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# Human Rights and Internal Armed Conflicts: Analysing the Current Situation in North-East India from an International Humanitarian Law Perspective

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# Human Rights and Internal Armed Conflicts: Analysing the Current Situation in North-East India from an International Humanitarian Law Perspective

## ABSTRACT

*This article analyses the human rights situation in Northeast India through the lens of International Humanitarian Law in relation to ongoing internal armed conflicts. These internal armed conflicts, such as insurgencies, present complex challenges that extend beyond mere law-and-order issues, significantly impacting political, social, economic, and security dimensions. Although the security situation in the Northeast has improved, the region continues to experience internal and ethnic violence, armed conflicts, and insurgencies, all of which are categorised as Non-International Armed Conflicts (NIACs) under International Humanitarian Law. India, however, maintains that these issues fall under law-and-order concerns, as it is not a signatory to the 1977 Additional Protocols of the Geneva Conventions. The existence of NIACs in India results in significant human rights violations, disrupting lives, with women and children living in fear and men at risk of abduction. Despite the government's multi-dimensional approach, which includes military deployment and negotiations, there are still pressing questions regarding the protection of rights to life and security. The lack of comprehensive international humanitarian guidelines raises concerns about civilian protection. This research paper employs descriptive and analytical methods to examine contemporary conflicts in India, their impact on human rights, and potential measures to enhance protection. It aims to promote long-term peace grounded in human rights and dignity. Specifically, it focuses on ongoing internal armed conflicts in India, including the Maoist insurgency, violence in parts of India and ethnic and insurgent conflicts in Northeast India, while assessing their implications for human rights protection.*

## KEYWORDS

*Internal Armed Conflicts, Ethnic Groups, Human Rights, IHL, Improvement.*

## INTRODUCTION: NIAC AND INTERNAL ARMED CONFLICT

The term “armed conflict” generally refers to war, though it is not specifically defined in international treaties. Armed conflict occurs when one state employs armed force or violence against another state, against an armed group, or when armed groups engage in conflict with each other. International humanitarian law recognises two categories of armed conflict: International Armed Conflicts (IACs) and Non-International Armed Conflicts (NIACs), as outlined in the Geneva Conventions of 1949 and the Additional Protocols of 1977. Historically, the revisions of the Geneva Conventions did not fully recognise internal armed conflicts as ‘real’ wars in a strict sense,<sup>1</sup> which resulted in NIACs being somewhat overlooked in the application of the law of armed conflict. Article 3, which is common to all four Geneva Conventions, defines NIACs as “armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties.” The extension of international humanitarian regulations to internal conflicts underwent significant changes after the Second World War, and currently, a majority of armed conflicts occurring are classified as internal conflicts.<sup>2</sup>

The terms “Non-International Armed Conflict” and “internal armed conflicts” are often used interchangeably; however, they are not the same in International Humanitarian Law. A NIAC is a legal classification referring to protracted armed violence occurring between a State and one or more organised armed groups, or between such groups within the territory of a State, without the involvement of armed forces from other States, making it non-international in nature. By contrast, the internal armed conflict does not have a universally accepted definition. It encompasses a broader range of armed violence occurring within a state’s territory, involving insurgencies, rebellions, civil wars and communal violence. Not all situations satisfy the legal threshold required for classification as a NIAC.

Thus, in the absence of clarity in the law, the International Criminal Tribunal for the former Yugoslavia (ICTY), in the case of *Prosecutor v. Dusko Tadic*,<sup>3</sup> specified that a NIAC exists where there is “protracted armed violence between governmental authorities and organised armed groups, or between such groups within a State.” Another crucial aspect of NIAC is its asymmetrical nature, meaning that the parties involved are

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<sup>1</sup> Sandesh Sivakumaran, Re-envisaging the International Law of Internal Armed Conflict, 22 Eur. J. Int’l L. 219 (2011).

<sup>2</sup> Int’l Comm. of the Red Cross, *International Humanitarian Law and the Protection of War Victims* (Jan. 31, 1998) <https://www.icrc.org/en/article/international-humanitarian-law-protection-war-victims>

<sup>3</sup> *Prosecutor v. Dusko Tadic* case no. IT-94-1-AR72

not on equal footing. In armed violence between a state's forces and armed groups, the State typically views these groups as rebels or insurgents. Fighting may also occur between armed groups within a State without the involvement of government troops. In such situations, the State and non-State armed groups do not hold equal authority, legal status, or military capability.

Certain situations are excluded from the NIAC framework, such as internal disturbances and tensions, including riots, isolated acts, and other similar types of violence. To classify an insurgent group under the Geneva Conventions within the NIAC framework, formal recognition of the group is not necessary. Instead, the law focuses on objective conditions derived from the *Prosecutor v. Dusko Tadic case* and treaty law. The essential requirements include:

1. Intensity of Violence, wherein the conflict must go beyond mere internal disturbances.
2. The organisation of the insurgent group should have a command structure, the ability to plan and execute operations, internal discipline, and the capacity to recruit and train members.
3. Territorial control is necessary for the applicability of Additional Protocol II, although it is not mandated under Common Article 3 of the Geneva Conventions.
4. It should focus on continuity and sustained conflict rather than consisting of isolated incidents.

This framework helps clarify the distinctions between NIAC and internal armed conflicts, ensuring a better understanding of their legal implications in international humanitarian. To determine the intensity of a conflict, several factors must be considered: prolonged armed clashes, the use of military weapons, a significant number of casualties and destruction, and the deployment of armed forces by the state rather than just police forces. In the case of Manipur, the violence cannot be characterised solely as an ethnic clash or isolated incidents of unrest; rather, it reflects a protracted and recurring pattern of armed confrontation with significant humanitarian consequences. These insurgent groups primarily operate in the valley and often move to the plains to achieve their objectives. The situation in Manipur is a significant concern; the conflict is not limited to a single rebel group, nor is it confined to specific valleys, hills, or districts; rather, it impacts the entire state.

### **RESEARCH PROBLEM**

Internal armed conflicts raise serious concerns regarding the protection

of human rights. Rebel groups are increasingly focused on specific demands, often claiming to protect the interests of particular ethnic communities. In many conflict situations, civilians are subjected to grave abuses, including hostage-taking, arbitrary detention, forced displacement and destruction of property. Women and children undergo violence, abduction and other forms of exploitation. Persons are deprived of their basic human rights and are subjected to inhuman or degrading treatment. Reports from various conflict zones also document acts of mutilation, attacks on civilian homes and violence against vulnerable groups, including pregnant women. Such acts constitute serious violations of international human rights law, and where applicable, international humanitarian law.

### METHODOLOGY

This study employs both descriptive and analytical research methodologies. The descriptive approach aims to explore the current state of internal conflicts in the northeast, while the analytical approach is used to critically assess the human rights implications of these conflicts and evaluate the effectiveness of existing legal and policy responses.

### INTERNAL ARMED CONFLICTS AND GROWING TENSIONS IN INDIA

Concerns about insurgent groups in India are not recent. The government and military have been engaged in counterinsurgency operations for decades. However, Indian policymakers have yet to establish a unified law to address these internal armed conflicts. Despite the varying causes and goals of these conflicts, they persist, and the military plays a significant role in managing and resolving the issues.

Insurgents are groups or individuals fighting against their government or armed forces. Importantly, insurgency is not widespread across all of India; it is primarily concentrated in specific regions referred to as the “red corridor,”<sup>4</sup> which includes areas with larger tribal populations, extensive forest cover, and underdeveloped regions. The core insurgency-affected areas are located in Jammu and Kashmir, as well as Chhattisgarh, particularly in the Bastar division. Other moderately affected states include parts of Bihar, Jharkhand, Odisha, Maharashtra, West Bengal, and Telangana.<sup>5</sup>

Over time, some insurgent groups have surrendered and become

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<sup>4</sup> Rishabh Bajoria, Red Corridor: “Biggest International Security Threat” or That Non-International Armed Conflict? 14 Social-Legal Rev. 212 (2018).

<sup>5</sup> Bidyut Chakrabarty & Rajat Kumar Kujur, *Maoism in India: Reincarnation of Ultra-Left Wing Extremism in the Twenty-First Century* (Routledge 2010).

inactive or may have been quietly present in their regions. The government's involvement in combating insurgency includes notable events such as the Dantewada attack in 2010, the Sukma attack in 2017, the Lalgargh movement, and the Gadchiroli encounters in 2018.<sup>6</sup>

India is currently experiencing a prolonged period of internal armed conflict. Recent clashes between the Kuki community and various ethnic groups, such as the Thadou (Thadou Inpi Manipur) group in Manipur, illustrate the active presence of rebel factions. The Kuki group is accused of exploiting and politicising incidents to further a destructive agenda. It has been urged to cease interfering in the interests, affairs, and identities of the Thadou people. Young individuals are often seen carrying guns and rifles, openly posing as militants and supporting their cause. This situation prompts us to consider potential resolutions for the persistent issues affecting Manipur. Additionally, a major factor is the government's crackdown on illegal poppy cultivation and efforts against illegal land encroachments related to migrants from Myanmar. The porous border facilitates drug trafficking, with networks of drug cartels and kingpins operating for decades.

### **KUKI'S: FROM ETHNIC COMMUNITY INTEREST TO MILITANTS**

The term "Kuki" refers to a diverse group of ethnically related tribes that belong to the Kuki-Chin-Mizo ethnolinguistic family.<sup>7</sup> They inhabit parts of India, Myanmar, and Bangladesh. In Northeast India, the Kukis primarily reside in the hilly regions of Manipur, Mizoram, and Assam. In Manipur, the Kukis are recognised as Scheduled Tribes and have lived in the region for generations. Although some individuals of Kuki-Chin origin have recently crossed into India from Myanmar due to armed conflict, they should not be confused with the long-established Kuki population of Manipur. The escalation of violence in Manipur cannot be understood solely through the lens of ethnic identity; it is also shaped by broader issues of governance, security, and illicit economic activities.<sup>8</sup> The Kuki movement in Manipur initially focused on demands for the protection of tribal identity, customary land rights, political representation, and greater administrative autonomy. These demands were rooted in longstanding grievances related to perceived marginalisation, territorial disputes, and competition over natural

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<sup>6</sup> Ministry of Home Affairs, Annual Reports 2010-2011, 2017-2018 & 2018-2019, Gov't of India.

<sup>7</sup> James C. Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* 254-59 (Yale Univ. Press 2009).

<sup>8</sup> Bibhu Prasad Routray, *Armed Conflict and Peace Processes in India's Northeast*, Inst. For Def. Stud. Analyses (2012).

resources.

Over time, however, parts of the movement became militarised, leading to the emergence of organised armed groups such as the Kuki National Army (KNA), Kuki National Front (KNF), Kuki Liberation Army (KLA), and others operating under the Kuki National Organisation (KNO) and the United People's Front (UPF).<sup>9</sup> While many of these groups entered into Suspension of Operations (SoO)<sup>10</sup> agreements with the Government of India and the Government of Manipur, allegations of ceasefire violations, possession of sophisticated weapons, and involvement in armed attacks have persisted. In May 2023, large-scale ethnic violence erupted, involving armed confrontations between sections of the Kuki-Zo and Meitei communities. This marked a significant escalation in the conflict, resulting in widespread displacement, destruction of civilian property, and loss of life. These events raised serious concerns regarding the protection of civilians and the applicability of international humanitarian law.

These developments illustrate how longstanding ethnic and political grievances, when combined with organised armed mobilisation, can evolve into sustained armed violence. This necessitates a legal assessment under the framework of non-international armed conflict. The evolution of ethnic grievances into persistent armed violence requires examination of whether the organisation of armed groups and the intensity of hostilities meet the legal criteria for Non-International Armed Conflict under International Humanitarian Law.

### **UNDERSTANDING THE LAWS GOVERNING INTERNAL ARMED CONFLICTS: INDIA'S INTERNATIONAL POSITION**

International law imposes obligations upon States to respect, protect, and fulfil human rights and to comply with applicable rules of international humanitarian law (IHL). Under the principle of *pacta sunt servanda*, codified in Article 26 of the Vienna Convention on the Law of Treaties, every treaty in force is binding upon its parties and must be performed in good faith. India is a party to the four Geneva Conventions of 1949 and is therefore bound by their provisions, including Common Article 3, which applies to non-international armed conflicts. Although India has not ratified Additional Protocol II of 1977, it remains bound by the obligations arising under the Geneva Conventions and by relevant norms of customary international law, where applicable.

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<sup>9</sup> Sanjib Baruah, *Durable Disorder: Understanding the Politics of North India* 115-38 (Oxford Univ. Press 2005).

<sup>10</sup> Suspension of Operations Agreement was between the Government of India, Government of Manipur, and Kuki Armed Groups (Aug. 22, 2008).

India has consistently maintained that internal armed conflicts should primarily be addressed through domestic legal frameworks. During the Diplomatic Conference leading to the adoption of Additional Protocol II, India expressed concern that extending international humanitarian law to internal conflicts could affect State sovereignty and interfere with matters falling within domestic jurisdiction. Consequently, when the draft of Article 1 of Additional Protocol II, concerning its material field of application, was put to a vote, India voted against it. This position reflected concerns that the Protocol might internationalise issues relating to internal security.

Nevertheless, Additional Protocol II itself recognises these concerns. Article 3 expressly provides that nothing in the Protocol may be invoked as a justification for intervening, directly or indirectly, in the internal or external affairs of a State or as affecting its sovereignty or responsibility to maintain or restore law and order. India's cautious approach to Additional Protocol II, therefore, reflects its long-standing emphasis on preserving sovereignty while addressing internal security challenges through domestic legal mechanisms.<sup>11</sup>

Accordingly, even where a particular situation does not satisfy the legal threshold of a non-international armed conflict under Additional Protocol II, India remains under an obligation to protect the fundamental rights of persons within its jurisdiction through constitutional guarantees, its international human rights commitments, and the applicable provisions of the Geneva Conventions, including Common Article 3, where the requisite legal threshold is met.

### **INTERNATIONAL CRIMINAL RESPONSIBILITY: SCOPE AND LIMITATIONS**

International criminal law is founded on the principle of individual criminal responsibility, holding individuals accountable for the most serious crimes of concern, including war crimes, genocide, crimes against humanity, and the crime of aggression, as outlined in the Rome Statute of the International Criminal Court (ICC) from 1998. This area of law is closely related to human rights and humanitarian law since the crimes it seeks to prosecute often involve violations of these legal frameworks.

Rebel groups should be prosecuted for at least two types of crimes under the ICC: crimes against humanity and crimes of aggression. Leaders who initiate unlawful wars must bear international criminal responsibility.

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<sup>11</sup> Anita Yadav & Amit Yadav, *International Humanitarian Law in India: A Critical Case Study*, 4 *Online Int'l Interdisciplinary Res. J.* 402 (2014).

The crime of aggression, as defined in Article 8 bis of the Rome Statute, includes the planning, preparation, initiation, or execution of an act of aggression by a person in a position to effectively control or direct the political or military action of a state. Such acts constitute a significant violation of the United Nations Charter.

Internal armed conflicts violate the commitments outlined in the UN Charter. The perpetrator of an act of aggression is someone who can effectively control or direct a state's political or military actions. The definition of the crime of aggression was only activated in mid-2018. Its jurisdiction is more limited than that of other crimes, requiring ratification of the Kampala Agreement and referral by the UN Security Council (UNSC). The ICC has jurisdiction only over state parties; however, in exceptional cases referred by the UNSC, it can hear cases. This mechanism is highly politicised and rarely utilised.

India has neither signed nor ratified the Rome Statute due to concerns about the powers granted to the UNSC, the non-inclusion of nuclear weapons, and India's demand for an impartial judicial institution independent of political bodies like the UNSC. Consequently, India cannot refer instances of violence and aggression to the Security Council. There is apprehension that the ICC may misuse its jurisdiction to investigate the actions of Indian authorities in areas where the country is combating insurgency and militancy. These internal conflicts are regarded as domestic matters that should not be discussed on international platforms.

As such, while rebels could be prosecuted for aggressive actions within the jurisdiction of the International Criminal Court, there are significant limitations on prosecuting internal armed conflicts due to challenges in accountability and enforcement, particularly in situations characterised by lawlessness.

### **PROMOTING HUMAN RIGHTS IN CONFLICT AREAS**

Promoting human rights in conflict areas is essential for fostering peace and justice. It is crucial to take proactive steps to ensure that every individual is protected and their dignity upheld, even in the toughest circumstances. Weapons and ammunition must be tracked and eliminated at their source. There is a strong argument that some officers, in pursuit of promotions and financial gain, allow weapons to reach armed groups. These officers should be prosecuted and dismissed from their positions. Additionally, some officials stage fake encounter killings and surrender dramas under the guise of counterinsurgency operations.

The government is enhancing initiatives aimed at reducing armed violence and combating the illegal trade of weapons and drugs. Counter-

insurgency efforts must comply with constitutional protections, international human rights standards, and applicable international humanitarian law. Due to the porous nature of the Indo-Myanmar border, improved border management and collaboration with neighbouring countries are essential to prevent the cross-border flow of armed groups, weapons, and illegal drugs. Simultaneously, the government, in partnership with humanitarian organisations, should ensure the prompt delivery of aid and essential services to civilians affected by conflict. This support will help reduce their reliance on armed groups. The effectiveness of the Suspension of Operations (SoO) agreements has sparked considerable discussion. Some analysts suggest that the ongoing accusations of ceasefire violations warrant a review of the current framework to ensure accountability and promote lasting peace.

### CONCLUSION

The clashes between armed groups, such as the KNF and KLA/KNL, pose significant security challenges and raise serious human rights concerns. Effectively managing internal armed conflict requires a balance between security needs and the protection of human rights. This entails effective state intervention, accountability mechanisms, and measures for civilian protection. The violence among these insurgent groups demonstrates that human rights violations in internal conflicts are not solely the result of state actions, unlike in traditional armed conflicts. Non-state armed groups have become significant perpetrators of violence against civilians. Thus, there is a pressing need for comprehensive protection mechanisms and an accountability framework.

Simply deploying security forces is insufficient to achieve long-term peace. The state must also investigate and prosecute perpetrators of crimes against humanity, including killings, abductions, torture, and the destruction of livestock and property. Even if the conflict is not formally recognised, certain humanitarian principles must be upheld, such as the protection of civilians, humane treatment of detainees, the prohibition of torture, and the protection of women and children, principles that are established in customary international law. Ultimately, the focus should not be solely on the strategic steps the government has taken in this region, but rather on the limitations of the government's actions that contribute to the ongoing conflict.