THE ARMED FORCES SPECIAL POWERS ACT (AFSPA) & ITS IMPACT ON VIOLENCE AGAINST WOMEN IN NAGALAND
CONTENTS

DEDICATION
ACKNOWLEDGEMENTS
PREFACE

1. INTRODUCTION & OVERVIEW

2. CASE STUDIES

3. A STATE OF DE-FACTO ABROGATION OF CONSTITUTIONAL RIGHTS

4. WOMEN IN CONFLICT SITUATIONS

5. CONCLUSION

APPENDIX A
APPENDIX B
BIBLIOGRAPHY
This work is dedicated to my late father Luxuhe Sumi (1920-2000) who believed in peace and humanity
ACKNOWLEDGEMENTS

His Highness The Dalai Lama’s gentleness and profundity has touched many lives; it has touched mine through this research, which I hope might serve those citizens of the world who seek peace and repudiate war and aggression. I would like to thank him for this opportunity to research and reflect upon the problems of people of Nagaland, and upon their plight. I am grateful to WISCOMP, especially Ms Manjrik Sewak and Dr Meenakshi Gopinath, for assistance and financial support.

My special thanks to my project guide Dr Anuradha Chenoy; I am greatly indebted to her knowledge, wisdom, and kindness. Professor Dowa Norbu has been a source of inspiration, his advice profound and timely. Equally critical has been the support of the WISCOMP team in Nagaland: Hetoli K. Shikhu, (Assistant Investigator) during the pilot survey; Khrienou Angami, Razaumo Lotha, and Dr Lanu Longkumer, for assistance during Mokokchung incident survey; and Dr K. Roy for his precious contribution on my said topic.

The women whom I have interviewed have left a mark on my life; their suffering has completely changed my outlook. I would
like to specially mention Apene Lotha, a victim of Yankeli, whose life is now one of untold misery and suffering.

Easy access to the Jawaharlal Nehru University library (New Delhi), the Central Secretariat Library (New Delhi), the Centre for Women’s Development Studies Library (New Delhi), and to the NGO ‘Other Media’ (New Delhi) has contributed substantially to the successful completion of my research.

In a personal context, I would like to thank my friends Dr Nilo Z. Kiba and Dr Kalzang Diki for their personal insight and support; also my sister Kishevi and her family and Nesheli and her family for their loving support.

With the awareness this project aims to inculcate, I hope to change — even if in small ways — the lives of victims; I hope to communicate their message of peace in Nagaland.

Khatoli Khala
PREFACE

1. The Issues: An Overview

The people of the north-east are bound together by a range of common features—terrain, racial similarities, village systems based on familial ties, the absence of a caste system, methods of cultivation, relative insularity, and a ‘frontier existence’. The historical alienation of the people of the north-east, including the people of Nagaland, as well as the present-day scenario of suffering at the hands of policy-makers and the military establishment demonstrates the lack of political will to address the root causes of their discontent. The failure of the central government’s machinery to address the real political, social, and economic reasons for the disillusionment rampant in the area has further heightened the plight of the people. The area is visualised through a collage of contradictory images; these only reflect how little is known of the reality. Many Indian citizens feel that the army is present to ‘check misguided elements and to bringing peace and development to a primitive war-mongering tribe’. Consequently, there seems to be tacit sanction for the extreme measures adopted by the state ‘in the interests of national security’. Deconstructed, this has meant an excessive military presence in the region and the promulgation of legislation in the
nature of the Armed Forces (Special Powers) Act, (AFSPA), which adversely affects the life and the liberty of the people of the region.

The Armed Forces (Assam and Manipur) Special Powers Act (1958), also known as the Disturbed Area Act, was extended to the then existing Union Territory of Tripura through a Home Ministry notification of November 1970. In 1972 this Act was made applicable to all the five states and two Union Territories in the region; the amended Act came to be known as the **Armed Forces (Special Powers) Act of 1972** (henceforth AFSPA). *The Act is one of the most aggressive laws passed by the Indian Parliament: contravening democratic norms, it gives the central government, in consultation with the Governor, the right to declare an area ‘disturbed’ and to impose the Act, even if the state government does not deem such action necessary.* While the Act specifies how it can be put into force, it fails to specify the conditions under which it can justifiably be declared. Unlike the state of ‘Emergency’ under the Indian Constitution — which can only be declared for a limited period of time — *the Armed Forces (Special Powers) Act can be imposed for an indefinite period, without review.* This contravenes the government’s submission at the United Nations’ Human Rights Commission on the International Covenant on Civil and Political Rights (CCPR/C-76/Add.6), where it has claimed that the propriety and the bona fides of the exercise of the power in the relevant context is always subject to judicial review. *Once in force, the Armed Forces Special*
Powers Act gives unbridled powers to personnel in the armed forces and also guarantees near total immunity to them.

Naturally, such heavy-handed militarism has sapped the very notion of ‘normal civilian life’; there are innumerable instances of violation(s) committed against civilians. Widely known instance of army excesses include the horrific violations against the village of Yankeli (1971), and the towns of Mokokchung (1994), Kohima (1995), Akuluto (1995), and Dimapur and its neighbouring areas (1995).

2. The Structure of the Report

The opening section attempts to sketch the problems in contemporary Nagaland, and the ‘apparent’ raison d’être behind the imposition of the AFSPA in the state. Simultaneously, it seeks to delineate the origin of the Naga Club in 1919, the exposition of Naga nationalism, and the quest to maintain a separate political entity. The impact of the AFSPA on the life of ordinary citizens has been surveyed; the report seeks to highlight how — quite apart from disruption in the functioning of everyday life, the attack(s) on personal liberty, the abuse of women and children, and violations of human rights — the draconian Act has also exacerbated, if not effected, a complete setback of the state economy, the destruction of education and health services, and
of civil administration. It seems that basic fabric of Naga society has been destroyed beyond repair.

The second section tries to reconstruct events through interviews, conducted for the first time, among those who have suffered under the AFSPA in Nagaland: the issues addressed centre around the establishment and impact of the draconian law.

The third section seeks to address constitutional rights, and their breach, and the repeated violations of Fundamental Rights under Article 21 (protection of life and personal liberty) in the case of the people of Nagaland. The imposition of the AFSPA in the name of maintaining law and order in an area delineated as ‘disturbed’, has destroyed the basic rights and the liberty of Nagas; the right to self-determination within a democratic India seems unattainable to the Nagas who live amidst interrogation, torture, sexual abuse, and the destruction of life and property.

However, seeing the issue as a ‘no win’ situation, the research also explores the repercussions of the Act — and the actions committed under it — on army personnel who cannot escape the fear psychosis culminated by the excessive use of the AFSPA.

The concluding section focuses on Naga women and how they can be instrumental in securing peace in the region. Women are
agonisingly affected by the particular situation of conflict: losing children, fathers, brothers, and husbands to the AFSPA. Of extreme importance, thus, is a case study of women in Nagaland and the possibilities of the role that women can play in seeking to bring peace to the region.
CHAPTER 1

INTRODUCTION & OVERVIEW

When they grew criminals, they invented the idea of justice and in order to maintain it prescribed for themselves voluminous codes of law and to add security to this code, they erected a guillotine.

*Fyodor Dostoevsky*

1. The Phenomenon of Militarism

The twentieth century witnessed 250 wars and over 100 million causalities. During the 1990s, on an average, each year about half of the world’s population lived in a country that was at war. Civilians remain the primary targets of contemporary conflicts and account for over 90 per cent of war causalities. Over 23 million people have died in more than 160 wars; post-1945, the casualties have been — overwhelmingly — in the Third World. The wars have created a situation where the numbers of refugees and displaced persons are in millions; these numbers are rising with every passing year.
War critically affects civil society; however, perhaps even more than war, it is the phenomenon of militarism that impacts on civil society. The human cost of militarism is even higher than that of war. (Chenoy, 2001: p.1). Militarisation, in reference to India has been contextualised and documented extensively by Dr Anuradha Chenoy.¹ The threat stems commonly from three sources: state policy, the body politics, and external exigencies. However, in India, militarism can be — and is — exacerbated by several other factors: unresolved regional and territorial conflicts with bordering/neighbouring countries; the recent use of the doctrine of deterrence based on acquired nuclear weapons; the switch to a foreign policy that has rejected the established tenets of non-alignment and replaced it with a ‘realism’ framework; and a national security doctrine that does not place enough emphasis on peace negotiations. Intra-national militarisation is visible in the promulgation of laws that give the army extraordinary powers over civilians in conflicts situations; in the increased use of the army to resolve civilian issues and suppress opposition movements; in the centralisation of state structure and justification of militarist ideology by the state; and in increasing use of military and paramilitary forces in domestic crises and conflicts. Increasing military budgets and diminishing social sector expenditure reflect the reality of militarisation in India. In the 1950s, Indian defence spending remained at about 1.6 per cent of its gross domestic product or GDP; in the aftermath of the Sino-India conflict of 1963–64, this went up to 3.4 per cent.
Militarisation is a context that has existed since the formation of the contemporary Indian nation-state — 1947 witnessed both Independence and Partition. The run up to the partition of the Indian subcontinent into India and Pakistan in 1947 was marked by unprecedented communal rioting, which had to be quelled with army assistance. This raised issues of community, identity, and nationhood which — rather than negotiate a settlement constitutionally — the state responded militarily (Chenoy, 2001: p. 123).

Within any political entity, there exist varying states and contexts for militarisation; for instance, within India, the state of Kashmir as well as several of the north-eastern states are more militarised than are other Indian states. In Sri Lanka, the militarisation of the state is linked with ethnic movements, while in Pakistan, the military regime has direct control over political power(s). Variations notwithstanding, however, militarist regimes — and their notions of national security — are known for their high defence expenditure and, consequently, their disproportionately low spending on human development. Security analysts justify India’s defence budget as being necessary for security because India has been unable to reach amenable solutions with its neighbouring countries. The most significant increase in the defence budget was made in 1998: in the 1988 Budget, the defence allocation of Rs 41,200 crores\(^2\) was 14.13 per cent higher than the 1997 allocation. The government stated that part of the increase was due to salary hikes; nevertheless the defence budget of 1997–1999 was higher
than the total layout for the Ministry of Health and Family Welfare; it was also more than twice the central expenditure on health, education, and social security. The role played by India’s nuclear programme in the 1998–1999 budget was reflected in the steep increase of 59 per cent in the plan allocation for the Department of Atomic Energy — the allocation increased from Rs 987 crores to Rs 1,569 crores. There was also a 62 per cent hike in the allocation for the Department of Space — from Rs 850 crores to Rs 1,381 crores. The increase in these two departments was more than 52 per cent higher than the increase in the central education outlay, and over 72 per cent higher than the increased allocation for rural employment and poverty allocation (Chenoy, 2001: pp. 170–171).

According to an estimate by the Director of Military Operations, the direct and indirect costs of military operation lay in the range of Rs 300,000 per day; other estimates — which include the cost of daily ammunition — put the figure at between Rs 2.5 crores and Rs 3 crores a day (Chatterjee, 1999). The Kargil War of 1999 also greatly enhanced the army’s demand for the upgradation of defence equipment — the government is supposed to have forked out over Rs 600 crores for military hardware. Besides direct costs, managing the line of control (LOC) between India and Pakistan, and the consequent expenditure involved in maintaining between 8,000 and 10,000 soldiers, costs the Indian exchequer anywhere between Rs 10 crores to Rs 15 crores daily (Bedi, 1999).
The defence budget for the year 2000 saw an increase of 28.20 per cent over the previous budget, the highest increase in a single year. In contrast, the expenditure on items that should be priority items for India — drinking water and education, to name only two — remained far lower. The much-needed, and much-publicised, compulsory primary education programme has been put on hold: the Prime Minister said that the government did not have the requisite funds. At the same time, it has been reported that a confidential study commissioned by the Eleventh Finance Commission has recommended that the government should aim to increase defence spending to 3.5 per cent of the GDP (Business Standard, 2000).

Military expenditure has a decidedly negative impact on funds available for investment in non-military development, and in the formation of human capital. Further, the nexus between the army and defence contractors uses national security as a constant pretext for the procurement and upgradation of military hardware (Bedi, 1999). International surveys have confirmed that bribery and corruption in the arms and defence industries is most rampant in developing countries; in this respect, India and Pakistan are among the most corrupt, globally (Hindustan Times, 2000). Arms dealers make massive profits in times of militarisation. As defence budgets rise, social sector budgets are cut, thus affecting women and children immediately. The Indian Government has recognised elementary education as a fundamental right; however, it has also admitted that welfare schemes for the
deprived girl child (for elementary education) initiated during the pervious regime, were ‘populist’ and would have to go (*Economic Times*, 1998).

Anuradha Chenoy argues that the government is required to exercise choice when allocating public funds; however defence spending, which had levelled off in India, is now registering steady increases, with little question from political parties and opposition groups because ‘national security’ is held as sacrosanct, critically tied in with issues of sovereignty, nationalism, and patriotism. ‘National interest’ not only protects the defence establishment from public scrutiny but also makes it exempt from parliamentary questions. In the past few years both India and Pakistan have been spending US$ 20 billion a year on defence; both countries have six times more soldiers then doctors. *In India, the per capita public expenditure is estimated at US$ 8 (ranking: 125 of 160 countries) but the per soldier expenditure is US$ 5,714 (ranking: 97); public expenditure per student, on the other hand, is estimated at US$ 39.* With one of the lowest literacy rates in the world, both countries justify their defence build-up — at the expense of social priorities — in the name of national security.

The human cost of militarism is even higher then that of war; for long — and especially during the UN Decade of Women (1975–1985) — the Women’s Movement has demanded equality,
development, and peace in the world. In the present context, especially in Third World countries, the violence faced by civilians has reached a new intensity. The state often, and increasingly, resorts to military strength to settle external as well as internal political conflicts.

2. Women & Conflict

In historical narratives, the dominant motif of women in the context of violent conflicts is of grieving mothers; beyond the battlefront, sorrowful women make up the chorus. In the case of South Asia, there are several faces of women in armed conflicts: women have negotiated conflict situation by becoming citizen combatants, heads of households, war munitions workers, prostitutes, producers of soldiers and war resisters, and political leaders at the local and national level (Manchanda, 2001: p.11).

In India’s north-east, Naga women/mothers have explored the option of non-violent reconciliation and of peace to negotiate in armed conflicts between and among factions. The theoretical debate around women and peace ranges from biological to cultural derivatives, to reasons of ‘justice’, and finally to the simplistic assumption that women support peace because they suffer the most in conflict situations. The Naga Mothers’ demand, ‘Shed no more blood’, which echoes even today is not only a symbolic gesture of the rejection of violence, irrespective of the perpetrator, but also an acknowledgement of the link between peace, equality, and development.
In the iconography of wars, the woman of peace is the mother. The ‘mother’ narrative highlights the conservative logic of the biological connection in the binary stereotype of mother and peace, and men and war. Feminist peace analysis is uncomfortable with the motherist logic, which ends up implicitly affirming the structural inequality between men and women that is at the heart of patriarchy. As Brock-Unte defines it, patriarchy ‘is a form of social organisation based on the force based [sic] ranking of the male half of humanity over the female half’. Patriarchy has to do with power, most commonly with establishing control over women and nature (Manchanda, 2001: p.16). The ‘motherist’ or testosterone logic flies in the face of empirical evidence, which demonstrates that there is nothing inherently peaceful about women. Women make up almost one-third of the combatants in the Maoist insurgency in Nepal and in the Somalia conflict; in Rwanda and in the Sri Lankan LTTE (Liberation Tigers of Tamil Elam), women have been perpetrators of the ethnic/communal attacks and have also been involved in massacres of women and children (Manchanda, 2001: p.17). As Rita Manchanda points out, rather than thinking simply of women’s natural commitment to peace, it is more useful to think of the profound depths of violence in masculine cultures and institutions.

Men, it has been noted, are predominant across the spectrum of violence (Connell, 1997). Mothers have risen to oppose conflicts in which their sons died, but they have also raised their sons to be soldiers sacrificed in the name of nationalism. In
the end, as Thandi Modist, a Member of Parliament from South Africa rightly observes: for women it does not matter which side they are on; on both sides, children get maimed and killed, and women get raped. *For women, there can be no ‘winning’ side.*

3. The Nagas: Historical Context & Political Developments

India is a vast multicultural, multiracial, and multilingual state with a federal political structure. Nagaland is one of the states within this federal structure. Even before India became an independent nation-state in 1947, the Nagas had been demanding independence (from the British). Nagaland declared its independence a day before India became independent. This initiated a saga of confrontation and armed conflict between the Naga National Council or NNC (the then federal government of Nagaland) and the Union of India.

3.1. The Contemporary Political Context & the Shillong Accord:

In 1975, the Shillong Accord was signed between the Government of India and the NNC. The Government of India maintains that the Shillong Accord has been very accommodating in meeting the genuine demands of Naga people, and in satisfying their legitimate aspirations. The first two clauses of the document stated that the Constitution of India was to be accepted unconditionally, and that arms would be surrendered. The arms were surrendered; however, the extremists backed out from this commitment (Singh, 1972: p. 151). On the other hand, Isaac Chishi Swu and Th.
Muivah — then NCC Vice-President and General Secretary respectively — condemned and denounced the Shillong Accord as a complete sell-out. The faction that did not accept the Shillong Accord formed the National Socialist Council of Nagaland (NSCN). Subsequently, it broke off into two factions: the NSCN–IM and the NSCN-K. Both the factions began running parallel governments in different parts of Nagaland.

3.2. A Brief History of the Nagas:

In order to understand the present security situation, and the law and order mechanism in Nagaland — in light of the federal political set-up of the central government — it is essential to examine aspects of Naga history, and the administrative structures in Nagaland, in the context of pre- and post-Independence India.

The Nagas are in the north-eastern states of India, namely Arunachal Pradesh, Assam, Manipur, and Nagaland, and in the northern region of Myanmar (Burma). The Nagas occupy a mountainous region that is about 100,000 sq. km. in size. J.P Lotha has defined the land of the Nagas as bounded by the Hukwang valley in the north-east, the plains of the Bharmaputra river in the north-west, the Cachar plains in the south-west, and the Chindwin, the point of contact between the Naga tribes and the inter-related group of Kuki tribes of Thado Lushei and Chin. The Nagas as an ethnic group/’nation’ are ‘made up of about 52 tribes belonging to the Mongoloid race, which migrated to the present area(s) inhabited by the Nagas’; their total population is about
three 3 million. If recent archaeological findings are any indication, the cultural age of the Nagas in ‘Nagalim’ can be traced back to at least 10,000 B.C. (Vashum, 2001: p. 4).

Several theories have been propounded about the origin of the Nagas, though no single one has been unequivocally accepted. The fondness of the Nagas for cowrie shell in their dress, and for the conch shells that they use as ornaments, have lead some to conclude that they belong to coastal areas. Many aspects of Naga life — costume, food habits, weaving technology and the use of the lion loom, and agricultural technology — correspond closely with that of the people in Indonesia, Malaysia, and the Philippines. Apparently, the Hindu rightist’s vanwasi strategy towards the Nagas aims at merging their tribal identity into dominant Hinduism. Whatever the term naga (nag = serpent) may imply, for the Nagas, the term motif is one of pride, imbuing them, they believe, with a distinctive cultural and political identity.

Historically, the Nagas have remained remarkably isolated from more ‘advanced’ civilisations that exist in proximity to them. Six hundred years of proximity to the Ahoms civilisation in Assam has not appreciably affected Naga culture. Ahom chronicles tell of Naga raids on Assam, and of Ahom retaliation through occasional punitive expeditions launched by the Ahom kings against the Nagas. However, the extraordinarily rugged
terrain of the Naga Hills not only limited the success of Ahom expeditions, but also protected the Nagas from subjection to the Assamese (and with it, from assimilation into Hindu society). The two cultures remained apart. The Ahom kings thought of Naga tribes as tributary-paying vassals, though they never succeeded in actually conquering the Nagas; the Nagas, being economically self-sufficient, simply ignored the Assamese and did not develop anything like a regular trading relationship with the Hindu societies of the plains. Naga isolation from Assamese culture, perhaps their only window to a non-Naga context, was reflected in their ignorance of the Assamese language. ‘Probably not one man in a thousand and scarcely a single woman’, wrote a missionary in 1877, ‘would understand a religious conversation in Assamese’ (IESHR, 1984)

It was only a few sections of Naga tribes and villages that came into some contact with the Ahoms; the rest of the numerous Naga tribal groups continued to live in their sovereign village states. No foreign nation ever invaded the Naga country until the British colonised part of Nagaland in the last quarter of nineteenth century. Prior to the British, each Naga sovereign village was fortified by walls and pickets placed on mountain-tops to defend the inhabitants from enemy attack(s). ‘A Naga village could not …remain at peace’, an anthropologist has remarked, ‘…as long as there prevailed the belief that the occasional capture of a human head was essential for maintaining the
fertility of their crops and the well-being of the community’ (Hainmendorf-Furer, 1961: p.156). While contributing to village cohesiveness, however, the custom of inter-village warfare and the cultural values on which it rested had the effect of narrowing, considerably, the world-view of the Nagas. Inhabitants of Naga villages lived in a system of rigid discipline and training; the *morungs* in the villages functioned as barracks for the village youth.

The most remarkable characteristic of pre-British Naga polity — whether one look at the Angami Nagas with their village council whose members represented the lineage of the village clan, or at the more autocratic Semas with their authority centralised in the figure of single village chief — was its directness, expressed in all forms of interaction. As long as there were no codified legal norms or written references by which judgements could be compared with previous ones, the fluid ad hoc nature of village policy served to sustain the authority of traditional leaders (E.W. Clark in Smith, 1925: pp. 176–177).

### 3.3. The Advent of the British:

The advent of the British brought with it the removal of village defences in Naga villages and the introduction of curbs against the carrying of arms, including shears; it also brought with it the practice of quartering troops in more turbulent villages, and occasional demonstrations of military might, of a kind that the Nagas had never before seen. These intrusions resulted in gradual erosion of
traditional village authority and of the martial values on which that authority had rested. The rigid discipline stared ebbing, and the village chiefs who were the leaders of a community organised in a war-like political context, started losing their hold over young warriors (Anand, 1996: p. 93).

The British Empire propped up local authority through measures like granting village chiefs a distinctive red blanket as symbol of recognition and legitimate authority, and also by codifying the customary laws of the Nagas. This codification had a radical effect: it provided villagers an authority higher than of their elders or traditional leaders, an authority that could overrule the decisions of local chiefs and elders. It also changed the notion of authority itself, establishing fixed legal codes as the norms against which actions were to be judged. Legal codification undermined the face-to-face spontaneity through which the Naga leadership had formerly exercise authority. Symbolising the economic integration of the Nagas with the rest of the Indian subcontinent was the introduction, by the British, of metallic currency as a medium of exchange; this replaced the unhulled rice that was used, formerly, for that purpose (Smith, 1925: p. 188).

The British originally claimed the entire Naga country, right up to the boundaries of the Manipur and Burma, as British territory;
however, according to Tagenyba Ao, from Assam onwards, all Naga territory was, for practical purposes, outside of government control. The patterns of British administrative policies in the context of the Angami Nagas held true, broadly, for the other tribes as well.

3.4. Details of British Interventions:

1832–1838: The first period of British explorations in Nagaland

1. The Jenkin and Pemberton expedition: 1832
2. The Manipur expedition: 1832–1833
3. The invitation of the Raja of Manipur and Tularam to restrain the Nagas from conducting raids, combined with encouragement provided by the Raja to extend his jurisdiction towards the Naga Hills.

1839–1846: The period of control that involved an external show of force

1. The Granger expedition: 1839–1840
2. The Bigg expedition: January 1841
3. The Eld expedition: December 1844
4. The Butler expedition: November 1845–1846 (Ao, 1993: p. 19). (This expedition did not, however, materialise. As such an attempt was made to establish an outpost within the hills from 1847–1850, with Samaguting as the first outpost. Aside from
destruction and increased Naga hostility, there were few tangible results.)

1851–1865: The period of non-interference

The British were baffled by the unrelenting hostility of the Naga tribes. The consideration that the Naga Hills were perhaps not worth the trouble involved led the British to abstain from interfering in the affairs of the Nagas between 1851 and 1865. The withdrawal of British troops encouraged the Nagas to conduct at least 22 raids in Assam valley alone in 1851. According to the Commissioner of Assam’s report to the Lieutenant Governor in 1862:

It is not creditable to our government that such atrocities should recur annually with unvarying certainly and that we should be powerless alike to protect our subjects or to punish the aggressors. It is quite certain that our relations with the Nagas [cannot be on a greater] war footing then [they are] right now. The non interference policy is excellent in theory, but the government will probably be inclined to think that it must be abandoned (A. Mackenzie in Ao, 1993: p. 116).

Spurred by Naga depredations, the British created the Naga Hills district in 1866 for administrative convenience. In 1873, the ‘Inner Line Regulation’ was introduced, both for checking the influx of businessmen into Naga areas as well as to regulate commercial relations. In 1879, Khonoma was taken over by the British; an unwritten peace treaty between the Nagas and the British
came to be. By 1881, the British managed to establish their authority over the then Naga Hills district (the southern part of the present state of Nagaland). However, the traditional Naga village administration continued to function with a high degree of autonomy. In 1889, the Nagas in the Mokokchung area made peace with the British; British control was hereafter divided into areas under the control of the Commissioner of Nagoan and Sibsagar (Assam) and those under the Commissioner of Manipur. The eastern and northern areas, however, remained outside the purview of the British: in British administrative parlance, these were known as ‘un-administrative areas’ or ‘excluded areas’.

On 10 January 1929, the Naga Club — the first formal organisation of the Nagas, formed in 1918 — submitted a memorandum to the British Simon Commission at Kohima. This memorandum voiced the desire for Naga self-determination; and opposed the inclusion of Naga areas in a reorganised India. In response to this memorandum — and on the basis of the Simon Commission’s recommendations — the British ‘Government of India Act’ of 1935 classified the Naga Hills area as an ‘excluded’ or ‘partially excluded’ area where no act of the federal legislature of Assam was to apply; the areas were placed under the direct administration of the Governor of Assam.

During the period 1935–1945, the British divided Naga-
inhabited areas into two parts: one-third of Naga territory was placed under the administration of Burma, and two-thirds handed over to the Government of India. In 1946, the Naga National Council (NNC) — an organisation with full-fledged political set-up — conducted negotiations with the British to protect Naga self-determination. The Governor of Assam (under the British in India) entered into a nine-point Agreement with the NNC in June 1947. The NNC, recognised as the sole political authority representing the Nagas, wanted absolute power to determine the political future, including the right to opt for a sovereign state (Das, 1983: p. 265).

3.5. Post-Independence Administration of Nagaland:
Under Section 7 (1) (c) of the India Independence Act of 1947, the rights, powers, and obligations of H.M. with regard to tribal areas, were passed on to the dominance of India (Sema, 1986: p. 79). Historical, political, administrative, and constitutional links between the Indian Union and the Naga people were reaffirmed. Although the British had established their position in the Naga Hills in 1832, yet Naga opposition had prevented them from gaining administrative control over the whole region. The British, it is felt, created — directly or indirectly — an atmosphere of alienation from both India and Myanmar; moreover, it is argued that the British Government’s policy to interfere as little as possible with local customs also prevented development programmes from being formulated or implemented. For instance, there was no high
school in the Naga Hills district and little or no emphasis on education: According to the Census of 1901, only 1.37 per cent of the people were literate (*Imperial Gazetteer*, pp. 284–295).

Non-interference in local customs and rituals, and limited interference in the Naga way of life, in some ways encouraged the traditional Naga village administration to function with a high degree of autonomy. As such, the Nagas were under the ‘nominal rule’ of the British. When India and Myanmar attained independence from the British in 1957 and 1958 respectively, armed conflict ensued between the Nagas and the two states: in both situations, the Nagas were seeking self-determination. It is argued that the loose structure of British political control is responsible for the discomfiture of the Nagas under Indian administration. The Nagas assert that the Indian administration has destroyed their age-old institutions and rhythms, and that an alien culture has imposed itself on their indigenous culture. The great Hindu and Muslim empires that reigned over the subcontinent did not extend their hegemony beyond the east Bharmaputra river!

The Nagas believe a nation to be ‘a historically constituted, stable community of people, formed on the basis of common language, territory, economic life, and psychological make up, manifested in a common culture’; also that self-determination is a ‘process
by which a people, usually possessing a certain degree of consciousness, form their own state and choose their own government’ (EB, 1993). The Naga aspiration for a common homeland in which the Nagas determine their own political, administrative, and socio-economic set-up has been countered through draconian laws. Early on, within a span of six years, three acts were passed: the **Assam Maintenance of Public Order (Autonomous District) Act** was promulgated in the Naga Hills in 1953; the **Assam Disturbed area Act** in 1955, and the **Armed Forces (Special Powers) Act (AFSPA)** in 1958. Since 1958, Naga areas have been, in the interests of so-called ‘law and order’, intermittently under the AFSPA.

Far from resolving any issues, these harsh and punitive measures only serve to encourage increase antagonism between the Naga people and the governing authorities. In 1960–1961, there arose a peculiar law and order situation — a parallel Naga federal (underground) government was established, in opposition to the erstwhile **Naga Hills and Tuensang Area (NHTA)** administration that the Government of India had set up in December 1957. In practical terms, the writ of the NHTA administration had little influence even a few miles beyond the boundaries of the district and sub-divisional towns and some administrative centres; by night the administration’s presence was barely felt, even in those areas of Nagaland that remained curfew bound (Haskar & Luithue, 1984: p.
Nagaland’s statehood was given written shape in Article 371 (a) (b). This gives special transitory responsibilities to the Governor in respect to law and order; the Governor, after consulting the Council of Ministers, is empowered to exercise individual judgement and take appropriate action. Section 3 of the AFSPA states that if the Governor opines that an area is disturbed, he can use armed force in aid of civil power. This gives the armed forces unbridled and arbitrary power — with legal immunity — over the civilian population in the disturbed area(s). The sweeping powers of the Governor abrogated the basic fundamental rights as well as greater autonomy, granted by the Constitution of India under Article 371 (a). In a democracy, even the President or Prime Minister do not have the power to nullify acts of parliament; instead democratic states tend to decrease military power, and limit the scope for a military regime. In the case of Nagaland, however, even non-commissioned officers were equipped with extensive powers for which they were not accountable. Nagaland — a state within the Indian union with an elected government of its own — is, in theory, supposed to possess all the powers vested in any state under the Constitution, including the power to deal with internal law and order situation(s). However, in Nagaland, security forces have been deployed in aid of civil power. In such instances of deployment, the security forces are supposed to function according to the directive(s) in the rules and regulations published for this purpose by the Ministry of Defence (Army) and the Ministry of Home Affairs (CRPF and
BSF). In practice, however, the army — as well as the police and other paramilitary forces deployed under the army — operate independently, and often without the knowledge of state government or civil authorities. Under the cover of preservation of law and order, particularly under the Unlawful Activities (Prevention) Act of 1967, the security forces seem to be undermining, completely, the writ of the civil authority (Haskar & Luithue, 1984: p. 71).

3.6. Contraventions of Democratic Norms & Fundamental Rights?

The Armed Forces (Special Powers) Act or AFSPA of 1958 is an inordinately draconian piece of legislation, implemented, ironically, by India, the world’s largest democracy. This Act grants unrestricted and unaccountable powers to security forces; for instance, the Enforcement Section (4) of the Act provides members of the armed forces, down to the rank of non-commissioned officer, with the power to shoot and kill, to enter and search, and to arrest without warrant, any person against whom there is a reasonable suspicion of either having committed or intending to commit a cognisable offence. There is no provision to examine whether the particular act is lawful; a ‘disturbed area’ classification makes it mandatory for any person who wants to institute legal proceedings against injustice(s) perpetrated on him/her under the AFSPA to seek — according to Section 6 — the prior sanction of the central government. The construction of this section makes it almost impossible for anyone to seek redress for grievances or
legal protection against violation(s) of fundamental right(s). The provisions in Sections 4 and 6 provide the security personnel with legal immunity for actions in aid of maintaining law and order; and ‘in aid to civil power’ Parliament has enforced this law for indefinite periods without review in parts of the north-eastern regions.

Since India’s Independence, security forces — consisting of the army, the air force, paramilitary forces, and special operation groups — have been deployed on several occasions in the north-eastern regions. Numerically, there is one security personnel for every 10 civilians. According to B.N. Mullik, ‘…by 1956 nearly two divisions of [the] army and thirty-five battalions of [the] Assam Rifles and armed police were operating in Naga area[s] exerting maximum pressure’ (Mullik, 1974: p.313).

In a democratic state, this is in direct contravention of the norms of democratic functioning. There are striking differences in the submission to the United Nations’ Human Rights Committee on Civil and Political Rights [CC PR/C/76/Ado 6] — in which the Indian Government stated that ‘the property of and the bona fides of the exercise of power in this regard is always subjected to judicial review’. After a long gap, the National Human Rights Commission reviewed the AFSPA: the only hope for people living under the dark shadow of the AFSPA was for the Commission to find the Act unconstitutional and to recommend a review of
pending cases in the Supreme Court. However, the petition was kept pending in the Supreme Court for 15 years: the case was argued in August 1997. **Save for some cosmetic changes, the judgement — delivered in November 1997 — upheld the Act and all its provision as constitutional.**

**4. The Armed Forces (Special Powers) Act**

**4.1. The AFSPA of 1958 — Origins & Antecedents:**
The AFSPA of 1958 was inherited from the British colonial regime. On 15 August 1942, at the height of the Quit India Movement, the British Government conferred special powers to Her Majesty’s armed forces. This 1942 Ordinance conferred extraordinary powers to commissioned officers as well as complete immunity, thus ensuring that officers were not accountable for their actions. In a repressive colonial tradition, the Ordinance was meant to suppress (and oppress) civil society, curb dissent, and legitimise state violence. Logic demanded that an India that fought against such powers would, when independent, get rid of such legislation. Events, however, have proved the contrary. After the British left, independent India promulgated several pieces of legislation — the Assam Maintenance Public Order (Autonomous Districts) Act of 1953, the Assam Disturbed Area Act of 1955, the Armed Forces (Assam and Manipur) Special Powers Act of 1958,
and the Armed Forces Special Powers Act of 1972. Though the AFSPA has its antecedents in British India, there do exist differences in the British and the Indian AFSPA. The British granted the special power only to a commissioned officer, not below the rank of a captain in the army; in contrast, the Indian AFSPA has granted the power to all security personnel, irrespective of their ranks: they can shoot anyone merely on the basis of suspicion.

4.2 The AFSPA of 1972: The AFSPA was amended in 1972. In the 1958 version of the AFSPA, only the state government had the power to declare an area as ‘disturbed’; however, the 1972 amendment allowed for the opinion of the state government to be over-ruled. This was seen in Tripura: here, in opposition to the state government, the central government declared Tripura as a ‘disturbed area’. Once the Governor declares the area as ‘disturbed’, the Act comes into effect, and the ‘autocracy’ of the armed forces begins. Under the Act, the armed forces, including non-commissioned personnel, are permitted to kill on mere suspicion. They have the power to search any premises and arrest anyone without a warrant. Moreover, army personnel are not accountable for the actions (read violations/ atrocities) committed. Amnesty International in its report entitled ‘Operation Bluebirds — A Case Study of Torture and Extra Judicial Executions in Manipur’ has recommended that:
[Section 4[a] of the Act] which given the security forces broadly defines powers to shoot to kill, should be withdrawn. *Such broad provision[s] contravene the requirement of International standards for the protection of the right of life* [emphasis added] which stipulate strict limitation and precise definition of the circumstances in which the people may be lawfully killed (Amnesty International, n.d.: p. 64).

In addition, Article 3 of the United Nations’ ‘Code Of Conduct for Law Enforcement Officials’ states that the use of the force has to be exceptional and proportional to the legitimate aim. **It is indeed lamentable that the largest democracy in the world has curbed the fundamental rights of some of its citizens. The Act is presently in force in almost the whole of Nagaland and Manipur.**

As with the AFSPA, several pieces of legislation have come into existence to strengthen the armed forces for security and strategic reasons. *The north-east is a border area for India, with contiguous boundaries with China, Tibet, Myanmar, and Bangladesh.* During the Second World War, Japanese soldiers entered India and retreated from the narrow corridor of Nagaland (Kohima). Since then, the Government of India, has recognised not only the strategic import of the area but also the importance of control over the north-east in general and Nagaland in particular.
5. The Naga Club & the Naga National Council

In Nagaland, an indigenous movement was initiated by those who sought a new political and social order. During the First World War (1914–1918), Christian-educated Naga officials and village chiefs were sent to France for military service. This proved to be critical in shattering notions of ‘white superiority’: when the ship ran into trouble at sea, the ‘white people’ and their Chinese and Ceylonese comrades were badly shaken; the Nagas dealt with the accident with customary fortitude. In France, the Nagas were used as a labour-force and not as soldiers; it was an eye-opener for the courageous, fearless, warrior Nagas (‘head-hunters’) to see panic and fear among the ‘whites’ in the face of danger. Not only were assumptions of ‘white’ fearlessness, shattered, but also, notions of ‘white’ fairness, in that a warrior people were treated as labourers rather than as soldiers.

The Nagas who had returned from the First World War started the Naga Club in 1919. It consisted of 1,000 Semas, 400 Lothas, 200 Aos, 200 Rengmas, and several smaller groups (Sema, 1986: p. 80). Many are under the misapprehension that the Naga National Council (NNC) was born on the eve of Indian Independence in 1947; its roots actually lie in the Naga Club: ‘The psychological phase of the Naga insurgency can be said to have formally began at this point’ (Anand, 1980: p. 55). On 10 January 1929, the Naga Club
submitted a memorandum to the British Simon Commission stating that ‘the Naga Hills should not be included in the reform scheme of the Government of India’. The memorandum also stated that the Nagas wanted to be ‘left alone’ when the British pulled out of the region (Joseph, 1977: p.135). One of the members of the Commission, E. Cadogan declared in the British House of Commons in May 1935, that the Nagas had ‘a very shrewd suspicion that something is being done to take away from them their … rights and customs’ (Alemchiba, 1970: pp. 162–165). No attempt was made to negate these suspicion, which suited British interests (Alemchiba, 1970: pp. 162–164).

Prior to British intervention, the Nagas had never been conquered or subject to the control of any state/nation. As far as the central Indian subcontinent is concerned, neither Hindu kings nor Muslim emperors set foot in Nagaland. According to Iralu, the Nagas have no affinity with India, racially, politically, historically, culturally, or in terms of religion (Iralu, 2000: p. 5). When the British came to India, they left the Nagas alone. However, after the Treaty of Yandabo (1824–1826), a communicating road opened between Assam and Manipur. The British administration in India thus came in contact with the Nagas. The first among the British to enter the Naga Hills were Jerkins and Pemberton (1832). Their mission was to find a suitable road between Nagaland and Manipur and to subjugate the Angami warriors. The Nagas apparently greeted the outsiders with amazement: foreigners with white skin, brown hair, and
blue eyes, holding explosive weapons, who entered their land like a ghost. Initial amusement soon turned into a resistance movement against the British.

At the time, the Nagas were warriors or ‘head-hunters’ who protected their lands fiercely. The various tribes and clans were all independent units. Fighting broke out even within tribes or clans. On 22 November 1879, after 47 years of resistance, the British captured Khonoma village. In the following year (1880) they established British rule in Nagaland. However, the eastern and northern villages could not be captured. Thus, as per British administrative terminology, these ‘non-captured’ villages remained ‘un-administrative’ or ‘excluded areas’.

In June 1947, the Hydari Nine-Point Agreement was signed between the Governor of Assam (Sri Akbar Hydari) and the NNC. Under this agreement, the Nagas were granted protected status for 10 years, after which the Nagas were to decide whether to stay within the Union or not (Haskar & Luithue, 1984: p. 151). A Naga delegation met Mahatma Gandhi in July 1947 to press the demand for independence; the Mahatma is supposed to have assured them that:

…the Nagas have every right to be independent. I want you to feel that India is yours. I feel that the Naga Hills are mine just as much as they are
yours….Why wait for August 15 to declare independence? … I will come to Kohima and ask the Army to shoot me before they shoot one Naga.

*However after the British left India in August 1947, Nagaland was included in the Indian Union without the consent of the Nagas. To show their unwillingness to join the Union, the NNC declared Naga independence on 14 August 1947. In retaliation, many Naga leaders were arrested.*

### 6. The Nagas & India — Post-Independence

**Developments**

After the Second World War, global politics changed dramatically. The departure of the British from India created a fair amount of confusion and turmoil. In June 1948, the Governor and the Chief Minister of Assam, in a meeting with the NNC, gave NNC representative a written assurance that the Nine-Point Agreement would be adhered to. In 1949, the Governor General of India, C.R. Rajagopalachari, assured the NNC that they were free to decide either to be a part of India or to separate if they felt that it would better serve their interests. The same year, the Chief Minister of Assam, Gopinath Bordoloi, admitted that the Hydari Agreement was not considered valid by the government. *The NNC, under the leadership of A.Z. Phizo, conducted a plebiscite in May 1951 to establish Naga sovereignty: the final result was said to be unanimous, with a 99 per cent of the votes in favour of Naga independence from India.*
However, the then Prime Minister of India, Pandit Jawaharlal Nehru, refused to accept the verdict of the Naga plebiscite and nullified it. During the General Elections of 1952, the Nagas boycotted the elections in Nagaland. Following the boycott, the Indian Government stepped up armed force operation in Nagaland. To date, numerous agreements and accords have been negotiated; the problems, however, remain.

Perhaps no other Indian state has entered into as many agreements with the Indian Government as Nagaland has. Starting with Mahatma Gandhi and Rajagopalachari, right down through Jawaharlal Nehru, Indira Gandhi, and Rajiv Gandhi, the Nagas have been promised many things at many times. In July 1947, Gandhiji not only stated that the Nagas have every right to be independent but also that he believed in the brotherhood of mankind and not in force or a forced union (Haskar & Luithue, 1984: p. 10). Pandit Jawaharlal Nehru had himself taken a stand in support of self-determination in 1944. He wrote that: ‘it may be desirable to fix a period of say ten years later after the establishment of free India state, at the end of which the right to secede may be exercised through proper constitutional process[es] and in accordance with the clearly expressed will of the inhabitants of the area concerned’ (Nehru, 1972: p. 534). None of these leaders fulfilled their promises; instead the central government began looking at the Naga issue as a law and order problem. The
contemporary legacy is one of unfulfilled promises, pieces of legislation like the AFSPA, and the subsequent violation of human rights by the army.

On 25 July 1997, in an attempt to bring about a lasting political solution to the long-drawn out Indo-Naga issue, a ceasefire agreement was announced between the Government of India and the main insurgent group, the NSCN (I-M); simultaneously, the Government of India also extended an unilateral ceasefire to the other faction, the NSCN (Khaplang). Several years have passed since the ceasefire has been in force: the people of Nagaland are constantly hoping and praying that a lasting solution will evolve that will end the saga of army atrocities in Nagaland.

7. Contemporary Naga Society: Fall-outs of the Political Context

7.1. Political Unrest in Nagaland:
Naga society today is ridden with mistrust, cruelty, violence, and brutality. Since April 1995, all of Nagaland has been under the AFSPA. The Government of Nagaland has apparently recommended that the central government declare the whole of Nagaland as a ‘disturbed area’, without seeking the consent of the state legislative assembly; this is supposedly a result of the ultimatum
given by the central Home Ministry to the Chief Minister of Nagaland to choose between Presidential Rule and the AFSPA. *It does not, however, make much difference whether the state opts for the AFSPA or not; the AFSPA was imposed in 1958, prior to the creation of the state of Nagaland (1963).* The influence of the central government over the state legislative is apparent.

Naga society is also beset with a corrupt, money-based politics, an evil that is eroding the fabric of society. Many student leaders, opposition MLAs (members of the legislative assembly), and social activists have spoken out against this. A veteran politician has stated that in Nagaland, a ‘vote’ is a commodity, to be sold to the highest bidder. In an assembly constituency of hardly 6,000–12,000 voters, ruling party candidates are given over Rs 500,000–600,000 (sometimes even crores) as election funds by the party (NCCM, 1997: p. 9).

A lot of money has been pumped into Nagaland in the form of grants-in aid; often this is in support of a ‘divide and rule’ policy that boosts certain sections. Although such money remains essentially in the hands of ministers, bureaucrats, and political leaders, yet the ‘easy money cult’ has taken its toll on the normal civilian life too. Consensual politics has been transformed into factional politics, individualism, nepotism, ‘tribe-ism’, and rampant corruption, all of which interfere with the value
systems of the Nagas. The issue is complicated by the nexus between politicians and the ‘underground’.

There are stark socio-economic disparities. Corruption — and the widening gap between the rich and poor — threatens and effects social imbalance. The central government — and the underground — have to be involved in undercutting the present political unrest in Nagaland; both parties need to grasp the importance of the present opportunity for peace and give peace a chance in Nagaland.

7.2. The AFSPA & its Impact on Economic Development in Nagaland:
Nagaland is a state with rich economic potential: the land is fertile, the climate is suitable, and there are vast unexplored mineral deposits. The imposition of the AFSPA has played havoc on the economic development of Nagaland. Trade union leaders have pointed out that economic and trading activities have been adversely affected by the state of uncertainty and instability that is prevalent. Successful businessmen are under constant threat; they are harassed by security forces as well as by underground elements. The Mokokchung firing and arson incident of 27 December 1994 exemplifies the situation. After the incident, Mokokchung, a commercial town, was converted into a ghost town, because of the fear generated by the incident as well as because of the
destruction of prime commercial buildings. A private practitioner in Mokokchung town has stated that his earnings dropped by 50 per cent: patients from the neighbouring areas were too afraid to come to Mokokchung town. Extortion of money from successful contractors and businessmen is another reason for limited investment by these groups. Nagaland receives financial assistance from the central government; the failure of the people to generate and sustain adequate economic activities has turned the once self-reliant Nagas into a people dependent on central loans and subsidies. Meanwhile, sustainable development activities have not been encouraged whole-heartedly by either the central or the state authorities.

The AFSPA has also restricted the movement of the local population. The army regards all Nagas as part of the ‘underground’. All movements are suspect; there is constant checking by army personnel for identity cards. This means that ordinary villagers, who often lack proof of identification, are limited in their mobility. The dominantly agriculture-based economy suffers because of restrictions on movement.

Economic development in Nagaland has also been affected by an expensive and unsuitable education system. The education system lacks stress on the technical and vocational. Education is also an expensive affair. Insurgency and violence have left Nagaland full of single parents who are unable to afford an education for their
children. As a result, the children drop out from school and join anti-social activities in which there is easy access to money.

7.3. The AFSPA & its Impact on the Mental Health of the Population:

According to the World Health Organisation (WHO) definition: ‘Health is a state of complete physical, mental and social well being and not merely an absence of disease and infirmity.’ Health is perhaps the most prized possession of an individual: the world has strived hard to achieve the Alma Ata declaration of ‘Health for All by 2000 A.D.’. Under the AFSPA, the health of the Nagas has not only been neglected but also actually subjected to abuse. Fear and suspicion are rampant; a once jovial and cheerful society where various tribes were living in harmony has now turned into a society of people who cannot trust their neighbours. The youth have taken to drug abuse; violence has become a common phenomenon. Doctors in Nagaland are increasingly coming across cases of post-traumatic stress disorder (PTSD).

Recent research has established that psychologically traumatic events inevitably leave scars (Randall & Lulz, 1991: p. 29). The link between psychological difficulties and exposure to major stress factors has been acknowledged from the beginning of recorded civilisation. However, medical and psychiatric interest in issues relating to the survivors of severe trauma has exercised serious medical attention.
only during the past century. The phenomenon was brought to the forefront by the existence of large populations who faced traumatic violence/situations: shell-shocked veteran of the First World War and survivors of Nazi concentration camps. People who had faced, and emerged from, similar traumatic experiences showed similar psychological response(s) to the experience (Jackson, n.d.: p.165). Initial research among survivors of concentration camps suggested the existence of a diagnosable ‘concentration camp syndrome’, characterised by anxiety, sleep disturbances, and an array of psychosomatic symptoms (APA, 1980). By 1980, the American Psychiatric Association incorporated — in the third edition of its *Diagnostic and Statistical Manual of Mental Disorders* (*DSM* 3) — a specific diagnostic category named **post-traumatic stress disorder (or PTSD)**, a category that included, among others, phenomenon variously referred to as ‘concentration camp syndrome’, ‘shell-shock’, and ‘post-traumatic neurosis’ (Randall & Lulz, 1991).

Studies conducted on the children of Nazi death camp survivors have indicated that they may have a high incidence of psychopathology, fostered by their parents’ ‘survivor’ guilt, their tendency to over-value their children, and to have extraordinarily high expectations (of their children). Traumatic events or abuse, whether physical or psychological, have been found to inevitably leave psychological scars. Though it is impossible to predict the natural history
of stress response in any particular person, longitudinal studies and
various case reports indicate that that psychological effect may be
life-long; it can occur at any time after the trauma (Yost, 1987). 6

The development of recognisable psychiatric symptoms following
psychological as opposed to physical trauma has always been a
controversial issue (Horowitz, n.d.). This is probably because of
the subjective nature of the symptoms exhibited by patients. Thus,
as a psychiatric diagnosis, post-traumatic stress disorder is a
relatively new; however, there is no doubt that the symptoms of
the disorder are clearly typified among survivors of traumatic
abuses/ events, as well as other types of human-induced stress
their psychological protective sense of invulnerability; they are
rendered helpless and dependent on those who deliberately seek
to harm them. Walter T. Roth further stresses that ‘psychological
trauma elicits a variety of cognitive coping strategies, unconscious
defence mechanism, depression, anxiety and even hallucination
and delusion’, all activities with psychological and biological
aspects (Roth, 1988: p. 5).

The Red Cross Society study, conducted — by competent doctors —
after the incident of firing and arson at Mokokchung town in 1994,
found that of the 115 victims, 81 (70.43 per cent) could be diagnosed
as suffering from PTSD. Among these, 95 per cent continued having
recurrent and intrusive recollections of the event; 83.95 per cent suffered
from dreams related to the event; 88.88 per cent felt as if the traumatic events were recurring; 95.06 per cent were found to have psychological reactions, mostly in the form of palpitations and breathlessness on exposure to internal and external cues that symbolised aspects of the traumatic events; 65.43 per cent were found to be lacking in feelings of love after the trauma; 96.60 per cent had difficulties in concentration; and 66.66 had lost self-confidence and developed a sense of a foreshortened future (Red Cross Society. n.d.). The shock was heightened by the fact that the incident occurred during the festive period, when the people least expected it. The horrific events included the gunning down of people, looting, and arson; survivors felt, saw, and heard the agony of fear and death, of people being roasted alive inside burning buildings. Women were stripped of garments, which were rolled into balls, soaked in petrol, and thrown into burning buildings. Many women were raped at gunpoint by the army.

According to the same study, a pregnant woman — who was forced to lie on the ground during that incident and who gave birth three months after the incident — stated that her baby wakes up at night all of a sudden and cries uncontrollably; her other children have not exhibited such behaviour. A nine-year old boy suffering from PTSD requested that the army not move around (or march) in the town in uniform. Academically, many students were found to be suffering, with grades plummeting (Red Cross Society. n.d.: p. 2).
All the signs indicate that the mental health of the Nagas is far from well. Similarly, the army personnel posted in areas under AFSPA have also been affected: they are under constant stress, especially as they view the entire population as their enemy. The powers vested in them under the AFSPA and their far from normal mental status makes them more dangerous. Various incidences, such as those at Kohima and Akuluto, as well as stray incidences in Dimapur are examples. In the light of existing research, cases of mental stress and disorder, involving issues like PTSD, will only increase in Nagaland as long as the present political conflicts continue and the AFSPA remains. This is bound to affect economic indicators also: ‘health is wealth’, and, at this juncture, the Nagas are far from being ‘healthy’ in any real and/or holistic sense.

8. Summary & Conclusions

Various acts, including the AFSPA, were probably implemented with aim of preventing or pre-empting, the disintegration of the Indian Union. Historically the Nagas have not been a part of the larger Indian Union and have always zealously guarded their individual rights and freedom of action. Even in their own village set-up, an individual is considered as an ‘independent unit’. The British left them alone, as long as their interests were not affected. The Nagas initiated their demand for sovereignty when the British were still in India. On their departure from India, the Nagas were unsure as to what to expect from the Union; moreover, they could not identify themselves with the rest of India. Since their dialogue with leaders of free India came to
nought, they declare themselves independent a day ahead of the Indian declaration of independence.

Post-1947 India, perhaps because of the various issues and problems that came in the wake of Independence, was not particularly sensitive to Naga insecurities. Political leaders of a free India thought that force would break Naga resistance to assimilation; this resulted in a large deployment of armed forces in Naga-inhabited areas. The armed force could not break the spirits of the Nagas; they have, however, created an increased feeling of alienation. Destruction of property, killing of innocent people, sexual abuse, rape, burning of forests, destruction of wildlife, and setbacks to the economy, have all been part of the ‘reign of terror’ under the armed forces.

The AFSPA has had wide-ranging effects on the life of the people under it. Apart from the effect on the life and security of the general public, the abuse of women and children, and the violations of human rights, it has also adversely affected economic (Mokokchung incident) and religious (Yankeli incident) aspects, harmed health (Mokokchung incident) and the growth of children (Akuluto incident), and impacted on civil administration (Kohima incident) A draconian act such as the AFSPA does not suit a country like India. The leaders of our country project the vision of bringing the under-developed regions of north-east into the mainstream. However they have introduced an Act that not only takes away the basic human
rights of an individual but also hurts them socially, politically, culturally, and economically. Various leaders have stated that socio-economic development is the most powerful weapons to fight militancy; however, as long as acts such as the AFSPA exist in an area, development is a distant dream.

The present peace talks, initiated in November 1996, were motivated — and partly initiated — by various NGOs in Nagaland. The Naga Mothers’ Association (NMA) was one of them. The NMA is an inter-tribal women’s organisation that was set-up to counter the abuse of females in Nagaland. The NMA has intervened in incidences of sexual abuse, and has ensured that the culprit/s is/are punished. They have been instrumental in bringing various social changes in Nagaland: they compelled the government to declare Nagaland a ‘dry state’ (alcohol-free). Since the beginning of the Indo-Naga problem the women and children have been the worst-affected. They have constantly pleaded with the insurgents that they have had enough of hardship — it is time for peace to be given a chance. The present peace talks between the central government and the insurgent is the opportunity for which all the mothers in Nagaland had been praying feverishly; hopefully a solution for permanent peace will emerge during these present talks.
CHAPTER 2

CASE STUDIES

Several incidences of gross violations of human rights under the Armed Forces Special Powers Act or AFSPA, have been reported in Nagaland. This survey is at the crux of this project, whose aim is to study cases of human rights violations under the AFSPA in Nagaland, in the context of women and children.

During the pilot survey conducted by WISCOMP, many citizens victimised by the armed forces came forward with their personal narratives. However, owing to the particular context of the study and time constraints, only incidents in which women and children were predominantly involved were followed-up. Out of the eight districts in Nagaland, the teams visited five targeted districts: Wokha, Zunheboto, Mokokchung, Dimapur, and Kohima. Despite problems of transport and communication — and the hold-ups encountered at various army check-posts — the WISCOMP team was able to access the victims. For reasons of clarity, and in order to give an idea of the widespread nature of the violation of the rights of women and children, their accounts are being presented in a ‘district by district’ format.
1. Wokha District

1.1. The Incidents at Yankeli Village — 11 July 1971:
On 11 July 1971, the First Maratha Regiment (Eighth Mountain Division), drove out the entire adult male population of the village, and detained the rest of the population under heavy guard. Many women were assaulted and a pregnant woman (wife of the pastor) was hit with a stone on her abdomen, which led to the premature delivery of a dead baby. Four girls were forced inside the church by the commanding officer and his subordinates; the girls were interrogated, tortured, and then raped by army personnel inside the church.

1.2. The WISCOMP Team in Yankeli:
Yankeli is a small village, established in 1927. Comprising of approximately 35 houses, this village is situated atop a mountain. The WISCOMP team visited the village and the neighbouring villages in November–December 2000. Since there is no road leading up to the village, the team had to complete the journey on foot. En route, the team came across the usual army check-post.

The village elders presented written material as documentation(s) of the incident. Some were apprehensive about the team’s visit; the army had warned them of severe repercussion. However, when the nature of the study was explained, they were cooperative in narrating their version(s) of the incident. They confirmed
that many women were assaulted: a pregnant woman (Mrs Nzano) delivered prematurely; and four girls (Sanchana, Nsena, Thengtena, and Abeni) were raped on that fateful day. The team visited the old church site where the torture and rape had taken place: the church had been abandoned after the incident and now lies in ruins. We visited the grave of one of the rape victim — Thengtena — who had died shortly after the incident. We were informed that the surviving three rape victims had already migrated to the neighbouring villages; one of them has never set foot in her village after the incident. The team interviewed Mrs Nzano, the pregnant lady who had been assaulted and another victim, Mrs Martha.

The WISCOMP team then proceeded to the new Roland village, the old Roland village, and Dimapur town to interview the surviving three rape victims. All three reconfirmed that the army personnel had raped them on 11 July 1971. Their accounts, as well as those of the other women who were assaulted, and the statement of the village chief, who witnessed the incident, are given below.

1.3. Narratives & Accounts:

§ STATEMENT OF FIRST RAPE VICTIM
Ms Sanchana is presently living in new Roland village. She was 17 years old at the time of the incident. She stated that on 11 July 1971, when the army came to her village, all the adult males of
the village ran away (as was apparently the habit in those days). On reaching the village, the army forcefully assembled the remaining women and children and kept them in two or three places; several women were assaulted, all without any provocation. Ms Sanchana, and three other girls (fellow villagers), namely Nsena (15 years old), Abeni (12 years old), and Thengtena (11 years old, and a mentally retarded child) were dragged inside the village church. Among them, she was the first to be abused by the commanding officer and his subordinate. She stated that they grasped her and stripped her of her clothes, and that after tying her hand to the chair they molested her. After this, she was taken to the pulpit of the church and raped by an officer; another army personnel — whom she could not name but who she believed to be an officer — covered her mouth in order to muffle her screaming.

§ STATEMENT OF SECOND RAPE VICTIM
Ms Nsena Lotha presently lives in old Roland village, after her marriage to Mr Samomo. Ms Nsena’s account of the incident is similar to that of the account given by the Ms Sanchana, the first rape victim. Ms Nsena, the second to be raped, was 15 years old when the incident took place.

§ STATEMENT OF THIRD RAPE VICTIM
Among the surviving victims, the incident has, perhaps, cast the longest shadow on Ms Abeni. She initially refused to meet the team, fearing repercussions (from the army), on her and her village (as warned by the army on their departure after committing the crimes). However,
after the nature of the study was explained to her, and after her villagers visited her and talked to her, she agreed to meet the WISCOMP team. The team met her on a Sunday evening, since she could not afford to miss work. She stated that she left the village soon after the incident and has never visited it after that. Memories of the incident, she said, haunt her even today, whenever she looks towards her village; hence, even after two decades, she does not have the courage to return to the village where the incident took place. She has settled down in Dimapur town, where, after a failed marriage, she earns her livelihood by weaving. Presently she lives in a small house and survives on the meagre income from her weaving. Her account of the incident matches those of the other victims However, since she was very young at the time, she cannot clearly recall some of the incidents. She does, however, remember the army personnel asking her questions, then being hit by a stick two to three times, and also being threatened with a gun. She was then raped in the pulpit of the church while other army personnel held her to prevent her from struggling. She recalled being taken out of the church as they began to abuse Thengtena, the youngest among the victims

§ THE FOURTH RAPE VICTIM
Ms Thengtena, the eleven-year old rape victim was apparently mentally retarded from childhood. She was taken fallen ill shortly after the incident; she never recovered, and died some years later. From the accounts of witnesses and the other rape victims, she was dragged
inside the church by the army personnel on 11 July 1971, where she was sexually abused by them.

§ STATEMENT OF FIRST ASSAULT VICTIM
Mrs Nzano, wife of an ex-pastor stated that on 11 July 1971, when the army came to her village, she was in her mid-pregnancy. The women and children were kept in two to three groups. As she was being herded to another place, an army person who noticed her pregnancy hit her on the stomach with a stone. She fell down, with severe pain in her stomach; her labour pains started and resulted in the delivery of a stillborn child. A week after the incident she had to undergo prolonged medical treatment in a Naga hospital in Kohima. She was offered financial compensation by the government for her personal loss and suffering; however, she refused the compensation and asked for justice. The civil administrator (Additional District Commissioner?) mocked her, saying that she would be made the ‘mother of the nation’ if Nagaland got its independence. The case was then closed. She still remembers the words of the civil administrator who mocked her tragedy.

§ STATEMENT OF SECOND ASSAULT VICTIM
Mrs Martha was 36 years old when the army came to her village on 11 July 1971. She was questioned by the army in a language she did not understand. She was hit all over her body by army personnel with a cane, and also slapped. She is now 65; till today her physical body pains continue to torment her.
STATEMENT OF MR YUJAMA LOTHA

Mr Yujama Lotha, the village chief of Yankeli at the time of the WISCOMP study, stated that on 11 July 1971, when the army came to his village, he was the eldest among the group of children and was kept with the women. He was then seven years old. He does remember the army arriving, though he was not a witness to the actual incidents of rape. According to him, the army took four girls — Sanchana, Nsena, Abeni, and Thengtena — forcefully inside the church. When they were released in the evening, the girls stated that they had been sexually molested and raped by the army inside the church. The army assaulted many women that day: One among the army personnel hit Mrs Nzano on her stomach with a stone. According to Mr Lotha, she was pregnant at that time and ‘her womb burst’ and she gave birth to a dead baby. He also stated that the 1971 incident was not the first incident of army atrocity that that his village had suffered: In 1956 the army had burned down the village ‘granary’, as a result of which the village became very poor since the entire year’s cultivation went up in smoke. Mr Lotha stated that the army personnel — under the protection of the AFSPA — are like animals: in the 1971 incident; quite apart from the crimes that they perpetrated on women and children, they even passed stool in the villager’s plates. The chief actually states that the army was not accountable for its criminal acts; he says that the man who first thought of making such an act as the AFSPA is surely burning in hell.
2. Zunheboto District

2.1. The Akuluto Firing Incident — 23 January 1995:

On 23 January 1995, the jawans of the Fifteen Assam Rifles resorted to random firing in the town of Akuluto in Zunheboto district. Security personnel shot dead — at point-blank range — a woman, Mrs Hozheto, who was carrying her infant child, Mughato. The child, Mughato, sustained grievous injury to his right hand, making amputation necessary. In the incident 15 houses were damaged and two granaries burned down.

2. 2. Narratives & Accounts:

§ STATEMENT OF MUGHATO’S GRANDPARENTS

Mughato’s grandparents stated that on 23 January 1995, they were eye-witnesses to the murder of their daughter-in-law, and physical injury to their grandchild. On that day the two jawans came and asked their son (Mughato’s father) about his occupation. He replied that he was a ‘cultivator’; they then addressed the same question of their daughter-in-law who replied that she was ‘a housewife and a cultivator’. The jawans then asked Mughato’s parents to put down on the ground the children they were carrying; however, fearing for their safety, the parents did not obey immediately. According to Mughato’s grandparents, one of the jawans, without any reason or warning, shot their daughter-in-law and grandchild at point-blank range. Their daughter-in-law died on the spot and their grandchild was shot in the right hand, which subsequently had to be amputated. Mughato’s
grandfather stated that his daughter-in-law and grandchild were innocent victims of the AFSPA. He questioned how many such innocent victims are necessary before the Indian Government withdraws the Act? He stated that the duty of explaining the events to the child, who is living with his grandparents since his mother is dead, has fallen on him and his wife. ‘What should they tell the child?’ he asks. ‘That the government killed his mother and blew his hand off?’

3. Mokokchung District

3.1. The Mokokchung Firing and Arson Incident — 27 December 1995:

On 27 December 1995, after cross-firing between the Sixteenth Maratha regiment and the insurgents, Mokokchung town was subjected to army riots. The riots lasted for four hours: 12 people died, many innocent citizens were assaulted, at least 16 women were raped (four of whom have given statements), and a lot of property was burnt and destroyed.

3.2. Narratives & Accounts:

§ STATEMENT OF THE FIRST VICTIM

Ms Supongla stated that on 27 December, 1995, when the army started firing and assaulting the public, her sister and a girl friend took shelter in a shop near Classic Bakery. The army personnel entered the shop, dragged them down, and started searching them for firearms. Her
sister and her friend were sent to the other room; when she was alone a *jawan* threatened her at gunpoint, removed her clothes, and raped her. (Ms Supongla underwent medical examination and the rape was confirmed medically.)

§ **STATEMENT OF THE SECOND VICTIM**
Mrs Yongdola Ao stated that when the firing started that day, she took shelter in a shop. The army personnel called her out. When she went out they took her to the corner of the shop: three among the army personnel held her, and one raped her. (Mrs Yongdola Ao underwent medical examination and the rape was confirmed medically.)

§ **STATEMENT OF THE THIRD VICTIM**
Mrs Narola stated that in the midst of the bullet and bombing, she ran into the Classic Bakery along with some others to take shelter. At that point, some army personnel entered the bakery and began assaulting them; others pointed guns at them. All the men inside the shop were beaten-up and ordered to go outside. The army personnel then began molesting the women. Mrs Narola’s clothes were stripped off and they touched her private parts.

§ **STATEMENT OF THE FOURTH VICTIM**
Mrs Akumla stated that during the firing and arson incident at Mokokchung on 27 December 1995, she was raped by the army
personnel. (Mrs Akumla underwent medical examination and the rape was confirmed medically.)

4. Dimapur District

4.1. The Incidents of 10 February 1994:
On 10 February 1994, Khetoli, Akali, and Inashi, all school-going girls were arrested and detained by the Sixteenth Assam Rifles under the command of their C.O. (Colonel Ajit Singh). As per their statement, they were going from their village (Khetoi) to their school in Dimapur town, when they were arrested, detained, and interrogated by the security personnel.

4.2. The Incidents of 7 September 1995:
On 7 September 1995, security personnel killed three innocent people (two were shot dead and one was battered to dead). The victims were Mr Inashe Ayemi, Deputy Director of Rural Development, who was tortured and killed in front of his sister; his driver, Mr Khader, who was shot dead; and their servant, who was also shot dead.

4.3. Narratives & Accounts:

§ STATEMENT OF MRS K. KHETONI: SISTER OF VICTIM
The 29-year old sister of the late Inashe Ayemi, presently a resident of a sub-jail industrial estate in Dimapur stated that on 7 September
1995, her brother Inashe — who was the Deputy Director of Rural Development, and stationed at Kohima — came to visit their mother. As he was getting ready to go back to Kohima, they heard firing. Their male servant ran up to the roof to investigate, where he was shot dead by the security forces. Shortly after that the security personnel entered their house and started hitting her brother. Her brother identified himself and showed them his identity card. But they continued beating him and started hitting him on his head with their rifle butts. She saw her brother’s eye dislodged from his eye socket. Her brother died in front of her. In that incident her brother’s driver (Khader) was also shot dead. She stated that her brother was killed even after he identified himself. Referring to the AFSPA, she stated that an Act that gives power to the security personnel to kill innocent people even after they have identified themselves should be removed; at least there should be a ‘clause’ or something requiring them to first identify their victims. She still remembers the face of her brother trying to be brave in front of her as the security personnel were murdering him. Trying to restrain her tears she stated that an Act that makes a sister witness the brutal murder of her own brother has no place in a democratic country.

5. Kohima District

5.1. Kohima Firing Incident — 5 March 1995:
On 5 March 1995, a convoy of the Sixteenth Rashtriya Rifles (RR) was passing through Kohima town, when the ‘burst’ of an army truck
tyre lead to the random firing and bombardment by the RR, CRPF, and the Assam Rifles (AR) at civilians. The indiscriminate firing left seven dead and 20 injured, and caused destruction of property.

5.2. Narratives & Accounts:

§ STATEMENT I: MRS SUSICYANA LOTHA
Mrs Susicyana Lotha’s family is a resident of Agriculture Colony, Kohima. A mortar bomb exploded in their midst of their family, which resulted in the death of one of the daughters (Sayingpeni) and left another daughter (Rebecca) physically handicapped for life. Mrs Susicyana Lotha stated that on 5 March 1995, at around 1:30 p.m. a mortar bomb fell on her doorstep and exploded in the midst of her family. She sustained injuries on her hands, while all the others in her families (eight in all) were injured to some extent. Her two daughters Sayingpeni (3 years) and Rebecca (8 years) were severely injured. They tried to take them to the civil hospital, but were detained on the way by the army. Her youngest daughter died before they reached the hospital; the older daughter survived after prolonged medical treatment but is now physically handicapped due to the damage caused to her brain and her body. She stated that any laws or acts that give such powers as to take the lives of innocent children should be abolished.
STATEMENT II: MRS LHOULININOU
Sixty-year old Mrs Lhoulininou is a resident of Lire Colony, Kohima. She stated that she saw the army moving on the road; they started firing randomly. They fired at her house and damaged the walls, doors, windows, and the roof. Next they forcefully entered her house and start beating her husband, son, and daughter with rifle butts. They attempted to kill her son with an axe. When he dodged the blow, they broke his left arm.

STATEMENT III: MS DZIESUGUNUO
Ms Dziesugunuo (23 years old) is a resident of Lire Colony, Kohima. She stated that she was beaten with rifle butt on 5 March 1995 by the army. Her father and brother were also beaten in front of her.

STATEMENT IV: MRS KAPISA
Mrs Kapisa (35 years old) is a resident of New Minister Hill, Kohima. She stated that the army damaged her house. She was beaten and then taken to the main road where she was detained for a long time.

STATEMENT V: MRS KAZOUNO
Mrs Kazouno Sole (62 years old), who lives below Little Flowers School, Kohima, stated that she saw the army personnel firing randomly. Five of them entered her house through the servant quarters and shot Kajaman. They then dragged him and a servant (Moti) out of their rooms shouting ‘bahaar nikalo sub admi!’
(Take all the men out). They were made to lie on the ground and were beaten by the army personnel even though they were obviously not local and could not be suspected of being ‘underground elements.Shortly after the bombardment, a bomb fell on her garden. This destroyed the ‘cowshed’ and the rooftop of the kitchen.
India is the largest democratic country in the world. Each of its over two dozen individual states is responsible for the maintenance of law and order within the state. Being a federal form of government, the central government exercises guidance over the states and provides support to them. All the states come under the Union Home Ministry, which in turn controls paramilitary forces, the Internal Intelligence Bureau, and the nation-wide network of police services. The armed forces are under the Ministry of Defence. The Constitution of India enshrined Article 19 (Fundamental Rights) which guarantees a set of ‘fundamental rights’ to all its citizens. However large-scale encroachments on the life and liberty of its citizen are visible in states that are under the AFSPA. In light of the constitutional guarantee of ‘fundamental rights’ to the citizens of the country, an unresolved question for the Nagas is the issue of the imposition of the AFSPA
1. Legal Analysis of the AFSPA in Nagaland

Article 21 (Protection of Life and Personal Liberty) of the Indian Constitution, states that no person shall be deprived of life and personal liberty, except according to procedure(s) established by law. However, the AFPSA of 1972 (Section 4-a) neither safeguards nor recognises Article 21. In areas proclaimed as ‘disturbed’, Section 4 confers unlimited power — including the power to shoot and kill a person opined to be acting against the law — even to non-commissioned officers, without requiring any accountability from them. According to Section 4-A: these powers are conferred: ‘If in his opinion, it is necessary for maintenance of public order to fire even to the extent of causing death or otherwise use force against a person who is acting in contravention of an order, prohibiting the assembly of five or more persons, or the carrying of weapons or of “things capable of being used as weapons”.’ Thus, in the name of maintaining law and order, this section clearly abrogates Article 21 and the promised right to protection of life; the Act not only denies citizen’s their basic constitutional rights but also, in a manner, encourage the violation of these rights by making the armed forces neither responsible nor accountable for their actions. *Section 4 and 6 of the AFSPA thus provide security personnel with legal immunity in the context of crimes committed against citizens living in ‘disturbed areas’.*
2. Naga Experiences under the AFSPA

2.1. Past Experiences:
For over half a century the women of Nagaland have experience the brutal impact of violent actions committed under the AFSPA. The present state of Nagaland was in a relatively ‘primitive’ stage at the time of India’s Independence; it had only a few educated thinkers. Nagaland declared its independence on 14 August 1947 and in the plebiscite conducted in 1951, 99.90 per cent opted for sovereignty. The subsequent years were witness to the atrocities committed by the Indian army over the people of Nagaland, under the Assam Maintenance of Public Order Act of 1953, the Assam Disturbed Area Act of 1955, the Armed Forces (Special Powers) Regulations of 1958, and the Armed Forces (Assam, Manipur) Special Powers Ordinance of 1958, all of which have been the precursors of the AFSPA of 1972.

In the course of conflicts with the Indian Army, many innocent villagers have been subjected to inhuman interrogation and torture, and several women have been sexually abused. There were the infamous ‘groupings’, where people of several villages were brought and kept together without provision of proper food or basic human needs, an example being the Litsa Post, the notorious army grouping post in the Sema area. The agriculture-based economy of Nagaland has been severely affected during such periods: not only were the villagers kept away from cultivation, but also, granaries full
of food-grains were burnt by the army. Several people died as a result of starvation. Women and children were the worst victims Although many incidents were never recorded due to the ignorance and illiteracy of the people at the time, some have been recorded. Included are reports of some of the incidents in which women and children were involved.

The following are extracts from a report titled ‘The Fate of the Naga People: An Appeal to the World’. It was submitted by A.Z. Phizo to the United Nations and to world leaders in 1960 (Phizo, 1960: pp. 6–17).

§ 1954: Leaders of the Naga Women’s Society were arrested in Lungkhum village. They were beaten and tortured, and hot chilly powder was rubbed into their genitals.

§ 13 February 1955: An Indian battalion commanded by police officer ‘B’ surrounded the village of Changtongia Yimjen, 110 miles from Kohima. The villagers were assembled and than beaten up. Women and girls were stripped. Some were flogged, while others were tied to walls and posts; Indian soldiers raped them, squeezed their breasts, bit their mouths and faces, and forcibly kissed them. Of those who were raped, the following lost consciousness and collapsed: Yarutela, Zulungala, Satonjila, and Kolemla, all married women; and Longrilemla, Kimajungla, and
Marmungla, all unmarried girls. In addition a one-year-old baby (Lanusula’s child) was beaten to death; an old woman of 80 was tortured before being beaten to death.

§ 14 February 1955: Lungkhum village was raided by another battalion commanded by police officer ‘F’. First there were mass beatings. Then, Mrs Nangshimongsia’s baby was taken from her arms and flung to the ground, after which she was beaten brutally; Mrs Rotongmokla’s daughter was thrown on the ground and her arm crippled by the beating; Mrs Imtinungla’s was hit on the head with rifle butts; and Mrs Kikansangla, Mrs Nungsashila, Mrs Temrshilila, and a 13-year-old girl Ningsashila, were beaten and then kicked all over the bodies, resulting in permanent physical damage(s).

§ 28 February 1955: The Indian authorities sent a force to Chungtia. A woman, Bendangsenla, was about to give birth. She was beaten with rifle butts and kicked in the stomach with boots: as a result her child was born dead.

§ 3 March 1955: Police officer ‘F’ attacked Mokokchung and destroyed many of the houses. Twenty-five year old Mrs Pangilila who was about to give birth was forced by police officer ‘F’ to assist the soldiers in the demolition. Her baby was born in front of them. The soldiers mocked and insulted her.
§ **4 April 1955:** An Indian battalion surrounded the Mangmetong rice fields and took away 134 women, after assaulted them. They were marched to Lungkhum (5 miles away) and the next day to Mokokchung (11 miles away) where they were finally released. No food was provided for three days although 20 of the women were mothers with children. Mangmetong was raided 37 times in the course of the year. (It was finally burned down on 25 April 1956 by a force of 600 army personnel.) On 25 January 1955 the group officer raped a woman there. On 7 March all the villagers were beaten up. Two girls, Imkonglemla (17 years old) and Shiajenla (19 years old) were raped. On 14 May, 187 women were again arrested and marched to Mokokchung prison, yet again without food for three days. They were beaten and a 15-year old girl, Tamengdanglo, was raped. Mrs Imkongjila (67 years old), Mrs Takunungla (55 years old), and a girl Mapurona (15 years old) were tied to the post of the Indian flag and left there for two days and nights. They were even prevented from sleeping or answering the call of nature.

§ **12 April 1955:** Khare village was attacked and after the usual beating, the women were stripped naked and the soldiers squeezed their breasts and kissed them forcibly. Four girls — Chubasengla (15 years old), Rongmanla (14 years old), Smoli (19 years old), and Takatila (17 years old) — were raped. In the same month, Mrs Riho (28 years old) of Sotokar and Mrs Kilo (25 years old) of Kesor were raped by the whole of the Assam Rifles detachment stationed in the village.
§ **Khensa Village (1955–1956):** This predominant Christian village was attacked by the army during 1955-56. On **25 May 1955**, after mass beatings, Mrs Mayangrepla and her child were thrown down a cliff. On **1 September 1955**, women were undressed and whipped. The Indian soldiers not only fondled and squeezed them but also put their hands into the women’s private parts and ridiculed them in revolting ways. On **22 April 1956**, police officer ‘F’ raided the village with 400 troops and executed five of the church leaders in public. These included Mrs Arentangla (80 years old), Pangerjiba (85 years old), Imkongkumzuk (31 years old), Noksentsula (45 years old), and Imnujungshi (26 years old). The village was then burned down.

§ **6 June 1955:** Mrs Bolaong and three girls — Chungli, Shilula, and Shongling — were raped by the whole company of troops on the Noklak road, near Chingmei in Free Nagaland.

§ **3 July 1955:** Officers of the Indian Army led a force against Chuchuyimlang. Among those beaten was a woman of 40, in the ninth month of pregnancy, who failed to get up. She was pulled out of her bed and battered with boots and rifle butts until she died.

§ **18 August 1955:** Two girls from Chari village, Lepzungtemla (18 years old) and Thongpangnaro (15 years old) were found on the road by an Indian army detachment, which then took them to a nearby bungalow. The girls were raped by all 138 members in the detachment.
§ **January 1956:** Mrs Govili was arrested, separated from her one-year old baby, and forced into forms of ‘marriage’ with another on pain of death.

§ **March 1956:** Mr Nihoto’s daughters were caught by the Indian army in Baimho village and were raped the whole day. The two girls, half-dead, dragged themselves into the village on their hands and knees.

§ **15 May 1956:** An Indian officer tried to excuse the troop’s rape of Yieliestuu (37 years old) and Kremou (12 years old) in Roukhroma, as punishment for the village for feeding ‘gangsters’ (Naga Home Guards).

§ **June 1956:** Pfuzhunuo (13 years old), Khuno (14 years old), and Litsangla (16 years old) were all victims of mass army rapes.

§ **29 June 1956:** A mother who failed to escape when Atophumi village was raided was killed and her child put to her bosom to feed. A pregnant woman was trampled to death.

§ **20 June 1956:** Mrs Ranpino, Chairperson of the Women’s Society of Pangidong was thrown into her burning house by the Indian Army. Her one-year-old baby girl was burnt alive.

*The following are extracts from a report titled ‘Harrowing Tales of the Nagas’ sent by the President of the Federal Government*
of Nagaland to Indian and world leaders on 3 August 1957. (Federal Government of Nagaland, 1957).

§ 20 June 1956: Mrs Ranpino, Chairperson of the Women’s Society of Pangidong was thrown into her burning house by the Indian army. Her one-year-old baby girl was burnt alive.

§ 9 November 1956: Mentally retarded Khaholi (40 years old) of Rotomi, was raped by Commandant ‘Mickey’ of the Ninth Garwali Regiment.

§ 25 November 1956: Heoli (18 years old) and Shakali (20 years old) of Sukomi village were arrested and locked up at the Litsa outpost by the Madhya Army. They were than raped by the armies led by Captain Madhak.

§ 20 January 1957: Lutoli, a 16-year old girl from of Kichilimi, was raped and kicked to death by the army. Major Pirdan Ram of the Seventh Battalion, Third Brigade arrested two boys of Totomi and sodomised them.

§ 20 January 1957: A pregnant woman Yekheli, w/o V.G. Khuvishe of Kichilimi was raped and kicked to death.

The above are examples of the nature of atrocities that have been committed by the armed forces of a ‘civilised’ country on the so-
called ‘savage’ Nagas. The Armed Forces (Special Powers) Act continues to be imposed in Nagaland; the same crimes continue to be perpetrated by the armed forces.

2.2. Present Experiences:

After the introduction of AFSPA in its present form, the women of Nagaland face a fate similar to that cited above. There have been reports of sexual harassment, molestation, and rape; some have even lost their life under this draconian Act. Women have faced long periods of detention, been deprived of basic human rights in army camps, and have had confessions extracted from them under threat. Many women in Nagaland have been rendered widows as a result of this Act. Some of the incidents that have occurred are cited below.

§ THE YANKELI BAPTIST CHURCH RAPE INCIDENT — JULY 1971:

Among the fundamental rights enumerated in Part III of the Indian Constitution is the right to freedom of religion. However, on several occasions, the armed forces have violated the sanctity of churches in Nagaland. A relevant example is the incident at the Yankeli Baptist Church in 1971, where the First Maratha Regiment (Eighth Mountain Division), drove the entire adult male population out of the village and detained the remaining inhabitants under heavy guard. Four girls — Sanchana (17 years
old), Nsena (15 years old), Abeni (12 years old), Thengtena (11 years old) — were lead forcefully inside the church by the commanding officer and his subordinates; the girls were molested, assaulted, and finally raped by the army officers in the church pulpit. Several other women were assaulted by the army; a pregnant women Mrs Nzano the wife of the pastor was assaulted with a stone that hit her on her stomach, causing her to give birth prematurely to a dead infant.

Perhaps several among the army personnel who raided Yankeli village that day were god-fearing men, married, and with wives and children, who in normal contexts are loving husband and fathers. The powers bestowed on them by the AFSPA, however, created an extraordinary context of power coupled with unaccountability. They acted like animals — raping children and young girls, that too in the house of God, and hitting pregnant women. During the visit of the WISCOMP team to the village on November/December 2000, we found the church disowned and demolished: only some broken structures stood on the plot of land where the church had stood. The villagers who witnessed the incident were initially suspicious and afraid of the WISCOMP team; many voiced their fear of army repercussions. When the project and the visit was explained to them in detail, however, they became increasingly co-operative. We were told that some years after the incident the whole village had decided not to talk about the incident; however on our visit they decided to co-operate
as they believed that it would benefit the women and children of areas under the AFSPA. Mr Yajama Lotha, Chairman of the Village Development Board (VDB) gave the team written documentation relating to the incident. Among the four raped in the pulpit of the church, two were mere children, one of them being a mentally retarded child (Thengtena) who died shortly after the incident. The other child Abeni (12 years old at the time of rape) left the village after the incident and has not set foot again in the village where she was born. The psychological trauma that came in the wake of the abuse have followed her ever since. Her marriage has failed, and she lives alone, earning her livelihood by weaving on a daily wage system. The other two older victims (Sanchana and Nsena) have also shifted out of Yankeli: they are now living in the neighbouring villages. The incident left a scar not only on the people of the village, but on the entire Christian community in Nagaland as the crime was committed inside the church. Many women were assaulted that day; most of them still alive suffers from physical pains even today. A pregnant woman Mrs Nzano wife of pastor Mhonsoo was assaulted with a stone leading to the ‘rupture of the uterus’.

§ THE OINAM CHURCH INCIDENT — 1971:

Another incident similar to that at Yankeli occurred in the village of Oinam. In retaliation for an insurgency attack, the Assam Rifles initiated operation ‘Bluebird’ in the village of Oinam. They made the villagers stand for weeks. They made the church in Oinam
their camp: here the villagers were tortured (including the use of electric shocks), hung upside-down, and buried alive. Several women were sexually assaulted. Two women were compelled to give birth during the detention (Naga People for Human Rights, n.d.).

_In Nagaland, the churches are more often than not the main targets in any army operation._ Is it because army officers do not know of the freedom of religious granted to every Indian citizen under the Constitution? Is it that the officers do not believe in God? The Indian Army boasts educated officers, but to what effect. _Perhaps, the fault lies in the unabridged power bestowed on them under the AFSPA. Acts that turned ‘mere mortals’ into ‘God’ should be abolished._

§ **THE AKULUTO FIRING INCIDENT — 23 JANUARY 1995:**

Among the many instances in which security personnel have abused the power bestowed on them is the case of firing in the town of Akuluto, where — after some insurgent fired into their camp — the _jawans_ of Fifteenth Assam Rifles resorted to random firing and arson. The _jawans_ went on the rampage, destroying property and firing indiscriminately. A nursing mother (Mrs Hozheto) was shot to death at point-blank range while nursing baby; the three-month old baby was injured and had to have the right hand amputated. The one-man commission set-up to
investigate the incident stated in his report that:

…perhaps they had initially wanted to shot and kill Mr Hozheto Sema and this is why they had asked him to put down his baby from the arms It is also possible that their intention was to take Hozheto and his wife out of their house for some ulterior purpose and for that reason they had asked them to put down the baby from their arms In any case the fact remains that when both Hozheto and his wife did not drop their babies from their arms, one of the two jawans just out of spite shot and killed Hozheto’s wife and also maimed the child for life [emphasis added] (Commission of Enquiry, n.d.).

The report further stated that the commission was informed that the JCO in-charge (Sub. Khelaram) was tried in a general court martial and, on being convicted, was awarded punishment (Commission of Enquiry, n.d.). On our visit to Akuluto town, the parents of Mr Hozheto (who were witness to the incident) voiced a similar view. They stated that the jawans had been posted in that small town for a long time and knew that their daughter-in-law was a housewife. Still they came to the house killed her, and also wounded their grandchild, all because she refused to put down the child who was in her arms They have been informed that the JCO have been punished, but does that mean that everything is now normal? The child, Mughato (which, translated, means ‘winner of blessings’), now seven years old, is being looked after by his grandparents. However, owing to his handicap (amputation of his right hand) and the absence of his mother he is lagging behind his peers. His grandfather is worried about the future of his handicapped grandchild, who has reached the stage where he is curious and inquisitive. It is very difficult
to tell a child that a *jawan*, with the power bestowed by the government, killed his mother and made him a ‘motherless’, and also and blew his hand-off. He also wonders how many such innocent victims the government wants before withdrawing the AFSPA.

§ THE MOKOKCHUNG FIRING & ARSON INCIDENT — 27 DECEMBER 1994:
The Sixteenth Maratha Light Infantry, under the command of Major Deepak, under the pretext of fighting insurgents, initiated rioting and arson in Mokokchung Town (district headquarters). Five innocent civilian were shot dead, six were burnt to death, several others were detained and harassed, and 16 or 17 women were raped at gunpoint. A lot of property was also damaged. *Out the 16–17 women who were raped, only four came forward to give statements; the others probably abstained because of the stigma associated with rape and/or fear of reprisals.* Three women underwent medical examination as rape victims: the examinations confirmed the rape(s). Another victim was subjected to sexual molestation amounting to rape. After the incident, Mokokchung town, one of the successful commercial towns, was reduced to a ghost town: the incident affected not only the individuals and families who were directly involved, but also had a crippling effect on the socio-economic life of the community.

§ THE KOHIMA FIRING INCIDENT — 5 MARCH 1995:
On that particular day, a convoy of the Sixteenth Rashtriya Rifles,
who were unfamiliar with the situation in Kohima, were passing through the town. The bursting of tyre in one of the trucks in the convoy lead the Rifles to assume that insurgents were firing at them; the Rifles resorted to indiscriminate firing and bombardment of Kohima town. Firing by the RR jawans and the CRPF left four dead and about 24 injured; women and children were predominant among those injured. The indiscriminate firing by the Rashtriya Rifles was in six ‘zones’:

1. Naga Hospital: > ‘D’ 16 RR
2. Officer Hill to Japfu Ashoka: > ‘B’ Coy 16RR
3. AOC to Blue Hills Travels Office: > ‘A’ Coy 16 RR
4. Mohankela Area: > H.Q Coy 16RR
5. Faith Nursing Home: > ‘C’ Coy 16 RR
6. DIG CRPF Office to Approach Rd. of NST Garage: > ‘F’ Coy 16 RR

The Joint ‘Facts Finding Committee’ set up by the Government of Nagaland after the incident found a large number of mortars. There were bombardments at 18 places in that incident, and the four deaths and many injuries were attributed directly to the mortar firing. The Rifles fired a total of seven bombers and two rocket-
launcher bombs. On realising that there were no insurgents in the area, they should have stopped firing immediately; however, they became prey to imaginary apprehensions, and cast all restraint and discipline to the winds. The Sixteenth Rashtriya Rifles not only violated the right to protection of life and liberty but also caused damage to property. A disciplined soldier is supposed to resort to fire only if there is a particular target (ek goli ek dushman: ‘One bullet, one enemy’). On that day 819 rounds of 7.62 mm, 207 rounds of 7.62 mm CTM, 81 rounds of 9 mm balls, and 5 rounds of 51 mm mortars were used; not a single insurgent was killed. There can hardly be any justification for the launch of mortar bombardment in broad daylight at a civilian population. However, as per Section 4 of the AFSPA, the security personnel responsible for the incident were not accountable for their actions.

The army worsened the situation by inept handling: A three and a half year old girl, injured after a mortar explosion, was not allowed to proceed to the hospital. Her mother stated that perhaps her little girl’s life could have been saved if the army had not detained them. She also said that her daughter was not the only victim. Eight persons were injured when the mortar felled on her home and exploded in the midst of her family: among these, three were seriously injured, and one of them now suffers from permanent physical handicap as a result of injury to the head.
3. The Toll on the Army

There is no doubt that such incidences will recur: the army personnel are only human, and the tension of working in a war-like zone where they view everyone as their enemy will continue to interfere with their judgement. In the Kohima incident some army personnel were injured in their own cross-fire. Many jawans have laid down their life in the name of ‘maintaining law and order’ determined by policy-makers implement. In situations where differences can be solved by political dialogue, sacrificing the live of jawans is not justifiable. The policy-makers do not go out to fight insurgency: rather they stay surrounded by ‘Z’ grade security, while jawans who are sent out to implement unsound policies, sacrifice their lives in Nagaland. This sacrifice is unwarranted and unnecessary. The situation is indeed tragic: neither can policy-makers justify the sacrifice demanded of the jawans operating in Nagaland, nor can the family members of the jawans gain the consolation that their loved ones died for a just cause.

Since Independence, the central government has continuously deployed armed forces in the north-eastern region. In terms of numbers there is one security personnel for every 10 civilians. According to B.N. Mullik, ‘by 1956 nearly two divisions of army and 35 battalions of Assam Rifles and armed police were operating in Naga areas, exerting maximum pressure’ (Mullik, 1974: p.313).

The bodies of many jawans lie unclaimed in the jungles in the north-
east. They have died without honour, and even their last rites are not performed by their loved ones. The bodies of those killed in the towns are either shipped back quietly, or else their final rites are performed by fellow jawans. It is not surprising that the jawans have cracked up on many occasions. There are reports of jawans running amok and injuring/killing their officers or fellow jawans. They often vent their frustration on innocent civilians. The AFSPA hurts not only the civilian but also damages the armed personnel posted in the areas where the Act is prevalent.

4. In Aid of Civil Power?

Section 3 of the AFSPA states that: ‘if the Governor of a state or the central government is of the opinion that an area is in such a disturbed or dangerous state, that the use of armed forces in aid of civil power is necessary, then either of them can declare it to be “disturbed area” by notification in the Gazette.’ Once the area is declared as a ‘disturbed area’, Sections 4, 5, and 6 come into effect (Union for Democratic Rights, 1983: p.3). It is to be noted that the Act comes into effect to aid the civil authority. However, in most instances, that aspect is actually missing. In the Kohima firing incident on 5 March 1995, when the Director-General of Police (DIG), Nagaland, Mr Charman Lal intervened, the Sixteenth Rashtriya Rifles personnel resented his intervention but tolerated it grudgingly. The SP or Superintendent of Police (Kohima), under the order of the DIG tried to contact Brigadier Nagpal, the Commanding Officer of the Twenty-Ninth Assam Rifles, in connection to the civilians detained in BOC (Bharat Oil Corporation) area; however, the jawans of the Sixteenth Rashtriya Rifles stopped him at gunpoint (Office of the DGP
Nagaland, 1995: p.28). According to the SP (Kohima), when he was moving towards Monkhola he was stopped, before he reached the IOC petrol pump, by the security forces who aimed SLR rifles at him. He identified himself as the SP of Kohima and requested to meet the JCO of the Sixteenth Rashtriya Rifles, Subedar Harbansilal; however, he received no response (Office of the DGP Nagaland, 1995: p.36). As per the statement given by the Deputy Commissioner (DC) of Kohima, when the SP Kohima was shifting dead bodies to the south police station, the Army prevented him to do so at gunpoint. When the DC arrived at the Naga Hospital, Kohima, he was informed that the army was preventing doctors from being called in to perform operations (Office of the DGP Nagaland, 1995: p. 31). The inquiry commission conducted by Justice D. M. Sen has reported that the head of the civilian police was completely ignored and relegated to being a non-entity.

Section 4 of the AFSPA, which confers on the army the right to exercise unchecked powers of arrest, searching, seizing, and shooting to kill, has literally killed the Fundamental Rights of citizens applicable under Articles 14, 19, 21, 22, and 25 of the Constitution of India. It has been made clear that the army is supposed to aid civilian powers, and that it is not allowed to act with the broad powers than the police possess. The Indian Criminal Procedure Codes (Cr. PC) establishes the procedure that the police are supposed to follow in instances of arrest, search, and seizure,
procedures that the army and other paramilitary are not trained to follow. In 1958, during the debate on the AFSPA, the then Union Home Minister stated that the AFSPA was subject to the provisions of the Constitution and the Cr.PC. He stated that ‘these persons [military personnel] have the authority to act only within the limits that have been prescribed generally in the Cr. PC or in the constitution.’ This constitutional safeguard is, however, non-existent after the Act came into existence in 1972.

The Criminal Procedure Code provides more safeguards than the AFSPA does. The Cr.PC does not state that force, to the extent of causing death, can be used to disperse an assembly; the AFSPA confers wider power for dispersion of assemblies and does not hold the actions accountable. Under the AFSPA, an assembly is classified only as ‘unlawful’; this leaves open the possibility of dispersing peaceful assemblies with the use of force (n.a. n.d: p. 7). Under the IPC or Indian Penal Code (Section 302), only murder is punishable with death; Section 143 of the IPC states that an unlawful assembly is punishable with the imprisonment of up to six months or a fine. If the assembled people are armed with deadly weapons, the maximum penalty is imprisonment of up to two years and a fine. However, under Section 4(a) of the AFSPA, death penalties are applicable even to an assembly of five or more persons. This is a violation of the constitutional right of equality before the law, for Article 14 states that ‘the state shall not deny to any person equality before the law or the equal protection of the life within the territory’ (Bakshi, 1998: p. 15).
The commissioned inquiries into the incidents of firing have determined that military authorities have been guilty of using excessive armed power in several cases. Under the AFSPA, an extraordinary amount of power is given to non-commissioned personnel in the armed forces. An Act that sanctions the kind of powers that the AFSPA does is undemocratic and needs to be rectified. There are myriad provisions in the Indian Penal Code and the Criminal Procedure Code to deal with the law and order situation in any state in India. The largest democratic state in the world has a lengthy written constitution to protect the rights of its citizens. The Constitution has to protect its people; therefore, it is time that an undemocratic and unconstitutional Act like the AFSPA is either abolished or modified to ensure protection of the citizen.

5. A Comparative Study of the Prevention of Terrorism Act (POTA), the Terrorist and Disruptive Activities (Prevention) Act (TADA), and the Armed Forces Special Powers Act (AFSPA)

The President of India, on 24 October 2001, promulgated the Prevention of Terrorism Ordinance, to make provisions for the prevention of terrorism (and for dealing with terrorist activities); the President was satisfied that circumstances existed that rendered
immediate action necessary (Gazette of India, 2001: p.1). However, the Prevention of Terrorism Bill, which was to replace the said ordinance could not be passed in Parliament during the session because of the attack on the Indian Parliament on 13 December 2001, and the subsequent adjournment of the session. To give continued effect to the provisions of POTA or the Prevention of Terrorism Ordinance, 2001, the President promulgated the Prevention of Terrorism (Second) Ordinance, 2001, on 30 December 2001; this was passed as an Act in a joint sitting of Parliament on 26 March, 2002, resulting in the Prevention of Terrorism Act, 2002.

The President could promulgate the ordinance in exercise of the power conferred by Clause (1) of Article 123 of the Constitution; however, Article 123 stands in stark contrast to Articles 20 and 21, which deem justice and a fair opportunity for trial of offences as necessary and inherent. The procedure has to be fair not only to the accused but also to those that the prosecution represents: the people, victims, witnesses, and society at large; it has to strike a balance between the rights of the accused on the one hand, and the rights of society, on the other. The provisions of POTA are a violation of democratic rights and civil liberties, and indicate that the experiences under the AFSPA (1958) and the now defunct TADA (1985–1995) are being wilfully forgotten. Although TADA was brought in to check terrorism, it not only failed miserable in its stated intention but was also prone to sectarian and arbitrary misuse against political opponents and to
erroneous police excess. (*Times of India*, 2001a).

Like TADA, POTA leaves the definition of ‘terrorist act’ extremely vague. It suggests that peaceful political activities like strikes could potentially fall foul of the law. In defining an act as a ‘terrorist’ one, the Law Commission had stressed the extent of the threat to ‘the unity, integrity, security or sovereignty of India’ and the threat of ‘stri[k]ing terror in the people’ (*Times of India*, 2001b). However, POTA includes in its ambit many activities that are not ‘crimes’, thus making misuse of its provisions easier. The power to determine who is a ‘terrorist’ lies solely in the hand of the police and the political party in power. As a result, protest can become ‘terrorism’ and political opponents ‘terrorists’.

The proposed ordinance includes ‘disruption of essential supplies and services’ in its definition of terrorism; the extent of potential misuse is apparent. Even writing a pamphlet calling for *bandh* (strike) would thus qualify as an act of ‘terrorism’ since it could potentially ‘cause… disruption of services essential to the life of the community’. Sections 14 of POTA make it obligatory for individuals to provide the police with any ‘useful’ information ‘in relation to’ a terrorist offence; failure could lead to three years of imprisonment. This can lead to widespread harassment of family members and friends of suspects, and of journalists. This section is similar to the British Prevention of Terrorism Act, which has been criticised by Amnesty International, the Index on Censorship and several media bodies (*Times of India*, 2001b).
Section 21(1) states that a person commit an offence if ‘he arranges, manages or assists in arranging and managing a meeting which he knows is… to be addressed by a person who belongs to… a terrorist organisation’ ([Gazette of India], 2001: p.17). The penalty under this section is imprisonment up to 10 years. A ‘meeting’ is defined as a gathering ‘of three or more persons whether or not the public are admitted’. Thus, according to this section, a journalist who takes the initiative to arrange an interview with a member of a terrorist organisation risks being jailed for 10 years. As for ‘inviting support for terrorist organisation’ POTA provides no definition of what this involves other than ‘the provision of money or other property’.

It seems that POTA is a version, perhaps an improved one, of TADA. In TADA even carrying a knife or a matchbox could have lead to arrest. This is not true of POTA. According to N. M. Ghatali (a member of the Law Commission) the differences between POTA and AFSPA is that in POTA, only police officers above the Rank of DSP can arrest a person, while the AFSPA allows anyone among the security personnel, irrespective of their rank, unbridled power to make an arrest in the area declared as ‘disturbed’. In POTA, as soon as a person is arrested under the Act, his/her immediate relatives are informed of the arrest; this is not the case in the AFSPA. If the court finds out that the police have used the terrorist law for malafide or extraneous purposes, the police officer(s) concerned is/are liable and
can be convicted for two years; they are also personally responsible for damages to be paid to the alleged accused. In contrast, the AFSPA violates international treaties on human rights and also the Geneva Convention in that it allows the armed forces to act, with full immunity, against any persons, whether guilty or not. Section 6 of the AFSPA clearly stated ‘that the prosecution, suit or other legal proceeding can be instituted against a person acting under the Act, only after getting previous sanction of the central government’: thus the victim cannot even look for judicial redress.

The Act was challenged on the grounds that it violated the fundamental rights of life, liberty, equality of the freedom of speech and expression, peaceful assembly, freedom of movement, protection against arbitrary arrest, and freedom of religions enshrined in Article 21, 14, 19, 22, and 25 of the Constitution of India [Naga People for Human Rights versus Union of India (1997) 7 scale 210 and People’s Union of Democratic Right & Ors. Petitioners versus Union of India & Ors (item No. 28 (a) and (c) Court No. 1 Section X {28 (a) no. 6229-30/82}]. The case was argued in the Supreme Court of India in 1997; the judgement upheld the Act and all its provision as constitutional. However, what may be deemed technically as constitutionally correct is not necessarily desirable as experience has shown: the AFSPA continues to supplant local government, suspend the people’s right, and to shield those guilty of crimes against the people.
One of the ‘safeguards’ of POTA that has come under scrutiny is that confession(s) are to be recorded before police official of the rank of DSP and above. This does not necessarily guarantee protection for it does not rule out confession(s) extracted through torture. An executive officer cannot be equated to a judicial magistrate. In any case, the ‘safeguard’ of confirmation of confession before a magistrate is rendered void by the reality that the police can then take the accused back into its custody, thus putting the accused back at their mercy.

The now defunct TADA was criticised on the ground that it restricted the scope of natural justice and included procedure unfair to the accused. In context, under the Northern Ireland (Emergency Provision) Act, 1978, under Section 8, an admission made by the accused in custody was relevant and under Section 9, the onus of proof was on the accused; Section 19 conferred the right to interfere in the property of the accused without notice; and Section 2 curtails the right to bail in exactly the same words as in POTA (Tulsi, 1999: p. 137). Under the United Kingdom Prevention of Terrorism (Temporary Provision) Act 1984, the power to exclude persons from Great Britain have been given exclusively to the Secretary of State. The right of detention on suspicion or on the basis of intelligence reports have been upheld by the English courts. 8
Indian ordinances dealing with ‘terrorism’ and ‘terrorists’, especially the defunct TADA, are subject to criticism. A few examples reflecting the actual situation prevailing in terrorist affected areas have demonstrated clearly the necessity for rectifying such procedures. In 1988, M. S. Ajnala shot dead Avtar Singh in front of his father Dalip Singh. Dalip Singh filed a first-information report (FIR) and Ajnala was arrested. Dalip Singh, however, refused to identify his own son’s murderer out of fear for the life of his two remaining sons (Tulsi, 1999: p. 138).

The democratic framework of the Indian state will be threatened if India continues to sustain itself on the basis of coercion and if threats (or perceived threats) begin to be part of apparatus of a parliamentary democracy. As indicated by Naga People’s Movement for Human Rights (NPMHR), the only durable and meaningful method of dealing with the problem of terrorism — essentially a political issue — is to respond politically; the solution certainly does not lie in arming the state with such powers that convert the state itself into a ‘terrorist state’.

6. Responses to Armed Conflict

6.1. The Church:

Religion plays an important role in the society of Nagas. Almost the whole population of Nagalim are Christians. The church believes in
socialism, democracy, dignity of the human, justice, and peace. Therefore it does not come as a surprise that the present Naga peace mission (ceasefire) is associated with Naga Baptist Church Council (NBCC). In context of the Naga, the church is no longer seen as ‘foreign’ but is a part of the process of struggle and mediation.

6. 2. The Hoho Traditional Panchayat:
The Hoho is akin to a panchayati raj for every tribe. Under the traditional Naga ruling system every tribe nominates its Hoho leaders. It exercises traditional constitutional powers according to their customary law, and represents the entire tribe. The ‘Hoho Summit’ of 1997 appeared to be on the verge of making a breakthrough in bringing about peace when it fell apart because of the Hoho appeal to defer the assembly and parliamentary elections. They felt that, at that stage, rather than prioritising elections, the onus should be on people-to-people dialogue. This would pave the way the way for return of peace, and elections could follow only after this (North East Sun, 1998: p. 130).

On 29 March 2002, the Hoho expressed reservations against the involvement of the state government in the peace talks In order to maintain the peace process the Hoho submitted a memorandum to Prime Minster to release Th.Muivah (I-M faction) from Thailand (Telegraph, 2000). In Naga society, the participants in any conflict
have included the state, the government, political parties, and individual
groups, all with their own mandates. Thus it is sometimes very difficult
to identify the real issue(s) and actor(s).

However the mobilisation of Hoho is remarkable. The mass based
civil society movement has chosen Delhi as the starting point of
their yatra in India, since it is there that lie interred the mortal
remains of the father of the nation who understood the Naga
problem. Hoho and other civil society associations should also
play an active role in Assam in context of facilitating the peace
negotiation with ULFA (Assam Tribune, 2002a).

CHAPTER 4

WOMEN IN CONFLICT SITUATIONS

The deployment of the AFSPA has left not a single family untouched
by suffering. In such situations of conflict, women and children are the
worst affected: the President of the Naga Mothers’ Association (NMA) stated that the intense ‘searches’ have caused long-term mental and physical trauma; the Rengma Mothers’ Association also stressed that women are not at peace because of the presence of security personnel and the constant harassment; and members of the Kohima Village Council voiced their apprehensions and stated that it is a situation of helplessness, where women — mothers, wives, daughters, and sisters — are the passive witnesses whose sons, husbands, fathers, and brothers are killed right before their eyes (NCCM, 1997: p. 15). In the final analysis, women bear a significant amount of the brunt of armed conflicts: in ‘disturbed’ areas they face a no-win situation dominated by a militaristic mentality, and by assault projectiles. Therefore, women have sound reasons to reject militarism and war; to prevent the lives that they have borne and nurtured destroyed.

Dr Gina Shangkham states that in the conflict situation faced by the Nagas — as also the onslaught of repressive measures under the AFSPA — the most vulnerable component of Naga society are the women. In this situation of politico-social unrest, Naga women play a critical role: indeed, the representations of women as ‘Mother Earth’ and ‘Shakti’ or female power, fundamental to Hindu beliefs, can be important in the peace process (Zehol, 1998: p.1). The spread of education, and to some extent, the modernisation brought about by the adoption of Christianity has meant that, gradually, Naga women have begun to participate in a diverse range of activities; this is in addition to traditional roles as mothers, wives, daughters, and sisters.
Increasingly, status and respect in society is being linked to achievements in terms of education and career(s). *However, the immediate challenge that faces Naga women is to play a pivotal role in the peace process, and help find a pragmatic solution to ending armed conflicts that have continuously ravaged Naga society for a long time.* The NMA is instrumental in seeking peace in Naga society and a better future for the Naga youth; its work is furthered by its sister branches. The first remarkable achievement of the NMA is bringing the government and the insurgents to the negotiating table.

The responses of Naga women to state repression under the AFSPA mirrors the reactions of other women in different part of the world, in similar contexts of conflict and loss. There is evidence of collaborative efforts made by women in socialist countries at the beginning of the twentieth century to save the world from war. Women relentlessly opposed Hitler and his fascist designs in Germany. Efforts made by women led to the formation of the Commission of the First World Peace Congress of Women in 1939; this eventually led to the formation of the World Peace and Women’s Committee (Berughnaya, 1986: p. 9). In Indian history, women’s empowerment dates back to the *Arya Samaj* and the *Brahmo Samaj*, both of which created an impetus for Indian women to realise their potential. In the tribal belt, Christianity played an important role in transforming not only society, but also women. The participation of Naga women in the Civil Disobedience
Movement in 1930 highlighted their remarkable strength and empowerment.

1. Myriad Roles in Conflict Situations

History has shown that women can play a constructive role in finding solutions to armed conflicts. Researchers believe that in many countries women have not only proved to be extremely creative in developing survival mechanisms but have also played an important role in ending organised violence (Eisen, 1994). In the context of Nagaland the key aspirations remain the same — hope for peace. *Naga women are frontrunners in the peace process; in their quest for peace, they have adapted to various roles during conflicts and in post-conflict situations: bread-winners, keepers of tradition and culture, militants, patriots, and finally, brokers of peace.*

Since Independence, armed conflicts between security personnel and insurgents has resulted in a war-like situation in Nagaland, as a result of which, directly or indirectly, women have lost fathers, husbands, sons, and brothers. In such situations, women are left with no choice but to minister to the needs of the remaining household, with no time for dealing with the grief and psychological trauma of the loss.

The responsibilities also extend beyond the four walls of the home, requiring them to provide food and shelter to insurgents, either from
fear or sympathy. Such women live in a situation of heightened stress: saddled between the compulsion to help insurgents, and the fear of reprisals by the armed forces for sympathising with insurgents. Many women have been forced to act as porters for the insurgents — carrying food and other materials — and also as messengers, frequently under compulsion and/or the threat of physical and sexual abuse.

On the other hand, during ‘search operations’ undertaken by the armed forces, the women have been blamed and penalised for giving shelter to the insurgents; women are often physically assaulted in such situations, and some are even murdered. During the army operation code-named ‘Good Samaritans’ in a village in western Sema Dimapur, the army extracted information about ‘who is who’ through coercive measures. In the search that followed, the village was paralysed economically: most of the houses were burned down; and the men were either taken away by the armed forces on suspicion of being insurgents or else they ran away since they were insurgents. The women were left to re-build their houses and to re-gather the lives of the remaining members of the family. The combination of psychological trauma caused by loss, an onslaught of state repression, and male aggression in form of physical abuse (and even rape) creates ‘blistered souls’. In the aftermath, women are left to cope, with no help coming from a society already distorted and ravaged by armed conflict.
Either by choice or under coercion, young women are increasingly adopting the role of militants. If the action is rooted in choice, the women see the process of ‘becoming a militant’ as a form of empowerment, since it implies that they have broken out of ‘traditional’ female roles (Chenoy, 2001: p. 138). Paula Banerjee maintains, however, that non-traditional roles have to be legitimised to be accepted within patriarchal structures. In societies like the ones in Assam and Nagaland — in which avenues for public leadership roles for women are restricted — this kind of freedom requires reinterpretations of history and tradition. New myths are sometimes created based on women’s valour, where these actions are interpolated as supporting patriarchy, rather than as working against it. Women appropriate these myths in order to make interventions in the public domain; however, often, they have to pay a heavy price, including sometimes betraying their beliefs, or being betrayed by them. In such situation it becomes impossible to determine whether they are vanquished or the vanquisher (Manchanda, 2001: p.168).

Choice is clearly demonstrated in some instances: for instance, initially the NNC refused to give women military training; however, after some women who took shelter in churches were raped by the army, women demanded combat training and NNC leadership agreed to it (Manchanda, 2001: p.159). Several
young girls and women are, however, cast into the role of militants owing to coercion. Within the camp, the women are marginalised: often, the position in the camp is, ironically, a parallel of the position in the home, where patriarchy is the norm. Women are suicide bombers, gunrunners, messengers, secretarial staff, and also meant for providing personal services. Often, however, it seems that they have only exchanged their traditional attire for uniforms

Women experience armed conflicts differently from men, whether as soldiers, refugees, victims of rape and/or dislocation, victims of fragmented families, as those who have lost children, husbands, and fathers; often the economic violence affects them before the physical outbreak of conflict. Young widows are forced to head households; yet, in patriarchal systems, they do not have legal access to land and property. Patriarchal societies place women, structurally and socially, at a disadvantage (Manchanda, 2001: p.18). Whereas men are ‘rehabilitated’ and given jobs and property in exchange for their losses, women who lose their ‘honour’ find it extremely difficult to lead a normal life and be accepted in a normal context. Honour, victory, triumph, and revenge are played out on their bodies. Men face violence and humiliation at the hands of the enemy and emerge as heroes and martyrs; women face violence and humiliation as victims of war, first at the hands of the enemy, and then as an ‘object of shame or
as outcasts’ within their homes and communities. The differences in treatment are embedded in the patriarchal ideology of families, community, and state (Chenoy, 2001: p. 126). Armed conflicts not only take away lives but also leave a context of adverse circumstances.

Since the beginning of mankind, women have played an important role in the preservation and progress of civilisation, and are known as keepers of culture and tradition. When men go out hunting, while men wage wars, the women hold together the home, providing the basic needs. The women take care of domestic work: bringing up children, rearing livestock, preserving the seeds for the next round of cultivation. (In Nagaland, 70 per cent of the population is engaged in jhum and plough cultivation, providing the basic needs of food supply even today.) The Naga woman’s skill in weaving beautiful shawls and garments is a leitmotif of their tribal identity. Naga women have expressed their creativity compositions like folk songs and dances dedicated to the bravery and valour of their men. Their creative mechanisms, combined with the will of Naga women to survive, compels them to transcend their traditional roles and play a bigger part in the reconciliation/peace process, so necessary for present Naga society.
2. Seeking Peace & Stability
With armed conflict and its adverse consequences looming as a backdrop, Naga women — seeking to safeguard their families and their society — have made great strides in attempting to resolve differences and ending the conflict. The Naga Mothers’ Association (NMA) and the Naga Womens’ Union of Manipur (NWUM) presented a case in which women took the lead in peace-building exercises, aiming to halt fighting as well as initiate a dialogue with the state government and underground elements towards a ceasefire. The NMA and the NWUM propagated the message of ‘shed no more blood’: ‘peace’ was at the core of their message. An outstanding role has been played by the NMA in bringing solace to deprived and affected families and by giving respectful burials to unclaimed bodies. In the changing political scenario the NMA has been involved in political issues, as they believe the need of the hour to be a peaceful atmosphere to rebuild the shattered state of Nagaland.

The NMA has been attempting, for over two years now, to get the state government to ban alcohol and enforce ‘prohibition’. During protest movements, Naga women attacked liquor shops and destroyed bottles of liquor to draw the attention of the government to the issue. The government was thus forced to declare Nagaland a ‘dry’ state. The ban has cost the government much-needed annual revenue; however, the ban has lead to the decline of alcohol consumption in Nagaland. Naga women, in their quest for social and
economic stability through peace, have shown that social changes can be brought about with persistence. Naga women have also tackled the acute problem of drug addiction and trafficking, which has both created and accentuated problems in Naga society. The NMA established a de-addiction and rehabilitation centre to combat the addiction crisis. Centres like the Mount Gilead Home at Kohima, functioning in collaboration with Kripa Foundation of Mumbai, is the first of its kind for drug abuse victims in the north-east.

According to Phangoubom Tarapot, the issue of drug abuse appears to be more dangerous than the decades-old insurgency problem in the region. Various reports confirm that Nagaland is the second highest consumer of psychotropic substances, after Manipur. According to the World Drug Report of 1997, the ‘rapid disintegration of traditional social structures has been put forward as a contributing factor to new patterns of drug abuse in countries in a state of transition’. Feelings of marginalisation, of non-identification with the cultural environment, are attributed as reasons for drug abuse: the anguish of cultural alienation occurs in much of the literature on drug abuse. Heroin addiction among United States’ troops in Vietnam in the 1970s was related to feeling of acute loneliness and estrangement. The most potent argument for the high rate of drug addiction in Nagaland is the long-term unprecedented guerrilla warfare and the political unrest. The non-ending psychological tension and uncertainty has been the raison
d’être for drug abuse and drug addiction. In many cases, easy access to money has facilitated drug abuse: a significantly large part of those taking drugs are from well to do families. Nagaland’s border with Myanmar and easy access to the ‘Golden Triangle’ is critical to the ease with which drugs enter Nagaland. According to a Home Ministry publication: ‘As far as North-east state of India are concerned there are clear intelligence reports to indicate that the Naga underground organisations [names withheld] [are] involved in trafficking of drugs and precious stone since 1981. The insurgent group [real name withheld] of Manipur also is involved in the trafficking of drug (Sangai Express, 2000). Since the issue of drug abuse is perhaps more potent than even the insurgency issue in the north-east, the study addressed the following questions: Is the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (1988) not applicable to north-east India? Or is the Narcotic Control Bureau (NBC) shying away from the narcotics trade in the north-east? The Ministry of Welfare and NBC legislation provides for rigorous penalties for traffickers; however, the problem of drugs continues to persist in the north-east.

Other issues that have received attention from the NMA include the conservation of forests, and the prevention of degradation of land, natural resources, and livestock, crucial for the existence of Nagaland. In their 1994 General Assembly, the Mothers’ Group
decided that each member must plant one tree; the programme was to be instituted in all eight districts of Nagaland. Seminars are used to generate awareness and mobilise the various tribes to preserve forests and the forest’s wealth.

The other prominent women’s group is the Thangkul Shano Long (TSL). This was instrumental in protesting against ‘Operation Bluebird’. The TSL strongly condemned the mass rape carried out by 95 BSF personnel in 1987. During the clashes between the NSCN (IM) and the Assam Rifles, the latter went on a rampage in Urkhul town and detained many innocent villagers. The TSL was instrumental in negotiating the release of those detained; they achieved this by initiating a dialogue, persuading the armed forces to release those who had been detained, and appealing to the villagers to resume their normal day-to-day life.

In 1995, during the ethnic conflict between the Nagas and the Kukis, the TSL appealed for peace and asked village elders to intervene, and use their experience and wisdom to act as brokers of peace.

On 22 January 1986, Captain Singh of the Twenty-Fifth Madras Regiment attempted to rape Mrs Lewg Luengamla; he ended up killing her. The TSL demanded a probe into the incident and went on a hunger strike. The accused was court-martialled. In protest against a firing incident and the killing of three civilians
by the Assam Rifles, the TSL mobilised the biggest ever rally in Manipur on 2 June 1994 (Raisurung, 1996: pp. 35–36).

The TSL is also involved in addressing the issues of illegal liquor sale, drug trafficking, and other social concerns. They have received citations in recognition for their work from the Indian Federation of Small and Medium Newspapers (IFSM).

The value of peace is perhaps best understood by mothers: the embodiment of love and compassion, nurturing life, and building hope for a better future for their offspring’s. A mother’s desire for peace is natural; a context of political unrest is in direct contradiction to this desire. The various women’s movements that have cropped up in the north-east states stem from a very basic survival instinct: the need to resolve situations of violence, coercion, unrest, and armed conflicts.

The NMA were instrumental in bringing about a ceasefire between the two warring fraction of the NSCN and have the distinction of being the first women’s organisation in South Asia to effect such change. Their role is a pointer to the effective contribution of women in resolving armed conflicts. Women’s over-riding desire for peace in the region has ultimately leaded to peace talks between the Indian Government and the insurgents groups in Nagaland. Thus, in the present context, Naga women are nothing short of ‘peacemakers’.
3. Women: Myth, Perception, Re-Interpretation
The unusual circumstances of Naga women, when compared to traditional contexts, have led to re-interpretations of the myths and reality about Naga women and their struggle. According to Haimendorf: ‘many women in more civilised parts of India may well envy the women of [the] Naga hills, their high status and their free and happy life, and if you measured the cultural level of the people by the social position and personal freedom of its women, you will think twice before looking down on the Nagas as savages.’ (Zehol, 1998: p. 1). In traditional institutional frameworks, the notion of ‘women’ is divided into two domains: the private domain where the woman is seen as the epitome of cultural and civilisational values; and the public domain, where she has to tread carefully, if she treads at all, because it is a domain replete with social restrictions and taboos inspired by beliefs of male dominance and female inferiority. Women’s rights have been the subject of a long and continuous struggle, from the ‘liberty, equality, fraternity’ call of the French Revolution, through the route of ‘Liberalism’, and the demand for gender equality. Victor Tanuli-Corouz maintains that contemporary globalisation relies mainly on trans-national corporations like the World Bank, the International Monetary Fund, and the World Trade Organisation; these cannot be sensitive to gender issues unless it re-enforces their agenda(s), for the logic that these trans-national corporations understand is that of competition, efficiency, and profit accumulation.
If Victorian English women were the ideal in English society, the traditional female ideal of ‘Sita-hood’ continues to be held as an ideal in India, even today, remark Gargy and Gorky Chakroborty.

Early ethnographic studies suggest a persistent male bias. Scholars, as well as administrators turned scholars, have dominantly, almost exclusively, been male; therefore, they have had little or no access or insight in the domain of women (Zehol, 1998: p. 1). At the dawn of women’s history as it is now written, Mimiam Schnier, in a book entitled *Feminism: The Essential History Writings* states that: ‘no feminist works emerge from behind the Hindu purdha or out of Muslim harems; centuries of slavery do not provide a fertile soil for intellectual development or expression’ (Schnier, 1972: p.14).

Historically, the construction of the ‘veiled’ and ‘enslaved’ woman has fired the colonial imagination and allowed it to cloak outright exploitation in the guise of a ‘civilisational mission’. During 1930s and 1940s, British feminist were eager to help their ‘little sisters’ but remained convinced that the imperial rule was benevolent. Post-colonial Cold War feminists such as Mary Dale have condemned their own patriarchal system(s) but saved their most vitriolic attacks for Third World men (Dale, 1990). Perhaps, it is now time to engage with the issue of ‘how women saw themselves’, to re-visit ‘his story’, and see ‘her story’. Gerda
Learner, an American pioneer in the field of women’s history stated that: ‘Women have a history; women are the history.’ What emerged was a new way of thinking about gender: instead of accepting feminine identity as natural and essential, historians and other social scientists began to treat it as constructed, a perception that stimulated questions about women’s unequal position.

In the context of ‘property’, land has occupied a significant role, economically and symbolically, since ancient times. As per customary law, Naga women cannot inherit ancestral property. If a woman is the only child, the ancestral property will be given to her father’s immediate male relative (Zehol, 1998: p.55). Naga women live within a patriarchal society in which they toil — they work in the household, and in the fields — but do not own or ‘inherit’. The notion of the female as the weaker sex is still prevalent in Lotha society, where the assumption is that males possess six strengths whereas females possess only five: males are thus christened on the sixth day and females on the fifth day.

Another feature of the north-east India is the arduous condition in which the women are forced to survive. More than 70 per cent of north-eastern women are engaged in agriculture: as people are being forced to give up jhum cultivation, poverty is on the increase (as is the mortality rate). In Nagaland, between 1981 and 1991,
more than 4 per cent of cultivators have lost their land and joined the ranks of the unemployed or ‘non-workers’. The region has 192,623 female cultivators as compared to 178,974 male cultivators (Statistical Handbook of Nagaland, 1997). Hence, a decrease in the percentage of cultivators affects women more. In many places women are the sole breadwinners; they are, however, losing their livelihood (Manchanda, 2001: p.142). All these factors have led to of impoverishment, inequality, and hardship (N. a. 1997).

During the 1990s, in terms of numbers, there has been one member of the security forces for every ten civilian in the region (Chenoy, 2001: p.170). In Nagaland for every 7–8 persons there is one member of the Nagaland Police (NP). Mapping the expenditure of militarism, the expenditure on defence is higher than that on development. For instance the defence budget of 1997–1999 was more than twice the total layout for the Ministries of Health and Family Welfare, Education, and Social security. Even then the Eleventh Finance Commission recommended that the government should increase defence spending to 3.5 percent of the GDP (Business Standard, 2000). The disproportionately low spending on human development and social development has had a negative impact on women’s empowerment. As Franklin D. Roosevelt stated in 1937, the test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide
enough for those who have too little. As we enter a new era, we must constantly remind ourselves that the human security, in contrast to the traditional concept of security linked to military capacity and economic power, must be the ultimate goal of our development policies: **human security represents the degree to which human being are protected from hunger, sickness, ignorance, neglect, and persecution.** Human security is the standard that dignifies human life: it is represented by a child who is saved, a disease that is cured, a conflict that is resolved, a dissident who is allowed to speak freely; indeed, in human spirit that has hope. (*Armed Conflict Report*, n.d).

In the context of Naga women, economic empowerment is essential to raising status, since empowerment implies awareness about and assertion of rights and responsibilities, and offers socio-economic, educational, and political opportunities. Although Naga women are known to be more free from social restraint than women in several other sections in Indian society, yet situations of armed conflict, coupled with the limitations of customary law, compel them to face trauma and pain. (Although the advent of Christianity diminished the practice of head-hunting among the Nagas, yet it did not succeed in modifying precepts of customary law.)

The Government of India declared 2001 as the year of ‘Women’s
Empowerment’: this introduced some element of challenge to an existing patriarchal status quo as well as a need to codify a set of uniform laws throughout the country that respect women’s rights and support the ‘new image’ of women.

4. Female Literacy & Empowerment in Nagaland

A recent statistical handbook on Nagaland shows total literacy as 61.30 per cent: 66.07 per cent for males and 55.72 per cent for females. The percentage of literacy for males is significantly higher than that for females. The sex ratio also favours males: between 1991 and 1995, each year, the number of male children born was at least 10 per cent higher than the number of female children. There is no adequate medical justification for this phenomenon. Further, in context of the total percentage of women in the population, the female death rate appears to be higher. For example in 1994, altogether there were 100,000 less women then men in Nagaland, 414 women died in the rural areas — several from violent causes — as compared to 491 men (Manchanda, 2001: p.141). This is in stark contrast to the usual situation in armed conflict zones, in which the death rate of men is higher. Further, according to the 1991 Census, in Nagaland, there are 917 females to every 1,000 males in rural areas (where women form the main agricultural labour force) but only 759 females to every 1,000 males in urban areas.
In rural areas of Mon district in Nagaland, female literacy rate is as low as 29 per cent; in urban areas like Kohima it is over 61 percent (Manchanda, 2001: p.142). Apparently, the lower literacy results from the existence of armed conflicts and the prevalence of traditional belief systems, which limit educational access of girls and women. In those areas that have been hard-hit economically, the girls are persuaded to drop out of school to assist the family; the boys are given importance as heir(s) of the father’s property. Another problem faced by women is neglect of vocational and technical training and an absence of educational avenues and resources.

Though Nagaland has the second highest female literacy rate in the north-east, it should be noted that basic literacy parameters — simply the 3Rs of reading, writing, and arithmetic — are not enough for initiating and sustaining empowerment. *Quality education* is the main indicator of the development of women’s status in society. Keeping this in mind, the Nagaland Council of Educational Research and Training needs to delineate a relevant syllabus, which imparts knowledge about Naga history and culture. Armed with the Supreme Court judgement on the issue of the ‘saffronisation’ of education, the Human Resources Development Minister stated that the NCERT (National Council of Education, Research, and Training) should not only prepare the framework for a model indicating the general direction of the curriculum, but also that state educational boards should use these
in toto, with some modifications according to requirements (Assam Tribune, 2002b). Although education comes under the state, the National Commission for Women can initiate studies for identifying the problems of women in Nagaland by introducing Women’s Study Centres in Nagaland.

5. Naga Women & Decision-Making

It has been established that Indian women, who were part and parcel of India’s independence movement, were pushed to the backseat when the internal power sharing took place — there is a yawning gap between the government’s much-talked about policies for female emancipation and the actual participation of women in the Lok Sabha (Lower House of Parliament) since Independence. Female participation in the Indian Lok Sabha began at about 2.8 per cent (1952–1957); in the last Lok Sabha (1999) the representation was 8 per cent representation, thus indicating that there is far from proportional representation of over half of the population of the country, even though there is no dearth of qualified and competent women (WSRC, 2002). To some extent it is true that among Indian women in general, Naga women are fortunate in some respects; however, there is no women MLA (Member of the Legislative Assembly) to date, nor is there equal representation in the Village Development Boards. Despite ‘advancement’, the ‘voice of women’ is missing. Though Naga women are emphatic on the subject of liberation and modernity,
and though the numbers of ‘professional’ women are increasing, yet this modernity is not reflected in their decision-making powers. According to one observer: ‘[The] participation of women in decision making body [sic] has been… taboo for women since time immemorial.’ (Raisurung, 1998). There are no women in traditional village councils, and only two women in the Kohima Town Council. These women are not elected members but were nominated by the Governor. Women are marginalised not only in political decision-making in the state, but also within the NSCN factions, not one of which is led by a woman. (The NNC, which is led by Phizo’s daughter, is almost defunct.)

CHAPTER 5

CONCLUSION

All individuals, if given the power, have within them the potential to violate basic human dignities and decencies; it is laws governing that land that restrain individuals. Ironically, the AFSPA is a law
that gives arbitrary powers to the army; it can be viewed as ‘anti-
people’. The north-eastern regions of India, especially Nagaland,
have been subjected to the AFSPA since India became
independent. After the departure of the colonial power, the Act
was used in India to strengthen the security of the country. Nagaland
with its geographically strategic position, came into confrontation with
the Centre’s nation-building process owing to its refusal to join the
Union. Even today, in the name of national security, the people of
Nagaland continue to face violence on an unprecedented scale. Since
1953, the central government has instituted a plethora of laws, which
have prompted the longest civil war (Indo-Naga) in the history of free
India. Post-Independence army atrocities still haunt the people of
Nagaland; the present AFSPA only serves as a constant reminder.
For people under the AFSPA, life is a nightmare. The worst victims
are the women and children.

Politically, consensual politics has been transformed into
factionalism, ‘tribe-ism’, and open corruption. Economically, the
Nagas who were once self-reliant have to be spoon-fed — in terms
of financial assistance from the central government. The people
have failed to generate adequate economic activity and sustainable
development. This economic backwardness is due partly to the
situation prevailing in the state, where the movement of citizens
is restricted either due to the army or owing to insurgent factions.
Psychologically, most of the Nagas felt insecure even in their
own homes. Various studies have indicated a rise in the incidences of mental illness in Nagaland and other states under the AFSPA. Mental problems such as PTSD or post-traumatic stress disorder will continue to increase as the political conflict in Nagaland is not resolved and the AFSPA is not either repealed or rectified.

Naga women continue to be at the receiving end of both armed conflict and patriarchal dominance. Land is vital for the survival for both sexes: however, the ownership, acquisition, or transfer of land continues to remain in male hands. Land is used as a weapon of suppression and oppression. Change in land ownership patterns are necessary. Although 70 per cent of Naga women are dependent on land and forest for survival, yet they are deprived of access to land and also lack present-day technologies that will enable them to keep abreast of modern methods in cultivation. The increasing poverty and mortality rates speak volumes. Recent statistics depicts male literacy (66.07 per cent) as higher then female literacy (55.72 per cent). There are 917 females to every 1,000 males in rural areas where agricultural is backbone of the economy; however, in urban areas, there are only 759 women to every 1,000 males. In situations of armed conflicts, when women are deserted by their male spouses, the girls are forced to drop out of school to assist the family economically, while, traditionally, the son gets all the attention as heir apparent. Although the Naga women are a vital component of Naga society, yet they lack a
collective voice to speak out against the systemic bias the face. To date, Nagaland has not had a female MLA. The women continue to be disproportionately represented. The future of Naga women remains bleak unless their victimisation in context of armed conflicts and the continuous marginalisation that they face does not end.

In the ‘disturbed’ areas, where militarism is dominant, the women face a ‘no win’ situation: their losses are immense and constant. In the last few years, Naga women have attempted to change the contexts in which they live their lives. Their aim is to play a pivotal role in the peace process and in helping find a pragmatic solution to the armed conflicts that have cast their shadow on Naga society. In a situation of aggravated politico-social unrest, weaving together the social fabric of Naga society is the need of the hour. The torch of peace has been lit by the NMA and is carried forwarded by its sister branches. Although the NMA is playing a crucial role in the peace-building process, there is still a long way to go.

Present studies have clearly highlighted the abuse of power by the security forces. There have been mass violations of the rights of women and children rights. As long as the AFSPA exists, such violence will continue to recur, for the security personnel committing these acts of aggression are not held accountable for them. The past cannot be altered; however, the future can be shaped anew
to ensure that the rights of free citizens in the world’s largest democracy are respected and protected.

Since the end of the Cold War, many industrialised nations have reduced their defence budgets and dedicated more resources to human security. Landmark decisions of demilitarisation have been adopted by several countries, like Costa Rica and Panama. Lamentably, a developing country like India has a rising military budget, and disproportionately low spending on human development. The doctrine of national security is based on military supremacy rather than negotiation; it fails to acknowledge or create an atmosphere congenial to peaceful resolution(s) of conflict(s). Repelling an Act such as the AFSPA will contribute to national security, as the AFSPA not only violates human rights, and those of women and children in particular, but also adversely affects economic life, the health of the general populace, religious sentiments, and civil administration.

The AFSPA is a draconian Act that has no place in a country like India. Indian leaders indicate that their aim is to bring the underdeveloped regions in north-east into the mainstream of development; however they have implemented an Act that not only denies basic human rights but also hurts development in all its aspects: social, political, cultural, and economic. Several leaders have contended that socio-economic development is the most powerful weapon to fight militancy with; however, Acts like the
AFSPA make development well nigh impossible.

APPENDICES

APPENDIX A

ARMED FORCES (SPECIAL POWERS) ACT — 1972

Section 1: Defines the title of the act.
Section 2: (a) Limits the jurisdiction of the act to the seven states of the north-east.
(b) Defines ‘disturbed area’ as an area notified under Section 3 to be a disturbed area.

Section 3: states that if the Governor of a state or the central Government is of the opinion that an area is in such a disturbed or dangerous state that the use of armed forces in aid of civil power is necessary, then either of them can declare it to be ‘disturbed area’ by notification in the Gazette.

Section 4: Gives the following special powers to any commissioned officer, warrant officer, or non-commissioned officer of the armed forces in a disturbed area:

(a) If in his opinion, it is necessary for maintenance of public order to fire even to the extent of causing death or otherwise use force against a person who is acting in contravention of an order prohibiting the assembly of five or more persons or the carrying of weapons or of ‘things capable of being used as weapons’.
(b) If in his opinion, it is necessary to do so, then to destroy any arms dump or fortified position, any shelter from which armed attacks are made or are ‘likely to be made’, or any structure used as training camp for armed volunteers or as a hide out for armed gangs or absconders.
(c) Arrest without warrant any person who has committed a cognisable offence or against whom a reasonable suspicion exists that he has committed or likely to commit a cognisable offence and to use whatever force necessary to affect the arrest.

(d) To enter and search without warrant any premises to make an arrest or to recover any person wrongfully confined or to recover any arms, ammunition, explosives substance or suspected stolen property.

**Sections 5**: Makes it mandatory for an army to hand over a person arrested under the Act to the nearest police station with least possible delay.

**Section 6**: Lays down that prosecution, suit, or other legal proceeding can be instituted against a person acting under the Act, only after getting previous sanction of the central government.
APPENDIX B

AFSPA & ITS IMPACT ON VIOLENCE AGAINST WOMEN IN NAGALAND

PRO FORMA

Name: ___________________________ Age: __________
- Sex: _____
Father/Husband’s Name: ________________

Occupation: ________________________

Address: ________________________________
Nature of Human Rights Violation:

1). PHYSICAL:

PSYCHOLOGICAL:

a)

Molestation

a)

Verbal abuse

b) Torture/ Assault

b) Violation of

women’s privacy

c) Attempt to Rape/ Rape

c) Threatened

d) Attempt to

Murder

d) Other (specify):

e) Killed

f) Other (specify):

_______
**Person(s) Accused:**

Name (if identified):  
I.D No:  

Rank:  
Company:  
Battalion:  

**Place of Occurrence:**

Date:  
Time:  
Duration of incident:  

incidence:  
FIR No (if any):  
Police Station:  

**Follow-up of the Incident/Case** (specify if any):

________________________________________________________________________________________________________________________________________________________________________________________________________________________

**Signature/Thumb Impression of the Victim Witness(es):**  
_________________
Follow-up with the Accused: (Comment)

Place: __________________ Signature of Investigator: __________________

Date: __________________

REFERENCES & BIBLIOGRAPHY


*Armed Conflict Report*. n.d. 998/http/www Ploughshares. ca/ content/ ACR

Asoso, Yonuo. 1982. *Naga Struggle against the British*

- *Assam Tribune*. 2002b (23 September).
- **Convention on the Rights of the Child.** (http://www.unicef.org/crc/bg005.htm).
- **Coomaraswary, Radhika.** n.d. ‘UN Special Rapporteur on Violence against Women’ (http://www.unifemantitraficking.org/radhika.html).


Horowitz, Mardi. n.d. *Post-Traumatic Stress Disorder and Subsequent Commentary.*


IESHR. 1984. *The Indian Economic and Social History Review.*

· *Imperial Gazetteer.* *The Imperial Gazetteer of India*, Vol. XVIII.


· **Jackson, R. Roset.** n.d. ‘Response to Traumatic Events, Recent Advances in Clinical Psychiatry’.


· **Mukhoty, Govind.** 1983 (January). ‘People’s Movement for Democratic Rights: Endless War Disturbed area of the North East’ (Delhi)


Nehru, Jawaharlal. 1972. The Discovery of India (New Delhi).
- **North East Sun.** 1998 (January).


- **Red Cross Society.** n.d. ‘Post-Traumatic State of Mental Health’: A Medical Study on the Effect of Trauma on Mental Health of the Victims of the 27 December 1994 Incident at Mokokchung in Nagaland by the Red Cross Society and the Medical Team.

- **Rights to Development** (http://meltingpot.fortunecity.com/lebanon/254/unhchr60.htm).


· SAHRDC (South Asia Human Rights Documentation Centre). n.d. ‘A Study in National Security Tyranny’ (http://themanpurpage.tripod.com/letters/humanrights.html.)


· Statistical Handbook of Nagaland, 1997.
Telegraph, The. 2000 (29 January)

Times of India, The. 2001a (20 October). Delhi edition


Trafficking in Women and Children: Mekong Sub-Region (http://www.unifem-escasia.org/Resources/Traffick2.html).


Violence against Women: South Asia (http://www.hsph.harvard.edu/grhf/SAsia/forums/forum.html).


(Footnotes)

1. Dr Anuradha Chenoy is currently faculty at the Jawaharlal Nehru University, New Delhi.

2. 1 crore = 10 million = 10,000,000

3. It is relevant to mention here that the Shillong Accord proved to be quite tragic in the history of the Nagas; the military defeat led to split in the NNC, which broke up into four factions. This sabotaged a united movement; till then, the NNC had been the common voice of the Nagas.

4. CRPR = Central Reserve Police Force; BSF = Border Security Force

5. **SEE APPENDIX A**

6. In one reported case of Korean War veterans, the first symptoms of post-traumatic stress disorder occurred more than 30 years after combat (Yost,
1987).

7.

Not her real name.

8.

Draconian legislation to curb terrorism is not a uniquely Indian phenomenon; there are similar pieces of legislation in Northern Ireland and in British law books. The similarities of these with TADA and POTA can form an interesting comparative study.