CHAPTER - 6
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Introduction

In the armed forces, a soldier after completing his basic training at the regimental centre or equivalent takes an oath of allegiance to the Constitution of India. This is primarily to cater for the security and territorial integrity of the country. This is also applicable to the officers on being commissioned to their allotted arm/ service from the respective training academies. It, thereafter, becomes the moral obligation of the commanding officers of these soldiers and officers to look after them in all respects during peace and war to include sub – conventional operations, which have been ongoing since independence. The government of India caters for the sacrifices which are made by these soldiers during war at the international boundary. However, things become different when they are involved in sub –conventional operations which are conducted against the insurgents, terrorists, undergrounds and anti national elements in varying terrain in the urban, rural, hills, dense jungles and ravines. The armed forces have to face these cadres who are well trained and can use the improvised explosive devices (IED’s). It, therefore, becomes incumbent on the government to provide protection to the armed forces personnel so that they can carry out their tasks in good faith and are not worried about being dragged to the civil courts in the end.

When the army is requested by the state government to operate in aid to civil authorities or in internal security duties, it is the District Magistrate (DM) who gives instructions for the deployment and powers to open fire, which are strictly implemented. The situation is different in a counter insurgency scenario, where the army is to be employed over a vast area and more so where the writ of the civil administration is almost non- existent. It is the local population which is supporting the insurgents cause.

The armed forces are applied in the initial stages of the counter insurgency so as to provide a secure environment, which can enable the various institutions of the government to function without any interference. Having done so, the armed
forces, thereafter, function in a manner that strengthens the hands of the civil authorities. The armed forces have been actively engaged for more than five decades in sub conventional operations, which have brought about successes and failures. The wide and varied experience has made the armed forces bring about the requisite changes in approach and methodology to combat sub conventional threats.

For effective employment of the armed forces in an insurgency environment, it is imperative that they are given freedom of action such as search, seizure, arrest and the conduct of follow up operations and should be safeguarded against motivated investigations and being blamed for the legitimate actions undertaken in good faith, while conducting operations.

**Armed Forces (Special Powers) Act 1958 (AFSPA) -**

The AFSPA, 1958 is a law, enacted by the Parliament of India on September 11, 1958, to provide necessary powers and legal support/protection to the armed forces for operations against insurgents in a highly hostile environment. With this the armed forces would be able to meet violent internal situations created by underground militant outfits to further their illegal and unconstitutional causes. It was promulgated to combat the Naga Insurgency and thereafter, it was applied to the “disturbed areas” of other states of the North East. In the 1958 version, only the state government had the power to declare an area disturbed which was modified in 1972, and this power was extended to the Central Government also. Subsequently, parliament enacted the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, effective since July 5, 1990, initially to areas falling within 20 kilometers of the Line of Control with Rajouri, Poonch, Anantnag, Baramulla, Budgam, Kupwara, Pulwama and Srinagar districts declared as disturbed. In August 2001, it was extended to Jammu, Kathua, Udhampur, Poonch, Rajouri and Doda, when these districts were declared disturbed. 20 out of the 22 districts in Jammu & Kashmir (J& K) are under the AFSPA since 1990. During the Punjab problem, the state was brought under the act through the Armed Forces (Punjab and Chandigarh) Special Powers Act of 1983.

The act empowers the army and central armed police organisations, in

1 [mha.nic.in/pdfs/armed_forces_special_powers_act1958.pdf](mha.nic.in/pdfs/armed_forces_special_powers_act1958.pdf)
particular the Assam Rifles, to shoulder the civil responsibilities while fighting insurgency. It is pertinent to mention that the police do not come under AFSPA, but there are enough acts that give it the powers to deal with the any law and order situation.

The Act and its Provisions –

Section 1 - It is an act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.

Section 2 - Definitions - In this act, unless the context otherwise requires -

(a) "Armed forces" means the military forces and the air forces operating as land forces, and includes any other armed forces of the union so operating.
(b) "Disturbed area" means an area which is for the time being declared by notification under 3 to be a disturbed area;
(c) All other words and expressions used herein but not defined, and defined in the Air Force Act, 1950, or the Army Act, 1950, shall have the meanings respectively assigned to them in those acts.

Section 3 - Power to declare areas to be disturbed areas -

If, in relation to any state or union territory to which this act extends, the governor of that state or the administrator of that union territory or the central government, in either case, is of the opinion that the whole or any part of such state or union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the governor of that state or the administrator of that union territory or the central government, as the case may be, may, by notification in the official gazette, declare the whole or such part of such state or union territory to be a disturbed area.

Section 4 - Special powers of the armed forces -

Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area-

a) If, he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary fire upon or otherwise use force, even to the causing of
death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

b) If, he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as training camp for armed volunteers or utilised as a hide - out by armed gangs or absconders wanted for any offence;

c) Arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

d) Enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to, be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

Section 5 - Arrested persons to be made over to the police -

Any person arrested and taken into custody under this act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

Section 6 - Protection to persons acting under Act -

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.²

² Ibid.
Prosecution is permitted only after sanction of the central government. Section 6 of the AFSPA is very similar to the Criminal Procedure Code’s (Cr PC) Section 45, which disallows arrest of public servants and section 197 provides impunity against prosecution. While the supreme court has mandated a government sanction prior to initiating prosecution against police personnel for excesses or killings committed during the maintenance of law and order, the applicability of section 45 of the Cr PC is not allowed in J&K, where the Ranbir Penal Code is applicable and ipso facto the personnel of the armed forces can be arrested for any perceived excesses.

**AFSPA and Supreme Court** -

On November 27, 1997 and 17 July 2001, the supreme court extended the scope of powers vested vide Section 4 and 6 of AFSPA, in the case titled ‘Naga People’s Movement of Human Rights vs Union of India’, to include by implication, the power to interrogate the person arrested and for the armed forces to retain the weapons seized during the operations in their own custody rather than to hand them over to police authorities. The Supreme Court Judgment on Armed Forces Special Powers Act -Supreme Court of India on Armed Forces (Special Powers) Act, 1958, Writ Petition (C) Nos. 5328/80, 9229-30/82, Civil Appeals Nos. 721 to 724 of 1985, 2173-76/1991, 2551/91 and Writ Petition (C) Nos. 13644-45/84 Naga People’s Movement of Human Rights, etc. - Petitioner vs. Union of India - Respondent was decided on 27 November 1997 and Writ Petition No 4198 of 1999 passed on 17 July 2001.

The apex court has also clarified that the instructions issued by the military authorities in the form of ‘DOs and DON’Ts’ while acting under the AFSPA are to be treated as binding instructions which are required to be followed by the members of the armed forces, which are given in the Indian Army’s doctrine for sub conventional operations 2006. It is pertinent that a close perusal of the various provisions available to the police under the provisions of the CrPC vis-à-vis those available to the armed forces under AFSPA would reveal that the police still enjoys more encompassing and wider powers relating to arrest, search, seizure, summoning of witnesses, preventive detention etc than the armed forces. The

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4. See Annexure N.
powers of investigation, in any case, are within the exclusive jurisdiction of the police only.

**Human Rights and Challenges before the Armed Forces** -

The ethos of the army in facing the internal challenges has been to uphold the human dignity, importance to personal values, ensuring fundamental rights and mitigation of hardship to the public. The environment in which the armed forces are operating is of extreme provocation, under the hawk eyes of the media and the ever existing threat of violation of human rights. The armed forces have over the years have been able to put in place a time tested mechanism which will ensure that the human rights cases are dealt within a transparent and expeditious manner. The army headquarters have a human rights cell, with a similar mechanism at the command and corps level. These cells are responsible to process the allegations and reports, collecting the relevant data and thereafter analyzing them from the legal point of view. This results in timely action against any human rights violations.

In 2005, the philosophy of ‘Iron Fist with Velvet Glove’ was enunciated, which emphasized for a humane and people-centric approach, uphold the laws of the land, deep respect for human rights and minimum use of kinetic means, to create a secure environment, without causing any collateral damage. It centers on, truth, justice and transparency. It has been experienced that the use of minimum force is a well proven lesson. This encompasses that based on the particular situation, there is a need to have a judicious, prudent, and appropriate force. The “use of minimum force” and “good faith” are the two ethics which the armed forces are following within the framework of the constitution of India which will also cater for human rights. To ensure scrupulous respect for human rights, exhaustive orders on the subject have been promulgated from time to time. These include:

a) Chief of Army’s Staff’s (COAS) Ten Commandments promulgated in the year 1993 and supplemented in 2005.

b) Do’s and Don’ts while acting under the Armed Forces Special Powers Act,

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5 *Doctrine for Sub Conventional Operations by Headquarters Army Training Command, Shimla, 2006.*

6 *See Annexure O.*
1958, based on the directions of the Supreme Court.\(^7\)

c) Do’s and Don’ts while operating under the code of criminal procedure.\(^8\)

d) Relevant provisions contained in Aid to Civil Authority 1970.

**Armed Forces and Civil Administration -**

It clearly elucidates that if the provisions of the AFSPA have to be invoked with regard to a particular area which has been designated as ‘disturbed area’, then the law and order situation in that area had degenerated to such an extent that the state government was unable to maintain peace and tranquility. Whenever a state government requests for the deployment of the armed forces owing to the police not being able to handle the situation and even when the AFSPA is promulgated, the governance of the state yet remains in the hands of civil administration and not taken over by the armed forces.

It is only, thereafter, that the armed forces and other central forces can be tasked to carry out pro active operations against the insurgents/ militants in that area. These forces will have to play the major role in the security management till the politico process and socio-economic measures begin to take effect and the environment in the state is brought under control. It is imperative to understand that the government gives clear directions to the armed forces for the implementation of the AFSPA and also they are responsible to give the ‘exit orders’. It, thus, becomes an important role of the government to examine the period of engagement of the armed forces at regular intervals which commensurate with the situation on the ground and, thereafter, to be reduced by a workable viable. Therefore, all actions are politically oriented.

The entire state of Manipur (except Imphal municipal area), Nagaland and Assam, Tirap, Longding and Changlang district of Arunachal Pradesh and 20 kilometers belt in the states of Arunachal Pradesh and Meghalaya having common border with Assam have been declared ‘disturbed areas’ under the Armed Forces (Special Powers) Act, 1958 as amended in 1972. The government of Tripura has declared the areas under 34 police stations in full and part of the areas under 6 police stations as ‘disturbed area’.

The entire state of Arunachal Pradesh, Manipur, Mizoram, Nagaland and

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\(^7\) See Annexure P.

\(^8\) See Annexure Q.
parts of Sikkim are “protected areas” under foreigners (protected area) order, 1958 issued under section 3 of the foreigners act, 1946 by Ministry of Home Affairs. Some areas of Sikkim have also been declared ‘restricted area’ under the foreigners (restricted areas) order, 1963. In terms of foreigners (protected area) order, 1958 and foreigners (restricted areas) order, 1963, no foreigner shall enter into or remain in any protected area/restricted area except under and in accordance with the permit issued by the central government or any officer authorized by the central government in this behalf. For promoting tourism in north eastern states, guidelines regarding relaxation of protected area/restricted area permit have been issued from time to time by Ministry of Home Affairs. The protected area regime in the states of Manipur, Mizoram and Nagaland has since been reviewed and the entire area of the states of Manipur, Mizoram and Nagaland has been excluded from the protected area regime notified under foreigners (protected area) order, 1958 subject to certain conditions. The state of Arunachal Pradesh continues to be protected area under foreigners (protected area) order, 1958. In addition, some areas of Sikkim continue to be protected areas/restricted areas under foreigners (protected area) order 1958 and foreigners (restricted area) order, 1963 respectively.9

**Changed Circumstances and AFSPA -**

It has been observed that the nature of insurgency has shifted to acts of terrorism, extortion, coercion of the population giving rise to a situation of internal disorder. The insurgency has become complex over the years due to external support in terms of sophisticated weapons, modern communication equipment, finances, safe sanctuaries across the areas close to the border. The insurgents are well trained, have garnered support from the local population and are a force to reckon with. It is under these circumstances that the troops have to operate which demands a very high degree of operational effectiveness. In doing so, the armed forces have to be cautious in their operations, to avoid any collateral damage and loss of innocent life and public/ private property. If there is any breach, the media is quick to exploit the situation, along with those parties with vested interests. It has been realized that on most of the occasions, the allegations against the armed

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forces are false and fabricated.

It is, under these circumstances and environment that the armed forces are required to operate which is of prolonged time frame, as is the case in north east. There are provisions required for carrying out the basic functions of administrative and operations. This is in addition to the responsibility of defending the borders. There is, thus, a requirement of special laws which offer similar power to the armed forces like the Cr PC does to the state police forces. The counter insurgency operations are non-military operations, thus it becomes incumbent on the leadership to provide the legal wherewithal to all armed forces personnel employed on such tasks. If the AFSPA is lifted from the designated ‘disturbed areas’, then all these areas will become a base for rest and relief of the insurgent groups. It is from these areas that they will sally out to launch the insurgency operations.

**Jeevan Reddy committee to review the AFSPA, 1958 in the North eastern Region**

In 2004, Ministry of Home Affairs reviewed the situation in the region more so after the death of Manorama Devi, fast by Irom Sharmila and the agitations in Manipur. There was interaction with the state government and the security / intelligence agencies. There were groups who wanted its revocation, some wanted repeal and there were others who were in favour of the act. Accordingly, the central government, set up a 5-member committee (vide Ministry of Home Affairs Office Order No.11011/97/2004-NE-III dated 19th November, 2004) under the chairmanship of Justice B.P. Jeevan Reddy, former judge of the Supreme Court.

The terms of reference for the committee were "keeping in view the legitimate concerns of the people of the north eastern region, the need to foster human rights, keeping in perspective the imperatives of security and maintenance of public order to review the provisions of the Armed Forces (Special Powers) Act, 1958 as amended in 1972 and to advise the government of India whether—

a) To amend the provisions of the act to bring them in consonance with the obligations of the government towards protection of human rights; or

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10 www.hindu.com/nic/a1f/a1f NE-Report of the committee to review the armed forces (special powers) act, 1958, government of India, ministry of home affairs 2005.
b) To replace the act by a more humane act.

As per the report, the committee mentions that there is an unlawful activities (prevention) act (ULP), 1967, already existing for fighting militants/terrorists/insurgent organizations, groups and gangs which extends to the whole of India including the north east. However, in the north east there are two enactments for the same i.e. AFSPA and ULP. It specifies that the ULP act is a comprehensive law designed to ban unlawful organizations, to curb terrorist activities and the funding of terrorism and investigation, trial and punishment of persons indulging in terrorist acts, unlike the Armed Forces (Special Powers) Act which deals only with the operations of the armed forces of the union in a disturbed area. However, there is a lacuna in the act which is of relevance and needs to be considered and inserted. The ULP act finds the necessity of using the armed forces or para – military forces to conduct operations and to take steps to fight and curb terrorism but does not, however, contain any provision specifying their powers, duties and procedures relevant to their deployment and also does not provide for an internal mechanism ensuring accountability of such forces with a view to guard against abuses and excesses by delinquent members of such forces. Therefore, these provisions should be clear, unambiguous and must specify the powers of the armed forces/para military forces while acting to curb terrorist/insurgent activities. Accordingly, the committee recommended the repealing of the AFSPA but also recommended insertion of appropriate provisions in the Unlawful Activities (Prevention) Act, 1967 (as amended in the year 2004) instead of suggesting a new piece of legislation. The draft chapter VI A to be inserted in the ULP act, 1967 on deployment of the armed forces of the union was finalised. As the act is applicable on an all India jurisdiction, it implies that the armed forces are not allowed to operate unrestricted throughout the land. It also means that there is a need for a geographical area which will have to be defined which is spelt out in Section 3 of AFSPA. It declares the geographical limits of the area where the act is applicable as ‘disturbed’. The act would involve doing the same thing under the garb of another Act. The act in its present form cannot be made applicable to the armed forces and replace AFSPA.

11 See Annexure R.
The Ministry of Home Affairs has categorically said that it would not be prudent to repeal the AFSPA or withdraw it from the north eastern states, in spite of the recommendation of the Justice Jeevan Reddy committee, which has recommended repeal and to amend the ULP act to achieve the purpose. This decision is also based on the advice of the army, police and other security and intelligence agencies. This is primarily due to the grim situation which is prevalent in the north east more so in Manipur, caused by the insurgent groups which are on the increase in number. It is the constant endeavour of the insurgent groups to spread fear so that they can continue to extort money and the leaders of such groups can continue to lead luxurious life in foreign countries. In Manipur, there are around 1,500 insurgents which are holding a population of 23 lakh to ransom and keeping them in constant fear. These insurgent groups by taking advantage of this situation are utilizing the other side of the border (which is beyond the jurisdiction of the Indian armed forces) for conveniently conducting their operations of extortions/ kidnapping/ killing/ looting and ambushing the security forces. It has also been stated by the government that counter-insurgency operations seldom affected the common man.\textsuperscript{12}

**Public Opinion**

The AFSPA has been targeted as a draconian law by various forums, human rights commissions; insurgent influenced non government organizations (NGO’s) and interested parties including people who have never been involved in insurgency. The public opinion gets influenced by the human rights violations by the security forces, but what about the violations committed by the insurgents/ militants. During the period of 2005-2011, 373 personnel of the security forces and 3465 civilians were killed in the North East.\textsuperscript{13}

The public has never realized the situation on the ground when a soldier has to face the insurgents. The magistrate / police representative is supposed to accompany him for the operations but they don’t. So the question is who is responsible? It is the soldier and for this he needs to be given legal protection. In an encounter with the insurgents/terrorists /militants a soldier who is facing them and their fire power, cannot at that time look around for permission to fire. If

\textsuperscript{12} *The Times of India*, New Delhi, 6 December 2012.

\textsuperscript{13} *Ministry of Home Affairs, Annual Report*, 2011-12.
during the encounter he kills the insurgent/ terrorist/ militant, then what wrong has he done? He cannot be punished for it, thus the need for legal protection.

The provision of fundamental human rights and freedom to every citizen of the country is provided in the constitution of India, thus if the army is operating without the AFSPA then it would be in violation of the constitution. Thus, the AFSPA provides safeguards and immunity to the army personnel operating in the disturbed areas. There are certain stringent actions which have to be taken by the army after the conduct of operations to include that the suspects are handed over to the police with the least delay so that he can be produced in front of the nearest magistrate within 24 hours of his arrest excluding the time taken for the journey which can be in variation if it is from remote areas and other documentation such as apprehension roles, seizure roles etc. are filled and submitted. The act may curb the civil liberties but are essential for successful counter insurgency operations. The armed forces have never resorted to intentional violation of the human rights and if there has been any then that has been by chance and not by design. These by chance violations have resulted in strong disciplinary actions.

In Manipur, there have been two alleged violations against the AFSPA. On November 2, 2000 there was the killing of 10 civilians who were waiting at a bus stand at Malom near Imphal by the security forces on being suspicious of being insurgents. Since then Irom Sharmila Chanu has been fasting. The alleged rape and killing of Thanjam Manorama on July 11, 2004 by the security forces, who was suspected to be a cadre of the People’s Liberation Army (PLA), has been a reason for the agitations for the withdrawal of the AFSPA from Manipur. The state government in a response to the protests created a de-notified area from the parts of Imphal which has a different set of rules of engagement. The state government acted unilaterally, despite reservations expressed by the central government. Commenting on the issue, the Prime Minister Manmohan Singh stated that, “AFSPA was enforced in Manipur by an explicit decision of the government of Manipur and hence they have a right to modify their decision”.

There have been demands of a partial withdrawal of the AFSPA but the

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15 “Polity resilient enough to deal with interstate disputes”, Outlook India, September 4, 2010.
question is how proportionate withdrawal can help. In some states in the north east, there are disturbed areas and the balance of the state is not a disturbed area. Thus, the AFSPA is affective only in the disturbed area. During the conduct of counter insurgency operations in a disturbed area, the insurgents who are unlawful, during a chase enter the area which is not a disturbed area, and then what should the armed forces that are bounded by law do. The options with the armed forces will be to abandon the chase or they take action for which there will be no legal protection. It, thus, becomes a big dilemma for the armed forces. If, they abandon the chase then there can be the blaming questions of inefficiency, helping the insurgents to escape and also putting the life in danger of the informers. In Manipur, the AFSPA has been withdrawn from the municipal area of Imphal, where the Manipur police and the commandos are operating. Even by withdrawing the AFSPA, the situation in the area is not conducive for the safety of the people. There are cases of extortion, kidnapping, killing by the insurgent groups. The armed forces are helping the police and commandos by giving them information so that the apprehensions can be made at the behest of the state government. It, thus, implies that the partial withdrawal from the area in Manipur has not achieved any success and is, thus, not an option to be exercised. The Manipur commandos are also now inclined to enforcing back the AFSPA in the municipal area as it is becoming difficult for them to handle.

The Chief of Army Staff during an interview mentioned that the AFSPA is an enabling act passed by the government of India for the armed forces to function in an insurgency environment and undertake counter terrorist operations. It needs to be appreciated that while being deployed in ‘disturbed areas’, the army operates in heightened hostile environment and is faced with well trained and lethally equipped terrorists outfits. These situations which are akin to war are extra ordinary and require extraordinary measures to control them. Therefore, if the army is to be deployed as an instrument of last resort, which indeed should be the case, it needs to retain ‘operational flexibility’ to operate decisively under various contingencies, with requisite legal safeguards. Moreover, the AFSPA does not impinge on the civil liberties of people; instead it provides the ‘rules of engagement’ for our soldiers. The five decades of engagement in counter
insurgency operations have yielded wide and varied experience to the Indian army’s approach and methodology to combat sub-conventional threats. It emphasizes a humane and people-centric approach, underscoring the need for scrupulous upholding of the laws of the land and respect for human rights as also creating security environment, without causing any collateral damage.¹⁶

In an insurgency environment, there cannot be two options that insurgency has to be put down with a firm hand within the provisions of law and not to be dictated by the insurgents. The groups will keep on exploiting the sentiments of the local people and thus reap benefits from such situations. The armed forces should avoid any tendency to carry out blind operations against insurgents without specific intelligence/information. In a counter insurgency environment, the soldier has to face more hardships as compared to when deployed for the primary role. He has to sanitize the strategic roads every morning in the states to help the civilians and military convoys to ply on them safely. For this he is deployed from morning till late evening when the convoys have crossed. In the company operating bases, the strength of the soldiers is not more that 40-50 as compared to the minimum requirement of 70 -80. This itself is a big drain on the soldier as it affects his time for rest vis-a-vis the responsibilities of the company which includes in some areas, border guarding.

It is pertinent to mention here that the laws given to the armed forces must be adhered to the clearly laid down procedures for arrest, custody, remand, trial, investigation and disposal of suspects. These obligations need to be observed in line with the safeguards for life and liberty. Further, these should not be seen as a blockage as it furthers the accountability of the state in the democratic system of the country. The unified commands which have the armed forces, police, and civil administration under the chief secretary are producing results and they should be the authority to recommend the withdrawal of the armed forces/AFSPA. Without the AFSPA, the military will become as dysfunctional as the paramilitary and police forces. The army’s overall approach towards human rights is zero tolerance to human rights violations. It is, therefore, recommended that the AFSPA is either invoked or completely revoked. There can be no “in between measures”.

However, the ultimate decision has to be taken by the political leadership. The best option is a political settlement which would resolve the core issues that have fuelled the social unrests, of which insurgency has been the most radical form. The citizens have to be taken on board and then only the insurgency can be eliminated. It is incorrect to even think of killing your own people to win a war against the insurgents.

The armed forces have always followed the directions of the political authority. If the AFSPA is revoked, the armed forces will not be able to operate in the specified areas and the state authorities will have to manage the situation with the resources at their command. Thus, they cannot, in practice be reemployed in a hurry, even if the state government wants to do the same. The armed forces need to be given legal protection if they are employed in the disturbed areas.

There are districts in the region which are ‘disturbed areas’ and have been earmarked as central police organization (CPOs) districts where the army was deployed earlier and thereafter taken over by the CPOs. The army does not conduct operations in these areas. However, the intelligence bases are functioning. If there are some operations to be launched based on the intelligence inputs, then the armed forces have to take the CPO’s on board and incorporated. As the situation improves, the army can be moved out after an exit strategy has been worked out by the state government. This will provide a clean image and lower visibility of the army, thus giving an opportunity to the state armed police and the CPOs to be effectively employed and ensure smooth transition. This will also help in ensuring that more space is created for the CPOs to operate in these areas. However, if the situation gets out of hand, the AFSPA which is already in place will enable it to quickly render assistance. This is a recommendation which when executed in a systematic manner in other districts can produce the desired results.

The USA and its allies after the 9/11 have waged a war against terror. In addition the United Nations Security Council resolutions have also called for legislative reforms by the countries to combat terror. The member states are bound by these resolutions. These legislative laws are more stringent than the AFSPA and also include provisions to track funds and tap the telephones.