



The armed forces special powers act (AFSPA): A contextual analysis

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Abstract

The prevailing imposition of the Armed Forces Special Powers Act (AFSPA) continues to be one of the most controversial issues in India's political and policy landscape both historically and contemporarily. The draconian nature of the Act and visible injustices orchestrated under it including gross human rights violations have been one of the long-standing questions pertaining to India's internal security policies and the state's approach towards insurgent movements. The AFSPA debate has been rekindled more recently following the Oting killings in Nagaland. In this context, this research paper primarily attempts to explore the convoluted dynamics surrounding policies such as AFSPA.

The paper is composed of six research questions forming the focus of this research study. *Firstly*, it seeks to link the use of AFSPA to the totalitarian tendencies of the majoritarian state which has largely alienated alternative perspectives and demands. *Secondly*, it tries to identify the reasons why the use of AFSPA has largely been evident in the North-East regions of India. *Thirdly*, it entails an exploration of how the minimal engagement of civil society actors and locals in policy decisions around AFSPA has served to compound the problem. *Fourthly*, it explores whether the absence of AFSPA in the areas where it is currently imposed will restore normalcy or amplify threats to law and order in those regions. *Fifthly*, it draws a comparative analysis aiming to draw parallels between the Kadyrovites of Chechnya and the use of AFSPA in India. *Sixthly*, it positions AFSPA in the theoretical debate between human rights and national security. Lastly, it concludes on the note that AFSPA reforms with an emphasis on better safeguards for human rights need to be proposed as the way forward.

Keywords: AFSPA, national security, insurgency, north-east, security policy

Introduction

The Armed Forces Special Powers Act abbreviated as AFSPA is one of the shortest legislations ever enacted in the Indian state and continues to remain one of the most controversial legislations till date. AFSPA's origin predates the independence of India; it was promulgated as an ordinance to suppress the Quit India Movement by Lord Linlithgow, the then Viceroy of India, in 1942.

After the partition of India in 1947, the Government of India decided to invoke four ordinances- Bengal Disturbed Areas (Special Powers of Armed Force), the East Bengal Disturbed Areas (Special Powers Act), the United Provinces Disturbed Areas (Special Powers Act) and the Assam Disturbed Areas (Special Powers Act) to deal with the internal security matters. As the secessionist movement gained prominence in the Naga Hills, the government enacted 'Assam Disturbed Areas Act, 1955.' However, following the failure of these laws to contain the Naga rebellion, on 23 March 1956, the Naga Nationalist Council formed their own government titled, 'The Federal Government of Nagaland'. Thereafter, on May 22, 1958, the Armed Forces (Assam and Manipur) Special Powers ordinance was institutionalised by the President of India. In September 1958, it was replaced by the Armed Forces (Assam and Manipur) Special Powers Act. Later with the expansion of the territorial scope of this Act, the Armed Forces Special Forces Act was enacted.

AFSPA as a law comprises six sections and the definitions provided under the provisions of the act have been articulated in a vague fashion which provides greater ambit for the armed forces to interpret the nuances of this law as per their own whims and fancies. It gives the power to the Union government to deploy Special Forces in disturbed areas. An extensive range of powers have been provided to the special forces personnel that they can shoot, arrest, and search in order to maintain public order. In 1972, an amendment was introduced extending its territorial jurisdiction to all the seven North Eastern states of India- Assam, Manipur, Tripura, Arunachal Pradesh, Mizoram, Meghalaya and Nagaland.

In 1983, the Act was enacted in the state of Punjab and the union territory of Chandigarh. In 1997, the act was repealed from the state of Punjab making it the first state from where the act was repealed. Furthermore, it was enacted in Jammu and Kashmir due to extreme security instability.

Recently on 31st March 2022, the Union government took a significant step of reducing the footprint of AFSPA, 1958 in North East India- withdrawing partially from seven districts in Nagaland, one district in Assam and six districts in Manipur and completely from 23 districts in Assam.

Relating the use of AFSPA to the Majoritarian Tendencies of the Indian State

In December last year, 14 civilians were killed by defence forces in Nagaland which again drew attention to a prominent controversial policy i.e., AFSPA (*Armed Forces Special Powers Act*) which has long been in implementation. This law entails provision supplying immunity to defence forces from criminal prosecution, thus offering plain protection from the killings and abuses committed by them in an insurgency situation. A historical outlook would allow one to identify the relation between this policy and the majoritarian tendencies of the government. AFSPA is largely considered a tool used by the totalitarian government to further its agendas and suppress critical, dissenting and anti-state voices.

Back in 1942, when the Quit India movement was at its peak, the British government implemented AFSPA to weaken the movement by giving the armed forces the power to kill anyone anywhere. This led to a lot of abuses and killings by the forces. Since then, rather than repealing the policy, newly formed governments have continued its use. The law is not only against democratic values but it also takes away the right of citizens to express dissent against the actions of the government. It strips off basic rights constitutionally guaranteed to citizens by giving it away to the armed forces in the form of arming them with the right to abuse anyone without a warrant.

The implementation of the act functions in a way which is a clear indication of misuse of forces by the government. *Firstly*, under the 1972 amendment, the government can declare any area as disturbed which is highly problematic because it can directly pave the way for the easy implementation of this act. *Secondly*, apart from the centre, the governor can also impose this draconian law and a governor, as he/she is called, is an agent of the centre in a state. Thus, in every case, the imposition of AFSPA implies the will of the centre and not the states and its people.

It is also in clear violation of the spirit of federalism and the principles of federal structure then it manifests the desires of the government which in this case, can be labelled as the will of the majoritarian government because the perspectives of the state governments are ignored in these cases and their viewpoints are subjected to sheer incomprehension by the dispensation which has been chosen by the majority of people to rule the whole country. The act when imposed for a shorter period with the prime motive of restoring peace in a disturbed area may be justified but its imposition for prolonged periods reduces the law to an instrument in the hands of the majoritarian government used to impose its will on the people of a particular area and to suppress them. A law such as AFSPA shrouded in controversy only serves to fuel anti-state and anti-government agitations and prolongs unrest making it antithetical to democratic values and defeating the objective of the policy to restore peace and order in conflict-prone and insurgency zones.

Providing armed forces arbitrary powers to shoot someone at sight based on their suspicions can easily be misused. The concept of an independent nation is diluted by laws like AFSPA because the freedom of people is restricted due to a constant fear of the state and inhibitions imposed on them. Violation of the ethics of democratic government by resorting to laws like AFSPA is not the only alternative; there are alternative ways to deal with insurgency situations. For instance, the government should hold regular talks with the general public and listen to their grievances and provide solutions to it, secondly even if force is involved, then proper investigation should be done rather than arbitrary alternatives.

Thus, it becomes essential to adopt well-composed methods in order for the situation to be gradually normalised. Imposing draconian policies like AFSPA which are not followed by concrete attempts at ensuring peace and non-violence hints at the fact that the government is adopting coercive methods due to its majoritarian tendencies which are a covert mockery of the democratic process. It is imperative that a modification in the law or an elimination altogether is considered in the interest of long-standing peace in the state.

Why is AFSPA as a Policy Explicitly Evident only in the North Eastern States of India?

India has had very problematic relations with the North Eastern states of India since Independence. Prime Minister Jawaharlal Nehru retained the act of AFSPA five years after independence, due to internal disturbances in the Naga inhabited areas. The states of Nagaland, Manipur, Assam, Mizoram, Arunachal Pradesh, Tripura along with Kashmir have both experienced strong secessionist movements and have been classified as 'disturbed areas' by the Centre. However, states like Mizoram and Sikkim are not classified as disturbed because they are seen as more peaceful. The fact that AFSPA applies to the whole state of Assam, Manipur and Nagaland implies that insurgency in these areas are more prominent. The label of whether or not a state is disturbed is decided by the Ministry of Home Affairs and can be reviewed at an interval of six months without a limit on the number of times this label can be renewed. It is thus easier for AFSPA to control and have dominance over some North-Eastern states since some areas can and have been classified as disturbed areas for decades, without much hope for repeal.

Being treated as a group separated from the mainstream has largely contributed to these ongoing conflicts and secessionist movements. The fact that AFSPA has the power and capacity to give protection to armed forces to carry out operations in these concentrated areas has only led to more resistance and ostracization. Such draconian acts are largely responsible for inciting further violence in these areas, since political violence can be attributed to protests against AFSPA.

Since the North-East is a sensitive area which has struggled with issues of identity and ethnicity within its contested spaces, the geographical and political isolation of this area reinforces an image of a separate region. This region's current geopolitical reality is a legacy of the colonial administration that separated the partition of

British Burma from British India, which makes the conflict very complex, existing at many different levels. The North-East is an ethnic minefield, racially diverse with many cross-cutting societies and culturally heterogeneous, which has resulted in complicated relations with not just New Delhi, but the rest of India. However, there is also a problem of hostility between different tribal groups in these states, due to their different aims and efforts to achieve political independence from India.

Nagaland's conflicts and resistance to AFSPA is the oldest and has been the most prominent. The Nationalist Socialist Council of Nagaland (NSNC) is the main political force that wants to bring all Naga people living in the North-East and Myanmar together as one administrative and political unit. There is a similar group in Assam called the United Liberation Front of Assam (ULFA) whose aim is Naga territorial unification and sovereignty. The situation in Nagaland is still ongoing, since they have long been one of the most militarised regions in India, and the government's participation in inflicting brutality in the region has been high. Manipur is also another state with issues of tribal conflicts, corrupt politics, absence of governance and rising insurgent groups which have suffered subjugation under AFSPA. Unlike Kashmir, the conflict in the North-East has less of an external dimension in the sense that the external dimension with regard to the North-East is not as pronounced in Indian Kashmir. The conflicts pertaining to the North-East have more of an internal dimension despite some occasions of meddling from China, Bangladesh and Myanmar, which is why it can be said that these conflicts are more internal to India.

Minimal Engagement of Civil Society Actors in AFSPA-Imposed Regions: An Added Problem

States where AFSPA has been imposed have witnessed intense backlash from local communities, social activists, civil society groups, local leaders etc. due to the purported draconian characteristics of the law. Incidents of extra-judicial killings and civilian deaths carried out under the aegis of AFSPA have, for long, inspired protests and demonstrations of varying scales against the AFSPA Act. Notably, Irom Sharmila, the Iron Lady of Manipur executed a prolonged hunger strike since 2000 demanding the repeal of AFSPA in light of the 'Malom Massacre' causing the death of 10 civilians in Malom Makha Leikai, Manipur. Recently, civilian killings in Nagaland's Mon district by the army which provoked protests and clashes between local mobs and the troops has further ignited the AFSPA debate.

In this context, it can be noted that the involvement and contribution of local people and civil society in discussions and decision-making around AFSPA has remained extremely limited, further complicating the issue and hindering the conception of newer alternatives and innovative solutions. The security-driven perspective which has justified the use of AFSPA as an autocratic response befitting insurgency situations has largely excluded the local communities and civil society organisations in AFSPA-imposed states from making their concerns known and reflected in the state's response to violence and insurgency; it also effectively serves to prevent their active engagement in the governance structure and development of their communities and regions.

The adoption of a 'top-down' policy approach by the Centre in enforcing AFSPA under the garb of national security has served to effectively justify the role of the Indian state as a protecting and defending entity while simultaneously projecting its citizens as the enemies of the state. This is evident in the language of the AFSPA law which allows extraordinary powers to be granted to armed forces in "disturbed areas" in "war-like situations". While the Central government considers the enforcement of AFSPA in the North-East and Jammu and Kashmir to be essential in light of the fragile internal security scenario in those regions, it can be argued that the "*ethnic, social, political and economic dimensions that actually precipitate the adverse security situation*" in the conflict-prone regions are not taken into account. AFSPA as a law appears to be alienated from the historical backdrop and geopolitical realities of the areas where it has been implemented.

It is of prime importance to adopt a 'bottom-up, de-centralised approach' incorporating the inputs of civil society and local communities affected in areas where AFSPA is in operation thereby creating an effective feedback mechanism for policies centred around national security including laws such as AFSPA.

With the advent of New Public Management (NPM) and good governance models since the 1980-1990s disrupting existing paradigms of public administration, stress has been laid on expanding the role of government through the concept of 'governance'. According to Bagai, the "*concept of governance is more encompassing and wider than that of government which conventionally refers to the formal institutional structure and location of authoritative decision making in the modern state*". The governance model focuses on the implementation of government activities with horizontal network settings between public, private and non-governmental and non-profit organisations. The introduction of different stakeholders in the policy process maximises scope for transparency and accountability in governance, increases citizen engagement and fosters holistic, people-centric development. Specifically, the 'good governance' model lays stress on acknowledging the role of civil society in problem-solving on local community issues.

In the context of AFSPA debate, it is significant to note that disruption of governance structures and barriers to socio-economic development have aggravated insurgent conflicts and contributed to inefficiency of policies in AFSPA-imposed states consistently across different government regimes. Amidst the highly complex challenges of governance confronting states such as Nagaland, Manipur, Kashmir etc. co-existing in an environment of armed anti-state rebellion and excessive military presence, the role of civil society associations becomes indispensable to safeguard and promote the interests of civilians in those regions. An active civil society will act as a mediator between the local administration, armed forces, central government, locals, tribal populations allowing a convergence of interests on AFSPA and its execution, extremities committed under the Act, human

rights atrocities, and the debate on whether there is a need to repeal the Act or not. Moreover, it has also been pointed out that the current Autonomous Councils and District Councils operating in North-East states have monopolised control and are in immediate need of expanding their spheres of decision-making by providing space for greater civil society engagement.

Additionally, the two-dimensional and dehumanising perspective adopted towards insurgents via draconian laws like AFSPA with a counter-insurgency motive is ignorant of the circumstances which perpetuate the continuance of anti-state narratives and armed rebellions. These are often spurred due to deep-rooted systemic inequalities, lack of economic development and extreme levels of deprivation. Emphasising on the correlation between poverty and militancy, Urmitapa Dutta has noted that several 'foot soldiers' for armed insurgent groups in the remote areas of the Garo Hills in Meghalaya come from relatively disadvantaged backgrounds and are victimised by conditions of "*abject poverty, lack of employment opportunities, and a sense of disconnect with the larger community*". Dutta further argues that there is sufficient possibility for rehabilitation of such novice insurgent recruits in society with a change in socio-economic circumstances defining their lives; a critical factor overlooked by the draconian AFSPA Act.

In order to persuasively wipe out an environment conducive to separatist agendas and insurgent movements, absence of active conflict is not the only requisite. Sustained peace-building efforts must be accompanied with long-drawn developmental processes focused on the local, improved governance and anti-corruption mechanisms, reduction of gendered violence, eliminating societal injustices and increasing economic opportunities and maximising human security for which the contributions and inputs of civil society are invaluable. Civil society actors have been emphasising on the route of economic development for long-drawn solution-building in AFSPA-implemented areas particularly the North East. Creation of conditions beneficial to greater civil society engagement is also crucial to counter ethnic antagonism arising out of xenophobia and identity politics in the region; one of the fronts the AFSPA Act has failed on. Dutta has prescribed various strategies for advancing the development of civil society which include, "*creating opportunities for inclusive community and civic engagement; providing a safe platform for the expression of multiple voices; building issue-based solidarity networks that transcend ethnic identifications; actively shaping public discourse to counter divisive ethnic identity politics.*"

A prominent instance of the positive impact of the role of civil society was seen in Tripura where the emergence of a nexus between the state government and the tribals through economic development and empowerment of local governance bodies have allowed greater control over insurgency activities. In addition, civil society groups particularly the Naga Hoho in Nagaland have made immense contributions towards peace-building in the state facilitating negotiations between different parties such as diverse political interests, Union and state governments, tribal communities, civilians, rebellion outfits etc.

Fostering civil society engagement possesses the potential to improve the social fabric of areas affected by conflict, insurgency and militarisation for decades increasing prospects of a 'permanent peace'. In conclusion, it is paramount to give greater weightage to the inputs of non-state civil society actors and the perspectives of local communities in policy decision-making regarding AFSPA and the state's approach towards areas of insurgency and conflict in order to conceptualise 'holistic solutions' beyond the implementation of the AFSPA Act.

Will the Absence of AFSPA in the Areas Where it is Currently Imposed Restore Normalcy or Create More Chaos in the Region?

The biggest issue that the absence of AFSPA will pose is security, to maintain stability and order, especially in areas that might put the nation's integrity at stake. To tackle the repetitive insurgencies in north-eastern states like Assam, Nagaland, Manipur, and Arunachal Pradesh, security forces have been deployed in these areas. To make it more accessible these deployments were legitimised through legislation. The security forces themselves don't require the act however it's the state who requires the deployment of armed forces in the disturbed areas due to various reasons. *First*, the frequent insurgencies create administrative failure in the concerned states. Due to the inefficiency of police forces and local functionaries, the presence of the armed forces becomes all the more necessary for the maintenance of law and order. *Second*, the peace dividend of the armed forces has failed to provide enough capital for providing for these recurrent military operations.

Another reason for the legal implementation of AFSPA is that a soldier cannot use force by law like a policeman can, also in these remote areas it is not easy to attain the support of a magistrate every time. The articles of the AFSPA 4 (a), (b) (c) and (d) empower the armed forces with certain special powers and revoking the act would disable the forces to carry out the operations such as shooting or arrest a terrorist or search the suspected person or premises. The entire impetus of the act would become impractical. If the act is diluted or tailored to the desires of civil society it would lead to various difficulties in its functioning.

First, it would immensely restrict the armed forces to operate, second, it would give insurgents and militant leaders huge leeway and an upper hand to create chaos and instability and might cause great loss of soldier and civilian lives, as well as destruction of public and personal property. The escalation of the situation could also lead to the forced migration of the locals to other areas and the destruction of personal property might create an economic crisis for the residents.

It would also trigger political turmoil in the states and threaten national security. *Third*, lack of security cover would gravely affect the development process of the affected states which would make transport of goods from these states to other parts of the country difficult and cause inflation in the state. It would also alienate the state

from the rest of the country. The dilution of the act would lead to a reluctance amongst the forces to conduct operations facing litigation and diverting their attention and energy in the courts rather than in military operations.

If AFSPA is removed, it will demoralise the forces and enable local insurgents to file lawsuits against military personnel which in turn will help dominate the states by the militant groups. Apart from the physical and economic crisis, the people would also face various social and psychological difficulties when faced with insurgent attacks in the absence of AFSPA.

On the other hand, AFSPA has been removed from Meghalaya as well as various districts of Manipur, Nagaland, Assam, and Arunachal Pradesh. It has been four years since the security situation has improved in the state. With AFSPA removed, it will allow the residents some freedom from the frequent frisking and arrests. The government relaxed six decades old Protected Area Permit from some of the north-eastern states like Nagaland, Mizoram and Manipur that will definitely help locals to earn more money from foreigners visiting the state and promote tourism of the state. This development will also improve the overall well-being of the locals from the constant fear of insurgency attacks.

There are other viable alternatives to stringent AFSPA. First, is to deploy more forces on the borders to ensure maximum resistance towards infiltrators. Second, is to follow the path of dialogue mediated through various groups of interlocutors who would initiate talks with various stakeholders. However, this process is a time-consuming process and would require a lot of patience from the side of the government but eventually it would benefit all the involved parties.

Thirdly, the state police forces should be trained extensively, and they should be well equipped. Moreover, they could be trained by expert army officials, who have years of training experience. Fourthly, the centre and state government should have an accomplished intelligence system.

Both highly trained and equipped local police and established intelligence network would achieve maximum success as local policemen would thoroughly be aware of the local area and the local population would be more cooperative with them as compared to the deployed military men.

Comprehensively what is of utmost importance to bridge the gap of lack of trust between the armed forces, deployed by the government and the local population of the areas of the concerned states.

A Policy like AFSPA– the Kadyrovites of Chechnya

Six decades of the draconian Armed Forces (Special Powers) Act 1958 owes its reviled existence to an atrocious blend of authoritarian political fallacies, misconstruction of the justice system and circumstantial socio-political exigencies. The Act has given an enormous ambit to the paramilitary forces to commit gross human rights violations over the years and has constantly stood as a barrier to the people's fundamental rights as enshrined by the Constitution of India.

The Act has always posed a hurdle to the people who seek justice from the judiciary, although the judiciary in most of the cases under this Act has always tried and interpreted new dimensions in its pronouncements to support this draconian law. The legislation of the country simply allows the armed forces to control, open fire, arrest without warrants and torture the people residing in disturbed areas by providing the Act with immunity from criminal prosecution that the special law entails and making it all the more rigid.

Since the beginning of the Kremlin's large-scale invasion of Ukraine in February, there have been reports from media outlets and open-source intelligence accounts of sightings of Chechen fighters known as the Kadyrovtsy (Kadyrovites in English), led by the Russian backed Chechen President Ramzan Kadyrov. The Kadyrovites of Chechnya, Russia is a paramilitary organisation that serves as the protection of the Head of the Chechen Republic. It originated as a Chechen separatist militia under Akhmad Kadyrov in 1995 but defected to the Russian side in the Second Chechen War of 1999. The Kadyrovites were legalised by the Russian government in 2006 as a motorised regiment of the Ministry of Internal Affairs. After a series of reforms in 2016, most of the Russian paramilitary and internal military troops were placed under the command of the newly created Rosgvardiya (National Guard of Russia) and the Chechen internal troops were placed under nominal control of the National Guard, however still under the direction control of Kadyrov.

What the Kadyrovites of Chechnya, Russia and the Armed Forces (Special Powers) Act of 1958 of India have in common are their outright gross violation of human rights as legalised paramilitary forces of the state. There has been a long history of the armed forces being heavily involved in torture, kidnapping and murder of innocent civilians in their respective countries and states of operation. The Kadyrovites are constantly accused of working as a death squad against the Kadyrov's enemies just as the armed forces under the AFSPA are a clear misuse of security forces by the government to mock federalism of states like Nagaland, Arunachal Pradesh, Assam and Manipur. Human rights violations can never be compromised under any circumstances, and the State has the utmost legal responsibility to ensure so. Paramilitary forces like the Kadyrovites and the AFSPA are given access to and unlimited powers to search, arrest, shoot and even kill in the name of aiding civil power and countering insurgencies.

Violence has become a way of life in the province of Chechnya and the North-Eastern region of India, facilitated by the very institution put in place to maintain law and order and protect the civilian population. They are not held accountable for the atrocities they commit under controversial legislation as paramilitary forces of the state and allow incidents like the recent Nagaland Oting killings of civilians by citing "national security" as a

justification in most cases. This has established a culture of impunity that allows the paramilitary forces and the government itself to completely disregard the rule of law and human rights.

AFSPA: Human Rights versus National Security?

AFSPA as a policy not only impacts locals but also the entire nation in the international arena. As a policy it allows deployment of security forces in 'disturbed areas' and allows personnel to have extra constitutional powers in conducting operations in these areas. Due to these special powers, instances of human rights violation have become normal in the North Eastern states of India: Nagaland, Manipur, Assam and Arunachal Pradesh. It allows armed forces to open fire against any person in contravention to the law. On the basis of reasonable suspicion, they can arrest any individual and can search their premises without any warrant. Further, this act provides blanket impunity to armed personnel- no legal proceedings can be conducted against them without prior approval of the Centre.

The debate between National Security and Human Rights has been prevalent for centuries. With regard to the Indian context also, the constitution framers were in a dilemma as to how to bring a balanced approach between individual's rights and national security. By inserting the term 'reasonable' before restriction in the part III of the Indian constitution, our forefathers tried to give scope to both as it was the crucial necessity of a newly emerging democratic state. Thus, changing the power dynamics and a shift of power from executives to judiciary.

When the police as an institution fails then armed forces are deployed by the Government of India to manage the situation well in the disturbed areas/areas where secessionist violence is present. Today, insurgent groups are well funded and trained by foreign powers and this fact cannot be ignored. There have been several instances where military personnel have been massacred in groups by the insurgents. In April 2010, approx. 70 armed personnel of Central Reserve Police Force were massacred by Maoist rebels in Dantewada.

Nonetheless, this in no way justifies the human rights violation. "The differentiator should be casualties caused in the heat of battle versus those caused in cold blood to gain awards or recognition." In 2016, the Supreme Court of India had directed the Central Bureau of Investigation to probe the alleged role of the Assam Rifles and army troops in 1528 extrajudicial killings in Manipur committed between 2000-2012. In a recent case of civilian killing by security forces in Mon district of Nagaland, the Special Investigating Team has been constituted by the Nagaland government, the team will submit its final report to the court post receiving the forensic results. Such cases clearly point out that AFSPA as an internal security law has been misused by the deployed forces and civilians live in a state of constant fear, anxiety and frustration.

When it comes to a state's priorities, National security and human rights are not two distinct parallel issues rather they complement each other. AFSPA as a law is no doubt a necessity but with proper reforms in the policy and taking into consideration the aspect of human rights, the law can establish a balanced ground which neither subordinates civilians nor states' security. If a state prioritises one by side-lining the other then there is a great possibility of the overthrow of democratic ideals and principles. If the state prioritises national security, then people's fundamental rights are violated and when it focuses on human rights above national security then sovereignty comes under threat. Therefore, every state tries to balance national security and human rights.

Conclusion

The highly controversial nature of the AFSPA policy which has been deemed oppressive in nature has generated an ample number of demands to repeal the law as it has been considered to be a blanket power tool utilised by those in power particularly the Centre and the military establishment and a blot on the democratic structure of India. However, due to the volatility of the internal security scenario in the North-East and Kashmir, areas where AFSPA has been principally imposed in, a complete rescinding of the law appears to be far-fetched. Moreover, the continued imposition of AFSPA has been identified as one of the factors why aggravated conditions of insurgency and violence hindering the restoration of internal security persist in AFSPA-imposed conflict areas. In such a political context, AFSPA reform with a specific emphasis on a human rights approach may be the path forward.

It is imperative that a people-centric approach is adopted in decision-making and negotiations regarding AFSPA allowing for greater involvement of local people. This will serve to create efficient feedback mechanisms for the policy and provide concrete solutions paving the way for greater policy reform in AFSPA taking cognisance of human rights conditions. It is also possible to conceive of alternative solutions than resorting to the implementation of AFSPA in disturbed regions thereby providing arbitrary power to the military to tackle the conflict. Moreover, it is highly significant that when the use of force is authorized, sufficient safeguards such as proper investigations need to be instituted to prevent any possible misuse of the special powers accorded under AFSPA. On a concluding note, the AFSPA Act has, over the course of its history, become synonymous with state-led atrocities and a reconceptualization of the Act's very nature is deemed essential in order to gradually alter the situation in India's disturbed regions posing a continued threat to internal security.

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