

# **Naga Insurgency and the Armed Forces Special Powers Act - A Critical Analysis**

*Dissertation Submitted to Sikkim University in Partial Fulfilment of the Requirements for Award of the Degree of*

## **MASTER OF PHILOSOPHY**

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Date: 28/02/2015

### DECLARATION

I hereby declare that the dissertation entitled "Naga Insurgency and the Armed Forces Special Powers Act – A Critical Analysis" submitted to Sikkim University in partial fulfilment of the requirement for the award of the degree of Master of Philosophy, is my original work. This dissertation has not been submitted for any other degree of this university or any other university.

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CERTIFICATE

This is to certify that the dissertation entitled "Naga Insurgency and the Armed Forces Special Powers Act – A Critical Analysis" submitted to Sikkim University in partial fulfilment of the requirement for the degree of Master of Philosophy in Social Sciences embodies the result of *bona fide* research work carried out by **Tanmoy Das** under my guidance and supervision. No part of the dissertation has been submitted for any other degree, diploma, associate-ship and fellowship.

All the assistance and help received during the course of the investigation have been duly acknowledged by him.

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# Table of Contents

## Declaration

## Certification

Acknowledgements-----i

List of Abbreviations-----ii

List of Figures and Tables-----iv

## Chapter 1: Introduction

1.1 Introduction-----01

1.2 Review of Literature-----03

    1.2.1 The Naga Insurgency and Its Origins-----03

    1.2.2 The Armed Forces Special Powers Act – An Overview-----05

    1.2.3 Peace Processes in Nagaland-----08

1.3 Rationale and Scope of Study-----10

1.4 Objectives of the Study-----11

1.5 Research Questions-----11

1.6 Hypothesis-----12

1.7 Methodological Framework-----12

    1.7.1 Description of the Study Area-----13

    1.7.2 Sample Population-----14

    1.7.3 Data Collection methods and Techniques-----15

1.8 Tentative Chapters-----16

## Chapter 2: The Naga Insurgency; Causes and Consequences

2.1 Introduction-----17

2.2 The Genesis-----18

2.3 The Advent of British-----19

2.4 The Coming of the Naga Club-----22

2.5 The Spearheading of the Naga Movement-----	24
2.6 The Splitting of NSCN-----	34
2.7 NSCN’s Strategy-----	35
2.8 Naga Insurgency and Frustration Aggression theory-----	37

### **Chapter 3: The Armed Forces Special Powers Act; Boon or Bane**

3.1 Introduction-----	39
3.2 Genesis of AFSPA-----	39
3.3 Areas Covered Under AFSPA-----	42
3.4 AFSPA at International Level-----	46
3.5 AFSPA: A Permanent State of Exception-----	47
3.6 Citizens Longing For Justice-----	51
3.7 Repeal versus Review-----	52
3.8 Some Myths and Realities about AFSPA-----	54

### **Chapter 4: Peace Initiatives: Success and Failure**

4.1 Introduction-----	56
4.2 The First Peace Effort-----	56
4.3 The Second Peace Effort-----	57
4.4 The Third Peace Effort-----	57
4.5 The Fourth Peace Effort-----	58
4.6 The Fifth Peace Effort-----	59
4.7 The Sixth Peace Effort-----	60
4.8 The Seventh Peace Effort-----	60
4.9 Naga Consultation Meetings-----	62
4.10 Naga Reconciliation Process-----	63
4.11 Peace Initiatives with Both Fractions-----	65
4.12 Obstacles in the Peace Process-----	67

## **Chapter 5: AFSPA, Nagaland and the Stakeholders**

5.1 Introduction-----	71
5.2 Profile of the Sample Population-----	71
5.2.1 Composition of the Sample Population-----	72
5.3 Composition of Education Qualification of the Respondents-----	72
5.4 Composition of Occupations among the Respondents-----	73
5.5 Intensity of Insurgent Activities-----	74
5.6 Composition of Respondents on who create More Problem (Army or Insurgents)---	76
5.7 Composition of Views on Desirability and Feasibility of Greater Nagaland-----	77
5.8 The Civil Society View-----	79
5.9 The Armed Personal View-----	81
5.9.1 Composition of Armed Personal Respondents-----	82
5.10 Discussions-----	83
5.11 Findings-----	85

## **Chapter 6: Conclusion**

6.1 Summary of the Study-----	87
6.2 Recommendations-----	90
6.3 Limitations of the Study-----	91

<b>Bibliography</b> -----	92
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<b>Appendix</b> -----	98
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The responsibility for the arguments and errors in the entire dissertation rests solely with me.

**Tanmoy Das**

## **List of Abbreviations**

ACAUT – Action Committee Against Unabated Tax  
AFSPA – Armed Forces Special Powers Act  
ALMA – A’Chik Liberation Matgrik Army  
ANVC – A’Chik National Volunteers Council  
ATTF – All Tripura Tribal Force  
CI – Counter Insurgency  
CRPF – Central Reserve Police Force  
DNV – Dimasa National Volunteers  
FNG – Federal Government of Nagaland  
FNR – Forum for Naga Reconciliation  
GOI – Government of India  
GPRN – Government of People’s Republic of Nagalim  
HDI – Human Development Index  
HNLC – Hynniewtrep National Liberation Council  
HPC – Hmar People’s Convention  
JCO – Junior Commissioned Officer  
KIA – Kachen Independent Army  
MNF – Mizo National Front  
MULTA – Muslim United Liberation Tigers of Assam  
NCO – Non Commissioned Officer  
NDFB – National Democratic Front of Bodoland  
NEEPCO – North Eastern Electric Power Corporation Limited  
NEFA – North East Frontier Agency  
NFA – Naga Federal Army  
NHDC – Naga Hills District Council  
NLFT – National Liberation Front of Tripura  
NMA – Naga Mothers Association

NNC – Naga National Council  
NNO – Nagaland Nationalist Organisation  
NPC – Naga People’s Convention  
NSCN – National Socialist Council of Nagaland  
NSCN-IM - National Socialist Council of Nagaland - Isak and Muivah  
NSCN-K - National Socialist Council of Nagaland – Khaplang  
NSCN-U - National Socialist Council of Nagaland - Unification  
NUF – Nagaland United Front  
PLA – People’s Liberation Army  
POTA – Prevention of Terrorism Act  
PREPAK - People’s Liberation Party of Kangleipak  
PULF – People’s United Liberation Front  
QRT – Quick Reaction Team  
RAF – Rapid Action Force  
RGN – Revolutionary Government of Nagaland  
ROP – Road Opening Parties  
RPF - Revolutionary People’s Front  
SDUSEHR – Self Defense United Front of South East Himalayan Region  
UAPA – Unlawful Activities (Prevention) Act  
ULFA – United Liberation Front of Asom  
ULFSS – United Liberation Front of Seven Sisters  
ULV – United Liberation Volunteers  
UNLF – United National Liberation Front  
ZRA – Zomi Revolutionary Army

## List of Figures and Tables

### Figures:

1.1 The framework of the study-----	13
1.2 Map of Dimapur showing Signal Angami and Kacharigaon Village -----	14
2.1 Flowchart of violence, ties and negotiations-----	29
5.1: Composition of education-----	72
5.2: Composition of occupations -----	74
5.3: Intensity of insurgent activities-----	75
5.4: Who intensifies the already existing problems?-----	76
5.5: desirability and feasibility of greater Nagaland-----	77

### Tables:

2.1 British relations with Nagas-----	20
3.1: Repel versus review -----	53
5.1: Composition of the sample population (general people) -----	72
5.1: Composition of the armed personal respondents-----	82

# **Chapter 1: Introduction**

## **1.1 Introduction:**

Northeast India has been engulfed by various kinds of struggles since independence. One of the common forms of struggle in the northeast has been insurgency. It can also be defined as an organized movement aimed to overthrow a constituted government using subversion and armed conflict. It, in fact, began with Naga insurgency demanding for independent Nagaland. In order to counter the insurgency, Armed Forces Special Powers Act was introduced in some of the states in the Northeast, including Nagaland. However, this act on many occasions had negative implications as well and the common people were the victims. It seems as if the state and the insurgents are not sensitive towards the sufferings of the common people living in the conflict ridden region. It is evident that insurgent used violent methods not only against the state but also against the people whom they claim to liberate. In the same way the state actors also responded violently against the civilians in the name of combing operations, whom they are supposed to protect. Therefore, the issue under examination in this study is whether the Armed Forces Special Powers Act has really helped in establishing peace or has it aggravated the conflict in Nagaland?

At the beginning of the century, the inhabitants of the Naga Hills, which extend across the Indo-Burmese border, came together under the single banner of Naga National Council (NNC), aspiring for a common homeland and self-governance. The Naga leaders were adamantly against Indian rule over their people once the British pulled out of the region. Under the Hydari Agreement signed between NNC and British administration, Nagaland was granted protected status for ten years, after which the Nagas would decide whether they should stay in the Union or not. However, shortly after the British withdrew, independent India proclaimed the Naga Territory as part and parcel of the new Republic. NNC declared Naga's independence and an armed struggle ensued. The implementation of Armed Forces Special Powers Act in Nagaland is the product of this tension.

The Armed Forces Special Powers Act (AFSPA) is an act empowering armed forces to deal effectively in disturbed areas. Any area which is declared “disturbed” under disturbed

areas act enables armed forces to resort to the provisions of AFSPA. The choice of declaring any area as 'disturbed' vests both with state and central government. After an area comes under the ambit of AFSPA, any commissioned officer, warrant officer, non-commissioned officer or another person of equivalent rank can use force for a variety of reasons, while still being immune to the prosecution. The act was passed on 11<sup>th</sup> September 1958, by the Parliament of India to provide special legal security to the armed forces, carrying out operations in the troubled areas of Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland, and Tripura (the seven sisters). However, in 1990 the act was extended to the state of Jammu and Kashmir to confront the rising insurgency in the area.

Since, Nagaland is in ceasefire with the Indian Government and has witnessed peace for a few years in the past, does the implementation of AFSPA still valid in Nagaland? And is the option of ceasefire the only way out? Although, the militant factions still hold on their demand for sovereignty, peace has returned to the state, development activities at the grassroots levels through the participations of the Village Council and Village Development Board are continuing without disruption, peace dialogue is going on since 1997. It is not possible to predict when the dialogue would end leading to permanent peace in the state but today, Nagaland is quite peaceful. The spate of senseless killing has come down. The official statistics of killing in the state show a steady decline. In the year 2010, there were instances of only 5 killings which are quite minimum considering the huge loss of life in the pre-1997 years.

On this ongoing tension between the insurgents and the state, the common people are the ones who suffer the most, and implementation of AFSPA brings more tension to this scenario. It is the common people who is crushed by both sides. This study tries to understand the endeavors of common people living in conflict and their say about the AFSPA. It also tries to make an attempt to understand the effects of the act on common people. In addition this study tries to find out whether the AFSPA has a future in the so called "disturbed areas", that is, will the continuation of the act be of any use to generate peace or is the act causing more violence?

## **1.2 Review of Literature:**

The review of literature for this study has been done on three major themes, the Naga insurgency and its origins, which basically focuses on the roots of the insurgency, the armed forces special powers act, which looks the act from various angles and compares the different amendments of the act and then the peace processes, which throws light on the various peace initiatives taken by the Indian Government and the Civil Societies. Lastly, on the basis of existing literature on proposed themes, it tries to find out the research gap.

### **1.2.1 The Naga insurgency and its origins:**

The origins of the Naga insurgency can be traced back to 13<sup>th</sup> century when the Ahom kings of Tibetan and Burman origins, who came to Assam, tried to control the Nagas with 'carrot and stick approach', an idiom that refers to a policy of offering a combination of rewards and punishment to induce behavior (Stracey, 1968). The Ahoms were perceived to be ruthless in punishing Nagas for their misadventure, raids and evasion of taxes, by dispatching expeditions. However, due to peculiarity of terrain, in hospitable countryside and environment, Ahoms could not fully control the Nagas (Gundevia, 1975).

In the early 19<sup>th</sup> century, Ahoms succumbed to the British. The conflict between Ahoms and Nagas resulted in the deep-rooted suspicion and hatred among the Nagas towards people from plain and also from other parts of India. The British came in contact with the Nagas in 1832 led by its Captain Jenkins and Pemberton (Shimray, 2007). The British tried to control the Nagas, initially with a process called 'control from outside' in which they sent expeditions into the hills. But it could not succeed as expected. Later from 1847 onwards, the British tried to establish outposts in the Naga Hills. This attempt was termed as 'control from within', which also could not succeed (Anand, 1980).

In 1935, British Government had enacted Government of India Act 1935. As per this act, the Naga Hills district was declared an "excluded area" within the province of Assam. The constitutional position of Naga Hills district (present state of Nagaland) until 15<sup>th</sup> Aug 1947, was thus that of a regular district within province of Assam and it was as much part of British India as any other district or any other province of India (Gundevia, 1975).

The British while dealing with the Nagas adopted numerous postures but their main thrust remained always focused and dominated by colonial considerations. “Gradually British administration made its way into Nagaland” (Chaube, 2010). The Nagaland state was known as Naga Hills District earlier. The Headquarters of District administration was located at Kohima, the present state capital. During Burma campaign, the Japanese invaded Nagaland and advanced up to Kohima via Manipur. British sought help from the people of Nagaland to fight against Japanese invading forces. During Burma campaign, they had collected arms and ammunition from both, British Army and Japanese forces, when they were retreating from Nagaland towards Myanmar (Anand, 1980). Their success during the campaign made them confident to wedge armed struggle.

Naga Hills district council was established in April 1945. Within a short period, the tribal chiefs decided to change its name to 'Naga National Council' (Chaube, 2010). However, the inclusion of the word “National” in the Naga phraseology started making its impact in various ways. “Some of the representatives and members of Naga National Council (NNC) started adopting political posture and started a movement for unity of all Naga tribes, separate electorate for Nagas and grant of local autonomy” (Sema, 1968). It is worth noting that similar postures were adopted by political organisations, which later started insurgency movement in other parts of North East. Such demands do make an impact and appeal to the local population. These help in seeking support of the local population and justify to insurgency.

Some people favored maintaining special political arrangements and governing relationship with India until sufficient experience had been attained to govern Nagaland as an independent state. However, there was a small but influential portion of NNC which favored for complete independence at the same time, when India became independent (Anand, 1980). Akbar Hydari, the then Governor of Assam was given the task by India’s Prime Minister Pandit Jawaharlal Nehru, to discuss the issue with the NNC and come to an acceptable agreement. After prolonged discussion, nine point agreement (referred as Sir Hydari agreement) was arrived with the NNC. As per this agreement, NNC was authorized and responsible for imposition, collection and expenditure of all taxes including house tax

(Saikia, 2010). The areas adjoining Nagaland with Naga population, were to be reorganized, and Naga right to develop and administer as per tribal customs and traditions were accepted. It was also agreed that without the consent of Naga people no law enacted by Government / Legislative bodies was to be applied (Saikia, 2010). Each side read this provision differently (Rajagopalan, 2008). The Nagas assumed that they would be free to choose their destiny at the end of this ten-year period (Iralu, 2005). The Indian side felt that the terms of the agreement were consistent with the Sixth Schedule of the Indian Constitution and that such adjustments as were needed could be made, short of independence (Verghese, 2004).

With careful propaganda, some members of NNC and specially A.Z. Phizo started propagating the concept of complete independence. In fact, Hydari Agreement was deliberately misinterpreted as acceptance of demand of Naga people for total independence. The last clause of the agreement contained a ten years period of special responsibility of the Governor of Assam to ensure the due observance of the agreement and that at the end of the period the Nagas would be asked whether they required the above agreement to be extended for further period, or a new agreement regarding the future of Naga people to be arrived at. Due to various reasons Hydari agreement did not bring any result and was almost discarded (Saikia, 2010).

A.Z. Phizo who belonged to Angami tribe and was jailed in Rangoon, returned to Nagaland after his release from jail. He spread the idea and concept of complete independence. In June 1947, NNC made a declaration that Naga Hills would cease to be part of India when British leave India. This demand gave motivation and made the beginning of Insurgency movement in Nagaland (Ao, 2002).

### **1.2.2 The Armed Forces Special Powers Act – an overview:**

The Armed Forces Special Powers Act was enacted to deal with the Naga struggle for Independence/ secession. It is the re-incarnation of British colonial laws like the Rowlatt Act, 1919 and the Armed Forces Special Powers Ordinance, 1942 (Veda, 2005). The Armed Forces (Special Powers) Act, 1958 can be again traced back to the Armed Forces

(Special Powers) Act of 1948. The latter in turn was enacted to replace four ordinances—the Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance; the Assam Disturbed Areas (Special Powers of Armed Forces) Ordinance; the East Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance; the United provinces Disturbed Areas (Special Powers of Armed Forces) Ordinance invoked by the central government to deal with the internal security situation in the country in 1947 (Review of the Armed Force (Special power) Act of 1958, 2005).

“The Armed Forces Special Powers Act of 1948, as a matter of fact, was modelled on the Armed Forces Special Powers Ordinance of 1942, promulgated by the British on August 15, 1942 to suppress the ‘Quit India’ movement” (Das, 2012). As the title itself indicates, ‘special powers’ were bestowed on ‘certain officers’ of the armed forces to deal with an ‘emergency’ (Ministry of Defense, 1942). These ‘special powers’ included the use of force (even to cause death) on any person who does not stop when challenged by a sentry or causes damage to property or resists arrest. Incidentally, the Armed Forces (Special Powers) Act of 1948 was repealed in 1957, but within a year later it was again implemented in 1958.

The President of India promulgated the Armed Forces Special Powers Ordinance on May 22, 1958 to confer ‘special powers’ on the armed forces as well as provide them the legal framework to function in the ‘disturbed areas’. A bill seeking to replace the ordinance was introduced in the monsoon session of the Parliament on August 18, 1958 (Das, 2012). While introducing the Armed Forces Special Powers Bill, the then Home Minister, G. B. Pant, argued that the bill would enable the armed forces to function effectively in a situation marked by arson, looting and dacoity, in other words “disturbed”. The bill, however, faced some opposition. Several members of Parliament argued that giving such powers to the armed forces would lead to the violation of the fundamental rights of the people; that it would allow the Government to circumvent the Constitution to impose an emergency, without actually declaring it and the armed forces would usurp all the powers of the civilian Government; and that it would result in the armed forces committing excesses with impunity (Das, 2012). After a discussion lasting for seven hours, the bill was passed by

both the houses of the Parliament with retrospective effect from May 22, 1958. The bill received the President's assent on September 11, 1958 and was printed in the Statute Book as The Armed Forces (Special Powers) Act, 1958 (28 of 1958).

Now, we see that there are two major acts implemented in accordance to the Armed Force Special Power Act that is, AFSPA 1942 and AFSPA 1958. A comparison of the Armed Forces (Special Powers) Act as enacted in 1958, with its predecessor. The Armed Forces (Special Powers) Ordinance of 1942, underscores the fact that the latter Act is indeed more severe. To begin with, the ordinance of 1942 stipulated that a 'competent' officer should be of the rank of a captain or equivalent. This may imply that the British Indian Government placed the burden of taking crucial decisions relating to the use of force on a well-trained and 'responsible' officer so that the special powers were not misused (Johari, 1975). The Armed Forces Special Powers Act of 1958 however, lowered the rank of the 'competent' officer to that of a havildar/jamadar, thus allowing almost every soldier to use force with impunity. Devolution of the special powers to the junior officers and its indiscriminate use has had serious socio-political repercussions. Further, the Armed Forces Special Powers Act of 1958 also provides special powers to the armed forces personnel to enter and search any premises without warrant as well as destroy/dismantle any structure, which is suspected to give a home or shelter to the rebels. This was not provided for in the ordinance of 1942 (Das, 2012).

The validity of AFSPA was challenged before the Supreme Court in the case of Naga People's Movement of Human Rights vs. Union of India. The five judge bench concluded that the above Act cannot be regarded as a colourable legislation or a fraud on the Constitution and the powers conferred under Sections 4 and 5 of the Act are not arbitrary and unreasonable and therefore not in violation of the provisions of the Constitution (Kumar, 2012).

In the wake of intense agitation that was launched by several civil society groups because of the death of Manoram Devi, while in the custody of the Assam Rifles and the indefinite fast undertaken by Irom Chanu Sharmila, for repealing the AFSPA (Ministry of Home

Affairs, 2005). The Central Government then set up a five-member committee under the Chairmanship of Justice B. P. Jeevan Reddy, former judge of the Supreme Court. The 147-page report recommends, "The Armed Forces (Special Powers) Act, 1958, should be repealed" (Ministry of Home Affairs, 2005). During the course of its work, the committee members meet several individuals, organisations, parties, institutions and NGOs, which resulted in the report stating that the Act, for whatever reason, has become a symbol of oppression, an object of hate and an instrument of discrimination and high handedness. The report clearly stated that, "It is highly desirable and advisable to repeal the Act altogether, without of course, losing sight of the overwhelming desire of an overwhelming majority of the (North East) region that the Army should remain (though the Act should go)" (Ministry of Home Affairs, 2005). But activists say the Reddy panel despite its recommendation for the 'repeal of the Act' has nothing substantial for the people. The report recommends the incorporation of AFSPA in the Unlawful Activities (Prevention) Act, 1967, which will be operable all over India. The panel gave its report in June 2005, but the Manmohan Singh Government has neither officially accepted nor rejected its findings.

In December 2006, Prime Minister Manmohan Singh had given an assurance that, changes would be made in the Act to make it more humane (Kumar, 2012). However, the law has not been diluted. AFSPA has remained on the statute book, over the last three decades despite of changes in the Governments, that is, Governments come and go but the Act remained unaltered. The military establishment appears unwilling to agree to any dilution in the statutory provisions (Kumar, 2012). They argue that the absence of requisite legal powers to the units and formations would make them incapable of operating in disturbed areas.

### **1.2.3 Peace process in Nagaland:**

Peace efforts were started in Nagaland soon after the outbreak of the violence in the then Naga Hill district. Mahatma Gandhi himself told A.Z. Phizo in 1947, to shun violence and take recourse to peaceful means of settling the dispute with the Government of India (Kotwal, July 2000). In 1952, Phizo met Prime Minister Nehru and made the old demand of Naga's independence. His meeting was a step towards finding a solution. But the

meeting was doomed with failure. The armed struggle on one hand and the army crackdown continued without any sign of relaxation. In the midst of hostilities in 1953 the Naga Peace Mission came to Guwahati and visited a number of places seeking civil society's cooperation in settling the dispute (Mao, 1992).

A reciprocal visit to Naga Hills District was organized at the instance of Jay Prakash Narain in which political leaders of Assam including B.P. Chaliha joined. This too could not lay any impact. Another serious attempt was tried in 1963 when the then Naga Hills district was proclaimed to be a full-fledged state (Chaube, 2010). It was hoped that with the elevation of a district to the status of a state would open the floodgates of peace process. It did not happen, as the militants continued to use guns to put pressure on the Union Government to allow the state to secede away. To facilitate political dialogues an agreement was signed between Government of India and the Naga leaders of the National Socialist Council of Nagaland, Isak and Muivah fraction (NSCN-IM) on 1<sup>st</sup> August 1997. A ceasefire agreement was declared between the Government of India and NSCN-IM. The terms and conditions for the agreement was; (i) talks between the two groups be held without either side stipulating any precondition, (ii) the talks be held at the highest level (Prime Ministerial level) and (iii) at a venue anywhere outside India (Shimray, 2007).

In the Naga political talks, the question of Naga sovereignty and self-determination remains controversial. However, when it comes to the question of Naga problem the foremost matter to be addressed is the integration of Naga areas. Integration is politically crucial and is the basic foundation of Naga politics. One Naga scholar remarked that the people of Nagaland have given up their dream of independent and sovereign Nagaland, but they hope for a "greater Nagaland" which will include the adjoining areas in which the Naga people are inhabited (Xavier, 2005).

However, a section of the Naga society tasted the real political power through constitutional mechanism. This encouraged them to distance themselves from militancy (Stracey, 1968). Insurgents in Nagaland is in ceasefire with the security forces of the Indian

Union (Means, 1971), which is the result of a numerous peace efforts made by both sides (Zhimomi, 2004).

At the civil society level in Nagaland peace processes started rolling in the early 1990s in which three organisations – (i) the Naga Hoho, which is the apex and umbrella organisation of 38 Naga tribes, (ii) the Naga Mothers' Association and (iii) the Catholic Church of Nagaland – played their roles. The principal objectives of these organisation were to stop senseless killing, establish some kind of peaceful atmosphere in which development activities could be pursued and the dialogue between the Government of India on one hand and the militant factions – both the NSCN factions – could started and continued. The contribution of Naga women to peace building has been multidimensional. They have been preparing for 'life in peace' based on shared compassion and empathy within and across the society (Aram, 2004).

It is thus understood that the armed force special powers act is deployed to check on the insurgency problems in Nagaland. But, it is seen that the act is too draconian. This law has violated many human rights and has been a reason for escalating more violence and conflict in Nagaland. This act has also been described as 'law with lawlessness', 'black law' etc.

This study, therefore, tries to understand the consequences and effect of this law in the state of Nagaland. Much of the research done regarding this act is in context of Manipur when compared to Nagaland, but no exclusive research has been done in the context of the armed forces special powers act and Nagaland, since Naga problem is the reason for the implementation of this act in the first place. Hence, we see that there is a research gap, which needs to be bridged. This research tries to add more to the existing literature and also makes an attempt to bridge the research gap.

### **1.3 Rationale and Scope of Study:**

Since, Nagaland from the beginning has been revolting against the Indian Union and has been an insurgent area, the implementation of AFSPA is supposed to bring some normalcy to the area. But again, the tension between security forces and the insurgents have remained

constant what-so-ever. Hence there is a need to understand this act in the state of Nagaland. The insurgents and the armed forces are at cease-fire, which is the result of numerous efforts made by both, the Government of India and the civil societies. But, is ceasefire capable of bringing lasting peace? This study tries to understand that weather the prolonged implementation of AFSPA has done any good in bringing peace or the scenario still remains tensed.

This study tries to makes a humble attempt to understand the consequences of AFSPA in Nagaland which will help to get more insight of the act in the proposed area of research. Hence, this study in some way will add more insights to the existing literature making it richer. It tries to recognize the naga insurgency and its roots and then also tries to understand AFSPA in the land of the Nagas. This study tries to understand the AFSPA with the case study of Nagaland and Dimapur district in particular.

#### **1.4 Objectives of the study:**

1. To trace the root causes and consequences of the Naga insurgency.
2. To understand the origins, application and consequences of AFSPA.
3. To analyze the reasons for the failure of peace processes and accords in Nagaland.
4. To examine how effective is AFSPA in case of Nagaland.
5. To evaluate the participation of stakeholders in the peace processes.

#### **1.5 Research Questions:**

1. What are the root causes and consequences of the Naga insurgency?
2. What are the consequences of application of Armed Forces Special Powers Act?
3. What are the reasons that led to the failure of peace processes and accords in Nagaland?
4. What is the participation of stakeholders in the peace processes in Nagaland?

## 1.6 Hypothesis:

The Implementation of Armed Forces Special Powers Act has been unable to restore normalcy and peace in Nagaland.

## 1.7 Methodological Framework:

It can be fairly said that Nagaland has been witnessing violence since it declared itself independent. The insurgent fractions trying to separate Nagaland from Indian Union have been incessantly taking the violent means, which creates trepidation to general people and the Indian Government taking strong measures, like implementing AFSPA, to tackle the insurgency have elevated the violence. In an effort to understand the present scenario of Nagaland and the response of AFSPA, this study investigates the causes of the Naga insurgency and the tries to question AFSPA that whether it has been able to put insurgency into detention. This study is prompted by the notion that AFSPA has been unable to restore normalcy and peace in Nagaland. Since many-a-times the reality is different, this study provided the basis of showing the actual situation on the ground before solutions and recommendations can be prescribed. For this to be achieved, the study underwent the process of collecting, analyzing and interpreting data on issues of insurgency, Greater Nagaland, AFSPA etc.

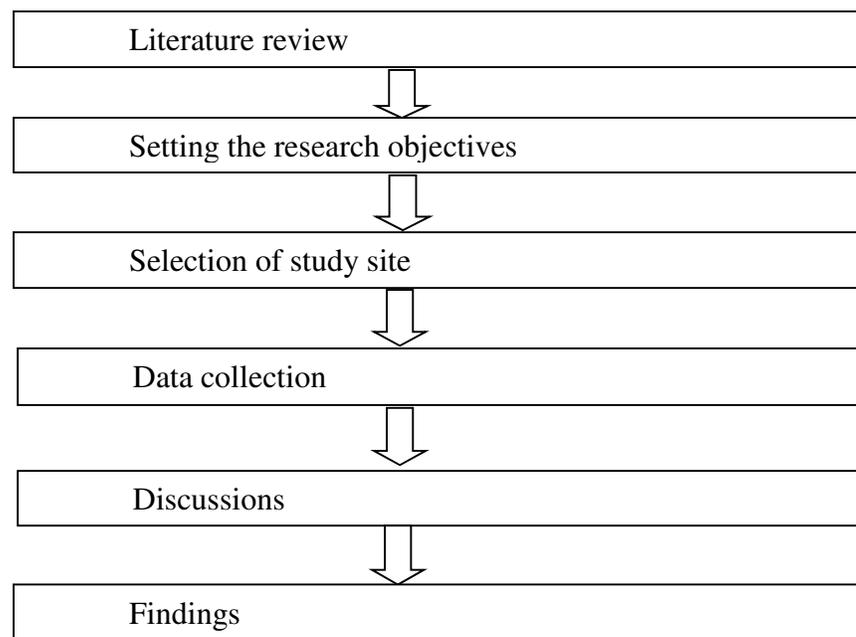


Figure 1.1: The framework of the study.  
Source: Researcher's understanding

The data captured information pertaining to the following aspects; the issue of Greater Nagaland, their say about the insurgents and the armed personal, the ongoing process of ceasefire and its usefulness and reliability, the peace processes initiated by the Government and civil societies etc. This part of the study basically focuses on giving an outline of the various procedures implemented by the study. Basing on this understanding, this chapter provides an insight on the research approaches taken into consideration by the study and draws attention to the research methods employed during the investigation process. Furthermore, the chapter provides detailed information on the study area and the data collection methods.

### **1.7.1 Description of study area:**

The Dimapur district of Nagaland was inaugurated as the eight district of Nagaland in December, 1997. Earlier it was a sub-division under Kohima district. Dimapur district in Nagaland is bound by Kohima district in south and east, Karbi Anglong district of Assam in the west, the Karbi Anglong and stretch of Golaghat district of Assam, in the west and the north. Administratively the Government of Nagaland, for administrative purpose has established four sub-divisions; Niuland and Medziphema with additional Deputy Commissioner as the administrative head and Kuhuboto and Dhansiripar subdivision headed by sub-divisional officer. Also the district administrative headquarter is located at Dimapur, headed by the Deputy Commissioner.

The village Signal Angami, is located in the Tehsil of Medziphema, district of Dimapur, in the state of Nagaland. It is located at 1 kilometer towards west from District headquarters Dimapur, 25 kilometers from Medziphema and 54 kilometers from State capital Kohima. Kacharigaon is a Village in Medziphema Tehsil in Dimapur District of Nagaland State, India. It is located 24 kilometers towards East from District headquarters Dimapur. 28 kilometers from state capital Kohima. Dimapur, Kohima, Diphu, Wokha are the nearby cities to Signal Angami and Kacharigaon.

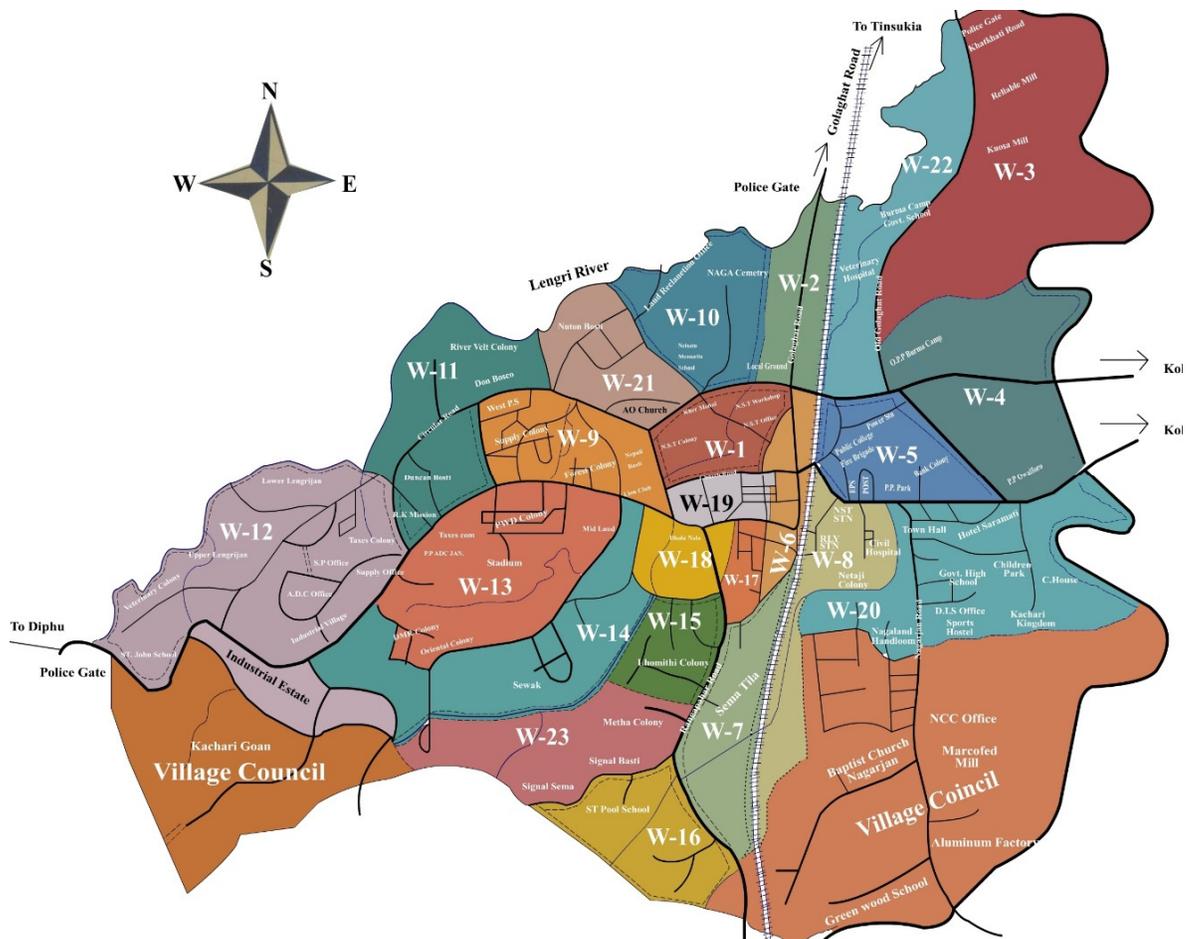


Figure 1.2: Map of Dimapur showing Signal Angami and Kacharigaon Village.  
 Source: Dimapur Municipal Council dmcnagaland.nic.in

### 1.7.2 Sample Population:

Research on conflict driven areas necessitated to adopt the purposive sampling method for site selection. Therefore, in this particular study, purposive sampling was used for the selection of two villages under one Tehsil block, for carrying out the field survey. The selection of these study sites were based on three criterias, that is, conflict in those areas, involvement of insurgents and armed personals and involvement of civil societies. The site selection was through consultation with the general people living there during the pilot survey. The research was conducted in two, conflict prone villages namely Signal Angami and Kacharigaon (Phevima) with a total population of 3465 heads having 2333 and 1132 heads respectively (Census of India, 2011) and here, random sampling was employed for

the sample population. These villages fall under the Dimapur Tehsil, Dimapur district and state of Nagaland.

The sample size for conducting the research was 5% of the total population of both the villages, which comes around to 170 sample heads. In addition, 10 defense personal heads and 20 civil society member heads were also included. Hence, the total sample size for conducting the whole research was 200 heads.

### **1.7.3 Data collection methods and techniques:**

The nature of the proposed research is descriptive, substantiated by both qualitative and quantitative. Both qualitative and quantitative data were collected from secondary sources like, books, journal, newspapers, and other existing literatures. For primary data was collected from the field by employing various sampling methods.

The sampling methods which were used are random and purposive sampling. The sample of the population was divided in 3 parts, the first part was the general population, the second part was the Government officials (defense personals) and third part was the stakeholders (civil society). The research will employ the methods of focus group discussion (FGD), key informant interviews (KII), for the collection of primary data. The focus group discussion consisted of 6 to 7 members in each stratum for discussion and for the interview, structured questionnaire was administrated. FGD and KII were designed to collect qualitative information on the impact of insurgency and violence and also the impact of the implementation of the AFSPA and its consequences on people.

The questionnaire was framed keeping in mind, that the data collected from the targeted sample population, would reveal their understanding of the AFSPA, understanding and their say about the issue of greater Nagaland and their notion about the insurgents. The data collected was then analyzed, interpreted and conclusions were drawn.

## **1.8 Tentative Chapters:**

### **Chapter 1: Introduction**

This chapter will outline the nature of the study, rationale, scope and the objectives of the intended study. The inherent gaps in the existing literature on the Naga insurgency and the armed force special powers act and the peace processes will be examined in detail.

### **Chapter 2: The Naga insurgency; Causes and Consequences**

This chapter will first give brief account of the rise of insurgency in North-East India and then will do an in-depth study of the origins and the root causes of the Naga insurgency. It will try to understand why naga insurgency rose and what the consequences were. This chapter will also look at the present status of insurgency in Nagaland and the effect of insurgency to general public.

### **Chapter 3: The Armed Forces Special Powers Act; Boon or Bane**

This chapter will look at the origin and the roots of the Armed Forces Special Powers Act. It will look at the process of change, the act has gone through. This chapter will also do an analysis of the act and will try to understand the effectiveness of the act. The final part of this chapter will analyze whether the act acts as a boon or a bane.

### **Chapter 4: Government and NGO peace initiatives; success and failure**

This chapter will be dedicated to understand the peace initiatives taken to restore normalcy and peace. It will examine the success of the peace processes and the failure of the same. And it will also give an explanation for the success and failure of peace process.

### **Chapter 5: AFSPA, Nagaland and the stakeholders**

This chapter will examine the effectiveness of AFSPA in Nagaland. That is, what is the present status of AFSPA in Nagaland and whether it has been able to bring peace or, has it escalated conflict. And this chapter will also look at the effects of implementation of AFSPA and peace processes in the stakeholders and their participation in peace processes by analyzing and interpreting the data collected.

### **Chapter 6: Conclusion**

This chapter will summarize the study, analyze the validity of hypothesis and recommend practical and possible suggestions for further studies in this area of research.

## Chapter 2: The Naga insurgency; Causes and Consequences

### 2.1 Introduction:

“Insurgency signifies a moment of rupture or disruption that generates a counter discourse to the already experienced milieu of subjection, alienation and compulsion. It articulates a sense of dispossession and betrayal tinged with the pathos of coercion and violence. As an experience of negativity it constitutes attempts of uprising and insurrection in order to counterblast the dominant symbolic order” (Biswas & Suklabaidya, 2008). “The dominant order justifies the political and social conditions that sustain layers of disparities, which at the same time produces dissent and dismay over the micro perceptions of distorted self-image” (Das, 1993: 1-3).<sup>1</sup> The etymology of insurgency reflects upon the dominant cultural symbols and juxtaposes it with the peripheral cultural symbols in order to reclaim the autonomy of such indigenous cultural symbols.

Ever since India got its independence, India’s North East has been witnessing violent agitations, sustained separatist insurgencies, ethnic riots and some tough and hard responses to these by the state, all leading to violence and bloodshed. The region has witnessed large scale violence by insurgent groups, militants, ethnic groups etc., one insurgent group fighting with other. Different ethnic groups fighting with others for power and dominancy and also sustained deployment of security forces to curb the unrest. Which in turn leads to more violence and bloodshed. Undoubtedly, North East India is one of the post-colonial India where the frequency of the outbreak of insurgency has been tremendously more when compared to other parts of the country and where armed struggle as a way or as response has often been the first, rather than the last option for a recalcitrant tribe or a larger ethnic group (Bhaumik, 2009).

In the case of North-East India, insurgency is a mix of a wounded attachment and a healing touch, a discourse of difference that helps the alienated communities to take them away from tackling the alienating symbols and images. Insurgency in North-East India

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<sup>1</sup> This distorted self-image is conceived in terms of a colonial power, in this case the Indian state. For details see Parag Kumar Das, *Swadhinatar Prastab* (Pamphlet in Assamese), Guwahati: Seuj Sathirtha Prakashan, 1993, pp. 1–3.

constitutes and defines its own positive core, in terms of its own symbolic that produces empathy and passion in securing and representing an ethnic identity in a space of autonomy. Various insurgency movements of the North-East, such as Naga, Mizo and Assamese national struggles, have identified the 'Indian state' as their common enemy and undercut the claim of Indian national identity (Biswas & Suklabaidya, 2008).

The fires of insurgency that began in the Naga Hills and also in other parts of the region have continued to spread. Successive generations of youth belonging to the region like, the Nagas, the Mizos and Manipurians and then also in Assam, have lived under the shadows of the gun. The case of Naga insurgency in the context of North-East India is the earliest expressions of ethno-national moorings. It has also been South Asia's longest-running guerilla campaign. The Naga insurrection posed the first major challenge to India's post-colonial nation-building project (Bhaumik, 2009).

## **2.2 The Genesis:**

The origin of the name "Naga" has given rise to some considerable speculations, with the result that there are several theories in existence, each with a foundation but with no humanity of opinion. This term 'Naga' includes the various tribes, Nocte, Wancho, Tangsa etc., of North East Frontier Agency now Arunachal Pradesh and their congeners in Manipur state and in Somra tract of Burma (Joshi, 2001). Nagaland is essentially a tribal state, where about 38 different tribes live. They all speak different languages. Nagamese is the lingua franca of the communities living there. Although, they are different in terms of language, customs, way of life and tradition, they are more or less united with the quest of a sovereign independent Naga homeland as India became independent in 1947.

Initially, the Naga people had a serious problem of identity and integration with the Indian Union. In turn, this social issue assumed a political dimension which then eventually evolved into insurgency. To understand the Naga insurgency, therefore, it would be imperative to trace the rise of Naga sub-nationalism. The Nagas belonged to the Indo-

Mongoloid group speaking Tibeto-Burman dialects of the Sino-Tibetan family.<sup>2</sup> The presence of the Nagas was first noted in Yajurveda about a thousand years before Christ. Then referred to as "Kirata", the tribal groups now occupy a vast area of Arunachal Pradesh, Nagaland, Manipur and Myanmar (Kotwal, 2000).<sup>3</sup> However, the earliest specific reference to the Nagas was made by Claudius Ptolemy in 150 A.D. in his Geographia where he referred to the Naga country as "The Realm of the Naked".<sup>4</sup> The Nagas had been living in isolation for centuries fighting among themselves. Tracing the Naga history it can be found that the Ahom kings of Tibetan and Burman origins, who came to Assam, tried to control the Nagas with 'carrot and stick approach', but they could not succeed because of many factors like the inhospitable countryside, peculiarity of terrain, environment etc. and their constant will and power of resilience.

### **2.3 The advent of the British:**

It is only from the first quarter of the 19th century, that they were brought in real contact with the outside world, when the British encountered them, defeating the Ahoms. The strategic and crucial geographical location of the Northeast ensured that this region had a special place in the plan of the British. Surrounded in by four countries viz., China, Myanmar, Bangladesh and Bhutan and with only a 22 km wide corridor of Siliguri, also known as the chicken-neck corridor, linking it with mainland India, the region was well fitted for the colonial rulers to turn it into their own "Crown Colony" under the "Coupland Plan".<sup>5</sup>

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<sup>2</sup> M. Alemchiba A Brief Historical Account of Nagaland, (Kohima: Naga Institute Of Culture, 1970), pp. 2-3.

G.A. Grierson, Linguistic Survey of India, Vol. III, Part II, Varanasi, 1903, p.11.

<sup>3</sup> Dr. S.K. Chatterjee, Kirata-Jana-Kirti, (Calcutta: Asiatic Society, 1951), p. 167.

<sup>4</sup> Claudius Ptolemy, Geographia VII, ii, p.18 (The original text is in Greek.)

<sup>5</sup> The colonial rulers had hatched a plot before they left India in 1947. This was to separate the entire northeast region from India. The region was to be formed into an independent political authority separate from both India and Burma, turning into a special colony directly under the British crown. The man behind the proposal was R. Coupland, who came to India as Secretary to Stafford Cripps. The British political officers like Robert Reid and others supported the proposal. The NE region was considered to be a territory distinct from India and Burma. See R. Coupland, Future of India, (London: 1944), p. 160.

It was not the intention initially of the British Government to rule the naga lands, but to protect the people of the plains from the Naga raids. In the process of doing that, whatever lands they conquered, was brought under the normal administration of British Government (Joshi, 2001). The British relations with the Nagas may be broadly divided into three periods.

<b>Years (Periods)</b>	<b>Approaches or Strategies</b>
1832 - 1850	Military promenades in Naga Hills
1851 - 1865	Non-intervention Policy
1866 - 1947	Control and Authority over Naga Hills

Table 2.1: British relations with Nagas  
Source: Researcher's understanding

The first period from 1832 to 1850, in which the British undertook “military promenades” into the Naga Hills. The second period, from 1851 to 1865, in which the British followed the policy of non-intervention with regard to the Naga tribes. This was later abandoned and in the third period which began from 1866, the British steadily extended and established their control and authority over the Naga Hills.

The British Government, initially found very difficult to establish order and administration in the Naga Hills. They tried to control the Nagas using process like “control from outside” and “control from within”, in which they send expeditions to the hills, the former, and establish outposts in the hills, the later. But still they hardly tasted any success. According to the Assam Census<sup>6</sup> Report, it says, “the Nagas showed extraordinary persistence in their resistance to our arms, and no less than three political officers came to a violent end, two being killed by the hill men and one being accidentally shot by his own sentry and it was not till 1881 that the district was finally pacified”.

The British followed a policy of "least interference" in the internal affairs of the Nagas, during the time period of 1851 to 1865, giving due regard to continue with their tribal ways

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<sup>6</sup> Report on the census of Assam, 1901, p.2.

like the tribal village administration, land system, customary laws, social customs and communal institutions. Therefore, the traditional life pattern of the Naga tribes remained unchanged, but inter-tribal warfare and head-hunting lessened due to British intervention (Kotwal, 2000).

One of the main reasons why the British could establish stable administration in the Naga Hills was their intimate knowledge and interest of the native people. Every officer who was posted in the Naga Hills, had an additional duty of minutely studying the naga people, their way of life, their customs and manners. They sometimes lived with the naga people, ate with them, walked with them, worked with them and even sometimes tested their temperament. It was a normal duty of every officer to submit a comprehensive report based on his own field study and observation. The Government made its policies based on the reports and hence, implementing the policies and finally controlling them was not at all difficult (Joshi, 2001).

For their own interest, the British declared the Naga territory as a "backward area" and aimed at administering it "in a simpler and more personal manner than those of the more civilized and longer settled tribes" (Kotwal, 2000). The British policy, however succeeded because they, rested on the least possible interference and the use of traditional institutions, with the missionary rather than the administration and control as the main harbinger of change (Rustomji, 1983).

Still, there were quarrels and sometimes serious disturbances due to the entry of British subjects of Assam in the Naga lands. So, in order to check on these issues, in 1873, "with the approval of the Governor-General of British India, the Lieutenant Governor of Assam, promulgated the Bengal-Eastern Frontier Regulation, which brought into force what came to be known as the 'Inner Line'" (Chakravarti, 1971). The Inner Line regulation gave powers to the local authorities to prohibit British subjects generally or those specified classes from going beyond a certain line, laid down for the purpose without a pass or license, issued by the Deputy-Commissioners and containing such conditions as might seem necessary (Joshi, 2001). The Inner Line was operated to protect plainsmen from

Nagas and Nagas from the plainsmen. Under these regulations, the plainsmen were prevented from entering the Naga areas but exceptions were made in the case of Christian missionaries. This might have saved the Nagas from "exploitation by outsiders and sudden disruption of Naga culture", but it went a long way in isolating the Nagas from the national mainstream (Kotwal, 2000). They continued to live their lives in isolation, despite their love for freedom and were not in any way drawn into the anti-British struggle. However, the English language and Christianity brought a gradual change in the outlook of these people and infused a sense of nationality in them.

#### **2.4 The Coming of the Naga Club:**

Since Nagas were not an organized community, as already stated, as they were divided among several tribal lines, the British in 1918 formed an organisation of the 'loyal subjects' known as the "Naga Club" with its branches in Kohima and Mokukchung, with the sole aim "to assist the British administration in understanding the social and administrative problems of the Naga tribes" (Johari, 1975) and for promoting the interests of the Nagas, that is to understand the socio-administrative problems of different rival Naga clans and accordingly included some of the Christianized village heads as its members. Since there were no other organisation, the Naga Club turned into effective political forum for the Naga tribes. "The psychological phase of the Naga insurgency can be said to have vaguely began at this point" (Anand, 1980). When the Simon Commission visited Naga Hills in 1929, the Naga Club presented a memorandum demanding their exclusion from the political process taking in the Indian subcontinent<sup>7</sup>, saying "You (the British) are the only people who have ever conquered us and when you go, we should be left as we are". Demanding adequate safeguards from any possible rule by the Indians, the memorandum concluded with the following plea: "If the British Government, however, want to throw us away, we pray that we should not be thrust to the mercy of the people who could never have conquered us

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<sup>7</sup> V.K. Nuh (ed), 2002, *op.cit*, pp. 111-112. A reading of the memorandum shows that at that point of time even the signatories were not aware about the exact number of Naga tribes inhabiting the region. The critics pointed out that majority of the signatories belonged to the Angami tribe and most of them were traditional chiefs.

themselves, and to whom we were never subjected; but to leave us alone to determine for ourselves as in ancient times<sup>8</sup>” (Misra, 1978).

As a result of the demand of the Naga Club, the Simon Commission recommended designating the backward areas as “excluded areas” and the 1935 Government of India Act reorganized the backward areas of Assam into the excluded areas within the province of Assam. Where laws applicable to the rest of British-controlled India would not operate and the Nagas could continue with their own traditional ways of life with little interference from the federal or the provincial Government (Srikanth & Thomas, 2005). In 1929, the Simon Commission justified the creation of Excluded Areas in this way:

*“The stage of development reached by the inhabitants of these areas prevents the possibility of applying to them methods of representation adopted elsewhere. They do not ask for self-determination, but for security of land tenure and freedom in the pursuit of their ancestral customs. Their contentment does not depend so much on rapid political advance as on experienced and sympathetic handling and on protection from economic subjugation by their neighbors.”<sup>9</sup>*

The Nagas also witnessed the two world wars. During the First World War, about 2000 Nagas were sent abroad by the British as part of labour corps, thus exposing them to "currents and political changes<sup>10</sup> (Ranganathan & Roy-Chowdhury, 2008). But the Second World War had a deeper impact as it was fought in Nagaland itself wrecking the simple life of the hillmen as a fierce sixty-four-day battle was fought. It was marked as “some of the most stubborn, close and bloody fighting in the whole of Second World War” (Joshi, 2001). British Government well capitalized on the services of the gallant Nagas in the Second World War.

After the War, with the guidance of C.L. Pawsey, the then Deputy Commissioner of Naga Hills District, who in 1945 constituted the Naga Hills District Council (NHDC) (revised

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<sup>8</sup> Naga Club’s memorandum to the Simon Commission, 1929.

<sup>9</sup> The Simon Commission Report, 1930.

<sup>10</sup> Hazarika, S (1995): cited in S Hazarika (2006): 'Terrorism and Subalternity - III: India and the Sub-nationalist Movements in Mizoram and Nagaland', pp 356 and 357. See also: <http://satp.org/satporgtpcountries/india/states/nagaland/back-grounder/index.html> accessed on October 13, 2007.

form of Naga Club) with a view to uniting and reorganizing the tribal councils on modern lines. As this arrangement failed to prove effective to the desired extent NHDC was once again converted into the Naga National Council (NNC) after the deliberations of the Wokha meeting in March, 1946. This body received special patronage of the British Government and “proved the harbinger of future political agitation and upheaval” (Johari, 1975). “The inclusion of the term “national” used in the Naga phraseology increased the intensity of the Naga feelings” (Kotwal, 2000). The council was composed of 29 members representing different tribes, on the basis of proportional representation with Imti Aliba Ao as its first president. The educated section of the Nagas of course, provided the leadership of the NNC. The NNC that was the first political organisation of Nagas to submit a memorandum to the Cabinet Mission on June 19, 1946, when it demanded autonomy to Naga Hills. In the beginning, the political objective of the NNC was solidarity of all Nagas, including those of the administered areas and the inclusion of their hills within the province of Assam in a free India, with local autonomy and adequate safeguards for the interest of the Nagas. This demand of the Nagas was well received in the circle of the Indian National Congress.

## **2.5 The spearheading of Naga Movement:**

The return of Angami Zapu Phizo from Burma greatly helped the undercurrents of the Naga politics to come to the surface. Angami Zapu Phizo was the leader of NNC. His formal claim to the leadership of the guerrillas is derived from his position as the elected President of the NNC (Means, 1971). The NNC on 19<sup>th</sup> June 1946, under the leadership of Angami Zapu Phizo submitted a memorandum to the Cabinet Mission, demanding autonomy for Naga Hills. They demanded separate sovereign political geography comprising of Naga inhabited areas of Nagaland, Assam, Arunachal Pradesh, Manipur and Myanmar. The NNC turned down the offer of autonomy envisaged in the sixth Schedule of the Constituent Assembly. It was this dilemma in Naga perception about their own future and India's geopolitical interest in the Naga Hills that led to the Hydari Agreement in 1947 (Kotwal, 2000). In May 1947, when the Indian Advisory Committee on the Aboriginal Tribes visited Kohima, the NNC put forward a proposal that provided for (a) a ten-year interim government for the Naga people, having full powers in respect to legislation, executive and judiciary; (b) full power for collection of revenue and expenditure; (c) an annual subvention

by the guardian power to cover the revenue gap; (d) a force maintained by the guardian power for defense and to aid the civil power (Misra, 2000). In response to this, a nine point accord was signed between the then Governor of Assam, Sir Akbar Hydari and the representatives of the NNC at Kohima after three days of deliberation, known as “The Naga-Akbar Hydari Accord”. The following tribes represented at discussions on the 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> of June 1947 at Kohima: Western Angamis, Eastern Angamis, Kukis, Kacha Nagas (Mzemi), Rengmas, Semas, Lothas, Aos, Sangtams, Changs. The clause IX of the Naga-Akbar Hydari Accord has been the major bone of contention for its ambiguity (Horam, 1988). Clause IX of the agreement reads as:

*"Period of Agreement—The Governor of Assam as the Agent of the Government of the Indian Union will have a special responsibility for a period of 10 years to ensure the due observance of this agreement; at the end of this period the Naga Council will be asked whether they require the above agreement to be extended for a further period or a new agreement regarding the future of the Naga people arrived at".*

The militant leader A. Z. Phizo interpreted the clause to mean that the Nagas had the right to become politically independent after ten years. There was a great misunderstanding about the ninth clause of the accord between the NNC and the Government of India on the account of ambiguity in wording and interpretation of the clause. The NNC delegation met Mahatma Gandhi in July 1947 and even received an assurance that he would stop the Indian government from forcibly integrating the Nagas into the Indian Union (Srikanth & Thomas, 2005). After giving the delegation a patient hearing, as claimed by the Naga leaders the Mahatma remarked:

*"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 Army to shoot me before they shoot one Naga."<sup>11</sup>*

This statement of Mahatma Gandhi impressed the Naga leaders very much (Kotwal, 2000), but as the month of July of 1947 passed, enraged by the Indian Government’s disregard for the Nine-Point Agreement, NNC declared independence on August 14<sup>th</sup> 1947, just one day

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<sup>11</sup> See [http://nscnonline.org/modules.php?name= News&file=article&sid=i88](http://nscnonline.org/modules.php?name=News&file=article&sid=i88) accessed on April 17, 2014

before Indian Independence and observed Naga Independence Day and also intimated the same to the Government of India and to the United Nations Organisation (Srikanth & Thomas, 2005). Angami Zapu Phizo took a leading role in this revolt, which however was suppressed by the Government. Naga insurgency as we see today is, therefore, rooted to this Naga Movement spearheaded by Phizo. The next day, independence of India was declared which the Nagas boycotted. In this connection, a statement given by Pawsey, the then Deputy Commissioner of the Naga Hills as recorded by Julian Jacob, in the album "The Nagas—Hill people of North-East India"<sup>12</sup> is worth mentioning.

*"In 1947, a Naga delegation visited Delhi in order to assess the Nagas' intention not to join the new Republic. Up to this point, both Gandhi and Nehru had said they were sympathetic to the Nagas and would not support forced unions. The Nagas' own interpretation of their meeting with Gandhi in July was that this was still the Congress policy. But in August, perhaps in response to fears of secession elsewhere in the new India (especially in the Princely states as well as Pakistan) the Indian Government's attitude hardened and the Nagas were told that India would never allow independence. The Nagas reacted by a declaration of Independence unilaterally signed by nine members of the N.N.C on August 14, 1947."*

Both the above statements are the claims of Naga leaders. No Indian leader who was close to the Mahatma ever confirmed the reported statement of Mahatma Gandhi. Mr. Pyare Lal, secretary of Mahatma Gandhi, later on denied the contention of the Naga leaders about the statement.<sup>13</sup> Pandit Nehru termed the Nagas' demand for independence as 'absurd'. In the words of Pandit Nehru:

*"I consider freedom very precious. I am sure that the Nagas are as free as I am bound by all sorts of laws, the Nagas are not to the same extent bound by such laws and governed by their customary laws and usages. But the independence the Nagas are after, is something quite different from individual or group freedom. In the present context of affairs both in India and the world, it is impossible to consider even for a moment such an absurd demand for independence of the Nagas. It is doubtful whether the Nagas realize the consequences of what they are asking for. For their present demand would ruin them."<sup>14</sup>*

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<sup>12</sup> Ao Tajenyuba; British Occupation of Naga Country, (Mokokchung: Naga Literature Society, 1995), p. 280.

<sup>13</sup> Interviewed Mr. Charles Chaise a Naga intellectual and writer of "Naga Imbroglio-A Personal Perspective" at Kohima on May 8, 2000.

<sup>14</sup> The North East Sun, "Picking Up the Peace(s)", July 1-14, 1996, p. 6.

The Constituent Assembly constituted a separate committee under the chairmanship of Gopinath Bordoloi, the first chief minister of Assam, for suggesting ways to include the Nagas into the Indian Union. But the NNC refused to send its representative to the constitutional sub-committee and rejected the Sixth Schedule of the Indian Constitution, which disregarded the earlier agreement and made provisions for Autonomous District Councils for the hill tribes within the state of Assam. Phizo was arrested in 1948 for his anti-India activities but subsequently released on compassionate grounds following the death of his son in an accident. The NNC conducted a plebiscite in the Naga Hills district in 1951, saying that 99 percent of the Nagas voted for independence and appealed the India Government to respect their rights and grant them independence, they also boycotted the 1952 Parliamentary elections.

On their act of boycotting the elections, Jawaharlal Nehru visited Kohima on March 30<sup>th</sup>, 1953, and was greeted with derision, which in some way or the other resulted in establishing of nine police out-posts and action against the NNC was intensified. Houses of Naga leaders were raided and the Naga newspaper was banned. To escape the harassment by the armed forces several Naga leaders went underground. Whole villages were burnt down and its population relocated, heavy fines imposed and large-scale arrest and killings were reported from the Naga Hills. Nehru, however, did not authorize use of air power, except for carrying troops and dropping supplies in remote locations (Bhaumik, 2007) and also implemented the Assam Disturbed Areas Act 1955. With widespread unrest in the Tuensang division<sup>15</sup> of North East Frontier Agency (NEFA) and the subsequent deployment of the Assam Rifles<sup>16</sup>, the Naga resistance movement took violent insurrectionary means to achieve its goals. After the murder of T. Sakhrie, the moderate

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<sup>15</sup> Tuensang is a Naga inhabited area located between the Naga Hill district and Myanmar. Unlike Naga Hills District, Tuensang was virtually left without any administration for long during the British period. After the Indian Act of 1935, it was declared as a tribal area and the Governor of Assam was authorized to administer the area with the help of the Deputy Commissioner of Khasi-Hills district. After independence, in 1951, Tuensang was formed into a separate division within North East Frontier Agency (NEFA). In 1957 Tuensang was re-united with Naga Hills district as the New Naga Hills and Tuensang Area (NHTA).

<sup>16</sup> Assam Rifles was a paramilitary force used by colonial powers to suppress the tribal revolts in Northeast India. After independence, the Indian state used the same force to tackle the insurgencies in Northeast India. For more information about Assam Rifles, see Col. L.W. Shakespeare, *History of the Assam Rifles*, Firma KLM, Calcutta, 1977; also Brig. P.K. Gupta, *Sentinels of the Northeast: The Assam Rifles*, Assam Rifles Printing Press, Shillong, 1998.

Naga leader, in January 1956, NNC came increasingly under the control of militant leaders like Phizo. The Naga militants formed the Federal Government of Nagaland (FGN) in 22<sup>nd</sup> March 1956, also with a military wing called the Naga Federal Army (NFA) to drive out Indian Forces (Ranganathan & Roy-Chowdhury, 2008). Later that year in December 1956, Phizo escaped to Pakistan and then later left for London in June 1960, to internationalize the Naga issue. In 1957, the moderate Nagas founded the Naga People's Convention (NPC), which opened a continuing dialogue with Indian authorities to find peaceful solutions to the Naga problem.

The Naga insurgency has been through four distinct phases: (1) the 1957-1964 phase, when the Pakistan-trained rebels intensified the guerrilla war in the Naga Hills, (2) the 1964-1975 phase, when the movement peaked and then weakened after two splits along tribal lines, ending with the signing of the Shillong Accord in 1975, (3) the 1975-1987 phase, during which the NNC split and the breakaway NSCN emerged to give the Naga rebel movement a fresh lease on life; and (4) the post-1987 phase, when the NSCN also split along tribal lines and after some years of fighting, both NSCN factions started negotiations with Indian Government.

The flow chart below, shows the major and secondary violent conflicts, formal legal ties, and informal contacts and negotiations between many organisations and Governments. The Naga Government was strongly supported by the Burmese Communist Party. It shot down an Indian Air Force transport aircraft on a supply dropping mission and the crew were held hostage for many years. Many acts were implemented like the Armed Force Special Powers Act (in 1958) to arrest the insurgency. The Naga militants utilized India's enmity with Pakistan and China to seek moral and material support from them, for continuing their struggle against the Indian state.

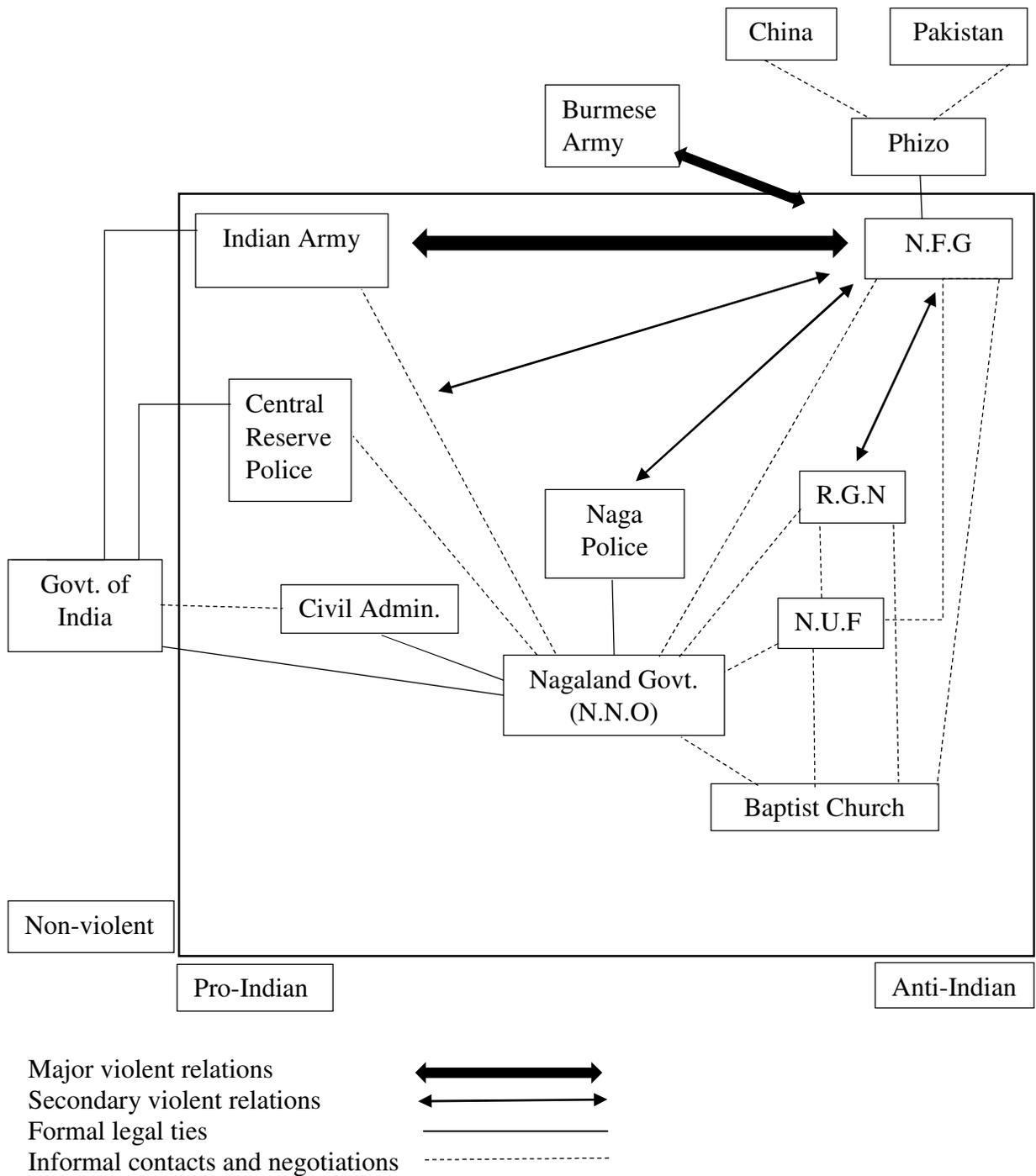


Figure 2.1: Flowchart of violence, ties and negotiations.  
Source: (Means, 1971)

As Pakistan agreed to help, several batches of Naga guerrillas, numbering 200-300 each, started reaching East-Pakistan for training and weapons. Throughout the 1960s, as the separatist movement intensified, Delhi backed up its military effort with a 16 point Agreement with the moderate Naga leadership (NPC) in 1960 which is called as “Naga People’s Convention and Government of India Agreement”. This agreement led to the creation of “Nagaland” as a separate state in India on 28<sup>th</sup> July 1960 (Bhaumik, 2007). Naga Hills was accordingly placed under the Nagaland (Transitional Provision) Regulation 1961 with an interim body consisting of 45 members elected from different sub-tribes of the Nagas.

The interim body was dissolved and Nagaland was formally declared as Sixteenth State of Indian Union on December 1<sup>st</sup>, 1963, with Shilu Ao heading a five-member caretaker Government. When Nagaland came into existence on December 1, 1963, the NPC was transformed into a political party called the Nagaland Nationalist Organisation (NNO). In the first General Election of new state in January 1964, over 70 % of Nagas exercised their franchise, which was contrary to their boycott of the first General Election of the country in 1952. This was the major victory of the forces that believed in democracy. After the constitution of first Nagaland Legislative Assembly on February 11<sup>th</sup>, 1964, Shilu Ao was sworn in as first Chief Minister Nagaland.

By this time when Nagaland was recognized as a state within India, Phizo was in London to enlist world opinion and solicit foreign assistance for his NFG guerrillas. While democratic process for the proposed new state was in progress, some of the hard core rebels under the remote control guidance of Phizo and patronage of Pakistan and China stepped up their activities to foil the peace attempt. They gunned down two moderate leaders namely, Imkongliba and Phanting Phong on August 22<sup>nd</sup>, 1961, and August 29<sup>th</sup>, 1962, respectively.

In the intervening years, “Phizo has tried to exercise direction and leadership of the guerrillas from his home in Bromley, near London” (Means, 1971). After the humiliating defeat suffered by the Chinese army in 1962, Delhi started to start negotiations with the

NNC through the Naga Peace Missions, but the talks broke within two years after the Chinese started helping the Naga rebels. Early in 1967, some NFG guerrilla units were instructed to send a selected contingent to China via the mountainous jungles of North Burma. Two groups of guerrillas totaling about 300 men reached China about April 1967, just as Phizo arrived in the United States to plead for assistance on the argument that otherwise his guerrillas would be forced to rely upon Communist support and arms.<sup>17</sup> In 1968, the Sema leaders defected from the NNC to form the Revolutionary Government of Nagaland (RGN) with Kughato Sukhai elected President of the Council, Scato Swu, Prime Minister and Lesum, President of the RGN, which started cooperating with Indian security forces.<sup>18</sup> Vizol Angami, together with Tajen Ao, took the lead and in 1969, by founding the Nagaland United Front (NUF).<sup>19</sup> The formation of RGN did not eliminate NFG, instead the NFG Vice President Chumbeo Murry declared a "state of emergency" and waited for NFG military contingents to return from China with new weapons. However, the China-returned Naga guerrillas gave the Indian Army a tough time.

However, the victory of India over Pakistan in 1971 and the subsequent creation of Bangladesh partially weakened the external support base of NNC, which had already become weak due to internal dissensions. Taking advantage of their weakness, in 1972 the Indian government banned NNC, FGN and other militant organisations. Contrary to the spirit of the Sixteen Point Agreement, the state of Nagaland was transferred from the Ministry of External Affairs to the Ministry of Home Affairs. The Government of India imposed President's Rule in Nagaland in 1975 and went ahead with ruthless army operations (Srikanth & Thomas, 2005). As the security forces launched a massive counter-insurgency operation and forced the insurgents to the negotiating table. An agreement known as the "Shillong Accord" was signed between the center and a section of the NNC and the FGN on November 11<sup>th</sup>, 1975, in Shillong, according to which the NNC-FGN

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<sup>17</sup> Phizo had earlier negotiated for arms assistance from Pakistan, which began arriving in substantial quantity in 1962. However, with the thawing of Indian-Pakistani relations following the Tashkent Agreement of 1966, military assistance from Pakistan was reduced to a trickle. Various NFG leaders had made exploratory contacts with Chinese diplomats in 1965 and again in 1966, but it is uncertain whether the Chinese made any substantive offers of aid at these meetings. See Assam Tribune, April 4, 1965, p. 1; Times of India, April 26, 1966, p. 1.

<sup>18</sup> Assam Tribune, November 27, 1968, p. 1.

<sup>19</sup> Both men were expelled from the N.F.G for forming the new party. See Assam Tribune, July 15, 1968, p. 8.

accepted the Indian Constitution and agreed to come over ground and surrender their weapons.<sup>20</sup> The Accord stated that the underground militants “on their volition, accept, without condition, the Constitution of India” and that they even agreed to surrender arms in order to prepare the ground for future talks with the Indian government. The signatory of the accord were alleged to be close to Phizo.<sup>21</sup>

Although Phizo was aware of the contents of the Shillong Accord, he neither openly endorsed it, nor unreservedly condemned it. The content of the Accord and the silence of Phizo irritated certain radical elements within NNC. A group of about 140 activists of the NNC, who had gone to China for training, "repudiated the Shillong Accord and refused to surrender". They formed a new underground organisation called the “National Socialist Council of Nagaland” (NSCN) under the leadership of Thuengaling Muivah, Isak Chishi Swu and S. S. Khaplang on Burmese soil in January 32, 1980 (Ranganathan & Roy-Chowdhury, 2008).

Isak Chishi Swu was the Chairman, Thuingaleng Muivah (a Tangkhul Naga of Manipur's Ukhrul district) was the General Secretary and S. S. Khaplang (a Hemis Naga of upper Myanmar) was the Vice-President. The NSCN has been carrying on an armed struggle to bring an end to Indian suzerainty over the Naga people and to establish a People's Republic of Nagaland based on Mao's ideology.<sup>22</sup> The manifesto of NSCN is based on the principle of socialism for economic solution and a spiritual outlook - "Nagaland for Christ". The statement of the NSCN from Oking on 3<sup>rd</sup> January 1984, can be read as a ‘text’ of reconstruction. The text reads:

*“Our Naga people know for sure that their future is only in the socialism of the National Socialist Council. The reactionary traitors have felt the impact of this irresistible wave on the people. They are in dread as their dooms draw fast closer upon them and finding no other way out from their doom, they ceaselessly devise means for the extenuation of their high reason in one and thousand*

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<sup>20</sup> Dr. M. Aram, Peace in Nagaland, (New Delhi: Arnold-Heinemann, 1974), p. 54.

<sup>21</sup> Kevi Yalley, one of the architects of the Shillong Accord, was a younger brother of Phizo. NSCN leaders alleged that during this period, Phizo was in touch with Kevi Yalley and his other compatriots and he made no efforts to condemn the accord and its signatories.

<sup>22</sup> B. Rahmatulla, Evolution of National Socialist Council of Nagaland: The Renewal of Insurgency, Kohima: Platform, February 25-March 4, 1982, Vol. 5, No. 40), pp. 3-4.

*ways... How could there be unity between the dead and the living, between darkness and light, between rust and steel, between the reactionary traitors and revolutionary politics, between capitalist egoism and socialistic altruism, between the treacherous A.Z. Phizo's tribalism and the Socialism of NSCN?"*<sup>23</sup>

In the case of the Nagas, Christianity operated as a parallel nation-building force linking them with the turns and twists of colonial history. The idea was to protect the spirit of sovereign people by referring to a 'Nagaland for Christ' which inspired faith in re-making a decolonized Nagaland in which the will of God shall work. Muivah, much less a practicing Christian than NSCN Chairman Issac Chisi Swu, coined the phrase 'Nagaland for Christ' that found its way into the NSCN's lexicon. This long peep through an exegesis of the 'Nagaland for Christ' reveals a deep sense of commitment, confidence and faith in the Naga attachment to Christ. The slogan 'Nagaland for Christ' describes the most moving and the most fearful experience of struggle and sublimates it in an awakened invocation of Christ (Biswas & Suklabaidya, 2008).

The initial strength of the outfit was approximately 150 cadres and rose to 3,000 with Konyaks and Tangkhuls forming the main recruits. Other tribes in lesser numbers include, Semas, Kukis, Yumchungus, and Maos. With a large array of sophisticated weapons procured through robberies, Kachen Independent Army (KIA), and international markets, the NSCN, soon developed and turned out to be the most powerful underground organisations in the Northeastern region. In spite of the intermittent attacks on their camps by Naga activists belonging to the Federal Government of Nagaland, the NSCN emerged as a "powerful and well-knit" insurgent organisation having close ties with the Myanmarese insurgent organisation, KIA. Armed NSCN insurgents spread their network to Manipur and in different parts of Nagaland. Several Kilonsers (ministers) were appointed and areas divided into different regions with a senior underground member in charge of each regional unit (Kotwal, 2000).

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<sup>23</sup> *Manifesto of the National Socialist Council of Nagaland*, Oking: NSCN, 1987.

## **2.6 The splitting of NSCN:**

The Indian Government on one way, pressurised the insurgent groups and on the other way made efforts to get the undergrounds to negotiation table. Several Peace missions were initiated, but there was no response from the NSCN side. However the issue had its own disagreements within the ranks of the underground organisation and brought intra-party feuds to the forefront. On April 30<sup>th</sup>, 1988, an attempt to assassinate Muivah and Tangkhul cadre in the NSCN set-up was executed in which a large number of undergrounds were killed. However, Muivah escaped and as a result, NSCN was vertically split into two factions namely NSCN led by Isak and Muivah (NSCN-IM) and NSCN led by S.S. Khaplang (NSCN-K). It was the bloodiest internal clash in the history of Naga insurgency. The NSCN split, when Khaplang suspected Isak and Muivah of secretly initiating talks with the Indian Government.

After the death of Phizo in 1990, the NNC suffered yet another division with a rival faction led by Adinno, daughter of Phizo and Khadao Youthan, an old associate and follower of Phizo. However, NSCN-IM has strength and weapons to dominate other outfits operating in Nagaland. It has moved from strength to strength and has been more aggressive and assertive than the other outfits. "Officials in Delhi started describing the NSCN as the 'mother of all insurgencies' in the region. It has in fact, become a central force in the Northeastern insurgency by expanding its range of operations" (Horam, 1988). The method of violence by the core insurgent group against the Indian State and the deployment of counter-insurgency measures as a response to them also reveals another important dimension of the ethnic insurgency in the region. NSCN analyses that the utter exploitation and domination by the Indian elite will surely pave the way for the "discontented peoples and nationalities" to revolt against the state, the ideological base of the Union is already on the wane and the territorial integrity of the Indian state could hardly be maintained by using force alone, in the absence of any charismatic leadership at the center. This perception has let the ideologies of the NSCN-IM to use the growing discontentment of the different ethnic groups against the Indian State.

## **2.7 NSCN's strategy:**

The NSCN-IM, as part of its strategy of insurgency, played a role in formation of several ethnic insurgent organisations. After the surrender of A'Chik Liberation Matgrik Army (ALMA), a Garo insurgent organisation, on October 25, 1994, it came to the forefront that it was masterminded by NSCN-IM.<sup>24</sup> It is also learnt that while staying in Dimapur the General secretary of ALMA, came in contact with NSCN-IM activists, who sowed the idea of floating an insurgent group in Garo Hills, involving the disgruntled Garo youths. And hence, in sometime in 1991.<sup>25</sup> The main motive of this act was to make a quick fortune at gunpoint. The NSCN-IM trained the Garo youths and during ALMA's existence of three years, it committed a series of bank robberies, which were jointly undertaken by ALMA and NSCN-IM. The looted money was divided in such a way that 70 percent of the booty used to go to the NSCN-IM as charges for providing services, arms and ammunitions etc. and 30 percent was left with the ALMA. Following the disillusionment, the ALMA activists surrendered in 1994. A somewhat similar experience is also gained following the surrender of the Dimasa National Volunteers (DNV) of North Cachar Hills (Assam) as well as Hmar People's Convention (HPC) of Mizoram. The reported NSCN-IM links with Hynniewtrep National Liberation Council (HNLC) and A'chik National Volunteers Council (ANVC) of Meghalaya, National Democratic Front of Boroland of Assam (NDFB) and National Liberation Front of Tripura (NLFT) turns out to be part of a similar game plan of NSCN-IM as has been manifested in the ALMA syndrome.<sup>26</sup>

The Mizoram police has established the close relation between NSCN-IM and Hmar People's Convention (Democrat) insurgents who had abducted six NEEPCO employees on March 31, 2000.<sup>27</sup> NSCN-IM has also brought outfits like People's United Liberation Front (PULF), Muslim United Liberation Tigers of Assam (MULTA), and Zomi Revolutionary Army (ZRA), under its fold. These organisations have, of late, been involved in killings, kidnappings and extortions with their bases in Jiribam in the central district of Manipur. These outfits are on an extortion drive to procure sophisticated weapons. NSCN-IM is

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<sup>24</sup> The Shillong Times, November 11, 1993.

<sup>25</sup> . B. Pakem, *Insurgency in North-East India*, (New Delhi: OMSONS Publications), p. 190.

<sup>26</sup> The North East Sun, "Ultras Give Shillong the Shudders", July 15-31, 1999, p. 16.

<sup>27</sup> The Sentinal, Guwahati, April 22, 2000.

providing training to the cadres of these outfits in the Jiribam jungles.<sup>28</sup> These smaller ethnic insurgent groups act more as extortionists rather than insurgents and seemingly play at the hands of NSCN-IM. The reason to float such small ethnic group helps to keep the counter-insurgency agencies like police, army, intelligence, etc. busy rather than concentrating in the strongholds of the core insurgent group. It also helps the core insurgent group to mobilise additional resources, from areas beyond its sphere of influence as well as provides the necessary cover-ups for its operations in an altogether different ethno-social milieu. Besides the above mentioned reasons it serves the purpose of turning its own war with the Indian State into a war of the nationalities of the region. The NSCN-IM has kind of become a united front by coordinating the activities of other ethnic insurgent groups. As for example, under the leadership of NSCN-IM, United Liberation Front of the Seven Sisters (ULFSS) in 1993 was formed. Since ULFSS was not a great success, NSCN-IM again formed Self-Defense United Front of the South-East Himalayan Region (SDUFSEHR) in 30<sup>th</sup> November 1994. The other militant outfits which were harnessed to come under the overall control of SDUFSEHR are: National Democratic Front for Boroland (NDFB) of Assam, H'mar Peoples' Convention (HPC) of Manipur, the Kanglei Yawol Kanna Lup (Oken) of Manipur, Hynneiwtrep National Liberation Army of Meghalaya, the United Liberation Volunteers (ULV) of Arunachal, All Tripura Tribal Force (ATTF) of Tripura and some other fringe groups.<sup>29</sup>

The Nagas under NSCN-IM seem to be toying with various alternatives of forming a new Nagaland. First seems to be an independent Nagaland comprising the present Nagaland, the Naga inhabited areas of Manipur and Myanmar but there are two other alternatives. While one is to integrate the Naga inhabited districts of Manipur into Nagaland under the Indian constitution, the other seems to form a 'Southern Nagaland' comprising the districts of Senapati, Ukhrul, Chandel and Tamenglong with the Indian Union (Kotwal, 2000). It has already gained control over the Tamenglong district where the Zeliangrogs Nagas live. This will evidently bring the Meiteis of Manipur into conflict with the Nagas. The People's Liberation Army (PLA), the People's Revolutionary Party of Kangleipak (PREPAK), the

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<sup>28</sup> The Sentinel, Guwahati, April 25, 2000.

<sup>29</sup> The North East Sun, "Valley Insurgents New Front", March 15-31, 1999, p. 5.

Revolutionary People's Front (RPF), United National Liberation Front (UNLF) of Manipur are committed to make Manipur independent and so will not accept Naga-inhabited areas of Manipur going to Nagaland.<sup>30</sup> But the Nagas keep hold of the agreement that was reached between them and the Government of India in 1960 that the adjacent Naga-inhabited areas will eventually be integrated to Nagaland (Singh, 1972). Nagaland has passed a bill in the Assembly demanding the merger of Naga inhabited areas of Manipur under the terms of Naga People's Convention and Government of India Act. Thus, there seems to be a remote possibility of some concessions being made to the Naga insurgents in view of the sentiments of the Manipuri people as well as the insurgent group's threats.

## **2.8 Naga Insurgency and Frustration Aggression theory:**

In 1939, Dollard, Doob, Miller, Mowrer, and Sears published a monograph on aggression in which they presented what has come to be known as the frustration-aggression hypothesis (F-A). Principle to this theory was posited "that the occurrence of aggressive behavior always presupposes the existence of frustration and, contrariwise, that the existence of frustration always leads to some form of aggression". It was soon recognized that the initial claims – (a) that aggression is always based on frustration and (b) that frustration always leads to aggression – were far too general. These blames made frustration both a necessary and sufficient condition for aggression.

Miller, therefore, rephrased the second part of the hypothesis to read, "Frustration produces instigations to a number of different types of response, one of which is an instigation to some form of aggression".

The revised F-A hypothesis thus maintains the following: (a) Frustration instigates behavior that may or may not be hostile or aggressive. (b) Any hostile or aggressive behavior that occurs is caused by frustration. In other words, frustration is not a sufficient,

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<sup>30</sup> These Manipur based insurgent outfits have formed a new front called the Manipur Peoples Liberation Front (MPLF) on March 1, 1999 with declaration to jointly carry out the operations against the security forces, See The North East Sun, March 15-31, 1999, p. 5.

but a necessary, condition for hostility and aggression. “Minor frustrations add together to produce an aggressive response of greater strength than would normally be expected from the frustrating situation that appears to be the immediate antecedent of the aggression”.

Relating the F-A theory with the Naga insurgency, it can be derived that, the Naga insurgency is a produce of their elongated frustration, which started when they submitted a memorandum in which they demanded exclusion from the political processes taking part in the Indian subcontinent. The frustration of the Nagas became not a sufficient but a necessary condition to take up arms and wage an armed struggle against Indian Union.

Therefore, the origins of the Naga insurgency can be understood in the light of Frustration Aggression theory. Where the demand for independent Nagaland was not met and instead a ten year agreement was signed. Which then, fueled more to the insurgency. The boycotting of general elections in 1952, is one of the signs of aggression which escalated and reached newer heights in course of time.

## **Chapter 3: The Armed Forces Special Powers Act; Boon or Bane**

### **3.1 Introduction:**

The Armed Forces Special Powers Act (AFSPA) is an act empowering armed forces to deal effectively in disturbed areas. Any area which is declared “disturbed” under disturbed areas act enables armed forces to resort to the provisions of AFSPA. The choice of declaring any area as ‘disturbed’ vests both with state and central government. After an area comes under the ambit of AFSPA, any commissioned officer, warrant officer, non-commissioned officer or another person of equivalent rank can use force for a variety of reasons while still being immune to the prosecution.

This act gives security forces the powers to search, arrest and even kill any person on mere suspicion is operational in all the states of Northeast except Sikkim. Under this act, no action can be taken against the security forces personnel unless with prior sanction of the Central Government.

The AFSPA is imposed in areas affected by internal rebellion, insurgency or militancy. Since it is a common practice in the country to deploy the armed forces to quell such unrest, this Act provides the armed forces with an enabling environment to carry out their duties without fear of being prosecuted for their actions (Das, 2012).

### **3.2 Genesis of AFSPA:**

The origins of the Armed Forces (Special Powers) Act of 1958 can be said, is the re-incarnation of British colonial laws like the Rowlatt Act, 1919. The Armed Forces Special Powers Act, 1958 can be traced back to the Armed Forces (Special Powers) Act of 1948, which was enacted to replace four ordinances - the Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance; the Assam Disturbed Areas (Special Powers of Armed Forces) Ordinance; the East Bengal Disturbed Areas (Special Powers of Armed Forces) Ordinance; the United provinces Disturbed Areas (Special Powers of Armed Forces) Ordinance. Again, the Armed Forces Special Powers Act of 1948, can be traced

back to 1942. Where Armed Forces Special Powers Ordinance was promulgated by the British on August 15, 1942 to suppress the 'Quit India' movement.

Chronologically, the origin of AFSPA 1958 can be said started from 1942, which got transformed from time to time and became severer each time. The "Armed Forces special Powers Ordinance" of 1942 transformed to "Armed Forces (Special Powers) Act" in 1948, then in 1957, the Armed Forces (Special Powers) Act of 1948 was repealed, but within a year was implemented again, that is 1958. In May 22, 1958 The President of India promulgated the Armed Forces (Assam and Manipur) Special Powers Ordinance to confer 'special powers' on the armed forces and also to provide the armed forces the legal framework to function in the disturbed areas<sup>31</sup>. Then in August 18, 1958, the Indian Parliament debated the adoption of the AFSPA to be applied to the hill areas of Assam, particularly the Naga Hills, and the then Union Territory of Manipur, to assist the Indian armed forces in fighting armed opponents. The Home Minister, G. B. Pant, explained that it was a temporary measure meant for short and swift application and will enable the armed forces to operate effectively<sup>32</sup>. To ensure this, he even included a provision for a six monthly review (Veda, 2005). It was opposed by only two members of Parliament (MPs) - both from Manipur. Laishram Achaw Singh, one of the MP, described the bill as a "lawless law"<sup>33</sup> stating:

*I fail to understand why the military authorities are to be invested with special powers. I have found that these military authorities have always committed excesses in many cases, especially in the subdivisions of Kohima and Mokukchung [present-day Nagaland] ... such things have deteriorated the situation. The tribal people have risen against the military people there. It is, therefore, dangerous to invest the military authorities with extraordinary powers of killing and of arrest without warrant and of house breaking ... This is a lawless law ... I am afraid that this measure will only sever the right of the people and harass innocent folk and deteriorate the situation<sup>34</sup>.*

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<sup>31</sup> *The Armed Forces (Special Powers) Act, 1958* at [http://mha.nic.in/pdfs/armed\\_forces\\_special\\_powers\\_act1958.pdf](http://mha.nic.in/pdfs/armed_forces_special_powers_act1958.pdf), Accessed on 23 March 2013).

<sup>32</sup> Home Minister G B Pant as quoted in *The AFSPA: Lawless Law Enforcement According to the Law?* (New Delhi: Asian Centre for Human Rights, 2005), p 3.

<sup>33</sup> Mr. Laishram Achaw Singh, as quoted in *The AFSPA: Lawless Law Enforcement According to the Law?* (New Delhi: Asian Centre for Human Rights, 2005), p 3.

<sup>34</sup> Combat Law. 2003. Armed Forces (Special Powers) Act – Repressive law. *Combat Law*, 2(1) <http://combatlaw.org/v2i1.php> (Accessed 23 March 2013).

Beside Singh, few other objections were recorded (McDuie-Ra, 2009) and then in September 11, 1958 Armed Forces Special Powers Act received the President's assent and was printed in the Statute Book as The Armed Forces(Special Powers) Act, 1958 (28 of 1958)<sup>35</sup>.

The AFSPA can be applied to areas in all states of the Northeast with the exception of Sikkim. It applies to any area declared 'disturbed' by the central government. In such areas, the armed forces, including paramilitary forces – some of which have been created especially for operations in the Northeast – are given extraordinary powers.

Section 3 of the Act empowered the Governor/Administrator of the State/Union Territory to use the armed forces to aid the civilian power, if he was of the opinion that the situation was disturbed enough to demand such an action. He could do so by declaring the entire State/Union Territory, or a part of it, as a disturbed area through a notification in the official gazette. However, it is unclear whether the Governor, of a disturbed area has to ask the Central Government to send in the armed forces or, whether the Central Government on its own can send the army to aid the civil administration once an area has been declared 'disturbed'<sup>36</sup> (Das, 2012). In Section 4, first, the Act allows 'any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces' to fire 'even to the causing of death' upon any person acting in contravention of any law or order, any person carrying weapons or anything capable of being used as a weapon, and to prohibit the assembly of more than five people (Ministry of Home Affairs 1958/1998, Section 4a). Secondly, the Act allows armed forces personnel to arrest without warrant and with any necessary force 'any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence' (Ministry of Home Affairs 1958/1998, Section 4c). Thirdly, the Act allows armed forces personnel to enter and search any premises without a warrant to 'make any such arrest' (Ministry of Home Affairs 1958/1998, Section 4d). Once a person has been arrested under the Act, Section 5 instructs that they only be handed over to police

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<sup>35</sup> *The Armed Forces (Special Powers) Act, 1958*, n 10.

<sup>36</sup> *Report of the Committee to Review the Armed Forces (Special Powers) Act of 1958*, n 4, p 13.

with ‘the least possible delay’, although this was amended in 1997 to recommend that persons arrested be brought before a district magistrate within 24 hours, excluding transportation time. The most significant part of the Act is Section 6, which states:

*No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act (Ministry of Home Affairs 1958/1998, Section 6).*

The AFSPA, 1958 is more severe than Armed Forces Special Power Ordinance, 1942. The ordinance of 1942, specified that ‘competent’ officer should be of the rank of a “captain or equivalent”, which means that the British placed the burden of taking crucial decision on well trained responsible officer so that the powers should not be misused. But the AFSPA of 1958, lowered the rank of ‘competent’ officer to that of a havildar/jamadar, thus allowing almost every soldier to use force with impunity. Also, the AFSPA of 1958 provides special powers to the armed forces personnel to enter and search any premises without warrant as well as destroy/dismantle any structure, which is suspected to give shelter to the rebels. This was not provided for in the ordinance of 1942<sup>37</sup>.

Initially, Uttar Pradesh, Madhya Pradesh and Andhra Pradesh police were deployed in the areas where AFSPA was operational. The Assam Rifles was only used sporadically and no counter-insurgency operations were carried out. In course of time on August 1, 1963, a special division called “8<sup>th</sup> Mountain Division” was raised in Ranchi for carrying out counter insurgency operations in the North-east. It was first deployed in Zakhama near Kohima. In 1964, the army moved into Ukhrul district of Manipur because of Naga insurgents (Veda, 2005).

### **3.3 Areas covered under AFSPA:**

Initially the Armed Forces Special Powers (Assam and Manipur) was implemented for only a period of one year in the Naga-inhabited areas of Assam and Manipur but later it was extended to other areas of the Northeast as well. In 1964, the United National Liberation

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<sup>37</sup> *The AFSPA: Lawless Law Enforcement According to the Law?* , n 12, p 93.

Front (UNLF) demanded the separation of Manipur from the Indian Union. In January 1965, Mizoram (then the Lushai Hills district) was declared disturbed. And due to the increasing insurgent activities by Mizo National Front (MNF), AFSPA was enforced in 1966. In the case of Manipur, however, the Act was imposed in a phased manner—starting from 1970s<sup>38</sup>.

Meanwhile, due to the increasing insurgent activities in Tripura by National Liberation Front of Tripura (NLFT), Tripura was declared disturbed in 1970 and in the same year AFSPA was also implemented. Now, the AFSPA was amended as the “Armed Forces Special Powers (Extension to Union Territory of Tripura) Act” in 1970 to enable its enforcement in Tripura. A year later, the Central Government passed the North-Eastern Areas (Reorganisation) Act in 1971, which provided for the creation of the states of Manipur, Tripura and Meghalaya and the union territories of Mizoram and Arunachal Pradesh<sup>39</sup>.

With respect to the Central Government’s unilateral action to declare Tripura as a disturbed area as well as the formation of new states and union territories in the region, the Government of India decided to make appropriate amendments to the Armed Forces (Special Powers Act) of 1958. Thus, in 1972, the Armed Forces (Special Powers) Act of 1958 was amended as the Armed Forces Special Powers (Amendment) Act, 1972. The first amendment was brought in the preamble of the Act, which substituted the words: “in the State of Assam and the Union Territory of Manipur” with the words: “in the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and Union Territories of Arunachal Pradesh and Mizoram”<sup>40</sup>. The most important amendment was brought about through Act 7 of 1972, which conferred the power of declaring an area to be disturbed concurrently

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<sup>38</sup> Ranjana Mishra, “AFSPA and Human Rights: Its use and Abuse in Manipur”, *Think India Quarterly*, p 40, at <http://www.thinkindiaquarterly.org/thinkindiaquarterly/Backend/ModuleFiles/Article/Attachments/RanjanaMishra.pdf>, accessed on 14 June 2013.

<sup>39</sup> *The North-Eastern Areas (Reorganisation) Act, 1971*, Act No. 81 of 1971, 30<sup>th</sup> December, 1971, at <http://www.indiankanoon.org/doc/318384/>, accessed on 14 June 2013

<sup>40</sup> *The Armed Forces (Assam and Manipur) Special Powers Act (Amendment) 1972*, at [www.amanpanchayat.org/documents/.../afspa\\_amendment.doc](http://www.amanpanchayat.org/documents/.../afspa_amendment.doc), accessed on 14 June 2013.

upon the center and the state. In 1986, when Mizoram and Arunachal Pradesh were granted statehood, the Act was applicably adapted to apply to these states as well.

The removal of 'disturbed' status in Mizoram was the result of a peace accord between the Indian Government and the Mizo National Front in 1986, resulting in the creation of Mizoram as a state. Yet, prior to this Mizoram was a 'disturbed' area for 19 years, and before this, in 1966, was bombed by the Indian Air Force (Dommen, 1967). In 1990, due to the increasing insurgent activities by the United Liberation Force of Asom (ULFA) in Assam, the entire state was declared as a disturbed area and the Armed Forces (Assam and Manipur) Special Powers Act was enforced. Apart from North-east India AFSPA is enforced in two other States, they are Punjab and Jammu & Kashmir.

In the early 1980s Punjab witnessed the outbreak of insurgency, which necessitated the imposition of AFSPA. The advocating of the 'Sikh cause' by the Akali Dal in 1980 and the demand for a separate Khalistan for Sikhs in 1982, that brought matters to a boil. The struggle for supremacy among various Sikh factions as well as the simultaneous rebellion against the central government worsened the security situation (Telford, 1992) in the state forcing the Punjab and the Chandigarh Governments to declare the whole state as well as the city of Chandigarh as a 'disturbed area' under the Punjab Disturbed Areas Act and the Chandigarh Disturbed Areas Act of 1983.

The Central Government publicised the Armed Forces (Punjab and Chandigarh) Special Powers Act on October 6, 1983 to enable the Central Armed Forces to operate in the state and the union territory. The terms of the Act more or less remained the same as that of the Armed Forces (Assam and Manipur) Special Powers Act of 1972 except for two sections, which provided additional powers to the armed forces. First, a sub-section (e) was added to Section 4 stipulating that any vehicle can be stopped, searched and seized forcibly if it is suspected of carrying proclaimed offenders or ammunition<sup>41</sup>. Secondly, Section 5 was added to the Act specifying that a soldier has the power to break open any locks "if the key

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<sup>41</sup> "Section 4 (e)," *The Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983 (34 of 1983)*, 8 December 1983, at <http://punjabrevenue.nic.in/armsact.htm>, accessed on 14 June 2013.

thereof is withheld”<sup>42</sup>. The Armed Forces (Punjab and Chandigarh) Special Powers Act was enforced in the whole of Punjab and Chandigarh on October 15, 1983. Punjab Government withdrew the Disturbed Areas Act and also the Armed Forces (Punjab and Chandigarh) Special Powers Act in 1997, but it continues to operate in the union territory of Chandigarh<sup>43</sup>.

As the Sikh militancy was gaining intensity, meanwhile in Kashmir an armed separatist movement started in 1989. Kashmir has been a bone of contention between India and Pakistan over which both countries have fought four wars (Ganguly & Bajpai, 1994). Initially, the insurgency was purely indigenous but soon Pakistan started abetting and supporting the insurgents. As the situation in the state began to deteriorate, the Central Government imposed Governor’s rule in January 1990. In September 11, 1990, the Governor invoked the Disturbed Areas Act and the state was declared as disturbed. Simultaneously the Central Government enacted the Armed Forces (Jammu and Kashmir) Special Powers Act and enforced it retrospectively from July 5 1990. Initially, the Act was enforced in six districts (Anantnag, Baramulla, Badgam, Kupwara, Pulwama and Srinagar) as well as in areas within 20 kilometers of the line of control in Poonch and Rajouri districts<sup>44</sup>. Eleven years later, in 2001, six more districts (Jammu, Kathu, Udhampur, Poonch, Rajouri and Doda) were brought under the purview of the Act<sup>45</sup>.

While militancy has increased in some areas, it has decreased in others. Importantly, militant groups do not always receive widespread popular support from the communities that they claim to represent (McDuie-Ra, 2009). Again this is not uniform; in some parts

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<sup>42</sup> “Section 5,” *The Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983 (34 of 1983)*, 8 December 1983, at <http://punjabrevenue.nic.in/armsact.htm>, accessed on 14 June 2013.

<sup>43</sup> “City is still ‘disturbed area’,” *The Times of India*, Chandigarh, 10 January 2012 at [http://articles.timesofindia.indiatimes.com/2012-01-10/chandigarh/30611358\\_1\\_punjab-chandigarh-administration-post-of-chief-commissioner](http://articles.timesofindia.indiatimes.com/2012-01-10/chandigarh/30611358_1_punjab-chandigarh-administration-post-of-chief-commissioner), accessed on 14 June 2013.

<sup>44</sup> *The Jammu and Kashmir Government Gazette*, Vol 103, Srinagar, July 6, 1990, Civil Secretariat Home Department, Government of Jammu and Kashmir, at [http://mha.nic.in/pdfs/Armed%20forces%20\\_J&K\\_%20Spl.%20powers%20 act,%201990.pdf](http://mha.nic.in/pdfs/Armed%20forces%20_J&K_%20Spl.%20powers%20 act,%201990.pdf), accessed on 14 June 2013.

<sup>45</sup> Notification, Srinagar, 10 August 2001, Civil Secretariat Home Department, Government of Jammu and Kashmir, at [http://mha.nic.in/pdfs/Armed%20 forces%20\\_J&K\\_%20Spl.%20powers%20act,%201990.pdf](http://mha.nic.in/pdfs/Armed%20 forces%20_J&K_%20Spl.%20powers%20act,%201990.pdf), accessed on 14 June 2013).

of the region, militant groups enjoy deep community support and legitimacy, as throughout the Mizo struggle; in others, they are viewed as an antisocial element involved in organized crime and extortion, as in parts of Meghalaya for instance. The increase in militancy has been used to argue that the Act is ineffective and that it has actually made the situation in the Northeast worse, yet it is also used by the Act's proponents as proof that the Act should not be repealed and extraordinary powers are necessary (Baruah, 2005).

### **3.4 AFSPA at international level:**

At the international level the Act is discussed as a violation of basic Human Rights and also violations of India's international obligations, it violates the core human rights norms like, the right to life, by allowing the armed forces to shoot to kill (Section 4a). It also violates the right to liberty and security by enabling the armed force to arrest and detain anyone based on mere suspicion with no clearly specified date of release (Section 4c). It creates an environment where the right to be free from torture and from cruel or degrading treatment can be violated, and indeed allegations of torture, rape, and abuse at the hands of the armed forces operating under the Act abound.

The AFSPA provides impunity for the armed forces and paramilitary. Impunity is present in two forms; *de facto* impunity in which the state fails to prosecute, due to lack of will or capacity, and *de jure* impunity in which laws protect perpetrators of human rights abuse, making it extremely difficult to bring cases against perpetrators. The AFSPA provides *de jure* impunity in that members of the armed forces are not prosecuted in civilian courts, and under the provisions of the Act many human rights violations are not deemed criminal. Yet it also provides a form of *de facto* impunity as military courts responsible for prosecuting soldiers have often failed to investigate human rights violations or been 'simply unwilling' to bring charges against military personnel (Human Rights Watch, 2008).

A 2008 report of the Asian Centre for Human Rights provides evidence to demonstrate that, despite a 1997 amendment to the AFSPA that any person arrested under the Act must be handed over to civilian authorities within 24 hours, this is frequently ignored. In many

cases, persons arrested have been detained for periods ranging from one week to several months. These periods of detention have facilitated torture and murder by the armed forces (Asian Centre for Human Rights, 2008). The “Committee on the Elimination of Racial Discrimination” at the United Nations, on its 70<sup>th</sup> session has gone to the extent of expressing concern that the armed forces under AFSPA continue to act with impunity in states that are ‘inhabited by tribal peoples’<sup>46</sup>.

### **3.5 AFSPA: A permanent “state of exception”**

The Armed Forces Special Powers Act 1958, has always been the focus of any discussion of the problems of Northeast India. Its continuance has indeed become what Giorgio Agamben termed a permanent “state of exception”, during which the civil rights of citizens or a section of citizens of a state are willfully and severely curtailed by the state (Phanjoubam, 2013). The state of exception in the Northeast is permanent not temporary. In his detailed study of extraordinary laws in India, Singh argues that exceptional contexts only gain meaning when compared with normal contexts, and thus ‘the normal ... stands outside and parallel to the exception, and yet is integrally related to it ... the exception cannot have any meaning unless there is a normal situation that offsets it’ (Singh, 2007).

As an extraordinary law governing an exceptional place, the AFSPA has not been subject to national political debate in the same way as other Acts that affect people with greater political representation at the center. The POTA was vigorously opposed and made a national election issue by the Congress in 2004, leading to its removal. The Terrorism and Destructive Activities Act 1985 was allowed to lapse after 10 years and was not renewed. The UAPA has undergone several major amendments, although admittedly many of these amendments have made the law more draconian as it has absorbed elements of the POTA. Yet the AFSPA remains in place. Recommendations for its repeal, as will be seen below, are readily countered by the seemingly logical national security argument. In defense of

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<sup>46</sup> Committee on the Elimination of Racial Discrimination. . *Consideration of reports submitted by states parties under Article 9 of the Convention: India*. ERD/C/IND/CO/19. CERD Seventieth session. February 19–March 9. New York: United Nations.

the Act, the Northeast is cited as too violent, too unstable, and too strategically valuable to allow it to be 'lost' to militants (Kamboj, 2004).

At the local level the AFSPA is more than an extraordinary law. The legal frame work of the AFSPA has resulted in subsequent militarisation of everyday life. Armed personals are encountered on roads, in main towns, in the markets and in border areas. People found in proximity of borders in the Northeast, even internal borders between states, are routinely regarded as suspicious and can be subject to harassment, detention, and death. Stopping, searching and questioning have made everyday life oppressive for most people in 'disturbed areas'. This shapes the choices of the people, when they make their own movements and those of their family members, especially when movement may be necessary for education, employment, livelihoods, and healthcare. For many people in the Northeast, the home, the private sphere, provides no shelter from harassment and violence. Even for people in the region whose interactions with the armed forces have never involved more than a cursory glance or the unpacking of luggage at a checkpoint, the fear that they could be apprehended at any moment or that their houses could be entered by armed men or that a family member may not return from work is entrenched.

The militarisation of the Northeast and the AFSPA has affected the young men from hill areas. Young men are profiled as insurgents by the military and are the targets of recruitment by insurgents. They are subject to pressures and harassment from both sides. Movement, employment, education, and social networks are all jeopardized in this environment. Young men who move in groups attract high levels of suspicion and harassment, yet young men who move around on their own are far more vulnerable to harassment and without a companion it can be difficult to trace individuals when disappearances occur. The psychological impact of militarisation has on young men is rarely examined beyond being a catalyst to join militant groups and/or the armed forces. Attention from scholars and civil society is given to combatants and to the role of men in ethno-nationalist and student movements, but little attention is given to the impacts of militarisation on non-combatants, particularly the long-term psychological impacts of living in this environment.

The important question then arises is, how do this extraordinary situation to be tackled? Unless this question is addressed in earnest and a satisfactory answer is arrived at, the hawks who believe there is no substitute for AFSPA, probably will continue to hold the upper hand. In this sense, the continuance of AFSPA is not just about the triumph of illiberal dogmatism, but equally of a profound liberal failure (Phanjoubam, 2013).

This coercive outlook is a manifestation of the state's hegemony which says that everything must fall in line with the state's vision and any serious dissent risks the incurring of its wrath. The answer to this as proposed by the Italian thinker Antonio Gramsci is "counter hegemony". Some even go to the extent of arguing that insurgency of the Northeast variety is, or at least was, in many ways this counter hegemony (Biswas & Suklabaidya, 2008). Hegemony-counter hegemony, violence-counter violence... the oppressive cycle of the oppression phenomenon goes on and on. The goal then should be, to find a way to break this cycle somewhere. Unfortunately, this is not simply the removing of one side of the argument - in this tense dialectic, for the counter argument, can be equally hegemonic. But this is not an excuse for the continuance of AFSPA.

The question, therefore, arises "what after the AFSPA?" Whether the repeal of AFSPA is an ominous refusal? The campaign for the end to AFSPA must continue, but alongside it, in equal earnest, so must also the effort to find a liberal answer to the question "what after AFSPA?" Perhaps the quest for this Holy Grail should be a grand and collaborative project of the civil society and the state. A number of options have been suggested as alternatives to AFSPA in its present form. They range from the complete revocation of the Act to its partial revocation in some areas; to amending the Act in some manner to make the security forces operate under the Ranbir Act of the state; to replacing the Act by the Unlawful Activities Act of 2008. There are two common threads that run through the above suggestion, one is the acknowledgement of the need to provide safeguards to the armed forces to effectively operate under special circumstances, without fear of retribution for legitimate actions and to prevent misuse of powers. Both are subtle and if analyzed carefully, pose a dilemma (Sethi, 2013). Dilution or partial revocation of this act needs a deeper understanding of ground realities.

General J.J. Singh as Chief of Army Staff (2005-2007) said of calls to repeal the Act in 2005, “we are fighting an unequal battle... we need some sort of legal protection. Otherwise the army will be dragged to court every second day based on allegations against us”<sup>47</sup>. Lt General KT Parnaik, GOC-in-C Northern Command remarked in an interview that appeared on web site Rediff.com on March 22, 2012:

*Unfortunately, AFSPA has become a public debate. We look at it as an enabling Act, which enables the armed forces in certain areas to carry out the responsibilities mandated to the Army by Parliament and the Government. Over the years it has enabled us to control infiltration, to target terrorists and it is for everybody to see that the levels of violence have decreased that had peaked in 2000-02. This Act has enabled us to control the situation, in a year when the peace dividend is seemingly appearing on the horizon you don't want to disempower the army*<sup>48</sup>.

Designating areas as being under AFSPA and non AFSPA may well prove to be counterproductive and diminish the ability of security forces to undertake seamless operations. The Manipur experience has shown that the revocation of the Act in some areas could lead to non-AFSPA areas becoming safe havens. The suggestion to lift AFSPA from large towns could also result in terrorists seeking shelter to re-build bases. Any subsequent operation to reclaim the space conceded to the terrorists will be at huge human, material and political cost (Sethi, 2013).

The Central Reserve Police Force (CRPF) is the next major force in Jammu and Kashmir after army, which has 86 percent of its force deployed on static duties states, keeping AFSPA aside it is not difficult for them to operate under the provisions of CRPF in towns and cities under the directions of the magistrate. But operating in remote and rugged terrain under the same provisions becomes difficult. The counter insurgency (CI) operations essentially involve small teams, are pro-active and swift. Teams such as QRT (quick reaction team) and RAF (rapid action force) are kept ready to reinforce the engaged CI team if needed. Action on information received, is to be acted upon quickly and there is very little time to await for clearances and for magistrates to fetch up before anti-terrorist

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<sup>47</sup> Telegraph. 2005. ULFA lashes out at army chief on act. *Telegraph (Kolkata)*, February 16

<sup>48</sup> K T Parnaik in an interview with *rediff.com*, 23 March 2012, <http://www.rediff.com/news/slide-show/slide-show-1-the-general-who-protectsindias-most-critical-border/20120322.htm>, accessed on 20 June 2013

operations are launched. The CRFP also provides Road Opening Parties (ROPs) to cover national highways and some other roads. These parties split up in small teams to accomplish their task. In case a particular team is required to take offensive action to ward off any threat to the road or the convoys, they will require a magistrates' requisition to act in that situation. It will never be practical or cost effective to have magistrates exclusively dedicated for ROP tasks that are carried out through daylight hours, 365 days in a year. Many times, the magistrate who has to issue orders to search or shoot is either not available or not willing to do so at night. Many times a lady police officer is rarely present while arresting a women suspect at night. The groups operating in such circumstances require the protection and freedom of action provided by the AFSPA (Veda, 2005).

### **3.6 Citizens longing for justice:**

AFSPA has been unscrupulously used by the military establishments to eliminate common people of the 'disturbed area' under the pretext of counter insurgency operations. Worst is the total helplessness of the people in the face of complete impunity garnered by this infamous law. The United Nations described it as a "dated and colonial era law that breach contemporary international Human rights standards". In several judgments pronounced by Gauhati High Court the armed forces were held guilty of violating human rights in the name of curbing insurgency and ordered compensation by a party itself is the proof that human rights violations have taken place. In many cases, Gauhati High court ordered for initiating prosecutions as well. What has happened on the prosecution is not known to the public. Besides compensation amount varies from case to case depending upon the age, employment and family status. Families of the victim opined that the amount of compensation cannot replace a human life/rebuild life. Wounds must be healed with respect to the citizen's fundamental rights and not to be treated as a burden to the state (Choudhury, 2013). Concepts like compensation, ex-gratia damages should be updated and principles of reparation must be incorporated.

The act has deepened hatred and enmity in every Naga family because each Naga family has suffered at the hands of security forces. Numerous violations of human rights by the security forces and blatant misuse of the act is a common thing to terrorize the public.

Atrocities on general public including students, women are committed and covered under the act. In other words, it looks like that the Government is only thinking of ways to arrest insurgency without thinking the effect of it in general public. The gains of the law are extremely moot, its negative impacts have been overwhelming. The deployment of the armed forces should be the last resort and political problems must be addressed politically and not militarily, which include processes of development (Hazarika, 2005).

### **3.7 Repeal versus Review:**

The protest against the AFSPA has its own history. Though the Act was imposed on 1958, resistance to the Act started around the mid 60's. In Nagaland a group of activist including Nandita Haksar started mobilizing public opinion against the act. In Manipur, the protests started when the Act came into the valley. Assam however did not strongly reacted against the Act, probably due to the success of Unified Command system, in which the Chief Minister is the Chairman, the Chief Secretary and the head of the Strategic Group and the Army commander is just the Operational Head. In Tripura, people suffering due to the act are tribal people and not the very local. Thus the protests were strong and intense as they had both, awareness and voice. However, in these states only the civil rights group and the students groups are agitating. State legislature and politicians have done little to remove this act. On one hand, the civil rights groups want the act to be repealed and on the other hand, the lukewarm attitude of the state's politicians regarding the Act indicates the review of the Act.

Repealing the act suddenly would create a vacuum and would increase the insurgent activities, and with no common enemy the ethnic clashes will gain momentum, but again with the Act gone, the atrocities by the army will come to an end. And at least the belief on human rights by the state will be restored. Reviewing the act may not put the atrocities to an end by the armed forces, but will create a fear absent environment where the armed forces can work effectively with the local people to check the menace.

Below is a figure which helps us get a more simplified way of looking into this issue of review and repeal:

Repeal		Review	
Problems	Advantages	Problems	Advantages
Without the act the army can't operate, or rather won't operate	Restoration of belief in Human Rights and in the state	Atrocities might continue. Consequently, the agitation against them will also continue. Life will remain disrupted	A sense of security as the atrocities by the armed forces will be checked and at the same time security forces will be able to carry the counter insurgency operations
Insurgents will become more active	Will put an end to the atrocities by the armed forces	This will show that the demands of the people are not taken seriously by the govt. and will increase anti-state feeling	Can create an atmosphere conducive for a dialogue. Will provide a starting point
With no common enemy, ethnic differences will become more prominent	The Act creates anti-India sentiments. This will be checked. Further will show that the state has fulfilled the demands of the people	With just two operational clauses, there is little scope for review in the Act	Certain communities fear persecution in the absence of armed forces. This will be checked
	When the atrocities by the armed forces stop, developmental issues will once again be taken up		

Table 3.1: Repeal versus review  
Source: (Veda, 2005)

### **3.8 Some myths and realities about AFSPA**

**Myth 1.** AFSPA is covering entire North-East and the J&K.

The AFSPA is applicable in only certain parts of the North-East and the J&K. For example, in Meghalaya, the AFSPA is applicable in only a 20-km range along the Assam border. In Arunachal Pradesh, the AFSPA is applicable in the two eastern districts of Tirap and Changlang which have been declared as ‘disturbed area’. Same is the case with the J&K.

**Myth 2.** The armed forces get arbitrary power while functioning under the AFSPA.

The provisions of the AFSPA can be applied only when:

- (i) The Central Government is satisfied that the normal law and order situation has deteriorated to the extent that it can be considered a disturbed area
- (ii) The state police force is not in a position to control the situation.

Unfortunately, by the time the armed forces are called in, the state machinery and the judicial process are already influenced by the violators of law and their sympathizers. The armed forces are usually called at the ‘active’ stage and are given hardly any intelligence or operational support by the civil administration. Without any support from the existing system, it becomes difficult for the armed forces to isolate terrorists/ insurgents from the sympathetic local population.

**Myth 3:** Drastic powers have been conferred on low-ranking officials like Non-Commissioned Officers (NCOs).

In the armed forces, a NCO holds a responsible position. He may have up to 12-18 years of operational experience. When troops are deployed, the sections, which go for search and patrolling operations, are commanded by a trained NCO. In isolated places/ remote areas, while encountering insurgents, NCO is expected to take a decision as regards the suitable use of force, for which he is trained. We never question his capability in war or during the natural calamity.

**Myth 4.** While operating under the AFSPA, the armed forces do not cooperate with the civil authorities.

The AFSPA also contemplates that in the event of the deployment of the armed forces, the said forces will operate in cooperation with the civil administration. It ensures that the situation which has necessitated the deployment is dealt with more effectively and normalcy is restored faster.

In a disturbed area, the civil law has to be followed. An order under Sec. 144 of the CrPC must be in force before the powers under Sec. 4 of the AFSPA can be exercised. Before exercising the powers under the AFSPA, a warning is required to be given to those who are violating the law. The military persons exercising the powers are answerable for any breach in the policy directives issued by the Army.

**Myth 5.** AFSPA grants total immunity to the armed forces personnel.

Sec. 6 of the AFSPA requires that permission to be taken from the Central Government before prosecution. It does not suffer from arbitrariness as the order of the Central Government refusing or granting sanction under Sec. 6 is subject to judicial review.

**Myth 6.** AFSPA is a symbol of oppression, an object of hate and an instrument of high-handedness.

Justice Reddy Committee Report of 2005: "...for whatever reasons, [AFSPA] has become a symbol of oppression, an object of hate and an instrument of discrimination and highhandedness". However, other portions of the report are very rarely quoted which says, "...overwhelming majority of the citizen groups and individuals pleaded for repeal of the AFSPA, they were firmly of the view at the same time that the Army should remain to fight the insurgents".

## **Chapter 4: Peace initiatives: success and failure**

### **4.1 Introduction:**

Northeast India is most commonly perceived as a theater of insurgency and counterinsurgency. A high degree of mutual alienation marks the relationship between the population of the Northeast India and Indians on the other side of the narrow land corridor that connects this region to the rest of the country. Integration without consent, colonial attitude, nativism, legal and illegal migration, relative deprivation, cultural nationalism, increasing irredentism and criminalisation has become common in many places and has sparked violent conflicts in the region for over more than five decades. In attempts to bring an end to the conflicts, numerous peace accords have been signed by insurgent groups, State Governments and the Government of India. Peace accords are usually formal agreements between the conflict parties and can take many forms like a form of cease-fire agreement to the scope of a mini-constitution. Conflicting parties often view peace accords as endpoints that serve to end the conflict immediately.

Ever since the Nagas started demanding a sovereign independent state, number of rounds of talks and agreement were held between the Government and the rebels for maintaining peace. There were a number of accords and agreements signed between the separatists groups and the Government of India. Some worked for a temporary period and some did not work at all. Even some third party involvement was needed for building peace. Some succeeded and some added fuel to the separatist tendencies. Apart from that, couple of cease-fire agreements were signed between both the sides which are also revised from time to time. Some of them were violated and some are respected.

### **4.2 The first peace effort:**

When India was about to gain its independence, Naga leaders petitioned the British Government for their own independence, with the rationale that Indian power had never concurred them. The plea made by the Naga leaders before the Simon Commission was, “You are the only people to conquer us and when you go we should be left alone to determine ourselves as in ancient times”. This demand was however ignored by the British Government. However, in 1945, Colonial Administration agreed to form Naga District

Council. Even later, the British Government did not see as a viable option as India was undergoing with one partition.<sup>49</sup>

It can be rightfully said that the first peace efforts were started in Nagaland when the Indian advisory Committee on the Aboriginal Tribes visited Kohima in May 1947 and in June 1947 and the Naga – Akbar Hydari Accord” was signed between the then Governor of Assam, Sir Akbar Hydari and the representatives of the NNC at Kohima after three days of deliberation on the eve of India’s independence (Saikia, 2010). A minority within the Naga National Council rejected the agreement and declared Naga independence one day before India’s independence. With its newly gained confidence, the Indian state adopted a two-part strategy in Nagaland of simultaneous counter insurgency operations and talks with moderates. From the time of the agreement, alienation grew within both the moderate and extremist Naga leadership. By the late 1950’s the moderates had formed a Federal Government of Nagaland (FGN) and extremists had raised an army (Rajagopalan, 2008).

#### **4.3 The Second peace effort:**

The second peace effort was made when the NNC delegation met Mahatma Gandhi in July 1947. Where Gandhi gave assurance to the NNC delegation that saying that he would stop the Indian Government to forcefully integrate the Nagas into the Indian Union. This made an impact and impressed the Naga leaders very much. But, as time passed and in accordance to the disregard of the Naga-Akbar Hydari Accord by the Indian Government, the NNC declared its independence on August 14, 1947, just a day before Indian Independence.

#### **4.4 The third peace effort:**

Under the 16-point agreement, known as the “Naga Peoples Convention and Government of Indian Agreement”, statehood was accorded to Nagaland on 28<sup>th</sup> July 1960, and was brought under the aegis of Ministry of External Affairs. It is the 16<sup>th</sup> state of the Indian Union. The 16-points pertain to various legislative, administrative and financial provisions.

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<sup>49</sup> Baruah discussed the contents and context of a pamphlet, “Bedrock of Naga Society” that was published in 2000. It contested this view of Nag history and stresses that historically each Naga village was independent and that inter-village rivalry rather than national identity characterized the relations between Naga communities.

On 1<sup>st</sup> December 1963, Nagaland was declared as a full-fledge state. It was hoped that giving Nagaland a status of a state would help in peace processes, but on the contrary the separatists groups continued to pressurize Indian Government for independence. However, a section of the Naga society tasted the political power through constitutional mechanism and separated themselves from militancy. The issue was the Naga claim to self-determination and moderate and extremist Nagas held different positions on this question. The accord was signed with the Naga People's Convention, a subset of moderates sidelining the NNC which was then underground (Bhaumik, 2005). But the NNC refused to recognize the arrangement.

Three important principles of counter insurgency operations were not followed in Nagaland, which contributed to the acuteness of the problem. The first is to find and remove the cause of insurgency. Since the Naga quest for self-determination did not initially stem from Indian misgovernance, it was not probable to remove the cause of insurgency. The second is to make sure that the counter insurgency operations do not make the rest of the people feel alienated. Because counter insurgency operations in Nagaland included the use of torture, rough police interrogation and also failed to involve the judiciary (Rammohan, 2005).

#### **4.5 The fourth peace effort:**

A ceasefire agreement was signed between the Indian Government and the Federal Government of Nagaland (FGN) that provided for talks about the independence/integration issue as well as about army atrocities in Nagaland. These talks proved fruitless, but the efforts of the Indian Intelligence Bureau to exploit Naga tribal rivalries did not (Rajagopalan, 2008). In December 20<sup>th</sup>, 1964, a Peace Mission was constituted for Nagaland. Headed by then Chief Minister of Assam, Bimal Prasad Chaliha, the other two members of the Mission were Jaiprakash Narayan and Rev. Michael Scott, the mission was the first ever Confidence Building Measure on Nagaland, and one that achieved some notable success. But surprisingly, Rev. Michael Scott, a British Pastor, surreptitiously instigated the Naga leaders to insist on their demand for independence which was an act of sabotage of the Peace Mission's objective to find out a peaceful settlement of the Naga

problem. The Government of India having come to know about Rev. Scott's activities expelled him from India on May 3<sup>rd</sup>, 1966. Obviously, a section of Naga leaders were offended on this action and finally the Peace Mission was dissolved (Kakoti, 2000).

#### **4.6 The fifth peace effort:**

An accord was signed between the Governor of Nagaland, L.P. Singh and the "underground organisations" on 11<sup>th</sup> November 1975, known as the "Shillong Accord" whereby certain issues, including the "acceptance of the constitution of India" and "deposition of arms" etc. were discussed and agreed upon (Saikia, 2010). The Shillong accord was the result of a ceasefire agreement signed in 1974 between the Government of Indian and the underground organisations. But NNC was not even named as a signatory (Rajagopalan, 2008). This accord marked the nadir of the NNC movement (Bhaumik, 2005), because after 1971 the Nagas lost their ability to take shelter in East Pakistan after the creation of Bangladesh and support from china and Pakistan also declined. These two factors combined to make the Shillong Accord possible.

A supplementary agreement of the Shillong Accord was released and signed on 5<sup>th</sup> January, 1976, under which the representatives of the underground organisation "of their own volition" agreed to surrender and accept "without condition" the Indian Constitution. The underground organisations were to have "reasonable time to formulate other issues for discussion for the final settlement". The Shillong Accord marked the end of the most volatile phase of the Naga rebellion, an era when the movement was broad-based, militarily strong and relatively free from the virus of tribalism (Bhaumik, 2005).

Another effort was made when Prime Minister P.V. Narasimha Rao set the ball rolling by meeting with Isak Chishi Swu and T. Muivah in Paris on June 15, 1995. During the talks Mr. Rao underlined the Government's stand: "We must solve the problem through political talks and dialogue."<sup>50</sup> Prime Minister H.D. Deve Gowda went as far as sending the former Union Minister for State, Rajesh Pilot in November 1996, on a secret trip to Bangkok for bringing the NSCN-IM to the path of negotiation. Mr. Deve Gowda and NSCN-IM leaders

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<sup>50</sup> The North-East Sun, "Good Beginning doubtful Ending" October 15-31, 1999.

met on February 3, 1997, in Zurich, Switzerland. The ceasefire with NSCN-IM came into force in August 1997.<sup>51</sup>

#### **4.7 The sixth peace effort:**

In December 1997, the Union Government and the NSCN-IM finalized a set of 11 ground rules to undertake steps for “effective and unambiguous implementation of the prevailing cease-fire in Nagaland” (Saikia, 2010). This ceasefire initiated peace negotiation on three conditions: unconditional talks, highest level representatives (such as the Prime Minister) and third country location. Pleasure to conclude a ceasefire came from within the Indian army, which was convinced the political problem could not be solved by military action (Manchanda, 2005). This ceasefire was initially between the NSCN-IM and security forces in Nagaland and Manipur states. The Government agreed not to conduct operations against militants, expect for patrolling the international and state borders, and the militants agreed not to raid, kill, extort, kidnap or disrupt normal life in any way (Rammohan, 2005).

#### **4.8 The seventh peace effort:**

On 13<sup>th</sup> January, 2001, representatives of the Government of India and the NSCN-IM finalized, in New Delhi, a new set of ground rules to govern the existing ceasefire between the two parties, known as “Revised Ground Rules for Ceasefire between Government of India and NSCN-IM”. The Khaplang group of the NSCN was not a party to the ceasefire. The “partial” ceasefire agreement saw a spurt in the Khaplang group’s attacks on security forces and in the fratricidal killings (Manchanda, 2005). On 28<sup>th</sup> May, 2001, the Government of India declared a ceasefire agreement with the NSCN-K for a period of one year. This followed a round of discussion between the Center’s representatives led by Additional Secretary, Ministry of Home Affairs and Dr. P.D. Shenoy and representatives of the NSCN-K led by Mr. Tongmeth Wangnao Konyak.

It may be noted that the ceasefire in 1964 as per Peace Mission Proposal had been proceeded by statehood to Nagaland and 1974 ceasefire had been followed by the Shillong Accord. Both are now recognized as disasters in the history peace processes. It is believed

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<sup>51</sup> The Assam Tribune, "Naga Talks In Jeopardy" February 4, 2000

that the ceasefire enables the Government to continue its policy of suppression under the grab of ceasefire. The Government also complains that the ceasefire has become for the rebels a “license to kill”. In fact, there is no dearth of report about violation of the terms and conditions of the ceasefire. One of its guidelines prohibits collection of money. But extortion has been a regular feature. By and large, insurgency is the most flourishing industry in this part of the country. Membership in any of the outfits ensures an income to all cadres in the absence of other productive avenues of employment (Phukon, 2006).

During the decades of ceasefire and peace talks three issues were and are important to the Nagas: recognition of their unique history that they were never been ruled by others and lived in their own land; territorial integration of all Nagas; and sovereignty (Prabhakara, 2005). The Nagas will settle for territorial integration temporarily (Brahma, 2006), but the core issues behind the conflict have not been addressed (Das, 2005). The basic issue has remained the same, the status of signatories has changed, as the nature of insurgency.

Since the start of the Naga ceasefire and the peace talks in 1997, the Naga civil society organisations like the Naga Hoho, Naga Students Federation, Naga People’s Movement for Human Rights, Naga Mothers Association, United Naga Council and All Naga Students Manipur, Naga Women’s Union, Churches fully endorsed the peace processes.

Most of these civil societies draw their legitimacy from the traditional democratic structures of authority in Naga tribal society. The Naga social organisations work closely together as a family but without hierarchy. As NMA President Neidonuo Angami explained, “we have no control over the Hoho, and it has no control over us. We all have different roles to play in this peace process. We appreciate their roles and they appreciate ours”. The NSCN-IM leadership has publicly recognized the strategic value of the mobilisation of Naga civil society, including women and granted them legitimacy as stakeholders in the peace process.

Naga peace talks opened a space for greater participation of Naga civil organisations, intellectuals and individuals. Naga civil society organisations also launched “Journey of Conscience”, an initiative to talk to the rest of India. Started in Delhi on 30<sup>th</sup> January 2000, at Mahatma Gandhi’s death anniversary at his *Samadhi* and observed silence in remembrance of the Nagas and Indians who died in the decades of long struggle. An

Eminent Naga social worker Niketu Iralu stated that, “we will convince them what we want and then talk it out. We believe that in doing so our relationship will be mended and an acceptable way will be found towards resolving the conflict between us and India.”<sup>52</sup>

#### **4.9 Naga Consultation Meetings:**

As the civil society organisations were actively participating and playing an important part in the peace processes, the NSCN-IM leadership initiated the first General Meeting of the Consultative Body on 31st May to 2<sup>nd</sup> June 1999 at Niuland, Nagaland. The objective of the deliberation was to generate and invite people’s opinion and suggestions for an amicable solution (Shimray, 2007).

The second Consultation meeting was held on 7<sup>th</sup> to 11<sup>th</sup> January in 2001, in Bangkok, under the theme of “Strengthening the Peace Strategy”. Here, the objective was “reconciliation and Realisation”, which was based on mutual understanding, forgiveness, repentance, mutual acceptance and acknowledgement of one another. The delegations of this meeting included representative of different civil society organisations not only from Nagaland but also from other states like Assam, Manipur and Arunachal Pradesh.

The third Consultation meeting was held in the same place as the former and under the same theme. This time the delegations declared to make a clarion call to the Nagas to come forward to support and participate in the peace processes so that the Indo-Naga political problem may be solved.

Drawn from the third consultation meeting, the fourth consultation meeting was basically themed to “Strengthen Indo-Naga Political Talks”. This was considered to be the biggest Naga gathering attended by more than six thousand Nagas from all walks of life. The meeting was held on 20<sup>th</sup> to 21<sup>th</sup> January 2005, at NSCN-IM’s Council Headquarter, Hebron, Nagaland. This biggest Naga gathering resulted in four point declaration that is to come to an honorable solution to Indo-Naga political issue, unification of all Naga areas is legitimate and non-negotiable, the political solution should be through peaceful means and

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<sup>52</sup> Times of India, 2000, “Proximity and Distances”, N.C. Sapathey interview to Niketu Iralu, 8 February.

the Government of India and NSCN should show sincerity towards finding a political solution.

The fifth round of Naga Consultation round was held at Bangkok on 6<sup>th</sup> to 7<sup>th</sup> September 2005. The meeting basically hovered around the unification of all Naga areas. The General Secretary of NSCN-IM, Th. Muivah indicating the Indian Government said that, “they are not understanding the fact that it is impossible to accept any settlement without the unification of the Naga areas. It is meaningless to talk of Naga solution without uniting the Naga areas. The Nagas are not claiming any land from anybody. Nagas have been living in their own land and territories. Our land has been there since time immemorial and there is no dispute about this, but today these lands have put and named differently. It is the division, which was drawn by the Indians against the will of the Nagas. We were never ruled by the Britishers or any Maharajas.”<sup>53</sup>

#### **4.10 Naga Reconciliation Process:**

Understanding that “People-to-people” dialogue is considered a tenable political too to synthesize the contending issue, the Naga civil society launched a reconciliation process. For a long period, Naga’s itself messed up the issue with internal problems like different political outlook, unforgiving attitude, personal conflict, vested politics, and political hegemony. The second round Naga consultation meeting touches upon the important issues like forgiveness, repentance and realisation. Definitely, qualities of forgiveness, truthfulness and moderation are the ever-needed principles for statesmanship.

To resolve these international problems, the Naga people constituted “Naga National Reconciliation” on December 20, 2011, at Kohima under the theme, “To heal and rebuild the Naga family with the prince of peace”. The Nagas solemnly pledged to heal and rebuild the Naga family.

In NNR, the Naga people pledged to transform injustice to justice, violence to non-violence; to respect one another and all other people. Hence, to acknowledge, recognize and vowed that: “Reconciliation is a critical process towards a lasting peace development,

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<sup>53</sup> Th. Muivah, General Secretary of NSCN-IM, in an interview with North East Sun, on 15<sup>th</sup> September, 2004.

growth and prosperity...” Nagas are one. Every Naga is important and needed. And all Naga tribes, and all sections of Naga society, need to contribute in the search for an honorable settlement and those who represent the Nagas must be willing to listen to the voice of the Naga people represented through the village councils, the regional bodies and the Tribe Hohos, beside the Churches and other mass-based organisations.

Although both are involved in a formal peace process with the government of India, large fighting between the two factions and frequent assassination attempts have continued. The situation was made worse when, in 2011, Khaplang was impeached because, according to then NSCN-K, General Secretary Kitovi Zhimomi:

*... he opposed the Naga reconciliation process initiated by the Forum for Naga Reconciliation. Two months ago, Khaplang asked us to withdraw from the Covenant of Reconciliation signed by him. . . Khaplang is no more associated with the group. He is alone and can't force us to go against the will of the Nagas, who want peace, unity and reconciliation. His true colors were exposed when he opposed to peace and reconciliation. He had also directed all NSCN-K members not to attend the highest level of meeting convened by the FNR.<sup>54</sup>*

The Forum for Naga Reconciliation (FNR) was created to assist in bringing all different factions together to find a peaceful solution to the Naga issue. Because of the impeachment, the NSCN-K commander General Khole was elected president. According to Zhimomi:

*“Ours is a political problem and we will have a political solution. Peace within the Nagas alone will be insignificant if we do not sit with New Delhi. For now, we are focusing on the Naga reconciliation. We will talk with the Centre after resolving the problems with the Nagas.”<sup>55</sup>*

The NSCN-K blamed the FNR’s Rev.Dr.Wati Aier for the split with Kughalu Mulatonu, the ‘Envoy to the Collective Leadership’ of the NSCN - K also accusing Rev. Dr. Wati Aier of sending NSCN-IM cadres into Burma to attack the group resulting in 10 dead on the NSCN-K side, and 50 on the NSCN-IM side.

In a further twist, Khaplang then decided to expel not only Khole and Kitovi but also several other ministers from the NCSN-K’s Government of the People's Republic of Nagalim (GPRN) for conniving with the unification group and for their anti-party

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<sup>54</sup> ‘NSCN(K) rules out split after Khaplang ouster’, Times of India, 17 June 2011

<sup>55</sup> ‘NSCN(K) rules out split after Khaplang ouster’, Times of India, 17 June 2011 (ibid)

activities. As a result, Khole and Kitovi formed the India based NSCN-KK and have distanced themselves from the NSCN-K in Burma.

#### **4.11 Peace initiatives with both fractions:**

The Government of India is primarily negotiating with the Isak-Muivah fraction of the NSCN. The NSCN-IM is the dominant group, however, the Khaplang fraction of the NSCN is equally assertive and strong. Isak Swu belongs to Nagaland and Th. Muivah is a Tankhul from Ukhrul district of Manipur. The Khaplang fraction of the NSCN has a larger cadre in Nagaland, whereas the Muivah fraction has its tentacles outside Nagaland. It would be disastrous to ignore the other fractions of rebels while arriving at any final settlement. Even if any agreement is signed between any fraction of the rebel groups and the Government of India, there is no guarantee that other fractions would offer their support or renounce the path of violence (Phukon, 2006).

The question of peace process in Nagaland is linked with the question of self-determination of the Nagas which is relatively a modern concept. This question of self-determination can be traced back to early 20<sup>th</sup> century, where the Naga nationalism emerged. Christian Missionaries encouraged by the British administration had radically changed the social condition of the Nagas, like the head-hunting and fratricidal skirmishes stopped and made tremendous progress to occupy high rank in Human Development Index (HDI). However, Naga ethos of the past life had immense roles to play in the emergence of Naga nationalism (Vashum, 2000).

The rebel Naga leaders further raised the question about a cultural invasion by the Indian State through flooding markets with consumer products and in deliberate attempts to change the cultural ethos of the Nagas.<sup>56</sup> Various Naga organisations repeatedly emphasize on this “cultural difference” which shape the voice of difference with India as a nation-state. In its attempt to maintain peace, Indian state has never addressed itself to the question of ‘cultural sovereignty’ of the Nagas as this implies recognition of their political self-

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<sup>56</sup> Leaflet T-T “The question of Nagaland State” issued by the Naga Peoples Forum November 14, 1998.

determination. Rather very often Indian State prefers to set terms leading to continuation of insurgency and perpetuation of violation of human rights in Nagaland.

The Naga leadership is still clinging to their demand of Greater Nagaland and it is hoped that this demand is potentially detrimental to peace in the northeast. In the event of conflicting perception about greater Nagaland, an atmosphere of mistrust and mutual hatred is bound to affect the peace process in the region. The NSCN-IM endeavors to define greater Nagaland areas as a part of their own history that belonged to the Nagas. This crucial aspect of the issue is bound to affect the peace process in Nagaland in particular and region in general. Further, it has become very difficult to negotiate about the issue raised by the Naga rebel organisations. This is precisely because of two rival factions, the NSCN-IM and NSCN-K, who do not see eye to eye with each other (Misra, 2003). The dialogue will remain elusive until Indian Government succeeds in bringing the NSCN-K to the negotiation table. In fact, to achieve a real breakthrough in the dialogue both the factions must come to a broad consensus on the Naga question (Phukon, 2006). Besides, in order to perpetuate peace in Nagaland, it is necessary to involve all sections of people – The Naga Hoho, Naga Student's Federation, Naga People's Movement for Human Rights, the Naga Mothers Association, the Church and others who are committed for the cause of peace and justice. The peace process may be accelerated by involving the common people in it, but not by high level political dialogue. In fact, it is not only diplomacy but also people's participation which can make peace process sustainable in Nagaland.

The Government of India signed ceasefire agreement between with the NSCN-IM and NSCN-K. The Naga National Council (NNC), another stakeholder in the movement, is Adinuo Phizo, daughter of Naga leader A.Z. Phizo, who was not invited to become a signatory to the ceasefire agreements, perhaps because the NNC does not have the firepower like the other two groups (Mukhim, 2006). Undoubtedly, this is a short-sighted policy of Government of India, which at some later stage can become violent. Government of India uses a 'carrot and stick' policy by pouring in money and ammunition. Money is used as carrot to woo militants to surrender and avail of a package in return. The ammunition is used to exert pressure so that few hardcore men surrender and the security

forces can claim some successes in their expedition and also justify their demand for more money from the center.

Integration is considered as an element that pre-condition the greater objective of the Nagas aspiration for self-determination. “It is a part and parcel of the solution to the Indo-Naga political conflict. There can be no true solution without addressing the territorial issue.”<sup>57</sup> Furthermore, in the words of Th. Muivah, “solution cannot be expected while Nagas are divided territorially.”<sup>58</sup> Nagas believed that ‘if integration is ruled out from the contemporary peace process, then there will be no settlement of the Naga conflict.’<sup>59</sup>

However, such aspiration of the Nagas for integration has provoked violent protests from the neighboring states of Nagaland, especially the state of Manipur where there is a sizeable Naga population occupying four districts – Ukhrul, Senapati, Tamenglong and Chandel. It invokes challenges from the neighboring states of Nagaland because the resolution of the Nagas’ integration will certainly involve alteration of boundary of her neighboring states (Shonreiphy, 2014).

#### **4.12 Obstacles in the peace process:**

The Naga militants mobilised the Nagas against the Indian State with the avowed objective of establishing a sovereign Naga nation. They had such a faith in their ability to build their own independent state that they viewed all those individuals –Nagas as well as Indians who expressed doubts about the desirability and possibility of a sovereign Nagaland - as their enemies or traitors to the cause. Neither the autonomous district councils provided in the Indian Constitution nor statehood within the Indian Union could satisfy the Naga militants (Ao, 2002). Since the formation of Nagaland, many Nagas have voluntarily participated in the election process and elected their representatives to the State Assembly and the Indian Parliament. Even within NNC, there were moderates who were against pursuing violent means and were ready for some kind of autonomy within the Indian Union. But the militants within NNC muzzled the moderate voices and at times physically liquidated them

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<sup>57</sup> Horam Vareingam, Kilonser of NSCN-IM (Personal Interview)., (2013)

<sup>58</sup> Muivah Th., General Secretary of NSCN-IM (Personal Interview)., (2013)

<sup>59</sup> Liezietsu Shurhozeli, President of NPF (Personal Interview)., (2012)

by branding them as traitors. T. Sakhrie was brutally murdered in 1956 for opposing the violent means advocated by leaders like Phizo (Srikanth & Thomas, 2005).

It appears that the NSCN-IM has understood the practice problems if they break away from India. Of late Th. Muivah was talking about some sort of special federal relationship with the Indian Union, outside the constitutional framework of India.<sup>60</sup> It gave birth to the demand of Greater Nagaland, however, this demand for Greater Nagaland has provoked violent protests by the Meiteis in Manipur. Apart from the Meiteis, the Assamese and the Arunachalese, have also expressed their opposition to any move aimed at altering the borders of their states to accommodate the demands of the NSCN (IM). Succumbing to the popular pressures, the state governments in Manipur, Assam and Arunachal Pradesh have declared openly that they would not accept any agreement by the Government of India that altered their state boundaries.<sup>61</sup> In such situations one cannot hope for peaceful solution to the Naga problem.

Another stumbling block in the way of peaceful negotiated settlement to the Naga problem is the lack of unity among the Nagas (Sashinungla, 2005). In the late 1960s, as the efforts of the Peace Mission failed, NNC showed cracks along tribal lines. Following the forced resignation of the Sema leaders from the top positions of NNC and FGN and the subsequent killing of Kaito Sema, former Defense Minister, the Semas disassociated themselves from NNC and announced the formation of Revolutionary Government of Nagaland in 1968. Old memories of injury and insult have controlled our relations for too long.” Reminding the Christian maxim that “A house divided against itself cannot stand”, the appeal urged all Naga leaders in every sector of society, to take significant steps to bring reconciliation, building upon the best of Naga heritage (Nag, 2002). How could there be unity between the dead and the living, between darkness and light, between rust and steel, between the reactionary traitors and the revolutionary portraits, between tribalism and the socialism of the NSCN? It is simply a pity for one to talk of unity between the totally perishing Phizo’s

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<sup>60</sup> *The Hindu*, April 29, 2005.

<sup>61</sup> Bibhu Prasad Routray, *Challenges to Naga Integration*, Institute of Peace and Conflict Studies, Article no. 1081, <http://www.ipcs.org>, accessed on 14<sup>th</sup> May 2014

clique and vigorously risen forces of the NSCN (Srikanth & Thomas, 2005). As such the heterogeneous character of the Naga civil society cannot conceive of just one political entity, i.e., NSCN-IM, representing the voices and interests of all sections of the Naga society (Misra, 2003).

The format of talks between the Government of India and the NSCN-IM has been changed with both sides agreeing to accelerate the talks to find an amicable solution as soon as possible. Ministry of Home Affairs (MHA) said that a decision has been taken to do away with the practice of holding one or two rounds of formal talks in a year. They also made themselves available saying that they can get in touch with the Government's interlocutor whenever they want to discuss any point and vice versa. Now, the talks will be more like "business meetings" with a definite purpose. The Government has also appointed the chairman of the Joint Intelligence Committee (JIC), RV Ravi, a former Intelligence Bureau Special Director, as its interlocutor for the Naga talks. The NSCN leadership also took the help of a number of internationally reputed legal experts to advise them on the finer points of the Constitution of India as the Government has already made it clear that a solution to the issues must be found within the framework of the Constitution.<sup>62</sup>

In some aspect the Government of India finds itself a prisoner of its own acts of omissions and commissions. India cannot redo the demographic changes that the British colonialism has brought in the region, moreover, the post-colonial developments like establishment of liberal political, reorganisation of the states, spread of modern education etc., have given birth to new social forces with their own territorial conceptions and interests.

Mutual suspicion, inflexible mind-sets and preconceived notions let down the peace initiatives of 1960s. If the parties in conflict expect the present phase of peace talks to succeed, they need to take lessons from the mistakes/limitations of the past. An atmosphere of trust and confidence must be created for a meaningful dialogue. For the sake of rhetoric, the Naga militants can say that they will continue to fight for political independence for

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<sup>62</sup> <http://www.northeasttoday.in/nscn-im-goi-agrees-expedite-peace-talks/> accessed on 2<sup>nd</sup> Nov 2014

another century or so, but they have to realize the truth that right to self-determination does not necessarily mean political independence.

Scholars like B.K. Roy Burman and Sanjib Baruah have made some suggestions regarding possible alternatives for resolution of the problem of Naga integration. Granting autonomous state status to the Naga inhabited regions within the respective states of Manipur, Assam and Arunachal Pradesh and the cultural integration of Nagaland with these autonomous states could be one of the options that could be explored (Srikanth & Thomas, 2005).

For the talks to succeed, the Indian government should give up its traditional policy of looking at Naga resistance from a security angle. No amount of money pumped into Nagaland could put an end to Naga insurgency, as the Naga struggle is not aiming at economic development. The Nagas continued their struggle for five decades basically for political recognition of Nagas as a distinct nation (Iralu, 2002).

The Problem of Naga insurgency and the peace processes, can be said, is going through the three process, that is, peacemaking, peacekeeping and peacebuilding. It is going through peacemaking process through diplomatic, political and military intervention which resulted in the ceasefire agreement. It is also going through peacekeeping process where the ceasefire agreements are monitored which is creating space for negotiations, building confidence. The peacebuilding process is however in question, as many issues are not yet sincerely addressed. Having said that, the peacebuilding in case of Naga insurgency have been successful, to some extent by capacity building, reconciliation and societal transformation. In the present scenario where violent conflict has slowed or has come to a halt, peacebuilding has covered some ground, but still has a long way to go.

## **Chapter 5: AFSPA, Nagaland and the Stakeholders**

### **5.1 Introduction:**

This chapter provides an overview of the issues regarding the Naga insurgency and the Armed Forces Special Powers Act in Nagaland in general and special case study of two selected villages namely Signal Angami and Kacharigaon (Phevima) in particular and the effect of AFSPA in the lives of common people. The reasons for choosing these particular villages are, these villages are located at the outskirts of Dimapur city, therefore, face conflict, also these villages are conflict ridden. A military camp is established nearby the Kacharigaon (Phevima) village, but Signal Angami has no such establishments nearby. Also this chapter also tries to look into the views of civil societies and armed personal (Army) towards AFSPA, ceasefire and the present condition. The chapter also tries to explore the idea of greater Nagaland and looks at its desirability and feasibility. The present status of ceasefire is discussed with the respondents and the role of civil societies in peace processes is also looked upon. Various civil society members are interviewed and their views on the insurgent groups, army, the feasibility of AFSPA and greater Nagaland is brought forward and discussed. Armed personals are interviewed and their views on the present condition of insurgency, the feasibility and relevance of AFSPA, Greater Nagaland etc., has been discussed. The effectiveness of AFSPA in Nagaland and the participation of the civil society to bring peace are some other highlights of the chapter. Different views on insurgency, Greater Nagaland and the AFSPA came out. Many overlapping views on the peace process and Greater Nagaland were brought forward.

### **5.2 Profile of the Sample Population:**

This chapter attempts to include all the major variables such as age, education qualification, occupation, desirability and feasibility of greater Nagaland. This study tries to make humble attempt to bring forward the issues related to insurgency, Greater Nagaland, AFSPA and the peace process. For this study to manifest, the sample population was taken from two villages namely Signal Angami and Kacharigaon (Phevima) with a total population of 3465 heads, having 2333 and 1132 heads respectively.

### 5.2.1 Composition of the sample population:

General People		Civil Society	Armed Personals	Total
Signal Angami village	Kacharigaon (Phevima) village	11 heads	7 heads	168 heads
86 heads	64 heads			

Table 5.1: Sample population heads

Source: Field work, June-July 2014

For the sample population among the general people of the two villages, random sampling was used, for deciding the sample population. And purposive sampling was employed in the case of civil society members and armed personals. Hence, the number of heads taken from Signal Angami village and Kacharigaon (Phevima) village were 86 heads and 64 heads, respectively. Apart from that, 11 civil society members and 7 armed personal members of several ranks were interviewed.

### 5.3 Composition of Education qualification of the respondents:

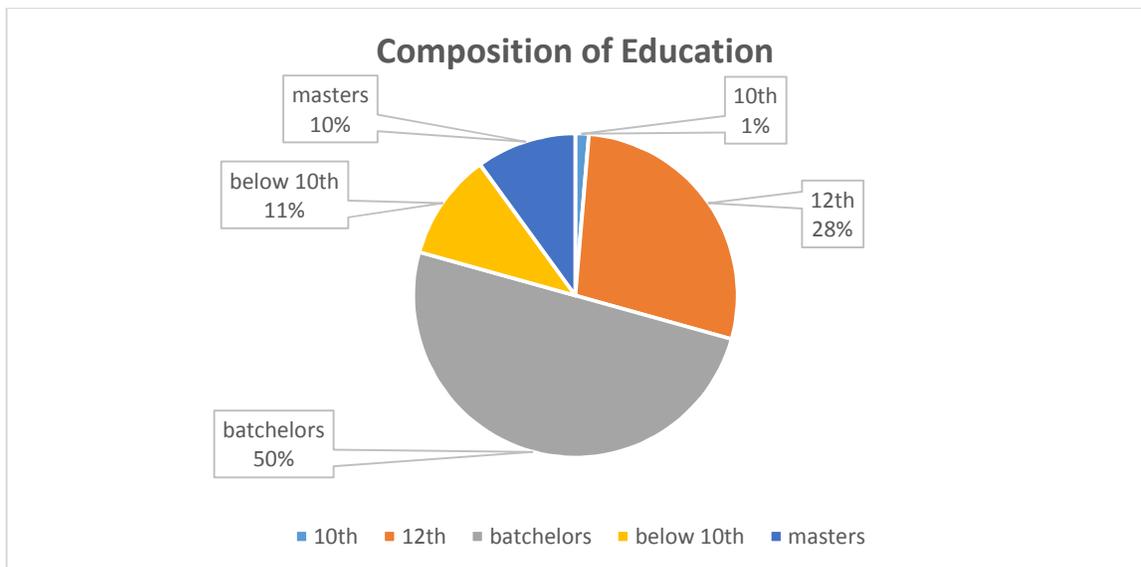


Figure 5.1: Composition of education

Source: Field work, June-July 2014

Education has always been considered to be a very important dimension of any agenda for development programmes in a society. With the socio-economic and political evolution of

mankind and its growth in consciousness, education has gradually recognised as a “human rights”. Education always plays a vital role in every sector. So here too, education is taken as one of the major variables and the education qualification of the respondents are analyzed. The education qualification criteria among the respondents was divided among five sections namely below 10<sup>th</sup>, which is also regarded as school dropout, 10<sup>th</sup>, 12<sup>th</sup>, bachelors and masters. The composition of education among the respondents interviewed with accordance to the five section are discussed here. It was found that 11 percent of the total population interviewed were below standard 10, this is because of many reasons like family problems, communication problems due reasons like school being located in far and remote areas. Other reasons include, the violent environment that surrounds the people and their struggle to live and sustain. 1 percent of the total population interviewed were standard 10<sup>th</sup> passed, that is they have completed their Matriculation. 28 percent have completed their standard 12<sup>th</sup>, that is, they have completed their higher secondary. 50 percent and 10 percent of the total population have their education qualification as bachelors and masters respectively. Education plays a key role as their level of understanding develops with it. Education helps to look and understand different issues and critically analyze the ongoing process. Therefore, the educated respondents were also given proper weight along with the uneducated respondents to understand the ongoing issues and to have a proper balanced understanding of the chosen topic.

#### **5.4 Composition of occupations among the respondents:**

In a conflict prone area, occupation is a necessity for a stable source of income. Since a good and stable source of income is a major factor which helps in determining the household condition, this study also looked upon the occupational status of the interviewed respondents. In this study, occupation of the sample population was divided into five sections, namely, Government employee, retired employee, self-employed, un-employed and student.

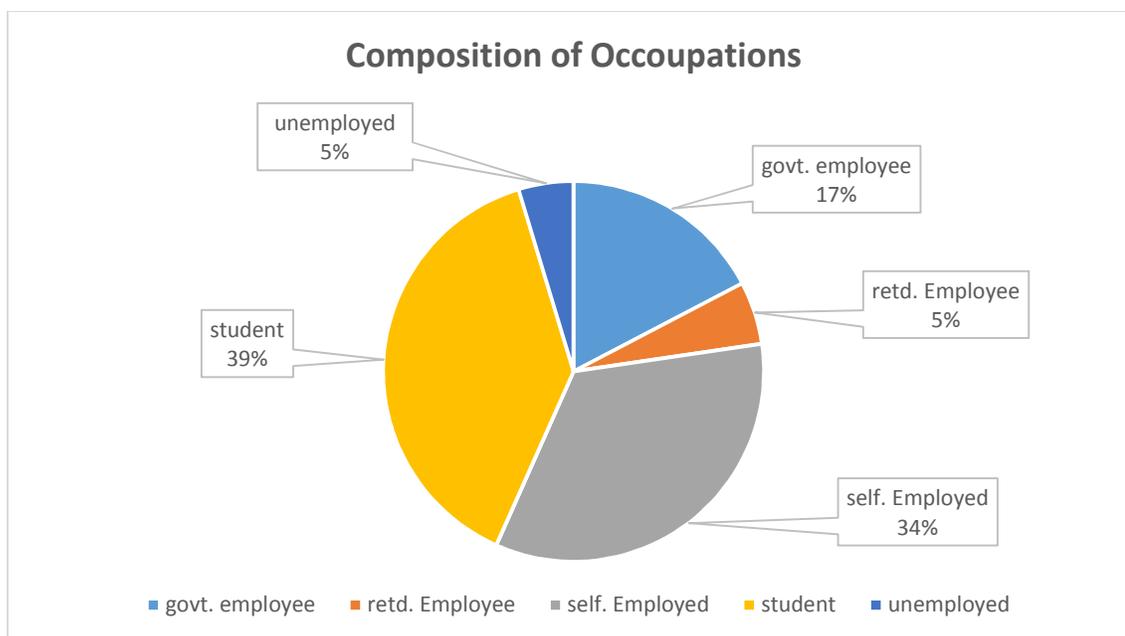


Figure 5.2: Composition of occupations  
 Source: Field work, June-July 2014

It was found that, out of the sample population, 17 percent of the respondents were Government employee, 5 percent of the respondents were retired employee, retired from the public as well as private sector. 5 and 34 percent of the respondents were unemployed and self-employed respectively. 39 percent of the respondents were students. It is to be noted here that out of the total number of student respondents, 20.69 percent of students were in standard 12, 56.90 percent of students were in bachelors and 22.41 percent of the students were in masters. One of the interesting piece of information that was found during the field work is, youngsters, who have just completed their school or even college are approached by the various fractions of the insurgent groups. In the section of self-employment, it was found that the respondents were mainly engaged in motor driving for various purposes, business as having grocery, stationary shops. The 5 percent of people belonging to the un-employed section were engaged in household activities and produced no income as such.

### 5.5 Intensity of Insurgent Activities:

The present scenario of Nagaland where the insurgent groups are in ceasefire with the Government, the occurrence of the insurgent activities are now lessened. However, there

are other factors and issues which are enough to destabilize the peaceful social fabric of the society in Nagaland.

Out of the total respondents from the sample population 15 percent of the total respondents felt that the insurgent activities of the insurgent fractions groups are escalating. 17 percent of the respondents felt that the insurgent activities are neither going down nor escalating, but they believe that the activities are stagnant. This view was because the respondents feel that since the conflicting parties are in ceasefire the situation is not escalating, but at the same time it is not going down also. Because they feel that the ceasefire agreement cannot be the last resort for normalcy and peace. But interestingly, 68 percent of the respondents believe that the insurgent activities are going down.

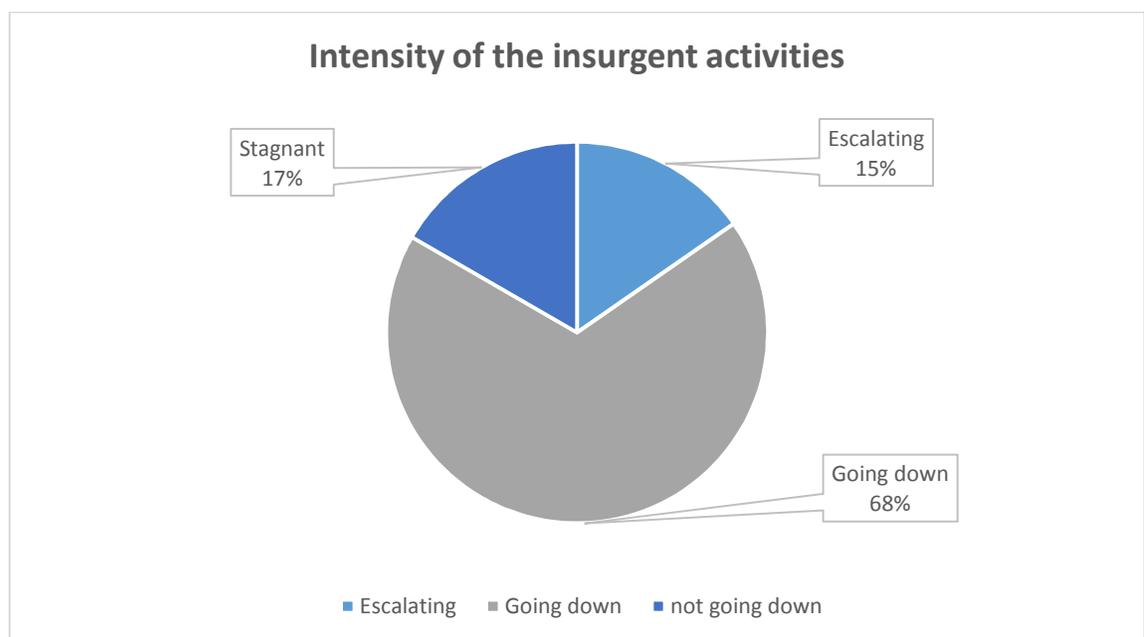


Figure 5.3: Intensity of Insurgent activities  
Source: Field work, June-July 2014

This may be because of various reasons like, the ceasefire accord signed between the insurgent fractions and the Government and efforts of the civil societies to create a peaceful environment. The reasons for a percentage of respondents subscribing to the idea of insurgent activities escalating were because, even if the insurgent fraction are in ceasefire with the Government and there are no bloody fights between them, but the insurgent fractions are continuing with extortions, kidnapping, collecting taxes hence, creating a high

level of tension in the minds of people and the society as a whole. They feel that they are sand

## 5.6 Composition of respondents on who intensifies the already existing problem (army or insurgents):

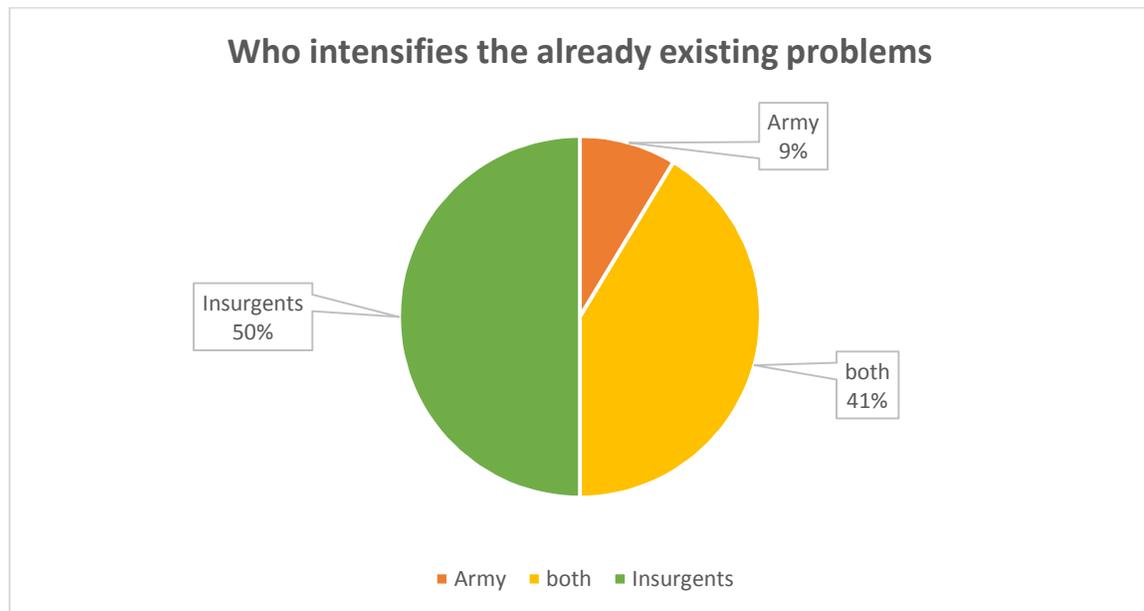


Figure 5.4: Who intensifies the already existing problems

Source: Field work, June-July 2014

In a conflict prone area, tension always sustains in one form or another. In Nagaland, the conflicting parties (the insurgents and the army) are always in search of each other and in a way playing hide and seek with each other. This hide and seek is no ordinary hide and seek, because at times it takes violent turns. Now within this environment the general people often become victims of the conflicting parties. There were many such cases reported when the houses of the people are raided by authorities to check on the insurgents. And in many cases the insurgents take shelter in the house of the general people to stay overnight. And when these incidents are reported, the army take extreme measures to get any information from the people. This way the general people get crushed or get sandwiched and they have to live with the tensed situation around them. This study also looks at the problems faced by the general people because of the conflicting parties and tries to make an analysis that who creates much problems, the army or the insurgents. 9

percent of the total respondents believe that the army causes much problem. The problems caused are because of many reasons, like the raid of homes, checking of vehicles and most importantly the use of AFSPA. 50 percent of the respondents feel that the insurgents are creating most of the problems. They feel that even if the insurgents are in ceasefire with the army and the Government, they are still causing problems by collecting tax from the people and since, there are now a number of insurgent fractions, they have to pay taxes to all of them. Apart from collecting tax other problems such as extortion, kidnapping, staying overnight at people's home exist. Hence, 50 percent of the people believe that in some form or the other the insurgents are the cause of problem and tension in their lives. Among the total percent of the respondents, 41 percent believe that both the conflicting parties are the cause of the tensed environment which effect their daily lives in a very terrible way. They believe that their life is sandwiched between the conflicting parties and there is now way out of it.

### 5.7 Views on desirability and feasibility of Greater Nagaland:

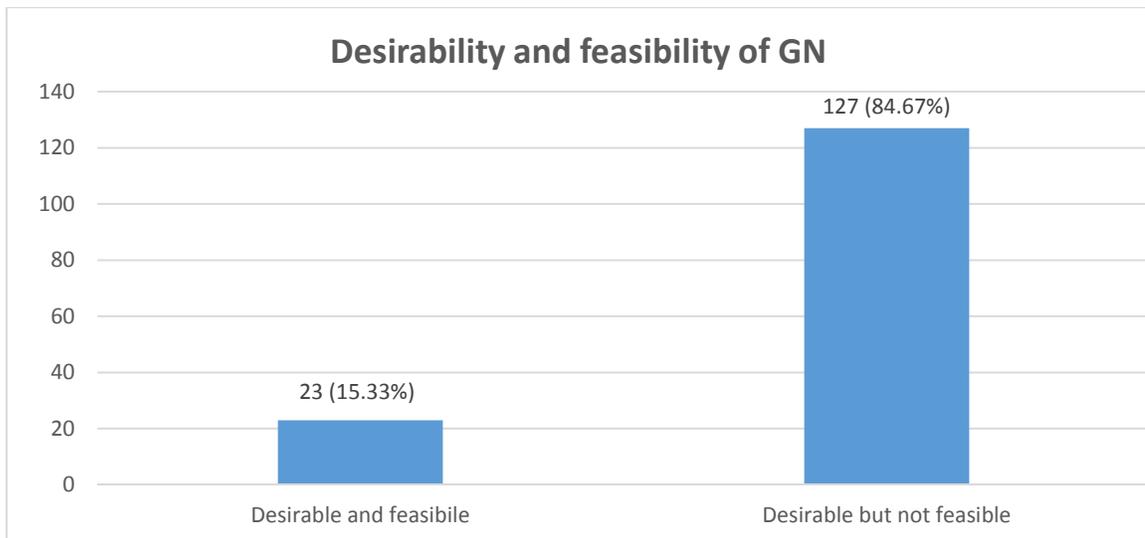


Figure 5.5: desirability and feasibility of Greater Nagaland  
Source: Field work, June-July 2014

The issue of Greater Nagaland has been a concern for the past decade, as the demand of Independent Nagaland was changed to the demand of Greater Nagaland. The demand of Greater Nagaland is that, the areas of other states, adjoining to the Nagaland state, where the Naga population is inhabited, are to be joined with the Nagaland state. There the

question arises that will the other states allow even a single inch of land to be given to Nagaland. The insurgent groups are now fighting for Greater Nagaland. So in this study, the desirability and feasibility of greater Nagaland is examined. 15.33 percent of the total respondents believe that the issue of Greater Nagaland is desirable and also feasible. Strong political will and firm determination could manifest this dream, according to the respondents. 84.67 percent of the total respondents realize the fact that even if the idea of Greater Nagaland is desirable, the feasibility remains a big question. As it will lead to big chaos and unrest among the region and the other states. Hence they believe that the idea of Greater Nagaland is desirable but not feasible. Adding more to the desirability part, they believe that the fragmented fractions of the NSCN-IM and NSCN-K should unite and come under one umbrella and along with this, a strong political determination could make the feasibility of Greater Nagaland.

The respondents who are mostly the tribals of Nagaland holistically expressed that the AFSPA is something which has become a tool of violence for the perpetrators. On the other hand, they are also in fear with the insurgent groups. They desire to have a greater state but also realize that, its manifestation will elevate violence to a higher level and realize that its feasibility is next to impossible. Hence, they want that the army should stay to check on the insurgencies but the act to be diluted. The act can be made more human by holding accountable to the violators and dealt with according to the law applicable to all. They all believe that AFSPA is not a tool for bringing peace. Rather, it has become a tool for oppression. Their views expressed that the ceasefire agreements are not a permanent solution, rather, it is a kind of pause or halt within the environment of violence. They fear that when this paused situation is resumed the violence will again escalate. Hence, finding a solution which is suitable to both the parties can restore peace and normalcy in the region and it is high time that the conflicting parties should make use of the ceasefire agreement to come to a suitable and peaceful solution.

### **5.8 The Civil Society View:**

The idea of Civil Society offers a new perspective. It shifts the focus from the questions of power balance between the state and society to the question of their interdependence. Bringing both the conflicting parties to the negotiation table. Montesquieu clearly believed

from a theoretical perspectives that civil society should function as a counter balance to Government in order to inhibit their tyrannical tendencies (Harbeson, 1994). Many activities such as organizing peace talks, peace rallies, cultural shows for the development of culture and peace, football matches etc. are conducted by the civil societies. For this study, members of civil societies such as Naga Mothers Association (NMA), Bacay's women and child welfare society, Development Action Centre, Chen Women Development Centre, Agency for Integral development, Peace Channel were interviewed.

Their views on the insurgent groups were that, they are fragmented and fighting against each other, so they need to come under one umbrella. Because of this the general people are facing the problem of paying tax to all the insurgent groups. Members of some civil society organisation also hold the editorial positions of some of the leading newspapers in the state. Their views on the present scenario of the insurgents groups give a contrast view. One of the civil society members who happens to be the editor of a daily newspaper projected the view that the insurgent groups are required, as they are fighting for Greater Nagaland, but the insurgent groups are fragmented and should become one, only then Greater Nagaland will be possible. Another civil society member who happens to be a member of Naga Reconciliation Movement is actively working to bring the different insurgent fractions under the same umbrella, and to make them as one. This to some extent helps to fight against tax. A committee on unabated tax known as "Action Committee Against Unabated Tax (ACAUT)" is working to fight against unabated tax. That people are not to pay tax to various insurgent groups, but to pay tax to only one group, that is the unified group. Other group of members belonging to other civil society organisation projected their view on the present condition of the insurgent group as the new generation of people, are now somewhere parting from the insurgent groups as they no longer want to spend their life in hideout in jungles. With globalisation and education, the new generation thinks that living life with a job is more convenient then living in jungles. Hence this somewhat substantiates the view that the insurgents activities are now going down to some extent.

The view of the civil societies on Greater Nagaland indicates that it is highly desirable to have a greater state (Greater Nagaland), but again the feasibility remains a question. The

concern which was brought forward was that if the other states will be willing to give up their lands? And if this happens then the unrest between the states will grow and the whole region will witness violence. Interestingly enough, according to one of the members of the civil society, the Zeliangrong Nagas<sup>63</sup> had also opposed the move to separate Naga dominated areas as they perceived the threat of dominance from other Naga tribes. It is because of the divide in the tribal lines the Nagas could not secure a better deal from India. Greater Nagaland would also may end up creating rebel groups in Assam and Manipur. Another civil society member expressed this view saying NSCN-IM has the support of all sections of political opinion in Nagaland, including that of chief minister Jamir and his Congress Party. Therefore, to suggest that the NSCN may not finally press for Greater Nagaland in its talks with the GOI and decide to settle for greater autonomy within the present geographical area of the state of Nagaland would be totally unrealistic. But also the State Governments in Manipur, Assam and Arunachal Pradesh have declared openly that they would not accept any agreement by the government of India that altered their state boundaries. In such situation, without seeking some common ground where among the communities, one cannot hope for a peaceful solution to the issue of Greater Nagaland.

The general and common view of the civil societies on AFSPA was to repeal it. Though the Government keeps on extending the act, but it is strongly hated. Some civil society members expressed some different view on the army, saying that the army should stay but the act has to go. It is because, they believe that army has somewhat able to arrest the insurgency but the act in their hands make them more violent and ruthless. Evidently, there are numerous cases in which it is seen that the act proved to be draconian. Hence, the general view on AFSPA was that it must be repealed if the state wants to witness any actual development. The civil societies also suggested some measures to be taken by the Government such as, at first, it should repeal AFSPA, then, within the perimeters of ceasefire accord, it should bring the insurgent fractions on the negotiation table. And the negotiation should not to be done with particular fraction or group, instead ask them to be

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<sup>63</sup> The term "Zeliangrong" refers to the Zeme, Liangmai and Rongmei Naga tribes combined together (Ghosh & Ghosh, 1997).

one group, which would represent them as a whole and then sit for negotiations. Since cease fire has evidently helped to secure some peace in the region, the Government should seize this opportunity and make the best out of it. The ongoing peace initiatives from the part of civil societies include talks and interventions to unite the different insurgents fractions and groups, focusing on women to help in the peace talks, opening up self-help groups for job opportunities and the development of various regions (villages). The civil societies are also taking active participation in Naga Reconciliation Movement. They are also actively involved in movement against unabated tax for which they have setup a committee named “Action Committee Against Unabated Tax”, which fights against the tax collection system.

## **5.9 The Armed Personal View:**

The view point of the armed personals are key to this study, especially to analyze their view point on AFSPA, also, as it provides with better insights of the ground zero scenarios. It helps the study to get direct facts and to obtain a better understanding on the Naga insurgency and the armed forces special powers act. For this purpose, this study also interviewed members of armed forces. The few interviewed personals include active servicemen and retired pensioner. All the respondents belonged to Assam Rifles, a paramilitary force of the Indian Army, governed directly by the Ministry of Home Affairs which basically has the responsibility of counter insurgency, armed response to civil unrest, counter terrorism and special weapons operations. Assam Rifles mainly operates in the Northeast region and the regions internal security issue is mostly look after by it. The respondents belonged to the same paramilitary force. Though, the respondents belonged to the same paramilitary force, their ranks differ. The respondents belonged to different ranks ranging from warrant officer (NCO) to major (officer).

### **5.9.1 Composition of the armed personal respondents:**

Active Servicemen	Retired	Belonging to Army force	Total no. of respondents
4	3	Assam Rifles	7

Table 5.1: Armed personal respondents  
Source: Field work, June-July 2014

Their view on Greater Nagaland was almost same as the viewpoint of the civil society members that, it is highly not likely that Greater Nagaland will manifest. They added that it's because of the unrest caused due to their demand of Greater Nagaland, the act can be implemented. Since they realized that their initial demand of independent Nagaland cannot manifest in reality so they are now fighting for Greater Nagaland, which according to them is never going to manifest, just like their demand of independent Nagaland. One of the retired servicemen expressed his view saying, "the Nagas are good people, but their demands are not good". He added more to it saying how can the Government simply take lands from other states and give away to the Nagas and this will simply lead to creation of more insurgent groups in other states. One of the respondents expressed his views saying that the army is just following orders, which come from above. If the Government wanted the army out then they will be gone. Regarding AFSPA, the respondents expressed their views saying that, it's also the state Government which wants the army and the act to stay, hence, their own people understand the security situation there and want the army to stay. And if the army stays and needs to operate effectively then special powers like AFSPA is a necessity. According to them, without any kind of special powers the army cannot operate, as there are many sympathizers of insurgent groups within the civilians. According to them, not all civilians are harassed by the army but in conflict situations a bit hardened attitude is required to extract important information necessary for the safety and security of the country. According to the respondents, since the Government is in ceasefire with the insurgent groups, there is a bit visibility of peace, otherwise Nagaland would have been in the headlines of daily news.

One of the armed force respondents expressed his view saying that when there is allegation of killing of an innocent civilian by the armed forces, the civil society is justified in demanding strict action against the violator, but there is no reaction when innocent civilians are killed by the insurgents or non-state actors. Even the media hesitates to give coverage to the soldiers who die for their country, they are just a statistic.

According to the respondents, AFSPA has arrested insurgency to an appreciable level and the ceasefire now is a result of the insurgencies going down. They also gave insights on the districts and the insurgent group hold on them. The district of Phek has the hold of FGN

and NSCN-IM, in Mon and Tuensung the hold of NSCN-K is strong. Dimapur has the hold of NSCN-IM and FGN and NSCN-K have their hold on the district of Mokokchung. The respondents also added that since the public wants AFSPA to be repealed then, it should be replaced by POTA, with some amendments in it. The respondents of the armed personals also believe that during this phase of ceasefire the Government should make serious attempts to end the longest insurgency of India and bring sustainable peace to the region. As the region has witnessed enough violence and also caused lots of lives to both the conflicting parties.

### **5.10 Discussions:**

As the Naga insurgency has come a long way, it somewhere has become a necessity and a priority of the Government to end this long turmoil. There are many dimensions to the situation here that is, ending the long turmoil does not mean to deploy force and eliminate anyone who comes on the way or to make wrong use of the act. Analyzing from the graph of desirability and feasibility of Greater Nagaland, it is understood that some percentage of the respondents believe that both the conditions (desirability and feasibility) are possible but then a greater percentage of the respondents understand that both the conditions are different and do contradict each other. Their view on the insurgent activities going down indicates that there has been a halt or a bit of peaceful situation have been achieved but this is confined between the insurgent groups and armed personals. The reports of extortion, kidnapping, tax collection etc., are often in the air. Hence, in these situations the army cannot interfere, but the general people are the sufferer in one way or the other. Referring to these cases people, somewhere, want the army to stay but without the act, because they are equally worried of the consequences of the act. Contradictory to this, the respondents of the armed personal believe that, the army needs acts AFSPA if they want to operate effectively. Even if the army stays and AFSPA is repealed, then a major question arises that is, “what will replace AFSPA?” or “what after AFSPA?” because mere army without any special powers cannot operate effectively and the unrest cannot be arrested.

The civil society also believes and understands that the creation of Greater Nagaland will outbreak more violence. They also projected light on the fact that some Naga tribes will be

in threat if Greater Nagaland manifests, in terms of domination and subjugation. The respondents of the civil societies also believe that the new recruits to the insurgent groups are going down because in this age of globalisation the young generation do not want to spend their lives in jungles in hideout. Education is playing a role in which people are more in line to take up jobs and secure their future than to take up arms. But still people wish for their greater state. Regarding the present insurgent groups the civil societies think that, since they are fragmented, they should come under one group. Because there are number of cases where inter group rivalry is seen, which has again led to bloody consequences. This view of civil society members contradicts with the view of no insurgent groups. The civil society also engages with peace talks between the conflicting parties. They organize various events like cultural shows, football matches within the members of the insurgent groups. They act as middlemen to the conflicting parties, bringing them to the negotiation table.

The members of the civil societies stress that the AFSPA has caused enough violence and tragedy to the people and must be repealed immediately. Contradictory to this the respondents from the armed personals shared their part of the story saying no every public realizes that police does not fall under AFSPA. It (AFSPA) empowers only the army and central armed police organisations, in particular the Assam Rifles, to take on civil responsibilities while fighting insurgency. The police has enough acts to deal with law and order situation, but this becomes a confusion when somebody blames AFSPA for police perpetrated atrocities, such as fake encounters. Therefore, with or without AFSPA the state can be brutal and it is not just mere repeal of AFSPA that can bring solution for all the miseries.

The solution to this menace would be a common ground between the conflicting parties which would settle the unrest, but while this is achieved what is called for is to make the act more humane. That is, the act would empower the armed personals to adequately deal with the violent scenarios at the same time shall be accountable to the normal civil laws. Through the armed personals lens, another argument arises that the state has no alternative than to respond with arms in violent situations, in other words the argument of “legitimate violence” (Max Webber). This again puts the legitimacy of violence in question, in other

words what legal framework defines legitimate violence and its operation? This calls for mechanisms to restructure the legal frameworks which will itself make it more humane rather than to repeal it all together. Hence the answer to the question “what after AFSPA?” is to make the act more humane. Also if AFSPA is just removed and the space is left empty (that is, no law to replace it), then the situation can become extremely dangerous which will again escalate violence to newer heights. And responding to those violence the state may be hitting back in a lawless vacuum, as the anonymous Spanish proverb says “Necessity knows no laws.”<sup>64</sup>

### **5.11 Research Findings:**

The study found that, the Naga insurgency has been a bone of contention and is a key issue which is responsible for the long term violence in the region. Not only the Government but also the general people are suffering because of the long, never ending violence. The general Naga people live not only in the fear of insurgents but also in the fear of the armed forces, that they will use the act in a very wrong way. On the one hand, the citizens are fed up paying taxes to different insurgent groups, as they have to pay tax to every insurgent group or fractions, denying of which they have to witness abduction, extortion, kidnapping etc., of family members and on the other hand, they have to witness the atrocious nature of the armed forces. In other words, they are sandwiched between the two monsters. The security forces use the provisions of AFSPA and all it does is, it harasses the general people. The general people do understand that the demand for Greater Nagaland is close to impossible and will not manifest because if it does, it will only harvest more hatred and result in escalation of violence. The whole of Naga insurgency initially was hovering around independent Nagaland and now the focus has shifted to Greater Nagaland. Hence, because of this insurgency the disturbed area act was implemented in the region and to arrest the unrest AFSPA is implemented. But in the course of time it is seen that the insurgency activities have come to a halt due to the ceasefire signed between the insurgent groups and the Government. Making use of this halt, the civil societies are working to bring the different fraction and groups of insurgents in negotiation table with the Government.

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<sup>64</sup> Spanish proverb, as quoted in *The International Thesaurus of Quotations* (June 1970), edited by Rhoda Thomas Tripp, p-429.

In the times of crisis the army needs special provisions to operate otherwise it cannot operate effectively and it merely remains as a waste of time, man power and resources.

The study has also found out that the insurgent activities are going down comparatively because of the ceasefire act. Though, it is well understood that AFSPA is a draconian act, which cannot be considered as a tool for bringing peace. The civil societies are making use of the ceasefire act and doing much work to bring the different insurgents under one umbrella and bring them for negotiation.

## **Chapter 6: Conclusion**

This chapter summarizes the entire discussion on Naga insurgency in relations to AFSPA. In addition, it analyzes the validity of the hypothesis, brings forward the limitations and recommends a few suggestions for future course of research.

### **6.1 Summary of the study:**

The struggle of the Nagas to gain complete independence at the beginning due to their knowledge of the fact the Indian union never concurred them, has now taken a diversion. When the father of our nation said that before killing any Naga brothers the army had to first deal with him, this impressed the Nagas and gave them a bit of hope that their dream of independence may come true. But the lazy and careless attitude of the Government towards the Nagas made them take a different path altogether. First the Ahoms, then the Britishers and then the Indian Union, the Nagas have been subject to all of them. The Britishers made every effort for understanding their way of life, their rituals, cultures etc., and the advent of Christianity reinforced their belief on the Britishers. The Nagas were also used in both the world wars and did a wonderful job fighting the enemies. For which they were given the status of loyal subjects which in turn formed the Naga Club. The Naga Club then, in course of time became the NNC with some alterations. The Naga movement that we know till date was spearheaded by Angami Zapu Phizo who met with the leaders of Indian Union several times to discuss the issue. He was also arrested due to his anti-India activities but was released due to several reasons. Lately, the Naga – Akbar Hydari agreement was signed, but the ninth point of the agreement was misread by both the parties and hence, the armed struggle. Since then, the armed struggle continued but with many twists and turns. First the NNC split along tribal lines which resulted in the Shillong accord, then the NSCN split, likewise many different groups and fractions floated. But out of all the groups, some had moderate sentiments and after tasting the taste of democracy they sidelined them from the rebel groups. Elections were boycotted violence was common, loots and dacoity were done with the insurgent groups of other states to turn down the heat on them. The normal life of the general people were devastated and uprooted.

To arrest this unrest, the region was declared as disturbed under the disturbed area act and then the act detested by all, the AFSPA, was implemented. The Reddy Committee recognizes it to be a symbol of oppression, an object of hate and instrument of discrimination and highhandedness, it recommends the law to be repealed. AFSPA in Northeast has been here for more than decades, in other words it is not incorrect to say that it is almost as old as the Indian democracy. AFSPA can be said as the re-incarnation British colonial laws like the Rowlatt act of 1919. Since then amendments have been made and now it has come down to the AFSPA 1958. The act is evidently understood as a draconian act because of the powers given to it. Members of parliament from Manipur called it as lawless law. Initially, this act was implemented on all the states of Northeast, but then in the course of time it was applied in particular regions with definite boundaries and perimeters. Apart from Northeast, AFSPA is implemented in other states like Punjab, Jammu and Kashmir. It is to be noted that AFSPA is implemented when the state authority fails to control the law and order situation. The Governor of the State or the Administrator of that Union Territory or the Central Government, when declares the area or region disturbed, then the act is implemented. The debate now is that whether the act is to be repelled or reviewed. If the act is repealed then what shall fill the vacuum? Because if the vacuum is not filled then it will escalate violence in an extreme way. But if the act is reviewed then it will be like the same wine in a new bottle. Having said that, review is an option which is most likely to happen in the near future, with some amendments in it. But in places like Jammu and Kashmir, the need for the act has felt sometimes. In the whole debate of reviewing or repelling there are positive and negative points to the act, but in both the cases the general people are the sufferers. The lives and the endeavors of the general people are at stake all the time in crisis situations.

There are always two sides of a coin and a dark side of the moon. Undoubtedly, AFSPA has become a stain in the canvas of Indian Democracy but it is needed too, for arresting insurgency and settling the unrest. It can never be said that only due to the AFSPA the general people are harassed, there is always another side of the story too. What is opted for is a more humane law, with respect to the human rights. Operations which are to be

executed are to be done in presence of local administrative officers and also with the help of the local policemen.

The Naga insurgency and the AFSPA, both are reasons for the troubles and tragedy of the common people. The general people are crushed between these too. The civil societies, here play an important role. They arrange cultural shows, organize football matches between the general people and the members of the insurgent groups also between different groups of the insurgents. Since the time, the insurgency started and the general people started losing their loved ones, the women of the societies came together and formed organisations, one of which is the Naga Mothers Association. They help rebuilt their confidence, organise negotiation talks and organise rallies, protests etc. Lessons from the past must be learnt that a transparent way of negotiation is more helpful and fruitful. Both the conflicting parties should understand each other's limitations and then discuss the issue rather than just being stubborn and hard, otherwise, no fruitful solutions can be obtained. The newly formed government in the center has taken steps to solve the Naga issue as early as possible.

Ever since the ceasefire agreement from August 1, 1997, after a preparatory meeting of then Prime Minister H.D. Deve Gowda with NSCN-IM leaders in Zurich in February that year, negotiations have gone through ups and downs. Since then, Swaraj Kaushal, K. Padmanabhaiah, R.S. Pandey, Ajit Lal and Ravi have served as interlocutors. The ceasefire is the reason why there has been a bit of peace in the region, but that too is challenged at times, for example, the clash between the insurgent group and the general people in Golaghat district of Assam regarding the states border issue. The general public is bearing the brunt of both the militants' as well as the armed forces. The Government should understand that when the general people turn against the Government then it creates an atmosphere for insurgency to thrive. Hence, the Government should cease this opportunity and try to find some real solution to this long and never ending issue.

Talking about the implementation of the ceasefire act, the interviewed people displayed a strong view to repeal AFSPA and make use of this ceasefire agreement to bring sustainable

peace in the region. The views of the general people and armed personal regarding AFSPA is very contradictory. The general people want the act to go but army to stay. The armed personals view says that without such acts it would not be able to operate effectively, rather it would just do the same thing that the police does.

The Solution to the Naga problem can be only found with serious and sincere efforts from both the sides. It is true that due to the problem of the Naga insurgency the AFSPA was implemented and it was supposed to bring peace, but the contrary happened and it failed to do so, extortion, kidnapping, tax collection etc., are maintaining their pace. The insurgent groups are still maintaining terror in the minds of general people. They believe that the desirability and feasibility of Greater Nagaland is possible and hence, commit violent activities to pressurize the Government. Hence, the hypothesis of the study which is, “The Implementation of Armed Forces Special Powers Act has been unable to restore normalcy and peace in Nagaland” has been found valid, that still the environment is violent and dangerous. The ceasefire is just a halt to the present situation and when the situation resumes, it will take violent turns and escalate the conflict to newer heights. So, making good use of this opportunity both the parties should find amicable solution to the problem.

The Naga problem, in a nutshell can be said, is going through all the three peace processes; peacemaking, peacekeeping and peacebuilding. With the help of diplomatic and military interventions, peace agreements, ceasefire agreements, reconciliation processes, confidence building measures etc. we see that the problem is rested for a good interval of time. But the help taken through military intervention remains a question.

## **6.2 Recommendations:**

- The Naga problem now should be dealt with sincerity and both the parties much come forward with an open mind to negotiate and come to a peaceful solution. Both the parties have to compromise on some issues, rather than being rigid on particular issues.
- The deployment of armed forces to restore public order in any part of India ought to be an exception and not the rule.

- In case of knowing abuse or misuse of powers under the AFSPA, the members of the armed forces must be held accountable, and must be dealt with according to law applicable to them.

### **6.3 Limitations of the study:**

This study provides an analysis of the Naga insurgency and the AFSPA which is implemented to curb the insurgency. During the research, especially during the field visits, many problems were faced such as not everyone was willing to participate in the interviews or the interactions due to the nature of the topic, the focused group discussion could not be conducted as due to security reasons. Due to ethical norms of the research and paucity of time in MPhil research women respondents could not be covered in a large way.

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## Appendix 1 (Questionnaires)

### Questionnaire for general people:

Serial no.	Date:
Name:	Sex:
Age:	Village:
Occupation:	Education Qualification:

1. Have you heard of AFSPA?-----  
(Yes/No)
2. Do you know what AFSPA is?-----  
(Yes/No)
3. Do you think that the intensity of insurgent activity is less in Nagaland?-----  
(Yes/No)
4. Who according to you is creating the real problem; the army or the insurgent groups?
5. Whether your home ever been raided?-----  
(Yes/No)  
If yes, by whom? (Army/Insurgents)
6. Do you think AFSPA is capable of bringing peace in Nagaland?-----  
(Yes/No)
7. Since AFSPA has given impunity to the army; did you found any case of misbehavior from the armed personal?
8. Since AFSPA is implemented for long; do you think that the further extension of the act is good and will be helpful?
9. Have you ever been a direct victim by the insurgents?
10. Are you aware of the no. of insurgent groups operating in Nagaland?-----  
(Yes/No)
11. Are there any new insurgent groups/ fractions coming up?-----  
(Yes/No)
12. How much do you know about the demand of Greater Nagaland?
13. Do you think that the demand of Greater Nagaland is desirable and feasible?
14. Do you support the idea of Greater Nagaland?
15. Do you think that the option of ceasefire is capable of bringing peace?
16. Are you aware of the peace processes taken by the civil societies and the Govt.?
17. Are you aware of the activities of civil societies?-----  
(Yes/No)  
If yes, what are they? Details.
18. Have you participated in any civil society activities?-----  
(Yes/No) If yes. Details.

19. Do you think that the activities by the civil societies are helpful in bringing and sustaining peace in Nagaland?

**Questionnaire for armed personal:**

Serial no. 1	Date:
Name:	Sex:
Age:	Rank:
Education Qualification:	Which division of army:

1. What is your view on Greater Nagaland?
2. Is ceasefire capable of bringing sustainable peace in Nagaland?
3. Has AFSPA has been capable of successfully arresting insurgency?
4. Do you think that ceasefire is the only option left for now?
5. Is there any alternative to AFSPA?
6. In spite of all the protest against AFSPA; do you think that AFSPA will be repelled?
7. Even if AFSPA is repelled, then, what after AFSPA?
8. Do you think that AFSPA is the last resort to curb insurgency?

**Questionnaire for civil society:**

Serial no. 1	Date:
Name:	Sex:
Age:	Organisation:
Education Qualification:	

1. What is your view on Greater Nagaland?
2. What is your view on current insurgent groups operating in Nagaland?
3. Do you think that AFSPA has been able to restore normalcy and bring peace in the region?
4. According to you, has AFSPA been able to arrest insurgency in Nagaland?
5. What are the ongoing peace initiatives by your organisation?
6. Do you think AFSPA should be extended or repealed?
7. Do you think that ceasefire is the only option left?
8. Any suggestion from the civil society desk for the betterment of the ongoing condition?

**Appendix 2**  
**THE ARMED FORCES (SPECIAL POWERS) ACT, 1958**  
**(Act 28 OF 1959)**

An Act to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the States of Assam, Manipur, Meghalaya, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram.

Be it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

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

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

2. **Definitions** - In this Act, unless the context otherwise requires,

(a) "Armed forces" means the military forces and the air forces operating as land forces, and includes any other armed forces of the Union so operating;

(b) "Disturbed area" means an area which is for the time being declared by notification under s.3 to be a disturbed area;

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

3. **Power to declare areas to be disturbed areas** - If, in relation to any State or Union Territory to which this Act extends, the Governor of that State or the Administrator of that Union Territory of the Central Government in either case, is of the opinion that the whole or any part of such State or Union Territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union Territory or the Central Government, as the case may be, may, by notification in the Official Gazette, declare the whole or such part of such State or Union Territory to be a disturbed area.

4. **Special powers of the armed forces** - Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area :—

(a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force; even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;

(b) if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made or any structure used as a training camp for armed volunteers or utilized as a hideout by armed gangs or absconders wanted for any offence:

(c) arrest without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;

(d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained and confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

**5. Arrested persons to be made over to the police** - Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

**6. Protection to person acting under Act** - No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

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

(2) Notwithstanding such repeal anything done or any action taken under the said ordinance shall be deemed to have been or taken under this Act, as if this had commenced on the 22nd day of May, 1958

(Source: Indian Army website:  
[http://indianarmy.nic.in/Site/RTI/rti/MML/MML\\_VOLUME\\_3/CHAPTER\\_\\_03/457.htm](http://indianarmy.nic.in/Site/RTI/rti/MML/MML_VOLUME_3/CHAPTER__03/457.htm)  
Accessed on 7<sup>th</sup> Feb 2015)

### **Appendix 3**

#### **List of Do's and Don'ts Directed by Supreme Court.**

#### **Dos**

- 1) Action before Operation
  - a) Act only in the area declared 'Disturbed Area' under Section 3 of the Act.
  - b) Power to open fire using force or arrest is to be exercised under this Act only by an officer/JCO/WO and NCO.
  - c) Before launching any raid/search, definite information about the activity to be obtained from the local civil authorities.
  - d) As far as possible coopt representative of local civil administration during the raid.
  
- 2) Action during Operation
  - a) In case of necessity of opening fire and using any force against the suspect or any person acting in contravention of law and order, ascertain first that it is essential for maintenance of public order. Open fire only after due warning.
  - b) Arrest only those who have committed cognizable offence or who are about to Commit cognizable offence or against whom a reasonable ground exists to prove that they have committed or are about to commit cognizable offence.
  - c) Ensure that troops under command do not harass innocent people, destroy property of the public or unnecessarily enter into the house/dwelling of people not connected with any unlawful activities. Ensure that women are not searched/arrested without the presence of female police. In fact women should be searched by female police only.
  
- 3) Action after Operation
  - a) After arrest prepare a list of the persons so arrested.
  - b) Hand over the arrested persons to the nearest police station with least possible delay.
  - c) While handing over to the police a report should accompany with detailed circumstances occasioning the arrest.
  - d) Every delay in handing over the suspects to the police must be justified and should be reasonable depending upon the place, time of arrest and the terrain in which such person has been arrested. Least possible delay may be 2-3 hours extendable to 24 hours or so depending upon a particular case.
  - e) After raid make out a list of all arms, ammunition or any other incriminating material/document taken into possession.
  - f) All such arms, ammunition, stores etc. should be handed over to the police station along with the seizure memo.
  - g) Obtain receipt of persons and arms/ammunition, stores etc. so handed over to the police.
  - h) Make record of the area where operation is launched having the date and time and the persons participating in such raid.
  - i) Make a record of the commander and other officers/JCOs/NCOs forming part of such force.

- j) [sic] Ensure medical relief to any person injured during the encounter, if any person dies in the encounter his dead body be handed over immediately to the police along with the details leading to such death.
- 4) Dealing with Civil Court
  - a) Directions of the High Court/Supreme Court should be promptly attended to.
  - b) Whenever summoned by the courts, decorum of the court must be maintained and proper respect paid.
  - c) Answer questions of the court politely and with dignity.
  - d) Maintain detailed record of the entire operation correctly and explicitly.

### **Don'ts**

- 1) Do not keep a person under custody for any period longer than the bare necessity for handing over to the nearest police station.
- 2) Do not use any force after having arrested a person except when he is trying to escape.
- 3) Do not use third-degree methods to extract information or to an extract confession or other involvement in unlawful activities.
- 4) After arrest of a person by the member of the armed forces, he shall not be interrogated by the member of the armed force.
- 5) Do not release the person directly after apprehending on your own. If any person is to be released, he must be released through civil authorities.
- 6) Do not tamper with official records.
- 7) The armed forces shall not take back a person after he is handed over to civil police.

### **List of Dos and Don'ts while Providing Aid to Civil Authority**

#### **Do's**

- 1) Act in closest possible communication with civil authorities throughout.
- 2) Maintain inter-communication if possible by telephone/radio.
- 3) Get the permission/requisition from the Magistrate when present.
- 4) Use little force and do as little injury to person and property as may be consistent with attainment of objective in view.
- 5) In case you decide to open fire:
  - a) Give warning in local language that fire will be effective;
  - b) Attract attention before firing by bugle or other means;
  - c) Distribute your men in fire units with specified Commanders;
  - d) Control fire by issuing personal orders;
  - e) Note number of rounds fired;
  - f) Aim at the front of crowd actually rioting or inciting to riot or at conspicuous ringleaders,  
i.e., do not fire into the thick of the crowd at the back;
  - e) Aim low and shoot for effect;
  - f) Keep Light Machine Gun and Medium Gun in reserve;
  - g) Cease firing immediately once the object has been attained;
  - h) Take immediate steps to secure wounded.
- 6) Maintain cordial relations with civilian authorities and paramilitary forces.

7) Ensure high standard of discipline.

**Don'ts**

- 1) Do not use excessive force
- 2) Do not get involved in hand-to-hand struggle with the mob
- 3) Do not ill-treat anyone, in particular, women and children
- 4) No harassment of civilians
- 5) No torture
- 6) No communal bias while dealing with civilians
- 7) No meddling in civilian administration affairs
- 8) No Military disgrace by loss/surrender of weapons
- 9) Do not accept presents, donations and rewards

Source: (Saikia, 2010)

## **Appendix 4**

### **Naga-Akbar Hydari Accord (Nine Point Agreement)**

That the right of the Nagas to develop themselves according to their freely expressed wishes is recognized.

1. Judicial – All cases whether civil or criminal arising between Nagas in the Naga Hills will be disposed of by duly constituted Naga Courts according to Naga customary law or such law as may be introduced with the consent of duly recognized Naga representative organisations: save that where a sentence of transportation or death has been passed there will be a right of appeal to the Governor.

In cases arising between Nagas and non-Nagas in

- a) Kohima and Mokokchung town areas, and
- b) In the neighboring plains districts, the judge if not a Naga will be assisted by a Naga assessor.

2. Executive – The general principle is accepted that what the Naga Council is prepared to pay for, the Naga Council should control. This principle will apply equally to the work done as well as the staff employed.

While the District Officer will be appointed at the discretion of the Governor, Subdivisions of the Naga Hills should be administered by a Sub divisional Council with a full time executive President paid by Naga Council who would be responsible to the District Officer for all matters falling within the latter's responsibility, and to the Naga Council for all matters falling within their responsibility.

In regard to:

- (a) Agriculture – the Naga Council will exercise all the powers now vested in the District Officer.
  - (b) C.W.D. – The Naga Council would take over full control.
  - (c) Education and Forest Department – The Naga Council is prepared to pay for all the services and staff.
3. Legislative – That no laws passed by the Provincial or Central Legislature which would materially affect the terms of this agreement or the religious practices of the Nagas shall have legal force in the Naga Hills without the consent of the Naga Council. In cases of dispute as to whether any law did so affect this agreement the matter would be referred by the Naga Council to the Governor who would then direct that the law in question should not have legal force in the Naga Hills pending the decision of the Central Government.
  4. Land – That land with all its resources in the Naga Hills should not be alienated to a non-Naga without the consent of the Naga Council.
  5. Taxation – That the Naga Council will be responsible for the imposition, collection, and expenditure of land revenue and house tax and of such other taxes as may be imposed by the Naga Council.
  6. Boundaries – That present administrative divisions should be modified so as
    - i) To bring back into the Naga Hills District all the forests transferred to the Sibsagar and Nowgong Districts in the past, and
    - ii) To bring under one unified administrative unit as far as possible all Nagas. All the areas so included would be within the scope of the present proposed agreement. No areas should be transferred out of the Naga Hills without the consent of the Naga Council.
  7. Arms Act – The Deputy Commissioner will act on the advice of the Naga Council in accordance with the provisions of the Arms Act.
  8. Regulations – The Chin Hills regulations and the Bengal Eastern Frontier Regulations will remain in force.
  9. Period of Agreement – The Governor of Assam as the Agent of the Government of the Indian Union will have a special responsibility for a period of 10 years to ensure the observance of the agreement, at the end of this period the Naga Council will be asked whether they require the above agreement to be extended for a further period or a new agreement regarding the future of Naga people arrived at.

**Naga National Council**  
**Governor of Assam, Sir Akbar Hydari**

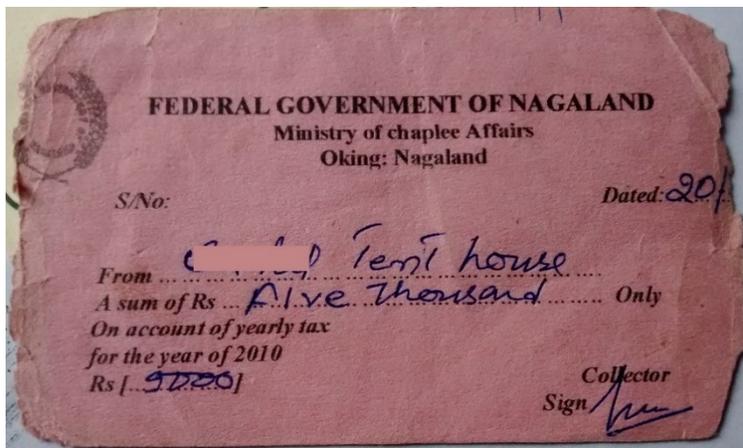
Tribes Represented at Discussions on the 26th, 27th and 28th June, 1947 at Kohima

Western Angamis, Eastern Angamis, Kukis Kacha Nagas (Mzemi), Rengmas, Semas, Lothas, Aos, Sangtams, Changs

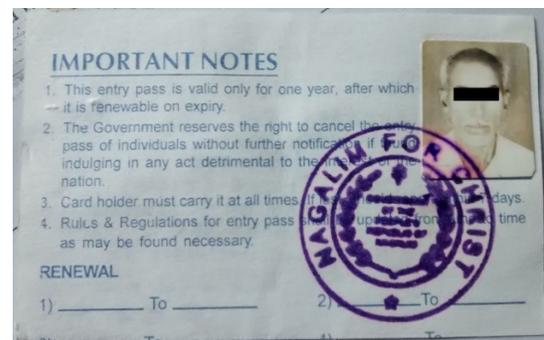
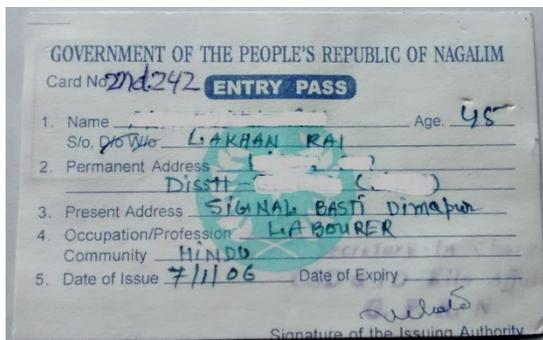
(Source: (Saikia, 2010))

## Appendix 5 (Some documents from field)

Receipt of tax collected from Federal Government of Nagaland from a business man:



Entry Pass (Pass for inner line permit), issued by Government of People's Republic of Nagaland:



(Source: Field Research)