



Revoking AFSPA in Nagaland

Current Trends and
Possibilities

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Discussion Paper

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ABSTRACT

For more than six decades now, Nagaland has been under the Armed Forces Special Powers Act [AFSPA] 1958. Despite the violence and impunity, the act grants the security forces, it is still in force. To bring peace to the region the Framework Agreement was signed in 2015 between the Government of India and the National Socialist Council of Nagaland (I-M). However, the peace process in Nagaland has hit a roadblock due to the violence in the Mon district in December 2021. This bloodshed has shed light on the Naga people's struggles under AFSPA. The demand to revoke the Act has been renewed following the latest incident in December. This paper will discuss the current trends and the possibility of revoking AFSPA, taking into account other North-eastern states and what we can learn from them.

Keywords: AFSPA, Nagaland, insurgency, North-East, Mizoram, Peace process

INTRODUCTION

On 4 December 2021, the Indian Army's 21 Para Special Forces opened fire on a civilian truck, carrying mostly coal miners, in Nagaland's Mon district (Shantha, 2021). The security forces killed fourteen civilians, claiming they had acted on a tip-off on the movement of insurgents. The death of the miners led to violent clashes between the locals and military troops, further slaying seven civilians and a soldier. The Army and the Ministry of Home Affairs [MHA] profoundly regretted the incident as a case of "mistaken identity and "intelligence failure" (Choudhury, 2021). The incident led to demonstrations and acts of non-cooperation against the security forces by members of the Konyak Civil Society. Acts of non-cooperation included no participation in recruitment rallies, acceptance of any packages/assistance from the armed forces, and cutting off of public relations with the armed forces (Nath, 2021).

Notably, the incident happened at a time when the union government signed a Framework Agreement with various Naga armed groups, including the National Socialist Council of Nagaland (Isak-Muivah) [NSCN-IM], to resolve the decades-old conflict. In the aftermath of the Mon incident, the MHA set up a seven-member panel to review the Armed Forces Special Powers Act [AFSPA]¹ in Nagaland. The panel was supposed to submit its report by 9 February, which has now been extended to 26 March (Singh, 2022). However, counterintuitively, the MHA also declared Nagaland as a 'disturbed area' and extended AFSPA in the state by six months (Joy, 2021).

While the report of the seven-member panel is awaited by 26 March, this paper seeks to assess the feasibility of repealing AFSPA from Nagaland. It reviews trends from other northeastern states, particularly Mizoram, where AFSPA was repealed in 1986. The paper begins with a brief look at the Naga conflict. It then identifies key issues with the peace process and the latest framework agreement, and finally discusses the repeal of AFSPA.

CONTEXT

The Naga insurgency is an eight-decades-long complex protracted conflict. It began before India's independence in the 1940s under the leadership of Phizo². The people of Nagaland demanded sovereignty and self-determination for Greater Nagalim or Greater Nagaland (Misra, 2003). In 1947, the Naga-Akbar Hydari Accord or 9-point Agreement was signed between the Indian Government and Naga groups. However, there were misunderstandings about the interpretation of the Agreement's period, mentioned in the ninth clause (Lalfakzuala, 2018). It mentioned that after a period of 10 years of the agreement, the Naga National Council would be asked if they would require the agreement to be extended or if a new agreement would be required. Phizo had interpreted this clause to mean that the Nagas would be politically independent after 10 years. Sir Akbar, then Governor of Assam,

¹ The Armed Forces Special Powers Act was approved in 1958 and has been in force in the North-east since 1958. The Act gives special powers to the Armed forces in 'disturbed areas', to maintain law and order. An area can be declared as disturbed under Section 3 of the Act.

² Angami Zapu Phizo was one of the founding members of the Naga Club that was later known as the Naga National Council in 1946. Phizo was one of the few behind the single Naga political identity and mobilised mass movement for Naga independence. The mention of Phizo in the paper is necessary to understand the Naga conflict as he was a key leader in the struggle.

passed away. Subsequently, the Naga National Council declared Independence on 14th August 1947 due to the government's disregard for the Agreement (Srikant & Thomas, 2005). India responded by sending the armed forces to Nagaland in 1952. This marked the beginning of the violent insurgency in the region. To contain the insurgency, the Jawaharlal Nehru government brought in the AFSPA through an ordinance in 1958. The Act gives extraordinary powers to the Indian Army to arrest without warrants and fire on suspected militants. Since then, the discourse on the conflict has shifted from Independence to shared sovereignty.

THE PEACE PROCESS: HITS AND MISSES

Image 1: Timeline of Cease Fires and Peace Processes in Nagaland



In Nagaland, ceasefires were agreed upon in the past with the NSCN (I-M) and NSCN (Khaplang) [NSCN-K] in 1997 and 2001, respectively. The NSCN (K) withdrew the ceasefire agreement in 2015. Ceasefires have been extended multiple times to maintain stability (Kolas, 2011). However, rifts between various stakeholders of the region pose a significant drawback. These rifts can be a result of the inclusion and exclusion of stakeholders in the ceasefire agreement. For instance, the exclusion of NNC leader Phizo from the 1960s led to his followers violating the terms of the ceasefire agreement. The violation eventually fueled rivalry within and fragmentation of the group (Roy, 2018).

The Government of India [GoI] and the NSCN (I-M) signed the Framework Agreement in 2015 in the presence of Prime Minister Narendra Modi and NSCN (I-M) General Secretary Thuingaleng Muivah, along with interlocutor R.N. Ravi (Prime Minister's Office, 2015). The Agreement marked a step towards finalising the Naga Peace Accord. Hailed as historic, the Framework Agreement was expected to birth an era of peace in Nagaland after decades of conflict (Natahnael, 2020). However, this was not the first peace initiative and framework agreement between the GoI and Naga groups. Several peace initiatives and agreements have been signed previously. Namely, the 9-point Agreement of 1947, the 16-point Agreement of 1960, and the Shillong Agreement of 1975. The Peace Mission of 1964 was one of the first peace initiatives in Nagaland. However, as violence continued in the region, these initiatives ended in 1967. In 1997, the Baptists Church organised the Atlanta Peace meet, where an unconditional dialogue process began. In August 1997, the NSCN (IM) signed a ceasefire agreement with the GoI.

Under the latest framework agreement, four points were agreed upon during the negotiations:

- A pan Naga Hoho³ will be established as an apex body with legislative, budgetary, and negotiating powers
- Regional Autonomous District Councils [RADCs] will be set up to administer areas outside Nagaland
- A special law containing the division of competencies- subjects in the State, Union and Concurrent Lists of the Indian Constitution— between the Centre and the Nagas, will be enacted
- Above and below the surface, all-natural resources found in Nagaland will belong to the Nagas. The Central government and the Nagas would sign joint venture agreements to explore and exploit resources (Chhonkar, 2018).

Notably, there were several demands made initially by the NSCN (I-M) that were not accepted by GoI. The NSCN (I-M) had presented a 20-point charter of demands. The charter included the concept of shared sovereignty, with the division of competencies between the GoI and Nagaland. Another recommendation by the NSCN (I-M) was a separate Constitution (Ranade, 2020).

An identifiable drawback of the framework agreement is that it was open to interpretation by both sides, acting as a hurdle to conclude the peace process (Hasnat, 2019). The ambiguous and open-ended interpretation of the Framework highlights trust deficit and dissatisfaction among the Naga representatives (Ahuja, 2021). Moreover, the NSCN (I-M) has even accused the interlocutor of doctoring the original Agreement at a crucial break moment (Pisharoty, 2020). While the Naga factions' intention to resolve the conflict is reflected in them toning down their demands overtime, the same can not be said about the GoI's approach. For instance, the Peace Accord was originally scheduled to be signed in 2019. However, the peace dialogue finally took place after two years in

³ Naga Hoho is an apex tribal body in Nagaland

2021. Earlier, when the NSCN (K) signed a similar ceasefire agreement with the GoI, it took the interlocutor four years to decide upon the jurisdiction of the ceasefire.

During a crucial moment in the latest peace process, the interlocutor was transferred to Tamil Nadu in September 2021. Naga People's Front [NPF] MLA and former chief minister TR Zeliang said he thought Ravi was,

“someone who brimmed with enthusiasm on resolving the Naga issue till he was appointed as governor of the state, after which there was a blame game between him and one of the significant negotiating groups (NSCN-IM) which created a “huge gap between the negotiating parties and brought the talks to a deadlock” (Yhoshu, 2021).

The Framework Agreement has largely been away from the public view. The primary stakeholder, the Naga population, has not been consulted. The agreement has not brought about reconciliation between the different Naga factions. The enmity can slow down the negotiation process with several armed groups functioning without cohesion. Most importantly, however, the signing of the agreement had no bearing on AFSPA in the state. The Act has, over the years, become a substantive issue for the Naga people.

AFSPA IN NAGALAND

The AFSPA was introduced to control the volatile situation in the region. However, the AFSPA has become a model for human rights violations over the years (Das et al., 2017). There is a general lack of data around such violations in the public domain. Nevertheless, the grievances emanating from the presence of AFSPA are evident from the incongruence in available data as recorded in tables 1, 2, and 3.

Table 1: Data on deaths in Nagaland (2015)

Year	Civilian Deaths	Security forces death	Insurgent deaths
2015	14	09	24

Source: South Asian Terrorism Portal [SATP] (2022)

Table 2: Pendency of cases where Reports are awaited

Year	Complaints/ Suo Motu Cases	Custodial Deaths/ Rapes	Encounter Deaths
2015-2016	27	12	0

Source: NHRC (2016)

Table 3: The security situation in Nagaland (2015)

Year	Extremists arrested	Extremists Killed	Security forces killed	Civilians deaths
2015	268	29	09	09

Source: Department-Related Parliamentary Standing Committee on Home Affairs (2018)

The data by the SATP and the data presented in the Rajya Sabha show a clear discrepancy in civilian and extremist deaths. The data provided by the NHRC for the same year, however, reveals the pendency of cases of custodial deaths/rapes and complaints. Inconsistencies in data, or lack thereof, generally indicate lack of transparency and accountability on part of government agencies towards human rights violations as evident from the NHRC and SATP numbers for 2015.

Amidst the pre-existing anger towards AFSPA and the impunity given to security forces under the Act, the violence in the Mon district has worsened the current situation towards a peace process in the state. In 2021, the Nagaland Assembly had demanded the repeal of AFSPA along with an apology from the government authorities. However, as noted earlier, the Union government first set up an AFSPA review panel and then declared Nagaland as a ‘disturbed region’ for six months, thereby effectively extending AFSPA (Singh, 2021). Consequently, the Nationalist Democratic Progressive Party [NDPP] vehemently criticised the order. The influential Naga Students Federation argued that the extension of the Act is “an insult to the Nagas at this time of grief and threatened a series of democratic agitations” (Kalita, 2021). The Naga Hoho said that by extending the Act, the Centre has invited the wrath of the Naga people (ibid).

REMOVAL OF AFSPA: A VIEW FROM OTHER STATES

The demand for greater autonomy and sovereignty, along with the recourse to armed rebellion is a common feature of insurgencies in the northeastern states (Bhaumik, 2007). Hence, to assess the feasibility of revoking AFSPA from Nagaland, we look at other northeastern states, particularly Mizoram where the AFSPA was revoked. The latest AFSPA review panel in Nagaland marks the fourth time that a review committee has been formed in the northeast region in the last two decades. Previously, the government had revoked AFSPA from Mizoram in 1986, Meghalaya in 2018, and parts of Arunachal Pradesh and Tripura in 2015. In all of the states, the government had seemingly successfully weakened the respective insurgent groups before repealing the AFSPA. In Mizoram, this weakening was done through a structured and sustained response over time with both military offensives and political engagement. The next subsection takes a deeper look into the state’s response towards the Mizo insurgency.

Mizoram Conflict- Origins and State Response

The insurgency in Mizoram started with the setting up of the Mizo National Front [MNF] in 1961 by Pu Laldenga (Singh, 2016). The insurgent group demanded a separate statehood for the Mizos and an independent Mizoram (Mahapatra & Zote, 2008). As discussed below, the insurgency appears to be a reaction to a chain of events, starting from a famine that hit Mizoram in 1959. Inadequate relief

response by the Assam government led to resentment among the Mizo people. Since separatist tendencies had already existed, the inadequate state response only increased the feeling further. Meanwhile, Laldenga was successfully able to provide relief through his local initiatives. Furthermore, he gathered enough popular support to finally set up the MNF. In 1966, the armed wing of MNF captured 11 towns of the Mizo Hills and declared Independence (Goswami, 2009). In March 1966, the Mizo Hills were declared as a disturbed area under the 'Assam Disturbed Areas Act', thereby bringing the AFSPA into effect. Soon, the Indian Air Force [IAF] flew over Aizawl, among other areas, with gunfire and bombs to curb the insurgency. These attacks inflicted heavy casualties, both civil and insurgent, and destroyed large parts of the city.

In 1967, a plan called 'grouping of villages' was introduced to curb the MNF controlled interior villages in Mizoram. These villages were categorised as 'protected and progressive villages' [PPVs] by the Central government (Nunthara, 1981). However, the PPVs can be viewed as nothing less than concentration camps. The villages, grouped presumably to safeguard the villagers from the MNF, cut the insurgents' food and money supply. A significant impact of these groupings was the dislocation of the people from their original villages where jhum or shifting cultivation was the primary source of livelihood and food security. The villagers subsequently started jhum cultivation in the PPVs. However, the scarcity of land led to a crippling food shortage (ibid).

Subsequently, the first round of discussions for a peace settlement began between the MNF and the Gol in 1976. The MNF and the Gol de-escalated violence in the region through meetings and greater transparency in goals and objectives. The MNF agreed to suspend its violent activities, and the Gol decided to stop its military operations in the region. The 'policy of surrender' was followed in order to further the process of bringing the insurgents above the ground (Goswami, 2009). The insurgents were given a sum to surrender arms and ammunition. Since MNF was the dominant insurgent party in the region, it was easier to bring a peace settlement and resolve the conflict.

AFSPA in Mizoram: Lessons for Nagaland

The Church played an essential role in determining the grievances of the Mizos who had suffered abuse due to AFSPA. The Church acted as a mediator and persuaded the insurgent groups to give up arms. In 1972, Mizoram was initially converted to a Union Territory through negotiations. This allowed customary laws to be maintained by the Mizos. Meanwhile, the moderate Mizo parties gained political ground. The Mizoram People's Conference [MPF] was elected for a full term in 1979. In light of a stable political environment conducive for peace talks, the Indian National Congress returned to power with the support of the MPF. On 30 June 1986, the Mizo Peace Accord was signed, which granted statehood to Mizoram on February 20, 1987 as per the Statehood Act of 1986 (Rajbhavan, n.d.). In 1986, the Gol officially repealed AFSPA from the state (Gupta, 2021).

The peace talks in Mizoram were achievable only with a marked decline in the insurgency. The decline in insurgency was a result of punitive action using the armed forces and village groupings. Both had drastic consequences for civilians in the region. Simultaneously, the Gol relied on political engagement with the Mizo insurgents. This engagement included the preservation of Mizo customary laws and de-radicalisation efforts by the Church. A marked decline in violence could also be seen in neighbouring states like Tripura, Meghalaya, and Arunachal Pradesh where AFSPA has been repealed in recent years (Akhtar, 2018)

In Nagaland, casualty figures for civilians and insurgents were relatively higher during 2009-2014. Primary reasons for this include intra-militant killings, extortions, and law and order problems (Ngaihte, 2015). However, they have seen a significant decline in the last 2-3 years. Three killings were recorded in Nagaland in 2018-2019 and two in 2020-2021 (SATP, 2022). The possibility of revoking AFSPA from Nagaland rests on the government's review panel providing a roadmap for the peace process. This would require an inquiry into the AFSPA and the grievances related to it among the Naga people. The key problem, however, is the lack of data and transparency around rights violations. Amidst all this, the Mon incident has the potential to be a hindrance as it has only heightened mistrust and grievances.

CONCLUSION

A significant issue in the Naga conflict has been the presence of different factions, all fighting for Greater Nagalim. The government, over the years, has failed to bring all stakeholders to the negotiation table. This has created multiple sources of grievance and weakened the peace process. Amidst this situation, the recent killings in Mon and the extension of the AFSPA could resuscitate the Nagas vs India narrative (us vs them). This could, in turn, strengthen the demands by NSCN (I-M) for a separate flag and constitution. The simultaneous act of setting up the AFSPA review panel could be seen as the government's way of buying time to curb the situation.

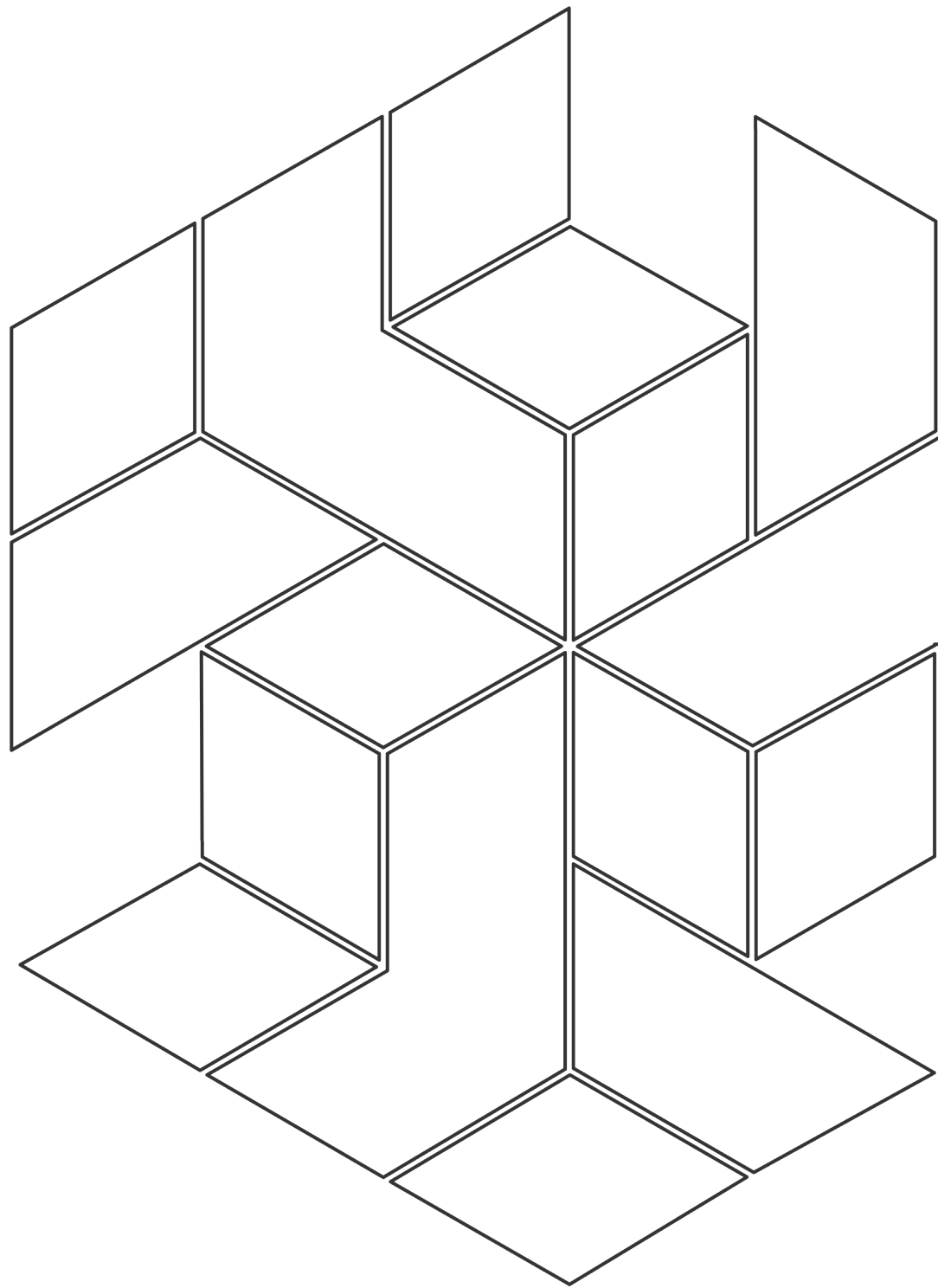
However, after analysing patterns from other states like Mizoram, one can say that the conditions in Nagaland are ripe for revoking the AFSPA. Low insurgency rate and an ongoing peace process are two conditions that make the revocation of the law more feasible. The way forward should include resolution of grievances, confidence-building, and a time-bound plan for the completion of the peace process, with an approach that would benefit both parties.

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