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EXTRA JUDICIAL KILLINGS, FORCED EVICTIONS, AND THE RIGHT TO AN EFFECTIVE REMEDY: EXAMINING INDIA'S COMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS OBLIGATIONS IN MANIPUR

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Abstract

India's northeastern state of Manipur has been the site of sustained armed conflict since the early 1980s, marked by the persistent deployment of the Armed Forces (Special Powers) Act, 1958 (AFSPA) a colonial-era legislation that grants security forces near-absolute immunity from prosecution and has been characterised by an official government-commissioned expert committee as "a symbol of hate and oppression." Concurrently, forced evictions conducted by state authorities frequently without adequate notice, independent review, or genuine provision for resettlement have displaced vulnerable communities in violation of both domestic constitutional guarantees and international human rights norms. This article examines India's compliance with its obligations under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), focusing on two concrete instances drawn from contemporaneous pattern of extrajudicial executions documented between 2000 and 2009, and the 2011 forced eviction of residents of Lamphel Yaipha Leikai in Imphal. Drawing on the Jeevan Reddy Committee Report (June 2005), the Human Rights Committee's Concluding Observations on India (CCPR/C/79/Add.81 and CCPR/C/IND/CO/4), civil society shadow reports and litigation by the Extra Judicial Execution Victim Families Association (EEVFAM) and Human Rights Alert (HRA), and General Comment No. 7 of the Committee on Economic, Social and Cultural Rights, this article argues that India's failure to ensure accountability for extrajudicial killings and to provide adequate remedy for forced displacement constitutes a sustained breach of its treaty obligations. The article analyses the structural impunity embedded in AFSPA, the lex specialis/lex generalis tension in international humanitarian and human rights law, and the Indian Supreme Court's ambivalent jurisprudence on fundamental rights in conflict-affected areas. It concludes with recommendations for legislative reform, judicial strengthening, and more robust domestic implementation of international human rights norms.

Keywords – Extrajudicial killings, AFSPA, forced evictions, right to remedy, ICCPR, ICESCR, Manipur, impunity, lex specialis, General Comment No. 7, Jeevan Reddy Committee.

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I. INTRODUCTION

The relationship between armed conflict, state impunity, and the erosion of fundamental human rights has been extensively theorised in international human rights scholarship. Yet the northeastern Indian state of Manipur offers a particularly vivid and insufficiently studied instance of how legal architecture can simultaneously create the conditions for grave violations and foreclose the paths to remedy. For more than four decades, Manipur has existed in a state of permanent legal exception, governed in part by a piece of legislation that grants security forces sweeping powers of arrest, search, and lethal force while shielding them from criminal prosecution without prior government sanction. The Armed Forces (Special Powers) Act, 1958 AFSPA was designed as a temporary emergency measure but has persisted as a near-permanent feature of governance in conflict-affected northeastern India, generating what international human rights community have characterised as a culture of impunity so entrenched that it has effectively normalised extrajudicial violence.

This article emerges from two specific occasions of direct engagement with these realities. First, India's State Reports submitted to the United Nations Committee on Human Rights and Alternate or Shadow Reports submitted by civil society and human rights bodies from Manipur contesting India's State report and its justification for the retention of the controversial law – the AFSPA. Justice Jeevan Reddy Committee's Report of 2005 also bears significant testimony to the oppressive regime which AFSPA had unleased without any sight of accountability. Justice JS Verma's report released in the aftermath of the infamous Delhi rape and murder case of a girl recommended complaints of sexual abuses from disturbed areas where AFSPA operates should be taken cognizance by ordinary courts of law for criminal prosecutions without any exception making Section 6 of AFSPA redundant for victims' right to approach the judiciary without requiring prior permission from the Central government. These interventions collectively point towards a reality of how AFSPA has produced a pattern of extra-judicial killings by armed security forces in Manipur and the legal frameworks that permitted such a conduct. Second, of the many evictions carried out by the State government in Manipur, the response of the communities or families affected by such governmental actions indicates that they were forcibly evicted without complying with basic procedural and substantive legal safeguards. These two ground realities examined in the context of specific and urgent human rights crises, form the empirical and argumentative foundation of this article, which seeks to situate those documented violations within the broader framework of India's international human rights obligations.

The article proceeds in several stages. Section 2 provides the legal and historical context of armed conflict in Manipur, examining the structure of AFSPA and its relationship to extrajudicial violence, before turning to the Jeevan Reddy Committee's landmark 2005 findings and the parallel problem of forced evictions. Section 3 examines India's international human rights obligations under the ICCPR and ICESCR, engaging with the Human Rights Committee's Concluding Observations on India, civil society documentation by EEVFAM and HRA, and the applicability of CESCR General Comment No. 7 to the Manipur context. Section 4 analyses the right to an effective remedy under international law, engaging the lex specialis/lex generalis doctrinal framework and critically examining the Indian Supreme Court's jurisprudence, including the landmark cases of *Maneka*

Gandhi, *D.K. Basu*, *Visakha*, and *NPMHR*. Section 5 presents the two case studies. Section 6 synthesises the analysis into systemic findings, with particular attention to the political and legal consequences of shelving the Jeevan Reddy recommendations. Section 7 offers conclusions and recommendations for reform.

II. LEGAL AND HISTORICAL CONTEXT: ARMED CONFLICT, IMPUNITY, AND DISPLACEMENT IN MANIPUR

The Armed Forces (Special Powers) Act and the Architecture of Impunity

The Armed Forces (Special Powers) Act, 1958 was enacted by the Indian Parliament in the context of insurgencies in the northeastern frontier, drawing its legislative authority from a framework that predated independence. Its roots lie in the Armed Forces (Special Powers) Ordinance, 1942, promulgated by the British colonial administration to suppress the Quit India movement, a genealogy that itself reveals the legislation's character as an instrument of emergency control rather than constitutional governance. Despite this colonial provenance, AFSPA has been re-enacted and continuously renewed in Manipur, and in other northeastern states, across successive governments of different political persuasions, acquiring in the process a permanence that its original framers could scarcely have envisaged.[1]

The core provisions of AFSPA vest members of the armed forces deployed in 'disturbed areas', a designation determined by the central or state government with very limited judicial review with the power to arrest any person without a warrant; to search any premises without a warrant; and, critically, to use lethal force against any person acting in contravention of law, or against any assembly of five or more persons. Section 6 of the Act provides that no prosecution, suit, or other legal proceeding shall be instituted against any person in respect of anything done or purported to be done in exercise of the powers conferred by the Act, except with the previous sanction of the central government. In practice, this sanction has been virtually never granted. The National Human Rights Commission of India documented, in successive annual reports across the period from 2000 to 2010, that the central government had rejected or left pending essentially all requests for sanction to prosecute security personnel for alleged violations in Manipur and other disturbed areas.[2]

The practical effect of this legislative scheme is to create a zone of near-absolute criminal immunity for security force operations. Deaths resulting from encounters with armed forces whether genuine or staged are routinely classified as lawful exercises of AFSPA powers, and the legal and institutional mechanisms for investigating and prosecuting such deaths are either unavailable or effectively neutralised. The Supreme Court of India examined the operation of AFSPA in *Naga People's Movement of Human Rights v. Union of India*[3], upholding the Act's constitutional validity while imposing certain procedural conditions on its exercise, a decision whose implications and limitations

[1] Armed Forces (Special Powers) Act, No. 28 of 1958, §§ 3–4; Armed Forces (Special Powers) Ordinance, 1942. The text of the 1958 Act is available through India Code, https://www.indiacode.nic.in/bitstream/123456789/1527/1/a1958-28.pdf.
[2] Armed Forces (Special Powers) Act, No. 28 of 1958, §§ 4–6. Section 6 requires prior Central Government sanction for prosecution, suit or other legal proceedings in respect of acts done or purportedly done under the Act. India Code, https://www.indiacode.nic.in/bitstream/123456789/1527/1/a1958-28.pdf.
[3] *Naga People's Movement of Human Rights v. Union of India*, AIR 1998 SC 431.

are examined at length in Section 4.3 below. In *Extra Judicial Execution Victim Families Association v. Union of India*[4], the Supreme Court took a significant further step, holding that even in 'disturbed areas' under AFSPA, security forces do not enjoy unlimited immunity and that every death caused by them must be subject to independent investigation. These judicial developments, while meaningful, have not succeeded in dismantling the structural impunity that AFSPA has built up over more than six decades of continuous deployment.[5]

The Jeevan Reddy Committee and the Call for Reform

The most significant official acknowledgment of AFSPA's failures came not from the courts but from a government-appointed expert committee. In 2004, following the widely publicised death in custody of Thangjam Manorama Devi, allegedly tortured and killed by the Assam Rifles in Manipur and the subsequent protest by Meira Paibis women outside the Assam Rifles headquarters in Imphal, the Government of India appointed a five-member Committee of Experts under the chairpersonship of Justice B.P. Jeevan Reddy, a retired judge of the Supreme Court of India, to review AFSPA and recommend changes. The Jeevan Reddy Committee submitted its report in June 2005.[6]

The committee's conclusions were unequivocal. The report characterised AFSPA as "a symbol of hate and oppression" and described it as "a highly controversial Act, widely perceived as the symbol of oppression, an object of hate and an instrument of discrimination and high-handedness." It concluded that no amendment of the Act could adequately address these fundamental deficiencies and that the Act should be repealed in its entirety. It recommended that the powers necessary for the maintenance of public order in disturbed areas be subsumed within an appropriately strengthened version of the Unlawful Activities (Prevention) Act, 1967, subject to robust human rights safeguards. The committee further recommended the creation of mechanisms for accountability, prompt investigation of complaints against security forces, and adequate compensation for victims. These recommendations were comprehensive, expert, and coming from a body constituted by the Government of India itself carried the highest possible domestic authority.[7]

The government's response was to acknowledge receipt of the report and to do nothing further with it. The Jeevan Reddy Committee Report was never tabled in Parliament, never officially published, and never formally responded to by the Ministry of Home Affairs. Its contents were known to the public only through copies that circulated informally. This suppression of an official government-

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[4] *Extra Judicial Execution Victim Families Association v. Union of India*, (2016) 14 SCC 536.

[5] Naga People's Movement of Human Rights v. Union of India, (1998) 2 SCC 109; Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536. The latter judgment rejects the proposition that AFSPA confers unlimited immunity and directs independent investigation of alleged extra-judicial killings.

[6] Ministry of Home Affairs, Government of India, Press Information Bureau, 'First meeting of AFSPA Review Committee held' (24 Nov. 2004), https://www.pib.gov.in/newsite/erelcontent.aspx?lang=2&reg=48&relid=5065; Press Information Bureau, 'Repeal of AFSPA' (3 Dec. 2014), https://www.pib.gov.in/newsite/PrintRelease.aspx?lang=2&reg=48&relid=112482.

[7] Committee to Review the Armed Forces (Special Powers) Act, 1958, Report (submitted 6 June 2005). The Government of India confirmed the report's submission and its recommendation to repeal AFSPA in a parliamentary reply published by the Press Information Bureau on 3 December 2014, https://www.pib.gov.in/newsite/PrintRelease.aspx?lang=2&reg=48&relid=112482. The quoted wording should be checked against the report copy relied on by the author.

commissioned expert report on a matter of vital public importance represents a governance failure of a very serious kind. It demonstrates that the failure to reform AFSPA is not a failure of knowledge or of legal capacity the government's own experts had told it precisely what needed to be done but a deliberate political choice, made with full awareness of the human rights consequences, to prioritise security force institutional interests over the rights of Manipuri people. The implications of this choice for India's compliance with its international human rights obligations are examined further in Section 6.2.[8]

Forced Evictions and Urban Development in Manipur

The second dimension of this article's inquiry concerns forced evictions, a category of human rights violation that is structurally distinct from extrajudicial killings but that shares, in the Manipur context, many of the same features of governmental overreach, procedural deficiency, and failure of remedy. Forced evictions typically occur at the intersection of developmental aspirations, property rights, and the rights of marginalised communities. In Imphal and other urban centres of Manipur, this has manifested in a pattern of evictions often characterised by authorities as slum clearance or removal of unauthorised encroachments conducted without genuine consultation, without adequate notice, and without any meaningful resettlement package for displaced residents.

The 2011 eviction of residents from Lamphel Yaipha Leikai in Imphal, which forms the second case study in this article, illustrates this pattern with particular clarity. The affected community had resided in the area for several decades, establishing informal but stable patterns of tenure that constituted legitimate occupancy in the sense understood by both the ICESCR framework and Indian constitutional jurisprudence. The eviction was carried out following a government order that characterised the residents as encroachers on public land without any prior survey or individual adjudication of their claims, without any resettlement plan, and in a manner that involved the destruction of personal property and the immediate displacement of vulnerable persons, including elderly residents and children. The legal instruments invoked to justify the eviction were applied selectively and, in a manner, inconsistent with the procedural requirements that even Indian domestic law imposes upon governmental action affecting fundamental rights. These failures are examined in the light of the ICESCR framework in Sections 3.3 and 3.4, and the right to remedy in Section 4.[9]

[8] Press Information Bureau, Government of India, 'Repeal of AFSPA' (3 Dec. 2014) (stating that the Jeevan Reddy Committee recommended repeal and that its recommendations were under consideration), https://www.pib.gov.in/newsite/PrintRelease.aspx?lang=2&reg=48&relid=112482. The stronger assertions that the report was 'suppressed' or never formally responded to require a separate documentary source.

[9] Committee on Economic, Social and Cultural Rights, General Comment No. 7: The Right to Adequate Housing (Art. 11.1 of the Covenant): Forced Evictions, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 3, 13–16. This authority supplies the applicable international standard; the case-specific factual account of the Lamphel Yaipha Leikai eviction requires supporting contemporaneous documentation.

III. INTERNATIONAL HUMAN RIGHTS OBLIGATIONS AND INDIA'S COMPLIANCE

The ICCPR Framework: Civil and Political Rights in Conflict

India acceded to the International Covenant on Civil and Political Rights on 10 April 1979 and to its Optional Protocol on the same date, thereby submitting itself to the monitoring jurisdiction of the Human Rights Committee (HRC). The ICCPR provisions most directly engaged by the pattern of extrajudicial killings in Manipur are Article 6 (the right to life), Article 7 (the prohibition of torture and cruel, inhuman or degrading treatment), Article 9 (the right to liberty and security of person), Article 14 (the right to a fair hearing), and Article 2(3), which imposes a positive obligation on states to ensure that any person whose rights or freedoms are violated shall have an effective remedy, determined by competent judicial, administrative, or legislative authority.[10]

Article 6(1) provides that "every human being has the inherent right to life" and that "[t]his right shall be protected by law" and that "[n]o one shall be arbitrarily deprived of his life." The Human Rights Committee's General Comment No. 36 (2019) on the right to life elaborates this obligation extensively, affirming that the right to life is not merely a negative obligation to refrain from killing but a positive obligation to investigate, prosecute, and punish those responsible for arbitrary deprivations of life, and to provide effective remedies and reparation to victims and their families. General Comment No. 36 confirms that the right to life applies in situations of armed conflict and that states cannot derogate from its core protections even in times of emergency without satisfying the demanding requirements of Article 4 requirements that India has never formally invoked with respect to Manipur.[11]

The obligation to investigate extrajudicial killings is well-established in HRC jurisprudence. In communications arising from the practice of extrajudicial executions in the Philippines, Peru, Colombia, and elsewhere, the Committee has consistently held that the failure to conduct a prompt, impartial, and effective investigation into a suspicious or violent death, and the failure to bring those responsible to justice, constitutes a violation of Article 6 read in conjunction with Article 2(3). Applied to the Manipur context, this framework means that every extrajudicial killing that is not promptly and independently investigated constitutes not merely a violation of the right to life but also a failure of the positive obligation to provide an effective remedy.[12]

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[10] International Covenant on Civil and Political Rights arts. 2(3), 6, 7, 9, 14, adopted Dec. 16, 1966, 999 U.N.T.S. 171; U.N. Treaty Body Database, Ratification Status for India (recording India's accession on 10 Apr. 1979), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Treaty.aspx?CountryID=79&Lang=en. Note: India acceded to the ICCPR on that date; the Optional Protocol status should be checked separately before retaining the claim that India acceded to it on the same date.

[11] Human Rights Committee, General Comment No. 36, Article 6: Right to Life, U.N. Doc. CCPR/C/GC/36 (30 Oct. 2018; issued 3 Sept. 2019), ¶¶ 2–4, 27–28, https://www.ohchr.org/Documents/HRBodies/CCPR/CCPR_C_GC_36.pdf.

[12] Human Rights Committee, General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶¶ 15–18. See also Human Rights Committee, General Comment No. 36, U.N. Doc. CCPR/C/GC/36, ¶¶ 27–28.

Human Rights Committee Concluding Observations on India and Civil Society Documentation

The Human Rights Committee has reviewed India's compliance with the ICCPR on several occasions, and its Concluding Observations reveal a sustained pattern of concern about AFSPA and extrajudicial killings in the northeastern states. In its Concluding Observations following India's third periodic report (CCPR/C/79/Add.81, adopted 4 August 1997), the Committee expressed specific concern that the immunity provisions of AFSPA created an environment in which violations of Article 6 could occur without effective accountability. It recommended that India review AFSPA with a view to bringing it into conformity with the ICCPR and ensure that all allegations of extrajudicial killings were investigated by independent and impartial authorities. The Committee also noted with concern the inadequate mechanisms for compensation and redress for victims and their families. In its Concluding Observations on India's fourth periodic report (CCPR/C/IND/CO/4), the Committee reiterated these concerns in stronger terms, calling specifically on India to ensure that the prosecutorial sanction requirement under Section 6 of AFSPA did not operate as a de facto shield against accountability for serious human rights violations, including killings that might otherwise constitute violations of Article 6.[13]

These treaty body concerns have been substantially reinforced by civil society documentation from organisations operating in Manipur. Human Rights Alert (HRA) — the state's most prominent human rights documentation body has published successive annual reports recording hundreds of alleged extrajudicial killings, providing detailed case-by-case evidence that satisfies the criteria established by the HRC for classification as violations of Article 6. The Extra Judicial Execution Victim Families Association (EEVFAM) represents the families of 1,528 persons allegedly killed in staged encounters in Manipur between 1979 and 2012, documented across 62 police stations in the state. The EEVFAM petition to the Supreme Court filed in 2012 and disposed of by the landmark judgment in 2016 provided a judicially examined sample of these cases and generated the Court's conclusion that many of the deaths could not be justified as lawful exercises of AFSPA powers.[14]

Shadow reports submitted to the Human Rights Committee by Indian civil society coalitions, covering the northeastern states including Manipur, have consistently highlighted the gap between India's formal treaty commitments and the lived experience of affected communities. These reports document the chilling effect of AFSPA on the exercise of civil and political rights more broadly: the suppression of peaceful assembly, the intimidation of witnesses and human rights defenders, the denial of legal assistance to persons detained under the Act, and the atmosphere of fear that pervades communities in which extrajudicial killings have occurred. The combined body of HRC Concluding Observations, civil society documentation, and EEVFAM litigation establishes, with a high degree

[13] Human Rights Committee, Concluding Observations on the Third Periodic Report of India, U.N. Doc. CCPR/C/79/Add.81 (4 Aug. 1997); Human Rights Committee, Concluding Observations on the Fourth Periodic Report of India, U.N. Doc. CCPR/C/IND/CO/4 (2 Sept. 2024), https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=53rWFWALpN2IftMZirLNzGwVjQBrMGpRrfNEKjuy%2FrtFTUdj9oE9N9HAqmtCwaLlKd2li%2FKVRdaJG4ktwy71Sg%3D%3D. The precise wording attributed to each set of observations should be matched to the relevant paragraphs.

[14] Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536; Human Rights Alert and Asian Human Rights Commission materials should be cited to specific report titles, dates and pages for the numerical and case-specific claims in this paragraph. Those report details were not supplied with the manuscript.

of evidentiary confidence, that India's compliance with its ICCPR obligations in Manipur is seriously and systemically deficient, and that the legislative architecture of AFSPA is the primary driver of that deficiency.[15]

The ICESCR Framework and the Right to Adequate Housing

India acceded to the International Covenant on Economic, Social and Cultural Rights on 10 April 1979, incurring obligations under Article 11 the right to an adequate standard of living, including adequate housing and Article 2(1), which requires progressive realisation of Covenant rights with maximum available resources and without discrimination. The Committee on Economic, Social and Cultural Rights (CESCR) has developed an extensive body of interpretive General Comments on these obligations.[16]

General Comment No. 4 (1991) on the right to adequate housing establishes that the right encompasses legal security of tenure, availability of services and infrastructure, habitability, accessibility, location, and cultural adequacy. The CESCR has consistently held that forced evictions that deprive individuals of their housing without due process, adequate notice, genuine consultation, or provision of alternatives constitute violations of Article 11 and cannot be justified by reference to urban development objectives alone. The right to adequate housing, as interpreted by the CESCR, generates both negative obligations not to evict without lawful basis and procedural fairness and positive obligations to provide alternative accommodation and resettlement support for those displaced by lawful development activities where the state is the actor responsible for displacement.[17]

The Indian Supreme Court has recognised the right to housing as an implicit dimension of the right to life under Article 21 of the Constitution of India, a jurisprudential development that, in principle, aligns domestic constitutional law with the ICESCR framework. In *Olga Tellis v. Bombay Municipal Corporation*[18], the Court held that the right to livelihood was a component of the right to life, and that the eviction of pavement dwellers required procedural fairness and notice. This line of authority creates a constitutional foundation for challenging forced evictions, but its application in practice — particularly in conflict-affected Manipur, where institutional capacity and legal aid are severely limited has been inconsistent and inadequate.[19]

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[15] Human Rights Committee, General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶¶ 15–18. Any particular civil-society 'shadow report' should be identified by authoring organisation, title, date and U.N. document symbol.

[16] International Covenant on Economic, Social and Cultural Rights arts. 2(1), 11, adopted Dec. 16, 1966, 993 U.N.T.S. 3; U.N. Treaty Body Database, Ratification Status for India (recording accession on 10 Apr. 1979), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Treaty.aspx?CountryID=79&Lang=en.

[17] Committee on Economic, Social and Cultural Rights, General Comment No. 4: The Right to Adequate Housing (Art. 11(1) of the Covenant), U.N. Doc. E/1992/23, annex III (13 Dec. 1991), ¶ 8.

[18] *Olga Tellis v. Bombay Municipal Corporation* (AIR 1986 SC 180).

[19] Olga Tellis v. Bombay Municipal Corp., (1985) 3 SCC 545, AIR 1986 SC 180. The Court connected livelihood with Article 21 and considered the procedural fairness of removal of pavement dwellers; it should not be cited as establishing an unqualified right to housing or a universal resettlement entitlement.

CESCR General Comment No. 7: Applicability to Manipur

General Comment No. 7 (1997) of the CESCR, titled "The Right to Adequate Housing (Art. 11.1): Forced Evictions," provides the most detailed and authoritative interpretation of states' obligations with respect to forced displacement. The Comment defines forced evictions as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection." It makes clear that forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, following genuine consultation with affected communities, provision of adequate and reasonable notice, independent review of contested decisions, provision of legal aid to affected persons, and critically provision of adequate alternative accommodation or resettlement to ensure that those displaced are not rendered homeless or more vulnerable to the violation of other human rights.[20]

The applicability of General Comment No. 7 to the Manipur context is both direct and of considerable practical significance. The Comment explicitly addresses evictions arising from state-directed urban renewal and slum clearance programmes precisely the characterisation applied by authorities to the Lamphel Yaipha Leikai eviction. Paragraph 13 of the Comment states that although some evictions may be justifiable, they must comply with the provisions of the Covenant and may only be carried out after all feasible alternatives have been fully explored, and after genuine consultations with affected communities have taken place. Paragraph 14 specifies that persons subject to eviction must not be rendered homeless or vulnerable to the violation of other human rights, and that states parties must provide adequate alternative housing, resettlement, or access to productive land when it is not possible for them to make their own arrangements. Paragraph 15 enumerates the procedural protections that must apply in all cases of forced eviction, including: genuine consultation with affected communities before any decision is taken; adequate and reasonable notice of the intended eviction; information on the proposed use of the land or housing; government officials or their representatives being present during any eviction; and proper identification of all persons carrying out the eviction.[21]

None of these requirements were met in the Lamphel Yaipha Leikai eviction. The government's characterisation of residents as unauthorised encroachers was applied without individual adjudication of their claims; notice was wholly inadequate; no consultation preceded the decision; no independent review mechanism existed; no legal aid was available to affected residents; and no alternative accommodation was offered or provided. The CESCR's framework which represents the authoritative interpretation of Article 11 of the ICESCR as it applies to India admits of no exception on grounds of administrative convenience or informal tenure status. The Lamphel eviction, as

[20] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 3, 10–16.
[21] Id. ¶¶ 13–16 (feasible alternatives, consultation, notice, information, official presence, identification, remedies and safeguards against homelessness).

documented in Section 5.2, satisfies every element of an unlawful forced eviction as defined by General Comment No. 7.[22]

It is important to note that General Comment No. 7 applies with equal force in conflict-affected settings. The Comment expressly acknowledges that forced evictions occur "in a wide variety of contexts," including situations of armed conflict, and recognises that the specific vulnerability of communities in such settings their diminished institutional capacity, restricted access to courts, and reduced ability to mobilise collective resistance makes the protections of the Comment all the more essential. The CESCR has not yet issued Concluding Observations specifically addressing housing rights in Manipur as a sub-national unit, but the frameworks it has articulated are directly applicable, and India's failure to implement them in the context of the Lamphel eviction constitutes a cognisable violation of its obligations under the Covenant.[23]

IV. THE RIGHT TO AN EFFECTIVE REMEDY

The Lex Specialis and Lex Generalis Frameworks in Armed Conflict

A central jurisprudential question for any analysis of human rights obligations in situations of armed conflict is the relationship between international human rights law (IHRL) and international humanitarian law (IHL). When a state deploys armed forces in internal armed conflict as India has done in Manipur since the early 1980s questions arise about which body of law governs the conduct of those forces and the rights of the civilian population. The traditional position, associated most closely with the *lex specialis* doctrine, holds that IHL the body of law specifically designed to regulate armed conflict takes precedence over the more general norms of IHRL in cases of tension, on the basis that the specific governs the general and that IHL represents the applicable law in armed conflict settings.[24]

This *lex specialis* characterisation of IHL as displacing IHRL has, however, been significantly and consistently qualified by the International Court of Justice and by international human rights treaty bodies over the past three decades. In the *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons* (1996) and in *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004), the ICJ affirmed that IHRL continues to apply in situations of armed conflict and that, in cases of overlap, IHL may operate as *lex specialis* to interpret but not to extinguish the general obligations of IHRL. Crucially, the Court made clear that the core protections of IHRL, including the right to life and the prohibition of torture, cannot be set aside by reference to

[22] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16. This citation supports the legal standards, not the manuscript's factual assertions about what did or did not occur during the Lamphel eviction.

[23] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 5, 13–16. The claim that the Comment expressly addresses armed-conflict settings should be checked against the precise text; paragraph 5 discusses evictions in a variety of contexts.

[24] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, ¶ 25 (8 July); Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 136, ¶¶ 106, 111.

IHL even in the most intense armed conflict. The *lex specialis* principle thus operates as a rule of contextual interpretation, not as a blanket licence for the displacement of IHRL norms.[25]

Applied to the Manipur context, this framework yields a conclusion of considerable importance: AFSPA cannot be construed as a legitimate domestic *lex specialis* instrument capable of operating to limit India's obligations under the ICCPR and ICESCR, for two related and reinforcing reasons. First, AFSPA is a piece of domestic legislation, not a rule of international law, and it cannot operate to qualify or extinguish India's international treaty obligations regardless of its domestic constitutional status. Second, even if IHL norms were fully applicable to the situation in Manipur a contested question, given that Common Article 3 and Additional Protocol II apply only to non-international armed conflicts meeting specific thresholds of intensity and organisation the *lex specialis* principle would require those IHL norms to be interpreted consistently with IHRL's core protections, not deployed as a vehicle for extinguishing them. The structural immunity from prosecution created by Section 6 of AFSPA is incompatible with IHL (which requires accountability for grave breaches and war crimes) and with IHRL (which requires accountability for violations of the right to life and the prohibition of torture) alike. It cannot be saved by *lex specialis* reasoning.[26]

The *lex generalis* dimension of the analysis is equally important. The general obligations imposed by the ICCPR including the obligation in Article 2(3) to provide effective remedies before competent judicial, administrative, or legislative authorities for violations of Covenant rights remain applicable in Manipur in their full force, subject only to the limited derogation regime established by Article 4. India has never notified a formal derogation under Article 4 of the ICCPR with respect to Manipur or any other state, which means that its obligations under Articles 6, 7, 9, and 14 remain fully operative. The failure to provide effective remedies for extrajudicial killings and forced evictions in Manipur cannot, therefore, be legally defended on the ground that emergency or armed conflict conditions have reduced India's treaty obligations; no such legal ground exists in the absence of a formal derogation communicated through the Secretary-General of the United Nations.[27]

Domestic Remedies and Their Structural Limitations

The Indian constitutional framework provides, in principle, a robust set of remedies for human rights violations. Article 32 of the Constitution of India guarantees the right to approach the Supreme Court for the enforcement of fundamental rights a right that the Court has described as itself a fundamental right and Article 226 provides an equivalent and concurrent right to approach the High Courts. Articles 20 and 21 guarantee protection from arbitrary arrest and deprivation of life and personal liberty, respectively. The Supreme Court has interpreted these provisions expansively over several

[25] Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, ¶ 25; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. 136, ¶ 106. The ICJ held that the ICCPR continues to apply during armed conflict, while the applicable law of armed conflict may inform the interpretation of the right to life.

[26] Vienna Convention on the Law of Treaties art. 27, May 23, 1969, 1155 U.N.T.S. 331 (a party may not invoke its internal law as justification for failure to perform a treaty); International Covenant on Civil and Political Rights arts. 2(3), 4, 6–7.

[27] International Covenant on Civil and Political Rights arts. 2(3), 4; Human Rights Committee, General Comment No. 29, States of Emergency (Art. 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (31 Aug. 2001), ¶¶ 2–5, 16.

decades, developing a body of fundamental rights jurisprudence that, in principle, provides powerful tools for addressing the violations documented in this article. The Indian Supreme Court had held that Articles 20 and 21 of India's Constitution are non-derogable rights even during a state of emergency. [28]

In practice, however, several structural features of India's legal and institutional order have severely limited the effectiveness of these remedies in the AFSPA context. The requirement of prior central government sanction under Section 6 for any prosecution of security personnel effectively removes the criminal justice system as a mechanism of accountability: not a single case of alleged extrajudicial killing in Manipur has resulted in a successful criminal prosecution without such sanction, and that sanction has never been granted. The National Human Rights Commission of India established under the Protection of Human Rights Act, 1993 is explicitly barred by its Section 19 from investigating allegations against members of the armed forces; its jurisdiction extends to paramilitary and police forces, creating a gap that is highly significant in Manipur given that the Army and the Assam Rifles are often the forces most closely associated with the most serious violations. The absence of any independent complaints mechanism specifically calibrated to the needs of affected communities in armed conflict settings is a systemic lacuna in the remedial framework that neither judicial writ jurisdiction nor NHRC oversight can adequately fill.[29]

The remedial picture with respect to forced evictions is structurally different but equally deficient in practice. While the bar on prosecution associated with AFSPA does not apply to eviction cases, the effective remedies available to evicted communities are constrained by financial and logistical barriers to court access, by the virtual absence of legal aid in most eviction proceedings, by the speed with which evictions are typically executed creating a situation in which courts are presented with an irreversible fait accompli before any interim relief can be sought and by a degree of judicial deference to governmental assessments of what constitutes an unlawful encroachment. The formal availability of writ remedies thus significantly overstates the effective access to justice for displaced communities in Manipur.[30]

Judicial Approaches: NPMHR, Maneka Gandhi, D.K. Basu, and Visakha

The Indian Supreme Court's engagement with fundamental rights in conflict and security contexts reveals a jurisprudence of genuine ambivalence one that has, at different moments, affirmed the constitutional inviolability of fundamental rights protections and simultaneously accommodated legislative frameworks that structurally undermine them. This ambivalence is most clearly visible

[28] Constitution of India arts. 20–21, 32, 226; A.D.M. Jabalpur v. Shivkant Shukla, (1976) 2 SCC 521; K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

[29] Armed Forces (Special Powers) Act, No. 28 of 1958, § 6; Protection of Human Rights Act, No. 10 of 1994, § 19 (special procedure in relation to armed forces). Section 19 provides a distinct procedure for the Commission's handling of complaints against armed forces; the statement that it is categorically 'barred' from investigating should be phrased with care.

[30] International Covenant on Economic, Social and Cultural Rights art. 11; Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16; Olga Tellis v. Bombay Municipal Corp., (1985) 3 SCC 545.

when the *NPMHR* decision is placed alongside three landmark rights-protective judgments from the same period that preceded it.

In *Maneka Gandhi v. Union of India*[31], the Supreme Court overruled its earlier restrictive approach adopted in *A.K. Gopalan v. State of Madras*[32] to Article 21 of the Constitution and held that no person could be deprived of life or personal liberty except by a procedure that was not only prescribed by law but was just, fair, and reasonable (over-ruling AK Gopalan but upholding Justice HR Khanna's dissenting opinion). The judgment established that Article 21 imported substantive due process requirements not merely procedural ones and that it had to be read in harmonious conjunction with Articles 14 and 19 to ensure that any restriction on fundamental rights met the test of reasonableness in both content and procedure. This was a genuinely transformative decision that brought Indian constitutional law meaningfully closer to the substantive rights-protective framework of international human rights law. Its insistence on the fairness and reasonableness of state procedures for depriving persons of life or liberty has obvious and direct implications for the operation of AFSPA, whose conferral of lethal force authority rests on a legislative scheme rather than any individualised judicial authorisation.[33]

In *D.K. Basu v. State of West Bengal*[34] the Court laid down detailed procedural requirements governing arrest and detention requirements that became known as the "D.K. Basu guidelines" and that the Court held to be non-negotiable aspects of the protections guaranteed by Articles 21 and 22 of the Constitution. These guidelines require, among other things, that arresting officers identify themselves and their authority; that the arrested person be informed of the grounds of arrest; that a friend, relative, or well-wisher be informed promptly; that the arrested person be medically examined; and that full records of all these steps be maintained and produced before any court. The guidelines apply to all state actors exercising the power of arrest including, in principle, security forces operating under AFSPA and any failure to comply with them renders the arrest unlawful for the purposes of Article 21. The D.K. Basu guidelines are directly relevant to the conduct of AFSPA operations, which routinely bypass all of them, but the *NPMHR* judgment, decided less than a year later, made no reference to them in its assessment of AFSPA's constitutional validity. Instead, the Indian Supreme Court limited its investigation to the legislative competency of the Indian Parliament to legislate AFSPA and missed the opportunity to contribute to human rights jurisprudence in armed conflict situations in north-east India. [35]

In *Visakha v. State of Rajasthan*[36], the Court broke important new constitutional ground by directly incorporating international human rights law norms into the framework of fundamental rights interpretation, holding that in the absence of domestic legislation addressing a particular fundamental

[31] *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.
[32] *A.K. Gopalan v. State of Madras*, 1950 AIR 27, 1950 SCR 88.
[33] Maneka Gandhi v. Union of India, (1978) 1 SCC 248; A.K. Gopalan v. State of Madras, AIR 1950 SC 27, 1950 SCR 88. The 'just, fair and reasonable' formulation is associated with Maneka Gandhi; characterising the decision as formally 'overruling' A.K. Gopalan is an oversimplification.
[34] *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610.
[35] D.K. Basu v. State of West Bengal, (1997) 1 SCC 416, AIR 1997 SC 610 (judgment dated 18 Dec. 1996). The case laid down safeguards concerning arrest and detention to prevent custodial abuse.
[36] *Visakha v. State of Rajasthan*, AIR 1997 SC 3011.

right, courts could and should draw upon India's international treaty obligations including the ICCPR and ICESCR as benchmarks for the interpretation of Articles 14, 19, and 21. The Court reasoned that "any international convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content of those provisions." *Visakha* by drawing the protections for women at workplaces from the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) thus created a doctrinal pathway for incorporating ICCPR and ICESCR obligations directly into the constitutional rights framework, a pathway of substantial significance for the present inquiry, since it permits courts to use India's treaty obligations as interpretive tools when assessing whether AFSPA or the conduct of forces under it is consistent with the Constitution.[37]

Against this backdrop, the decision of a five-judge Constitution Bench in *Naga People's Movement of Human Rights v. Union of India,*[38] is jurisprudentially striking. The Court upheld the constitutional validity of AFSPA in its entirety, concluding that Parliament possessed the requisite legislative competence to enact it and that its provisions were not inconsistent with the fundamental rights guaranteed by the Constitution. In doing so, the Court imposed certain conditions on the use of AFSPA powers including that powers should not be exercised arbitrarily, that an internal review mechanism should operate, and that the Act should be reviewed periodically but these conditions were framed at a high level of generality and imposed no individually enforceable remedies for victims of violations.[39]

The jurisprudential gap between *NPMHR* and the preceding trilogy of cases is striking and consequential. The *Maneka Gandhi* framework of substantive due process was not applied to assess whether AFSPA's conferral of unchecked lethal force authority satisfied the test of just, fair, and reasonable procedure. The D.K. Basu guidelines decided in the same year as *NPMHR* were not integrated into the Court's assessment of what procedural protections persons encountered under AFSPA were entitled to claim. And the *Visakha* pathway established only months before *NPMHR* was decided was not invoked to bring India's ICCPR obligations to bear on the analysis of whether the prosecutorial immunity in Section 6 was compatible with the right to an effective remedy recognised by international law and cognisable as a constitutional standard.

The cumulative effect of these omissions was to insulate AFSPA from the most significant developments in Indian constitutional rights jurisprudence. The *NPMHR* judgment upheld an Act characterised by its own government's expert committee as a symbol of oppression, without engaging the substantive tools that constitutional doctrine already provided for testing it. The EEVFAM decision in 2016 partially corrected this trajectory: the Court's holding that deaths in disturbed areas must be independently investigated, and that AFSPA does not immunise security personnel against prosecution for disproportionate or unlawful killings, represents a belated engagement with the Maneka Gandhi substantive due process framework as applied to the exercise

[37] Vishaka v. State of Rajasthan, (1997) 6 SCC 241, AIR 1997 SC 3011. See also Convention on the Elimination of All Forms of Discrimination against Women arts. 2, 11, adopted Dec. 18, 1979, 1249 U.N.T.S. 13.
[38] *Naga People's Movement of Human Rights v. Union of India*, AIR 1998 SC 431.
[39] Naga People's Movement of Human Rights v. Union of India, (1998) 2 SCC 109, AIR 1998 SC 431 (judgment dated 27 Nov. 1997).

of lethal force. But the EEVFAM judgment has not yet generated the systematic investigation of the hundreds of deaths documented by EEVFAM and HRA, and the gap between judicial acknowledgment and effective remedy remains wide.[40]

V. CASE STUDIES

Extrajudicial Killings in Manipur: A Pattern of Impunity

The pattern of extrajudicial killings in Manipur is comprehensively documented in the records of Human Rights Alert, the Extra Judicial Execution Victim Families Association, and successive reports of the Asian Human Rights Commission. Between 2000 and 2009, these organisations recorded hundreds of deaths in alleged security force encounters, a significant proportion of which bear the hallmarks of extrajudicial execution rather than lawful use of force in operational engagement. The markers identified by human rights investigators and confirmed in part by the EEVFAM Supreme Court proceedings include: the absence of any injuries to security force personnel in the encounter; the absence of weapons recovered from the deceased; the occurrence of the killing in circumstances inconsistent with the official account; post-mortem evidence of close-range gunshot wounds inconsistent with a firefight; and the persistence of a pattern across multiple incidents, units, and locations, suggesting institutional tolerance if not encouragement, rather than isolated individual misconduct.[41]

There exist several representative cases in India including instances in which young men were killed in alleged encounters but investigation revealed the victims to have been unarmed civilians or persons who were already in custody at the time of their deaths. These cases are not exceptional. The EEVFAM petition, filed in the Supreme Court in 2012, presented evidence of 1,528 such deaths in Manipur between 1979 and 2012. The Court's 2016 judgment, while not ruling on each individual case, held that an independent investigation must be conducted into all of them an acknowledgment, implicit but unmistakable, that the official characterisations of these deaths as lawful encounters were insufficient and, in a substantial number of cases, likely false.[42]

The legal framework governing these killings is, as examined in Sections 2 and 3, one of structural impunity. Section 6 of AFSPA has prevented criminal prosecution in virtually every case. The NHRC's jurisdictional exclusion from investigations involving the armed forces has removed that body as a mechanism of independent oversight for the most serious violations. The state police and ordinary criminal courts, which in principle retain some jurisdiction over civilian deaths, have been subject to institutional and political pressures that have precluded independent investigation. The result is a situation that the Human Rights Committee identified as incompatible with India's Article

[40] Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536. The judgment held, inter alia, that allegations of excessive or retaliatory force in disturbed areas require inquiry and that AFSPA does not confer blanket immunity.

[41] Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536. The petition concerned allegations involving 1,528 deaths; claims about the exact period, distribution across police stations, and findings of particular civil-society organisations require pinpoint references to the petition record or the relevant reports.

[42] Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536. The Court directed a process of inquiry into the identified cases; the manuscript should avoid suggesting that the Court adjudicated every listed death to be an unlawful killing.

6 obligations, that the EEVFAM court treated as a systemic constitutional failure, and that the Jeevan Reddy Committee constituted by the government itself determined could not be remedied by anything short of AFSPA's repeal.[43]

For the families of those killed, the absence of effective remedy is itself a human rights violation. Article 2(3) of the ICCPR requires states to ensure that victims including family members of those whose right to life has been violated have access to effective remedies before competent authorities. The HRC's General Comment No. 31 (2004) confirms that this obligation includes: prompt, thorough, public, and impartial investigations; prosecution of those responsible; adequate reparation, including compensation, rehabilitation, and guarantees of non-repetition; and cessation of the ongoing violation. None of these elements of the remedial framework have been systematically provided to EEVFAM families or to the broader community of Manipuri families who lost members to extrajudicial violence in the decades covered by this article.[44]

The Lamphel Yaipha Leikai Eviction: Forced Displacement and the Failure of Procedural Justice

The 2011 forced eviction of residents of Lamphel Yaipha Leikai, a residential area in the Lamphel constituency of Imphal West district represents a situation that exemplified the pattern of procedurally deficient state-directed displacement documented by human rights organisations across Manipur and other Indian states. The community had established residence in the area over several decades, developing a settled pattern of life that, while not always formalised through registered documentation, constituted legitimate occupancy in the sense recognised by both the ICESCR framework and the line of Indian constitutional jurisprudence from *Olga Tellis* onwards. Lamphel Yaipha Leikai eviction is a sample case study out of multiple such forcible evictions carried out without complying with procedural and substantive safeguards across Imphal East, Imphal West, Bishnupur and Thoubal districts of Manipur by the State Government. [45]

The eviction was preceded by no genuine consultative process with the residents. Government authorities issued an order characterising the community as encroachers on state land without conducting any individualised adjudication of residents' claims, and without recognising the complexity of informal land tenure patterns in urban Manipur, a complexity that is the product of historical, administrative, and socio-economic factors that the state itself has done little to resolve through formal tenure regularisation. The notice period given to residents before the execution of the eviction order was manifestly inadequate: a matter of days rather than the reasonable period that General Comment No. 7 requires as a minimum precondition for a lawful eviction process. No independent review mechanism was established to adjudicate disputed claims; no legal aid was made

[43] Armed Forces (Special Powers) Act, No. 28 of 1958, § 6; Protection of Human Rights Act, No. 10 of 1994, § 19; Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536.
[44] International Covenant on Civil and Political Rights art. 2(3); Human Rights Committee, General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶ 15; Human Rights Committee, General Comment No. 36, U.N. Doc. CCPR/C/GC/36, ¶¶ 27–28.
[45] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 3, 13–16. The particular facts and date of the Lamphel Yaipha Leikai eviction require a contemporaneous government order, court record, or independent report; no such primary record was supplied with the manuscript.

available to residents seeking to contest the characterisation of their occupancy as unlawful; and no plan for alternative accommodation or resettlement was prepared, offered, or implemented.[46]

The physical execution of the eviction was conducted with a disregard for personal property and the immediate welfare of displaced persons that constitutes in itself a violation of the rights of affected residents. Belongings were destroyed in the course of demolition; elderly persons and children were displaced into conditions of immediate homelessness; and the community's established social networks, which in a context of limited state welfare provision function as critical informal safety nets were severed without any governmental mechanism to assist in their reconstitution. These facts, taken together, satisfy each element of the definition of a forced eviction under General Comment No. 7 and demonstrate non-compliance with each of the procedural and substantive requirements that the Comment identifies as necessary conditions for any lawful eviction and relocation.[47]

The domestic legal framework's failure in this instance operated at several levels simultaneously. The eviction order was not subjected to judicial scrutiny before execution; the courts were presented with an irreversible situation by the time any writ petition could realistically have been filed. The application of land management legislation, whatever its formal legal authority was conducted without the due process protections that both Article 21 of the Constitution and General Comment No. 7 require of governmental actions that fundamentally affect individuals' fundamental rights. The eviction at best is a case of "misusing the law" invoking legal power not to vindicate genuine legal interests but to achieve, under cover of formal authority, a result that a genuinely fair and lawful process would not have produced.[48]

VI. FINDINGS AND ANALYSIS

Systemic Failures of Accountability

The analysis in the preceding sections discloses a pattern of systemic failure that operates at every level of India's legal and institutional order. At the legislative level, AFSPA creates an architecture of impunity that is structurally incompatible with India's ICCPR obligations, and no legislative reform has occurred notwithstanding more than four decades of sustained criticism from domestic and international human rights bodies, and the unequivocal recommendation of the government's own expert committee. At the institutional level, the jurisdictional exclusion of the NHRC from armed forces complaints, the practical unavailability of prosecutorial sanction under Section 6 of AFSPA, and the absence of an independent investigative body for AFSPA-related violations

[46] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16. This is authority for the procedural standards only; the allegations about notice, consultation and adjudication require case-specific evidence.
[47] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16; International Covenant on Economic, Social and Cultural Rights art. 11. The factual allegations concerning destruction of belongings and homelessness require an independent supporting source.
[48] Constitution of India art. 21; Olga Tellis v. Bombay Municipal Corp., (1985) 3 SCC 545; Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16.

collectively ensure that the formal existence of remedial institutions does not translate into effective access to justice for affected communities.[49]

At the judicial level, the *NPMHR* decision, decided in 1997, after *Maneka Gandhi*, *D.K. Basu*, and *Visakha* had all established rich doctrinal resources for rights-protective constitutional analysis upheld AFSPA in a manner that insulated it from the most powerful tools of constitutional scrutiny, while the subsequent EEVFAM decision, though more protective, has not yet generated the systematic investigation and prosecution that effective remedy requires. At the international level, India has failed to give effect to the Human Rights Committee's Concluding Observations calling for AFSPA's reform and for independent investigation of extrajudicial killings; it has not notified a derogation under Article 4 of the ICCPR, which means its treaty obligations remain fully operative but are not being met in practice.[50]

With respect to forced evictions, the absence of a national legal framework specifically governing such evictions, equivalent, for instance, to the jurisprudential elaboration of the right to housing in South African constitutional law, means that affected communities must rely on general administrative law principles and Article 21 jurisprudence, the robust application of which is contingent on judicial willingness to engage substantively with ICESCR norms through the *Visakha* pathway. General Comment No. 7's specific requirements consultation, adequate notice, independent review, legal aid, alternative accommodation are implemented in an ad hoc and wholly inconsistent manner across India, and the government's rhetorical characterisation of evicted communities as encroachers operates as a powerful device for defeating the claims of those who lack formalised tenure documentation.[51]

The Shelved Jeevan Reddy Recommendations: A Deliberate Political Choice with Human Rights Consequences

The failure to act on the Jeevan Reddy Committee's recommendations merits separate treatment as a distinct finding, because it represents not a failure of knowledge, institutional capacity, or legislative imagination, but a deliberate political choice made with full awareness of its human rights consequences. The Government of India constituted the Committee specifically in response to the public outrage generated by Thangjam Manorama Devi's death in custody and the Meira Paibis protest circumstances that themselves bespoke an acknowledged crisis of accountability in AFSPA's operation. Its mandate was precisely to determine whether reform of AFSPA could address legitimate human rights concerns. The committee's answer, after careful deliberation and expert review, was

[49] Armed Forces (Special Powers) Act, No. 28 of 1958, § 6; International Covenant on Civil and Political Rights arts. 2(3), 6; Human Rights Committee, General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶¶ 15–18.

[50] Naga People's Movement of Human Rights v. Union of India, (1998) 2 SCC 109; Extra Judicial Execution Victim Families Ass'n v. Union of India, (2016) 14 SCC 536; Maneka Gandhi v. Union of India, (1978) 1 SCC 248; D.K. Basu v. State of West Bengal, (1997) 1 SCC 416; Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

[51] International Covenant on Economic, Social and Cultural Rights art. 11; Committee on Economic, Social and Cultural Rights, General Comment No. 4, U.N. Doc. E/1992/23, annex III (1991), ¶ 8; General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16. The comparison with South African law would benefit from a specific authority if retained.

that reform was insufficient and that repeal was necessary. The government's response was to suppress the report.[52]

This decision was not taken in a vacuum of information. By June 2005, the pattern of extrajudicial killings in Manipur was extensively and credibly documented; the Human Rights Committee had, in its 1997 Concluding Observations, already expressed specific concern about AFSPA; and the Supreme Court's *NPMHR* judgment had already acknowledged however inadequately that the Act's exercise was subject to some form of review. The government thus possessed, at the time of its decision to shelve the Jeevan Reddy Report, the conclusions of its own experts, the Concluding Observations of an international treaty body, and the directions of the highest court in the land. In this context, the decision to suppress the report and maintain AFSPA in its existing form was a conscious prioritisation of security force institutional interests over the human rights of the people of Manipur.[53]

Under the framework of positive obligations recognised by the Human Rights Committee, the obligation on states not merely to refrain from violating rights but actively to ensure their protection and provide remedies for their violation this choice constitutes a continuing violation of India's Article 6 obligations under the ICCPR. The international community has made this point clearly. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has, in successive reports to the Human Rights Council, called on India to repeal or fundamentally amend AFSPA and to implement the Jeevan Reddy Committee's recommendations. The UN Special Rapporteur on the Situation of Human Rights Defenders has noted that the suppression of the report created an environment in which civil society organisations documenting violations in Manipur faced heightened risk of retaliation. The decision to shelve the Jeevan Reddy recommendations has thus generated cascading human rights consequences that extend far beyond the formal question of AFSPA's domestic constitutional validity.[54]

VII. CONCLUSIONS AND RECOMMENDATIONS

This article has examined India's compliance with its international human rights obligations under the ICCPR and ICESCR in the specific context of extrajudicial killings and forced evictions in Manipur. The analysis has demonstrated that the structural impunity created by AFSPA is incompatible with India's Article 6 obligations under the ICCPR; that the systematic failure to investigate and prosecute extrajudicial killings violates the positive obligations imposed by Article 2(3); that forced evictions of the kind visited upon the Lamphel Yaipha Leikai community violate

[52] Committee to Review the Armed Forces (Special Powers) Act, 1958, Report (submitted 6 June 2005); Press Information Bureau, Government of India, 'Repeal of AFSPA' (3 Dec. 2014), https://www.pib.gov.in/newsite/PrintRelease.aspx?lang=2&reg=48&relid=112482. The characterisation of non-publication as 'suppression' is evaluative and should be supported by a source documenting the report's official handling.

[53] Human Rights Committee, Concluding Observations on the Third Periodic Report of India, U.N. Doc. CCPR/C/79/Add.81 (4 Aug. 1997); Naga People's Movement of Human Rights v. Union of India, (1998) 2 SCC 109; Committee to Review the Armed Forces (Special Powers) Act, 1958, Report (submitted 6 June 2005).

[54] Human Rights Committee, General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶¶ 15–18; International Covenant on Civil and Political Rights arts. 2(3), 6. The sentence attributing specific statements to UN Special Rapporteurs requires report titles, dates and paragraph numbers before publication.

Article 11 of the ICESCR and each of the substantive and procedural requirements of General Comment No. 7; and that the failure to implement the Jeevan Reddy Committee's recommendations constitutes a continuing and deliberate human rights failure, acknowledged by India's own expert advisers, by the Human Rights Committee, and by successive UN Special Rapporteurs.

The right to an effective remedy, guaranteed by Article 2(3) of the ICCPR, Article 8 of the Universal Declaration of Human Rights, and the broader framework of international human rights law is not a procedural technicality. It is a substantive entitlement that performs an indispensable function in any system of rights protection: it links the abstract formulation of rights with the concrete reality of their violation, and it signals to victims, potential violators, and the wider community that accountability is genuine and that the law means what it says. In Manipur, this signal has been systematically absent for more than four decades. The documentation that forms the foundation of this article from the recorded extrajudicial killings and EEVFAM to the procedural violations of the Lamphel eviction is evidence not of exceptional misconduct but of the normal operation of a system that has been designed, whether deliberately or through sustained institutional neglect, to produce impunity.[55]

The following recommendations emerge from this analysis and are offered as concrete pathways for reform:

Legislative reform of AFSPA: The Government of India should repeal AFSPA and replace it with a legal framework that complies with international human rights law — one that provides for proportionate and accountable use of force, mandates independent investigation of all deaths caused by security forces, removes the prosecutorial sanction requirement in Section 6, and establishes an independent and accessible complaints mechanism for affected communities. This recommendation is consistent with the findings of the Jeevan Reddy Committee and has been repeatedly endorsed by the Human Rights Committee, UN Special Rapporteurs, and civil society organisations.[56]

Implementation of Jeevan Reddy recommendations: The government should formally table the Jeevan Reddy Committee Report before Parliament, initiate a public parliamentary debate on its recommendations, and establish a time-bound process for implementing those recommendations. The continued suppression of an official government-commissioned report on a matter of fundamental public importance is a governance failure that is incompatible with the rule of law and with India's obligations of transparency under the ICCPR.[57]

Independent investigative mechanism: A fully independent investigative body constitutionally insulated from executive direction and with jurisdiction over all security force operations in disturbed

[55] Universal Declaration of Human Rights art. 8, G.A. Res. 217 A (III), U.N. Doc. A/RES/217(III) (10 Dec. 1948); International Covenant on Civil and Political Rights art. 2(3); Human Rights Committee, General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶ 15.

[56] Committee to Review the Armed Forces (Special Powers) Act, 1958, Report (submitted 6 June 2005); Human Rights Committee, Concluding Observations on the Third Periodic Report of India, U.N. Doc. CCPR/C/79/Add.81 (4 Aug. 1997), and on the Fourth Periodic Report of India, U.N. Doc. CCPR/C/IND/CO/4 (2 Sept. 2024).

[57] Press Information Bureau, Government of India, 'Repeal of AFSPA' (3 Dec. 2014) (confirming that the Committee submitted its report on 6 June 2005 and recommended repeal), https://www.pib.gov.in/newsite/PrintRelease.aspx?lang=2&reg=48&relid=112482.

areas should be established, with powers to investigate allegations of extrajudicial killings, recommend prosecution, award interim compensation, and publicly report its findings within defined timeframes.

National forced eviction framework: The Indian Parliament should enact comprehensive legislation governing forced evictions that incorporates the requirements of CESCR General Comment No. 7, including mandatory prior consultation, adequate and reasonable notice, independent review of disputed claims, free legal aid for affected residents, and provision of adequate alternative accommodation or resettlement assistance. State governments should be legally required to demonstrate compliance with this framework before any eviction order may be executed.[58]

Judicial strengthening through international law: The Supreme Court of India and the High Court of Manipur should actively employ the *Visakha* pathway to use India's ICCPR and ICESCR obligations as interpretive frameworks for fundamental rights in cases involving alleged extrajudicial killings and forced evictions. The *Maneka Gandhi* substantive due process framework should be applied rigorously to the conferral and exercise of lethal force authority under AFSPA; the D.K. Basu guidelines should be applied to all arrests and detentions under the Act; and General Comment No. 7 should be treated as an authoritative interpretive guide to the content of the right to shelter under Article 21.[59]

Fulfilment of treaty body engagement: India should submit timely periodic reports to the Human Rights Committee and the CESCR, respond substantively and in good faith to Concluding Observations and General Comments, and address the HRC's longstanding recommendations regarding AFSPA and extrajudicial killings specifically and in detail in its next periodic report, including comprehensive information about steps taken to investigate and prosecute the cases documented by EEVFAM.[60]

Reparations programme: A comprehensive reparations programme, including financial compensation, psychological rehabilitation, and enforceable guarantees of non-repetition, should be established for families of extrajudicial killing victims and for communities displaced by unlawful forced evictions. Such a programme should be designed in consultation with affected communities, administered by an independent body with appropriate sensitivity to gender and community context, and subject to public reporting and parliamentary oversight.[61]

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[58] Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16; General Comment No. 4, U.N. Doc. E/1992/23, annex III (1991), ¶ 8.

[59] Vishaka v. State of Rajasthan, (1997) 6 SCC 241; Maneka Gandhi v. Union of India, (1978) 1 SCC 248; D.K. Basu v. State of West Bengal, (1997) 1 SCC 416; Committee on Economic, Social and Cultural Rights, General Comment No. 7, U.N. Doc. E/1998/22, annex IV (1997), ¶¶ 13–16.

[60] International Covenant on Civil and Political Rights arts. 40, 2(3); International Covenant on Economic, Social and Cultural Rights art. 16; Human Rights Committee, Concluding Observations on the Fourth Periodic Report of India, U.N. Doc. CCPR/C/IND/CO/4 (2 Sept. 2024).

[61] Human Rights Committee, General Comment No. 31, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004), ¶ 16; International Covenant on Civil and Political Rights art. 2(3).

The documentation of extrajudicial killings and forced evictions in Manipur which form the foundation of this article, confirmed by the landmark EEVFAM proceedings, and acknowledged in the Jeevan Reddy Committee's own report stands as testimony to the profound distance that can open up between a state's formal legal commitments and the lived experience of its most vulnerable citizens. Closing that distance is the essential task of international human rights law, and of any legal system worthy of the name. This article has sought to demonstrate that the normative resources for doing so exist in abundance in the ICCPR, the ICESCR, and the traditions of India's own constitutional jurisprudence. What remains lacking is not the law but the political will to apply it with the consistency and courage that the people of Manipur have been waiting, for too long, to see.