Introduction

The issues of human rights have become a global phenomenon in the contemporary world as people started showing their concern towards the miseries and humiliation of another fellow human being. The importance of contemporary international relations is attached to the promotion and protection of human rights. But the fact is that though everywhere people talk about human rights, at the same time, these rights are found violated everyday all over the world. Thus, today there is a need to increase awareness about human rights in the given situation of increasing trend of human rights violations. In this context, there are numbers of Governmental and Non-Governmental Organizations (NGOs) at regional, national and international levels, which are involved in human rights movement, creating awareness for human rights issues and protecting and promoting human rights in different societies.

Objectives:

The present study was carried out with an attempt to achieve the following objectives:
1. To analyze the development of contemporary ideas on human rights.
2. To analyze the background of enforcement of the Armed Forces Special Powers Act 1958 in Nagaland.
3. To study the uses and abuses of Armed Forces Special Powers Act 1958 in Nagaland.
4. To examine whether the enforcement of the Act has produced desired results or not.
5. To examine the role of some important NGOs in protecting and promoting human rights in Nagaland.

**Methodology:**

The ongoing problem in Nagaland can be traced back to the movement for Right to Self-determination of the Nagas that started soon after India's Independence. The Indian Government on its part saw this movement as one which is unconstitutional and unwarranted. Therefore, in order to suppress the Naga movement the Armed Forces Special Powers Act 1958 was enforced in the State. This Act has enabled the armies to use their power as an instrument in tackling the problem. However, this Act has not been welcome in Nagaland as the Nagas in general considered it as a ‘Draconian’ that have caused great human sufferings leading to the violations of human
rights, which form the central theme of this study. The study is based on both primary and secondary sources. The primary sources include government documents, interviews through structured and non-structured questionnaires with cross-section of the society, various NGOs' documents, etc. The secondary sources include publications such as books, journals, articles, newspaper reports, etc. The data so collected is objectively analyzed using suitable statistical diagram like pie charts that reflect the opinion of the people on the issues. The obtained empirical findings together with the secondary information are systematically organized so as to complete the study meaningfully.

The study has been divided into five following Chapters:

**Chapter-I Introduction: Concept of Human Rights**, deals with the process in the development of the contemporary concept of human rights. Historically, it is found that human rights emerged from the concept of Natural Law. How this concept became a universally accepted norm including its incorporation in the Indian Constitution has also been dwelt in this chapter. Though the concept of human rights is a century old, it became an international concern only after
the Second World War with the adoption of the Universal Declaration of Human Rights by the United Nations on 10th December 1948.¹

Further, this chapter has highlighted some definitions of human rights given by different scholars. The United Nations Center for Human Rights has defined human rights as, "Those rights, which are inherent in our nature and without which we cannot live as human beings".² In the words of R. J. Vincent, "human rights are the rights that everyone has, and everyone equally, by virtue of their very humanity".³ In simple words, human rights can be said as inherent rights of every individual. These rights are inalienable in a sense that every individual has been born with it. Article 1(3) of the UN Charter mentioned about the promotion and encouragement of human rights and fundamental freedom of all without distinction as to race, sex, language or religion⁴. Since all human beings belong to the family of humankind, every human being should be able to enjoy these rights for their development. The ultimate human aspiration is to develop to one's fullest potential and live with dignity as a human being. Therefore, these rights include right to life, freedom, dignity and justice, which

⁴ Vijapur, Abdulrahim P. and Suresh Kumar (eds.), Perspective on Human Rights, (Manak Publications, New Delhi, 1999), p. 4.
need to be protected by the state. Denying or depriving the people of such rights is a case of human rights violation.

Article 1 (2) of the Charter of United Nations specifically mentioned to "develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen Universal Peace".\(^5\) Basing on this guiding principle, the Naga Movement aimed at attaining the right to Self-determination and freedom for the Nagas. However, the Naga Movement has been opposed by the Government of India resulting in the enforcement of the Armed Forces Special Powers Act 1958 following which conflicts and human rights violations begin to take place in the State. Going by the contemporary ideas of human rights, atrocities of any kind committed by any organization or force towards the weaker section of the society irrespective of its objectives and justification, is considered as violation of human rights.

**Chapter - II: Naga Movement and Enforcement of Armed Forces**

**Special Powers Act 1958,** deals with the emergence of Naga Nationalism leading to the enforcement of Armed Forces Special Powers Act 1958. To achieve their objective of a Sovereign State, the

Naga Movement led by Naga National Council (NNC) had resorted to several means such as negotiations and armed struggle against the Indian Armies occupying the Naga Hills. In the process, there have been widespread violence all throughout the State resulting in the loss of lives and sufferings of many innocent Nagas. To resolve the problem amicably, several rounds of negotiation and agreements have taken place beginning with the first cease-fire agreement between the NNC and the Government of India on 15th August 1964. However, as this cease-fire did not yield any positive result, another peace initiative culminated in the signing of the Shillong Accord in 1974 between the representatives of NNC and the Government of India which drew a lot of dissatisfaction and flaks from several sections of the Naga people including some leaders of the NNC. This finally led to the formation of the National Socialist Council of Nagaland (NSCN) on 31st January 1980 under the leadership of Isak Swu and Thuingaleng Muivah and S. S. Khaplang. However, due to some differences among the leaders, the NSCN was split into two organizations namely NSCN (IM) led by Isak Swu and Th. Muivah and NSCN (K) led by S. S. Khaplang. Another landmark development that took place was the cease-fire agreement between the NSCN (IM) and the Government of India in 1997, which continues till date with extension every year.

Chapter – III, discusses about the background of the Armed Forces Special Powers Act 1958 (AFSPA). To prevent the Naga Movement for Freedom, the Government of India deployed armies and para-military forces in Nagaland and begin to counter with Naga militants. This created more problems and when the situation became out of control, the Government of India enforced Armed Forces Special Powers Act 1958 with the objective to end all militant activities in Nagaland and its consequences are discussed in this chapter. The Armed Forces Special Powers Act 1958 in brief empowered the army personnel down to the rank of non-commissioned officers with the following powers:6

1. to “fire upon or otherwise use force, even to the extent of causing 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 carrying of weapons or of things capable of being used as weapons or of fire arms ammunition or explosive substances”;

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2. to destroy a place determined to be an arms dump, or a 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;

3. to 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;

4. to enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person suspected to be illegally confined or any property reasonably suspected to be stolen or any arms, ammunition or explosive substances believed to be unlawfully kept.

On the part of the Government of India, the enforcement of the Act is intended to control the situation and also to bring about peace and development in the State. However, the Act in Nagaland has rather deteriorated the situation leading to violations of human rights. Therefore, in order to get an in depth understanding of the ground reality prevailing in the State, field work was carried out through structured and non-structured questionnaires with the cross-section of the society including Indian Army officials, State police personnel in Nagaland, prominent Non-Governmental Organizations
NGOs operating in Nagaland in the field of human rights, victims of human rights violations, leaders of different political parties, Government Officials and prominent citizens of Nagaland. The data so collected indicated that the Act has created more problems rather than solving the Naga issues and it has been faced with lot of criticisms and the Nagas in general through different organizations are fighting for its withdrawal from the State.

Chapter – IV Role of Non-Governmental Organization (NGOs): Naga People’s Movement for Human Rights (NPMHR)

Chapter – IV, deals with role of Non-Governmental Organizations (NGOs) with special reference to Naga People’s Movement for Human Rights (NPMHR). The NGOs worldwide have been playing an important role in all spheres of human life including all round development and protection and promotion of human rights. Similarly in Nagaland, several NGOs have emerged guided by the same principle. They are in essence, investigators and disseminators of information who collectively comprise the human rights movement. NGOs such as the Naga Peoples Movement for Human Rights (NPMHR), Naga Mothers Association (NMA), Nagaland Students Federation (NSF), and Naga Hoho have been found actively involved in fighting against the cases of human rights violations in the State. Of
all these NGOs, the most prominent in dealing with the issues of human rights is NPMHR.

Whenever raids were conducted by the Indian Army under cover of AFSPA 1958 to flush out the militants, there were instances where mostly the innocent Nagas have suffered. As Nagas in general are not aware of the existing Act, many innocent people were arbitrarily arrested as suspects and often branded as rebels. Under such circumstances, the NGOs particularly the NPMHR has been found playing important role in highlighting the issues and fighting for the victims. For example, the NPMHR in June 1978, together with some representatives of Naga Students Federation went to Phek town to enquire into the torture of two students by the Assam Rifles. They also went to visit the victim of alleged raped case of Mrs. Kuono (65 years) by 99 Border Security Force at Kohima and the arrest of four Naga youth movement workers. Following the publication of report of their visit, NPMHR organized protest rallies in Delhi, Shillong and Kohima against continued violations of human rights committed by the armies in Naga inhabited areas. These rallies were conducted in order to create awareness of human rights and to mobilize support for the movement of the organization.
Another case taken up by NPMHR was the Kohima incident of 5th March 1995 in which an Indian Army Convoy carrying 600 soldiers of the Rastriya Rifles killed 7 (seven), innocent Naga civilians on the spot and injured 20 other innocent Nagas, while destroying numbers of residential buildings and vehicles as well. The case was taken to the Supreme Court of India by NPMHR after which a Commission was set up and on the basis of the reports of the Commission the victims were compensated.

Further, the different NGOs in Nagaland have vehemently opposed the enforcement of the Armed Forces Special Powers Act 1958 and terming it as `Draconian Act' they have demanded for its removal. In fact, the NPMHR has gone to the extent of taking the case to the Supreme Court of India fighting for its withdrawal from Nagaland state.

**Chapter V: Conclusion.** Human rights in Nagaland as uncovered by the study clearly exposes the sufferings of the people because of the enforcement of the Armed Forces Special Powers Act 1958 which has been called by many as `black law' or `draconian law'. Thus, the concluding chapter summarizes the study and

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discusses the findings and suggestions so as to prevent human rights abuses in the State. The different socio-economic and human rights organizations are of the opinion that the enforcement of Armed Forces Special Powers Act 1958 is not in consonance with the efforts made to achieve peace in the insurgency-ravaged State.\(^8\)

**Major Findings:**

1. Study and analysis of various definition of human rights and contemporary ideas of human rights contained in the provision of international covenants and conventions on human rights atrocities of any kind committed by any organization or force towards the weaker section of the society irrespective of its objectives and justification, is considered as violation of human rights.

2. The study reveals that the main cause of disagreement/conflict between the Government of India and the Naga Nationalist was on the question of Naga Sovereignty. On the part of the Government of India all discussions or negotiations were to be carried out within the framework of the Indian Constitution which was rejected by

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\(^8\) Naga agitation on ‘black law’ reaches capital” The Telegraph, Region, Gauhati, 25, July, 2004, p. 8.
the Naga Nationalist since such conditional discussions or negotiations will not bring any result leading to Naga Sovereignty as the Indian Constitution does not provide any provision for granting of Sovereignty.

3. The study revealed the Naga Hills District Tribal Council which was transformed into a political organization known as ‘Naga National Council’ (NNC) on February 1946 was started to give active support to the Britishers in bringing about all round development in the Naga Hills. Subsequently, after India’s Independence, this organization started the Naga movement in order to achieve Naga independence from the Indian Government. The movement was further carried out by Naga armed organization as namely NSCN. The movement was however not supported by the leadership of the Indian Government which led to the conflict between the Government of India and the leadership of the Naga Movement. The conflict further escalated leading to the loss of live, properties and worsening the normal and peaceful situation not only in Nagaland but also in all Naga inhabited areas. This development necessitated the Indian Government to adopt and enforce the AFSPA 1958, mainly to contain and control militancy in Nagaland.
4. The objective of AFSPA 1958 was to eradicate Naga militancy, to maintain law and order and to bring about over all peaceful situations in all Naga inhabited areas. Keeping this objective in mind the Act provided the Indian armies and para-military forces deployed in Nagaland and Naga inhabited areas with blanket powers including to fire upon or otherwise use force, to destroy a place determined to be an arms dump, to arrest without warrant, to enter and search without warrant any premises to carry out the duties assigned to them. However the study has revealed that the usage of the Act has been in contravention to the provisions laid down in the Act.

5. It is found that the activities of the Indian Armed Forces operating under the Act is in contravention to the provisions laid down in Article 6 of International Covenant on Civil and Political Rights that provides, "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life".\textsuperscript{9} India is a ratifying member of the covenants, India has also agreed to abide by all provisions laid down in the covenants, however the act committed by the Government agencies while carrying

out their duties totally is in contravention to the accepted norm as Stated Article 21 of the Indian Constitution which reads as, "No person shall be deprived of his life or personal liberty except according to procedure established by law"\(^{10}\).

In spite of the protection provided in the Constitution to each and every citizen of the country yet the Naga people in general live an unsecured life in the midst of 'militancy' and 'counter-militancy'.

6. Another important revelation of the study shows that there has been several cases of arbitrary arrest made by the Indian army. Many people who have been arbitrarily arrested under the Act were deprived of their liberty which was to be accorded to such persons. A number of people who were arbitrarily arrested by the Indian army never came back and their whereabouts remain a mystery.

7. Although, because of the method of counter-militancy, the army activities are viewed as 'anti-people', it has been found that the armies have in fact come forward in helping the public particularly in times of natural disaster.

8. The study also revealed that the Indian armies operating under the Special Powers Act 1958 alone are not responsible for violation of human rights in Nagaland. There were instances, where many civilians were also killed as a result of militancy and counter-militancy by both the Indian armies and Naga army. Further, the ideological differences and conflicts among the Naga ‘nationalists’ also resulted in fratricidal killings of many common Nagas.

9. The study reveals that NGOs are not satisfied with the Indian armies deployed under AFSPA 1958 and they have raised several forms of protest against the Act terming it as ‘Draconian Act’ which is not fit for human beings.

10. The ignorance of the general people about human rights has been one of the factors for their rights to be encroached and violated. The injustice and violations human rights committed by the armies on the innocent people have brought about the negative attitude of the people towards Armed Forces and local police.

11. With regard to the functioning of the NGOs, it is found that they have not been able to do much practically to protect the rights of the common citizens of Nagaland.