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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

AFSPA AND THE VIOLATION OF HUMAN RIGHTS: BALANCING NATIONAL SECURITY WITH CONSTITUTIONAL PROTECTIONS

AUTHORED BY - ANURAG GEEGI PAROKKARAN

ABSTRACT:-

This study extensively examines the implications of the Armed Forces Special Powers Act (AFSPA) on the human rights of the citizens of Manipur. It came into force on September 11, 1958. AFSPA has attracted monumental controversy due to its perceived totalitarian characteristics. Manipur residents are Indian citizens and theoretically enjoy the fundamental rights guaranteed under the Indian Constitution, e.g., Article 14 (Right to Equality), Article 21 (Right to Life and Personal Liberty), and Article 22 (Protection against Arbitrary Arrest and Detention). The advent of AFSPA has gravely diminished these protections. The Act gives colossal powers to the Indian Armed Forces, and one cannot but wonder at the possibilities of human rights abuses. In this study, the issues mentioned above will be ascertained through a critical examination of selected case studies, e.g., the Manorama Killing and the Malom Massacre, which are instances of the alleged misuse of AFSPA. This paper will examine to what extent the Act violates several international human rights covenants to which India is a signatory. The presence and application of the Armed Forces Special Powers Act raise haunting questions about the reconciliation between national security and human rights, especially in conflict zones. The controversy surrounding AFSPA is still debatable in this day and age. Some people believe that the Act is necessary to ensure law and order in areas affected by insurgency.

In contrast, others believe that it gives absolute powers to security forces and thus causes systemic human rights abuses without any accountability. The latter half of this paper will critically examine whether AFSPA has acted as a protective or opposing force regarding the human rights of the citizens of Manipur. By drawing on a study of legal, constitutional, and international interpretations, this research attempts to add to the argument on the need and implications of AFSPA in a democratic government.

Keywords:- Armed Forces Special Powers Act, AFSPA, Manorama Killing, Malom Massacre, Human Rights, International Conventions

INTRODUCTION:-

On May 22, 1958, the then President issued an ordinance known as the Armed Forces (Assam and Manipur) Special Powers Ordinance 1958¹. As the case may be, the Governor of Assam and the Chief Commissioner of Manipur may designate all or a portion of Assam or the Union territory of Manipur as a "Disturbed Area" under Section 3 of the Ordinance. Any commissioned officer, warrant officer, non-commissioned officer, or other person of comparable rank in the armed services may use the authority granted by sections 4 and 5 of the Ordinance in the affected region upon the publication of such a declaration in the Official Gazette. The Ordinance is intended to be replaced by the Bill. See Pt. II-Sec. 2 of the Gazette of India, 11-8-1958. Ext. p.714 (No.26).²

During the Quit India movement, Lord Linlithgow, the Viceroy of India, developed the AFSPA in 1942. This legislation was intended to confer special powers to some armed forces officers. The Act was maintained in effect by the 1958 decree aimed at reducing the rising levels of violence in the northeastern states, which the respective state governments found themselves unable to manage. In short, the Armed Forces (Special Powers) Act allows the military to enforce public order in "Disturbed Areas."

Thus, the main issue with the Armed Forces Special Powers Act was the absence of substantial checks and balances, which made the Act draconian, causing fear and unrest in the hearts of the citizens instead of giving them a sense of peace and safety, which was the intended primary purpose.

SALIENT FEATURES OF AFSPA

The term "Disturbed Area" has been defined in Section 2 (b) of the Armed Forces Special Powers Act, 1958, which means an area which is, for the time being, declared by notification under section 3 to be a disturbed area.

Section 3 of the AFSPA, 1958, states the power to declare areas as disturbed areas. To further elaborate, this section gives the Governor, or the Administrator of a State, who deems the State to be in 'disturbed' condition and the use of armed forces is necessary, the Governor or the

¹ Ashwani Joshi, Armed Forces Special Powers Act (Afspa) Understanding Of Afspa, Fastrack legal solutions (Feb. 5, 2024), <https://fastracklegalsolutions.com/armed-forces-special-powers-act-afspa-understanding-of-afspa/>.

² https://www.mha.gov.in/sites/default/files/armed_forces_special_powers_act1958.pdf

Administrator³ may by notification in the Official Gazette to be a disturbed area as stated in *Inderjit Barua v. State of Assam* AIR 1983 Delhi 513⁴

Section 4 of the AFSPA, 1958, states about the Special Powers of the Armed Forces—*Kharak Singh v. State of Uttar Pradesh* AIR 1963 SC 1295⁵.

The powers given to the armed forces are as follows:-

- a) For the maintenance of public order, the commissioned officer, warrant officer, non-commissioned officer, or any person of equivalent rank may fire upon or use force to the extent of causing the death of any person who acts in contravention of law and order.
- b) If he believes it's necessary, he may destroy any arms dump, fortified position, shelter, or structure used for armed attacks, training camps, or as a hideout for armed gangs or fugitives wanted for a crime.
- c) Arrest, without a warrant, anyone who has committed a cognizable offense or is reasonably suspected of committing or about to commit one, using necessary force if required to make the arrest.
- d) Enter and search any premises without a warrant to make an arrest, recover someone believed to be wrongfully restrained or confined, or find suspected stolen property, arms, ammunition, or explosives believed to be unlawfully kept, using necessary force if required.

Section 5 of the AFSPA, 1958 states that after the arrest of a suspect, they must be taken to a nearby police station with the "least possible delay." The words 'least possible delay' creates a lot of ambiguity and make the section uncertain, as seen in *D.K. Basu v State of West Bengal*⁶ and *Nungshitombi Devi v. Rishang Keishang*⁷.

It was stated by the Supreme Court in *Nungshitombi Devi v. Rishang Keishang* (1982) 1 G.L.R. 756

"Though the Act has given the armed forces wide powers, these are sought to be confined within the narrow limit, and in this limit also they do not supplant the ordinary machinery for

³ LI Network, Armed Forces Special Power Act – An Analysis, LAW INSIDER INDIA- INSIGHT OF LAW (SUPREME COURT, (Dec. 8, 2021), <https://www.lawinsider.in/columns/armed-forces-special-power-act-an-analysis/>).

⁴ *Indrajit Barua vs The State Of Assam And Anr*, AIR 1983 DELHI 513

⁵ *Kharak Singh v. State of U.P.*, 1962 SCC OnLine SC 10

⁶ *D.K. Basu v. State of W.B.*, (1997) 1 SCC 416

⁷ *Nungshitombi Devi v. Rishang Keishang* (1982) 1 G.L.R. 756

maintaining law and order or for that matter order, but they supplement the working of ordinary law enforcing machinery. According to us, the civil authorities and the armed forces have to work hand in glove and not in suppression of any side."

Sector 6 of the AFSPA, 1958, states that no prosecution, suit, or other legal proceeding shall be instituted against any person who has done anything in exercise of the powers conferred by the Act mentioned above.

The Constitutional Validity of the Act was challenged in the Naga People's Movement of Human Rights v Union of India case (AIR 1998 SC 431)⁸. Still, later, it was held that the Act in question was valid.

RULE OF LAW:-

The Rule of Law, as originated from Sir Edward Coke and discussed by Greek philosophers Plato and Aristotle, represents the ideal that the relation of governance shall rest on an appeal to laws and not to individual will. Plato cautioned that where the laws are placed beneath rulers, the State stands a chance to perish, while Aristotle stressed, on the other hand, that rulers themselves have to submit to the laws.

La principe de legalité is a French phrase that means governance by the rule of law. In both the tribal and republican constitutions of India and America, this is the foundation of the structure of law as it formed the basis of justice, equality, and accountability.

In the year 1885, A.V. Dicey elaborated on three prime aspects of the Rule of Law:

1. Supremacy of Law:- No one is considered above the law.
2. Equality Before the Law: All persons, including government officials, would stand equally by law.
3. Predominance of Legal Spirit: Rights such as personal liberty should be enforceable in the courts.

The principles of the Rule of Law find expression in Indian jurisprudence in the Constitution, which confers associations' rights under Articles 32 and 226 and accords the Supreme Court's authority to exercise its jurisdiction in invoking judicial review. In this regard, it is a concept on which Indian democracy pleads that people should know that laws do not transgress constitutional prerequisites and that the Government can take no arbitrary or unlawful action.

⁸ Naga People's Movement of Human Rights v. Union of India, (1998) 2 SCC 109

Article 32:- Writ Jurisdiction of the Supreme Court

Article 226:- Writ Jurisdiction of the High Court

The reason the Rule of Law has been cited is that we can see that through AFSPA, the human rights of the citizens of Manipur have been violated, and despite desperate pleas by the people, appropriate action wasn't taken against the perpetrators and the Judiciary which is considered to be the last bastion of protection of human rights and acts as a redressal agency to protect the violations of human rights was silent on this destruction of human rights which was caused in the wake of AFSPA. Due to AFSPA, it seems that the Rule of Law, where the three organs are the Executive, Legislative, and Judiciary, work in such a way that they act as a form of checks and balances over each other's domain so that neither of the organs works arbitrarily.

CASE STUDY:-

A) Manorma Killing⁹

Facts:-

The current study considers the case of Thangjam Manorama Devi, who was raped and extrajudicially executed by Indian Army men in 2004, and in response, women in Manipur organized massive protests.

The 'Mothers of Manorama' also known as "Meira Paibis," which means Women with bamboo torches in the local dialect, conducted a naked protest in front of Kangla Fort, pinpointing the inadequacy of the Government to protect its women folk and projecting the prevalent use of sexual brutality by the security forces to assert their dominance.

- **AFSPA and Impunity:**

The Armed Forces Special Powers Act (AFSPA) of 1958 provides enormous powers to the army with immunity from prosecution, and the result is frequent human rights abuses.

- **Constitutional Rights Violation:-**

AFSPA violates constitutional rights like Article 14 (Right to Equality), Article 21 (Right to Life and Personal Liberty), and Article 22 (Protection against Arbitrary Detention)

- **Global Human Rights Abuses:-**

The Act violates human rights treaties, including the Universal Declaration of

⁹ CHAKRAVARTI, PAROMITA. "READING WOMEN'S PROTEST IN MANIPUR: A DIFFERENT VOICE?" *Journal of Peacebuilding & Development*, vol. 5, no. 3, 2010, pp. 47–60. JSTOR, <https://www.jstor.org/stable/48603378>. Accessed 11 Mar. 2025.

Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

Challenges:-

The Clash between National Security and Human Rights: Is national security sufficient justification to suspend fundamental rights in Manipur?

- Legal Immunity of Military Forces: How does AFSPA's immunity grant erode due process and the rule of law?
- Gendered Effect of Military Governance: To what extent does AFSPA enable gendered violence, and specifically violence against women?
- Role of Judiciary and Government Accountability: Can the Indian Judiciary enforce constitutional rights in conflict areas?
- Effectiveness of Non-Violent Protest: What has been the effect of Manipuri women's new form of protest on Indian human rights activism?

Conclusion:-

Application of AFSPA in Manipur has resulted in gross human rights violations, especially against women, as in the case of Thangjam Manorama Devi. The Act violates constitutional safeguards and international human rights standards and is a legal and ethical issue. The 'Mothers of Manorama's agitation is a milestone of feminist resistance and proves the failure of the Indian State to safeguard its citizens. National security is a real issue, but not at the expense of fundamental rights. Repealing or amending AFSPA, accountability, and protecting constitutional rights are measures toward peace and justice in Manipur.

B) Malom Massacre¹⁰:-

The backdrop of the Malom Massacre begins with the Malom Bus Stop, which is on Tiddim Road, down NH 150- a smooth highway in Imphal that passes through the hills and then enters into Tiddim, which is in Burma.¹¹ On this spot on 3rd November 2000, at 3.20 pm, the insurgents attacked a three-vehicle convoy of 8 Assam Rifles. The Jawans fired in retaliation, but the targets of their attack had escaped long back, and the unfortunate incident claimed the

¹⁰ Irom Chanu Sharmila and the Movement against Armed Forces Special Powers Act (AFSPA), (Mar. 1, 2014), <https://spaceandculture.in/index.php/spaceandculture/article/view/42>.

¹¹ The Massacre in Manipur That Prompted Irom Sharmila's Fast-Unto-Death Sixteen Years Ago. <https://caravanmagazine.in/vantage/the-massacre-in-manipur-that-prompted-irom-sharmilas-fast-unto-death-sixteen-years-ago>. Accessed 21 Oct. 2024.

lives of 5 people from Malom, out of which three victims belonged to the same family. The soldiers fired at two people on a scooter (Robinson and his Aunt Sana were on the scooter), bystanders waiting for passenger jeeps, local government employees, and the two young boys waiting to go to their private tuition to Sagolband (Chandramani and his friend Shantikumar).

It was this indiscriminate killing that ignited the fire in Irom Sharmila to start her fast unto death. She was 28 when she decided to commit to this fasting act.

The Malom Massacre on November 2, 2000, in Malom village outside Imphal, Manipur, is a watershed in the debate on human rights abuses in India. The Assam Rifles, a paramilitary force of the Indian Army, reportedly fired on and killed ten unarmed civilians, including a 62-year-old woman and a 17-year-old National Bravery Award recipient, in broad daylight. This extrajudicial killing was allegedly done in retaliation for a bombing of an Assam Rifles convoy without immediate evidence of the victims' complicity in the attack. The illegal killing of civilians without due legal process is a hallmark of the deeply entrenched impunity enjoyed by soldiers under the AFSPA, 1958.

The bloodshed highlights the excess militarization of Manipur under AFSPA, a law that gives the military extraordinary powers in so-called "disturbed areas." These include:

- The right to apply the force of death on suspicion
- The authority to arrest people without obtaining a warrant
- Legal immunity against prosecution except on the orders of the central Government

Due to this absence of accountability, security personnel were never brought to Court for the Malom killings. This incident further increased public discontent and caused mass protests in Manipur. Still, even with such protests, the Indian Government was utterly indifferent to calls for justice, further cementing the perception that state-sponsored violence goes unpunished in conflict zones.

Malom Massacre was the impetus for Irom Chanu Sharmila's path-breaking non-violent movement against the atrocities of AFSPA. Witnessing the indiscriminate slaughter of innocent civilians and impunity, Sharmila- a 28-year-old social reformer, activist, and poet started an indefinite fast on November 5, 2000, just three days after the massacre. Her aim was simple: total repeal of AFSPA, which she perceived as the source of state atrocities in Manipur.

Significant Aspects of Sharmila's Protest:-

1. Non-Violent Resistance as a Form of Demonstration

Sharmila's hunger strike was rooted in Gandhian principles of ahimsa (non-violence) and satyagraha (truth and resistance). By going without food and water for years, she wanted to draw national and international attention to the militarization of Manipur and AFSPA-induced human rights abuses. Her protest was a classic instance of civil disobedience in the truest sense, employing moral and ethical rather than physical strength.

2. Systematic Arrests and State Suppression

Sharmila was time and again arrested under Section 309 of the Indian Penal Code (IPC), an attempt at suicide being a criminal offense. Instead of listening to her, the Government tried to stifle her protest by:

- Putting her under judicial custody or house arrest
- Compelling her to take food by nasogastric tube for 16 years
- Limiting unlimited public or media access to her

Despite all these repressive actions, she remained resolute, affirming that her hunger strike was not suicide but a civil disobedience against an unjust law.

3. Constitutional Inconsistencies of AFSPA

Sharmila's protest drew attention to the constitutional and legal abuses inherent in AFSPA. The provisions under the Act run counter to the following fundamental rights of the Indian Constitution:

- Article 14 (Right to Equality): AFSPA makes discrimination among the residents of the 'disturbed areas' legal for subjecting them to excessive State control.
- Article 21 (Right to Life and Personal Liberty): The Malom Massacre reflects how AFSPA openly contravenes this right by legalizing killings with impunity.
- Article 22 (Right to Protection from Arbitrary Arrest and Detention): Arbitrary arrest and Detention in disregard of due process.

4. National and International Recognition

Sharmila's long struggle drew the world's attention, and organizations such as Amnesty

International have labeled her a "Prisoner of Conscience." Different human rights groups and legal scholars have contended that AFSPA contravenes international human rights agreements, such as:

- Universal Declaration of Human Rights (UDHR), 1948
- International Covenant on Civil and Political Rights (ICCPR), 1966
- Convention on the Elimination of Discrimination Against Women (CEDAW), 1979.

Notwithstanding international appeals and domestic controversies, successive Indian governments persisted in rationalizing the existence of AFSPA based on national security and insurgency in Northeast India.

RESEARCH OBJECTIVES:-

- What is the impact of AFSPA on International Human Rights, and why has the Act not been repealed?
- What are the international conventions that the AFSPA violates?

Jeevan Reddy Committee Report¹²

Introduction:-

The Jeevan Reddy Committee, officially known as the "Committee to Review the Armed Forces (Special Powers) Act, 1958", was formed by the Government of India in 2004. It was chaired by Justice (Retd.) B.P. Jeevan Reddy, a former Supreme Court judge, and consisted of four other members:

- Dr. S.B. Nakade (Former Vice Chancellor and Jurist)
- P. Shrivastav (IAS Retd., Former Special Secretary, MHA)
- Lt. Gen. (Retd.) V.R. Raghavan (Former DGMO)
- Sanjoy Hazarika (Journalist)

The Committee was formed in response to widespread protests, especially in Manipur, following the death of Thangjam Manorama Devi in custody of the Assam Rifles in 2004. The hunger strike by Irom Sharmila in 2001 weighed heavily on the Government's decision to

¹² (Aug. 12, 2011), [https://andyreiter.com/wp-content/uploads/military-justice/in/Government%20Documents/India%20-%202005%20-%20Report%20of%20the%20Committee%20to%20Review%20AFSPA%20\(Reddy%20Report\).pdf](https://andyreiter.com/wp-content/uploads/military-justice/in/Government%20Documents/India%20-%202005%20-%20Report%20of%20the%20Committee%20to%20Review%20AFSPA%20(Reddy%20Report).pdf).

reconsider the Armed Forces (Special Powers) Act, 1958 (AFSPA). These events have placed immense pressure on the Government to take appropriate measures regarding the AFSPA matters. The Committee studied the constitutional, legal, and human rights aspects of AFSPA.

Key Objectives of the Committee

1. To review the AFSPA and its impact on the citizens of the Northeastern region.
2. To evaluate its compatibility with human rights obligations.
3. To recommend whether the AFSPA should be amended or replaced with a more humanitarian law.

The Recommendations of the Committee were as follows:-

- 1) State and national security, among other aspects, is crucial at all levels. The Seventh Schedule to the Constitution allocates defense responsibility over India to the Union, a duty which rests mainly upon the President, the Parliament, and the Union Government. The Seventh Schedule explains the divisions of legislative powers between the Union and the States. The executive powers of the Union extend over defense matters even in the absence of a specific enactment. These powers are, however, as contained in Lists I, II, and III, open to effective legislation by both the Union and States, with Parliament being superior following Article 254. In the case of defense, Parliament can take steps to enact laws or implement them.
- 2) Articles 352 to 356 of the Indian Constitution make provisions for the responsibility of the Union Government concerning the defense of states against external aggression and internal disturbance and ensure that constitutional division of power between the different branches of the State is maintained. Article 355 of the Indian Constitution also enforces the responsibility of the Union towards the states by making it a provision that it shall defend any state from external aggression or internal disturbance. A state may arguably be considered to be facing internal disturbance when it is experiencing organized and extensive violence. Though the maintenance of public order is generally the responsibility of the State, the State may be authorized to invoke the deployment of its military forces if necessary. The Union's military forces can also be deployed when necessary to reinstate and enforce law and order, as envisaged under Article 355.
- 3) The Constitution's core rights must be respected and made possible by the Union and the States. These consist of:

➔ Article 21: Preserving life and individual freedom, guaranteeing that deprivation occurs only via legal means.

➔ Article 14: Prohibiting discrimination and guaranteeing equality before the law. The six freedoms of expression, assembly, association, movement, residence, and occupation are all protected under Article 19 with appropriate legal limitations.

➔ Article 22: Preventing arbitrary Detention and guaranteeing the right to legal counsel and prompt appearance before a magistrate.

These rights are unaffected by any restrictions imposed by Article 33, including when using force is necessary to maintain public order. Furthermore, Articles 25–30 of the Indian Constitution permit minorities to create educational institutions and ensure religious freedom and cultural preservation.

- 4) As part of their arsenal, the Union also possesses armed forces in the form of the army, navy, and air force, which it primarily focuses on using to protect the Union against invading forces. While at some points, these forces could be sent on a more temporary basis for disaster relief purposes, this is seldom the case. Further, Central and State governments have also been allowed to enlist paramilitary groups like Border Security Force, Central Reserve Police Force, Central Industrial Security Force, Indo-Tibetan Border Police, and Indian Reserve Battalions to counter particular security issues. However, these units have also been covered to control disturbances as required. On the other hand, the deployment or commitment of armed or paramilitary forces to maintaining public order should be the exception and not the norm. Troops on active duty or operations for long durations become overzealous and empowered with no limits to their discipline. They go out of control and commit abuse of fundamental human rights. To this end, when peace is restored, such troops should revert to their regular occupations as quickly as possible.
- 5) Sections 130 and 131 of the Criminal Procedures Code direct armed violence to disperse illegal assembly by saying that a magistrate should order such violence during the completed sabbatical service. In the event of a more prolonged assignment, the President's laws and orders should appropriately control operational jurisprudence. Forces are permitted not to pay attention to the law for acts done while executing designated duties. However, the reverse is true: abuses should be brought under the law. It should also be mentioned that reasonable use of force is the sole sanction on the

armed forces. As such, strict controls are in place for individuals utilizing these authorized forces to abuse individuals.

THE INTERNATIONAL CONVENTIONS THAT AFSPA VIOLATED:-

The following Conventions are listed as:-

- i) International Covenant on Civil and Political Rights¹³ (the "ICCPR"):-
 - AFSPA violates Article 6 (Right to Life) as it allows security forces to use lethal force based on mere suspicion without judicial oversight.
 - *Article 9* (Liberty and Security of Person) is violated as the Act allows arrest without a warrant, often leading to arbitrary Detention.
 - *Article 14* (Right to a Fair Trial) is compromised because security personnel are given immunity from prosecution, denying victims access to justice.
- ii) The Universal Declaration of Human Rights¹⁴ (the "UDHR"):-
 - *Article 3* (Right to Life, Liberty, and Security) is violated as the Act empowers the military to kill with impunity.
 - *Article 5* (Freedom from Torture) is breached due to frequent allegations of torture, enforced disappearances, and custodial deaths.
 - *Article 9* (Freedom from Arbitrary Detention) is ignored due to the lack of legal safeguards when arresting individuals.
- iii) The UN Code of Conduct for Law Enforcement Officials¹⁵:-
 - *Article 3* states that law enforcement officials must use force only when necessary. AFSPA grants excessive and arbitrary powers to the military, violating this principle.

The Code emphasizes accountability, while AFSPA grants immunity from prosecution, undermining oversight.
- iv) The Convention Against Torture¹⁶ (CAT),

¹³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

¹⁴ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁵ <https://www.ohchr.org/en/instruments-mechanisms/instruments/code-conduct-law-enforcement-officials>.

¹⁶ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

- The absolute prohibition on torture under *Article 2* is violated as AFSPA has been linked to widespread reports of torture, rape, and other forms of cruel treatment.
 - *Article 12* (Duty to Investigate Torture) is breached because AFSPA prevents independent investigations, requiring government sanction before prosecuting military personnel.
- v) The UN Principles on Effective Prevention and Investigation of Extra- legal and summary executions¹⁷:-
- The Act violates *Principle 1*, which states that governments must prohibit extrajudicial executions. In contrast, AFSPA enables security forces to shoot to kill without accountability.
 - *Principle 9* (Duty to Investigate Suspected Extrajudicial Executions) is ignored as military personnel are rarely held accountable for extrajudicial killings.
- vi) The UN Body of Principles for Protection of All Persons Under any form of Detention¹⁸:-
- *Principle 4* (Protection Against Arbitrary Detention) is violated as AFSPA allows arrests without warrants, bypassing judicial safeguards.
 - *Principle 19* (Right to Communication) is breached because detainees are often held incommunicado without informing their families.
- vii) Geneva Conventions¹⁹:-
- *Article 3* protects non-combatants, surrendered fighters, and the wounded during conflicts. AFSPA fails to distinguish between civilians and insurgents, leading to targeted violence against non-combatants.
 - Reports of mass graves, fake encounters, and enforced disappearances indicate a systemic failure to protect civilians.

¹⁷ <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-effective-prevention-and-investigation-extra-legal>

¹⁸ Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, <https://www.ohchr.org/en/instruments-mechanisms/instruments/body-principles-protection-all-persons-under-any-form-detention>.

¹⁹ The Geneva Conventions Of 12 August 1949, (May 17, 2010), <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/publications/icrc-002-0173.pdf>.

A SOLUTION TO THE RESEARCH PROBLEM:-

As we have seen till now, the Armed Forces Special Powers Act is considered by the Courts to be draconian. They accept that the Armed Forces' actions undertaken under the AFSPA violate the human rights protected under Articles 14, 21, and 22 of the Indian Constitution. However, the Court still believes the Act is still constitutional as it still serves the purpose for which it was created. Now, we will be discussing the solution to the ill effects of the AFSPA, which has plagued Manipur for such a long time.

The solution will be in two parts:-

A) Those already affected by the Act:-

Here, I will discuss what steps can be taken to salvage the negative consequences of the AFSPA.

The Government of India should pay heed to the various recommendations and the advice of multiple reports such as the Jeevan Committee Reports and International Conventions such as the Geneva Convention, UDHR to name a few, and start implementing these recommendations in real time so that the people whose rights have already been violated get some respite. There should be a judicial review of the cases where there has been a gross error of justice, for example, the Mallom Massacre and the Killing of Thangjam Manorama.

Moving forward, the Judiciary should play an active role by deciding cases in favor of principles of natural justice to ensure that the rights of the citizens do not get further violated by the Act, and at the same time, the Act can also function its purpose without being arbitrary and being accepted by the citizens.

B) Future implementation of the Act:-

Once the Act has been amended according to the necessary reports and other conventions of human rights, then it shall function in a way that benefits the citizens and protects national security. However, suppose the Government cannot incorporate and implement the necessary changes to the Armed Forces Special Powers Act (AFSPA). In that case, the only choice left will be to repeal the Act so that further harm is not caused. The steps to achieve these are as follows:-

- Accountability of Security Forces:

It is advised that mechanisms are established to make security officers

responsible for actions taken during their work. This includes improving the role of human rights commissions and ensuring that disciplinary actions are transparent and prompt.

- Compensation:

Instituting a credible compensation scheme for victims and families of victims of the collateral effects of operations that are carried out under AFSPA.

CONCLUSION:-

The Armed Forces Special Powers Act (AFSPA) has progressively undermined the core human rights of the Manipuri people, resulting in arbitrary killings, unjust detentions, and gender violence. The Act contravenes constitutional protections as well as international human rights agreements. Empirical facts, as evident in instances such as the Manorama killing and the Malom Massacre, indicate a prevalent culture of state-sponsored violence that is callous to the rule of law and fosters impunity. The remedy entails two approaches: immediate corrective measures to past victims and a complete revamping of AFSPA. A restructured legal system ensuring accountability, transparency, and adherence to human rights norms is the panacea to restoring public trust and securing enduring peace in Manipur.

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