

Armed Forces (Special power) Act. 1958 and Violation of Human Rights in Manipur

Mr. Tapan Das

Assistant Professor, Department of Political Science

Abstract:

The Armed Forces (Special Power) Act 1958 is one of the most draconian laws that the Indian parliament has passed in its parliamentary history. The Act was passed by both houses of Parliament on 18th August 1958. The Armed Forces (Special Power) Act has been in force in several parts of India, including the state of Manipur in the northeast of the country. The vaguely formulated provision of the Act grant extraordinary powers to the Indian armed forces in the so-called "disturbed areas" where it is applicable. The Act has been at the heart of concerns about human rights violations in the region, such as arbitrary killings, torture, Cruel, inhuman and degrading treatment and enforced disappearances.

This paper aims at highlighting how Armed Forces (Special Power) Act 1958 carried an unrest situation in Manipur and how it has been violating the human right of the state.

Introduction:

Manipur is currently a federal state of Indian Union merged with India controversially in Oct. 1949. Within some years of the merger with India, insurgency movements started in Manipur at low levels.

To fight such insurgency movements, India Government passed and imposed this inhuman law called Arms Forces Special Power Act (AFSPA) in 1958 in Manipur and other states in the North-East India that gives the Indian Army all the powers to encroach upon the basic human rights of the common people, that is to disturb people anytime, anywhere; arrest without warrant; torture and kill anyone suspicious with full legal impunity for whatever heinous crimes army can commit upon the civilians; in the name of fighting insurgency in Manipur, other North-East states and Jammu and Kashmir in India.

Objective:

In this paper an attempt is made to discuss how Armed Forces (Special Powers)

Act, 1958 carried on unrest in Manipur and how the Human Rights of the people of the state were violated. It is in this context, this paper seeks to give a systematic analysis of AFSPA and its adverse effect in Human Rights. The objective of this paper is to discuss the impact of AFSPA on the people of Manipur.

Methodology:

The paper is based on Secondary data, which is mainly descriptive, collected from books, research papers, articles, internet, newspapers etc.

What is Armed Forces Special Power Act, 1958:

The Armed forces (Special power) Act 1958 is one of the most draconian laws that the India Parliament passed by both houses of parliament on August 1958 and received presidential assent on 11 September 1958. Subsequent amendments to the Act, which dealt with the territorial scope of its application, were enacted in 1960, 1970, 1972 and 1986. Even though there was some resistance within the parliament against the passing of the Act, the majority prevailed and the law was passed. Today the Act is applicable to the north-eastern territory of India, namely, Assam, Manipur, Tripura, Meghalaya, Arunachal Pradesh, Mizoram and Nagaland. In 1990, a similar Act was enacted to cover the state of Jammu and Kashmir.

The Act grants extraordinary powers to the military including the powers to detain persons, use lethal force, and enter and search premises without warrant. This Act gives the Armed forces wide powers to shoot, arrest and all in the name of 'aiding civil power'. The impact of the Act on the people of Manipur is dangerous. The law has facilitated grave human rights violations, including extrajudicial executions, enforced disappearances, rape and torture, arbitrary killings, torture, cruel, inhuman, degrading treatment and other ill treatment. This Act has made the people of the region to suffer a lot, People are deprived of basic human rights which are inherent in every individual's life. The legislation is sought to be justified by the Government of India on the plea that it is required to stop the North-east states from seceding from the Indian Union. AFSPA empowers the governor of the state or the centre to declare any part of the state as a 'disturbed area', if in its opinion there exists a dangerous situation in the disturbed area which makes it necessary to deploy armed forces in the region. The 1958 Act empowers armed personnel with guns pointed at the ready standing at street corners, regular cordon and search operations in this particular area.

Violation of Human Rights by Armed Forces Special Power Act 1958:

Every Country dealing with insurgency or with terrorism has its own laws and legislations to tackle the menace. Likewise, India has laws to fight insurgency and terrorism and has given legal powers to armed forces operating in 'disturbed' areas

under AFSPA 1958. Indian Government has imposed Armed Force (Special Power) Act 1958 in Assam and Manipur and was extended to all the states of North-eastern region in 1972 with a purpose of eliminating insurgency activities from the region. But practically no outcome is seen except harrassing the innocent people of Manipur. Now whole Manipur is under martial rule. The exercise by the armed forces of the unchecked powers to arrest, search, seize and even shoot to kill conferred under section 4 of the Act has resulted in large-scale violation of the fundamental rights of the citizens under Articles 14,19,21,22 and 25 of the constitution. The power under the section 4 (a) of AFSPA Act has hurt the citizens of Manipur the most as they feel that the Act confers the armed forces with broadly defined powers to shoot to kill and that this is a law, which fosters a climate in which the agents of law enforcement are able to use excessive force with impunity. It is alleged that security forces have destroyed homes and other structures presuming them to be used by insurgents under provisions of section 4 (b) of AFSPA Act. Manipuris also feel that section 4 (c), arrests without warrant, is a serious encroachment on the right to liberty of a person. The power of search and seizure under section 4 (d) has been extensively used by the armed forces in cordon and search operations leading to widespread violation of fundamental rights of citizens and the forces have kept arrested persons (section 5) for several days in their custody.

The application of the AFSPA Act has over the years led to numerous violations of human rights. The following examples are the most illustrative ones, which were widely covered by the media and triggered investigations which, were not capable of leading to the establishment of the truth of what had happened. The widely reported events that took place on 5 March 1995 in Kohima, Nagaland, still stand out as one of the most glaring examples. The military while driving along the streets of the town, mistook the sound of a burst tyre from their own convoy for a bomb explosion and opened fire indiscriminately. Individuals who were considered to be terrorists accomplices were dragged from their houses and arbitrarily killed. As a result, seven civilians lost their lives. In addition, 22 passers by, including seven minors, were injured. A commission of inquiry set up by the Government of Nagaland found that there had been no reasonable ground for the use of any force in the circumstances.

Another well publicised case is the arrest and death of Ms. Thangian Manorama Devi. On 11 July 2004 the 32 years old was arrested under the Act at her house in Manipur by the Assam Rifles. Three hours later her badly mutilated and bullet-ridden body was found by the roadside nearby. No investigation followed, and the Indian Army Vice Chief of Staff explained that what happened to Monorama had been "unfortunate". Her death, as well as the authority's failure to investigate it, led to large scale protests throughout Manipur, prompting the Prime Minister of India to visit the state. The Government of Manipur established a commission of inquiry

headed by Justice C. Upendra, a former sessions judge, but the Assam Rifles challenged that decision before the courts, claiming that the state Government had no competence to investigate their actions. The ensuing prolonged litigation came to an end only in 2010 when the challenge was rejected. However, at no point during this period and thereafter have the authorities taken any measures to establish the circumstances of Manorama's abduction, possible torture and death and to identify those responsible. The inquiry report itself has not been made available to the public. Manorama's family approached the High Court to obtain a copy of the report. The court agreed. However, the Union Government at the time filed a special leave petition against the order and the case is still pending before the court. Another reported case of arbitrary killing by the military acting under the Act concerned Mr. Rengtuiwar, a 75-year-old retired school teacher, and his disabled wife, who were killed and injured, respectively, on 16 November 2004 when they were fired at by the Assam Rifles in Bungle Chiru village, Manipur.

The more recent examples of the activities of the military in Manipur include indiscriminate use of firearms during the night of 2-3 April 2011, which led to the killing of Ms. Waikhom Mani in the village of Nongangkong, and assault against the justice of the Guwahati High Court in Imphal on 20 April 2011. Private and confidential admissions of military officer's reportedly characterise civilian casualties as "errors in judgement" in the application of the Act. They attest to an apparent practice in which priority is given to the use of lethal force over the arrest of suspects and subsequent prosecution, were warranted. The frequent violations and culture of impunity led to protest by civil society activists in Manipur, who have been campaigning and litigating for the repeal of the Act since the 1980s. An exceptional mode of protest against the Act is that of Ms. Irom Chanu Sharmila, also known as the "Iron Lady of Manipur", a civil rights activist and writer. She has been on Hunger Strike since 2000 demanding the repeal of the Act, which she blames for violence in Manipur and other localities in the North-eastern part of India. Sharmila has been repeatedly arrested on charges of attempt to commit suicide under section 309 of the Indian Penal Code, and forcibly fed by her prison wardens. Her protest is probably the world's longest hunger strike.

The people of northeastern India have witnessed three major military operations as part of counter insurgency operations. They are (1) Operation Bazrang, (2) Operation Rhino and (3) Operation Blue Bird. These three operations had also violated large scale human rights in that region.

These above are the major areas and ways of human rights violation in North East India by AFSPA of 1958. All these cases of human rights violation had very nicely symbolized the status of human rights in North East in the shadow of AFSPA.

Conclusion:

The imposition of AFSPA act 1958 has led to widespread Human Rights Violations in Manipur, such as arbitrary killings, torture, cruel, inhuman and degrading treatment and enforced this appearances. Every individuals Human Rights are needed because it is inherent in every individual's life. People should be left with them to leave in dignity. But AFSPA gives the armed forces wide and blanket power to shoot to kill, arrest and search without a warrant in a disturbed area. The greatest outrage of the Act is depriving life on mere suspicion in order to maintain public order, It violated Article 21 of the Indian Constitution which provide "no person shall be deprived of his life and personal liberty except according to procedure establish by law". The exercise by the Armed Forces of the unchecked powers to arrest under section 5 of the Act has resulted in large scale violation of the fundamental rights of the citizens under Article 22 of the constitution.

Repeal of AFSPA will help to create favourable condition of dialogue with insurgency groups in Manipur. Dialogue must be a way forward and repeal of AFSPA will enable insurgency groups to come forward for dialogue with the Government. I am inspired by Mahatma Gandhi that any conflict can be resolved through discussions, love and peace. Both the insurgent groups as well as state authorities should come forward for democratic process. Repeal of AFSPA may be a step forward in bringing peace and harmony in Manipur. Though it may not be enough, still it may create conditions of peace which will prove to be beneficial in the long run.

REFERENCE:

1. Assam Tribune, 27th April, 2014.
2. Baruah, Sanjib Durable Disorder: Understanding the Politics of North-East India, OUP, 2005.
3. Kamboj, Anil, "Manipur and Armed Forces(Special Power) Act 1958", Strategic Analysis October-December'2004
4. Laishram, Dhanbir, "North-East in Benthic Zone", Akansha Publication House , New Delhi, 2007.
5. Singhal, S.C., "Human Rights", Lakshmi Narain Agarwal Educational Publishers, Agra, 2012-13
6. Maita, Kironshanker, "The Noxious Web: Insurgency in North-East India", Kanishka Publication, 2001.
7. Talukdar, Sushanta, "Manipur's protest", Frontline, 27th August'2004.
8. Yasin Adil-Ul and Upadhyay Archana, "Human Rights", Akansha Publishing House, New Delhi, 2006
9. Talukdar, Sushanta, "A Promise to Manipur", Frontline, 3rd Dec'2004.
10. The Asian Centre for Human Rights, "An Analysis Armed Forces Special Power Act.1958" PUCL Bulletin, March'2005.
11. Yogi, A. K., "Development of the Northeast Region, Problem and Prospective", Spectrum Publication, Guwahati'1991.