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The Political Economy of Sexual Violence in North East India

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The Political Economy of Sexual Violence in North East India

Roshmi Goswami

The Colombian peace talks between Colombia's government and the Revolutionary Armed Forces of Colombia (FARC) to end Latin America's longest-running conflict generate tremendous interest and attention worldwide. Of particular interest for women peace activists and advocates has been the gender commission which was set up to ensure women's voices are heard and their suffering during five decades of civil war recognized.¹ The gender commission was tasked with setting up a special unit to investigate and collect evidence involving cases of sexual violence. Nearly half of Colombia's 7.8 million war victims officially registered by the government are women. Sexual violence has been used as a weapon of war by all sides and women and children, particularly from Afro-Colombian and indigenous groups, have borne the brunt of the conflict. The lead government negotiator Humberto de la Calle's acknowledgement that the conflict has been merciless on women, and brought about "unimaginable horrors," therefore sent out a strong message of intent and thereafter both sides pledged to improve access to land for women and ensure perpetrators of sexual violence, including rape, would not be eligible for amnesty. A strong statement was made that this was "not as a concession" but an act of justice.

Colombia's landmark law on access to justice for victims (Law 1719), signed as part of the peace process aims at enhancing the status of sexual violence survivors so that they can receive reparations, psychosocial support and free medical care, and it explicitly recognizes that sexual violence can constitute a crime

¹ The peace talks held in Havana, included participation of a group of 60 survivors that addressed the negotiations plus leaders of women's rights and sexual diversity organizations. As a result of both exercises, conflict-related sexual violence has been raised at the negotiations by both survivors and stakeholders; this is an innovation that not been seen in any prior peace process.

against humanity and that there can be no statute of limitations for such crimes. Furthermore, it includes offences that were previously omitted from the Penal Code, such as enforced sterilization, forced pregnancy and forced nudity, and adds specific reference to aggravating circumstances, for example when sexual violence is committed as a form of retaliation against or intimidation of human rights defenders.² Indeed the Columbian process³ has set the bar high for negotiations around sexual violence ensuring dignity⁴ and more importantly brings in issues which capture the ground realities of women's lives and are prioritized by women emerging from conflict.⁵

The conflicts in Asia on the other hand have attracted less media attention and peace negotiations do not reflect a high standard for issues concerning women. In addition, the conflicts are also very complex involving different stakeholders with varying social dynamics. A fairly recent study⁶ shows that the South and South East Asia regions have some of the world's longest armed struggles lasting multiple generations and averaging at around 45 years per struggle and that the armed struggles are mostly sub national conflicts or armed conflicts over control of a sub national territory within a sovereign state. These long enduring conflicts have been extremely devastating, compromising security and justice and steadily corroding the lives and social fabric of the communities living in the affected areas. But despite being endemic in Asia sub national conflicts have

² According to the Office of the Ombudsman, there have been cases of targeted sexual assault against women's rights defenders who raise their voices in support of land restitution.

³ However according to the Institute for Development & Peace there has been a backlash by the shadowy right wing paramilitary groups who oppose the peace deal with FARC and have killed 117 activists who support the peace deal in 2016.

⁴ In August 2014, Decree 1480 was adopted, establishing 25 May as the National Day for the Dignity of Women Victims of Sexual Violence caused by the Internal Armed Conflict, as a measure of collective reparations.

⁵ Based on reports by Anastasia Moloney, edited by Ros Russell and by Katie Nguyen: the Thomson Reuters Foundation

⁶ Parks, Thomas; Colletta, Nat; Oppenheim, Ben : The Contested Corners of Asia - Subnational Conflict and International Development Assistance - The Asia Foundation 2013

drawn little attention so far internationally or otherwise. Within the national context, these conflicts are invariably situated in remote regions of the State which are peripheral both in terms of location as well as in power sharing. Primarily peopled by communities often referred to as 'minority' their contributions both to national politics as well as the national economy are invariably perceived to be insignificant.

1. Introduction:

The North Eastern part of India comprising originally of seven states or provinces is one such region of protracted sub national conflict which has spanned over several decades. The conflicts have been of various kinds ranging from political and civil struggles for self-determination, aggrieved groups contending for a greater or fairer share of power or stake in the system, to inter-ethnic conflicts over fractured identities or scarce and dwindling resources. At the core of many of the conflicts have been and continue to be the contestations over control and optimal utilization of natural resources of land, water, minerals or simply state sponsored low intensity warfare. Questions of identity and ethnicity have been central to these struggles and have added layers of complexities both within the parameters of the conflicts as well as in the various 'peace arrangements'. The political goals of the armed conflicts have differed, ranging from demands for greater political autonomy, more transparent political rights and institutional structures to outright secession from India. The response of the Indian state to the conflicts has varied over the years but have essentially been one of dominance and control –whether it was the overt repressive measures of earlier times, or the more subtle subterranean and convoluted approach of the present.

Sub national conflicts generally remain unrecognized officially by the State as 'conflicts' and their existence continue to be an issue of intense debate and po-

litical disagreement. Similarly, in North East India the persistent non acknowledgment of the conflicts by the State or categorizing them generally as ‘law and order’ problems have kept the levels of violence including sexual violence high and the situation outside the purview of international humanitarian law and internationally accepted normative standards of justice and human rights. Over the decades as new demands and new groups have emerged the original causes of the conflicts - economic and political inequalities, entrenched social injustices, gross human rights violations or unequal power structures have got submerged under an overarching principle of violence. In addition, the immensely rich and diverse natural resources including minerals of the region provides for the possibility of thriving extractive operations made all the more lucrative for a few vested interests groups as access and information remains limited and restricted due to ‘security’ concerns of a conflict zone. In many instances simply tremendous economic gain and profiteering have kept the ‘conflicts’ alive.

As anywhere in the world, women have borne the brunt of this ongoing turmoil –whether they have been specifically targeted by security forces or rival militant groups or there has been a continuum of violence from the public to the private. The impact has been devastating, debilitating and far reaching with violations ranging from sexual violence, displacement and loss of support bases, disappearances and extra judicial killings⁷ of family members, lack of all forms of human security and constant sense of fear and dread.

Despite the increased international attention to sexual violence and the growing status of India as a responsible global player on a range of issues, in the “peripheries” of the country sexual violence by security forces continue with absolute impunity, sexual violence by non-state armed groups and individuals re-

⁷ Frank van Lierde - “We the Widows of the Gun”, published by Cordaid, The Hague 2011_

main “invisible” and more importantly issues of sexual violence continue to remain outside the purview of the patriarchal structures and terms of reference of “peace talks” and “peace negotiations”. On the other hand the different ‘peace moments’ in the region provide interesting insights into what do women on the ground really want and what happens to different categories of women during such moments of great expectancy. Interestingly in recent times while there have been a number of peace negotiations/agreements underway securitization has either increased manifold or continue to be the dominant focus.

2. Different kinds of peace processes in the region

All of the above raise several questions of how ‘peace’ is being conceptualized in these peripheries? Are these peace processes aimed at ending violence, deep rooted social and gender inequalities and ensuring justice or are they mere “settlements” within a patriarchal framework that simply continue the entrenched inequalities and, in some instances, bring in greater complexities? Using illustrations from three different contexts of the region and using a gender lens the paper attempts to (i) surface the consequences of entrenched gender inequalities in the narratives of armed struggles, human rights and peace building in the region; (ii) analyze whether there is any understanding of the long term impact and consequences of conflict related sexual violence and what attention is being paid to address them, and finally (iii) determine whether the content, form and politics of the peace processes of any of the three different contexts provide any evidence of an attempt at true ‘social transformation’ with gender justice at its core and if not why?

3. The Contexts:

3.1. The Naga Conflict:

The Indo- Naga conflict is one of the longest running conflicts not just in the country but in the whole of South Asia. Having resisted the forced inclusion of the Naga Hills into British India in 1881, during the mobilization for Indian independence the Nagas under the banner of the “Naga Club”, petitioned the Simon Commission “to leave us alone to determine for ourselves as in ancient times”. Thereafter the Naga National Council (NNC) formed under the leadership of Angami Zapu Phizo, declared the Naga region an independent state on August 14, 1947. Prior to this in a historic meeting between Mahatma Gandhi and the Naga leaders, Gandhi assured the delegation that under no circumstances would force be used against them and that the Nagas were free to stay out of the Indian National Council. A plebiscite called on the issue of Naga independence in 1951 had 99 per cent of the Nagas give their verdict for an “independent” Nagaland. The Indian State’s response was a massive and brutal show of force. The Armed Forces (Special Powers) Act was enacted in 1958 to deal with the Naga resistance problem. This draconian Act which supposedly was enacted as a temporary special measure equipped the armed forces with unbridled powers that totally crimped the fundamental rights of citizens and is in operation to date.

What followed thereafter were years of extensive and intense counter-insurgency operations by the Indian State which included combing operations, arbitrary detentions, burning down of whole villages all marked by extreme levels of violence and brutality. Naga women were especially and strategically targeted; raped, sexually abused and brutalized to teach the ‘insurgents/rebels’ a lesson as well as to break them down psychologically. The Nagas were known to be extremely protective about their women and children. Historically as head hunting warrior tribes constantly at war with their neighboring villages each tribe had a fairly elaborate defense structure and hierarchy to protect the women

and children. Only the most able and bravest warriors formed the inner core of defenders and were assigned this task. To be able to break through this formidable defense and get to the women meant the greatest victory for the aggressors and absolute defeat both physical and psychological for the defending tribe. A measure and assessment of masculinities – patriarchal notions of personhood pitted one against the other. In addition, women were also looked upon as the most ‘prized possession’ and as the keepers of the tribe’s culture and identity. By violating the women, the message conveyed was that of trampling upon the tribe’s inner core of being. Many of the instances of brutalization also took place inside or in the vicinity of churches which were sacred sites held with immense reverence and awe by recently converted Nagas. These violations deeply hit and crippled the Naga psyche. In addition, for the Indian State and its security forces, the intensity of the sexual violence was determined in part by the ‘othering’ of people from the peripheries. With clear differences in appearance, food, culture and religion from what is perceived as mainland India, the ‘othering’ of the Nagas was easy.

The periods of violence were also punctuated by a series of ‘peace initiatives’ which were at best ‘band aid’ attempts towards a political solution, clearly lacking in sincerity and commitment. As such these simply fueled the resistance further making it more complex with the formation of the National Socialist Council of Nagaland (NSCN) in 1980 which subsequently split into two factions—the Isak-Muivah faction (NSCN-IM) and the SS Khaplang faction (NSCN-K) in 1988. Both these outfits continued their movement with an avowed objective of establishing a Nagalim (greater Nagaland)⁸ comprising all Naga inhabited areas.

⁸ The Nagaland Assembly has endorsed the ‘Greater Nagalim’ demand — “Integration of all Naga-inhabited contiguous areas under one administrative umbrella” — as many as five times: in December 1964, August 1970, September 1994, December 2003 and as recently as on July 27, 2015.

Finally, in 1997, the NSCN-IM and the Union government entered into a ceasefire agreement and have since held over 80 rounds of dialogue to resolve the conflict. A similar ceasefire agreement was signed between the NSCN-K and the government in April 2001.⁹ Alongside attempts at reconciliation¹⁰ amongst the different Naga tribes, intra-tribal feuds, fresh demands for greater autonomy continue. Civil society organizations, the Church, particularly the Baptist Church, and women's organizations have played remarkable roles in brokering peace in Nagaland.¹¹ In July 1997, the Baptist Church organized the Atlanta Peace meet where the NSCN leadership accepted initiatives to start an unconditional dialogue process while the NMA's role in determining the terms of the ceasefire agreement in 1997 has been unprecedented. Apart from urging for dialogue with the State a key thrust of peace initiatives by organizations like the Naga Hoho, the apex tribal council of the Nagas, and the Naga Mothers' Association (NMA) and tribal councils belonging to the different tribes in the State have been to bring about reconciliation between the warring factions and tribes. Indeed, the internecine clash between the Naga outfits has become a subject of a political ball game and it remains the biggest obstacle in establishing peace in the state despite the persistent efforts of the Naga Reconciliation Forum towards bringing about peace and unity among the Nagas through reconciliation by appealing to Christian values of forgiveness and brotherhood.

⁹Turf wars between Naga groups have resulted in further split of both the NSCN-IM and the NSCN-K. The NSCN-KK (Khole - Kitovi), a splinter group of NSCN-K, was formed on 7 June 2011; and the Zeliangrong United Front (ZUF), a Manipur based Naga group, split from the NSCN-IM on 25 February 2011.

¹⁰ In a meeting organized by the Forum for Naga Reconciliation (FNR was formed in May 2008) on 27 February 2014 in Dimapur, altogether 42 community groups extended full support to the Naga reconciliation process.

¹¹ The civil society organizations in Nagaland such as the Forum for Naga Reconciliation, the Naga Hoho and many other women's and students' organizations have played an important role in laying the groundwork for the emergence of lasting peace in the region. These are the actors who are working as a bridge between the various regions which comprise Nagalim, in Nagaland, Arunachal Pradesh, Assam, Manipur and parts of Myanmar; and without any substantial political overtones. They have been successful in reaching out to communities, both Naga and other ethnic tribes, and promoting dialogue and understanding at the civil society level between contesting aspirations of communities in the region, which the political outfits engaged in talks have not been able to do. They have joined efforts to talk to top rebel leaders to stop fratricidal killings among Naga insurgent factions and extortions and threats, and to include more women in the peace talks.

In recent times, in a significant departure from earlier positions, civil society, particularly youth organizations and business associations under the aegis of Naga Council formed an Action Committee for Unabated Taxation (ACAUT) to oppose rampant and multiple tax collection by Naga insurgent groups and question the violence and aggression of the rebel groups which has continued despite the ceasefire. The NSCN however has held on to its position that as a people-mandated revolutionary group, it had the 'right to tax' people.

Indeed, the longest peace negotiations have been between the Indian State and the NSCN(IM) and the outcome is still unclear. After 80 rounds or so of talks an Accord was arrived at in 2015 with the Indian Government under BJP. This much awaited Naga Peace Accord has however been shrouded in deep secrecy with nobody being clear what it actually contains and whether the much talked about Naga unification i.e., integrating all contiguous Naga inhabited areas under a single administrative roof has been conceded to.

3.2 The Mizo Conflict:

Before the formation of the state of Mizoram in 1987 the Mizo or Lushai Hills was a district in the state of Assam but like the Naga struggles the Mizo aspirations for autonomy and self-rule also predates the Indian Independence. However, it only came to a head in the 60s. Every 50 years or so a cyclic ecological phenomenon locally called Mautam or 'bamboo death' occurs in the region during which a certain species of bamboo flowers attracting a plague of rats which plunder crops and granaries resulting in famine. The devastating famine of 1959 was met with neglect and apathy by the Assam Government which deepened the resentment and discontentment of the Mizos. A famine relief team which was formed ultimately morphed into the Mizo National Front (MNF). Focused on Mizo nationalism with 'self-determination' as its main objective the MNF led a

secessionist movement aimed at establishing a sovereign Christian nation for the Mizos. This Mizo independence movement lasted till the Peace Accord or the Memorandum of Settlement was signed in 1986.

The movement was met with extremely brutal and hard-hitting counter-insurgency operations by the Indian State. The Assam Disturbed Areas Act, 1955 and the Armed Forces (Special Powers) Act, 1958 were invoked proclaiming the entire Mizo district as "disturbed". This enabled and provided impunity for arbitrary arrests, detentions and killing of innocent persons, brutalization and extreme humiliation of the menfolk, plundering of villages, and rape and sexual abuse of women which were rampant during that period. But the most significant and memorable operations were the air strikes by the Indian air force using incendiary bombs as aerial bombing on civilian territory and on its own citizens. This was unprecedented anywhere in the country and rare in any other part of the globe.

The other significant and deeply subversive operation was the introduction of the Scheme of Grouping of Villages. The massive regrouping of villages purportedly for more efficient management was carried out in four phases. The government introduced the scheme primarily to subdue MNF volunteers who had a strong control of the far-flung areas or the remote villages where the Indian Army was at a disadvantage. It was undertaken to cut off the rebels' food supply and access to shelter as well as to disrupt and break community cohesiveness. Under the grouping policy, nearly 80% of the rural population was shifted from their villages and resettled along the highways. The old villages were burnt, and the new settlements were kept under the control of the security forces until 1970. Thus, the Indian Army managed to isolate the rebels from the people and cut off the supply chain. The grouping resulted in extreme suffering

for the common people. Communities were broken up, people were forced into different camps and often agreement papers were signed at gunpoint, people helplessly watched the torching down of their homes, precious belongings and granaries and killing of their livestock.¹² About 5200 villages were affected by the regrouping and whole populations were made subservient to the power and authority of the security forces. For the Mizos this has been an extremely traumatic and painful experiences which has left behind very deep wounds and has had long a term impact on the social fabric of the otherwise cohesive Mizo society. For women who were already sexually violated, the regrouping added another dimension of trauma and very often a loss of a familiar support base.

As in the case of the Naga movement, driven by the same principles and rationale and to get at the rebels, women from old categories were especially targeted. Women in advanced stages of pregnancy were not spared. One of the most well remembered cases is an incident involving the brutal gang rape of two young women by security forces in 1966. On a fateful November night, in retaliation to an MNF attack on a convoy of the Indian Army, the villagers were herded together, and their homes set on fire by the army. The two women; daughters of prominent community leaders, were held separately in a small hut where soldiers took turns raping them. Recently, after almost 50 years, a compensation of Rs 5 lakhs each was announced by the central government for the two survivors. But it is too little and too late for the two women who have been so deeply traumatized. As reported, one of them just sits quietly all day with a blank expression on her face and needs assistance to even move around. The other survivor suffers from extreme paranoia and nightmares. She refuses to

¹² Nunthara C. (1981) Grouping of Villages in Mizoram: Its Social and Economic Impact - Economic and Political Weekly Vol.16,No.30

sleep alone and is suspicious of everyone around her. In many families across Mizoram this is a common story of survivors of sexual violence.

Enthused by the Mizo National Front's call for 'Zalenna' or Freedom for Mizoram both young and old Mizo women had joined the freedom movement in large numbers enrolling as volunteers in the Mizo National Volunteer (MNV). They mostly received training in basic nursing rather than combat but formed the backbone of the movement by providing food and serving as messengers carrying strategic information. As large numbers of unmarried women volunteered in the MNF women were held in great suspicion by the Indian military personnel and went through great harassment. A volunteer recalls how before she became a full-fledged member of MNF she was repeatedly summoned by the Indian security forces, where her hands and feet were tied, and she was humiliated in public. The repeated humiliation pushed her into joining the armed struggle.

The entire Mizo community and women in particular suffered silently as there was no institution where the victims could seek justice or redress. It was these crimes and violations that prompted various women's groups from across the state to come together to form a powerful organisation called the Mizo Hmeichhia Insuihkhawm Pawl (MHIP) that avowed to work for and fight for the collective rights of the women of the state. MHIP was also anchored on *Tlawmngaihna*, or social philanthropy which was a characteristic principle of Mizo society.

3.3 The Assam Movement and Genesis of ULFA

The death of a sitting parliamentarian in the state of Assam in 1978 necessitated a by-election in the Constituency to fill his seat. During the preparation of the

electoral rolls a dramatic increase in the number of registered voters was noticed. Subsequent media reports and a statement of concern by the head of the Election Commission himself over the massive numbers of illegal settlers and inclusion of their names in the electoral roles triggered off a strong response from student bodies and sections of civil society. Thus, began a mass student movement called the Assam Agitation or Assam Andolan which demanded a revision of the electoral rolls followed by disfranchisement and deportation of illegal voters. In the mass mobilization of civil society, people joined in thousands with women from all walks of life being particularly active and visible. The question of economic exploitation of the state and of using it as a hinterland was added to the initial grievances and the movement took on the blockade of crude oil and other natural resources from the state to the mainland. The State dealt with the agitation with a heavy hand and the movement itself, though conceived primarily as a non-violent protest, led to an extremely violent fallout.¹³

During the same time, a section of Assamese youth decided to launch an armed resistance to what it perceived to be state terrorism and economic exploitation. The United Liberation Front of Assam or ULFA¹⁴ which is a self-proclaimed revolutionary political organization engaged in a liberation struggle against state terrorism and economic exploitation by India for the establishment of a sovereign, socialist Assam was created in 1979. As it sought to establish a united Assamese identity irrespective of ethnicity, caste, class, tribe, or religion, it was tremendously appealing to the otherwise somewhat marginalized multi-ethnic communities of Upper Assam and managed to have strong support bases in both rural and urban Assam. Once again women played an important role and were central to establishing this identity.

¹³ See the Nellie Massacre February 1983.

¹⁴ According to the Government of India, ULFA is classified as a terrorist organization banned under the Unlawful Activities (Prevention) Act in 1990. Concurrently, GOI started military offensives against it, named Operation Bajrang November 1990, Operation Rhino September 1991, Operation All Clear December 2003 and Operation Rhino 2 led by the Indian Army. The anti-insurgency operations still continue at present under the Unified Command Structure

Notwithstanding this strong support during the initial years unlike the Naga and the Mizo resistance movements the armed movement of Assam was never considered to be an all-Assamese resistance movement. Over the years, as ULFA veered away from its initial objective of challenging the economic hegemony of the Indian State and was increasingly associated with extreme acts of brutality and violence, whatever support it had nosedived.

The violence of ULFA has been equally matched by the violence and aggression of the series of counter insurgency operations by of the State. Family members and sympathizers of the outfit bore the brunt of these operations. Women family members or sympathizers have been especially targeted. In a clear message of superior strength and as a warning to desist from supporting or providing shelter to the militants 'combing and search operations' by the security forces were most often accompanied by sexual violence, extreme intimidation and at times looting of livestock. Almost all the reported cases were in the far-flung rural areas of the state – the peripheries of the periphery! Interviews with women ex combatants show that many women who were only marginally involved with ULFA became full-fledged members and combatants following actual atrocities or due to the fear of atrocities.¹⁵

The ULFA has dallied with the call for peace at different moments of time starting with the early 1990s, into 2005 when a People's Consultative Group (PCG) was constituted to prepare the groundwork for negotiations with the government. Eminent feminist writer late Dr. Mamoni Raisom Goswami played a pivotal role in thawing the ULFA resistance and urging them towards a peace ne-

¹⁵ Roshmi Goswami (2015): *Of Revolution, Liberation and Agency: Aspirations and Realities in the Lives of Women Combatants and Key Women Members of the United Liberation Front of Assam(ULFA)*, Heinrich Boll Stiftung, New Delhi.

gotiation. Pressured by the people, the government called off the military operations allowing the cornered ULFA leaders/cadres to get a breather. The PCG held three rounds of dialogue with the union government over a period of one year but the process collapsed as both sides continued proposing conditions and counter-conditions. Finally, peace negotiations took a more definitive direction in 2009 after the arrests of top ULFA leaders. The process was greatly facilitated by a group of eminent citizens of Assam.¹⁶

Despite the opposition to the peace talks by one section of ULFA the peace negotiations which began in May 2010 and has one woman member in the ULFA team has been ongoing since.

4. Sexual Violence :

Sexual violence has a devastating, grievous and corrosive effect on society intimidating and terrorizing not just the victim, but families and the entire community. In most cases it is an act of domination grounded in a complex web of gendered socio-cultural preconceptions and is politically driven. In conflict contexts it is essentially an assertion of power and superiority perpetrated by those who have power, against a targeted population that do not.

In North East India sexual violence has been deployed to establish dominance and supremacy of the nation state. It has been used to torture and humiliate people into submission, or to punish and humiliate the enemy group or a community who opposes and challenges the idea of a homogenous unified Indian nation state. Post-independence the armed movements in the peripheral North East region were an affront to the idea of the nation state and nationalism. In addition, social cultural and economic marginalization of the ‘peripheries’ plus the per-

¹⁶ It was led by eminent intellectual Dr Hiren Gohain, which formed a state level convention, ‘Sanmilita Jatiya Abhivartan’ which called upon both New Delhi and the ULFA to come forward for the negotiation table without any pre-condition (and without delay). It also called upon the government to pave way for free passages to the jailed ULFA leaders so that they can go for an agreed decision (in their central committee meeting) to talk to New Delhi.

ception of the peripheries as the “other” have also contributed to the high incidence of violence including sexual violence in the region by the state security forces.

Amongst the various instances of sexual violence and torture during the Naga struggles the Oinam Hill Village incident that occurred during Operation Bluebird of the Indian security forces stands out in its level of brutality and is clearly etched in the memories of the Naga people. On the fateful day of 9th July 1987, suspected armed cadres belonging to a Naga insurgent group attacked the Assam Rifles Camp outpost in the village in broad daylight. Nine soldiers were killed. Following this incident, the Indian Security Forces launched one of the biggest operations since the 1950s in Naga areas. The counter-insurgency operation was accompanied by rape, torture, arson, vandalism of public and private properties, illegal detention, etc. The whole village of Oinam was detained in an open ground for many days. Women were openly raped and molested and two pregnant women were forced to give birth in full view of the Indian security forces. The intent was to send out a message to the Naga resistance movement of retribution based on superior power and strength.

Similarly, the Mizo Hills during the 20 years of armed rebellion witnessed some of the worst forms of sexual violence and punitive measures from the Indian security forces. Civilians comprising of men and women faced the brunt of military might and violence. The forms of torture unleashed under the ‘culture of impunity’ in a far-off peripheral territory of the Indian Union have remained unspeakable. Sexual violence was indeed another form of extreme torture. For women victims of torture, the experience remains an extremely painful and private memory. In a documentation produced in the late 90’s by the North East Network, a women’s rights organization, women survivors in Mizoram spoke about their ordeal for the first time – some twenty years or so after the incident.

For the women there was no closure to the two decades old pain and horror as there has never been any support to deal with those memories. While the women spoke, the men stood by extremely embarrassed at the outburst and public display of emotions in an otherwise rather stoic community and also perhaps for having failed to 'protect' their 'women'.

Sexual violence manages to denigrate and destroy the communities targeted because social and cultural structures are so deeply entangled with constructed ideas of gender and notions of purity/impurity of women or of her being the property of the male. For the men of the tribal communities of North East India deeply bound by the cultural and social mores of tradition and customary practices, sexual violence against the women of their communities is the ultimate humiliation and the destruction of his constructed highly prized masculinity.

The Indian armed forces are not the only perpetrators of sexual violence. While it has been easier to surface sexual violence by the State security forces, it has been far more difficult to identify or convince people to talk about sexual violence by the armed militant/rebels. The number of incidents undoubtedly are fewer, but the patterns followed are similar. Apart from individual cases of sexual violence and torture by the non-state outfits in incidents resembling the Oinam case, mass rape of women has taken place in remote villages of the periphery by militant outfits to either establish supremacy over a rival outfit or to teach the villagers a lesson. Moreover, in a few cases documented by the North East Network there emerges two categories of women who seem to have been targeted – women whose community is socially, ethnically or economically peripheral to the dominant militant group or strong independent women who have dared to question 'excesses', express dissent or simply asserted their individuality.

While all women are adversely impacted upon in situations of protracted armed conflict the plight of a woman perceived to be associated with a militant outfit either as an active “combattant” or as a sympathizer the violations are extremely brutal, but the general response is somewhat different. In Assam there have been a fair amount of protests by human rights groups and civil society organizations against sexual violence, yet when it involves a woman combatant the response has been different. In the ongoing peace talks between the ULFA leaders and the Indian government while there is a clause for the ‘disappeared members’ of the outfit, but there none for the survivors of sexual violence. In interviews conducted with women members of ULFA it is clear that for the woman combatant, victimhood is closely intertwined with notions of agency and justice therefore needs to be understood and addressed taking that complexity into account. A middle-aged woman is a constant visitor to a State designated ULFA camp where the members of the outfit live as the peace negotiations proceed. Her eight-month pregnant daughter who was an ULFA member was brutally gang raped and killed by the security forces under the so-called justification of “in the line of duty”. The level of brutality however also surfaces a deeper more insidious and misogynist justification - that of teaching a lesson to a woman who has transgressed social norms in choosing to be associated with a militant group. For the mother of the ‘militant woman’ an important aspect of justice is for a symbolic recognition of her daughter’s role in the armed struggle and she goes to the ULFA camp to negotiate for that.¹⁷

4.1 Sexual violence and the culture of impunity in North East India

¹⁷ Roshmi Goswami:(2016) ‘The Price of "Revolution": Who determines? Who pays?’ in Uma Chakravarti(ed): *Fault Lines of History: The India Papers.*, Zubaan, New Delhi.

Sexual violence in North East India has been particularly facilitated due to the operation of the Armed Forces Special Powers Act 1958. As mentioned, this draconian Act came into operation in 1958 and was first used to curb the Naga struggle in the 1960s as a temporary measure but has remained in operation in different parts of the region over six decades. When it was first promulgated, the Nagaland National Council was the lone resistant movement in the region but since then armed groups have multiplied totally debunking the argument that AFSPA is necessary and helps to curb and contain armed movements. Simultaneously, advocacy for its repeal has continued, the most notable being the recently ended 16-year-old protest fast by Chanu Irom Sharmila who was under detention and kept alive by being force fed for the last 16 years. Hers was one of the most tenacious and unprecedented protests anywhere in the world.

An analysis of the use of AFSPA, clearly indicates that AFSPA is essentially the lawless use of excessive force and has created a legal regime that has spawned impunity for the armed forces allowing them the use of any strategy or tactic without the constraints of legal principles or constitutional safeguards.¹⁸ In the so called “disturbed areas” where AFSPA is in operation structures and processes tend to be overawed by the authority and power of the army as the Special Act shield security forces from arrest and criminal prosecution through provisions of statutory immunity that require the concerned executive authority to grant prior sanction for prosecution. The Act grants extraordinary powers to any military officer, including any commissioned officer, warrant officer, non-commissioned officer and any other person of equivalent rank in the military forces, to use lethal force if deemed necessary, arrest without a warrant using “

¹⁸ In particular, section 6 of the Act ensures : *“No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act”*

such force as may be necessary” including enter and search any premises, and kill, again without a warrant, and on mere suspicion.

International human rights bodies including the CEDAW committee has repeatedly called for a repeal and review of AFSPA. These positions are reinforced nationally by the Justice J.S. Verma Committee, set up in 2013 to suggest amendments to laws relating to crimes against women. Justice Verma Committee voiced the concern that “systematic or isolated sexual violence, in the process of Internal Security duties, is being legitimized by the Armed Forces Special Powers Act, which is in force in large parts of our country” and recommends wide-ranging measures to address this reality. It recommended review of the continuance of the Armed Forces (Special Powers) Act (AFSPA) in the context of extending legal protection to women in conflict areas. Stressing that women in conflict areas were entitled to all the security and dignity that was afforded to citizens in any other part of the country, the committee recommended bringing sexual violence against women by members of the armed forces or uniformed personnel under the purview of ordinary criminal law; taking special care to ensure the safety of women who are complainants and witnesses in cases of sexual assault by the armed forces; and setting up special commissioners for women’s safety and security in all areas of conflict in the country. However, army officials defended the Act saying that removing the requirement for sanction in cases of violence against women, as recommended by the Justice Verma Committee, would have a “de-motivating” effect on army personnel.¹⁹ Thereafter in a shocking turn of events the Supreme Court of India upheld the constitutional validity of the AFSPA, ruling that the powers given to the army were not “arbitrary” or “unreasonable.”

¹⁹ Lt. Gen. Harwant Singh, Former Deputy Chief of Staff for the Army wrote: “No military personnel would want to get involved in false civil cases and spend the next few years doing the rounds of civil courts where all false evidence from the hostile local witnesses will be marshalled against them.”

That a very high risk of abuse is inherent in the powers that are formulated very broadly and in very vague language is obvious enough, but the Act contains no effective safeguards to protect rights. The other element of great concern is the ‘culture of impunity’ and militarized violence that this Act has perpetuated in the region. Based on an incisive piece of research conducted in Nagaland, Kikon²⁰ argues that the Indian state is deeply implicated in escalating the culture of sexual violence and impunity in Nagaland for the impunity that AFSPA provides to the Indian security forces has legitimized this culture of violence. But the Government of India is yet to accept its role and responsibility in the destruction of property, the psychological trauma and loss of lives in the Indo-Naga conflict and the breakdown of the social fabric of Naga society. Kikon contends that though the post 1997 ceasefire period came to be known as the era of the peace process during this period violence against women escalated. She points out that while Naga women activists and advocacy groups emphasize that survivors of sexual violence must not ‘suffer quietly’ the social stigma attached to sexual violence is glaring as the general tendency is to blame the woman. For a community which has known sexual violence to be used as a weapon of dominance comments from the community such as: *‘Men can smell the sexual signals that girls give out. They attract men and get raped’* are completely incongruous. Kikon points out that the culture of impunity that has seeped into Naga society allows perpetrators of sexual violence to escape justice, while their victims are trapped between exhortations by women's advocacy groups not to ‘suffer quietly’ and the social stigma attached to sexual violence.

²⁰ Dolly Kikon (2017), “Memories of Rape: The Banality of Violence and Impunity in Naga Society”, in Uma Chakravarti (ed) (2016) *Fault Lines of History: The India Papers*, Zubaan, New Delhi.

The predominant logic of the patriarchal pedestals of moral chastity and virginity that underpin these reactions also lie embedded in the extensive militarization of Naga society as a consequence of the protracted Indo-Naga armed conflict. The militarization process tore communities apart, heightened inequalities inherent in traditional norms and practices, created new ‘saviours’ and new power imbalances. Families disintegrated as majority of the men went underground to join the armed struggle and women were left to sustain and hold the family together. But despite the fact that Naga society today has considerable numbers of woman-headed households singlehandedly grappling and managing a range of socio-economic issues this has not necessarily changed the positions or perspectives of women themselves. Patriarchal mores are stronger than ever before, and as Kikon points out in cases of survivors of sexual violence and teenage pregnancies, ‘it is the hymen centric moral cultural code that is perpetuated in overwhelming ways.’²¹

Kikon’s account of a fifteen-year-old survivor of sexual violence is telling for she was repeatedly sexually abused by her father who being a cadre of one of the armed Naga outfits lived in the ceasefire camp, where newly disarmed insurgents were relocated.²² Many thousands of Naga insurgents have languished in these camps since the 1997 ceasefire. Similarly, in Assam as the peace negotiations proceed at a snail’s pace many men languish in the designated camps awaiting an uncertain future. If the frustration brought about by languishing in these camps with an uncertain future is cited as an example for these cases of domestic violence there are also cases as documented by the North East Net-

²¹ Ibid

²² Ibid

work²³ of domestic violence by surrendered militants in Assam who are not languishing in camps but have become extremely powerful with the ‘surrender packages and settlements’ that they signed with the State. As it were, domestic violence mostly goes unreported but when it involves an intimate partner who is also armed and a macho ex militant then the possibility of reporting is almost nil. In the context of the Nagas, Kikon contends that, “every Naga woman has experienced humiliation and insults from the men on the basis of her womanhood, but these men are not outsiders or strangers. They are their ‘respected’ uncles, cousins and in some cases their fathers or brothers who never fail to remind them about the predestined inferior roles that have already been slated out for them”.²⁴ In fact as she further elaborates in the present context of the Nagas the two institutions which mostly get away with sexual violence and reinforces the impunity provided by the AFSPA are the family and the armed groups. So much so that it can be argued that today in Naga society sexual violence and impunity have become almost banal – so commonplace that they are everywhere and yet almost subterranean as they are unacknowledged.²⁵

The young Naga girl’s story referred to, took on different dimensions as the incident was reported to the police by the girl’s aunt, and the aunt and the father belonged to rival armed groups. And thus, the case travelled between different legal jurisdictions – the insurgent courts, the customary family meetings, and the state police stations. Redress eluded the young girl as political and family rivalry got intertwined and the state agencies were reluctant to get into an ‘internal’ matter which also involved rival armed groups. As Kikon points out, this case is important because the act of sexual violence transgressed the boundaries

²³ North East Network reports 2014.

²⁴ Dolly Kikon (2002), *Political Mobilization of Women in Nagaland: A Sociological Background* in Walter Fernandez and Sanjay Barbora (eds) *Changing Women’s Status in India: Focus on the Northeast*, Guwahati NECRC pp 174-182

²⁵ Uma Chakravarti (ed) (2017): *Introduction in Fault Lines of History: The India Papers.*, Zubaan, New Delhi.

of the family, the political and legal jurisdiction of the rival armed group, as well as the state agencies. And yet, finally none of the institutions attempted to hold the perpetrator accountable and get justice for the young girl.

It is however not just an ‘internal’ matter. With the two decades old peace talks still eluding a conclusive resolution, Naga society today is caught up in what seems to be a permanent state of impermanence. Such a fragile context requires agility and high alertness to political maneuvers, possibilities, and affiliations however flawed or temporary those may be. And gender justice is the first to be bartered away either for the sake of morality or for political expediency. The fact that women are not perceived as individual persons but rather as the ‘valuable property’ of a family or the ‘carriers of the cultural identity’ of a community makes that easy.

The same logic underpins action that is often taken by non-state actors. While state agencies hesitate to act, the armed groups have become what Kikon refers to as ‘harbingers of justice’ and often dispense their own form of justice. In cases of sexual violence particularly competing authorities that involves both state and non-state actors, often present their own versions of justice.²⁶ In many instances’ perpetrators of sexual violence (civilians or cadres) have been given ‘capital punishment’ when tried and found guilty in the tribunals of the armed groups. Not all women however oppose these attempts, but a sizeable section do point out that these attempts by the armed groups are merely face-saving attempts with no justice for the victim. In a well publicised case of sexual violence by cadres of NSCN(IM) there was a standoff between the women’s organ-

²⁶ Since the 1997 Indo-Naga ceasefire agreement, the legal institutions of the state, quasi-legal units consisting of different tribunals and institutions set up by the Naga armed groups to adjudicate between the Naga public and the armed groups and the state administrative organs including the tribal customary courts all co-exist within their respective constituencies.

ization Totimi Hoho and the armed group as the women demanded that the perpetrators be handed over to the state police for prosecution while the armed groups maintained that the violators would be dealt with by its own police of the Crime Suppression Division.

Women also draw attention to the high levels of class and race biases in the reactions or trials done by the armed or un-armed non state actors. As pointed out when the perpetrator belongs to the same tribe or community there is great leniency²⁷ but when it is someone outside the acceptable ethnic circle then the reaction can be extremely violent as the 2015 Dimapur Lynching incident showed.²⁸ A woman opined that the rage which led to the accused's death was not due to wanting justice for the rape survivor but the outrage at the temerity of an outsider laying claiming to a woman's body which was the community's property. As a result of years of militarisation of Naga society what has emerged today is that of the non-Naga being a distinct enemy and the myth that the Naga men automatically uphold justice and honour and would not indulge in sexual violence and thereby a collective denial of gender-based violence in Naga society.

5. Customary Laws and Gender Inequalities:

The overwhelming influences of Christianity notwithstanding both the Nagas and the Mizos are inherently governed by their customary laws and practices. And while men may choose to be unshackled by some of the positive norms and code of conduct of customary laws women have to uphold without questioning all that is 'traditional'. Both the Naga and the Mizo peace negotiations have

²⁷ For instance, in August 2007, four college students abducted and raped a woman from Showuba village near Dimapur. The four were arrested after a complaint was filed at a local police station. The Showuba Village Council court tried the youth and let them off after imposing a fine of Rs. 15 each (Banerjee 2016: 150).

²⁸ In March 2015 a huge mob broke into the main gates of the Dimapur Central Jail and dragged a non-Naga man accused of raping a Naga girl out of the jail, beat him up, paraded him naked, lynched him and hanged his body in the clock tower of the town while the police remained a helpless spectator.

proceeded with the commitment to respect and protect the customary practices. An important clause of the Mizo Settlement agreement was to keep the customary practices and laws intact. Today both Mizoram and Nagaland are permitted by Article 371(A) of the Indian Constitution to frame its own laws that align with its customary laws. Article 371(A) of the Constitution states, “Notwithstanding anything in this Constitution, no Act of Parliament in respect of religious or social practices of the Nagas, Naga customary law and procedure, administration of civil and criminal justice involving decisions according to Naga customary law, ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.”

The customary laws and practices of both these highly patriarchal communities though are extremely gender discriminatory and among others deny women land rights and a role in decision making inheritance rights to ancestral property more specifically land rights. Above all these gender discriminatory customary norms and practices deny women their ‘personhood’.

Mizo women participated in large numbers in the Mizo resistance movement but as far as the discourse of the MNF movement and Mizo nationalism was concerned, it was perceived primarily as a resistance organized and led by men where the contribution of women remained sidelined and invisible. The portrayal of women merely as victims of sexual violence is often highlighted but till date the contribution of women and their participation has been systematically excluded in the larger discourse of the MNF movement. The women’s question - victim or agent did not feature at all in the agenda during the peace negotiations with the Indian State. Rather, a total protection of all customary laws and practices including gender discriminatory ones was a non-negotiable clause. So, while the Mizo Peace Accord signed with the Indian government protected Mi-

zo customary practices in the post conflict phase Mizo women under the aegis of the MHIP have had to fight a long and tough battle for inheritance rights and right to political participation which has resulted in some degree of victory. Formerly Mizo women were terribly constrained in raising a voice against domestic violence in their own homes. Under Mizo customary laws a Mizo man could divorce his wife by simply uttering the words, 'Ka Ma Che' or 'I divorce you'. A divorced woman had to immediately leave her marital home and all her belongings even if everything was jointly acquired by her and her husband. She also had no right to her children sometimes not even visitation rights. Any dissent or questioning by the woman often resulted in men taking this step. But with the concerted efforts by MHIP this was changed first with the Mizoram Divorce Ordinance(MDO) in 2008 which subsequently got adopted in 2014 as the Mizo Marriage, Divorce & Inheritance Act in 2014.

Similarly, although Naga women have participated in several movements, traditionally, they have been denied inheritance rights and have been prevented from participating in the decision-making processes with customary laws being cited as the rationale for this denial. Several sociological studies however indicate that there is no homogeneous body of customary laws among the Naga community. They argue that the Naga customary laws are plural in nature and differ from tribe to tribe and village to village, and that very often the male led tribal bodies of Nagaland misinterpret customary laws to deny women their rights.

While Naga women's contribution brokering peace between warring factions and their role in determining the terms of the ceasefire negotiations is well known and documented, during this long-drawn ceasefire period Naga women have been involved in another struggle. Under the aegis of the Naga Mother's Association Naga women have been battling with trying to change some of the

extremely gender discriminatory customary laws around inheritance and land rights as well as a long battle for inclusion in political decision making.²⁹

In November 2016, a new chapter in Nagaland's political and feminist history seemed to have opened up, when Nagaland revoked a 2012 resolution passed by the state assembly in 2006 exempting the state from the application of Article 243(T), Part IX A of the Constitution, dealing with reservation of seats in municipalities. The High Court had upheld the state government's position and the Naga Mothers Association (NMA) appealed to the Supreme Court, where a final order is pending. In 2006, the Nagaland Assembly passed the Nagaland Municipal (First Amendment) Act in 2006 which provided for 33 per cent reservation of seats for women in urban local bodies. But as the NMA pressurized the government to hold elections with the quotas, the government under pressure from tribal men began to waver and took the stand that reservation for women would be in conflict with customary law and took recourse of the special Constitutional provisions under Article 371(A) and passed a resolution.

But the NMA's jubilation was short lived, for as soon as the dates for the elections were notified, tribal bodies called for a boycott to oppose the 33 per cent reservation for women. What followed was extreme aggression, violence and intimidation. Many women were forced to withdraw their nominations, protestors ransacked government offices and vehicles and two persons lost their life. Today there is a complete impasse. For the first time there seems to be unanimity among all Naga men and they stand opposed against a one-point agenda – reservation for women as it goes against their customary laws and norms. Thereafter even the women became polarised and were pressured by their communities and families to give up their stand. For the few women who stand

²⁹ Nagaland is the only state in the country that has never had a woman MLA. While every village and tribe have its own women's wing, there are no women on the village council and the apex decision-making body of Naga tribes, the Naga Hoho, too has no women's representatives.

by their position it is a question of gender justice and women's agency. So, the struggle goes beyond electoral representation to a gender-just society. Similarly, in their imagination in dealing with sexual violence these women seek an acknowledgment of women's personhood and of justice for the woman based on notions of equality and not through the patriarchal lens of 'protecting property and bodies'.

6. The quest for Justice:

This recent Naga embroil throws up important points about what lies at the core of women's struggles in politically contested contexts and transitions: How do women imagine justice and how do they balance justice with social and political commitments in communities involved in protracted armed struggles and resistance? Drawing from the analyses of Galtung³⁰ and Farmer³¹ and applying it to transitions Mathew Evans³² elaborates that social injustice and structural violence are in fact synonymous. They denote a condition in which violence occurs not because of being precipitated by the direct actions of specific individuals against other specific individuals, but rather because of structural social arrangements embedded in political and economic organizing of the social world. This arrangement is both structured and structuring, constricting the agency of its victims,³³ and violent because it causes injuries of a deep nature. For the Naga and the Mizo women the social arrangements of their respective communities are embedded in the structured customary laws and practices which have been constricting their agency as full members of their communities. So, while justice for sexual violence is important, in a moment of political transition ac-

³⁰ Johan, Galtung, (1969) Violence, peace, and peace research. *Journal of Peace Research*, 6(3), 167–191.

³¹ Paul E. Farmer, Bruce, Nizeye, Sara, Stulac and Salmaan Keshavjee, (2006) Structural violence and clinical medicine. *PLoS Medicine*, 3(10), 1686–1691.

³² Mathew Evans, 'Structural Violence, Socioeconomic Rights, and Transformative Justice', *Journal of Human Rights*, 15, 1-20, D01:

³³ Paul E. Farmer, Bruce, Nizeye, Sara, Stulac and Salmaan Keshavjee, (2006) Structural violence and clinical medicine. *PLoS Medicine*, 3(10), 1686–1691.

knowledging and correcting this systemic and entrenched discrimination is an essential step in implementing guarantees of non-discrimination and gender equality. As Aguilar highlights an essential step in identifying the different dimensions of women's experience during and after conflict is to understand 'gender deficits and gaps in legal, economic and political structures that existed before the conflict: the dynamics of power and control over economic resources; the gender dimension of the economic system within communities and families; and the cultural factors that determine social and economic status in specific contexts.'³⁴ In the Mizo context for instance the village regrouping scheme is remembered with the greatest pain. For women it has been especially traumatic for among other reasons cited it also took away women's power and control over economic production and valued knowledge of local contexts.

An emerging approach that is more closely linked to the realities, needs and expectations on the ground in political transitions is that of transformative justice which entails a "shift in focus from the legal to the social and political, and from the state and institutions to communities and everyday concerns."³⁵ Elaborating on what transformative justice entails and contrasting it with transitional justice Paul Gready and Simon Robins propose that perhaps a transformative approach is more relevant to address the needs and realities of political transitions. It is certainly more relevant to the women for, "Transformative justice is not the result of a top-down imposition of external legal frameworks or institutional templates, but of a more bottom-up understanding and analysis of the lives and needs of populations."³⁶ Transformation is then not limited simply to 'political settlements' but include a range of approaches that bring in the social,

³⁴ Gaby Oré Aguilar, (2011) 'Asserting Women's Economic and Social Rights in Transitions', in Gaby Oré Aguilar and Felipe Gómez Isa (eds): *Rethinking Transitions, Equality and Social Justice in Societies Emerging from Conflict*, Intersentia UK.

³⁵ Paul Gready, and Simon Robins (2014) *From transitional to transformative justice: A new agenda for practice*. *International Journal of Transitional Justice*, 8(3), 339–361.

³⁶ Ibid

political and economic dimensions.

In addressing the causes and consequences of a conflict the issue of justice is undoubtedly of vital significance. The conflict contexts in North East India particularly the Naga and the Mizo contexts succinctly illustrate how the complexities of justice, inequalities and transitions are especially intractable when it comes to gender. While gender inequalities in itself does not cause conflict, it determines the nature of conflict, enables it and is directly connected to its consequences.

Transformative justice in post-conflict context in particular therefore is of special significance for women and other marginalized communities for in its essence it implies a process of transformation of oppressive hierarchies and discriminatory social structures and of the possibility of positive peace. As Chinkin points out - ‘In essence, a window of opportunity exists for societies emerging from conflict to develop and institutionalize legislative, policy and other measures that fully protect and advance women’s human rights and to give meaning to and seriously engage with issues of accountability, reparations, human security, peace and justice and social and political agency. A post-conflict context – or the “post-war moment” therefore can provide strategic opportunities for transformation in all areas of women’s lives.’³⁷ For women this transformative potential of political transitions is deeply significant and increasingly women with diverse political mandates have collectivized to push for critical policy reform and legislation on gender equality as was done during the drafting of the new Constitution in Nepal.

³⁷ Chinkin Christine - Protection ESCR —<http://www2.ohchr.org/english/issues/women/docs/paper>

Examining conflict-related patterns of violation of ESC rights, Aguilar³⁸ argues that the fulfillment of economic and social rights (ESCR) is central to achieving the 'true social transformation' demanded by women advocates in transitions. Translating the far-reaching principles of economic and social rights into practice calls for both the removal of structural discrimination and violence, as well as the provision of entitlements and specific rights-guarantees for the most disadvantaged in society. This makes these rights particularly relevant to the struggle of women to break the circle of exclusion, disempowerment, poverty and lack of sexual and reproductive autonomy: a circle that makes women a target of direct violence. The Colombia government and the FARC rebels pledge to both improve access to land for women and ensure perpetrators of sexual violence, including rape, will not be eligible for amnesty is therefore an extremely important milestone.

Persistent advocacy by women's rights advocates and women human rights defenders has positively resulted in some level of focus on sexual violence. While this is necessary an exclusive focus on rape and other forms of direct sexual violence fails to recognize the full range of abuses committed against women and girls and or what women suffer in situations of violence³⁹ and also what women aspire for in a moment of political transition. As Schmid argues during conflict not only do women suffer existing discriminations and violations but also multiple and interrelated human rights violations. She shows for instance that a woman losing her husband or children not only suffers the direct violations of civil and political rights (e.g., the killing or disappearance of her loved ones) but often also endures dire economic, social, and cultural consequences by becoming the sole caretaker of the household. A very narrow conception of what con-

³⁸ Gaby Oré Aguilar, (2011) 'Asserting Women's Economic and Social Rights in Transitions', in Gaby Oré Aguilar and Felipe Gómez Isa (eds): *Rethinking Transitions, Equality and Social Justice in Societies Emerging from Conflict*, Intersentia UK.

³⁹ Evelynne Schmid, (2012) "Women's Freedom from Want after Armed Conflicts: Does the Inclusion of Economic, Social and Cultural Rights in Transitional Justice Help Women? NJA Law Journal (Special Issue).

stitute human rights violations fail to meaningfully deal with women's experiences in conflict and during the ceasefire or peace building period. Not only do women suffer other human rights violations but women are also disproportionately affected by denials and discriminations with regard to issues, such as in accessing land tenure, property, education or healthcare.⁴⁰ In interviews with the ULFA women they have talked about the 'violence' of the peace times – of their inability to break out of the socio-economic deprivations and entrenched gender inequalities that they now have to grapple with as 'civilian' women. And the Naga women's present struggle for representation in decision at this important political moment in Naga history is a call for rectification of the 'denials and discriminations.

Similarly, Bell and O'Rourke point out that in peace negotiations, "matters that address underlying issues of discrimination, domination and improvement of physical, social and legal security particularly with regard to gender, are often addressed as secondary, or not at all."⁴¹ In fact, in some contemporary contexts like Afghanistan where women are being especially targeted by extremists' groups on issues of rights to education, participation in public life or reproductive healthcare, the need to address socio economic inequalities have acquired special significance. These are critical areas for rebuilding women's lives and also opportunities for social transformation for women in a post conflict context.

Gender inequalities deeply impair women's access to a range of rights which get exacerbated during conflict and often neglected in the post conflict phase. Women are doubly victimized due to the entrenched inequalities as well as by

⁴⁰ Ibid

⁴¹ Christine Bell and Catherine O'Rourke,(2007)"Does Feminism Need a Theory of Transitional Justice? An Introductory Essay," *International Journal of Transitional Justice* 1, no. 1 25 and 30.

the impact of the conflict. Not only do systems of wars and armed conflicts exacerbate existing structural inequalities and vulnerabilities but also have far reaching human rights implications for women. For instance, the violence that women experience during conflicts and war get so deeply internalized that it impairs women's capacities to overcome poverty and exclusion in transitions. As mentioned earlier while many post conflicts processes may have included sexual violence within its mandate addressing the impact on women exclusively through the lens of direct sexual violence ignores the gendered dimensions of conflict. Moreover, while a focus on CPR is important a narrow focus ignores the ways in which women and girls often do not enjoy the *conditions* that make the exercise of civil and political rights possible in the first place.⁴² What is important is to repeatedly foreground that gender inequalities is a continuum in women's lives.

Like most well-known and well documented peace processes the processes in this region too has been characterized by being top down, male led and essentially power-driven transactions. Nowhere has this been more evident than in the recent Naga context. Traditionally, both Naga and Mizo women have been restricted by gendered cultural and customary norms with a rigidly defined sexual division of labor where women carry the heaviest burden gathering firewood and water, cooking, caring for children, the elderly and the ill, as well as work alongside men in the fields. Women are therefore already grappling with inequalities of a pre conflict stage and these struggles continued during the period of active conflict and now well into the transition.

The key thrust of Women, Peace and Security globally is the need to change this approach. Women have critiqued not only wars and conflicts but also the essentially male led and dominated transactions during political transitions

⁴² Radhika Coomaraswamy (2015) - Preventing Conflict, Transforming Justice, Securing the Peace - A Global Study on the Implementation of United Nations Security Council Resolution 1325, UNW Oct.

where either women's rights are bartered in the interest of political expediency or the pervasive existing gender inequalities and biases in society limit women's meaningful participation at every level and stage of peace negotiations and post-conflict transitions. The reality of the three contexts also underscores the need to move out of this transaction mode and aim at something that is truly transformative. This would necessarily entail a focus on local needs and priorities by ensuring voices of the marginalized are heard, participation and ownership enhanced, process as well as outcome prioritized, and unequal and intersecting power dynamics challenged. And as such the Naga women's struggle for Women's reservation and right to political decision making at this juncture of Naga history is of paramount importance.

Gready's arguments questioning the social in transitional justice resonate with feminist discourse that making a distinction between the private and the public depoliticizes the domestic. This has led to the marginalization and invisibility of everyday violence perpetrated against women, notably violence occurring in families and communities which are rooted in structural causes. Judicial processes that emphasize sexual violence against women reduces women to their injury in a violation and perpetrator – centred way, rather than discussing the gendered power relations that lead to violations. Denial of a range of rights for women under the customary laws of the communities in North East India is a manifestation of gendered power relations. Similarly, his arguments resonate with the action-oriented approaches to human rights which are rooted in everyday perspectives and local contexts: rights are shaped through actual struggles informed by the understandings of those articulating and claiming them in specific contexts. Gready contends that by explicitly acknowledging and seeking to challenge inequalities linked to power and hierarchy, and by arguing that human rights are defined by struggle and born of experiences of deprivation and op-

pression, rights are cast in explicitly transformative terms.⁴³

A key element necessary for an approach which entails transformative justice is the inclusion of the affected communities as agents in shaping the agenda for policy and practice, a focus on addressing socio economic injustices, and in addressing the structural roots of present injustices.

REFERENCES:

Anastasia Moloney (2016), “Women’s Voices Heard Clear and Loud in Colombia’s Peace Deal”, reports edited by Katie Nguyen: The Thomson Reuters Foundation.

Anastasia Moloney,(2016),”No Amnesty For war rapists: Colombia Peace Talks turn to Women’s Rights”, edited by Ros Russell: The Thomson Reuters Foundation.

Chinkin Christine,()- Protection ESCR —
<http://www2.ohchr.org/english/issues/women/docs/paper>

Christine Bell and Catherine O’Rourke,(2007).”Does Feminism Need a Theory of Transitional Justice? An Introductory Essay,” *International Journal of Transitional Justice* 1, no. 1 25 and 30.

⁴³ Paul Gready and Simon Robins, (2014)’From Transitional to Transformative Justice: A New Agenda for Practice. The International Journal of Transitional Justice, Vol. 8, 2014, 339–361, doi:10.1093/ijtj/iju013T

Dolly Kikon (2002), "Political Mobilization of Women in Nagaland: A Sociological Background" in Walter Fernandez and Sanjay Barbora (eds) *Changing Women's Status in India: Focus on the Northeast*, Guwahati NECRC.

Dolly Kikon (2015), "Sexual Violence and the Culture of impunity in Naga Society", *The Morung Express*.

Dolly Kikon (2017), "Memories of Rape: The Banality of Violence and Impunity in Naga Society", in Uma Chakravarti (ed) (2016) *Fault Lines of History: The India Papers*, Zubaan, New Delhi.

Khinyi Woch (2016), 'In support of implementation of 33% women reservation in Nagaland municipal elections 2016', *The Morung Express*, September 6.

Evelyn Schmid, (2012) "Women's Freedom from Want after Armed Conflicts: Does the Inclusion of Economic, Social and Cultural Rights in Transitional Justice Help Women? *NJA Law Journal* (Special Issue).

Economic and Political Weekly (2017) 'Naga Women Fight Back', Editorial, 52 (3), January 21.

Frank van Lierde, (2011)- "We the Widows of the Gun", published by Cordaid, The Hague.

Gaby Oré Aguilar, (2011) "Asserting Women's Economic and Social Rights in Transitions", in Gaby Oré Aguilar and Felipe Gómez Isa (eds): *Rethinking Transitions, Equality and Social Justice in Societies Emerging from Conflict*, Intersentia UK.

Johan, Galtung, (1969) "Violence, peace, and peace research", *Journal of Peace Research*, 6(3), 167–191.

Mathew Evans, () "Structural Violence, Socioeconomic Rights, and Transformative Justice", *Journal of Human Rights*, 15, 1-20, D01.

Nagaland News, (2012) "SC directs Nagaland Govt. to respond on 33% women quota", November 20.

Nagaland Post (2012) “Assembly stands by Art.371(A); rejects women reservation”, Kohima, September 23.

North East Review: Memoirs of a Mizo Rebel.

Nunthara C. (1981) “Grouping of Villages in Mizoram: Its Social and Economic Impact”, - Economic and Political Weekly Vol.16, No.30.

Patrick Hoenig and Navsharan Singh (2014), “Landscapes of Fear: Understanding Impunity in India”, Zubaan, New Delhi.

Paula Banerjee, (2012) “Women, Conflict, and Governance in Nagaland”, in Ranabir Samaddar (ed.), Government of Peace: Social Governance, Security and the Problematic of Space. London and New York: Routledge.

Paul E. Farmer, Bruce, Nizeye, Sara, Stulac and Salmaan Keshavjee, (2006) “Structural violence and clinical medicine”, PLoS Medicine, 3(10), 1686–1691.

Paul Gready and Simon Robins, (2014) “From Transitional to Transformative Justice: A New Agenda for Practice”, The International Journal of Transitional Justice, Vol. 8, 2014, 339–361, doi:10.1093/ijtj/iju013T

Radhika Coomaraswamy, (2015) - “Preventing Conflict, Transforming Justice, Securing the Peace - A Global Study on the Implementation of United Nations Security Council Resolution 1325”, UNW Oct.

Rita Manchanda, (2005), “Naga Women Making a Difference: Peacebuilding in North East India”, in Sanam Naraghi Anderlini (ed) ; Women Waging Peace Policy Commission.

Roshmi Goswami (2015), “Of Revolution, Liberation and Agency: Aspirations and Realities in the Lives of Women Combatants and Key Women Members of the United Liberation Front of Assam(ULFA)”, Heinrich Boll Stiftung, New Delhi.

Roshmi Goswami (2017), “The Price of "Revolution": Who determines? Who pays?” in Uma Chakravarti(ed): Fault Lines of History: The India Papers, Zubaan, New Delhi.

Sanjib Baruah (2003), “India Against Itself: Assam and the Politics of Nationality”, Oxford University Press, New Delhi.

Samudra Gupta Kashyap (2017), “Opposed to 33% reservation for women, Naga bodies call for boycott of civic polls”, The Indian Express, Guwahati, January 5, 2017

Uday on Mishra,(2000), “The Periphery Strikes Back: Challenges to the Nation State in Assam and Nagaland”, Indian Institute of Advanced Study, Shimla.

Uma Chakravarti, (2017): “Introduction” in Fault Lines of History: The India Papers, Zubaan, New Delhi.

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