CHAPTER IV

THE POLITICAL CONTEXT OF CIVIL UNREST: DISTURBED AREAS AND LWE AFFECTED AREAS

Introduction

India's recognition to the civil unrest in Jammu and Kashmir, Northeast India and Left Wing Extremism (LWE) areas affected is that that of a law and order problem created as a result of sporadic acts of violence carried out by a few mislead groups but no real threat to democracy. Both the situations are intricately poised. The unrest in Kashmir and Northeast India is an outcome of the communities regional desire to obtain independent Statehood, a claim the communities are fighting since independence in 1947. The State, in turn has intermittently deployed the armed forces of the Union in the affected areas through the Armed Forces (Special Powers) Act 1958 and declared certain areas in Jammu and Kashmir and Northeast India as 'Disturbed Area.'

The situation highlights the complex history of decolonization and the internal struggle of accession and secession between newly independent state and these

157 A significant part of the Chapter taken for the researcher’s publication, Vimug Mukul, Lawfully Wedded to Democracy? India and the Armed Forces (Special Powers) Act, Human Rights Review Vol. 9 No. 1 June 2012.
159 The abbreviation ‘AFSPA’ is intended to include all amended enactments of the Armed Forces (Special Powers) Act 1958 since these amendments did not involve substantive changes. It continues to be in force by simply changing the material field of application. For example, the Armed Forces (Special Powers) Act 1958 (Act 28) was initially enacted solely with respect to Assam and Manipur. It was amended twice in 1972 (Act 7) for Manipur and in 1986 (Act 69) to make it applicable to Arunachal Pradesh (Act 69), Meghalaya in Mizoram (Act 34), Nagaland and Tripura. The Armed Forces (Punjab and Chandigarh) Special Powers Act 1983 (Act 34) was enacted in Punjab between 1983-92 when the situation turned violent following demands that an independent state of Khalistan be created. Similarly, the Armed Forces (Jammu and Kashmir) Special Powers Act 1990 is still in force in Jammu and Kashmir at FN 15.
160 Vimug Mukul, Lawfully Wedded to Democracy? India and the Armed Forces (Special Powers) Act, Human Rights Review Vol. 9 No. 1 June 2012. The term ‘Disturbed Areas’ was first used in the Assam Disturbed Areas Act 1955, aimed at restoring and maintaining public order in the face of increasing violence in the Assam province. No precise definition of the term was given but the State Government was empowered to declare any area a ‘Disturbed Area’ through notification in the official Gazette. It also conferred powers on law enforcement officials to quell disturbances.
regions is currently marked by protracted armed violence resulting in the deployment of the armed forces. The communities feel threatened by what they view as an oppressive, dominant regime occupying their territory, infringing on their ethnic and tribal identity, and hindering their progress toward self-determination.

Many experts have commented that the application of the AFSPA tantamount to a State of emergency and view that the State has kept democracy at show window and enacted special legislation which do not uphold internationally accepted human rights treaty obligation under the ICCPR to which India has also ratified (discussed later).

No special legislations are in effect in the LWE affected areas but the State has enhanced the security machinery and increased the deployment of Central Para Military Forces. Community grievances in these areas has stemmed from unequal distribution of resources, their marginalization in the decision making process and in negligible distribution of proceeds received from the from the rich natural resources to which these communities are the statutory custodians. State indifference towards the rights of the local communities, their political exclusion over the years has manifested as protracted armed violence by a section of the community demanding secession through self-determination.

The Maoists in the LWE regions ideologically seeks to wage a war against the Indian government with the goals of peasant revolution, abolition of class hierarchies, and expansion of Maoist-controlled “liberated zones.” These zones are to serve as the foundation of an independent “Maoist” state.

The State response in these areas (AFSPA and LWE) is twofold. First, a multi-pronged strategy to control the civil unrest through various security related interventions aimed towards the maintenance of law and order through the increase in Security Related Schemes (SRE) and deployment of additional Central Police forces. Second, integrated development through accelerated infrastructure development,
stress on employment, good governance and decentralization and, the willingness to meet and discuss legitimate grievances of the people and the resolve not to tolerate violence.

Towards this end, the State has maintained controlling the situation by tangibly showing reduction in terrorist related violence, decrease in civilian deaths and security forces killings with the corresponding increase in surrenders, neutralization of terrorists and launching of various flagship programmes aimed at physical and constructive reforms towards the wellbeing of the aggrieved communities. However, the intervention outcomes equally expands to the State's ability to ensure democratic entitlements to the aggrieved communities. Principally, these include, socio economic development in the affected areas, rightful access to basic entitlements like health and education, enabling local self-governance, and systematically creating conditions for withdrawing special measures enacted to control the civil unrest. The latter is equally important, the absence of which risks protracted deployment of forces, increased powers through special legislations and decreasing democratic spaces.

The chapter examines State’s response to the civil unrest in the country. These include the Disturbed Areas under the AFSPA and areas affected by the LWE. Particular emphasis has been accorded towards infrastructural development affecting children in terms of access to health and education. Both the affected regions consist of tribal indigenous population protected as Scheduled Tribes under the Indian Constitution, the Panchayat (Extension to Scheduled Areas) Act 1996 (PESA) aimed to enable tribal self-rule, the Forest Dwellers Recognition of Forest Rights) Act, 2006 (FRA).

Part I of the paper examines the evolving political context of situation. These include the Disturbed Areas under AFSPA and the LWE affected region.

Part II examines the State’s multipronged intervention model of integrated development to include actions taken towards the maintenance of law and order development related initiatives aimed at physical and constructive access.

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162 Ministry of Panchayati Raj, Government of India, Of the 76 left-wing extremist-affected districts in the country today, 32 are PESA districts. See Ajay Dandekar & Chitrangada Choudhury, Left-Wing Extremism and Governance: Concerns and Challenges in India’s Tribal Districts at 29.
THE POLITICAL CONTEXT OF THE SITUATION

Disturbed Areas under the AFSPA

India’s independence in 1947 is plagued by two important events. First, the birth of two nation states: the Dominion of Pakistan (later the Islamic State of Pakistan) and the Union of India. Second, the challenge to integrate the 562 princely states and provinces within independent India which became technically sovereign after the British paramountcy lapsed giving the option to the princely states and provinces to remain independent or be part of either of the dominions under the Independence Act 1947. The option with the princely states to proclaim independence *inter alia* accede to either of the dominions was the foremost challenge that confronted India and Pakistan since it threatened to fragment the newly formed states into a cluster of sovereign entities within the nation state. Junagadh in Gujarat, the United State of Gwalior, Orissa (Native state included Talcher, Bamra and Kalahandi), Santrampur, Vindhya Pradesh (native State included Charkhari and Sarila) Jind Hyderabad, Punjab province and, Manipur and Nagaland in the Assam province sought independent statehood but eventually acceded to India. The princely state of Jammu and Kashmir (Kashmir) initially chose independence but later signed the instrument of accession (26 October 1947) following the tribal invasion from Pakistan which precipitated as the first armed conflict between India and Pakistan in 1947-48.

Similarly armed violence has continued to foment in the communities in Manipur, Nagaland and Punjab demanding secession. The State immediately responded with force to quell these disturbances by bringing into force the Armed Forces (Special Powers) Act 1948.\(^{163}\) This was followed by the Assam Maintenance of Public Order (Autonomous District) Act 1953 and the Punjab Security of State Act 1953 before the Armed Forces (Special Powers) Act 1958(Act 36 of 1957) came into force on the repel of the Armed Forces (Special Powers) Act 1948. The Armed Forces (Special

\(^{163}\) The Armed Forces (Special Powers) Act 1948 was derived from the British India Armed Forces (Special Powers) Ordinance 1942 brought into force to quell the Quit India Movement.
Powers) Act 1958 (AFSPA)\textsuperscript{164} formally involved the armed forces within the law enforcement paradigm conferring special powers in Disturbed Areas.\textsuperscript{165}

The present Act is in force in the whole of Manipur (except Imphal), Nagaland and Assam, the Tirap and Changlang districts of Arunachal Pradesh and a 20 km belt in the States having common border with Assam and 22 Police Stations and part of areas under 5 Police Stations in Tripura\textsuperscript{164}(MHA Annual Report 2002-03 at 32) in the Northeast India and the Kashmir (District of Jammu, Kathua, Udhampur, Poonch, Rajouri, Doda, Srinagar, Budgam, Anantnag, Pulwama, Baramulla & Kupwara) under the Armed Forces (Jammu & Kashmir) Special Powers Act, 1990.

Armed violence demanding secession continues in these regions and the state has responded to these demands by aggressively deploying the armed forces through the AFSPA in the North-eastern Region (intermittently since 1958), Kashmir (since 1990) and Punjab (1983-92) conferring the same substantive powers to the armed forces as the Armed Forces (Special Powers) Ordinance 1942. These include: to fire upon otherwise even to the causing of death for the maintenance of public order,[AFSPA, sec 4(a)] to arrest without warrant, [AFSPA, sec 4(c)] destroy[AFSPA, sec 4(c)] or search without warrant any premises wrongly restrained or confined. [AFSPA, sec 4(d)]. The armed forces are protected from persecution, suit or any legal proceeding except with the previous sanction of the Central Government for acts done or purported to be done in exercise of their duties (AFSPA, sec 6).

The AFSPA continues to draw fierce criticism for being draconian, supplanting civil authority, and violating basic human rights, as well as granting the armed forces impunity.\textsuperscript{166} The State has also been criticized for its failure to protect her own people by conferring excessive powers to armed forces and legitimizing the use of force without sufficient limitations.\textsuperscript{167} Although the Act has been challenged three times since 1975 in the domestic courts (the Supreme Court and the High Court of India),

\textsuperscript{164} The expression AFSPA also includes the Armed Forces (Special Powers) Act 1990 (in force in Kashmir).
\textsuperscript{165} No precise definition of the term was given out but it vested the powers to the State Government to declare any area as ‘Disturbed Area’ by notification in the official Gazette and conferred powers to the law enforcement officials to quell disturbances.
each time it has been upheld. However, in the *Naga People’s Movement of Human Rights v. Union of India* ([1997] ICHRL 117) (NPMHR), the Supreme Court not only upheld the constitutional validity of the AFSPA, but also reversed the earlier decision of the Guwahati High Court on the correctness of the 12 declarations. However, the ruling attempted to moderate the provisions of the AFSPA by issuing a list of ‘Dos and Don’ts’.

The Jeevan Reddy Review Committee recommended the repeal of the Act in 2004, but with the caveat that it should be included as an additional ‘Special Power’ chapter in the Unlawful Activities (Prevention) Act 1967 to enable the armed forces to quell internal disturbances. The Review Committee criticized the Act as a symbol of oppression, an object of hate and an instrument of discrimination and highhandedness. The Second Administrative Reforms Commission in 2007, and the National Minorities Commission in 2006, finally recommended the total repel of the

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168 The Act was first challenged in 1983 in the Delhi High Court in the case of *Indrajit Barua v. State of Assam* (A.I.R. 1983 Del 513) in which the Court upheld the constitutionality of the AFSPA. The AFSPA was challenged again in 1990 at the Guwahati high court in the case of *People’s Union for Civil Liberties v. Union of India* (A.I.R. 1991 Gua 23) The court reviewed the army's powers and overturned the identification of the twelve districts of the State of Assam as disturbed on the grounds that the Government had not provided sufficient evidence to justify the invocation of the AFSPA in all those districts. When the Central Government appealed to the Supreme Court, the case was granted partial stay pending final hearing. The parts stayed were the orders requiring the Government of Assam to withdraw the disturbed area declaration in respect of the twelve districts where the invocation had been held to be unjustified. The Act was thereafter challenged in the Supreme Court of India in the case of the *Naga People’s Movement of Human Rights v. Union of India* ([1997] ICHRL 117).


170 See fn25.

171 ‘Report of the Committee, headed by Justice (Retd) B.P. Jeevan Reddy, to Review the Armed Forces (Special Powers) Act 1958’ (Ministry of Home Affairs Office Order No 11011/97/2004-NE-III, 19 November, 2004). Available at http://www.hindunet.com/nic/afa/. Last accessed 5 February 2011. The Review Committee was constituted following the alleged extra-judicial killing of Ms Thangjam Manorama Devi by the troops of the Assam Rifles in Manipur in 2004. On the night of 11 July 2004, Ms Thangjam Manorama Devi was arrested for being a member of the People’s Liberation Army. Her body was recovered the following day. The Assam Rifles personnel were charged with incommunicado execution and sexual assault. The incident fuelled sentiments against the armed forces and the power conferred on them by the AFSPA. Following this, a group of 32 civil society organizations based in Manipur formed a coalition called the Apunba Lup to protest abuses committed under the AFSPA and call for its repel.

172 The Jeevan Committee Report, UN Doc. CCPR/C/10/Add, 13 Jul 1983, 83.

Act on the basis that it violates fundamental rights. The State is yet to respond, while the armed forces oppose any dilution of their current powers.

India came under international scrutiny after the submission of the first State report to the UN Human Rights Committee (HRC) pursuant to Article 41 of the International Covenant on Civil and Political Rights. During the examination of the first report, the HRC questioned the rationale for the lack of any kind of mention in the Indian Constitution, to the non derogable rights found in article 4 of the Covenant. The HRC raised concerns on the situation in the Northeast, in general, and the AFSPA, in particular. The HRC said that certain provisions of the Act (AFPSA) effectively derogated the rights contained in Article 6, 9 and 14 of the Covenant and also raised concerns that the existing practice has led to a ‘de facto’ declaration emergency which were not in line with the Covenant provisions.

The HRC also commented on the protracted duration of the AFSPA in its concluding observation on the State's third periodic report expressing concern that some parts have remained subject to declaration as Disturbed Areas over many years - for example the Armed Forces (Special Powers) Act has been applied throughout Manipur since 1980 and in some areas of that state for much longer - and that, in these areas, the State party is in effect using emergency powers without resorting to article 4, paragraph 3, of the Covenant.

In the similar vein, the Special Rapporteur on the Question of Human Rights and States of Emergency, in almost identical language, has referred to the situation of emergency in the Northeast India in his annual reports since 1993.

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177 U.N.Doc. CCPR/C/SR.493 (Sir Vincent Evans)
178 See UN Doc. CCPR/C/SR.1041, (Prof Rosalyn Higgins) , UN Doc. CCPR/C/SR.1042 Para 16.
180 Mr. Leandro Despouy, Special Rapporteur appointed pursuant to Economic and Social Council resolution 1985/37.
181 ‗The Administration of Justice And The Human Rights Of Detainees: Question Of Human Rights And States of Emergency‘: Annual reports and list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, presented by Mr. Leandro Despouy, Special
The question of whether the AFSPA requires a declaration of emergency under Article 352 of the Indian Constitution and, under Article 4 of the ICCPR, whether it must notify all the treaty’s States Parties’ (via the UN Secretary-General) “of the provisions from which it has derogated” came under scrutiny during the examination of India’s second periodic report to the HRC, as well as during the NPMHR case. India argued that, since the AFSPA had not been applied throughout the country, the Government is not obliged to make a formal derogation. Moreover, since the situations in which the AFSPA is invoked does not constitute an armed rebellion and, thus, no threat to the security of the country or part thereof is posed, the Government is not obligated to issue a formal proclamation of emergency under Article 352 of the Indian Constitution. However, the HRC has disputed this argument on the basis that the State is effectively using emergency powers without resorting to Article 4 of the ICCPR. Moreover, the phrase “Public emergency threatening the life of the nation” is intended to prevent the abuse of provisions concerning derogation of rights, so States are required to list the specific circumstances justifying derogation: “Two fundamental conditions must be met: the situation must amount to a public emergency which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency.” Moreover, the General Comment on Article 4 of the ICCPR requires that “States must act within their constitutional and other provisions of law that govern such proclamation and the exercise of emergency powers”.

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182 UN Doc CCPR/C/76/Add.6, para. 50. This was in response to the HRC question during the examination of India’s second periodic report as to whether the special laws met with the test of ‘strict requirement’ laid down in article 4 of the ICCPR (UN Doc.CCPR/C/SR.1042).
184 ICCPR General Comment 29, UN Doc. HRI/GEN/1/Rev.6, 2003, para. 3.
185 ICCPR General Comment 29, para. 3. See fn.128.
While India maintains that the AFSPA does not supplant civil powers, these powers have been, *de facto*, institutionalized within the system, sacrificing individual guarantees and sideling the country’s obligation to restoration normalcy. Increasing the geographical base of the AFSPA has only increased the scope of application in the disturbed areas. Despite the extensive use of troops in Kashmir and Northeast India, the State continues to maintain that the situation falls within a law and order framework such that the use of troops constitutes aid to civil authorities.\(^{186}\)

The material application of the Act too is risky since it is contingent on the State declaring an area as 'Disturbed Area' without any substantial definition to the term. The Court too did not define what is meant by the term ‘disturbed area’\(^ {187}\) in the NPMHR case, it did rule that under Section 3 of the AFSPA (as amended by Act 7 of 1972) the Central Government was empowered to make such a declaration without consulting the specific State in whose jurisdiction the area falls.\(^{188}\) Indeed, a declaration that an area is disturbed depends on the satisfaction of Government officials and is not subject to judicial review. However, the Court sought to clarify that such an order does not result in the taking over of the State’s civil administration

\(^{186}\) The issue of the deployment of the armed forces in aid to civil authority was also raised during consideration of India’s second periodic report U.N. Human Rights Committee in 1996. In reply, India noted that “[T]he Armed Forces (Special Powers) Act 1958 was enacted when India was faced with an acute law and order situation on account of activities of insurgents in the border areas in the eastern frontiers of India. Armed raids were being carried out by such insurgents in the small towns, villages and in the tea gardens followed by destruction of property, wanton killings, kidnapping and other acts of violence with the result that people in these areas were living under constant terror and were apprehensive about the safety of their lives and property. The army had to be called out to aid civil authorities for the apprehension of the offenders, who were usually armed, and to assist in the detection and search for the sources of weapons and ammunition supply.” See UN Human Rights Committee (HRC), UN Human Rights Committee: Addendum to the Third Periodic Reports of States Parties Due in 1992, India, CCPR/C/76/Add.6 (June 17, 1996), available at http://www.unhchr.org/refworld/docid/3ae6b02f3.htm. Similarly when the Act was challenged in the Nagaland People’s Movement for Human Rights v. Union of India case ([1997] ICHRIL 117) on the imposition of the Armed Forces (Special Powers) Act calling for the deployment of the armed forces in disturbed areas on grounds that maintenance of public order was a state subject and the Parliament had no legislative competence to the enact the Act. The court ruled that deployment of armed forces was in aid of civil power. See Supreme Court of India on Armed Forces (Special Powers) Act, 1958, A.I.R. 1998 S.C. 463-464, available at http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/COHR_IND_UPR_S1_2008anx_Annex%20XXIII_Supreme%20Court%20ruling%20on%20AFSPA.pdf.

\(^{187}\) The question of the ambiguity of the term ‘disturbed area’ in the AFSPA was first challenged in the case of *Indrajit Barua v. State of Assam* (AIR 1983 Del 513). The Court decided that the lack of precision was not an issue because the Government and people of India understood its meaning. On the other hand, the Disturbed Areas (Special Courts) Act 1976 states that when “a State Government is satisfied that (i) there was, or (ii) there is, in any area within a State extensive disturbance of the public peace and tranquility, by reason of differences or disputes between members of different religions, racial, language, or regional groups or castes or communities, it may ... declare such area to be a disturbed area.”

\(^{188}\) The *NMMHR* case. See fn.20.
by the armed forces of the Union since the powers granted by the AFSPA can only be exercised with the cooperation of the civil authorities. The ruling remained silent on the substantive provisions of the AFSPA but did issue a list of legally binding ‘Dos and Don’ts’ within the terms and reference of the Act.

The communities’ collective grievances is the basis of internal struggles, which in turn has become protracted armed confrontations with the newly established dominant states. The present localized conflicts in Kashmir and North eastern India are fallout of the State’s attempts to integrate these communities against their aspirations of self determination towards an independent statehood.

**Left Wing Extremism (LWE)**

Maoist violence can be traced back to the emergence of the communist political movement in the 1920s which propagated the creation of a classless society and recognized armed violence as one of the tactics to achieve these objectives. In 1946, the Communist Party of India (the CPI) first succeeded in mobilizing the people, on the principle of armed struggle, in Telangana, Andhra Pradesh. It continued for almost five years or so. This movement is known as Telangana Uprising (1946-51).

The creation of the Communist Party of India (Marxist-Leninist) in 1969 by Charu Mazumdar first formally embarked on this mission. The CPI(ML) was totally opposed to the electoral process and advocated violent revolution as the only means of realizing its political objectives. The initial movement epicentred around West Bengal and Andhra Pradesh until 1972 when the State was able to wrest control on the activities.

The subsequent period from 1972-1991 remained subdued with sporadic acts of violence dominated by two factions of naxalites, namely, the People's War Group of Andhra Pradesh and Maoist Communist Centre (MCC) of Bihar.

Post 1991, was a phase of reunion and merger. In September 1993, the MCC, the CPI (ML) (PWG) and the CPI (ML) Party Unity formed All India People’s Resistance Forum (AIPRF) to coordinate their struggle in different locations of the country. In

1998, Guerilla Zones emerged in North Telangana and Dandakaranya with the merger of CPI(ML) with PWG leading to the creation of the People's Guerrilla Army in 2000. This creation led to the rapid spread of activities to through contiguous forest and hilly areas of Orissa, Chhattisgarh, Madhya Pradesh, Maharashtra, Bihar and Jharkhand. By 2002, a Tactical Counter Offensive was launched by the party by forming striking forces.\textsuperscript{191}

Meanwhile, the Dakshin Desh group which had broken away from CPI-M in 1968 became the Maoist Communist Centre (MCC) in October 1969. It indulged in squad activities mainly in forest and mountainous regions of West Bengal (WB) and spread to undivided Bihar. Later on, it became Maoist Communist Centre of India (MCCI).\textsuperscript{192}

In the 2003-04 Report of the Ministry of Home Affairs, Government of India officially recognized that there was Maoist problem fomenting in the nine states of the country. The Reports stated, ‘Naxal violence continues to pose a serious challenge to internal security in the country. 55 districts in 9 States, namely, Andhra Pradesh, Bihar, Maharashtra, Orissa, Madhya Pradesh, Chhatisgarh, Jharkhand, West Bengal and Uttar Pradesh were identified to be afflicted with naxalism’. The same report also mentioned that the Maoists were augmenting their armed strength by embarking on extensive induction of misguided youth into their formation. Military reliance was assessed as one of the core strategies of the movement and there was greater emphasis on the militarization by acquiring technology and gaining skills relating to fabrication and firing mechanism for improvised explosive devices (IEDs) and weapons. The unabated violence of the cadre during this period was identified as a serious threat to internal security in the country with the incidents of violence increasing by 8.5% and resultant deaths increasing by 6.4%. This accounted about 88% of the countrywide naxalite violence and 90% of the resultant deaths.

\textsuperscript{191} Ministry of Home Affairs, Government of India (2011), D. M. Mitra, Genesis and Spread of Maoist Violence and Appropriate State Strategy to Handle it, Institute of Social Sciences, New Delhi, Executive Summary.
\textsuperscript{192} Ministry of Home Affairs, Government of India (2011), D. M. Mitra, Genesis and Spread of Maoist Violence and Appropriate State Strategy to Handle it, Institute of Social Sciences, New Delhi, Executive Summary
However, the merger of the Maoist Communist Center (MCC) and People's War Group (PWG) in 2004 led to further increase in violence in Chattisgarh and Maharashtra. In Chattisgarh, there was a sharp increase while in Maharashtra violence increased by 15% during 2004 as compared to 2003, the CPML-PW continued to dominate the forest and mountainous tracts of Gadchiroli and Gondia districts.

A new dimension was added to the naxal scenario when the CPML-PW leaders announced (October 14, 2004) merger of the CPML-PW and the MCC and creation of a single outfit called the Communist Party of India (Maoist). The 2004-05 report further elaborated on this issue and notified that the number of districts affected has increased to 76 and the merger of the CPML-PW has added a new dimension to naxal scenario. The report clearly acknowledged that the issue was no longer simply a law and order problem and that it was being tackled on political, social, economic and security fronts through a multi-pronged strategy.

This was the first official recognition that the problem had a higher threshold than merely a law and order problem. This was also the first time when the state officially recognized that Naxalites have an assessed strength of 9300 hard-core underground cadres with about 6500 regular weapons besides a large number of unlicensed country-made arms.

The 2006-07 MHA Report gave not statistics but the situation referred to have deep socioeconomic dimensions beyond the traditional law and order mandate. In 2009, the CPI Maoist with all its formations and front organizations was banned under the existing Unlawful Activities (Prevention) Act, 1967.

The LWE violence, though being more than fifty years old has only recently been recognized as a serious threat to national security. No special legislations have been passed and the affected region continues to remain under normal laws as applicable in the rest of the country like the Unlawful Assembly (Prevention) Act 1967. In 2010 the activities of the Maoist movement revived calls for the deployment of the armed forces, following the death of seventy-three Central Reserve Police Force (CRPF)

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194 Government of India (2010-11), Ministry Home Affairs, Annual Report 2010-11, 2.7.4 at 21.Also Government of India (2011-12), Ministry Home Affairs, Annual Report 2011-12, 2.9.2 at 30
personnel on 6 April 2010 in Chattisgarh.\textsuperscript{195} The Cabinet Committee on Security is currently examining whether the armed forces should be deployed in the most affected regions.\textsuperscript{196}

The prime motive behind the expansionist designs of CPML-PW and MCC-I together with the Communist Party of Nepal (Maoist) is to spread into new areas to carve out a ‘Compact Revolutionary Zone’ spreading from Nepal through Bihar and the Dandakaranya region to Andhra Pradesh. Efforts are being made by the naxal outfits to plug gaps in North Bihar and North Chhattisgarh being steadily to link up their strongholds in Andhra Pradesh/Dandakaranya with those in Bihar/Jharkhand, besides increasing influence in North Orissa/South East Jharkhand.\textsuperscript{197}

\textbf{STATE INTERVENTION}

\textbf{State Intervention}

Table 5.1. shows a broad intervention model enunciated by the State in the civil unrest areas affected by LWE and under the AFSPA. A multi-pronged strategy towards enhancing security coupled with integrated development is the twin objective of State intervention.

The end state objective is to mainstream communities, strengthen capacities through popular control in the decision making process and enhancing democracy through the right to developmen


\textsuperscript{196} The army has noted that it is too stretched to spare additional troops and that, if deployment is ordered, its members must have adequate legal protection in the form of the AFSPA and related instruments; a view supported by the Ministry of Defence. ‘Too stretched to fight Maoists: Indian Army’, Available at: http://rupeenews.com/2010/06/05/too-stretched-to-fight-maoists-indian-army/. Last accessed 20 Dec. 2010.

Table 3.1: State Intervention

**Integrated**

- Monitoring of Implementation of Flagship Programme to include, PMGSY; NRHM; Ashram Schools; MGNREGA; SSA; NRDWP; RGGVY; ICDS; IAY;
- Recognition of rights of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- Civic Action Programme
- Surrender and Rehabilitation Policy
- Central Scheme for Assistance to Victims/Family of Victims of Terrorist and Communal violence

**Security**

- Modernization of State Forces.
- Security Related Expenditure (SRE) Scheme
- Deployment of Central Armed Police Forces (CAPFs)
- India Reserve Battalions incl SIRB
- CoBRA Battalions
- CIAT Schools
- Scheme for Special Infrastructure
- Recruitment in CPFs.
- Fortified Police Stations

**Objectives**

- Physical and constructive access
- Mainstreaming communities.
- Popular control: decision making.
- Enjoyment of ESCR.

- Maintenance of law order
- Upholding Constitutional democracy
- Enjoyment of CCPR

**END STATE**

- Enjoyment of rights (CCPR and ESCR).
- Physical and constructive access to development and decision making.
- Mainstreaming communities.
- Popular control: decision making.
- Enjoyment of ESCR.
Security

State response is twofold. First, enhance security related efforts for the maintenance of law and order. Second, establish the writ of the State within democratic principles. Security interventions are aimed at building up of local capabilities for intelligence, specially trained and well equipped police forces to facilitate effective police action, in a coordinated manner. The strategy includes assistance through SRE, Police modernization, raising of India Reserve (IR) Battalions, intelligence gathering and sharing, training of Police Forces. 198

**Security Related Expenditure (SRE) Scheme.** The funds are provided for meeting the recurring expenditure relating to insurance, training and operational needs of the security forces, rehabilitation of Left Wing Extremist cadres who surrender in accordance with the surrender and rehabilitation policy of the State Government concerned, community policing, security related infrastructure for village defence committees and publicity material.

**Special Infrastructure Scheme (SIS).** The Scheme has been approved in the Eleventh Plan for the LWE affected Districts with an allocation of Rs. 500 crore. The Scheme aims to cater to critical infrastructure gaps, which cannot be covered under the existing schemes, mobility for the police/security forces by upgrading existing roads/tracks in inaccessible areas, providing secure camping grounds and helipads at strategic locations in remote and interior areas, measures to enhance security in respect of police stations/outposts located in vulnerable areas etc.

**Central Scheme for Assistance to Civilian Victims/Family of Victims of Terrorist, Communal and Naxal violence.** An amount of Rs. 3 lakh is given to the affected family under the scheme. The assistance given to those who are adversely affected by naxal violence under this scheme is in addition to the ex-gratia payment of Rs. 1 lakh paid under the Security Related Expenditure (SRE) scheme.

**Fortification of Police Stations.** 400 police stations in 9 LWE affected States at a unit cost Rs. 2 crores under this scheme have been sanctioned.

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**Civic Action Programme.**  Financial grants are sanctioned to CAPFs to undertake civic action in the affected states. This is a successful scheme which aims to build bridges between the local population and the security forces.

Broadly, this has led to the modernization of State Forces, deployment of Central Armed Police Forces (CAPFs), India Reserve Battalions incl SIRB, CoBRA Battalions, CIAT Schools, recruitment in CPFs and fortification of Police Stations. Some of the key financial support include:-

- SRE scheme has increased from Rs. 78.86 crore in 1999-98 to 130.96 crore in 2011-12.

- Funds for modernization of Police Stations varied between Rs. 48 to 80 crore from 2000-01 to 2011-12 with a maximum allotment of Rs.88.12 crore in 2007-08.

- During the period 2002-03 to 2006-07, total Central assistance given to naxal affected States for modernization of the Police was Rs.2,140.70 crore. In 2007-08, a provision of Rs.538.39 crore was made. In 2008-09, Rs.501.52 crore was allocated to nine naxal affected States. This included Rs. 2 crore each to 32 of the 33 focus districts as 100 % Central grant for strengthening the police infrastructure.

- Indian Reserve Battalion (IRB) have increased from seven in 2004-05 in Assam to 8 in 2007-08 and to 9 in 2008-09. Similarly, the two IRB in each in Chhattisgarh and Maharashtra and, five in Andhra Pradesh have increased to six, two and eight respectively in 2008-09.

- Expenditure required to raise an IRB has been increased from Rs.13 crore (2003-04)\(^{199}\) to Rs. 20.75 crore (2006-07).\(^{200}\)

- In 2008-09 additional CPF were deployed in Andhra Pradesh (04) Chhattisgarh (06) and Maharashtra (01).


In 2003-04, 33 Naxal affected districts were identified as Backward Area Districts (BAD). This was increased to 55 of the 76 affected district in 2004-05 and later increased to 78 of the 83 affected districts in 2011-12.

Local groups like Special Police Officers (SPOs), Nagrik Suraksha Samitis (NSSs) and Village Defence Committees (VDCs) in the affected villages are operating.

Three CIAT Schools were opened in Chhattisgarh to fight the Naxals were increased to four in 2010-11.

Two Special IRB have been planned for raising in Chhattisgarh by 2013-14.

### Development

#### Integrated Action Plan

The Planning Commission is implementing the Integrated Action Plan (IAP) for 82 Selected Tribal and Backward Districts for accelerated development. The aim of this initiative is to provide public infrastructure and services in 82 affected / contiguous Districts.
Originally, a sum of Rs. 25 crores and Rs. 30 crores was released to 60 Districts during the financial years 2010-11 and 2011-12 respectively. This Scheme has now been extended to 22 more Districts, taking the total coverage to 82 Districts.

The nature of major works/projects taken up by the districts under the IAP include construction of School Buildings / School Furniture, Anganwadi Centres, Drinking Water Facilities, Rural Roads, Panchayats Bhawan / Community Halls, Godowns / PDS shops, livelihood activities, skill development/ trainings, Minor Irrigation Works, Electric Lighting, Health Centres/Facilities, Ashram Schools, construction of Toilets, construction of multi-purpose chabutra, construction of passenger waiting hall, special coaching classes for students, construction of ANM Centres, development of play grounds etc. Out of 100133 projects taken up by the states under the IAP, 69056 projects have been completed till 8.1.2013.

Flagship Programmes

Development related programme which include the monitoring of the flagship programmes, civic action, surrender and rehabilitation and rendering assistance to the victims/family of the victims of terrorist and communal violence. The Monitoring of Implementation of Flagship Programmes include:-

- Pradhan Mantri Gram Sadak Yojana (PMGSY);
- National Rural Health Mission (NRHM);
- Ashram Schools. The Central Assistance for the Ashram Schools in the tribal sub-plan areas, and for hostels for tribal boys and girls has been increased from 50 to 100 percent.
- Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA);
- Sarva Shiksha Abhiyan (SSA);
- National Rural Drinking Water Programme (NRDWP);
- Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY);
- Integrated Child Development Services (ICDS);
- Indira Awaas Yojana (IAY)

- Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Road Requirement Plan for LWE Areas.

The Road Requirement Plan (RRP) Phase-I was approved in February, 2009 for improvement of road connectivity in 34 extremely LWE affected districts in 8 States viz. Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Uttar Pradesh. The RRP-I envisages development of 1126 kms of National Highways and 4351 kms of State Roads (total 5477 kms), at a cost of Rs. 7300 crore. A length of 1891 kms has been built at an expenditure of Rs 2346 crores (as on 31.10.2012). The stretches for Phase-II of the Road Requirement Plan have been finalised by the Ministry of Home Affairs, based on the priority indicated by the State Governments and is under consideration with the Ministry of Road Transport & Highways.

In 2003-4, an additional allocation of Rs. 37.50 crore per annum was made by the Ministry of Rural Development to execute rural roads in naxal affected areas under the Pradhan Mantri Gram Sadak Yojana (PMGSY).

In 2007-08, a road requirement/connectivity plan, over and above the PMGSY, has also been prepared and approved for all the 33 LWE districts and its peripheries.

Assessing State Control

Assam (Disturbed Area under the AFSPA)

An assessment of the Violence indicate increased violence in 2002 and later in 2007. However, since 2007 violence levels have come down considerably. Conversely, terrorist killing have spiked since 2007 with commensurate reduction in the security forces and civilian deaths

There is a 64% (412 to 145) reduction in the incidents since 2002. Similarly, there is a 69% (472 to 145) since 2007 when the incidents suddenly increased.
Terrorist killings were initially attributed to 308 in 2002. However, fresh violence sparked on 2007. The rise in the number of incidents also led to a dramatic increase in the neutralization of terrorists. In a single year in 2007, there was an approximately 10 times increase in the number of terrorist neutralized. 76 terrorists were neutralized in 2006 while in 2007, 759 terrorists were neutralized. The trend has continued since then with the security forces neutralizing 1237 in 2008, 1259 in 2009, 1025 in 2010 and 1084 in 2011.

Corresponding to the terrorist neutralization, there is a commensurate increase in the surrenders during the same period. Surrenders in 2008 suddenly increased from 524 in 2007 to 1112 in 2008. Since then, there are substantial number of surrenders. These include 1109 in 2009, 846 in 2010 and 1122 in 2011.
Security forces killing and civilian deaths indicate a similar pattern. Twenty six deaths were reported in 2002 which increased to 32 in 2006. However, since 2006 the security forces deaths have remarkably reduced by half to 14 in 2011.

Reduction in civilian deaths is one of the most important benchmarks of State control in civil unrest areas. There is an eleven times decrease in the civilian deaths in 2011 (18) as compared to 2002 (193).

Trend of violence in the Naxal affected regions is marked by fluctuating violence levels due to two important incidents. First, the merger of the CPML-PW resulting in the increase of violence by 8.5% and resultant deaths by 6.4%. Second, the merger of the CPML-PW with the MCCI creation of a single outfit called the Communist Party of India (Maoist). This led to the increase in violence in Chattisgarh and Maharashtra.

Andhra Pradesh has witnessed reduction of incidents by more than 8 times and similarly deaths. In 2001, the number of recorded incidents were 461 as compared to 54 incidents in 2011. Similarly, there were 180 reported deaths in 2001 as against nine in 2011.

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Table 3.4: Trends of Violence in Naxal Affected Region

<table>
<thead>
<tr>
<th>Year</th>
<th>Andhra Pradesh</th>
<th>Chattisgarh</th>
<th>Maharashtra</th>
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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Incident</td>
<td>Deaths</td>
<td>Incident</td>
<td>Deaths</td>
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<td>2001</td>
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</tr>
<tr>
<td>2</td>
<td>2002</td>
<td>346</td>
<td>96</td>
<td>304</td>
</tr>
<tr>
<td>3</td>
<td>2003</td>
<td>577</td>
<td>140</td>
<td>256</td>
</tr>
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</tr>
<tr>
<td>5</td>
<td>2005</td>
<td>535</td>
<td>208</td>
<td>385</td>
</tr>
<tr>
<td>6</td>
<td>2006</td>
<td>183</td>
<td>46</td>
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</tr>
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<td>11</td>
<td>2011</td>
<td>54</td>
<td>9</td>
<td>465</td>
</tr>
</tbody>
</table>

3Trend of Incidents in the Naxal Affected Region [MHA Annual report (2007-08)(2008-09), Annexure IV at 142]

Incidents and deaths have increased in Chhattisgarh if comparisons are drawn since 2001. This area has been most affected by the merger of the naxal outfits in October 2004. In 2006, the recorded incidents and deaths have suddenly increased from 385 in 2005 to 715 and from 168 to 388 respectively. However, post 2006 the State has
been able to reduce the incidents by 65% from 715 to 465. Similarly, deaths too have reduced by 52% from 388 deaths in 2006 to 204 in 2011.

- Maharashtra too has shown dramatic rise in incidents and deaths from 84 in 2004 to 94 in 2005 and 15 in 2004 to 53 in 2005. Maharashtra continues to show an increasing trend of violence.

**Attack on Police Stations**

- From 2003 to 2007 there is lesser number of Police Stations where naxal violence has been reported. Overall, the State has been able to wield influence to limit naxal activities with a substantial decrease in the affected Police stations in Andhra Pradesh, while a marginal increase in Chhattisgarh and Maharashtra.

- In Andhra Pradesh, there is a 32% decrease in the number of Police stations from 183 in 2003 to 59 in 2007.

- In Chhattisgarh, there is a 20% increase in the number of affected Police stations from 57 in 2003 to 71 in 2011. Notwithstanding, violence levels have been consistently high since 2006.

- Maharashtra has increased from four Police stations in 2003 to six Police Stations in 2007 but with substantial rise in incidents and deaths.