CHAPTER III

Armed Forces Special Power Act 1958 and Human Rights Abuses in Nagaland
CHAPTER – III

IMPLEMENTATION OF ARMED FORCES SPECIAL POWERS ACT: HUMAN RIGHTS ABUSES IN NAGALAND

BACKGROUND OF ARMED FORCES SPECIAL POWERS ACT 1958

When the All India Congress Committee launched the Quit India Movement in Bombay in 1942 and at the same time in Singapore, about 40,000 British Indian soldiers who had joined the Indian National Army were marching towards India from the eastern front together with the Japanese soldiers. In a sweeping move, Congress was declared an illegal organization. Prominent Congress leaders were arrested and imprisoned. A mass cataclysm broke out all over India. The Viceroy Lord Linlithgow declared emergency all over the British India and promulgated the Armed Forces (Special Powers) Ordinance 1942 on 15th August 1942.1 This Ordinance conferred power on Commissioned Officers not below the rank of Captain in the army, to use force if necessary to the extend of causing death of a person who fails to halt when challenged by a sentry or who attempts to destroy property which the Officer has been deputed to protect. The power to arrest a person was also given along with a duty to hand over the arrested person to the Police. Immunity was also provided to

---

army personnel acting under the Ordinance. This Ordinance was extended to the whole of British India.

The armed forces were protected from legal action, unless prior sanction is obtained from the Central Government. India got Independence five years later on 15th August 1947 after the promulgation of Armed Forces Special Powers Ordinance 1942, and became a Sovereign Democratic Republic on 26th January 1950. The armed forces are still enjoying the same Special Powers and privileges granted in the colonial ordinance in the remote North East corner of the country even today. In its new incarnation, the enabling legislation is called the Armed Forces (Special Powers) Act, 1958.2

As the Naga National Council (NNC) took up arms against the ‘Indian armed forces’ deployed in Nagaland by the mid 1950s, and when the state force failed to contain the uprising, the army was called in. But, for facilitating army operations, a legal framework became necessary. So, the then Government of India led by the Congress whose leaders, who were once jailed under the Armed Forces (Special Powers) Ordinance 1942 of British India, promulgated the Armed Forces (Special Powers) Regulations, on 5th April 1958, which had inherited the same powerful political potency as the 1942 demoniacal Ordinance. There were certain modifications made to

2. Loitongbam, Babloo, n. 1, p. 1
the 1942 Ordinance giving empowerment to the Indian army, which are as follows:

1. The provision for declaration of emergency was replaced by the term 'disturbed area';

2. More defined powers were added to the existing Ordinance including the power to use force to even kill any person on suspicion of disturbing public order or carrying weapons, 'to search any place without warrant or destroy any place on mere suspicion of being used by armed groups militant;

3. The power to take action, which was authorized to an Officer of captain and above in the old Ordinance, was delegated to lower ranks including junior commissioned officers.

4. The area of operation of the Armed Forces Special Powers Act, 1958 was confined to ethnically distinct of India North East region; unlike the 1942 Ordinance, which was applied to the whole of India.\(^3\)

The Ordinance became harsher than the colonial Ordinance of 1942. In 1958, this bill was introduced mainly to replace the Ordinance of 1942 giving more empowerment to the Indian army. This bill was strongly justified by the Home Minister G.B. Pant, who stated that;

\(^3\) Loitongbam, Babloo, n. 1, p. 2-3.
there (Assam and Manipur), they (certain misguided sections of the Nagas, in the words of Mr. Pant) are indulging in arson, murder, loot, dacoity, etc. So it has become necessary to adopt effective measures for the protection of the people in those areas. In order to enable the armed forces to handle the situation effectively wherever such problem arises hereafter, it has been considered necessary to introduce this Bill.⁴

Some members of the Parliament opposed it on the ground that blanket powers being conferred on the India army by this Act would lead to the violation of the Fundamental Rights of the people, that this Act would circumvent the Constitution by effectively imposing an Emergency in these areas without actually declaring one and that it would abrogate the powers of the civil authority in favour of the Indian army.⁵ However, despite this opposition by few members of the Parliament, the Bill was passed. Therefore, the resultant Act was given retrospective effective from 22nd May 1958.

The Act was further amended in 1972 and K.C. Pant, the son of G. B. Pant and new Home Minister, who moved the amendment laid down the objectives of the amendment as, it is proposed that the Armed Forces (Assam and Manipur) Special Powers Act 1958 may have uniform application in all the North Eastern States. Secondly, it sought to state clearly

---

⁴. Loitongbam, Babloo, n. 1, p. 3.
that the Governor of these States and the administrators of the two union territories would have the power to declare an area as disturbed. Thirdly, the amendment additionally gave powers to the Central Government to apply the Act, a power which was hitherto a sole prerogative of State Government through the Governor. It is this Armed Forces (Special Powers) Act, 1958 as amended in 1972 which is in operation in Nagaland. The title of the Act was also changed to the Armed Forces (Special powers) Act 1958.⁶

**PROVISIONS OF THE ARMED FORCES SPECIAL POWERS ACT (AFSPA), 1958**

The original text of AFSPA, contains the following provisions: ⁷

1. **Short title and extent**—(1) This Act may be called the Armed Forces (Special Powers) Act 1958.

   (2) It extends to the whole of the States of Assam, Manipur, Meghalaya, Nagaland, Tripura, Arunachal Pradesh and Mizoram.

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

---

⁶ Loitongbam, Babloo, n. 1, pp. 4-5.
(b) "Disturbed Area" means which is for the time being declared by notification under S. 3 to be disturbed area;

(c) All other words and expressions used herein, but not defined in the Air Force Act 1950 or the Army Act 1950 shall have the meanings respectively attached to them in those Acts.

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 Administrative of that Union Territory of 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 State or Union Territory to be disturbed area.

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 the 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 the 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 a training camp for armed volunteers or utilized 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 that 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 and 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 forces as may be necessary.

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.

6. **Protection to person acting under Act** – No prosecution, suit or other legal proceeding shall be instituted, expect 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.

7. **Repeal and saving** (1) The Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958, is here by repealed.

   (2) Not withstanding such repeal anything done or any action taken under the said ordinance shall be deemed to have been or taken this Act, as if this had commenced on the 22\(^{nd}\) day of May, 1958.

Ever since the implementation of the Act in Nagaland there were several reports and cases of human rights violations particularly by the law enforcing agencies of which few are highlighted in this Chapter. There was an incident, recorded in a letter to the Peace Mission by
the members of the Village Panchayat of Khuivi under Zunobetuo
district. They wrote that the family members of the National workers
were separated and punished in the army concentration at Atukuzu
under Zunobetuo district for eight months in 1959. It was reported that
on 4th April 1959, in Akutuzu the Indian army raided the camp of the
Home Guards and shot dead four Home Guards. The Army Post
Commander at Akutuzu ordered the villagers to re-excavate and
bring the remains of the victims to his post. The villagers were punished
by being made to dig the ground and erect army bashas (camps) at
Zunheboto for seven days. Further, on 18th April, 1960 ten villages
were grouped along with Atukuzu, Vishepu, Kilo Old Khukiye, Lukhai,
Tukunamasami, Sheipu, Nunumi, Satakha old and new. Besides this, the
villagers were reported to have been treated discriminately. They
even introduced forced labour by making the villagers above the
age of twelve carry the stocks on their back for transportation of
military goods.8

A report of the Naga Hills Rehabilitation Committee submitted to
the Naga National Council mentioned that up to December 1960
many Christian Churches were damaged, burnt and destroyed in
several parts of Nagaland. For instances, in Angami areas 37

155-56.
Churches were burnt and 12 damaged, in Chakhesang areas 18 and 20 Churches were burnt and damaged respectively, in Lotha areas 3 and 15, Rengma areas 5 and 7, Sema areas 41 and 21, Yimchunger areas 5 and 5 and in Konyak and Sangtam areas 10 and 3 Churches respectively were burnt by the Indian army.9

Further, in one of the Ao Naga inhabited areas, the Indian army even carried out a policy known as ‘earth-scorch Policy’ in 1960. By this policy they intended to flush out all the Naga armies taking shelter in the jungles and at the same time destroy all their hideouts. The total area of jungle burnt accounted to 351,840 acres or 549 square miles.10

The incident of Matikhru village revealed how the Indian army implemented the Act during that time. Matikhru is a village of Pochury Naga tribe, located just below Kanjang village in Nagaland bordering Manipur. As reported by Pastor Zhiwhuotho, in the “Nagaland Post”, a local daily and who also happened to be a witness to the said incident, on 6th September, 1960 when the 16th Punjab Regiment of Indian armies under the command of Major Kanger posted at Kanjang village came down at around 10 a.m and rounded up the village and grouped the villagers in one place and separated men-

9. Iralu, Kaka, D, n. 8, p. 144.
folks from children and women. All the women and children were made to stand in front of the male adult group and made to watch them being beaten and tortured mercilessly till 4.00 p.m. In the evening, all the women and children were driven out into the jungle like animals, after which all the male adults were herded together into the village chief's house. Soon after their heads were chopped off with the Chief's dao. It was reported that the first victim on line was the Chief of the village himself and the father of the narrator. Later, the bodies were burnt along with all the houses and properties. Therefore, to this day the 6th of September is observed as a Black Day by the Pochury Naga tribe in remembrance of those innocent victims.

SOME REPORTS OF ATROCITIES COMMITTED BY THE INDIAN ARMY

Some of the rape cases reported to have been committed by the Indian army in the State of Nagaland are as follows:

On 24th February 1957, Miss Mayangkokla with her brothers, Kikamongba and Markaba, the Goan Bura of Ungma village under Mokokchung District, left their village for their normal duty. On their way, they were surrounded by a contingent of the Jat Regiment

---

under the command of Major Trilok Singh. Without even interrogating them they were all mercilessly beaten and Mayangkokla was even stripped naked while one soldier after another raped her in full view of the public who could not do anything since the soldiers were fully armed and had their guns pointed at the poor civilians. This inhuman act continued even in the camp where Mayangkokla and her brothers were taken. 12

On 11th July 1971, Contingents of 1st Maratha Regiment took four minor girls namely Miss Shanchano Lotha (17 years), Nseno Lotha (15 years), Nzilbeni Lotha (12 years) and Thungdeno Lotha (11 years) inside the Yankeli Baptist Church and raped them on the pulpit of the Church, which is considered to be a sacred place. 13 This incident showed that the army did not even spare the places of worship as they carried their inhumane act even inside a worshipping place.

On 25th February 1973, the 4th Kumaon Regiment of the Indian Army under the command of Captain Janbir Singh came to Habalimi. They attacked three women namely, Mrs Miyile, Mrs Hosheli and Mrs Yetovi when they were sleeping. 14

---

12. Iralu, Kaka, D, n. 8, pp. 229-33.
Tsiemekhuma village, which is 45 kilometers away from Kohima, is a place where a sad event took place on a Sunday the 13th November 1974. On that ill-fated day Mrs.Thenounei aged about 27 years and mother of five kids was gathering vegetables from her garden to send them to her three children who are studying in Kohima. Suddenly Jakodi, a jawan belonging to the 26th Maratha Regiment posted about 5 kilometers from the village appeared and on the pretext of asking pumpkin from Thenouneiu came charging at her in a mad frenzy of lust. Before she could scream for help, Jakodi gripped her throat and wrestled her to the ground and thereafter raped her. What followed after this was a total mayhem causing the death of Mrs. Neiselhouu following the firing by the jawans of the regiment on the group of local people who had gathered inside and outside the outpost perimeter to catch hold of Jakodi the culprit.\textsuperscript{15}

On 30th March 1997, at about 3:30 p.m. Miss Vikheni, a 12 year old girl, daughter of Mr. Huzhukho Sema, studying in class V in a Government School and a resident of Mokokchung town was raped by one Indian army Jawan, named Shri, Shinde Vilas, bearing No.2786438W, belonging to Kashinath of 15 Maratha Light Infantry

\textsuperscript{15} Iralu, Kaka, D, n. 8, pp. 398-404.
After the incident, the residents of the town led by womenfolk raised a big hue and cry that alarmed the whole town. In the process the complainants were given the opportunity to identify the culprit from the standing lines of the company personnel before the crowd. After the rapist was identified by the victim he was arrested and tried by Summary General Court Martial. On his plea of guilt, he was sentenced to eight years imprisonment and dismissed from the service by the Court, dated 25.7.1997. It was confirmed on 6.9.1997. He was then shifted to the Central Jail in Pune, Mahartashtra.

On the basis of the Writ Petition filed by the victim’s father against the culprit in Civil Court of Guwahati High Court, Kohima Bench, Justice H. K. Sema of the Kohima Bench, finally declared the judgement order on 28th June 2000. In its judgement, the Court directed the Union of India, Ministry of Home Affairs, New Delhi, and the Secretary to the Government of India, Ministry of Defence, New Delhi to pay Rs. 5 lakhs as compensation to the victim within a period of three months from the date of receipt of the said order. The Court further directed the concerned department to deposit the amount to the Court Registry who shall transmit the amount to the Deputy Commissioner, Mokokchung, with a direction to him to deposit the same amount in the Nationalized Bank by opening a Fixed Deposit Account in the name of the petitioner, Miss Vikheni, for a period of
five years, during which she should receive only the interest payable thereon and the principal amount being payable to her on her attainment of maturity of 20 years taking the date of birth of the petitioner as on 2.1. 1998. The Deputy Commissioner, Mokokchung, was further directed by the Court to submit the completion report of the Court's decision.16

Another identical incident that took place was on 27th December 1994, in Mokokchung district of Nagaland. On this day, one patrol of a Task Force of 16 Maratha Light Infantry, comprising of 30 men and one JCO was moving from the hospital location to the Police Point and onwards to the Micro hills in Mokokchung town. At 1020 hrs, when the patrol party came under heavy fire from a kutcha thatch house across the road, one jawan, who was the first man in this patrol, was shot and died instantaneously. The patrolling party immediately returned fire and a hand grenade was lobbed in that Kutcha house. Two members of the Naga militants were also shot death inside that Kutcha house. Two Indian army eye-witnesses namely Major D. K. Sharma and Nawab Subedar Chidambara stated in their affidavits that the Kutcha house caught fire because of explosion of the hand grenade and fire started spreading fast due to strong wind blowing on that day. Also, due to heavy exchange of fire,

a number of electric wires got snapped and a few shops were caught with fire due to this short circuiting. The fire started spreading fast due to not only high speed winds but also the highly inflammable items like paints, clothes, gas cylinders kept for lighting purposes in the adjoining shops. Another reason why fire could not be controlled was due to acute shortage of water and limited number of fire tenders available in Mokokchung town. The fire was controlled only on the next day that is by the late afternoon of 28th December 1994. Soon thereafter, a number of shops and houses were caught with fire leaving 12 (twelve) persons death and considerable damage to properties. Allegations were also made on rape and molestations to four women by jawans of the Task Force during the incident.

On 7th September 1995, Mr. Inashe Ayemi, Project Director of District Rural Development Agency, Zunheboto District, along with his friend, Mr. Shikato, went to Dimapur to visit his mother and family members who were staying in Dimapur. On that day, at about 1:00 p.m, some unidentified miscreants had ambushed a Gypsy carrying security forces that led to the death of three army jawans. This incident took place some distant away from where Mr. Inashe Ayemi and his friend were staying. Following the incident, the security forces went on a rampage in and around the adjoining residential Colonies resorting to indiscriminate firing from different corners. Many innocent
civilians were picked up, brutally beaten and inhuman treatments meted out on them. In course of their rampage operation, some jawans entered the house where Mr. Inashe and his friend were staying. Instantly the male servant was shot death on the spot, while Mr. Inashe and his friend were brutally beaten up which led to the death of Mr. Inashe. The dead body of late Inashe was later handed over to the civil authority on the evening of 7th September 1995.\textsuperscript{17}

Another incident occurred on 5th March 1995 at Kohima, the State capital of Nagaland. On this day, while convoys of 16 Rastriya Rifles Personnel coming from an election duty in Manipur were passing through Kohima town along the National Highway No.39 towards Dimapur and at around 1:10 p.m., a big bursting sound was heard and this was alleged by the Indian army that they were fired upon by the Naga militants. Following this, they took a defensive stance and started firing and shelling with mortars which continued till nearly 3:30 hrs. As a result of the firing, 7 (seven) innocent civilians were killed, injuring 20 (twenty), out of which 16 (sixteen) were due to the bomb blast and 4 (four) from gun shots, and a large number of buildings and vehicles were destroyed. As the Indian army started firing randomly

\textsuperscript{17} For detail see Ao, Lanunungsang, A, n. 14, pp. 140-47.
two Assam Rifles jawans and one 16 Rastriya Rifles jawan received bullet injuries.

On 15th March 1996, Mr. Missamo from Lakhuti village in Wohka district of Nagaland was picked up by the Indian army personnel. It was reported that he underwent tortured in several forms like, administered electric shocks, brutally beaten up, hung by his arms ridicule him saying that even Jesus Christ too was hung in the same manner. After all these forms of torture they injected him in both his arms, making him unconscious. It was only after four days that is, on the 19th of March that he regained his consciousness and found himself in hospital, undergoing blood transfusion, unable to speak with large wounds on his stomach. On 28th March, he was handed over to the police but only after signing a document which was in Hindi, following which he was admitted in the Civil Hospital, Dimapur. He was brought to the hospital with 27 stitches on his abdomen and 14 stitches around his neck which was reported to have been removed prematurely resulting in physical disability and thus preventing him from carrying out his normal life till today.

These are only few examples of many atrocities leading to the violations of human rights committed by the Indian armies deployed in Nagaland.

**IMPACT/CONSEQUENCES OF THE ACT**

The study has been based on data collected from the cross-section of the society comprising different organizations, armies, victims, citizens and some public leaders. The field study was conducted to find out the ground realities and the impact of the enforcement of the Armed Forces Special Powers Act 1958, (AFSPA). There has always been conflicting views regarding the use and impact of this Act. One view says that the usage of this Act has resulted in violations of Human Rights in Nagaland whereas the other view holds that the enforcement has been an instrumental to enable the Indian army to tackle the secessionist's movements.

The data collected revealed three different opinions as regard to the enforcement of AFSPA. Accordingly, the data have been categorized into three groups. The first group is made up of data collected from the Indian armed forces and State police. The second group consists of the data collected from the victims and family members of the deceased victims of human rights, as well as from the
leaders of the various NGOs operating in Nagaland in order to find out how effectively they have been able to promote and protect human rights in Nagaland. Such NGOs include Naga Peoples Movement for Human Rights (NPMHR), Naga Students Federation (NSF), Naga Mothers Association (NMA), Naga Hoho representing the various tribes of Nagaland while the third group comprises of data collected from the cross-section of the common people including civil officials and public leaders.

In order to know the consequence of the enforcement of this Act throughout the State, interviews based on structured and non-structured questionnaires were conducted with various law enforcement officials that include the Indian armed forces units and State police posted and operating in all the districts of Nagaland, common citizens, leaders of various political parties, NGOs, etc. The term law enforcement officials is defined as all officials who exercise police powers, especially powers to arrest and detain.19 Despite the sensitivity of the given nature of the area of study, yet there was a tremendous positive response received from the cross-section of the society.

According to the data collected through field work, the nature of duties of Indian armies posted in Nagaland include combing operations, search and cordonning off, enforcing cease-fire ground rules, patrolling and maintaining law and order situation. Interrogating the suspect in isolation, separating men from women and children, joint interrogation, comprising the State Police, Army, and CID\textsuperscript{20}, etc., are some of the methods adopted in Nagaland for combating Naga militancy. However, while carrying out their duties the Indian armed forces encountered several problems such as communication problems in terms of language barriers with the local people, non-cooperation from the public, cross-firing with the militant groups, people willing to give information but reluctant due to fear of retaliation from undergrounds. In addition to these, they face problems in relation to handling young men, elderly women and men. In order to overcome such problems, they try to convince the people that they are simply carrying out their duty in the form of surprise raids and arbitrary arrest, search on suspected people and places, arrest on warrant or under section 41 Criminal Penal Code\textsuperscript{21}, sometimes, in order to maintain peace they coordinate with NGOs as well.

\textsuperscript{20} Based on the interviews conducted during 2002-2003, with retired Nagaland Police Personnel and Security Forces posted in Nagaland.

\textsuperscript{21} Ibid.
While executing the duties the suspects are arrested and interrogated and if found innocent they are handed over to the local police in the presence of the village elders. In some cases, compensation in the form of medical aid, access to army canteen, special recruitment into the service and dismiss all charges framed against arrested persons only after ascertaining their innocency. Where the suspects are women, interrogation is carried out in the presence of women armed personnel, and in the absence of such armed personnel, help is taken from village ladies and local police. However, if found to be guilty under the Act, they are taken into custody for further interrogation and while in custody, certain facilities are provided to the alleged culprits such as, medical assistance, counseling, proper feeding, clothing, hygienic cell and access to visitors, and communication with family members.

With the enforcement of the AFSPA in Nagaland, an analysis of the opinion of both the Indian army and the State police strongly indicate that there is a positive result in curbing insurgency and maintenance of law and order. They further said that this Act should continue to remain enforced in Nagaland to bring about complete peaceful situation and economic progress and development. According to the opinion expressed by the Indian army and State police the Act has been effective in achieving its objective of
maintaining law and order in the State to a certain extent. On the other hand, there is no denying the fact that there has been excessiveness on the part of some Indian armed personnel while performing their duties such as rape, torture, atrocities, etc., which have been alleged by members of the public as well as victims who themselves comprised the sample in the study. Such allegations are supported by reports appearing in newspapers and other media. The very fact that various inquiry committees\(^\text{22}\) were constituted by the law enforcing agencies whenever such allegations are made show that there could be some truth against such atrocities.

The data collected from the second group comprises of the victims, family members of the deceased victims and the NGOs. As they share the same opinion regarding the army they are placed in the same group. These groups believed that the enforcement of AFSPA has indeed resulted in gross violations of human rights in Nagaland. From the questionnaires and interviews conducted it revealed that most of the victims were arrested, shot death, some detained or taken into custody and whose whereabouts are not known till today. All these usually took place while the Indian armies were conducting operations. Further, it is found that most of the

\(^{22}\) Based on interviews conducted during 2002-2003 a cross section of Nagaland Police and Security Forces posted in Nagaland.
victims were illiterate and were not at all aware about the reason leading to the enforcement of the AFSPA 1958 neither about the provisions of the Act nor are they aware of their rights. Figure 3.1, clearly indicate the educational status of the victims.

Figure 3.1: Victim's educational qualifications

The interviews revealed the harrowing experiences the victims encountered with the Indian armies on execution of their duties particularly before the Cease-Fire Agreement that started in August 1997. The nature of human rights violations committed by the Indian army are mostly on the pretext of carrying out their duties and as mentioned earlier, they include rape cases, torture and killing in cold blood, some of whom succumbed to their injuries that was inflicted
upon them from the torture, while some had undergone unnecessary harassment which had affected them mentally and brought about fear-psychosis among the people in general and the victims in particular. More importantly, such undesirable experiences forced the victims and relatives, in particular and the people in general, to have a bad impression about the Indian army as a whole.

It is therefore obvious that the victims were unanimous in their view that the enforcement of the Act has not helped in bringing about peace in Nagaland rather it has worsened the situation. This is substantiated by the fact that the attitude of all the victims including their relatives expressed a negative response towards the role of the Indian armed forces and even the State police to a certain extent. This attitude has been clearly shown in figures 3.2 and 3.3. Figure 3.2, indicates that 80 percent of the victims expressed negative attitude towards the Indian army while 20 percent remained neutral and did not expressed any opinion. Figure 3.3, also indicates the opinion of the victims and their relatives about the State police personnel wherein 50 percent of the respondents expressed as positive and 50 percent as neutral.

\[23\] The names of the victims are withheld to protect their privacy as desired by the respondents.
On the role of the politicians, 80 percent of the victims expressed their opinion as neutral in figure 3.4. However, the role of NGOs was highly appreciated by the victims as 60 percent of the respondents expressed positive and good opinion while 40 percent remain neutral or expressed no opinion. This opinion has been reflected in figure 3.5.
Figure 3.3: Victim's attitude towards the State police in Nagaland

- 50% Negative opinion about the Local Police
- 50% Neutral opinion about the Local Police

Figure 3.4: Victim's attitude towards Politicians

- 80% Negative opinion about Politicians
- 20% Neutral opinion about Politicians
Similar to the views of the victims, the NGOs are also vehemently against this Act as it has caused many sufferings to the people of Nagaland and aggravated the situation to a large extent rather than resolving the on going problem. The opinion of the NGOs with regard to the Armed Forces Special Powers Act 1958 has been dealt elaborately in Chapter-IV of the study.

So far two extreme views on the alleged violation of human rights as a result of the enforcement of AFSPA 1958 in Nagaland have been examined. The views of the third group comprising of some public leaders including civil officials and members of the general public were also taken into consideration for the study. Majority from
this group had an opinion that the AFSPA 1958 has not been able to produce much positive result while there were some who were in favour of this Act. It is found that though they were literate yet most of them were not fully aware of the provisions of the AFSPA 1958, and its causes leading to enforcement that have resulted to violation of human rights as shown in figures 3.6 and figure 3.7.
Interviews with cross-sections of the public were conducted to find out who according to them are the worst perpetrators of human rights in Nagaland. It revealed that the Indian armed forces are the worst perpetrators of human rights with 69 percent followed by the State police with 44 percent and others 31 percent which is given in figure 3.8.
Figure 3.8: Public opinion on the violators of Human Rights

![Bar chart showing percentage of public opinion on violators of Human Rights.]

Figure 3.9 revealed that the majority of the victims are people belonging to low income group followed by middle and high income groups.
Further, the study showed that while raids were carried out by the law enforcement agencies there were some instances of human rights violations as shown in Figure 3.10.
In short, the respondents again cited some cases or incidents where they felt that the law enforcement agencies had committed atrocities resulting in the death of many innocent people. Many of them have mentioned about the incidents of Mokokchung that took place on 27th December 1994 and Kohima that took place on 5th March 1995 which were so vivid in their minds. The detailed of these two incidents has been discussed in Chapter-IV. Some respondents mentioned that whenever there is any altercation between Indian army and Naga militants the people staying in that area are often the victims of the aftermath. It was also reported by some political leaders that since 1957 villages were burnt down; many innocent people
were killed including the local headman. An interview conducted with a politician who himself was a victim of human rights violation confirmed about the nature of human rights abuses which did not spared no one.

Figure 3.11, revealed the different opinion of the respondents about the role of the Indian army wherein 80 percent of the respondents have expressed their opinion about the role of the Indian army as unsatisfactory while 10 percent as satisfactory and the remaining 10 percent did not make any comment.

24. Interview conducted with an Ex-MLA (Identity withheld) reported that he was picked up several times and tortured during the period 2002-2003.
Besides, on the question of the removal of Armed Forces Special Powers Act 1958, the majority comprising of 76 percent of the respondents supported for removal while 24 percent wanted the same to continue. This is shown in figure 3.12.

Figure 3.12: Opinion on removal of AFSPA 1958

Figure 3.13 revealed the opinion of the respondents about free and fair trial in the legal cell or judicial system. 84 percent of the respondents are of the opinion that lodging a complaint in legal cell or judiciary will not yield any fair trial or positive result while only 16 percent of the respondents expressed their faith on the system.
The reasons why they consider that it will not bring about any fair trial is that usually such cases are hushed up in the higher level and the legal cell cannot prosecute the offenders since it is the law that has empowered them. Hence, majority of the people being denied of their rights prefer to endure the suffering and the injustice committed on them rather than putting their lives at risk by lodging a complaint. Normally, the law enforcement agencies obtain false confessions from either the village authority or the victims under duress. But there are few among the respondents who say that justice will be executed to those victims who lodge a complaint in consultation with human rights activists.
While expressing their views on whether the lifting up of the Act will stop human rights violations in Nagaland, 69 percent agreed and 31 percent disagreed with the view.

Figure 3.14: Public opinion on lifting of AFSPA 1958 - Human Rights violation

Those who opined that lifting the Act from Nagaland will prevent the violation of human rights believe that the cases of human rights violations are committed under the cover of this Act. Hence, lifting or removal of the Act will bring about the reduction of human rights violations in Nagaland. And also to bring about rapid socio-economic development, to enable the Nagas to carry out their everyday life without any tension or fear of being arrested, detained
torture or sexually molested, the respondents opined for the removal of the Act. However, there are those who are of the view that even if the Act is removed from Nagaland, violations of human rights may still persist because it has been noticed that the violations of the same were committed not only by the law enforcing agencies but also by other social elements of the Nagas themselves to some extent.

It is the opinion of 85 percent of the public respondents that the Indian armies are not performing their duties in accordance with the provisions of the Act as shown in figure 3.15. It could therefore be the reason that the presence of the Indian army in Nagaland is affecting the daily life of the public and the common people which is shown in figure 3.16, where 54 percent expressed their opinion that the presence of Indian army in Nagaland is affecting their daily life but the remaining 46 percent says that it did not affect their daily life.
Some prominent knowledgeable citizens of Nagaland also expressed their opinion saying that the presence of the Indian army in
Nagaland has really affected their day today life as random checking at regular frequency in all areas of Nagaland, creating fear-psychosis in the minds of the people that they may be arrested, harassed, physically assaulted, etc., merely on ground of suspicion became the order of the day following the enforcement of AFSPA 1958.

On the working of the NGOs, the respondents are of the opinion that since the incidents of human rights violations have increased ever since the enforcement of the Armed Forces Special Powers Act 1958, therefore, they are of the opinion that the NGOs must be more active and strong enough to safeguard the lives and properties of the people in Nagaland. According to them, the NGOs must function with honesty and integrity to fulfill the objective of protecting and promoting human rights, help Naga people to be aware of their rights socially and economically, and also should focus to internationalize the issue in order to get worldwide support to reduce the violations of human rights. However, some critics have expressed their disapproval with regard to the functioning of NGOs. To them, NGOs have in practice not been able to do much in protecting the rights of the common citizens of Nagaland rather they alleged that these Organizations exist to promote their own vested interests. According to the critics, high level dialogues must bring about positive changes at the ground level. They are of the opinion that whatever works
undertaken by various NGOs so far are found to be ineffective and have not shown any promising result. An analysis on the role of NGOs has been made in the following Chapter-IV of the study.