

# The Dictum Of Women Rights Under The Prevalence Of The Security Forces

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**Abstract:** we celebrate international women's days on 8 march all over the world for commemorates the social, political and economic achievements of women. Indian constitution has also given equal rights for women. but in reality, the violation of women rights is very high. AFSPA is law which was enacted for the providing special power to the armed forces in disturbed areas. In assam, the emergence of insurgency in 1970s has increased the conflict between the security forces and insurgent's groups. In the conflict region, we have seen the higher levels of the gender-based violence against women and girls. With the advantage of the AFSPA law, the violation of women rights has been increased. In search of insurgent's cadre, Women and girls are primarily and increasingly targeted by the use of sexual violence.

**Keywords:** equal rights, violation, insurgency, conflict.

**Introduction:** In the contemporary societal, legal, political, institutional set up, women rights are the most celebrated topic of discussion. There has been a wide-ranging observance of women rights, women rights day all over the world including India. But the real synopsis of women is still under threat. On the one hand while women rights and their successes are celebrated widely on and the other hand, they are victims of several atrocities even at the hands of the protectorates of our country. Under the various provision of constitution of India, the security forces are given utmost power to ensure law and order situation in a particular part of the country or a state. But many a times, these persons entrusted with the function of maintaining peace and security in the region turn to be an actor which pose as a challenge to the security of women who are also a part of greater civil beings. In order to maintain security of any disturbed place, various initiatives such as armed forces special powers act (1958), martial army etc come into force which provides extensive rights to authority of security forces. However, these rights many a time manifest some other issues rather than solving the problem for which it has been designed. These provisions many a times become a primary reason for depriving human beings from the basic human rights enshrined in the Indian constitution under article 21, article 19 and certain writs such as Habeas corpus mentioned under article 32-constitutional remedies. This paper is an attempt to establish a firm understanding of the

condition of women rights under the security forces rule. It also tries to analyse the AFSPA act, provisions and various case studies that portray the picture of women rights in these areas.

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

1. To discuss the various dimensions of violation against women by the security forces in Assam.
2. To discuss the various section of the AFSPA (the Armed Forces (Special Powers), Act, 1958).

**Methodology:** The study is based on secondary information. All the relevant information collected from various books, journal, newspaper, articles, internet etc.

### **Context and Origins of the special power of the Armed forces:**

Assam is a north eastern state where the active of insurgency was peak in the 1970s. the birth of United Liberation Front of Assam caused the rise of insurgency in assam. On April, 1979, six Assamese radical youth formed the ULFA at the Rang Ghar (The famous Amphitheatre of the Ahom royalty), Sivasagar. The ULFA was doing their activities with the help of the Nationalist Socialist Council of Nagalim (NSCN), the ISI and Bangladeshi intelligence. The activities of ULFA argued that the Indian government has been exploiting the assam. The Assam is rich in oil, tea and natural resources. The Assamese indigenous people have not benefited from their own resources. The ULFA was formed with the aim of fight against the Indian government with the ultimate aim to achieve a sovereign state. From 1988 onwards, ULFA became active and took the control of Assam. They launched a terror campaign including killing, kidnapped and threatened the businessman in assam. In 1990, the situation of assam was totally broke down and president's rule was imposed in the state.

The various ethnic community of assam also started to demanding socio-economic improvements and autonomy. Tribes like Bodo's, Karbi and Dimasa started autonomy movement. They also took insurgent method to gain autonomy. Prior to the independence, the Bodo's have demanded a separate state. They argued that mainstream Assamese people were exploiting them. Then, the bodo's formed an insurgent group named Bodo SF in 1986. In 1993, the government formed a Bodo Autonomous Council (BAC). This decision spilted amongst the bodos. Bodo Liberation Tigers (BLT) favoured the peaceful settlement of the problems. The National Democratic Front of Bodoland (NDFB) was not happy that decision. They operated insurgent or unlawful activities with ULFA.

AFSPA (the Armed Forces (Special Powers) Act, 1958) was enacted in 1958 to fight against Militancy in the north east. The AFSPA, 1958 is a law in force in large parts of the Northeast (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura) that gives armed forces special powers in a locality declared as "disturbed areas". It was originally introduced in the Northeast region of India including the state of Assam and the Union Territory of Manipur in response to armed political activity in that region. The AFSPA has its roots in British colonial legislation dating back to the mid-19th century. More directly, it was based on a British colonial ordinance, called the Armed Forces (Special Powers) Ordinance promulgated in 1942 to assist in suppressing the "Quit India Movement".

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

According to section 4 of the AFSPA act gives special powers to army officers in disturbed areas to shoot (even if it kills) any individual who violates law / or is suspected to violate law (this includes assembly of five or more people, carrying of weapons) etc. The only condition is that the officer has to give a warning before opening fire.

1. Security forces can arrest anybody even without a warrant, and carry out searches without consent.
2. Once a person is taken into custody, he/she has to be handed over to the nearest police station as soon as possible.
3. Prosecution of the officer on duty for alleged violation of human rights requires the prior permission of the Central Government.

According to Section 5 of the AFSPA Act, any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

Section 6 of the AFSPA Act declares No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act

#### **Some case studies of violation of women rights in assam by the Security forces:**

During the insurgency operation in 1980s, the violation of women rights was very high. The security forces have committed many violence likes rape and sexual violence against women. The security forces have done many operations in thousands of villages in search of ULFA cadre. During the operations of the security forces, women were victims of rape and sexual harassment. Women were heavily affected by the armed conflict between the insurgents and the forces of the government. children have also suffered sexual violence at the hands of the security forces. Some case studies of violation of women rights in assam are discussed in below:

1. Occurrences of sexual violence have been continued in assam. In 1983, women were first raped by CRPF (Central Reserve Police Force) in North Kamrup, Assam during the president's rule.

2. On 16 October, 1991, one 14-year-old girl was gang raped and killed by the personnel of the Indian Army at No. 2 Khowdang village near Naoboisha area in Lakhimpur District. Her name was Miss Bhanimai Dutta. On that day, a group of Army personnel suddenly cordoned off the residence of Mr. Mukuta Dutta, father of Miss Bhanimai, and picked up his son Mr. Babul Dutta and carried him to their vehicle while beating him mercilessly. When Mr. Mukuta Dutta and his wife rushed to the gate of their compound to bar the Army personnel from taking Babul away, three Army personnel entered the house and raped 14-year-old Miss Bhanimai. While her parent's entered the house, they found the nude body of their daughter on the bed wet with blood (<https://assam.org/node>).
3. on July 17 of 1998, another one woman was raped and killed by the BSF personnel in Nalbari district, Assam. Her husband was a vegetables seller and his name was Buddha Das. He was not present in that moment. The personnel of BSF entered the house and raped her in front of her children. After some times, her husband came and she died.
4. The security forces have committed sexual harassment against the children. On 7 February, 2005, the personnel of the Assam Rifles raped a 12-year-old girl in Karbi Anglong, Assam. Medical tests declared that the child was sedated with sleeping tablets.
5. On the 25<sup>th</sup> may, 1997, Miss Marnoni Koch (12) daughter of Mr. Umesh Koch of village Komarchuburi was raped at her village in Sonitpur district by the armed personnel belonging to 25 Punjab regiment stationed at Dhekiajuli Industrial Centre. While raiding the village in search of ULFA activists they forced the villagers together in the middle of the village. But two artnymen forcefully detained Miss Mamoni's mother, but she managed to escape and thereupon one army personnel picked up Miss Mamoni to her kitchen and raped her.

**Conclusion:** Sexual violence of women by the security force is prevalent in Assam. National campaign Against Torture (NCAT) is an NGO mentioned that Assam records highest cases of sexual violence by Armed force in 20 years. Sexual violence of women leads to the mental trauma. Women become depression and sometimes its lead to the suicidal. Under the section of the AFSPA act, 1958, the armed forces have been committing sexual violence against women. AFSPA has allowed the military forces to completely disrespect the human rights of citizens and the rule of law. The act also violates the fundamental right to the life of the citizens. The Justice J.S.Verma committee recommended that sexual violence against women by members of the armed forces or uniformed personnel must be brought under the purview of ordinary criminal law.

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