

# Editorial

Monday, June 18, 2018

## June 18 significance: still living on prayer

The state observed the Great June Uprising and Unity Day, and the massive turnout at Kekrupat attending the memorial service and paying floral tributes by people from different walks of life from various communities reinforced the fact that the people of Manipur, with its diverse inhabitants and cultural mix, still believes in the spirit of unity, and despite setbacks and disappointments, are ready to go to lengths to preserve and protect its unique identity as portrayed by the variety of cultures, traditions, customs and beliefs.

Everybody knows the genesis of the historic uprising. 17 years has been passed and still the concept of Nagalim/Greater Nagaland, Mizoland, Mizoland, Meetei/Meiteiland still is a tool disrespecting the martyrs who had sacrifice their life for Mother Manipur. While the rest of the world is coming to the realization that much more can be achieved with greater ease and efficiency with the integration and cooperation of different countries and their particular expertise and resources especially, but not limited to the fields of science and technology and even security and administration, the situation back home presents a diametrically opposite approach to the future.

While the demand itself is a serious threat to the future of the state as it exists at present in terms of its physical features, a far more treacherous and sinister outcome will be the mutual bitterness and suspicious attitudes of the communities that will eventually develop which will be almost impossible to get rid of. While the grievances and the concerns of the people in these parts of the state against the administration may very well be genuine, there is no denying the fact that the demand for a separate statehood entails a complex and insidious work of a few politically motivated and self-seeking individuals in the garb of righteous leaders and philanthropists. The question everyone in the state, especially those thousands rallying behind the leaders needs to ask, rather ponder over is: will the granting of a separate state be the ultimate solution to all their grievances and woes? Is there any certainty or assurance that there will not be further outcry or agitation for further demarcation or separation by the numerous sub-groups? Has it been established that the elected representatives of the various communities and regions of the state have tried their level best to address these complaints and fell short by way of the state government failing to cooperate or provide the required resources despite their due shares being in the possession of the government? Are the demands for these numerous separate states or administrative units even plausible?

The intrinsic protective feeling is certainly not something unique to the people of this state. It is rather the universal feeling and one that has caused many a great epic battles and induced acts of heroism and sacrifices. The threat to one's own space and liberty, whether personal or social, has always evoked reactions ranging from the passively defensive to the more aggressive and violent.

The spontaneous reaction of the collective society on that eventful day in 2001 which saw the unrestrained outpouring of the frustrations of the Manipuris is no different. It would be prudent for us all to ponder over the issue without preconceived notions or personal feelings, and to try and understand the facts as they are. The aspirations of the different communities to better their own kinds is understandable, but if and when that aspiration starts to infringe on the right and liberty of another community or the rest of the communities as the case may be, then differences and suspicions are bound to develop amongst the communities.

There is also the bigger threat of the political system feeding on the concerns of these different groups to its advantage, and what was at first a credible issue, even if only from the point of view of a particular community without delving further into the legality or the practical aspect and its impact on the entire social setup, such genuine concerns almost always gets tainted with political overtures, making the whole process a farce and drama, played out to the interest of the very few who are orchestrating such social disruptions. Ultimately, the issue gets sidelined, or more seriously, gets diverted, eventually betraying the hopes and support of the very people who are made to suffer the consequences.

The final step - resorting to brute force and irrational violence to subdue and suffocate the rational curiosity and dissenting voice of the society. The only way out of such undesirable situations, and indeed the most effective means of preventing the very fomentation of such divisive ideas is for the people to put a decisive, just and impartial Government which have the political will and the guts to implement even the most unpopular and drastic measures for the good of the society, state or the country - an impossible expectation?

Lets' make June 18 observance a meaningful one.

### Legal Clinic

#### Section 121A in The Indian Penal Code

82 [121A. Conspiracy to commit offences punishable by section 121.—Whoever within or without 83 [India] conspires to commit any of the offences punishable by section 121, 84 [\*\*\*] or conspires to overawe, by means of criminal force or the show of criminal force, 85 [the Central Government or any 86 [State] Government 87 [\*\*\*], shall be punished with 88 [imprisonment for life], or with imprisonment of either description which may extend to ten years, 89 [and shall also be liable to fine]. Explanation.—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall make place in pursuance thereof.]

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# THE MANIPUR MERGER AGREEMENT 1949

Its legality and constitutionality in the context of Manipur Constitution

Act, 1947 and International Law:  
By: A.NILAMANI (Sr. Advocate)

On the conclusion of the Anglo-Burmese War with the signing of the Treaty of Yandaboo on the 24<sup>th</sup> of February 1826, Manipur was declared independent. The Anglo Manipuri War broke out in 1891 following the arbitrary intervention by the British Crown in the internal political affairs of Manipur and the massacre of some British Officers by the infuriated mob of local people provoked earlier by the British Forces.

2. With the victory of the British Forces, Manipur State became a vassal State under British Crown, like any other Indian Princely States, in 1891, in accordance with a proclamation of Her majesty the Queen of England-dated August 21, 1891, whereby Her majesty the Queen Empress of India had been pleased to forego her right to annex to Her Indian Dominion the territories of the Manipur State and had graciously assented to the re-establishment of Native rule. Under a Notification of the Governor-General of India dated September 18, 1891, the Sanad was granted to the Raja of Manipur, later made Maharaja of Manipur.

3. Thus Manipur State exercised internal sovereignty only under the suzerainty of the British Crown till the British paramountcy lapsed in 1947 with the passing of the Indian Independence Act 1947. By virtue of Section 7 of that Act, which bears the heading "Consequences of the setting up of the new Dominions", the Indian States including Manipur became fully independent and their full suzerainty was revived on 15-8-1947.

4. By sub-section (4) of Section 2 of that Act, room was, however, left to these States to accede to either of the new Dominions of India and Pakistan. Stand-still agreements were made followed by instruments of Accession in the forms set out in Appendix-DC and Appendix-WI of the white paper on Indian States. An examination of those forms will show that the stand-still agreement was only in respect of such matters as communications, arms, currency, Indian State Forces, etc., as already existing on the aforesaid date. The instrument of Accession, while giving jurisdiction and authority to the Dominion of India over certain matters like defence, etc., still maintained the sovereignty of the Ruler over the Indian State. This was followed by the merger agreement, by which the Rulers of the Indian States ceded to the Dominion

Government full and exclusive authority, jurisdiction and powers for and in relation to the governance of the States, and agreed to transfer the administration of the States to the Dominion Government.

5. Before accession of Manipur to India, the Manipur State Constitution Act 1947 had been adopted by the Interim government and assented to by the Maharajah. This enacted the law for the governance of the Manipur State. Under section 3 of this Act, all rights, authority and jurisdiction which appertained or were incidental to the Government of the territories of Manipur were exercisable by the Maharajah subject to the provision of this Act.

6. Again, Section 6 of the Manipur State Constitution Act 1947 contained the Maharajah's Prerogatives which could not and should not extend to the legitimate interest of the State Administration. Under this Act, the Maharajah of Manipur was only a constitutional Head and the law making authority in the State vested in the Maharajah in Council in collaboration with the State Assembly, was expressly provided in Section 9(b) and Section 26 of the said Act.

7. It is common knowledge to the people of Manipur that the Maharajah was invited to Shillong for some unspecified discussion with the Governor of Assam in September 1949 and he was compelled to sign the Merger Agreement dated 21-9-1949 under threat, duress and/or misrepresentation of facts and circumstances. The said Agreement purporting to be between the Governor General of India and His Highness the Maharajah of Manipur did not in terms cede the territory of Manipur State to the Dominion of India but purported to cede only the full and exclusive authority, jurisdiction and powers for and in relation to the governance of the State of Manipur and to transfer the administration of the State to the Dominion Government of India on the 15th day of October, 1949. The said Agreement was signed by Shri Bodhachandra Singh, as Maharajah of Manipur, and Shri Vapal Pangunni Menon, as Adviser to the Government of India, ministry of State, on behalf or as a delegate or plenipotentiary of India.

8. Accession of Manipur State to India assumed the character of an international treaty between two sovereign States. Such a treaty is

evidence of the fact that the State of Manipur was a Sovereign State and never a vassal or protectorate State in September 1949. Under the international law, accession is the transfer of sovereignty over State territory by owner-State to another State by means of a bilateral agreement or treaty.

9. But the Maharajah of Manipur as the Ruler had no right, power or jurisdiction to accede the territory of Manipur to the Dominion of India. The Ruler had no right to transfer the sovereignty of Manipur or to barter away the allegiance and liberty of the Manipuri Nation, only for some personal advantages in return, even assuming he was a consenting party to the Agreement. The Ruler of Manipur lacked the capacity to enter into the transaction and sign the Agreement. He was neither an appointed plenipotentiary nor a delegate of the State of Manipur by virtue of his being a nominal constitutional Head of the State. Nor was there any approval or ratification by the Council of Ministers which was the State Executive or by the State Assembly which was the State Legislature.

10. The purported cession should have been conditioned upon the will of the people of Manipur expressed in a plebiscite. According to universally accepted democratic principles, the State Government should consult public opinion either in the Legislature of Parliament or elsewhere as to whether the Merger Agreement or for that matter any treaty having far-reaching effect on the liberty and welfare of the nation should be confirmed or not. In case of cession, it should be determined by a plebiscite of the inhabitants of Manipur, or it ought to be followed by such a plebiscite.

11. It will be pertinent here to advert to what President Wilson of the United States declared: "People and Provinces are not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in the game. Peoples may now be dominated and governed only by their consent. Self-determination is not a mere phrase; it is an imperative principle of action which statesmen ignore at their peril".

12. Kashmir also acceded to India under an Instrument of Accession signed by the Maharajah of Kashmir and accepted by the Government of India. After the

accession, the Indian Prime Minister Shri Jawaharlal Nehru made a declaration that the accession was subject to plebiscite of the people of Kashmir when peace and order would be restored to the State. Kashmir is still an autonomous State in all matters other than defence, foreign affairs and communications which are delegated to India. Jammu and Kashmir State sent a representative to the Constituent Assembly of India and accepted the Constitution of India.

13. But no representative of the State of Manipur was sent to the said constituent Assembly and accepted the Constitution of India. The Merger Agreement which partook of the nature of a treaty between two sovereign States of Manipur and India has got to be ratified, and it can have no binding effect unless it has been ratified. There is no clause or provision in the said treaty that it should be binding at once without ratifications being necessary at all. Failure to ratify the same by the competent authorities of Manipur and India should be taken as refusal to ratify.

14. Further, when a treaty is concluded by a party, who was not invested with necessary power or who acted in excess of the power conferred on him, the treaty may be considered null and void, even where the treaty was concluded by the Head of State. Where the Maharajah of Manipur as the State functionary had exceeded his powers and the treaty concerned matters in regard to which constitutional restriction were imposed upon him by the Manipur State Constitution Act 1947, the so-called Merger Agreement could not be sustained as valid in international law.

15. The people of Manipur feel and think that India has been treating Manipur as the former's colony, as if India is the conqueror and Manipur the conquered in the continuing process of the Indians subjugating and exploiting the Manipuris and in the ceaseless struggle of the latter to assert a right of self-determination.

It is for the people of Manipur to decide whether they will revolt against the Indian colonial rule as a political community struggling to attain or retrieve its lost separate independent statehood by reasserting their right to self-determination.

(This article is reproduced by Imphal Times from the Book called "Annexation of Manipur-1949")

Continuation from previous issue

## The Manipur Nagas

### Nagaland Nagas vis-à-vis Manipur Nagas

Povezo Soho, Deputy Commander-in-Chief of the Federal Government of Nagaland was allegedly assassinated by the NSCN-IM in 1995. Enraged by it, the Chakhesang in Phek District of Nagaland issued a quit notice on Tangkhuls in Phek and the NSCN-IM responded with a death sentence to those who signed the Quit Notice. ( BHERGHESE, India's North East Resurgent, P.313, cited from, Debashist Mitra, A Setback to NSCN-IM, Nagaland Newsletter from Kohima, The Statesman: N. Delhi, Oct. 6, 1995.) As many as 21 Tangkhuls were killed in Kohima and Dimapur by unidentified gunmen during the period from 8 May 1995 to 6 June 1992. (A Brief Report of the UNC for the year 1995-1998, UNC, Manipur, 1998). R.K. Theko, during his tenure as President of United Naga Council (UNC), Manipur (1992-1995), seriously felt the need for encompassing all the Naga tribes by

'transcending the existing artificial boundaries'. His successor G.Gaingam also forcefully put up the issue whenever and wherever the delegates of the UNC have the opportunity to attend joint sessions with the Naga Hoho of Nagaland. However, the Naga Hoho summits of Wokha in 1994 and Kohima in 1995 adopted formal resolutions to confine such a body to Nagaland only. (Ibid.). It was only on 11 March 1998 that the Constitution of the present Naga Hoho which accommodated the Naga tribes from Manipur was adopted. S.C. Jamir, Chief Minister of Nagaland, gave a statement on 14 July 2001 that "NSCN-IM cadres are mainly from Manipur and Nagas of Nagaland do not recognize them as Nagas". (AMCTA, Manipur Fact File, Manipur, 2001, P.14.). Considering the diversity of the constituent tribes in the emergent Naga Nationhood, Bhagat Oinam has aptly remarked that Naga Nationhood is more like a marriage of convenience

rather than a socio-historical process. Divorce can follow any time. (BHAGAT OINAM, Behind the Naga Cese Fire, in ARFD Bulletin, vol.1, Issue 1, (Delhi: Manipur Research Forum Delhi, Sept. 2001, P.4.) Zeliangrong, another constituent tribe of the Naga identity, also has the aspiration to assert for an exclusive ethnic homeland of its own. The Zeliangrong political elites asserted that the Zeliangrong people, scattered in a vast geographical land in the Northeastern states, particularly in Assam, Nagaland and Manipur, have sufficient land to create a new state or a country and form a compact habitat of Zeliangrong. (It was stated by Z.Mangaibou, MLA of Tamei Constituency in Tamenglong district while speaking as the Chief Guest of the twenty-first Zeliangrong Solidarity Day, orgd by ZU (Assam, Manipur & Nagaland) on 1 April 2005. The existence of a Zeliangrong country was implicitly expressed by

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placing lighted candles collectively on a displayed map of Zeliangrong Region at Tamenglong on 1 April 2005. But the Puimeis who together with the Rongmeis formed the main groups within the Kabui did not take part in it. They now prefer the ethnonym, "Impu" instead of Zeliangrong. Zeliangrong is a nomenclature formed by the initials of three tribes, Ze for Zemei, Liang for Liangmei, Rong for Rongmei. Among the constituent Naga tribes, the Naga identity has shown fragmentation at the intra-tribal level. It was evident when the Puimeis wanted to break away from Zeliangrong and the Khoibus from Marings. Since the identity of the Nagas is still at the abstract level, it might come into conflict on the question of "whom to include and whom to exclude" when the question of concretizing the Naga identity comes up.

(Concluded)