

## **ARMED FORCES SPECIAL POWERS ACT (AFSPA): A CASE STUDY OF NAGALAND**

*Hinakha Zhimo, MA Public Administration Final Year Student, Department  
Of Government and Public Administration, Lovely Professional, University.  
EMAIL:hinokazhimo77@gmail.com*

*Dr. Manvendra Singh, Associate Professor, Department of Government and Public Administration,  
Lovely Professional University, Punjab. EMAIL: Manvendra.21755@lpu.co.in*

### **ABSTRACT**

The Government of India and the Naga political parties have confronted and agreed on their political differences. Several agreements and peace talks have been initiated, but they are far-fetched from peace. This study focuses on the impact of the Armed Forces Special Powers Act (AFSPA), 1958, and its impunity and effect on the armed forces. Many incidents related to torture, killings, abuse of power, damage, and loss of property have been shadowed by the power vested to the armed forces by this Act. Many victims of the brutality of this Act are innocent Naga civilians. Whether the Government of India should repeal the Act or not in Nagaland is rather challenging to answer accurately. As long as the various political parties and insurgent groups are fractioned in their political ideologies and until they come together under the Naga Socialist Council of Nagalim (NSCN), no solution is definite. To revoke the Armed Forces Special Powers Act in Nagaland is a complex pattern of the political question as this pursuit is closely associated with the demand for a separate Naga Nation. This research is conducted using qualitative methodology. The researcher has used descriptive research to explain the phenomenon, population, and situation. A survey of qualitative study will be conducted on twenty-five dignitaries in Nagaland from different professions to assess the current scenario in this regard.

**KEYWORDS:** AFSPA, Disturbed Area, Law, Repeal, Nagaland

### **INTRODUCTION**

Since its inception as a state, Nagaland has been under the Disturbed Areas category due to its multiple insurgent movements that flourish in the state. The rejection of the 1951 referendum by the Indian government and the unsuccessful peace talk appeared treacherous, as understood by the Naga hardliners. After the Naga National Council (NNC) went insurgent, the Government of India sent the military forces to the Naga area, and simultaneously, in January 1956, the Naga Hills area was declared a "Disturbed Area," leaving the issues and problems of the Naga people under the Armed Forces Special Powers Act (AFSPA) of 1958. The Nagas suffered untold miseries and oppression. In 1956, Angami Zapu Phizo alluded to the East of Pakistan and then later to London. As a result, the Indian government had its grip on the polity of the Nagas and then, starting with the Sixteen Point Agreement, declared Nagaland as a fully-fledged state under the Union Government of India on 1<sup>st</sup> December 1963.

### **STATEMENT OF THE RESEARCH PROBLEM**

The Nagas always wanted a separate and autonomous statehood from India even before the independence of India in 1947. However, that has not become a reality to date. One of the most significant reasons is the continuous struggle between the government of India and the Naga leaders, on the other hand. The government and the Naga armies of different factions are not unanimous in their goals. There are differences in ideologies, objectives, and goals even among the different factions who identify themselves as the freedom fighters of the land. By implementing the Armed Forces Special Powers Act that gives impunity to the armed forces, various studies recount the wrong ways of using this power.

### **NATURE AND SCOPE**

**NATURE:** The researcher has analyzed the impact of the Armed Forces Special Powers Act, 1958, and its implementation in Nagaland with careful observation and provided a clear picture of the present Naga problem regarding AFSPA.

**SCOPE:** This research is conducted comprehensively on implementing the existing Armed Forces Special Powers Act in Nagaland. The main focus is to bring out the realistic picture of the AFSPA since its introduction in Nagaland, the aftermath, and the consequences of AFSPA in the region. The researcher has analyzed the credibility and accountability in utilizing the power under Armed Forces Special Powers Act. Through the

careful study and data references of varied scholars, the researcher intends to conclude with a continuous analysis of the prevalent history and the present state of the Armed Forces Special Powers Act in Nagaland.

### **LIMITATIONS**

The ongoing COVID-19 Pandemic has limited the scope for conducting physical interviews with the respondents. So in this light, the researcher is bound to collect the data online. Another impediment to the conduct of this study is the limited literature on Armed Forces Special Powers Act that pertains to Nagaland.

### **RESEARCH OBJECTIVES**

1. To explore the different provisions and needs of the Armed Forces Special Powers Act.
2. To analyze the accountability and credibility of the Armed Forces Special Powers Act in its implementation.
3. To suggest some effective measures for settling the dispute between the Government of India and the Naga people.

### **RESEARCH QUESTIONS**

1. Why have there been multiple insurgent movements in Nagaland?
2. Does the Armed Forces Special Powers Act violate fundamental Human Rights?
3. What steps have the Government of India taken to ensure the safety and protection of the citizens living under the Disturbed Areas category?

### **LITERATURE REVIEW**

**Iralu D Kaka. (2005)** in his book 'The Naga Saga' proposes the Indo-Naga war that began in 1954. The Nagas and India were two separate nations ruled by the British Colonial Empire. In this historical period, even the Asian giants like India and China fell to the white domination attack; however, the Naga nation defied British rule for precisely seventy percent of the Naga country. India's guardianship role over the Nagas existed as the British left the country. In the words of Nehru, 'Nagas will never be allowed to become Independent.' The constant failure of negotiations and talks led to the emergence of insurgents.

**Banerjee Sumanta. (1992)** 'Dangerous Game in Nagaland' evidently tells the manipulative game played by the Indian government to suppress the Nagas' demand for a separate nation. Taking vantage of the baffled NSCN insurgents out of the developments inside Burma, the Indian government revives their manipulative game to divide the rebels inherent in Nagaland and push through another accord with another group of rebels that is more pliable to them. However, in this divide and suppress game process, the Indian government is risking yet another resurgence of the insurgency in Nagaland.

**Means P Gordon. (1971)**, in his article 'Cease-fire Politics in Nagaland,' talks about the series of insurgencies in the Naga Hills since 1953. Moreover, in Nagaland, the political turmoil has appeared unnoticed by the outside world due to the cease-fire and agreements between the Guerillas (Naga National Council led by A. Phizo) and the Government of India. Despite the cease-fire on 6<sup>th</sup> September 1964, Nagaland has faced full-scale hostilities. In the pursuit to garner International support, Phizo went to the U.S. However, with no support than sympathetic ears, Phizo adopted soliciting tremendous Pakistani and Chinese assistance in the military to intensify the establishment of the Naga Federal Government. Guerillas Forces had the Indian government not agreed to respect the declaration of the separate Naga nation.

**Singh Tushar (2018)** states that political questions are more complex than 'who forms the government' or 'who won the elections.' He further says that the insurgency shapes the present political scenario in the state. Furthermore, the refusal of a separate sovereign state of the Nagas (which includes Nagaland, Assam, Manipur, and Myanmar) led to the introduction of insurgency in the state and the enforcement of AFSPA to neutralize the hardliners and Article 371(A) to quiet the escalating separatist intentions when Nagaland became a state in 1963. The study also shows that an individual's personality rather than the political ideology is vividly inherent in their political structure.

**Sangvai Sanjay (1996)**, in his study 'Nagaland: beyond politics of identity,' mentions the long, arduous struggle for freedom and self-determination, which have been the aspirations of Naga politics. Moreover, many journalists, political parties, and intellectuals have ignored this aspect of the Naga problem. He also stated how the Nagas and the Central Government had been a good ally, but this relationship cannot retain that the Nagas have the right to pursue a separate identity with holistic and ideological orientation. The fact that Nagaland has been under AFSPA (Armed Forces Special Act) has led to many atrocities and violations of many human rights by the army, and the presence of the army is of grave concern. His studies also prove how the Nagas have been trying to broaden the scope towards self-determination with the inputs like cultural identity, democracy,

participation, tolerance, etc. Lastly, questions about whether the prospect of the Nagas for the young people would come under hegemonic powers have been a concern of the intellectuals.

**Baruah Sanjib (2007)** identifies the smoldering of many armed conflicts in the Northeastern region of India. Nevertheless, the Naga rebellion or the resistance in the region is the oldest unresolved armed conflict that began in the 1950 times period. The implementation of the Armed Forces Special Powers Act in the region of Northeast India questions the credibility of the democratic principles of the country and how the AFSPA violates fundamental human rights. World Bank identifies ‘poverty, lack of development, the deficit of democracy, peace, civil conflict, and lack of faith in political leadership in this region. The state intervention in the region has led to multiple conflicts and endangers the resistance of many ethnic groups with multiple political agendas.

**Kolas Ashild (2007)**, why do several insurgent groups and multiple tribal movements exist? Moreover, why these political movements or projects are persistently pursued in the region. Should there be a deeper understanding of the issues and be addressed with democratic principles. According to the Government of India, ‘the granting of statehood and autonomous district status is a means to devolve decision-making and maintain the demographic uniqueness.’ The Sixth Schedule of the Indian Constitution offers them autonomy and protection to the Northeast people and thus integrates this region under independent India. However, the failure to incorporate the Naga Hills into the Union Territory of India led to the emergence of the Naga National Council (NNC) to establish their political-social and economic entity independently. To counter this sovereignty, the Government of India introduced military operations popularly known as AFSPA. The birth or the initial stage of tribal conflicts can be attributed to 1963 when Nagaland was given statehood status in negotiation with some moderates amid resistance. However, in the 1990s, counterinsurgency operations and negotiations were brought together by the Indian government with the armed groups. With the proclamation for peaceful coexistence as a successful measure by the Government of India, however, the imposition of curfew, communal violence, extortion, kidnappings, riots, etc. The implementation of AFSPA gave immunity to the legitimate armed forces to perform vicious atrocities legally. Thus, the efforts to provide security to the people have seen the protest against AFSPA.

## RESEARCH METHODOLOGY

This study aims to specifically use procedures and techniques to identify, analyze, select, and process the data and information. Therefore, this study examines the implementation, impact, and credibility of the Armed Forces Special Powers Act using a mixed approach- qualitative and quantitative. The quantitative method has been used to collect numerical data where its outcome is assessed through statistical, measure, counting, and numerical method in the research. Likewise, the qualitative method has been used to analyze the functionality and accountability of AFSPA comprehensively.

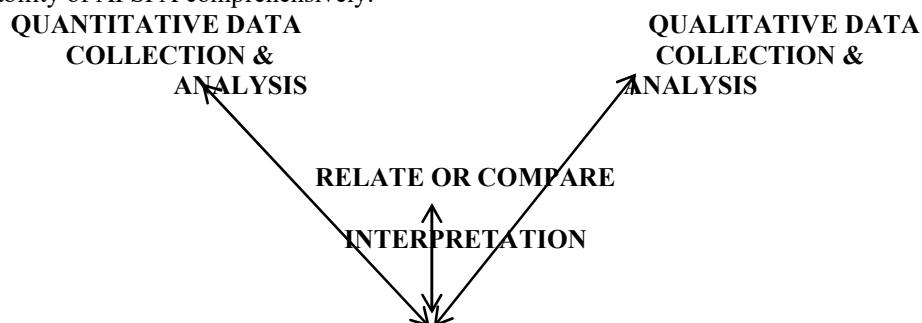


Figure 1: Convergent Parallel Mixed Method

## DATA ANALYSIS

This study section is possibly the most crucial part of the research. The data and information procured are examined comprehensively and presented using graphs. It clarifies the descriptive characteristics and the general demographic. The responses may vary according to the profession of the respondents.

The data and information collected through primary and secondary sources are presented in a statistical form which is as follows:

**Perception of the Naga people about Armed Forces Special Powers Act, 1958 violating the Fundamental Human Rights.**

|                   | Frequency | Percentage   | Cumulative frequency |
|-------------------|-----------|--------------|----------------------|
| Strongly agree    | 11        | 46.4         | 46.4                 |
| Agree             | 7         | 20.8         | 91.8                 |
| Neutral           | 7         | 20.8         | 91.8                 |
| Disagree          |           |              |                      |
| Strongly disagree |           |              |                      |
| <b>Total</b>      | <b>25</b> | <b>100.0</b> | <b>100.0</b>         |

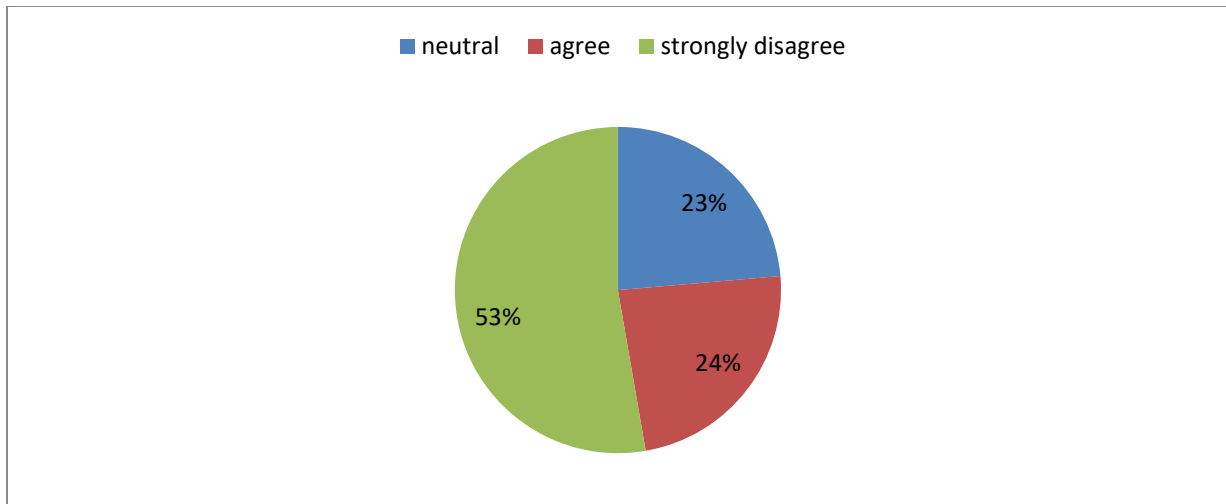


Figure 1.1. above shows that 11 respondents, who make up 46.4% of the sample size, strongly agreed that the Armed Forces Special Powers Act violates the Fundamental Human Rights, while seven respondents, which makes up 20.8% of the sample size, are not sure while seven respondents make 20.8% of the sample size agreed.

**Perceptions of the Naga people about the revokement of the Armed Forces Special Powers Act in Nagaland.**

|                          | Frequency | Percentage   | Cumulative percentage |
|--------------------------|-----------|--------------|-----------------------|
| Should be revoked        | 16        | 76.1         | 77.1                  |
| Do not know              |           |              |                       |
| Maybe                    | 9         | 23.9         | 91.4                  |
| It should not be revoked |           |              |                       |
| <b>Total</b>             | <b>25</b> | <b>100.0</b> | <b>100.0</b>          |

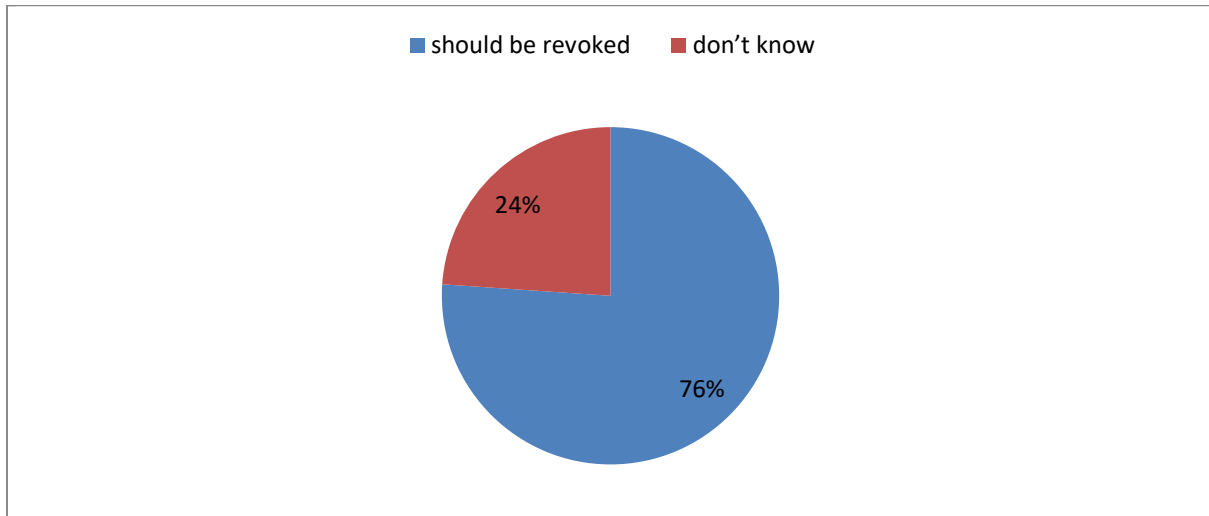


Figure 1.2. above shows that 16 respondents, which makes 76.1% of the sample size, agreed that the Armed Forces Special Powers Act should be revoked, while nine respondents, which makes 23.9% of the sample size, are not sure if AFSPA should or should not be revoked.

**Perceptions of the Naga people about the relevance of the Armed Forces Special Powers Act in the democratic government system of the country.**

|                 | Frequency | Percentage   | Cumulative frequency |
|-----------------|-----------|--------------|----------------------|
| is relevant     |           |              |                      |
| do not know     | 2         | 8.6          | 8.6                  |
| is not relevant | 16        | 76.1         | 77.1                 |
| maybe           | 7         | 15.3         | 56.3                 |
| <b>Total</b>    | <b>25</b> | <b>100.0</b> | <b>100.0</b>         |

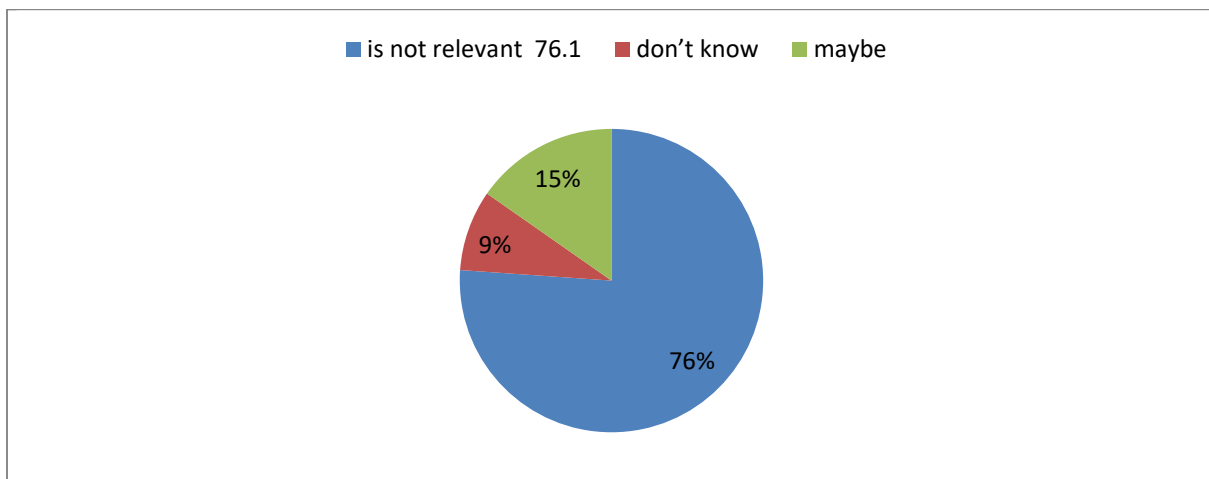


Figure 1.3. above shows that 16 respondents, which makes 76.1 % of the total sample size, think that AFSPA is not relevant in today's time, while two respondents, which makes 8.6% of the sample size, are in abstention and seven respondents, which constitute 15.3% of the sample size thinks of the possibility that AFSPA might be relevant or maybe not.

**Perceptions of the Naga people about the purposefulness of the implementation of AFSPA.**

|                   | Frequency | Percentage | Cumulative percentage |
|-------------------|-----------|------------|-----------------------|
| is not purposeful | 14        | 68.6       | 68                    |
| I don't know      | 8         | 22.9       | 91.4                  |
| Is purposeful     | 0         |            |                       |

|              |           |              |              |
|--------------|-----------|--------------|--------------|
| Maybe        | 3         | 8.6          | 99.6         |
| <b>Total</b> | <b>25</b> | <b>100.0</b> | <b>100.0</b> |

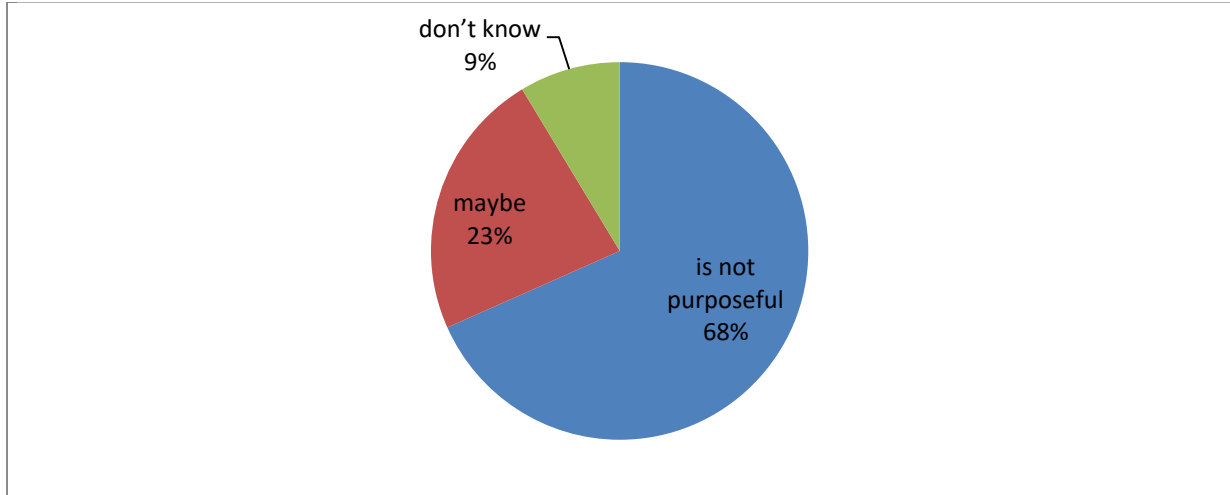


Figure 1.4 above shows that 14 respondents, which makes up 68% of the total sample size, think that the implementation of AFSPA is not purposeful, while eight respondents, which makes up 22% of the total sample size, do not know if it is purposeful or not, and three respondents that make 8% of the total sample size are in neutral regarding the same.

**Perceptions of the Naga people on the safety and protection of the people living under the Disturbed Area Category.**

|                         | Frequency | Percentage   | Cumulative percentage |
|-------------------------|-----------|--------------|-----------------------|
| Safe and well protected | 0         |              | 100.0                 |
| Not at all protected    |           |              |                       |
| Maybe                   | 15        | 60           | 0                     |
| I do not know           | 7         | 28.6         | 28.6                  |
| <b>Total</b>            | <b>2</b>  | <b>11.4</b>  | <b>31.4</b>           |
|                         | <b>25</b> | <b>100.0</b> | <b>100.0</b>          |

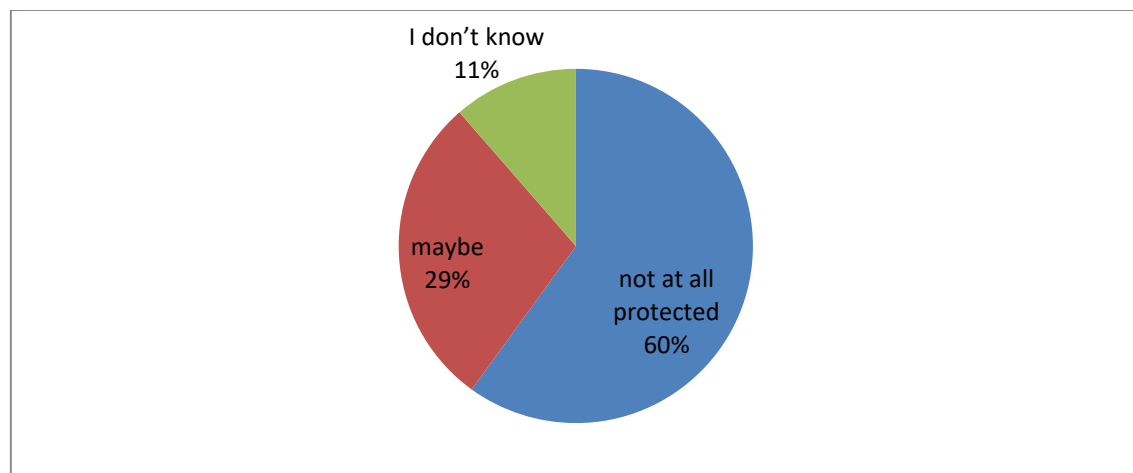


Figure 1.5 above shows that 15 respondents, which makes up 60% of the total sample size, think that there is not enough provision related to the safety and protection of the people living under the Disturbed Area Category, while seven respondents, that make 28% of the total sample size are neither sure and the other two respondents which makes 11% of the total sample size do not know about the same.

**Perceptions of the Naga people about the Armed Forces Special Powers Act being the solution to curb insurgency in Nagaland.**

|                                        | Frequency | Percentage   | Cumulative percentage |
|----------------------------------------|-----------|--------------|-----------------------|
| AFSPA is a solution to curb insurgency | 0         | 0            | 100.0                 |
| AFSPA is not the solution              | 14        | 57.9         | 47.3                  |
| Maybe it is                            | 0         |              | 100.0                 |
| I do not know                          | 11        | 42.1         | 62.9                  |
| <b>Total</b>                           | <b>25</b> | <b>100.0</b> | <b>100.0</b>          |

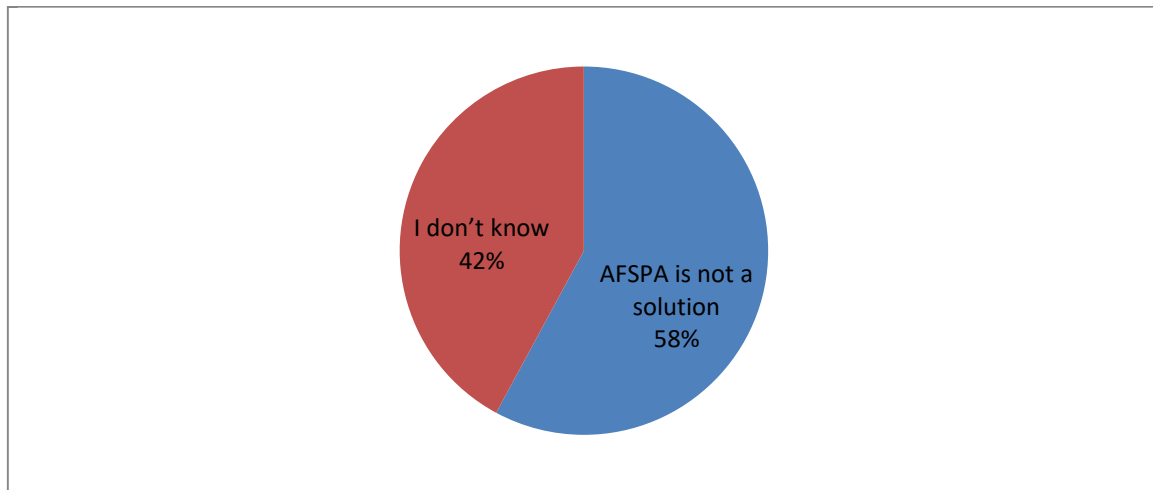


Figure 1.6 above shows that 14 respondents, which makes up 58% of the total sample size, agree that the Armed Forces Special Powers Act is not a solution to curb insurgency in Nagaland, while 11 respondents makeup 42% of the total sample size are in a neutral state.

### **DISCUSSION OF FINDINGS AND RESULTS**

The general population of the sample agrees that the Armed Forces Special Powers Act should be repealed owing to powers envisaged for the armed forces through the Act. Several instances have taken place where many innocent lives have been mistaken for the insurgents and tortured and killed. This is where the credibility of the Act that provides impunity for the illegal course of action performed by the military personnel contradicts the democratic principles of the government.

Objective one of this study is to explore the different provisions and needs of AFSPA. The study shows that the general population is conscious of why the 'Disturbed Area' category exists. The response collected from the respondents is of popular demand for the end of this constitutional provision and therefore facilitates the safety of the lives of the citizens. Gone are the days when this Act would suppress the insurgents' movements to regulate law and order, but with the transition, modern society needs to safeguard and respect human rights.

Objective two of the study is to examine the credibility and accountability of the Act. Several instances show that there has been an abuse of power under the Act. The legal immunity provided by the Act to the military personnel may appear unjust since they cannot be prosecuted. This unaccountability of the Act creates a feeling of ignorance in the minority community, especially when the Act protects the culprit and prosecutes the victim. Therefore, in this light, the demand for a separate nation persists in addition to its historical right.

The study's findings involve one such challenge as to why the Government of India does not want to revoke AFSPA in Nagaland. To answer this convoluted policy of the government is quite daring. The Naga's persistence to urge an end to this autocratic law is also attributed to its freedom struggle with the Government of India.

### **SUGGESTIONS**

1. Reform of the Armed Forces Special Powers Act would alleviate the escalating Naga nationalism.
2. For the Nagas to achieve their independence, unifying all the factions under the banner Naga Socialist Council of Nagalim (NSCN) is crucial.

3. The Government of India should end the manipulative game-divide and rule policy and then sit for a solution that would benefit both the former and the latter.
4. Even if the total abolishment of AFSPA is not possible, another peaceful directive should be drawn to realize the prospect for the future for both India and the Naga people.
5. AFSPA should be amended or, more so, totally abolished to respect and fulfill the Fundamental Human Rights.

## **CONCLUSION**

In this contemporary world, the need for safeguarding and promoting the rights of any people irrespective of differences is essential. Times had now changed when AFSPA was first introduced due to insurgency. However, the modern world demands peaceful negotiations, honoring the differences, and alleviating the mistakes not to endanger any people, communities, or society. The end of all injustices would create a harmonious society that only provides a better world to live and grow in. Armed Forces Special Powers Act has hurt the sentiments of many innocent citizens, and to compensate for the losses of life and atrocities would be the revocation of the stringent law that binds Human Rights.

The recent alleviation to uplift the Armed Forces Special Powers Act in some of the districts in Nagaland is a significant effort taken up by the Government of India. However, the strife for the total revocation of AFSPA in Nagaland is still in popular demand due to the many atrocities and pain that the Act has inflicted on innocent Naga civilians. Times have changed, and similarly, another legitimate regulation and peaceful directive should be drawn to respect the losses of lives and hardships in the name of the Armed Forces Special Powers Act.

## **REFERENCES**

- Iralu. D. Kaka (2009): The Naga Saga. ACLS Offset Press, Mission Compound, Kohima. 797001, Nagaland. Third Edition.
- Chasie Charles (2005): Nagaland in Transition. India International Quarterly, Vol.32. No. 2/3, pp. 253-2564.
- Banarjee Sumanta (1992): Helping Hand in Nagaland. Economic and Political Weekly, Vol.27.
- Means. P. Gordon (1971): Cease-fire Politics in Nagaland. Asian Survey, Vol 11, No.10, pp. 1005-1028. No. 29, pp. 1525-1527.
- Shah. Rashid. Adfar. (2011): Fallou of continued use of AFSPA. Economic and Political Weekly, Vol.46, No.9, p. 5.
- Haji. M. (2012). Armed Forces Special Powers Act: A Call for Repeal. Counter-Terrorists Trends and Analyses, 4(7), 12-15.
- Bhattacharyya. R. (20118). Living with the Armed Forces Special Powers Act (AFSPA) as Everyday Life. GeoJournal, 83(1), 311-48.
- Kolas, Ashild. (2017). Northeast Indian Enigmas. Alternatives: Global, Local, Political, 42(3), 99-106.
- Baruah, S. (2007). Postfrontier Blues: Toward a New Policy Framework for Northeast India. East-West Center.
- Sangavi Sanjay. (1996) Beyond politics of identity, vol.31, No.48. pp.3103-3104.