CHAPTER VII

CONCLUSION AND RECOMMENDATION

7.1 Research Report

Right to life is the supreme human right and arbitrary deprivation of life is prohibited by all human rights norms. Extrajudicial executions are those executions that fall outside the purview of the judiciary and are carried out intentionally or voluntarily by the state forces. Such extrajudicial execution (EJE) is prohibited and is a clear violation of this supreme human right.

In human rights context, extrajudicial executions are deliberate killings, carried out by order of a government or with its complicity or acquiescence as discussed elaborately in Chapter I. An EJE is not accidental and is not a legitimate killing like capital punishment ordered by judiciary after a fair trial. For a concrete and comprehensive understanding of 'extrajudicial execution', various contexts/situations are referred as situations leading to EJE. However for this study five situations/contexts were selected for study like death in custody, fake encounter killings, torture leading to death, enforced disappearance and sexual violence leading to death. It is an established fact that extrajudicial executions are clear violations of fundamental rights proclaimed in constitution of India and the human rights instruments adopted by the United Nations over the years. The Universal Declaration of Human Rights adopted in 1948 has declared that everyone is entitled to fundamental human rights (Article 2).
It is further discussed in Chapter I that right to life and prohibition of arbitrary deprivation of life is a non-derogable human right and is jus cogens in nature. Prohibition of extrajudicial execution and protection of right to life is a prime duty of the state. This duty arises out of acceptance of international human rights standards and national constitution guaranteeing right to life. India has ratified the ICCPR, 1977 and is obliged to guarantee the rights embodied in the treaty. Article 4 of the ICCPR has put a strict obligation on state parties including India, not to suspend certain rights like the right to life guaranteed under the Covenant. This non-derogation article is binding even ‘in time of public emergency threatening the life of the nation and the existence of which is officially proclaimed’ and when ‘strictly required by the exigencies of the situation’ and cannot be inconsistent with other international law obligations nor ‘involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.’

Further, Article 21 of the Indian constitution guarantees right to life and personal liberty and Article 20 guarantees criminal justice to any person as fundamental, inalienable right. The Union of India is equally obligated to protect the same under constitution and other statutes. Article 21 and 20 cannot be suspended even during the proclamation of emergency. Right to life under article 21, a supreme right and is protected by the guarantee of right to remedy in case of violations under article 32 and 226 of the constitution.

The constitution of India protects ‘equality before the law’ and ‘equal protection of the laws’ which embodies a broad guarantee against arbitrary or irrational state action more generally (Article 14 of constitution of India read with
articles 15-16). Every Indian citizen is guaranteed the rights to freedom of speech and expression, peaceful assembly, association, free movement, and residence, although the Parliament may legislate ‘reasonable restrictions’ on some of these rights in the interests of the ‘sovereignty and integrity of India’, ‘security of the state,’ or ‘public order’ (Article 19 of Constitution of India).

However, the relevance of international standards in law enforcement in the situation of armed conflict in north east India cannot be ignored. It is obvious from the discussion in Chapter II. This chapter outlines the historical background of the internal armed conflict in north east India and argues how the current situation in north east India qualifies to be called a ‘situation of non-international armed conflict’ as defined under the international norms like Geneva Convention, 1949. In this regard, reference to the pronouncement of the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the Tadic case was cited as the most appropriate definition. This definition says that ‘an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.’

Considering the available statistics of conflict related violence in north east India, it can be rightly concluded that a situation of armed conflict of ‘non-international’ in nature exists and thus international human rights norms applicable in such situations are also applicable in north east India. In an armed conflict situation both human rights law and international humanitarian law is applicable. Article 3, common to the four Geneva Conventions of 1949 is applicable in the context of armed conflict prevalent in North East India.
However, Government of India in various reports submitted to the UN and others clearly declared that the situation in north east India is a 'law and order' problem and any armed conflict of non-international in nature doesn’t exist.

Several security legislations have been promulgated both pre independence and post independence India. Before independence, Rawlatt Act 1919, The Armed Forces (Special Powers) Ordinance, 1942 etc. was passed by the colonial British Government to curb the freedom movement in India. Similar legislations continued in post independence India as well. Legislations like MISA, Public Safety Act, POTA, TADA, NSA, UAPA, Disturbed Areas Act etc. Most of these security legislations are either repealed or amended from time to time as a result of reviews or public opinion on wide misuse of the provisions. However AFSPA remained untouched despite several reviews by the government bodies as well as civil society bodies.

The AFSPA was passed in 1958 to control Naga insurgencies after a brief 7 hours debate in the parliament. Parliamentary debates indicate that initially it was enacted for one-year application despite opposition from legislators from the NE region. AFSPA is a law that empowers both State and Central Government to declare a area as ‘disturbed areas’ when the authority only needs to be ‘of the opinion that whole or parts of the area are in a dangerous or disturbed condition such that the use of the armed forces in aid of civil powers is necessary’ and such declaration is not subject to any judicial review though judicial review is a basic structure of the constitution.

The AFSPA empowers armed forces to use the special powers to arrest without warrant, search and under section 4(a) power has granted to use force ‘to
the extent of causing death’ in aid of civil power for the sake of maintaining law and order in ‘disturbed area’. This use of lethal power, as argued, is violation of right to life as it arbitrarily deprives of a person’s life and violates the right to a fair trial. Section 4 (a) empowers even a non-commissioned officer to use lethal force to a ‘suspicion’.

AFSPA has a colonial legacy was enacted in 1958 as a measure ‘temporary in nature’ to restore ‘law and order’ in NES region. However, the AFSPA has proven to be a long term provision as it has been in force for over 50 years. It is to be noted here that in 1958 when AFSPA was proclaimed there were seven insurgent groups active while at present there are 79 insurgent groups (including factions) as per the annual report of the Ministry of Home Affairs 2011 and many termed the Act as counterproductive.

The AFSPA and section 4(a) comes within the purview of article 4 of ICCPR as understood by the Human Rights Committee (under ICCPR). The members found that since it ‘enables the army to supplement ... [the] civil authorities [in] powers of arrest, powers of search’, the AFSPA is the equivalent of emergency legislation. Moreover, a committee member stated that the ‘AFSPA had actually created a continuous state of emergency as it has been in application since 1958’.

In response the UN Human Rights Committee in 1991, Government of India justified the AFSPA as an action under Section 355 of the Indian Constitution which makes it the duty of the Union to protect each state from external aggression. It was argued that the AFSPA was necessary, given the context of the North East India, where there is ‘infiltration of aliens into the
territories mingling with the local public, and encouraging them towards this [secession].’

The legal and constitutional aspect of section 4(a) was discussed under **Chapter III.** The provision for opening fire under 4(a) is broad and there is no reference to opening fire in self defense or opening fire in the context of the likely commission of a terrorist offence. Mere reasonable suspicion that a person is in possession of arms is sufficient to open fire.

It might be mentioned that capital punishment can be imposed only for a crime for which the death penalty is prescribed by law and the same may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts. The person sentenced to death also has a right to seek pardon.

Section 4(a) of AFSPA resulted into an arrangement that awards instant punishment or death penalty on suspicion. It is evident that section 4 (a) gives heavier punishment to the suspects than convicts. This violates right to life. It also violates the core principle of criminal justice like presumption of innocence. Section 4 (a) gives heavier punishment to a ‘suspect’ that a ‘convict’. The Human Rights Committee in 1999, also found section 4 of AFSPA and other sections as incompatible with Articles 6, 9 and 14 of ICCPR.

Presumption of innocence and *audi alterem partem* are two basic fundamental principles of criminal justice in evidence laws. These basic principles can only be ensured by the justice delivery mechanisms through a proper fair trial which is denied under AFSPA, a ‘procedure established by law’.
AFSPA, as a counter insurgency measure has been challenged before the judiciary on the ground that it violates fundamental rights to life and other rights guaranteed under the constitution of India. Supreme Court in 1997 considered the validity of the Act in the case of NPMHR 1997 and upheld its constitutional validity. However, the Court issued a list of ‘Do’s and Don’ts’ to be followed during the enforcement of the AFSPA. Thus, it can be concluded these guidelines in the form of ‘Dos and Don’ts’ are extended and integral part of the Act after this judgment and are mandatory in nature.

Chapter III of the thesis is reflective of various interpretations by the Supreme Court and GHC from time to time. After considering these interpretations in various judgments by the Supreme Court, Delhi High Court and GHC the procedure established by section 4(a) of AFSPA is not in tune with the principles of rule of law as the Courts didn’t take cognizance of the practical application of the Act and guidelines issued to armed forces while acting under AFSPA remained cosmetic.

Though Supreme Court upheld the Act 1997, subsequent reviews of the AFSPA bodies like various UN bodies in 2005, 2007, Second Administrative Reform Commission 2007, Jeevan Reddy Committee 2006 etc observed much in contrary to the Supreme Court and recommended repeal of the Act. International human rights bodies recommended for repeal, review or amendment of the Act at different times.

In order to support the legal and constitutional analysis of the section 4(a) of AFSPA, a pragmatic perspective is essential and hence case studies were carried out by the researcher during her field visits. These cases are presented in
Chapter IV. Families impacted by the application of section 4(a) and AFSPA in general were interviewed, their testimonies were recorded for analysis and presentation. It is observed that there is rampant and blatant violation of right to life under section 4(a) of AFSPA. Each case study reveals violations of guidelines of NPMHR 1997 and justice guaranteed by constitution under fundamental rights are denied. Section 6 of AFSPA which prescribes a ‘prior sanction’ before legal proceedings has created barrier for access to justice.

With the development of rule of law in 19th century, the doctrine of ‘sovereign immunity’ has been eroded over the period of time. A country with written constitution is a guarantee that state will protect right to life and any violation would be remedied. Thus the concept of ‘sovereign immunity’ is no more applicable. Immunity provision against legal proceedings for the crimes committed by armed forces under section 4(a) is discussed in Chapter V. AFSPA is not an immunity law and doesn’t guarantee immunity for any crime committed while acting under the Act in a disturbed area.

Judgments and case laws were discussed in this Chapter, however, that shows that statutory requirement of ‘prior sanction’ for prosecution against armed forces, as prescribed in section 6 of the Act, has resulted into virtual immunity and over the years has breed into a culture of impunity. While section 6 is not an immunity clause but since prior sanction is rarely given, the section has become an immunity clause that created culture of impunity a norm. Such impunity, in turn, has promoted abuse of power granted under section 4(a) as accountability process is not established.
Undermining of the civil space, that is a direct consequence of immunity extended to the army, this has eroded the available space for democratic and peaceful dissent. Four broad themes like investigation, prosecution, reparation and measure for prevention of abuses of section 4(a) are discussed with examples and it was found that there are systemic errors and violations of justice for the victims of EJE. The process of investigation and prosecution for extrajudicial executions and other violations under AFSPA remained rare, slow and delayed due to non-transparency and technicalities prescribed under section 6 of the Act.

Chapter VI narrates the spectrum of perspectives on section 4 (a) of AFSPA and AFSPA as a whole. Hence it is observed after considering the wide spectrum of views on AFSPA, it can be rightly concluded that there is a sharp contrast in perceptions among the different stake holders. While Supreme Court upheld the validity of the Act in 1997, the subsequent reviews by various authorized bodies like Jeevan Reddy Committee and Administrative Reform Commission run contrary. These bodies recommended repeal of AFSPA. While armed forces are of the view that their capacity to deal with insurgency will be handicapped if their legal protective shield [read AFSPA] is withdrawn. India is a democracy where people’s rule is the supreme and is exercised through parliamentary democracy. As discussed earlier, Indian Constitution ruled out army rule in the country. Hence, opinion expressed by armed forces has little relevance and hence deserve to be ignored.

7.2 Hypothesis

Research hypothesis for the study was set as ‘Section 4 (a) of Armed Forces (Special Powers) Act, 1958 (AFSPA hereafter) has permitted extrajudicial...
execution with immunity in a state of non-proclaimed public emergency in order to maintain 'law and order' in the 'disturbed areas' by injudiciously empowering the armed forces with wide unwarranted discretionary power to use lethal force which over a protracted period of time has resulted violations of the international, regional and national human rights standard protecting right to life in the states of Assam, Nagaland and Manipur'. The topic 'A Study of Extrajudicial Execution under Section 4(a) of AFSPA, 1958' was selected after careful examination of the wide scope and relevance keeping in mind the historical and political history of armed conflict in north east India and application of AFSPA for last 50 years. A critical evaluation of the use of wide discretionary power under section 4(a) of AFSPA was planned to carry out to investigate if section 4(a) constitutes extrajudicial execution through arbitrarily deprivation of right to life.

7.3 Recommendations

Therefore, considering all the factors discussed above, recommendations are made both short term and long term.

- Short term recommendations

1. Section 4(a) is incompatible with the provisions of national and international human rights standards protecting right to life and resulted arbitrary deprivation of life and hence the section 4(a) as well as the whole Armed Forces (Special Powers) Act, 1958 (AFSPA) should be repealed unconditionally and immediately. Reason why AFSPA should be repealed are as follows:

a. A legislation allowing soldiers to shoot at persons merely for possessing or suspected of possessing certain materials, clearly constitutes disregard for the
right to life, which under international law cannot be derogated from even in times of emergency and also prohibited under national constitution of India.

b. NPMHR 1997 ruled that while exercising the powers conferred under section 4 (a) of the Central Act [AFSPA], the officer in the armed forces shall use minimal force. Section 4(a) violates core principles of criminal justice like presumption of innocence, guilt proved beyond reasonable doubt, 'use of minimal force' criteria, a fair trial and article 20, 22 of the Indian constitution.

c. In practice, the ‘Do’s and Don’ts’ guidelines as formulated by the army head quarter and added to the judgment in NPMHR 1997 are ineffective and cosmetic. These guidelines are often violated with knowledge and access to justice is denied due to section 6 of the Act.

d. Section 3 of AFSPA empowers central administration to declare an area as ‘disturbed’ and armed forces can be called in ‘in aid to civil administration’. Point to be noted here that the special power of using lethal forces under section 4 (a) is granted to the armed forces deployed to ‘aid the civil authority’. Such an arrangement clearly proves that armed forces are allowed to commit extrajudicial execution. This is inconsistent with Article 246 of the Constitution of India to be read with the 7th Schedule of the Constitution of India which places ‘law and order’ under the State’s list.

e. AFSPA violates Article 4 (a) of ICCPR on declaration of ‘States of Emergency’ since de facto emergency has been imposed through declaration of disturbed area without formal promulgation of any form of public emergency.

f. Under section 5 of AFSPA, army authority shall make over the arrested person to the officer in charge of the nearest police station with least possible
delay. This violates article 22 of the constitution which makes it mandatory to present the arrested person before a magistrate within 24 hours.

g. Section 6 of AFSPA specifies that, 'no prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act'. This impunity provision is found to be incompatible with the obligations of the Government under Article 2(3) of the ICCPR to ensure the provision of an effective remedy in cases involving violations of human rights.

h. The procedure followed in Indian military courts under Army Act, 1950 falls far short of an 'equitable, impartial and independent administration of justice', which is the internationally accepted standard under Article 14 of the ICCPR.

i. The Supreme Court in NPMHR 1997 judgment did not give any criteria for objective assessment of the situation before declaration as 'disturbed area'. Thus, in practice, the review is a routine bureaucratic exercise. Also the definition of 'disturbed area' is absent in the legislation.

2. It is also recommended that Government of India should ensure that it does not introduce provisions taken from the AFSPA into any other legislation.

3. Culture of impunity violates people right to justice and hence all immunity clauses must be repealed and those accused of violation of right to life must be brought before a trial in a transparent manner before the independent judiciary.
4. All reports of Commission of Inquiry, set up under Commissions of Inquiry Act, 1952 must be officially published respecting victim's right to justice and people's right to information.

5. Protection of the civilian population from violent crimes, including acts committed by armed groups is the prime duty of the state and hence prosecution of those responsible for such attacks must be carried out within the framework of criminal law and in conformity with international human rights law and standards.

6. Measure must be taken to ensure that law enforcement personnel, including armed forces deployed for law enforcement purposes, respect the standards set out in the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

7. India should ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as the two Optional Protocols to the ICCPR and Geneva Conventions 1949. India is also to sign the Rome Statute of the International Criminal Court.

8. The Right to life is hold to be 'the supreme right' (General comment No.1 on Article 6 of ICCPR, 1982) in international law and is enshrined in a number of international instruments which place a positive obligation on the states to uphold it. The State has a strict duty to 'prevent arbitrary killings by their own security services'. All security personnel must observe the 'PLAN' principle that is Proportionality, Legality, Accountability and Necessity. This standard is derived from the Principles of the Code of Conduct and United Nations Basic Principles on the use of Force and Firearms. Force can only be used if it is 'strictly
necessary’ and force must be exercised with restraint and in proportionate to the objective considering the aim of the operation, the danger of the situation and the degree to which the force might risk life.

9. It is to be noted here that section 15 of the Police Act 1861 empowers a State Government to declare an ‘area disturbed’ or in ‘a dangerous state’ and to deploy any police force for a fixed period. If such a police force is not sufficient, Section 130 and 131 of Criminal Procedure Code permit the civil authorities to deploy the Army. These provisions were never applied in the context of North East India. Instead the state has resorted to the AFSPA. Thus the state is permitting direct Army rule though the Constitution allows it only in aid of civil power to maintain law and order situation. Since legal provisions for deployment of armed forces are already there, additional ‘special law’ like AFSPA is not required to deal with the situation of law and order.

10. Amendments should be made to section 19 of the Protection of Human Rights Act which prohibits the NHRC and state Human Rights Commissions from independently investigating allegations of human rights violations by members of the armed or paramilitary forces.

11. Investigation and trial of the cases pending under AFSPA must be completed in order to meet ends of justice.

12. National law for implementation of international human rights treaties must be enacted where Government of India is a party and a national action plan of human rights must be adopted.

13. Internal security duty by armed forces for prolonged period has been an issue for both armed forces and for the states where they are deployed. This
concern must be addressed and armed forces should not be used for internal armed conflicts as they are trained to fight against external aggression only.

- **Long term recommendations**

1. Quoting reports on EJE, Canada’s experience in Somalia is fit to discuss here that illustrates the complementary roles of criminal and non-criminal investigation. Canada prosecuted and punished several soldiers for their actions in Somalia, but it also established a Commission of Inquiry to determine the institutional defects that allowed those abuses to occur. By identifying pervasive problems in how rules of engagement were drafted, were disseminated through the chain of command, and were taught to soldiers on the ground, Canada improved its institutional capacity to better ensure the right to life in the future. Similar initiatives may be worked out in case of India.

2. 2nd administrative report on ‘capacity building for conflict resolution’ says, ‘in the North Eastern region of India, many lives have been lost in conflicts that have raged between groups through decades. This sensitive region of the country has been plagued by conflicts which are embedded in the geography and history of the region, the multi-ethnicity of its population and its political and economic situation which has become the feeding ground for deep-seated discontent and conflicts. The conflict dynamics have ranged from insurgency for secession to insurgency for autonomy, from sponsored terrorism to ethnic clashes and to conflicts generated as a result of continuous inflow of migrants from across the borders as well as from other parts of the country. Ad hoc solutions have added to the cycle of conflicts in the region’. Hence long term confidence building measure must be taken to ensure peace in the region.
3. Sarkaria Commission recommended states to develop their capability to deal with public order and suggested to accept and follow recommendations of the National Police Commission in their seventh report. The National Police Commission has observed that the Central Reserve Police force have become very unpopular in North East India (para 59,25, page 82). The capacity of police can play an important complementary role to the army and para military forces in tackling the situation. The army, as far as possible, not to be used for day to day policing' (page 82, para 59, 25). PUDR vs. UOI, 1991. These recommendations should be accepted and implemented in NES.

4. The United Nations Security Council Resolution 1373 is a counter-terrorism measure adopted on September 28, 2001 following the September 11, 2001 terrorist attacks on the United States. The resolution was adopted under the Chapter VII of the United Nations Charter, and is therefore binding on all UN member states. However, the resolution failed to define 'Terrorism', and the working group initially only added Al-Qaida and the Taliban regime of Afghanistan on the sanctions list. Many observed that 'this also entailed the danger that authoritarian regimes could label even non-violent activities as terrorist acts, thereby violating the basic human rights'. The absence of any specific reference to human rights considerations was remedied in part by Resolution 1456 (2003) which declared that 'States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law'. As an
emerging world power, Government of India must ensure respect for these resolutions and adopt the same while making laws in India.

5. In Vishaka and others vs. State of Rajasthan and others (AIR 1997 SC 3011), the Supreme Court recognized that 'any international convention, not inconsistent with the fundamental rights and in harmony with its spirit, must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee'. Court cited that 'this is implicit from Article 51(c) and enabling power of the Parliament to enact laws for implementing the International Conventions and norms by virtue of Article 253 read with Entry 14 of the Union List in Seventh Schedule of the Constitution. Article 73 also is relevant. It provides that the executive power of the Union shall extend to the matters with respect to which Parliament has power to make laws. The executive power of the Union is, therefore, available till the parliament enacts to expressly provide measures needed to curb the evil'. Thus laws enacted in India must in conformity with the international human rights treaties. International human rights treaties are not implemented in India in absence of a national legislation. Hence national legislations must be adopted to implement the core human rights treaties that India undertook obligation voluntarily. Some of these treaties relevant here are the ICCPR, the Convention Against Torture, the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for Protection of All Persons Under any form of Detention, and the UN Principles on Effective Prevention and Investigation of Extra-legal and summary executions including Additional Protocol II to Geneva Conventions 1949 that applies to non-international armed conflicts.
6. It has been noticed that ‘the armed opposition groups, although politically motivated, often engage in purely criminal activities’. Increasingly, ‘the activities of the armed opposition groups in the North East, Jammu and Kashmir, Punjab, and parts of Andhra Pradesh have become virtually indistinguishable from those of criminals’. Though legal documents establishing the accountability of the armed opposition groups for committing arbitrary killings are very less, civil society organizations have been constantly addressing their accountability. As pointed out earlier, international human rights organisations such as Amnesty International and Human Rights Watch already have begun to address the issues regarding violence by armed opposition groups. Amnesty International defines opposition groups as ‘groups in opposition to the governments that have acquired the characteristics of the governments.’ Armed opposition groups are obliged to follow common article 3 of Geneva Conventions. Geneva Conventions Act, 1960 must be amended to broaden and to cover the accountability of the armed groups for abuse of human rights in conformity with the Geneva Conventions of 1949.

7. In a reply to Rajya Sabha Starred Question No 24, on the issue of dialogue with the ‘terrorist outfit’ in Assam, Indrajit Gupta of Ministry of Home Affairs said that, ‘I agree that they cannot be solved simply by the gun or the use of force. I think, by now, we have had enough experience to realize that gun is not the solution to these problems [insurgency in Assam]. Atmosphere for peace dialogues with different groups must be created and the possibility of peaceful solution must the explored by all the parties engaged in the armed conflict.

8. Sanjoy Hazarika, a member of Jeevan Reddy Committee, observed in a personal note annexed to Committee report that ‘there has been a sustained and
systematic failure of governance; without the restoration of governance and the faith of the public in the ability of governments to rule justly and provide security to their citizens, the problems may become more acute'. Hence there is no other way but to resort to good governance through human rights norms and obligation. Only adoption of human rights framework and policies can restore good governance. An enactment of national action plan or a policy on human rights is essential for domestic implementation of international human rights treaties where Government of India is a party.

9. The 2nd Administrative Reforms Commission in its 5th report on ‘public order’ rightly observed ‘the ethnicity, diversity, geography and history of the region demand a comprehensive nation building approach for resolving the complex issues. Fair reconciliation of conflicting interests in the region, adequate local empowerment with accountability, infrastructure development, economic growth, greater economic linkages with neighbouring regions and better governance and democratic legitimacy must together form the foundation of durable peace and prosperity in the region’. A comprehensive approach towards the holistic development of North East India needs an urgent attention.

10. The problems of northeast have been misconceived as ‘law and order’ problem when, in fact, they are a consequence of unresolved political questions. AFSPA is in force for decades in North East India still the problem is not solved. This indicates that the heart of the issue lies somewhere else. A sensible political will for the solution of the problem is required at this moment.

7.4 Conclusions
Section 4(a) of AFSPA has permitted extrajudicial execution with immunity and hence is incompatible with the provisions of human rights standards protecting right to life. Extrajudicial execution is committed in a state of non-proclaimed public emergency in order to maintain 'law and order' in the 'disturbed areas' of Assam, Nagaland and Manipur. Section 4 (a) has injudiciously empowered the armed forces with wide unwarranted discretionary power to use lethal force, which over a protracted period of time has resulted arbitrary deprivation of right to life by violating international, regional and national human rights standards protecting right to life. Hence, the section 4(a) as well as the whole Armed Forces (Special Powers) Act, 1958 should be repealed unconditionally and immediately as suggested in the recommendations, which are based on the research findings of this inquiry.
Notes and References:

\[ \text{Source: Rajya Sabha, Starred Question No 24, answered 11.07.1996 and accessed through www.rajyasabha.nic.in as on January 12, 2009} \]