ethnic divides and rivalries that continue to ravage the state.

Governor in Judicial Precedents

There are several legal judgements that upheld the actions of the Governor as constitutional head of the state exercising discretionary powers and functions with regard to the provisions of tribal political autonomy. In Pu Myllai Hlychho & Ors versus State Of Mizoram & Ors on 11 January 2005, a five bench judges of the Supreme Court of India held the view that: 'Our Constitution envisages the Parliamentary or Cabinet system of Government of the British model both for the Union and the States. Under the Cabinet system of Government as embodied in our Constitution the Governor is the constitutional or formal head of the State and he exercises all his powers and functions conferred on him by or under the Constitution on the aid and advice of the Council of Ministers save in spheres where the Governor is required by or under the Constitution to exercise his functions in his discretion'. The judges also particularly hold the view, in this case, that: "The Governor was justified in making consultation with the Council of Ministers and the Governor making such incidental consultation with the Council of Ministers did not in any way affect his

discretionary power'. In T. Cajee versus U. Jormanik Siem on 20 September 1960 the Supreme Court of India reaffirms the provisions of the Sixth Schedule that: 'It also provides that no Act of Parliament or of the Assam legislature shall apply to any area unless the governor by public notification so directs and the governor in giving such direction with respect to any Act may direct that the Act shall in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit'. In Edwingson Bareh versus State of Assam and Others on 29 November 1965, it is also reiterated that: 'The Governor is given the power to make regulations for the peace and good Government of any area in a State which is for the time being a Scheduled Area. The words 'peace and good Government' were always understood as giving the utmost discretion in law making'.

Despite the Governor being vested with such discretionary power supported by impeccable legal precedents for tribal political autonomy, why is it unable to objectively discharge its constitutional responsibilities? Why is the Governor unable to take steps to ensure that the HAC in Manipur functions effectively? The answers to these questions revolve around the larger political and structural flaws of Indian federalism, as is largely evident, and of course the politics of 'political quadrangle in Manipur. In such political circumstances the 'advice' of the Council of Ministers on the governor becomes binding.

Hutton, as cited in Rao (1975, pp. 67-68), 'warned that history is full instances of lamentable results of attempting to combine alien population into political units' and emphasize the need 'to separate the hills from the Plains', otherwise 'There was the danger that hills brought under the Reformed Councils might suffer acutely at the hands of self-seeking persons of influence, in popular governments, in which the hill vote would be of no importance. The danger of exploitation by plainsmen of the hills was not a chimera'. This was explained from the 'experience in the Manipur state', in which 'The Manipuri Hill Tribes not only during the Regency of the Superitendent, but even after the ruling powers were vested in the hands of the Maharaja, were kept under the control of an European officer because of the contemptuous disregard of the most elementary rights of hillmen. The hillmen were treated a little better than animals. They were exploited in every possible manner'. Robert Reid (1942), the Governor of Assam 1937-1941, also expressed similar views. The Kuki rebellion of 1917-1919 was the 'result of the oppression of the tribals by subordinate officers' who were mainly local men and another 'Discontent, disturbance and rebellion might result'. This was a far sighted view about a century back and in contemporary days the recent protest against the three 'anti-tribal' bills in Manipur for more than 600 days is a grim reminder of the intricate situation. Thus 'Hutton insisted that the administration of the hill areas should be entirely separated from that of the plains. The hill areas should have a separate budget from that of their own. The deficit in budget should be met from the imperial (central government) Revenues as the security of the frontiers was of great importance as to the whole of India'.

Conclusion and Suggestion

In a small state like Manipur where there is a propensity to change government with the corresponding change in the ruling party at the Centre, and with the same political party at both the centre and the sub-national state, the majoritarian Manipur government has some influence on the centre on any policy matters. Despite the constitutional obligation under Article 371C that 'the executive power of the Union shall extend to the giving of directions to the State as to the administration of the said areas', the politics of 'political quadrangle' constrained the role of the Governor of Manipur in the discharge of powers given to him/her. This constrained role of the

Governor further constrained the role of the HAC and in protecting the rights and interests of the Hill people. Despite the Manipur Legislative Assembly (Hill Areas Committee) Order, 1972 having obligatory provisions that the HAC has the 'right to consider and pass resolutions', 'right to discuss the Annual Financial Statement', and certain bills of Scheduled matters to be 'referred' to it, these provisions are rendered mere recommendations and not binding upon the state government. As is the case in different governance mechanisms under the constitution of India, there is wide ranging difference between the intent and practice in the role of Governor and the HAC. In spite of the constitutional provisions the Committee is a largely neglected and frequently brushed aside in the normal legislative and financial processes.

One of the ways to make the HAC effective is to make the recommendations binding upon the government within the ambit of the state. The annual report to the President regarding the administration of the Hill Areas in the State of Manipur should be publicly available for accountability and transparency. The need of the hour is to address tribal alienation in the state by making the HAC taking proactive role in addressing the needs of the hill people. The Pataskar Commission's recommendation in 1966 with respect to the HAC of Assam, despite being largely rejected by the hill peoples of the then Assam for felling short of their expectation of autonomy, could at least be a pro tem solution in addressing the functioning of the HAC of Manipur. It recommended: 'The Hill Areas Committee should be given an opportunity to express its view on the budget for the hill areas before it is presented to the state assembly'. The majoritarian state government has to choose between 'tribal political autonomy' within the state or continued alienation of the tribals eventually leading to resistance to any negotiated settlement within the state.

Notes

[1] This calculation is based on Census of India 2011, Office of the Registrar General and Census Commissioner, Ministry of Home Affairs, Government of India.
[2] The Manipur (Adaptation of Laws) Order, 1972 was published in the Manipur Gazette on 21 January 1972.
[3] The ADCs are practically not empowered enough to generate its own revenue but made it dependent on grant-in-aid from the state government.
[4] The Chin Hills Regulation, 1896 defines who is 'Chin' and provides a comprehensive law to govern the Chins by making no other enactment applicable in the Chin Hills unless the Local Government declare any other enactment to be applicable. It instructs the Headman to govern over the clan, or village, or both, according to local custom. In the civil, criminal, and other procedures the cognizance of local custom and to justice, equity and good conscience is sought.
[5] For detail about the integration of various princely states and other loosely administered areas in the North East see Haokip 2012.
[6] Article 8(XXVI) of The Manipur (Hill Areas) District Councils (Third Amendment) Act, 2008 (Manipur act no. 7 of 2008).
[7] *Constituent Assembly of India - Volume IX*, Tuesday, the 6th September, 1949. Retrieved 15 April 2017 http://parliamentofindia.nic.in/ls/debates/vol9p27a.htm
[8] *Constituent Assembly of India - Volume I*, Thursday, the 19th December 1946. Retrieved 15 April 2017 http://parliamentofindia.nic.in/ls/debates/vol1p9.htm
[9] The British's Inner Line Permit Regulation requires Indian citizens from outside the excluded areas of the North East frontier to obtain a permit for entering into the 'protected areas'. This 'permit' system is continued till today on the pretext of protecting the hill tribal people in Arunachal Pradesh, Mizoram and Nagaland (Haokip 2015b: 207-208).
[10] The Telegraph, 'Sixth Schedule', July 14, 2013. Retrieved 14 April 2017 https://www.telegraphindia.com/1130714/jsp/northeast/story_17113808.jsp
[11] Section 52 of the Union Territories Act, 1963. See also Chaube (2012: 207)

[12] Letter sent to the central government by Chief Minister of Manipur Rishang Keishing dated 6th May 1995, D.O. letter No. MB/CM/95

[13] Imphal Free Press, 'Centre ready to implement 6th Schedule in hill areas of Manipur, awaits chief secretary's reply', 30 June 2015, Retrieved 15 April 2017 http://ifp.co.in/page/items/27291/centre-ready-to-implement-6th-schedule-in-hill-areas-of-manipur-awaits-chief-secretarys-reply
[14] Report of the Pataskar Commission on the Hill Areas of Assam, p. 87.

[15] Due to demand for the extension of the provisions of Sixth Schedule to the hills areas of Manipur elections were not allowed to be held.
[16] Some of these observations are drawn from a telephonic conversation with Shri Thangminlen Kipgen, former Chairman of HAC (13 April 2007 – April 2012) during the 9th Manipur Legislative Assembly, and Manipur state unit president of the National People's Party (NPP) on 18 April 2017.
[17] Telephonic conversation with Shri Chungkhokai Doungel, Chairman of HAC (4 April 2000 to 14 May 2001) during the 7th Manipur Legislative Assembly on 18 April 2017 also shed light on several issues and challenges that the Committee faced during his tenure.
[18] A personal conversation with the current Chairman of the HAC, T. Thangzalam Haokip on 20 April 2017 at New Delhi.
[19] For newspaper report on this issue, see *The Sangai Express*, 'IMF says no to 6th Schedule', 17 December 2012.
[20] For issues on economy and economic development of Northeast India, see Mishra and Upadhyay, V. (Eds.). (2017).

[21] I develop the politics of 'political quadrangle' from the concept of 'strategic triangle'. See Sinha (2004) and Bajpai (2001).

References

Bajpai, K. (2001). Managing a Strategic Triangle: India, China and Pakistan. *Conflict and Peacemaking in South Asia*. Edited by P. Sahadevan. New Delhi: Lancer's Books, 81-105.

Bhatnagar, G. V. (2016). The Rights and Wrongs of Aadhaar as a Money Bill. *The Wire*, 07/03/2016 Retrieved 16 April 2017 https://thewire.in/24115/arun-jaitley-introduces-money-bill-on-aadhar-in-lok-sabha/

Chaube, S. K. (2012). *Hill Politics in Northeast India*. (3rd edn., first published 1973) New Delhi: Orient Blackswan.

Dena, L. (1991). Kuki Rebellion 1917-1920. in Lal Dena (ed.) *History of Modern Manipur 1826-1949*. New Delhi: Orbit Publishers and Distributors.

Fuller, L. L. (1969). *The Morality of Law* (Revised Edition), New Haven: Yale University Press.

Ghosh, P. S. (2012). *The Politics of Personal Law in South Asia: Identity, Nationalism and the Uniform Civil Code*. New Delhi: Routledge.

Haokip, T. (2010). India's Northeast Policy: Continuity and Change. *Man and Society - A Journal of North East Studies*, Vol. VII: 86-99.

Haokip, T. (2015b). India's Look East Policy: Prospects and Challenges for Northeast India. *Studies in Indian Politics*, 3(2), 198-211.

Haokip, T. (2012). Political integration of northeast India: A historical analysis. *Strategic Analysis*, 36.2: 304-314.

Haokip, T. (2016). Spurn Thy Neighbour: The Politics of Indigeneity in Manipur. *Studies in Indian Politics*, 4.2: 178-190.

Haokip, T. (2015a). The Politics of Scheduled Tribe status in Manipur. *Society and Culture in South Asia*, 1.1: 82-89.

Hausing, K.K.S. (2015). From Opposition to Acquiescence: The 2015 District Council Elections in Manipur, *Economic and Political Weekly*, L (46 & 47): 79-83.

Kamei, G. (2012). Hill Area Committee (HAC) of Manipur Legislative Assembly: An Assessment. *Hueiyen Lanpao*, December 12.

Mishra, D. K., & Upadhyay, V. (Eds.). (2017). *Rethinking Economic Development in Northeast India: The Emerging Dynamics*. New Delhi: Routledge.

McCulloh, M. (1980). *Valley of Manipur*. Delhi: Gian Publication, (First published as *Account of the Valley of Manipur and the Hill tribes* in 1859).

Morung Express (2015, April 11). Hill Area Committee in Manipur is totally ineffective: BD Behring. Retrieved 18 April 2017 http://morungexpress.com/hill-area-committee-in-manipur-is-totally-ineffective-bd-behring/

Pankaj, Ashok (2017). Governor in Indian Federalism—II: Hiatus between Constitutional Intents and Practices. *Indian Journal of Public Administration*, 63(1), 13–40.

Pemberton, R. B. (1835). *Report on the Eastern Frontier of British India with an Appendix and Maps*. Order of the Supreme Government of India.

Phanjoubam, P. (2016). Manipur and Mainstream Media: Lost in the Rhetoric. *Economic and Political Weekly*, LI(30), 12-15.

Phanjoubam, P. (2010). The Homeland and the State: The Meiteis and the Nagas in Manipur. *Economic and Political Weekly*, XLV(26-27): 10-13.

Rao, V. V. (1972). Reorganization of North East India. *The Indian Journal of Political Science* 33(2): 123-144.

Rao, V.V. (1975). *A Century of Tribal Politics in North East India 1874-1974*. New Delhi: S. Chand & Company Ltd.

Reid, R. (1942). *History of the Frontier Areas Bordering on Assam from 1883-1941*. (reprint 1997) Guwahati: Spectrum Publications.

Sanga, R. (2013). Impact of Electoral Politics on Traditional Institutions. in Thongkholal Haokip ed. *The Kukis of Northeast India: Politics and Culture*. New Delhi: Bookwell, 57-63.

Scott, J. C. (2009). *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*. New Haven: Yale University Press.

Sinha, S. (2004). The Strategic Triangle: India-China-Pakistan. *China Report*, 40(2), 221-225.

Syiemlieh, D. R. (2014). *On the Edge of Empire: Four British Plans for North East India 1941-1947*. New Delhi: Sage Publications.

The Sangai Express (2014, July 24). An Open Letter to Hon'ble Members of HAC (HAC). Retrieved 18 April 2017 http://www.thesangaiexpress.com/an-open-letter-to-honble-members-of-hill-areas-committee-hac/

Tillin, L. (2007). United in diversity? Asymmetry in Indian federalism. *Publius: The Journal of Federalism*, 37(1), 45-67.