

# **Widespread or Systematic attack directed against Meitei civilian population, with knowledge of the attack by Kuki armed groups with its foreign mercenaries**

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## **Abstract**

*Non-international armed conflict situation exists in Manipur. The parties to the conflict are Manipur Police supported by Indian armed forces and Kuki armed groups with its foreign mercenaries. During the conflict both the parties violate rules of International Humanitarian Law (IHL) and there is an allegation that killing of Meitei by Kuki armed groups and its organizational apparatus for accomplishing its goal is a part of their genocidal campaign against Meitei ethnic group. It is found that Kuki armed groups violate most of the civilized norms of IHL and their attacks are targeting civilians, civilian objects and cultural heritage of mankind. Indiscriminate attacks directed against civilian population, ordering that there shall be no survivors, use of starvation of civilian population as a method of warfare aiming at extermination of Meitei ethnic group are war crimes and crimes against humanity. All such flagrant violation of IHL needs to be accountable and punished under International Law so that humanity will be saved.*

**Key words:** *Civilian, civilian objects, Genocide, indiscriminate attack, International Humanitarian Law, Kuki armed groups, Meitei ethnic group, non-international armed conflict, mercenaries*

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## **I. Introduction**

*Killing of civilian, burning of houses, abduction of Meitei civilians, pillaging of Meitei villages, forcible transfer of Meitei population, vandalism to cultural heritage of mankind, blockade and starvation as a method of warfare, no security measures in non-defended localities/villages, Indian army standing as gentle as mountain, sit in protest against government of failed state, stoic silence of Government of India is daily news of Manipur for the last 37 days (since May 3, 2023) (as on 7.06.2023). Meitei settling in Kuki dominated areas and foothills of Manipur are deserting their villages to save their lives and taking refuge in relief camps and whole world is watching the movie – *the genocide of Meitei by Kuki: Live show*. Thousands of Indian Army and other Central Forces are flooded in Manipur but they could not control few hundreds of wild Kuki armed groups and its foreign mercenaries with highly sophisticated weapons. The strength and valour of Indian Army is a mockery in Manipur or is there any hidden agenda of Government of India is a question of the hour. Manipur Police, Village Defence Force, IRB, Manipur Rifles which are not trained for the war or conflict situation are fighting for saving Meitei villages and Meitei civilian. It is very surprised that most of the Kuki armed groups are under Suspension of Operations (SoO) with Governments of India and Manipur but they violate ground rules of SoO and killing civilians and burning Meitei villages wantonly in broad daylight. From where all those sophisticated weapons, bombs, landmines, crores of bullets in the hands of Kuki armed groups comes from and who are supporting them – another big question. It also evident that illegal armed groups from Myanmar and other countries are also taking direct part in the military campaign along with Kuki armed groups. This sorry state of affairs where there is no rule of law but only rule of arms and no writ of Government reach to those areas of conflict – all these remind me the dreaded genocide episode of Rwanda in 1994s and armed conflict in former Yugoslavia, East Timor and Sierra Leone. In this background I think as a teacher of law it is my duty to write a research paper on the matter and publish it so that all the world knows the facts and applicable law and make a public opinion in order to prevent and punish of those involved in the violation of IHL rules in Manipur during 3<sup>rd</sup> May 2023 till the end of the military campaign for exterminating Meitei ethnic group, one of the indigenous people of Manipur from its own soil.*

*At the time of writing the paper (The Sangai Express, June 7, 2023) – the number of deaths on account of the conflict in Manipur has mounted to 120 (unofficially it may climb up to thousands) while the figure of injured stands at 310 (unofficially it may climb up to thousands) and the police have taken up 3734 FIR so far in connection with the conflict in Manipur and arrested 65 persons. There are reports of direct involvement of*

armed cadres of SoO groups in the present armed conflicts which erupted as a new dimension from May 3, 2023. Scores of people have been killed, hundreds of houses burnt down and over 50,000 people (unofficially number may climb up to over 1,00,000) have been rendered homeless because of this ongoing armed conflict (The Sangai Express, May 27, 2023) and currently these internally displaced persons are taking refuge at 235 relief camps (The Sangai Express, May 20, 2023).

The Government of Manipur has declared 38 areas are vulnerable (The Sangai Express, May 27, 2023) for deployment of security forces. It is submitted here that some areas which are not yet declared as vulnerable for deployment of security forces are also attacked indiscriminately by the Kuki armed groups – it means *any area of Manipur where indigenous Meitei are settling is not safe and Kuki armed groups may target them and burn their houses or burnt them alive along with their houses any time*. The situation is a full-scale war.

In this research paper I intentionally excluded involvement of Myanmar's or other foreign non-state actors who have crossed international border and helping the Kuki armed groups in ongoing armed conflict in Manipur as mercenaries, that matter will be discussed in another research paper. The present research paper covers only from May 3 – June 7, 2023 (37 days of continuous war).

## II. Methods and Materials

The researcher adopted collaborative legal research methodology, in particular its doctrinal and empirical components. In order to undertake this academic exercise, the researcher formulated research problems concerning the area of International Humanitarian Law applicable to non-international armed conflict by applying case study and analytical legal methods of thought process after a brief review of literature. Primary sources viz. judgment of courts, legal instruments, conference proceedings, account of victims and secondary sources viz. commentary by authoritative experts, juristic writings and reports from newspaper are used in the process. Finally, researcher comes to the generalization and interpretation of the study by tools of analytical legal reasoning particularly induction, deduction, analogy and dialectical reasoning.

## III. Result and Discussion

A brief commentary on the result of this academic exercise suffices as separate headings and sub-headings and analytical discussion of the matter.

### Operation Concepts

In the present study the terms and phrases unless the context otherwise requires -

“An *armed conflict*” exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State ... (*DuskoTadic* case).

*Armed conflicts not of an international character* means armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups (Article 8(f), Rome Statute of ICC).

“*Armed forces*” means the military forces and the air forces operating as land forces, and includes other armed forces of the Union so operating (Section 2, the Armed Forces (Special Powers) Act, 1958).

The *armed forces of a party to the conflict* consist of all organized armed forces, groups and units which are under a command responsible to that party for the conduct of its subordinates.

*Attack directed against any civilian population* means a course of conduct involving the multiple commission of acts referred to Article 7(1) of the Rome Statute of International Criminal Court against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.

A *blockade* occurs when a belligerent bars access to the enemy coast or part of it for the purposes of preventing ingress or egress of vessels or air-crafts of all nations (Starke, 1989).

*Child* means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier (CRC, 1989).

*Civilians* are persons who are not members of the armed forces. The civilian population comprises all persons who are civilians.

*Civilian objects* are all objects that are not military objectives.

*Combatant* means all members of the armed forces of a party to the conflict except medical and religious personnel.

The term *cultural property* shall cover, irrespective of origin or ownership:

(a) movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archaeological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above;

(b) buildings whose main and effective purposes is to preserve or exhibit the movable cultural property defined in sub-paragraph (a) such as museums, large libraries and depositories of archives, and refuges intended to shelter, in the event of armed conflict, the movable cultural property defined in subparagraph (a) (1954 The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict).

‘*Crimes against humanity*’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health (Rome Statute the ICC).

‘*Deportation or forcible transfer of population*’ means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law.

‘*Disturbed area*’ means an area means an area which is for the time being declared by notification under Section 3 of the Armed Forces (Special Powers) Act, 1958 to be a disturbed area (Section 2, Armed Forces (Special Powers) Act, 1958).

‘*Enforced disappearance of persons*’ means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

‘*Extermination*’ includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population.

‘*Genocide*’ means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mentally harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group (Genocide Convention, 1951).

A person ‘*hors de combat*’ is:

- (a) anyone who is in the power of an adverse party;
- (b) anyone who is defenceless because of unconsciousness, shipwreck, wounds or sickness; or
- (c) anyone who clearly expresses an intention to surrender;

provided he or she abstains from any hostile act and does not attempt to escape.

‘*Indiscriminate attacks*’ are those:

- (a) which are not directed at a specific military objective;
- (b) which employ a method or means of combat which cannot be directed at a specific military objective; or
- (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction.

‘*International Humanitarian Law*’ is a branch of international law – also called the law of armed conflict and previously known as the law of war – is a special branch of law governing situations of armed conflict. It seeks to mitigate the effects of war, first in that it limits the choice of means and methods of conducting military operations, and secondly in that it obliges the belligerents to spare persons who do not or no longer participate in hostile actions (Gasser in Sanjaoba, 2004).

A ‘*mercenary*’ is any person:

- (a) is specially recruited locally or abroad in order to fight in an armed conflict;

- (b) does, in fact, take a direct part in the hostilities;
- (c) is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a Party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party;
- (d) is neither a national of a Party to the conflict nor a resident of territorial controlled by a Party to the conflict;
- (e) is not a member of the armed forces of a Party to the conflict; and
- (f) has not been sent by a State which is not a Party to the conflict on official duty as a member of its armed forces (Article 47, Additional Protocol I, 1977).

A mercenary shall not have the right to be a combatant or a prisoner of war.

‘*Military objectives*’ in so far as objects are concerned are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

‘*Persecution*’ means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.

‘*Seven years devastation*’ means the Burmese devastation of Manipur from 1819-1826 A.D. The episode is the darkest period in the history of Manipur. Under this unbearable crushing oppression by Burmese, the Manipuris left their own mother country and fled away for life, taking shelter some in nearby forests, hills and some in the neighbouring countries. After the devastation in 1826 only 2016 souls constituted the population of Manipur. Prior to the episode there was a population of about nine lakhs in Manipur (Birchandra2009).

‘*Suspension of Operations*’ (SoO) is an agreement between Army and constituents of UPF and KNO which have been in force since 1<sup>st</sup> August, 2005. It has been agreed between Government of India, Government of Manipur and Kuki National Organization, United Peoples Front to formulate the SoO and cease hostilities with effect from 22<sup>nd</sup> August, 2008. To give effect to the SoO arrangements, Ground Rules are agreed to by the parties.

“*Torture*” means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions [Article 7(2)(e), Rome Statute of ICC].

‘*War crimes*’ means violations of the laws or customs of war. Serious violations of international humanitarian law constitute war crimes.

### **About Manipur**

Manipur is the ancestral territory of the ‘Manipuri’ people. It is situated in the northeast corner of India and is bounded in the east by Myanmar. The present territorial area is 22,327 sq.km. A fertile alluvial valley (10% of land – 2,238 sq. km.) extends north-south in the middle and is surrounded on all sides by hills ranges (90% of land – 20,089 sq.km.) forming a part of the eastern Himalayas. In this sense, *Manipur is a hill dominated or a ‘hill State’*. But 60% of the population of the State resides in the tiny valley areas and the population density in the valley areas is 730 per sq. km. while in the hill areas it is 61 per sq. km. as per the 2011 Census.

Historically, the existence of Manipur as an independent kingdom can be traced back around two millennia according to the royal chronicle *CheitharolKumpaba*, that represents only written history from 33 AD but it is believed that the existence of Manipur was about four millennia. Manipur was an independent kingdom until it was defeated by the British forces in the Anglo-Manipur War of 1817 and became a part of India through 1949 Merger Agreement (Premananda:2015). There are ample of legal documents which shows the independent existence of Manipur before 1817, viz. the Anglo-Manipuri Treaty of 14<sup>th</sup> September 1762, the Treaty of Yandaboo of February 24, 1826 and among others (Sanajaoba, 1993). Manipur has a rich tradition of Constitutional governance under a proto-Constitution in 429 A.D. which was reduced to a final format in 1110 A.D. Constitution entitled ‘LoiyambaShinyen’ during the regime of King Loyumba. The Manipur State Constitution Act, 1947 was the final document embodying the genius of the people of Manipur, which preceded other constitutions adopted in many of the South and South East Asian countries (Sanajaoba, 1993). All hill peoples of Manipur had been under the jurisdiction and administration of successive Kings of Manipur – a fine proof of the matter is the Manipur State Hill Peoples (Administration) Regulation, 1947 and the Manipur State Constitution Act, 1947. There is notlightest doubt in this regard.

Meitei (a tribe but not a scheduled tribe) are slim majority (2011 Census) with 44.9% of the population (majority in the sense of Tribe wise calculation but as Meitei in one side others in another Meitei are minority) but they cannot settle and buy land in hill areas which consist of more than 90% of land and this 90% land is inhabited by Tribals (Scheduled Tribes) i.e., Nagas and Kukis, who can also settle and buy land in the valley areas and there are innumerable scheduled tribe villages, Meitei Pangals (Muslims) villages, Nepalis and other communities’ villages in valley areas. In another interpretation, the majority of Meitei population is in the districts of Imphal West, Imphal East, Bishenpur, Thoubal only and all other 12 district either Kuki or Nagas is majority population. The 2021 coup in neighbouring Myanmar (Burma) caused a rush of refugees (illegal



migrant) across its thousand-mile porous border with India – and nearly a quarter of that border is with Manipur, an improvised province of hilly forests that has its own history of ethnic strife. The Kuki share strong ethnic links with Chin tribes of Myanmar that have been fleeing across the border. It is believed that illegal migrants of Kuki-Chin-Zomi have also set up 1500 to 1600 unregistered villages in the hill districts of Manipur (The Sangai Express, May 20, 2023). In this regard, GP Pillai, former Home Secretary, Government of India and Joint Secretary in charge of India's whole North East said (The Sangai Express, June 1, 2023) that echoing the official line that the refugees are to blame for the unrest in Manipur – ‘Since the coup, this recent violence is the first time where we see that a large number of refugees have come in and created internal problem ...’

That 2021 coup – the Myanmar military overthrew the democratically elected Government, sparking a civil war that sent a new spate of refugees, mostly Chins into India mostly in Manipur. With no official count, estimates of post-coup arrivals are as high as 70,000. Before coup also there has been thousands of illegal migrants from Myanmar to Manipur. This instability in Myanmar has boosted cross-border drug smuggling, with poppy cultivation and the opium trade escalating – a trend confirmed by the United Nations Office on Drugs and Crime. The Manipur Government has justified its crackdown on what it calls illegal immigrants as part of its war on drugs, alleging that the Kuki-Chin tribes have links to the Myanmar drug mafia (The Sangai Express, June 1, 2023).

The State's population growth since 2001 is recorded at 24.5%, while the population of Meiteis has remained constant, the Kuki in particular, has seen the most significant population growth, subsequently changing the entire demography of the State. In one study, it was found that over the decade, the *Kuki-Chin population has increased by almost 476.1%, primarily due to the illegal immigration of Kuki-Chin population into the State. Even a conservative estimate shows an abnormal excess in population of 2-3 lakhs* (Manipur Meitei Association, 2023). The population of the State is only 3 million people.

In short, Meitei settlement areas is around 6.5% of land of Manipur and they are majority tribal (but not Scheduled Tribe) without any Constitutional protection. It is very unfair that though all territory of Manipur belongs to all communities and why there is discrimination in land rights. In short, *Meitei are only tribe in the entire Northeast India who is not yet listed in the Scheduled Tribe of Constitution of India* and so therefore, in this sense, *Meitei are majority in population for a while without any constitutional protection but marginalized in its own State and ultimately, they will be stateless person in near future.*

### **Non-international armed conflict in Manipur**

International Humanitarian Law (IHL) is triggered by the existence of an armed conflict. The most authoritative definition of armed conflict is:

“An armed conflict exists whenever there is resort to armed force between states or *protracted armed violence* between governmental authorities and organized armed groups or between such groups within a State. International Humanitarian Law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved. Until that moment, International Humanitarian Law continues to apply in the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, *whether or not actual combat takes place there*” (ICTY, *Tadic*:1995).

This test was subsequently endorsed by the International Committee of Red Cross (ICRC) and the Rome Statute of International Criminal Court. The International Criminal Tribunal for former Yugoslavia (ICTY) consequently interpreted the term “**protracted armed violence**” to refer to the “intensity of the conflict”. In *La Tablada* it was held that a mere thirty hours of intense and organized hostilities can be sufficient to justify invoking IHL [IACHR, (1997) para 156] and in *Hamdan* it was insisted to apply minimum standard of IHL even to members of al Qaeda (US SC:2006).

From the above judicial pronouncement two criteria are usually used (*Dusko Tadic, ICTY, May 1997*) to determine the existence of armed conflict, which is distinguishable from less serious forms of violence, such as internal disturbances and tensions, riots or acts of banditry. Two criteria are:

- First, the hostilities must reach a minimum level of intensity. This may be the case, for example, when the hostilities are of a collective character or when the *government is obliged to use military force against the insurgents, instead of mere police forces.*
- Second, non-governmental groups involved in the conflict must be considered as “parties to the conflict”, meaning that they possess *organized armed forces*. This means for example that these have to be under a *certain command structure and have the capacity to sustain military operations.*

These both criteria are well satisfied in the present conflict situation in Manipur. The hostilities in Manipur reached well above the minimum level of intensity as prescribed by IHL. The situation in Manipur mostly in Kuki dominated areas and foothills adjoining them are like occupied territory and the present conflict situation cannot be controlled by mere police forces so, at present 40,000-armed forces of India are deployed besides

more than 35,000 state police forces. The forces include around eight battalions of central paramilitary forces, 80 columns of Army and 67 columns of Assam Rifles (PTI, New Delhi, 2023). The Armed Forces (Special Powers) Act, 1958, an emergency law is also in operation in Manipur right now. In addition, Governments of India and Manipur also recognizes the existence of non-international armed conflict in Manipur by entering into a tripartite pact – the Suspension of Operations (SoO) since 2005 with Kuki armed groups. In fact, Kuki armed group are well organized with command structure and have the capacity to sustain military operations at will. In other words, five districts of Manipur (Churachandpur, Chandel, Kangpokpi, Pherzawl and Tengnoupal) and most of the foothills adjoining these five districts are under their responsible command and they can exercise such control over those territory so that to enable them to carry out sustained and concerted military operation and even the large forces comprising India armed forces and Manipur Police cannot control them for last 40 days and more. *If the situation is not controlled then whole Manipur or major junk of North-East India will be under its control in near future.*

### **About parties to the conflict**

There are two or more parties to the non-international armed conflict (NIAC) in Manipur. They are Manipur Police supported by Indian armed forces including Indian Army, other armed forces of India, and Kuki armed groups and its mercenaries from Myanmar. I think it is not required to give a detail account of Indian armed forces, and Manipur Police. At present, there are 62 companies of CRPF and 126 columns of Army deployed in Manipur (The Sangai Express, May 15, 2023). In addition, there are about 35 thousand of Manipur Police. *It is very pity that most of the fighting is done by Manipur Police who are trained for maintaining law and order and it is not fair them to employed for such full-scale war, the present armed conflict should be fought by Indian armed forces who are specially trained for full scale war and/ counter-insurgency operations and guerrilla warfare. If fighting is done only by Manipur Police, it is also a violation International Humanitarian from the part of India.* Let me give a brief account of the Kuki armed groups and their allies. It is clear that the current fight is between armed groups/militants (terrorists using the word of Chief Minister of Manipur) to disintegrate Manipur and the State Forces (Police) assisted by India armed forces or an armed conflict between well-armed Kuki armed groups with its thousands of foreign mercenaries and State forces supported by Indian armed forces. Four districts and most of foothills of Manipur are under military occupation of Kuki armed groups with its foreign mercenaries.

The Kuki armed groups (Nirmala, 2023), the main groups among them are Kuki National Army (KNA) and Kuki National Front (KNF) which were formed in the 1990s post Naga-Chin Kuki ethnic clashes. Initially, equipped with primitive weapons like single- and double-barrel guns, bolt action rifles and earlier tacitly considered by Security Forces as a countervailing force against Naga insurgent groups, viz. NSCN (IM) and NSCN (K). Subsequently, other Kuki armed groups/militant organizations like Kuki Independent Army, Zomi Revolutionary Army (ZRA), Thadou Revolutionary Army, Kuki Revolutionary Army (Hansing Clan), Zhoumi Revolutionary Front and Kuki Defence Force were formed to protect their own clans. **Some Kuki armed groups are not to be qualified as parties to conflict as they are not organized armed groups** and no command structure as mandated by International Humanitarian Law and they are just gang of terrorists. The sources of finance for these insurgent groups are through poppy cultivations, illegal tax collections and extortion.

The Suspension of Operations (SoO) agreement signed between various Kuki armed groups and Government of India since 2005 (later in 2008, Government of Manipur also joined the pact) has in fact acted as a catalyst in recouping these groups by way of consolidation and procurement of modern small arms, heavy weapons and explosive devices including snipers, lethead guns and area weapons. Thus, the appeasement policy and politics of peace through ceased-fire has in fact failed, instead benefited the Kuki armed groups under SoO. If any party to the pact, breach the material any provision of it, then as per the provisions of Vienna Convention on Law of Treaties, 1969 and therefore, the pact is no more in force and it shall be deemed to be terminated. Moreover, the Armed Forces (Special Powers) Act, 1958 is in force in Manipur excepting some jurisdiction of police stations in the valley areas, so therefore, most of Manipur is declared as disturbed areas and the armed forces of India are empowered to use force even to the causing of death and enter and search any premises [Sections 3 & 4, the Armed Forces (Special Powers) Act, 1958].

### **Genocide campaign launched by Kuki with its armed groups in Manipur**

The term genocide is defined under Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. Genocide means commission of any of the acts which are enumerated in Article 2 of the Genocide Convention *with intent to destroy, in whole or in part*, a national, **ethnic**, racial or religious group. Genocide, whether committed in time of peace or in time of war, is a crime under international law and State is obligatory to prevent and to punish such crime. Persons committing genocide or any of the other acts enumerated in article 3 shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals (Article 4).

“Article 2. In the present Convention, *genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such:*

- (f) *Killing members of the group;*
- (g) *Causing serious bodily or mentally harm to members of the group;*
- (h) *Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
- (i) *Imposing measures intended to prevent births within the group;*
- (j) *Forcibly transferring children of the group to another group.*

Article 3. The following acts shall be punishable:

- (a) *Genocide;*
- (b) *Conspiracy to commit genocide;*
- (c) *Direct and public incitement to commit genocide;*
- (d) *Attempt to commit genocide;*
- (e) *Complicity in genocide.*

Article 5. The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention, and, in particular, to provide effective penalties for persons guilty of genocide or any of the other acts enumerated in article 3.

Article 6. Persons charged with genocide or any of the other acts enumerated in article 3 shall be tried by a *competent tribunal of the State* in the territory of which the act was committed, or by such *international penal tribunal* as may have jurisdiction with respect to those Contracting Parties which shall accepted its jurisdiction.

Article 7. Genocide and the other acts enumerated in article 3 shall not be considered as political crimes for the purpose of extradition.

The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force.”

The same definition is adopted in Statute of International Criminal Tribunal for Rwanda, 1994 (ICTR); Statute of international Criminal Tribunal for the Former Yugoslavia, 1993 (ICTY); the Rome Statute of International Criminal Court, 1998 (ICC) that establishes the International Criminal Court and amongst other.

Genocide is a crime with a *double mental element*, i.e., a general intent as to the underlying acts, and an ulterior intent with regard to the ultimate aim of the destruction of the group (Kai Ambos, 2009). The most important part of the definition of ‘genocide’ is the ‘**intent to destroy**’ element. The ‘intent to destroy’ requirement turns genocide into ‘an extreme and most inhumane form of persecution’ (*Prosecutor v. Zoran Kupreskic et al*). Genocide involves mass killing but it is more than mass killing. In *Akayesu (1998)* that ‘intent to destroy’ means a special or specific intent which, in essence, expresses the volitional element in its most intensive form and is purpose-based (a goal-oriented crime). This position is shared by other authorities. Thus, the International Court of Justice (ICJ) (2007) also refers, citing the ICTY, to a ‘special or specific intent’ as an ‘extreme form of willful and deliberate acts designed to destroy a group or part of a group’. The Court of Bosnia-Herzegovina and the Darfur Commission of Inquiry also similarly speak.

In this regard, one more thing need to be clarified i.e., a genocide cannot be committed by a few crazy individuals alone but needs *intellectual masterminds and an organizational apparatus to implement their evil plans* (*Prosecutor v. Kristic*, 2001). Plethora of Case law classifies ‘intent to destroy’ requirement relating three classes of perpetrators viz. *low-level perpetrators, middle-level perpetrators and top-level perpetrators* respectively. Kai Ambos (2009) concludes that while the traditional purpose-based reading of the intent to destroy requirement can be maintained with regard to the top and mid-level perpetrators, with regard to the low-level perpetrators a knowledge-based interpretation is more convincing for doctrinal and policy reasons. Consequently, *a low-level perpetrator need not himself act with a ‘special’ intent (purpose or desire) to destroy a protected group, but only with the knowledge that his acts are part of an overall genocidal context or campaign.*

In context to Manipur, the *killing of Meiteis by Kuki with its armed groups coordinated by well-planned intellectual masterminds and an organizational apparatus to implement their evil plans commencing from 3<sup>rd</sup> May, 2023 (or before) and continuing till the end of the evil campaign may also be qualified as ‘genocide’ if there is ‘intent to destroy’, in whole or in part, a national, ethnic, racial or religious group element is satisfied thereto.* Whether the act committed with intent to destroy in whole or in part of an ethnic or religious group i.e., Meitei will be decided by competent Court/Tribunal such as done by ICTR or ICTY or ICC or hybrid Tribunal viz. East Timor Tribunal or Special Court for Sierra Leone. The Genocide campaign in the context of Manipur may involve –

- *Killing members of the Meitei ethnic group;*
- *causing serious bodily or mentally harm to members of the Meitei ethnic group;*
- *deliberately inflicting on the Meitei ethnic group conditions of life calculated to bring about its physical destruction in whole or in part.*

If the killing of Meitei by Kuki with its militants is amount to genocide, then persons committing genocide or conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide – are liable for punishment, whether they are constitutionally responsible rulers i.e., MP or MLAs or Ministers; public officials i.e., police officers, army officers, DCs etc.; or private individuals i.e., any individual, militant, student leader, public leader, village chief, member of forum, etc.

India is a State party to the Four Geneva Conventions of 1949 and the Convention on Prevention and Punishment of Crime of Genocide, 1951 so therefore, it is a mandate of established norms of International Law that India should prevent, prosecute and punish those persons charged with genocide in its jurisdiction. India also enacted the Geneva Conventions Act, 1960.

### **Violation of Common Article 3 to the Geneva Conventions of 1949**

Common Article 3 to the Geneva Conventions of 1949 is applicable in the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties. India is one of the High Contracting Parties to the Four Geneva Conventions of 1949. India also enacted the Geneva Conventions Act, 1960. The four Geneva Conventions of 1949 are:

1. Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field
2. Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
3. Convention relative to the Treatment of Prisoners of War
4. Convention relative to the Protection of Civilian Persons in Time of War

It very surprise that in every non-international armed conflict, there is an armed conflict between non-governmental armed forces (armed groups) in one side and government armed forces (army/para-military forces/central forces) on the other. But in the present conflict situation in Manipur the main target of the Kuki armed groups is civilian and civilian object that also persons and properties of another ethnic group i.e., Meitei. In that sense, it is very surprised that *for what causes they are fighting for and ultimately, it tarnishes the image of the armed groups of entire Kuki community and they are acting like terrorist.*

It is learnt that there is a pact called **Suspension of Operations (SoO)** – a tripartite pact among Government of India, Government of Manipur and the Kuki armed groups since 2008. In this sense I believe the existence of armed conflict in the nature of **non-international armed conflict** is acknowledged by the parties to the tripartite pact. From another angle, deployment of thousands of Indian armed forces in addition to Manipur Police shows that the conflict is not mere law and order problem but a clear situation of armed conflict. In addition, the Armed Forces (Special Powers) Act, 1958 – an emergency law is also in force in Manipur. India is not a party to two Additional Protocol to the Geneva Conventions of 1977 and in this sense only applicable law at the moment is the Common Article 3 to the four Geneva Conventions of 1949, the set of Customary IHL applicable to NIACs (internal conflict) and other relevant International and National Laws.

The common Article 3 is considered as a treaty in miniature and a minimum standard to be applied in every NIAC. The International Court of Justice (ICJ) held that the common Article 3 is now acquired a status of customary international law [Judgment of 27 June 1986 (merits), para 218] and *a jus cogens*. The Article read as –

“Article 3 – Conflicts not of an international character

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) *Persons taking no active part in the hostilities*, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) **violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;**
  - (b) **taking of hostages;**
  - (c) **outrages upon personal dignity, in particular humiliating and degrading treatment;**
  - (d) **the passing of sentences and the carrying out executions** without previous judgment pronounced by a regular constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized people
  - (e) **Acts of terrorism** (Statute of ICTR).
- (2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the parties to the conflict.



The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”

In the present conflict situation in Manipur the armed forces of Kuki flagrantly violate the common Article 3 to the Geneva Conventions of 1949. Their acts of *killing wantonly the civilians and destroying civilians object of Meitei ethnic group* in Kuki dominated areas viz. Churachandpur, Kangpokpi, Chandel, Pherzawland Tengnoupal districts and all the foothills adjoining valley districts are clear violation of above provisions.

There are numerous reported cases of ‘**violence to life and person, in particular murder of all kind, mutilation, cruel treatment and torture**’ and ‘**taking of hostages**’ by Kuki armed groups in current armed conflict situations in Manipur. For instance, driver Toijam Tomba (28) and labourer Moirangthem Deben were captured by Kuki armed groups as they went back a truck which had broken down from Makhan on May 14, 2023. It was believed that Tomba and Deben were taken captives by Kuki armed groups and the duo were slain after subjecting them severe assault and torture (the Sangai Express, May 20, 2023).

Thousands of reported cases of violence to life and persons and murder of civilians by Kuki armed groups since May 3, 2023 against Meitei population in Manipur. There are also many cases of taking of hostages – **7 cases of missing persons** are officially confirmed (numbers may be increased to hundreds) (The Sangai Express, May 21, 2023). Wantonly and **indiscriminate killing of civilians by sophisticated weapons like AK 47, M 16 & Sniper** and **burning down of whole villages** by Kuki armed groups without giving any short of warning when the villagers were sleeping with the intention to kill whole Meitei settler in one go are nothing but simply *acts of terrorism*. Burning down of 35 houses at Kangvai Manmang, Torbung, Gelmol Meitei Leikai, Maloma and Uyungmakhong under Moirang PS at midnight of 27<sup>th</sup> May, 2023 (The Sangai Express) is nothing but an act to terrorize the whole village in question by Kuki armed groups. The case of Churachandpur which is dominated by Kuki – where **1263 houses belonging to Meitei and 10 temples have been burned** and 8341 individuals displaced (The Sangai Express, May 21, 2023) because of indiscriminate attack perpetuated by Kuki with its armed groups is a clear act of terrorism. In another act of terrorism, the Kuki armed groups had reduced **30 houses** belonging to Meitei to ashes on May 19, 2023 and again **at least two houses belonging to Meitei families at Dolaithabi** in Imphal East on May 19, 2023 (The Sangai Express).

#### **Breaches of Customary rules of International Humanitarian Law**

Customary International Humanitarian Law are binding to all States. A list of important customary IHL rules (ICRC Study, 2005) applicable to non-international armed conflict which have been consistently breached during the ongoing conflict by the parties to the conflict situation in Manipur are listed and discussed accordingly below –

##### *Distinction between Civilians and Combatants*

- The parties to the conflict must at all times **distinguish between civilians and combatants**. Attacks may only be directed against combatants. Attacks must not be directed against civilians.
- **Acts or threats of violence the primary purpose of which is to spread terror among the civilian population** are prohibited.
- **Civilians are protected against attack**, unless and for such time as they take a direct part in hostilities.

In the present prevailing situations in Manipur most of the **attacks are directed against civilians** - Kuki armed groups indiscriminately attack civilians and many civilians’ casualties have been reported. Kuki armed groups armed **with sophisticated weapons** including AK-47, AK-56 and even sniper rifles are constantly attacking civilians in valley villages near the hills. Hundreds of civilians including child and women were killed mercilessly by Kuki armed groups. It is a fact that thousands of dwelling houses of civilians have been burned down and civilians are chased to kill and wantonly destroying civilians object in Kuki dominated areas and foothills of Manipur. It has also been alleged that Indian armed forces particularly **Assam Rifles** are also tacitly involved in the entire process of **threatening or threats of violence the primary purpose of which is to spread terror among Meitei population** in Manipur. On 28<sup>th</sup> May, 2023 (The Sangai Express, May 29, 2023) Kuki armed groups using sophisticated heavy weapons openly war on Meiteis by attacking Meitei villages in different directions almost simultaneously in the wee hours and resulting **of killing 7 civilians and burning down 200 houses** at Napat and Tangjeng in Bishnupur district, around 7/8 houses were also burnt down at Sanasabi and Shati Khongbal in Imphal East district and Gwalthabi; they also set ablaze numerous houses belonging to the Meitei community at the border town of Moreh – all these hereby proof beyond reasonable doubt that Kuki armed groups’ main agenda is to *exterminate all the Meitei ethnic group from its own soil*.

##### *Distinction between civilian objects and military objectives*

- The parties to the conflict must at all times **distinguish between civilian objects and military objectives**. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects.

- **Civilian objects are protected against attack**, unless and for such time as they are military objectives. In Manipur, attacks directed against civilian and civilian objects is the rule. Civilian objects viz. dwelling houses, water installation facilities, poultry, farm house, agricultural fields, cattle, roads, civilian food carrying vehicles, civilian fuel carrying vehicles, rehabilitation of drug addicts' home, educational institutions, public parks, civilian vehicles, religious sites, etc. are main target of attacks by Kuki armed groups in Manipur. In other words, all the attacks by Kuki armed groups are directed against civilian objects and civilians i.e., Meitei ethnic group. Till date thousands and thousands of Meitei houses were burnt down by Kuki armed groups, in some villages – all the houses were burnt down and all the inhabitants were homeless in a matter of a day and all the inhabitants of the village are become destitute in its own State. It is a clear case of commission of the heinous act of '**crimes against humanity**' by Kukis with its armed groups against Meitei.

*Indiscriminate attacks*

- **Indiscriminate attacks are prohibited. Attacks by bombardment** by any method or means which treats as a single military objective a number of clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects are prohibited. In context of Manipur, indiscriminate attacks by Kuki armed groups are a rule and there are numerous instances of indiscriminate attacks and also cases of attacks by bombardment. In a reported case, **one Meitei youth was shot 15 bullets**, this is the fine example of brutal form of indiscriminate attack by Kuki armed groups. In another attack, a 37-year-old man sitting in the backyard of his residence was hit by a bullet fired by Kuki armed groups from a nearby hill on 30<sup>th</sup> May 2023 and in another attack perpetuated by Kuki armed groups a youth was killed at Sugnu area in an indiscriminate firing on May 28, 2023 (the Sangai Express). There are many instances of **bomb explosion in civilian areas** and all of bomb explosions are intentional planted by Kuki militants. In continuing the military campaign against civilians, the Kuki armed groups **indiscriminately opened fire to a large crowd of Meitei** people who went to protect and save Hill Valley Goodwill Mission School, belonging to Meitei, being burnt by Kuki armed groups resulting of killing of one civilian and injuring another civilian at around 7:30 am of 24<sup>th</sup> May 2023 (The Sangai Express) in an area between Thamnapokpi, Bishnupur and Kangathei village in Churachandpur. In another incident, a 29-year-old Meitei youth was injured when Kuki armed groups **indiscriminately fired several rounds** at Kadangband Maning near Singda Dam in the night of 24<sup>th</sup> May, 2023 (the Sangai Express). In another indiscriminate attack directed against civilian population at least **three Meitei (Meetei) villagers were injured** when Kuki armed groups attacked the adjoining area of Moidangpokpi and Keithelmanbi under Patsoi police station, Imphal West in the night of May 22, 2023 (The Sangai Express).

In writing of this paper notwithstanding Union Home Minister of India Amit Shah's stern warning against violation of Suspension of Operation (SoO) ground rules, **heavily armed Kuki armed groups once again indiscriminately attacked several non-defended Meitei villages** in the morning of May 2, 2023 and **injuring 16 civilians**. According to the local people (The Sangai Express, May 3, 2023), Kuki armed groups attacked the KangchupChingkhong village using sophisticated weapons, **two-inch mortars and lethod bombs**. The Kuki armed groups also carried out simultaneously attacks at Singda and Kadangband Part I area using sophisticated weapons. Moreover, the well-equipped Kuki armed groups who have been **occupying neighbouring Tanjeng**, another Meitei village, started firing indiscriminately toward Pombikhok at 9 am of May 2, 2023. In one of most dreaded indiscriminate attack on minority Meitei at Churachandpur district, dominated by Kuki – about **1263 Meitei houses with sacred Sanamhi sites have been brunt and destroyed**; 8341 people including women and children have been displaced and uprooted and thereby makes them refugees in their own land.

There are numerous cases of employing **bombardment as a method of warfare** by Kuki armed groups with foreign mercenaries. It is reported that Assam Rifles troops recovered **10 Kgs of explosives and 2000 detonators** from BungbalKhullen at the border of Imphal East and Kangpokpi district on May 20, 2023 (The Sangai Express). In another report troops of 2<sup>nd</sup> Mahar Regiment stationed at Loukoi Pat, Bishenpur detected **three bombs planted** by Kuki militants at Kolpung area of Churachandpur district (The Sangai Express).

*Proportionality in attack*

- **Launching an attack which may be expected to cause incidental loss of civilian life**, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.

On May 29, 2023 (The Sangai Express) a 21-year-old youth sustained bullet injuries when he was fired upon by Kuki armed groups **using long range weapon like sniper rifle** at Chandonpokpi, Bishenpur district. It is a clear case of 'launching an attack which may be expected to cause incidental loss of civilian life' as well as an 'act of attack directing civilian'. Burning down of thousands of dwelling houses in Kuki dominated areas and foothills Meitei villages are also clear examples of launching attack which may be expected to cause incidental loss of civilian life – a prohibited act of war committed by Kuki armed groups.

*Precautions in attack*

- In the conduct of military operations, constant care must be taken **to spare the civilian population, civilians and civilian objects**. All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.

Killing civilians including aged, women and child and destruction of civilian objects is the norm of Kuki military campaign in Manipur. There is no precaution to spare the civilian population, and civilian object in any military attack launched by Kuki armed groups. In this regard, very fine example is the indiscriminate gun fire and **bomb explosions** in civilian area masterminded by Kuki armed groups from the eastern side of Yaingangpokpi, at Serou side, Phayeng that *claimed the lives of at least 9 people* including two policemen (The Sangai Express, May 29, 2023). In another incident, the Kuki armed groups planted bomb in a pipe (**a pipe bomb explosion**) and exploded in civilian areas (The Sangai Express, June 1, 2023).

- Each party to the conflict must do everything feasible to verify that targets are military objectives.

- Each party to the conflict must **give effective advance warning of attacks** which may affect the civilian population, unless circumstances do not permit.

In case of Manipur, there is no evidence of any short of warning of attacks, instead it is found that there are numerous instances where there is a direct attack to civilian population i.e., Meitei population in the Kuki dominated and foothills areas. Most of the attack to non-defended villages are carried out *during midnight* without any short of warning of attacks.

*Precautions against the effects of attacks*

- The parties to the conflict must take **all feasible precautions to protect the civilian population and civilian objects under their control** against the effects of attacks.

In Manipur in Kuki dominated areas viz., Churachandpur, Moreh and Kangpokpi which are under their control instead of taking precautions to protect the civilians settling there and their objects – they directly target and attempt to kill all civilian population i.e., Meitei population.

*Specifically protected persons and objects*

Medical and religious personnel and objects

- **Medical personnel exclusively assigned to medical duties must be respected and protected in all circumstances. They lose their protection** if they commit, outside their humanitarian function, acts harmful to the enemy.

In an alleged incident in Churachandpur where a doctor assigned to medical duties has been killed but later rebutted the allegation. The incident needs to be investigated for finding the truth.

- **Religious personnel exclusively assigned to religious duties** must be respected and protected in all circumstances. They lose their protection if they commit, outside their humanitarian function, acts harmful to the enemy.

In ongoing armed conflict in Manipur, there are many instances where religious sites were burned down and also reported that in those incidences religious personnel exclusively assigned to religious duties were not respected and protected.

- **Medical transports assigned exclusively to medical transportation** must be respected and protected in all circumstances.

In Manipur all National Highways are in blockage for last 40 days in different locations where Kuki are dominant population and it is likely that medicals transports assigned exclusively to medical transportation are also blocked there. There is a crisis of **shortage of life saving drugs** for civilians' population due to this blockade on National Highways.

*Humanitarian relief personnel and objects*

- Humanitarian relief personnel must be respected and protected.

- Object used for humanitarian relief operations must be respected and protected.

*Journalists*

- **Civilians' journalists engaged in professional mission** in areas of armed conflict must be respected and protected as long as they are not taking a direct part in hostilities.

In ongoing armed conflict situation of Manipur there is alleged cases of assault to civilian journalist by parties to the conflict. It is reported (The Sangai Express, May 23, 2023) that "Jat Regiment personnel **targeted the media men** who were doing their legitimate duty and absolutely identifiable by the word PRESS embossed on their vests. At least three media persons including a member of AMWJU were beaten by the security forces. It is clear from the statement of the injured media persons and video recording by colleagues that the assault was not made in the heat of controlling mobs". In another incident, a media person was held by a 2-star officer of the Jat Regiment while his guard held him at gunpoint. The officer grabbed the mobile phone used by the journalists and deleted photos and videos taken by the media person on May 22, 2023 (The Sangai Express). On the same day (The Sangai Express), five personnel of Manipur Fire Service who were at New Checkon to combat a fire in the neighbourhood were thrashed by the Central security force.

*Cultural property*

- Each party to the conflict must respect **cultural property**:
- A. Special care must be taken in military operations to avoid damage to **buildings dedicated to religion, art, science, education or charitable purposes** and historic monuments unless they are military objectives.
- B. Property of great importance to the **cultural heritage of every people** must not be the object of attack unless imperatively required by military necessity.

- Each party to the conflict must protect cultural property:

A. All seizure of or destruction or wilful damage done to institutions dedicated to religion, charity, education, the arts and sciences, historic monuments and works of art and science is prohibited.

B. Any form of theft, pillage or misappropriation to the **cultural heritage of every people** is prohibited.

In Manipur numerous cultural heritage which are also historical monuments (most of them are thousands of years old) of Meitei ethnic group including Hindu cultural heritage are destroyed and pillaged by Kuki armed groups in Kuki dominated areas viz., Churachandpur, Moreh and Kangpokpi. Various religious sites cum cultural heritage of mankind of Manipur are ruthlessly destroyed by Kuki armed groups in their military campaign against unarmed Meitei population. In one instance, **Ibudou Pakhangba Temple** and **Ema Panthoibi Temple** at Torbung Govinpur were burnt mercilessly by Kuki armed groups along with around 500 houses belonging to Meitei people in and around Torbung Bangla thereby displacing around 5000 people (the Sangai Express, May 12, 2023). In Churachandpur district, which is dominated by Kuki where there is report of multiple dead and injuries and about **1263 houses each with sacred Sanamhi sites have been burnt and destroyed** and **10 Umanglai temples have been desecrated and demolished** (The Sangai Express, May 21, 2023). In a very shocking incident, **Ingourok Mahadev Temple** which is considered as a sacred and revered deeply by the Hindu populace of Manipur (The Sangai Express, May 20, 2023) and beyond *like abode of Lord Shiva at Kailash Mountain* has been vandalized and set ablaze by some armed Kukis. It is also reported that the Lord's idol has been desecrated and shattered and no one can now access the sacred site anymore. Moreover, armed Kukis have built bunkers close to Meitei villages of the area and they have been opening fire randomly thereby terrorizing the villages. In another reported case, a thousand years old and one of the finest places of cultural heritage of Meitei people – the **Kondong Lairembi Temple** of Moreh has been vandalized and set ablaze by Kuki armed groups.

*All Meitei houses are having their indigenous God in the house itself and in that sense each and every Meitei house are Temple in itself.* If we calculate in that sense then the present conflict **destroyed and burnt down about 10,000 temples** of Meitei people by Kuki armed groups. In this regard, one MLA of Manipur, L. Rameshor (The Sangai Express, May 25, 2023) said –

‘To Meitei who worship Sanamahi three times a day, their houses are their Temples, ... that I could no longer control my emotion on seeing Kuki militants torching Meitei houses and places of worship.’

*The natural environment*

- No part of the **natural environment** may be attacked, unless it is a military object. Destruction of any part of the natural environment is prohibited, unless required by imperative necessity.

- Methods and means of warfare must be employed with due regard to the protection and preservation of the natural environment.

- The use of methods or means of warfare that are intended, or may be expected, to **cause widespread, long-term and severe damage to the natural environment** is prohibited. *Destruction of natural environment may not be used as a weapon.*

Ongoing armed conflict in Manipur, natural environment is used as a weapon. Widespread destruction and firing of forest including reserved and protected forests are routine affairs of Kuki armed groups and thereby it will cause **widespread, long-term and severe damage to the natural environment**. In one such act, on May 18, 2023 (The Sangai Express) the Kuki armed groups have been resorting to forest fire as a method of warfare by **burning several parts of the hill in front of the Kombirei Pat**, under Khongjom Mega Tourist Center.

*Specific methods of warfare*

Denial of quarter

- **Ordering that no quarter will be given**, threatening an adversary therewith or conducting hostilities on this basis is prohibited.

In Manipur the way Kuki armed groups attack that targeting only civilians and trying to burn down all the dwelling houses of Meitei settling in particular areas viz. Churachandpur, Kangpokpi and Moreh clearly shows that it is a clear case of ‘**ordering that no quarter will be given**’. In addition to it, in a case, all the **300 houses of a village** (Ithai Moirangourel under Andro AC) were set ablaze by the Kuki armed groups with the intention to exterminate all the inhabitants of that village inhabited by Meitei ethnic group. The Kuki armed groups with sophisticated heavy weapons reportedly came from Chakpikarong side in 20/30 vehicles. Presently, **Torbung Govindpur Meitei village is deserted**, with the inhabitants having fled the place because of armed attacks by Kuki armed groups (The Sangai Express, May 13, 2023), **all the dwelling houses of villagers around 500 houses were burnt down thereby displacing around 5000 people** in a day (The Sangai Express,



May 12, 2023). *Attacking civilians and killing civilians and burning down of whole village leaving not a single dwelling house by Kuki armed groups* is a clear proof that the armed groups are executing the order i.e.; no quarter will be given (it is **prohibited to order that there shall be no survivors**) (Kalshoven&Zegveld, 2001).

- Attacking persons who are recognized as *hors de combat* is prohibited.

*Destruction and seizure of property*

- The destruction or seizure of the property of an adversary is prohibited unless required by imperative military necessity.

- **Pillage** is prohibited.

In Manipur – all property belonging to Meitei groups have been destroyed or seized and pillaged as a rule where there is an attack by Kuki armed groups in Meitei villages in Kuki dominated areas of Churachandpur, Kangpokpi and Moreh and many foothills' villages.

*Starvation and access to humanitarian relief*

- The **use of starvation of the civilian population as a method of warfare** is prohibited.

- Attacking, destroying, removing or rendering useless **objects indispensable to the survival of the civilian population** is prohibited.

- The parties to the conflict must allow and facilitate *rapid and unimpeded passage of humanitarian relief for civilians* in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.

- The parties to the conflict must ensure the freedom of movement of authorized humanitarian relief personnel essential to the exercise of their functions. Only in case of imperative military necessity may their movements be temporarily restricted.

It is very clear that starvation of civilians as a method of combat is prohibited. It is therefore *prohibited to attack, destroy, remove or render useless for that purpose, objects indispensable to the survival of the civilian population such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works.*

There are numerous reported cases of **attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population** which is prohibited by IHL in Manipur. For instance, in Khurkhul and surrounding areas have been deprived of potable water after armed Kuki *destroyed the steel water pipeline of Khurkhul Water Supply Scheme* at six points on May 4, 2023 (The SangaiExpress, May 22, 2023). A major pipeline which connects Leimakhong to Kangchupwas blasted by Kuki armed groups. Since then, Khurkhul has not been getting potable water. Not only this, people who went to repair the damaged pipeline with security provided by the army were almost killed as they were fired upon by Kuki armed groups (The Sangai Express, June 4, 2023). There is an incident of *burning down of one saw mill* and a chicken farm located at Phayeng Awang KanchupChingkhong at around 12:30 am of June 3, 2023 by Kuki armed groups (The Sangai Express).

In Manipur two National Highways leading to capital city, Imphal has been blocked in all Kuki dominated areas of hills so that the food items will not be reached to the civilians including Meiteis and other ethnic groups inhabiting in Manipur. This blockade has been continuing since 3<sup>rd</sup> May, 2023 till the writing of the paper (07.05.2023) – a crystal clear case of the **use of starvation of the civilian population as a method of warfare by Kuki with its armed groups.**

It is a fact that Imphal-Dimapur Highway or NH-2 is considered as a lifeline for all the people of Manipur but the *lifeline is currently blocked at eight points* by Kuki volunteers with its militants. The eight points where this lifeline has been imposed blockade are Taphou, Hengbug, Changoubung, Kangpokpi, Keithelmanbi, Sapermeina, Motbung and Gampiphai (The Sangai Express, May 22, 2023). This is a crystal-clear case of '**intentionally using starvation of civilians as a method of warfare** by depriving them of objects indispensable to their survival' and it also amount to commission of serious **war crimes in the soil of Manipur by Kuki with its dreaded armed groups.** Even Indian Army and/or CPMF, AR cannot able to break the blockade, which is in place from May 3 till the writing of this paper (June 7, 2023) - it means that Union of India is also likely supporting the ongoing imposition of blockade by Kuki with its armed groups or India Army agreed that they cannot do anything against the mighty Kuki armed groups operating in Manipur. The blockade (not pacific blockade during peacetime) has been in place from last **35days**, a record in the armed conflict situation and the **international community including United Nations need to do something** in this regard. As a part of effective imposition of blockade – the armed groups torched a truck at T Leijang in Kangpokpi at around 2 pm of May 16, 2023 (The Sangai Express). It is reported that as on May 20, 2023 – 131 loaded trucks remain stranded at Senapati because of Blockade (The Sangai Express) imposed by Kuki with its armed groups.

*Deception*

- Ruses of war are not prohibited as long as they do not infringe a rule of international humanitarian law.

- The improper use of the white flag of truce is prohibited.

- The improper use of the distinctive emblems of the Geneva Conventions, the United Nations emblem and uniform; other internationally recognized emblems are prohibited.

- Improper use of the flags or military emblems, insignia or uniforms of the adversary is prohibited.
- Use of the flags or military emblems, insignia or uniforms of neutral or other States not party to the conflict is prohibited.
- **Concluding an agreement to suspend combat with the intention of attacking** by surprise the enemy relying on that agreement is prohibited.
- Killing, injury or capturing an adversary by **resort to perfidy is prohibited.**

It is found that there is an agreement for Suspension of Operations (SoO) and ceasefire between Government of India, Government of Manipur and Kuki armed groups since 2008. In spite of the said SoO, the Kuki armed groups openly violate the ground rules of the pact and killing civilians, targeting civilian objects, committing activities against the territorial integrity of Manipur are nothing but ‘*concluding an agreement to suspend combat with the intention of attacking by surprise the enemy relying on that agreement*’ a prohibited act under established norm of IHL. There are also many reported cases of killing, injuring or capturing an adversary by resorting to perfidy.

#### *Weapons*

- The use of means and methods of warfare which are of nature to **cause superfluous or unnecessary suffering is prohibited.**

- Use of **weapons which are by nature indiscriminate is prohibited.**

In the conflict situation in Manipur, the Kuki armed groups are using heavy weapons and other sophisticated weapons against the civilians which are of nature to cause superfluous or unnecessary suffering and which are by nature indiscriminate. Kuki armed groups are using SLR, **Sniper Rifles, heavy weapons**, M16, double-barreled rifles, AK-57, AK-47, **IED** (explosive bomb), pipe bomb – most of them are **prohibited weapons** under International Law. It is found that the Kuki armed groups are using banned weapons like GI pipe muzzle gun loaded with explosives (The Sangai Express, May 26, 2023).

- The **use of poison** or poisoned weapons is prohibited.
- The use of biological weapons is prohibited.
- The use of chemical weapons is prohibited.
- **The use of riot-control agents as a method of warfare is prohibited.**
- The use of herbicides as a method of warfare is prohibited.
- The use of bullets which expand or flatten easily in the human body is prohibited.
- The anti-personnel use of bullets which explode within the human body is prohibited.
- The use of weapons the primary effect of which is to injury by fragments which are not detectable by X-rays in the human body is prohibited.
- The use of **bobby-traps** which are in any way attached to or associated with objects or persons entitled to special protection under international humanitarian law or with objects that are likely to attract civilians is prohibited.
- When **landmines** are used, particularly care must be taken to minimize their indiscriminate effects.
- The anti-personnel use of **incendiary weapons** is prohibited, unless it is not feasible to use a less harmful weapon to render a person *hors de combat*.
- The use of laser weapons that are specifically designed, as their sole combat function or as one of their combat functions, to cause permanent blindness to unenhanced vision is prohibited.

In Manipur it is alleged that Kuki armed groups used pouring poison to river/dam water during the ongoing armed conflict against Meitei population. But it needs to be investigated properly to find out the truth. There are many reported cases of using bobby-traps and landmines in civilian areas to attack indiscriminately civilian and civilian objects by Kuki armed groups.

#### *Treatment of civilians and persons hors de combat*

- **Civilians** and persons *hors de combat* must be **treated humanely.**
- Adverse distinction in the application of IHL based on race, colour, sex, language, religion or belief, political or other opinions, national or social origin, wealth, birth or other status, or on any other similar criteria is prohibited.
- **Murder is prohibited.**

There are many reported cases of cruel treatment of civilian and in other words there is no place for humane treatment of civilian by Kuki armed groups and Indian armed forces to Meitei civilian. In addition, there are numerous reported cases of murder of Meitei by Kuki with its militants. In an incident they **murdered three persons** in between Sugnu and Serour on 29<sup>th</sup> May 2023 (The Sangai Express, May 30, 2023). In another case, **three PWD workers were found dead** in a ditch along with their vehicles near Churachandpur district border, it a clear case of murder and blatant violation IHL (The Sangai Express, May 13, 2023).

- **Torture, cruel or inhuman treatment** and outrages upon personal dignity, in particular humiliating treatment, are prohibited.
- Corporal punishment is prohibited.

- **Mutilation**, medical or scientific experiments or any other medical procedure not indicated by the state of health of the person concerned and not consistent with generally accepted medical standards are prohibited.
- Rape and other forms of sexual violence are prohibited.
- **The taking of hostages is prohibited.**

Taking hostage and cruel or inhuman treatment are common practices of Kuki armed groups against the civilian population – there are numerous reported cases of hostage taking of Meitei youth by Kuki armed groups. In addition, there are also reported cases of mutilation before or after killing of Meitei civilians by Kuki armed groups (for instance, removing eyes, severing head, cutting hands, etc.). In one of such reported cases, one youth from Langthabal was found to be **mutilated severely**.

- **The use of human shields** is prohibited.
- **Enforced disappearance** is prohibited.
- **Arbitrary deprivation of liberty** is prohibited.

There are many instances of practicing human shield in Kuki dominated areas and armed groups are always with and mixing with Kuki civilians. There is innumerable unreported cases of enforced disappearance in ongoing armed conflict in Manipur. As on 25<sup>th</sup> May, 2023 (The Sangai Express) there are officially 7 cases of missing persons (Meitei) (this number represent only a tip of iceberg) and it is afraid that these missing persons may be victim of enforced disappearance as whereabouts of them is not yet known to the authorities and family members till date. In addition, thousands of Meitei including elderly persons, women, children and disabled who fled from the jaw of Kuki armed groups are now settling in many poorly equipped relief camps and thereby their liberty of all sorts are deprived arbitrarily.

- No one may be convicted or sentenced, except pursuant to a fair trial affording all essential judicial guarantees.

- **Collective punishments** are prohibited.

Firing indiscriminately aiming at civilians and **burning down of all dwelling houses of Meitei in Kuki dominated areas** leaving not even a single house in Churachandpur, Moreh and Kangpokpi are fine example of collective punishment by Kuki with its militants. As a part of collective punishment, **several houses were burnt** by Kuki armed groups at Tronglaobi area at around 1 am of 24<sup>th</sup> May, 2023 (The Sangai Express) and they also **burned down around 30 houses** at Leimakhong Keithel, Leimakhong Chingmang and Ingourok Chingmang which are located closed to the Assam Rifles' Leimakhong camp (The Sangai Express, 30 May, 2023). In another incident, five **houses belonging to Meitei were looted and burnt** at Phougakchao Awang Leikai in the night of 24<sup>th</sup> May 2023 (The Sangai Express). The Kuki with its armed groups on the first day of genocide campaign wherein at least **40 houses have been reduced to ashes** at Motbung in Kangpokpi district just after ATSUM's rally at around 7 pm (The Sangai Express, May 4, 2023). As a collective punishment in Churachandpur by Kuki militants about **1263 houses each with sacred Sanamahi sites have been burnt and destroyed** and 10 Umanglai temples have also been desecrated and demolished (The Sangai Express, May 21, 2023).

- **The convictions and religious practices of civilians** and persons *hors de combat* must be respected.

There are numerous cases of burning of indigenous places of worships, cultural heritage sites and temples belonging to Meitei ethnic group by Kuki with its armed groups in ongoing armed conflict situations in Manipur.

- **Family life** must be respected as far as possible.

No family life is protected by Kuki armed groups in its indiscriminate attack targeting Meitei civilians. The ongoing armed conflict bring human catastrophe of hundreds of orphans, widows among Meitei population just like seven years devastation during 1819-1826.

*The wounded, sick and shipwrecked*

- Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to **search for, collect and evacuate the wounded, sick and shipwrecked** without adverse distinction.

- The wounded, sick and shipwrecked must receive, to the fullest extent practicable and with the least possible delay, **the medical care and attention required by their condition**. No distinction may be made among them founded on any grounds other than medical ones.

- Each party to the conflict must take all possible measures to **protect the wounded, sick and shipwrecked against ill-treatment and against pillage of their personal property**.

There is not a single reported case on the part of Kuki armed groups regarding the searching, collection and evacuating the wounded and sick in their area of operation after military engagement. But there are many reported cases of ill-treatment and pillage of personal property belonging to Meitei civilian wounded and sick by Kuki armed groups during their military engagement.

*The dead*

- Whenever circumstances permit, and particularly after an engagement, each party to the conflict must, without delay, take all possible measures to **search for, collect and evacuate the dead** without adverse distinction.

- Each party to the conflict must take all possible measures to **prevent the dead from being despoiled. Mutilation of dead bodies** is prohibited.

- Parties to the conflict must endeavour to facilitate the **return of the remains of the deceased** upon request of the party to which they belong or upon the request of their next of kin. They must return their personal effects to them.

- The dead must be disposed of in a respectful manner and their graves respected and properly maintained.

- With a view to the identification of the dead, each party to the conflict must record all available information prior to disposal and mark the location of the graves.

There is no official record of missing persons in conflict areas in Manipur mostly Meitei population settling in Kuki dominated areas and surrounding foothills and there is strong suspicion that numerous cases of **despoiled and mutilated dead bodies** scattered in those areas where presently no one can dare to enter except Kuki with its armed groups just like what happened in Rwanda. Finding of **three dead bodies of PDW workers in a ditch** near Churachandpur district border on 12<sup>th</sup> May 2023 (The Sangai Express) is an illustration of such heinous war crime. In another incident, the **dead body of Robisana** (28) who was allegedly killed by Kuki militants on May 28, 2023 during unrest at Sugnu is currently said to be lying at a location close to 37 Assam Rifles under Sugnu Police Station. Reportedly, efforts to retrieve the body of the deceased remained futile in the face of incessant gunfight in the area (The Sangai Express, June 1, 2023).

There are many reported cases of **dead bodies lying on the fields** and no endeavour from the Kuki armed groups to facilitate the return of the remains of the deceased upon repeated request of the party to which they belong and thereby disrespect to the dead body. One of such reported case was case of unable to hand over the body of Khoirom Romario, a resident of Langthabal who was killed during the attack carried out by Kuki armed groups and their foreign mercenaries armed with sophisticated weapons in Sugnu on May 28, 2023 and his body is lying on the field for many days (the Sangai Express, June 3). Later report confirmed that his dead body was **severely mutilated**.

*Missing persons*

- Each party to the conflict must take all feasible measures to **account for persons reported missing** as a result of armed conflict and must **provide their family members with any information** it has on their fate.

As on 26<sup>th</sup> May 2023 - 7 **missing persons** belonging to Meitei ethnic group have been confirmed officially. All of them are abducted by Kuki militants and whereabouts of them are not known to anyone including family members (The Sangai Express, May 31, 2023). It is alleged that **more than 100 people are missing**. Even the Kuki armed groups are not sparing elderly person from abduction, one such case has reported on 25<sup>th</sup> May, 2023 (The Sangai Express), they abducted an 83-year-old Meitei man after they looted a farm house and carried away some cattle at Chirik Loitong village under Sekmai PS. It also reported that **three civilians from Torbung Banga were abducted** by Kuki militants on May 11, 2023 (The Sangai Express). In one of the missing reports of a youth from Serousince 28<sup>th</sup> May 2023 (The Sangai Express) and he was suspected to have been killed by Kuki armed groups. Very interesting account of the case that shows the intention of the murderer or abductor was the telephonic conversation during the course of searching the missing person.

“On dialing his mobile phone, one man who identified himself as a Kuki picked up the phone and said, ‘*I have killed the phone’s owner.*’”

*Persons deprived of their liberty*

- Persons deprived of their liberty must be provided with adequate food, water, clothing, shelter and medical attention.

- Women who are deprived of their liberty must be held in quarters separate from those of men, except where families are accommodated as family units, and must be under the immediate supervision of women.

- Children who are deprived of their liberty must be held in quarters separate from those of adults, except where families are accommodated as family units.

- Persons deprived of their liberty must be held in premises which are removed from the combat zone and which safeguard their health and hygiene.

- **Pillage of the personal belongings of persons deprived of their liberty** is prohibited.

- Personal details of persons deprived of their liberty must be recorded.

- In non-international armed conflicts, the **ICRC may offer its services to the parties to the conflict** with a view to visiting all persons deprived of their liberty for reasons related to the conflict in order to verify the conditions of their detention and to restore contact between those persons and their families.



- Persons deprived of their liberty must be allowed to correspond with their families, subject to reasonable conditions relating to frequency and the need for censorship by authorities.
- The personal convictions and religious practices of persons deprived of their liberty must be respected.
- Persons deprived of their liberty in relation to a non-international armed conflict must be released as soon as the reasons for the deprivation of their liberty cease to exist.

Pillage is a common practice of Kuki armed groups in their areas of occupation and Indian armed forces are mere spectator and there is strong allegation that Assam Rifles are in collusion with the Kuki armed groups. In such incident, **five houses belonging to Meitei were looted and burnt** at Phougakchao Awang MamangLeikai by Kuki armed groups on the night of 24<sup>th</sup> May, 2023. It is reported that all the shops owned by Meitei at Leimakhong have been looted and Kuki armed groups are now building bunkers inside abandoned Meites houses (The Sangai Express, June 4, 2023). In LeimakhongChingmang and IngourokChingmang there were reports of building bunkers by Kukisarmed groups in order to kill the civilians in any time they wish. It is also reported (The Sangai Express, May 20, 2023) that armed Kukis have resorted to shooting and slaughtered cattle reared by Meitei villagers and left for grazing in nearby fields.

#### *Displacement and displaced persons*

- Parties to non-international armed conflict may not **order the displacement of the civilian population**, in whole or in part, for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand.

- In case of displacement, all possible measures must be taken in order that the civilians concerned are received under satisfactory conditions of shelter, hygiene, health, safety and nutrition and that members of the same family are not separated.

- Displaced persons have a **right to voluntary return in safety to their homes or places of habitual residence** as soon as the reasons for their displacement cease to exist.

- The **property rights of displaced persons must be respected**.

This right of displaced persons to voluntary return in safety to their homes or places of habitual residence is not possible to avail in the conflict situation in Manipur because most the places wherein Kuki armed groups destroyed the Villages, they forcefully occupied those areas. For instance, Tangjeng Meitei village and Napat Meitei village are under the **military occupation of Kuki armed groups** (The Sangai Express, May 30, 2023). The Kuki armed groups have even built bunkers at the entrance of Tangjeng village. It is reported that **150 acres of cultivated land/fields of Leitangpokpi are being occupied** and under the control of the Kuki armed groups (The Sangai Express, May 21, 2023).

It is found that the **deserted villages of Meitei** are free to do anything by Kuki armed groups. There are many reported cases of vandalism, arson, looting of belongings, poultry, cattle and whatever remains in the deserted Meitei villages. It is believed that more than **2000 houses have been burnt** and gutted (The Sangai Express, May 31, 2023). In one incident, **ten farm houses** located at LairampatSandongChingya had been set **ablaze by Kuki militants** on May 13, 2023 (The Sangai Express).

#### *Other persons afforded specific protection*

- The specific protection, health and assistance needs of women affected by armed conflict must be respected.

- Children affected by armed conflict are entitled to special respect and protection.

- **Children must not be recruited into armed forces or armed groups.**

- **Children must not be allowed to take part in hostilities.**

- The **elderly, disabled and infirm** affected by armed conflict are entitled to special respect and protection.

There is no specific protection in particular about health and assistance needs of women affected by armed conflict in Manipur. It is alleged that thousands of children are recruited in Kuki armed groups and they are taking direct part in hostilities. The matter needs to be further investigation in order to know the fact.

In foothills Meitei elders are protecting their village from the armed attacks by Kuki armed groups – video footage and news report verified their involvement. There is no respect of elder, disabled and infirm during armed attacks by Kuki armed groups in Meitei villages. For instance, the Kuki armed groups **abducted an 83-year-old Meitei man** from ChirikLoitong village under Sekmai police station on 25<sup>th</sup> May, 2023 (the Sangai Express). An **elderly man of 81 years old from Torbung died** at RIMS on May 16, 2023 after suffering mentally and physically because of the ordeal he faced on May 3, 2023 and following days (The Sangai Express).

#### *Implementation*

Compliance with International Humanitarian Law

- Each party to the conflict must respect and ensure respect for international humanitarian law by its armed forces and other persons or groups acting in fact on its instructions, or under its direction or control.

**In Manipur non-compliance is the rule** – killing of civilians viz. Meitei, burning of Meitei houses, burning and destroying of religious sites, open patrolling by armed groups in civilian areas with sophisticated weapons, looting of civilians' properties, blockade of highways from transporting medical and food items for civilians, taking hostages, recruiting child soldiers, torture and degrading treatment of civilians are routine affairs of Kuki armed groups.

- The obligation to respect and ensure respect for international humanitarian law does not depend on reciprocity.

- Each State must make legal advisers available, when necessary, to advise military commanders at the appropriate level on the application of international humanitarian law.

- States and parties to the conflict must provide instruction in international humanitarian law to their armed forces.

In this regard, I believe there is **no instruction is provided to the parties to the conflict particularly to Kuki armed groups** about applicable international humanitarian law.

- States must encourage the teaching of international humanitarian law to the civilian population.

#### *Enforcement of International Humanitarian Law*

- States may not encourage violations of international humanitarian law by parties to an armed conflict. They must exert their influence, to the degree possible, to stop violations of international humanitarian law.

- Parties to non-international armed conflicts do not have the right to resort to belligerent reprisals. Other countermeasures against persons who do not or who have ceased to take a direct part in hostilities are prohibited.

In Manipur, it is an international obligation that India should take up necessary action on the matter of enforcement of International Humanitarian Law. From the part of India there is no report of exerting their influence, to the degree possible, to stop violations of IHL by Kuki armed groups against Meitei/Meitei population. India is silent on acts of killing of hundreds of civilians, and targeting civilian objects by Kuki armed groups as a routine activity against Meitei ethnic group. There is not even a single instruction from the Government of India in this regard. It may be mentioned here that Union Home Minister of India recently gave a strong warning to the violators of Suspension of Operations' ground rules particularly the Kuki armed groups. But the fact of the matter is that the acts of violation of IHL rules by Kuki armed groups – **India is neither doing anything to stop the violation IHL rules nor exert their influence to stop violations of IHL rules.**

#### *Responsibility and Reparation*

- **A State is responsible for violations of international humanitarian law** attributable to it, including:

(a) violations committed by its organs, including its armed forces;

(b) violations committed by persons or entities it empowered to exercise elements of governmental authority;

(c) violations committed by persons or groups acting in fact on its instructions, or under its direction or control; and

(d) **violations committed by private persons or groups which it acknowledges and adopts as its own conduct.**

- A State responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused.

IHL attributes the responsible for violations of IHL to State. In this regard, it is responsibility of India for every violation of IHL by its armed forces and even violations committed by private persons or groups which it acknowledges and adopts as its own conduct. So, therefore, even **violations of IHL committed by Kuki armed groups and acknowledges and adopts as its own by virtue of Suspension of Operations with Kuki armed groups.** In addition, India is required to make full reparation for the loss or injury caused to Meitei ethnic group.

#### *Individual responsibility*

- **Individuals** are *criminally responsible for war crimes they commit.*

- **Commanders and other superiors** are criminally responsible for war crimes committed pursuant to their orders.

- Commanders and superiors are criminally responsible for *war crimes committed by their subordinates* if they knew, or had reason to know, that the subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent their commission, or if such crimes had been committed, to punish the persons responsible.

- Every combatant has a duty to disobey a manifestly unlawful order.

- Obeying a superior order does not relieve a subordinate of criminal responsibility if the subordinate knew that the act ordered was unlawful or should have known because of the manifestly unlawful nature of the act ordered.

In this regard, all the **individual** irrespective her/his official position are criminally responsible for **war crimes they commit in the soil of Manipur** for instance Minister, MP, MLA, Tribal Chief, military commander, every

combatant, intellectual forum members, student leaders and any other individual for both parties to conflict in Manipur for their war crimes or crimes against humanity or other serious violation of law and customs of war they committed.

#### *War Crimes*

- States have the right to vest **universal jurisdiction in their national courts** over war crimes.
- **States must investigate war crimes allegedly committed** by their nationals or armed forces, or *on their territory*, and, if appropriate, prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects.
- At the end of hostilities, the authorities on power must endeavour to grant the broadest possible amnesty to persons who have participated in a non-international armed conflict, or those deprived of their liberty for reasons related to the armed conflict, with the exception of persons suspected of, accused of or sentenced for war crimes.
- **Statutes of limitation may not apply to war crimes.**
- States must make every effort to cooperate, to the extent possible, with each other in order to facilitate the investigation of war crimes and the prosecution of the suspects.

International Law is very clear of **responsibility of State** (India) to do needful for prosecution and punishment of war criminals. In this regard, the Government of India as the earliest start the needful process for the prosecution, trial and punishment of war criminal which has committed by Kuki armed groups and Indian military personnel. War crimes has universal jurisdiction, so **all the States has right to start prosecution and punish accordingly any individual who commits war crimes in the soil of Manipur** wherever and whenever the criminal is found and there is no limitation period for prosecution of war crimes as well. It is also duty of every State of global community to do every effort to cooperate to the extent possible with each other in order to facilitate the investigation of war crimes and the prosecute of the perpetrators of commission of war crimes in Manipur.

#### **Commission of Crimes against Humanity and other serious violations of laws and customs applicable in armed conflicts not of an international character**

It is worth to mention here that the crimes perpetrated by Kuki armed groups against Meitei ethnic group is being *committed as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack*. In other words, it a ‘**crimes against humanity**’ and on the other side there are numerous instances of commission of ‘other serious violations of the laws and customs applicable in armed conflicts not of an international character’, within the established framework of international law. Crimes against humanity is defined in Article 7(1) of the Rome Statute of International Criminal Court as,

“Article 7 – **CRIMES AGAINST HUMANITY**

1. For the purpose of this Statute, ‘crimes against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) *Extermination*;
- (c) Enslavement;
- (d) *Deportation or forcible transfer of population*;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender ..., or other grounds that are universally recognized as impermissible under international law, ...;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”

Not only committing ‘crimes against humanity’ the Kuki armed groups with its foreign mercenaries but also commits numerous ‘*other serious violations of the laws and customs applicable in armed conflicts not of an international character*’, within the established framework of international law (war crimes). Following are the other serious violations of such acts as enumerates in Article 8 of the Rome Statute of International Criminal Court that is considered as ‘war crimes’ as when committed as *part of a plan or policy or as part of a large-scale commission* of such crimes –

Article 8(2)(e) – WAR CRIMES

Other serious violations of the laws and customs applicable in armed conflicts *not of an international character*, within the established framework of international law, namely, any of the following acts:

- (i) **Intentionally directing attacks against the civilian population as such** or against individual civilians not taking direct part in hostilities;
- (ii) **Intentionally directing attacks against buildings, material, medical units and transport**, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- (iii) **Intentionally directing attacks against personnel, installations, material**, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv) **Intentionally directing attacks against buildings dedicated to religion, education**, art, science or charitable purposes, **historical monuments**, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (v) **Pillaging a town or place, even when taken by assault**;
- (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
- (vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
- (viii) **Ordering the displacement of the civilian population** for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (ix) Killing or wounding treacherously a combatant adversary;
- (x) **Declaring that no quarter will be given**;
- (xi) Subjecting persons who are in the power of another party to the conflict to **physical mutilation** or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xii) **Destroying or seizing the property** of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict.

There are numerous instances of ‘**intentionally directing attacks against the civilian population as such**’ or against individual civilians not taking direct part in hostilities in most of Kuki dominated districts and adjoining foothills areas of Manipur. One such reported instance where Kuki armed groups with sophisticated weapons set ablaze many houses at Mairapat, Pukhao and Doliathabi in the night of 4<sup>th</sup> May, 2023. It was reported that all the **houses of Ikou, a Meitei village were reduced to cinders** (The Sangai Express, May 5, 2023). Hundreds of civilians were killed in Churachandpur, Moreh, Sugnu, Kanchup, Serou, Andro, Bishenpur, etc. in the military campaign launched by Kuki armed groups against Meitei unarmed villagers since May 3, 2023 (till the writing of the paper i.e., for last 40 days).

It has been reported that acts of ‘**intentionally directing attacks against buildings, material, medical units and transport**’ is a rule in Kuki military campaign against Meitei civilian population. For instance, offices belonging to a Core Composite Project working to prevent and reduce cases of HIV/AIDS in Churachandpur district are looted and burned down on May 4, May 5 and again on May 17, 2023 and another office of the same Project was vandalized and looted in the district by Kuki armed groups (the Sangai Express, May 20, 2023). It is also reported that on the night of May 13, 2023 (The Sangai Express) Kuki armed groups attacked and burnt down the Mangal Drug Treatment Centre for female drug users at TorbungMayaiLeikai in Churachandpur district.

There are numerous cases of commission of act of crimes against humanity viz. ‘**Intentionally directing attacks against buildings dedicated to religion, education**, art, science or charitable purposes, **historical monuments**, hospitals and places where the sick and wounded are collected’. Schools, colleges, universities and offices have been shut down due to on-going conflict and most of schools and colleges are turned into relief camps. In a shocking incident, Manipur Boarding School, a residential school situated at Gelmol, Moirang was burned down on May 26, 2023 by Kuki armed groups (The Sangai Express). There hundreds of reported cases of vandalism and burning down of religious sites of Meitei ethnic group by Kuki armed groups.

Most of the enforced displacement of civilians from conflict zone is because of ‘**Ordering the displacement of the civilian population** for reasons related to the conflict’ by Kuki armed groups. For instance, according to a report culled from the spot, the armed militants chased to kill the residents of ill-fated houses up to Gwaltabi Bazar under Yaingangpokpi PS in Imphal East on May 10, 2023 (The Sangai Express) before setting their houses on fire. After some time, a group of people armed with lethal weapons threatened the locals to move to other places and thereby most of locals (civilians) have fled elsewhere to save their lives.



In **Churachandpur**, one of the Kuki dominated district alone over **1263 houses and 10 religious' sites** (some temples are not only temple but also **cultural heritage of mankind**) of Meitei ethnic groups have been burned down and 8341 individuals are made internally displaced persons (The Sangai Express, May 21, 2023) in a day by Kuki armed groups and later on allegedly bulldozing of Meitei houses of the same place is a fine example of **war crimes committed by Kuki armed groups**. In another instance, armed Kukis have **occupied Kandangband Lamkhai** and they have even constructed bunker for extermination of all Meitei inhabiting in that village (The Sangai Express, May 22, 2023) – this is clear evidence of commission of **Crimes against Humanity by Kuki armed groups**. They have also been **occupying both Napat and Tangjeng**, two Meitei settlement and constructed bunkers therein – from there they continuously firing toward Pombikhok and Chandonpokpi, other nearby Meitei settlement. It is reported that 70% of the total houses of Napat and Tangjeng have been completely reduced to ashes (The Sangai Express, June 4, 2023). In another reported case of crimes against humanity, around 2800 Meitei villagers from Andro were forcibly displaced (The Sangai Express, May 30, 2023). **Murdering of 3 PWD workers** whose dead bodies were found in a ditch near Churachandpur district border (The Sangai Express, May 13, 2023) is nothing but commission of **crimes against humanity** by Kuki armed groups. One more incident of **crimes against humanity** perpetrated by Kuki armed groups was reported on May 15, 2023 (The Sangai Express) – in that incident 15 houses at Torbung Sabal Mamang Leikai in Bishenpur district were burnt down mercilessly and tried to kill all the inhabitants of that village are nothing but clear evidence of **ordering that there shall no survivors in that village**.

In another reported case of commission of war crimes where 20 houses at Kangvai Mamang and Torbung and 15 houses at Malom and Uyungmakhong under Moirang Police Station (all houses belong to Meitei ethnic group) were burnt down by Kuki militants on 27<sup>th</sup> May, 2023 (The Sangai Express) after firing indiscriminately.

In another incident of crimes against humanity, **Kuki armed groups have forcibly driven out villagers of Kangatheikom village and occupied the village** on May 24, 2023 (The Sangai Express) and later Kom community rebutted (it needs to be investigated properly to find out the truth of the matter). They also **burnt down a school named Hill Valley Goodwill Mission School** belonging to Meitei on 24<sup>th</sup> May, 2023 (the Sangai Express) in Churachandpur district. Kuki armed groups have reportedly torched at least 30 houses of Meitei families including a mandap at Phougakchaoikhai Awang Leikai at around 4:30 pm of May 26, 2023 (The Sangai Express). In another act of serious war crime, the combined force of Kuki armed groups with its foreign mercenaries **burnt down 150 Meitei houses** at Serou including the house of MLA K. Ranjit at Serou, Kakching district in the night of June 4, 2023 (the Sangai Express). This act is nothing but an **act of exterminating the Meitei** from their own soil. At the time of writing the paper (7.06.2-23) it cannot be able to access data to know how many Meitei killed at the time of burning of their houses by the Kuki armed groups. It is believed that *many Meiteis were still there in the house when they burnt down their houses because the attack was done during midnight* when the innocent Meitei were asleep. There are also many reported cases of **physical mutilation** of recovered dead bodies of Meitei ethnic group. All these atrocities and merciless acts are instances of a clear case of commission of *'other serious violations of the laws and customs applicable in armed conflicts not of an international character' i.e., war crimes and crimes against humanity*. In short, all acts of Kuki armed groups are nothing but are acts aiming to exterminate Meitei ethnic group from its own soil.

#### **Violation of 1989 Convention on the Rights of the Child (CRC) and 2000 Optional Protocol to CRC on Involvement of Children in Armed Conflict**

It is alleged that thousands of children are recruited forcefully in the Kuki armed groups though there is embargo to carry out fresh recruitment of cadres or raise additional military organizations by Suspension of Operations (2008) (with Governments of India and Manipur) particularly from Churachandpur and Kangpokpi districts of Manipur and they are also taking direct part in hostilities. **If allegation is true then India is not fulfilling its obligation under International Law and Kuki armed groups are also liable for recruiting child soldiers because India is a State Party to the Convention and Optional Protocol to CRC on Involvement of Children in Armed Conflict**. Proper study and investigation are required in this regard. It is a clear case of violation of the CRC and Optional Protocol to CRC provisions if the allegation is found to be true. It is an *obligation of India that she should take feasible measures to prevent such recruitment and use, including the adoption of legal measures to prohibit and criminalize such practices*. The Optional Protocol to CRC (2000) is equally applicable to armed groups as well so, therefore, armed groups would comply with relevant provisions of Protocol. Relevant part of the CRC reads as,

#### “ARTICLE 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. ...
3. ...
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

ARTICLE 39

States shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.”

It is also worth to mention here that under 2000 *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, the armed groups are having an obligation under relevant rules not to recruit child as its soldier. The extract of relevant provisions of 2000 Optional Protocol reads as,

“ARTICLE 4

1. *Armed groups* that are distinct from the armed forces of a State *should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.*

2. *States Parties shall all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.*

3. The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict.

ARTICLE 6

1. Each *State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of this Protocol within its jurisdiction.*

2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.

3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to this Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.”

It is a fact that thousands of children are in the relief camps in Manipur as a result of senseless indiscriminate attack directing toward civilians and civilian objects by Kuki armed groups since May 3, 2023. It is also mentioned here that **forced or compulsory recruitment of children for use in armed conflict is considered as the worst forms of child labour**. In this regard, in June 1999, International Labour Organization unanimously adopted *ILO Convention No. 182 on the Prohibition and Immediate action for the Elimination of the Worst Forms of Child Labour*, which prohibits, *inter alia*, forced or compulsory recruitment of children for use in armed conflict.

**Breach of Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocols**

The damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind since each people makes its contribution to the culture of the world. The *corpus juris* of protection of cultural property during armed conflict situations are one international instrument with its two Protocols and rules of IHL applicable during armed conflict. The Convention and its Protocols are –

1. 1954 the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict,
2. 1954 the Hague First Protocol for the Protection of Cultural Property in the Event of Armed Conflict, and
3. 1999 the Hague Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

India is a State Party to the first two international instruments and not to the third instrument. After reading all the provisions of the Convention and Protocols, it is found that most of the provisions of the three international instruments regarding protection of cultural property in the event armed conflicts are now considered as *a part of customary International Law* and therefore, all States including India irrespective of its acceptance or not – are bound to apply the relevant provisions of the three international instruments.

The relevant part of the law for our discussion is the provision(s) applicable to non-international armed conflict (internal conflict). Article 19 of the 1954 Convention is relevant for the present situation of armed conflict in Manipur. The provision says –

“ARTICLE 19 – CONFLICTS NOT OF AN INTERNATIONAL CHARACTER

1. In the event of an armed conflict not of an international character occurring within the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, *as a minimum, the provisions of the present Convention, which relate to respect for cultural property,*

2. The parties to the Conflict shall endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

3. The United Nations Educational, Scientific and Cultural Organization may offer its services to the parties to the conflict.

4. The application of the preceding provisions shall not affect the legal status of the parties to the conflict.”

It means the provision which relate to respect for cultural property i.e., Articles 3 and 4 of the Convention should be complied strictly by non-state actor i.e., Kuki armed groups in their military campaign or armed confrontation. The Article 4 read as,

“ARTICLE 4 – RESPECT FOR CULTURAL PROPERTY

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by *refraining from any act of hostility directed against such property.*

2. The obligations mentioned in paragraph (1) of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.

3. The High Contracting Parties further *undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against, cultural property.* They shall, refrain from requisitioning movable cultural property situated in the territory of another High Contracting party.

4. They shall refrain from any act directed by way of *reprisals against cultural property.*

5. No High Contracting Party may evade the obligations incumbent upon it under the present Article, in respect of another High Contracting Party, by reason of the fact that the latter has not applied the measures of safeguard referred to in Article 3.

ARTICLE 3 – SAFEGUARDING OF CULTURAL PROPERTY

The High Contracting Parties undertake to prepare in time of peace for the safeguarding of cultural property situated within their own territory against the foreseeable effects of an armed conflict, by taking such measures as they consider appropriate.”

Legal obligation to put sanction is on the State who signed and ratified the present Convention. India is one of the High Contracting Parties to the Convention so, therefore, she should formulate the task of prosecution and imposing penal or disciplinary sanctions against the persons who violate the provisions of the present Convention. The relevant part of the Convention reads as –

“ARTICLE 28 – SANCTIONS

The High Contracting Parties undertake to take, within the framework of their ordinary criminal jurisdiction, all necessary steps to prosecute and impose penal or disciplinary sanctions upon those persons, of whatever nationality, who commit or order to be committed a breach of the present Convention.”

The Convention of 1954 is supplemented by two Protocols. Article 22 of the Second Protocol of 1999 clearly says that the Protocol is equally applicable to non-international armed conflict as well and UNESCO may also offer its services to the parties to the conflict.

The most important provision in the Second Protocol of 1999 is provision for serious violations of the Protocol that is enumerated in Article 15 and as per Article 16 each Party shall take the necessary legislative measures to establish its jurisdiction over offences set forth in Article 15. Article 16 reads as,

“ARTICLE 15 – SERIOUS VIOLATIONS OF THE PROTOCOL

1. Any person commits an offence within the meaning of this Protocol if that person intentionally and in violation of the Convention or this Protocol commits any of the following acts:

- a. making cultural property under enhanced protection the object of attack;
- b. using cultural property under enhanced protection or its immediate surroundings in support of military action;
- c. extensive destruction or appropriation of cultural property protected under the Convention and this Protocol;
- d. making cultural property protected under the Convention and this Protocol the object of attack;
- e. *theft, pillage or misappropriation of, or acts of vandalism directed against cultural property protected under the Convention.*

2. Each Party shall adopt such measures as may *be necessary to establish as criminal offences under its domestic law the offences set forth in this Article and to make such offences punishable by appropriate penalties.* When doing so, Parties shall comply with general principles of law and international law, including the rules extending individual criminal responsibility to persons other than those who directly commit the act.”

In the context of Manipur there are many crystal-clear evidences of reported cases of *theft, vandalism, pillage directed against cultural property protected under the Convention by Kuki armed groups in Churachandpur, Kangpokpi, Moreh and other foot hills of Manipur.* For instance, Ibudhou Pakhangba Temple and Ima Panthoibi

Temple, which are **1000 years old Meitei religious sites** at TorbungGovindpur were vandalized and burnt down by Kuki armed groups on May 10, 2023 (The Sangai Express). **Ten (10)Umnaglai temples in Churachandpur,Ingourok Mahadev Temple, KondongLairembiof Moreh which are 1000 years old and considered as cultural heritage of mankind have been desecrated and demolished** (The Sangai Express, May 21, 2023) by Kuki armed groups in their military campaign against Meitei civilians. All these are clear reported cases of violation of customary IHL and the 1954 Convention and its Protocol.

#### **Allegation against Government of India, Indian Army including Assam Rifles and India paramilitary forces**

It has been alleging that some of the places where the situation is highly volatile or explosive which is already known to authorities like Torbung Bangla, Kangvai, PhougakchaoIkhai, Pukhao, Ikou, Dolaithabi, Sikul,Yaingangpokpi, Nongsum and other sensitive foothills but no additional security forces or paramilitary forces have been deployed at these places so far (till after 15 days of commencement of genocide campaign). It has further alleged by Coordinating Committee on Manipur Integrity (COCOMI) that even though there is concrete evidence, the State has not yet taken any action against the militants, it suspects that *India's internal policy is supporting them indirectly against the interest of the people of Manipur* (the Sangai Express, May 12, 2023), it added that there is an apprehension if the *Kuki militants are working in 'collusion' with the Government of India* (The Sangai Express, May 15, 2023). Even students' bodies of Manipur alleged the neutrality of the Assam Rifles in the present armed conflict situations in Manipur. They openly alleged (The Sangai Express, May 14, 2023) that –

“The public is now aware with evidence and witnesses that the Assam Rifles is helping the Kuki militants. This is simply putting the agenda to destroy the indigenous community of Manipur into action. The public must be able to see this clearly,” they added.

While detailing their ordeal, the displaced people of Torbung lamented that the Central Paramilitary Forces deployed in Torbung area did not intervene and they remained a spectator when armed Kuki militants attacked their village. As such, they are still not able to control and contain Kuki militants at Torbung, the people said (The Sangai Express, May 17, 2023). The All-Manipur United Clubs' Organization (AMUCO) also asked the Government to probe whether the *Assam Rifles took sides*, an allegation that has been raised by people in the conflict (The Sangai Express, May 11, 2023). In another similar allegation villagers of Meitei settlements in areas adjoining Bishnupur and Churachandpur said that Kuki backed by their militants ravaged their settlements and looting the valuable remnants right under the nose of security personnel (The Sangai Express, May 22, 2023).

State police commandos posted in Moreh, a Kuki dominated area alleged that AR personnel posted in Moreh are only for Kuki community and its militants, they also maintained that the situation could have been averted had the AR acted without partiality. ... They further alleged that in case they too leave their post, whatever left for Meiteis in Moreh will all be gone and turned to ashes (The Sangai Express, May 25, 2023).

The Indigenous People's Association of Kangleipak (IPAK) also alleged that paramilitary forces are reluctant to prevent Kuki militants from attacking innocent civilians dwelling in the foothills because they work hands in glove with drug dealers (The Sangai Express, May 29, 2023). Going further into Kuki-paramilitary nexus, IPAK said that there have been reports of drug seizure from military officials and ironically there has been no deep inquiry into the incidents. Moreover, harbouring Kuki militants in Assam Rifles (AR) camps and allowing arson and attacks on Meitei people are evident, it said. The KangleipakKanbaLup (KKL) also charged AR of working in “collusion” with the Kuki militants (The Sangai Express, May 29, 2023) and KKL asserted that in the presence of security forces, houses and properties of Meitei people in Churachandpur have been set on fire and destroyed using JCB and bulldozers. In short, the people do not trust the neutrality of the Central armed forces in the present conflict. At the time of burning down of numerous houses belonging to the Meitei community at the border town of Moreh in well-planned and well-coordinated attacks – the paramilitary forces were watching silently; many people have questioned the purpose of stationing a large number of paramilitary forces at the border town (The Sangai Express, May 29, 2023).

It was found that the site of arson at KangvaiMamang and Torbung where 20 houses were burnt down and at Malom and Uyungmakhong wherein 15 houses were burnt down after indiscriminate firing by Kuki armed groups (The Sangai Express, May 27, 2023) were surrounded by Central ... security forces in all four directions but no action against Kuki militants during that arson. So, therefore, civilians claimed that they intentionally not acting in such situations.

It is also found that amid the volatile situation prevailing in the State, **three personnel of the Rapid Action Force (RAF)** have been suspended from services for attempted arson on a shop at Dimdailong, New Checkon on 27<sup>th</sup> May, 2023 (The Sangai Express). Whether the act of the RAF is done by their personal capacity or under a policy of the Government of India – such irresponsible act that may lead to communal clash should be thoroughly investigated. It is very surprised that the Kuki militants were firing from atop the hill, the AR troops only took cover and did not retaliate and even a single shot or blank fire as and when there were instances of burning down of whole Meitei villages under the nose of Central forces stationing at the spot of commission of



crimes. Notably, many Civil Society Organizations and a large number of people have been accusing the Central paramilitary forces, particularly Assam Rifles of taking side with the Kuki militants in targeting unarmed Meitei civilians and villages.

It is also very surprised that Anil Chauhan, Chief of Defence Staff General of India on May 30, 2023 said concerning present conflict in Manipur – the situation now in Manipur is ‘not related to insurgency’. It is a clash between two ethnicities and a situation of law and order, he said. From this very statement, it is seemed that *there is a policy of the Indian Army and Government of India that the situation should be treated as mere law and order and also sanction tacitly a license to the Kuki militants to exterminate unarmed civilians Meitei population and undefended Meitei villages.*

In a surprise incident (or any hidden agenda) a tense stand-off was witnessed on June 2, 2023 at Sugnu after Assam Rifles, displaying sheer arrogance, surrounded Sugnu police station and blocked the two entrances of the police station using bullet-proof vehicles (The Sangai Express). Accusing the Central paramilitary forces, particularly Assam Rifles of supporting the violence unleashed by Kuki armed groups in collaboration with foreign mercenaries upon Meitei community, people in large groups, especially womenfolk have been keeping a strict vigil at different areas of Moirang AC and Kumbi AC in Bishenpur district (The Sangai Express, June 4, 2023) and other part of Manipur so as *to prevent the entry of AR troops*. It is also alleged that on checking, the vehicles of AR were found occupied beyond their capacity and they were loaded with weapons which outnumbered the occupants. The womenfolk also said that at dawn, it was seen that all the number plates and logos of the vehicles of AR were covered with mud.

It is a very surprised move by Prime Minister of India, **Narendra Modi that he continues to be silent** and right from the moment the first house was set on fire and well-armed Kuki militants with its mercenaries with heavy lethal weapons ruled the hills and major junk of valley areas and killing and burning the dwelling houses of the civilians or Meitei from May 3, 2023 and still (35 days on calendar of killing field like Khem Rogue regime) counting how many Meitei are killed, how many villages are ransacked, how many houses are burnt down, and how many temples (not only temple – a cultural heritage of mankind) are destroyed. I also in this juncture asking *why the Central Government is very slow or at all not taking any concrete action against the Kuki armed groups and its foreign mercenaries whether SoO pact or not when the latter has started attacking and killing civilians and targeting civilian objects indiscriminately aiming to exterminate Meitei ethnic group from Manipur though the security personnel having automatic guns and other sophisticated weapons in their disposal are stationing at the spot or nearby station but doing nothing to control the situation.*

#### **IV. Finding of facts and recommendations**

From the above data and facts and circumstances of the matter, the researcher come to certain findings and also therefore make appropriate recommendations. The main findings of the research are highlighted as under –

1) It is found that a situation of non-international armed conflict exists in Manipur since May 3, 2023 between Kuki armed groups and Manipur Police supported by Indian armed forces. It is a fact that more than 40% of territorial area of Manipur is under *de facto* occupation and responsible command of Kuki armed groups and they can carry out sustained and concerted military operations.

2) It is proved beyond reasonable doubt that violence or conflict in the State of Manipur is not a mere law and order issue, it is a clear case of well-planned genocide campaign and it *fulfils the element of acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group*, as such: (a) Killing members of the group; (b) Causing serious bodily or mentally harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

3) It is found that most of the attack of Kuki armed groups are indiscriminate and directed against civilians and civilian objects.

4) It is also clearly found that the Kuki armed groups are constantly attacking the undefended Meitei villagers and villages with the sole objective of extermination of Meitei indigenous people by killing and burning of all their settlements.

5) From the *modus operandi* and overall goal of military campaign launched by Kuki armed groups, it is found that burning down of all dwelling houses of undefended Meitei villages in Kuki dominated areas and foothills areas clearly shows the ‘ordering that no quarter is given’ (order that there shall be no survivors).

6) There is a crystal clear that in many instances of their military campaign the Kuki armed groups violate the Common Article 3 to the four Geneva Conventions of 1949 which is applicable to armed conflict of non-international character.

7) It is further found that Kuki armed groups under Suspension of Operations (SoO) pact with Governments of India and Manipur are taking direct part in hostilities and targeting civilians and civilian objects in violation of ground rules of SoO.

8) It also found that foreign mercenaries for Kuki armed groups are involved in the armed conflict situation in Manipur and moreover, they are directly participating in hostilities.

9) There are hundreds of reported cases of violation of rules of customary International Humanitarian Law applicable to non-international armed conflict in Manipur by parties to the conflict.

10) It is also found that acts of violation of International Humanitarian Law by Kuki armed groups are amount to War Crimes applicable to non-international armed conflict as their acts of commission are as part of their avowed plan or policy or as part of a large-scale commission of such crimes.

11) Most of acts committed by Kuki armed groups are also amount to ‘Crimes against humanity’ as they committed the act as part of widespread or systematic attack directed against Meitei civilian population, with knowledge of the attack.

12) There are also report regarding of violation of the Convention on Rights of Child, 1989 and its Optional Protocol on the Involvement of Children in Armed Conflict of 2000 in ongoing armed conflict in Manipur. It is found that Kuki armed groups have been recruiting and using child as soldiers.

13) It is also found that Kuki with its armed groups has been imposing blockade on two National Highways leading to Imphal since May 3, 2023 (35 days blockade at the time of writing the paper). It is nothing but intentionally using ‘starvation of civilians as a method of warfare’ by depriving Meitei and other communities settling in other districts of Manipur by depriving them of objects indispensable to their survival, which is a prohibited method of warfare and accordingly a war crime.

14) There are also many reported cases where cultural property (cultural heritage of mankind) is vandalized and burned down in their military campaign by Kuki armed groups. It is a clear case of disrespect to Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954 and its Protocols.

15) There are also hundreds of reported cases of acts of Kuki armed groups of burning forests (reserved and/or protected) as a method of warfare that led to widespread and long-term effect to environment, which is a prohibited method of warfare under International Humanitarian Law.

16) There is no offer of its services to the Parties to the conflict in present ongoing armed conflict in Manipur from any impartial humanitarian body/organization of international repute such as International Committee of the Red Cross (ICRC), a mandated organization under Geneva Conventions of 1949.

17) The last but not the least, there are strong allegations against Government of India and its armed forces particularly Assam Rifles against their neutrality in the ongoing armed conflict. It is alleged that they are waging war in collusion with Kuki armed groups.

In order to prevent, prosecute and punish the persons charged with genocide, war crimes, crimes against humanity and other crimes under applicable International Humanitarian Law in the soil of Manipur the following views and *recommendations* are formulated for further action by appropriate International and National authorities:

1) In compliance with Constitutional mandate as enshrines in Article 355 and judgment of the Apex Court in *SarbanandaSonowal*(2005), the Government of India should declare there is *de jure* a situation of external aggression and internal disturbance in Manipur because of illegal migrant of a large numbers of Chin-Kukis from neighbouring States. Accordingly, it shall be the duty of the Government of India to protect State of Manipur against external aggression and internal disturbance and to ensure that the Government of Manipur is carried on in accordance with the provisions of the Constitution of India,

2) That the most serious crimes of concern to international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation, determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes and it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes and the obligation is to save the present and future generations from such odious scourge of genocide, war crimes and crimes against humanity;

3) The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law (Principles of the Nuremberg Tribunal and now a *jus cogens*);

4) A person who planned, instigated, ordered, committed or otherwise aided and abetted in the planning, preparation or execution of genocide, war crimes, crimes against humanity, violation of common Article 3 to four Geneva Conventions of 1949 and other acts of violation of law and customs of war in Manipur shall be individually responsible for the crime he/she commits(an established norm of Customary International Humanitarian Law);

5) Commission of Genocide, war crimes, crimes against humanity, violation of common Article 3 to four Geneva Conventions of 1949 and other acts of violation of law and customs of war are condemned by the civilized world. It has inflicted great losses on humanity and in order to liberate mankind from such an odious scourge Government India needs to take swift action on the matter as mandated by Constitution of India and International Law. India is a member of the United Nations, a High Contracting Party to four Geneva Conventions of 1949, Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and Convention on Rights of Child of 1989 and its Protocol of 2000 (Child Soldier Protocol) and other rules of customary international law amongst others. India also enacted the Geneva Conventions Act, 1960 for due

enforcement of the four Geneva Conventions of 1949 though there are lot of grey areas in the Act and it needs to be properly amended.

6) It is found that a genocide, war crimes, crimes against humanity, violation of common Article 3 to four Geneva Conventions of 1949 and other acts of violation of law and customs of war cannot be committed by a few crazy individuals alone but needs intellectual masterminds and an organizational apparatus to implement their evil plans. It is true regarding the military campaign launched by Kukis with its armed groups in collaboration with foreign mercenaries against Meitei indigenous ethnic group in Manipur. In this regard, needs to find out three classes of perpetrators viz. low-level, middle-level and top-level perpetrators respectively and accordingly fixed their responsibility.

7) Proper investigation regarding recruitment of child as soldiers in Kuki armed groups and taking direct part in hostilities in ongoing armed conflict in Manipur. It is an international obligation on the part of India that she should take feasible measures to prevent such recruitment and use, including the adoption of legal measures to prohibit and criminalize such practices. In addition, recruitment of child as soldiers and using them to participate in hostilities is also amount to war crimes.

8) Being a party to the relevant Convention on protection of cultural property in the event of armed conflict, India is duty bound to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, and any acts of vandalism directed against cultural property of Meitei ethnic groups of Manipur. In addition, pillage, theft or any acts of vandalism directed against cultural property or common heritage of mankind is a serious form of war crimes.

9) It is found that there is a strong suspicious allegation against the role of Government of India and armed forces of India more particularly Assam Rifles in their involvement, conspiracy and failing to save the lives and property of civilians in the ongoing armed conflict in Manipur. In this regard, the Government of India particularly the Ministry of Home Affairs needs to constitute a high-level Inquiry Commission headed by former Chief Justice of India and take immediate action on the recommendation of the Commission's findings. In meantime, as a temporary measure awaiting the finding of Report of Commission - immediate withdrawal of the Assam Rifles from the soil of Manipur that will bring the trust of general public and victims of the conflict.

10) Proper investigation on commission of genocide, war crimes, crimes against humanity, violation of Article 3 common to four Geneva Conventions of 1949 and other acts of violation of law and customs of war by Kuki with its armed groups collaborated by its foreign mercenaries against Meitei civilians in Manipur is mandate of Constitution of India and International Law. The most appropriate and effective mechanism in this regard is constitution of a high-powered International Fact-Finding Commission like that was done in Darfur (Darfur Commission of Inquiry) headed by reputed International Expert of high moral standing and acknowledged impartiality, or retired or sitting Judge of Supreme Court India.

11) The Commission so constituted as above shall be competent to (a) inquiry into any facts alleged to be commission of Genocide, Crimes against Humanity, War Crimes, violation of Article 3 common to four Geneva Conventions of 1949 and other acts of violation of law and customs of war and (b) facilitate, through its good offices, the restoration of an attitude of respect for the four Geneva Conventions and its Protocols and other law and customs of war. Acting promptly on the findings and recommendations of the Commission under United Nations supervision, as far as possible is the call of time;

12) Prosecute, try and punish the perpetrators of genocide, war crimes, crimes against humanity, violation of Article 3 common to four Geneva Conventions of 1949 and other acts of violation of law and customs of war by parties to armed conflict in Manipur in the model of International Criminal Tribunal for former Yugoslavia or International Criminal Tribunal for Rwanda or East Timor Tribunal or Special Court for Sierra Leone;

13) Another easiest and effective workable mode is the adoption of Rome Statute of International Criminal Court (ICC) by India or a special agreement with the ICC and accordingly prosecution and trial will be conducted in the ICC for commission of genocide, war crimes, crimes against humanity, violation of Article 3 common to four Geneva Conventions of 1949 and other acts of violation of law and customs of war by parties to conflict in the soil of Manipur;

14) The Tribunal as constituted as above for the said purposes shall have the power to prosecute and award sentences for persons charged with genocide, war crimes, crimes against humanity, violation of Article 3 common to four Geneva Conventions of 1949 and other acts of violation of law and customs of war in Manipur between 3 May 2023 and date of the last commission;

15) Another workable option under existing legal framework of India is the Trial by Special Court constituted for the purposes only under existing national law of India in force with required appropriate amendment like Law on Court of Bosnia and Herzegovina or the Extraordinary Chambers in the Courts of Cambodia.

16) It is high time from the part of International Committee of the Red Cross (ICRC) as mandated by Geneva Conventions of 1949 and its Protocols and the fundamental principles of the Red Cross as formulated by the International Conferences of the Red Cross to offer its services to the Parties to the armed conflict in Manipur. The parties to the conflict in Manipur shall grant to the ICRC all facilities, within their power so as to

enable it to carry out the humanitarian functions assigned to it by the Geneva Conventions and its Protocol in order to ensure protection and assistance to the victims of conflicts; the ICRC may also carry out any other humanitarian activities in favour of these victims, subject to the consent of the Parties to the conflict concerned.

17) The last but not the least, Kuki armed groups under Suspension of Operations (SoO) pact with Government of India and in violation of the pact they are taking direct part in hostilities is nothing but it amounts to ‘concluding an agreement to suspend combat with the intention of attacking by surprise the enemy relying on that agreement’, which is prohibited acts under customary IHL.

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