



Armed Forces (Special Powers) Act (AFSPA)

For Prelims: Armed Forces (Special Powers) Act (AFSPA)

For Mains: Armed Forces (Special Powers) Act (AFSPA) and related issues, Various Security Forces & Agencies & Their Mandate, Terrorism in Hinterland & Border Areas

Why in News?

Recently, the Ministry of Home Affairs (MHA) has **extended the Armed Forces (Special Powers) Act (AFSPA) in parts of Arunachal Pradesh and Nagaland** for another six months.

What are the Armed Forces (Special Powers) Act (AFSPA)?

▪ Background:

- A reincarnation of the British-era legislation that was enacted to quell the protests during the [Quit India movement](#), the AFSPA was issued by way of four ordinances in 1947.
- The ordinances were **replaced by an Act in 1948** and the present law effective in the Northeast was introduced in Parliament in 1958 by the then Home Minister, G.B. Pant.
- It was known initially as the **Armed Forces (Assam and Manipur) Special Powers Act, 1958**.
- After the States of Arunachal Pradesh, Meghalaya, Mizoram, and Nagaland came into being, the Act was adapted to apply to these States as well.

▪ About:

- The AFSPA gives **unfettered powers to the armed forces and the Central armed police forces** deployed in “disturbed areas” to kill anyone acting in contravention of law and arrest and search any premises without a warrant and with protection from prosecution and legal suits.
- The law first came into **effect in 1958 to deal with the uprising in the Naga**
- The Act was amended in 1972 and the powers to declare an area as “disturbed” were conferred concurrently upon the Central government along with the States.
- Tripura revoked the Act in 2015 and Meghalaya was under AFSPA for 27 years, until it was revoked by the MHA from 1st April 2018.
- Currently AFSPA is in some parts of Assam, Nagaland, Manipur and Arunachal Pradesh.

What is the Controversy Around the Act?

▪ Human Rights Violations:

- The law **empowers security personnel, down to non-commissioned officers**, to use force and shoot “even to the causing of death” if they are convinced that it is necessary to do so for the “maintenance of public order”.
- It also **grants soldiers executive powers** to enter premises, search, and arrest without a warrant.
- The exercise of these extraordinary powers by armed forces has **often led to allegations of fake encounters and other [human rights violations](#)** by security forces in disturbed

areas while questioning the indefinite imposition of AFSPA in certain states, such as Nagaland and J&K.

▪ **Recommendations of Jeevan Reddy Committee:**

- In November 2004, the Central government appointed a five-member committee headed by Justice B P Jeevan Reddy to review the provisions of the act in the northeastern states.
- The committee recommended that:
 - **AFSPA should be repealed** and appropriate provisions should be inserted in the [Unlawful Activities \(Prevention\) Act, 1967](#).
 - The Unlawful Activities Act should be modified to clearly specify the powers of the armed forces and paramilitary forces and Grievance cells should be set up in each district where the armed forces are deployed.

- **Second ARC Recommendation:** The 5th report of the Second Administrative Reforms Commission (ARC) on public order has also **recommended the repeal of the AFSPA**. However, these recommendations **have not been implemented**.

What are the Supreme Court Views on the Act?

- The Supreme Court has **upheld the constitutionality of AFSPA in a 1998 judgment** (*Naga People's Movement of Human Rights v. Union of India*).
- In this judgment, the Supreme Court held that
 - a suo-motu declaration can be made by the Central government, however, it is desirable that the state government should be consulted by the central government before making the declaration;
 - the declaration has to be for a limited duration and there should be a periodic review of the declaration 6 months have expired;
 - while exercising the powers conferred upon him by AFSPA, the authorized officer should use minimal force necessary for effective action.

Way Forward

- The **status quo of the act is no longer the acceptable solution** due to numerous human rights violation incidents that have occurred over the years. The AFSPA has become a symbol of oppression in the areas it has been enacted. Hence the **government needs to address the affected people and reassure them of favourable action**.
- The government should **consider the imposition and lifting of AFSPA on a case-by-case basis and limit its application** only to a few disturbing districts instead of applying it for the whole state.
- The government and the security forces **should also abide by the guidelines set out by the [Supreme Court](#), Jeevan Reddy Commission, and the [National Human Rights Commission \(NHRC\)](#).**

UPSC Civil Services Examination Previous Year Question (PYQ)

Q. Human rights activists constantly highlight the fact that the Armed forces (Special Powers) Act, 1958 (AFSPA) is a draconian act leading to cases of human rights abuses by security forces. What sections of AFSPA are opposed by the activists? Critically evaluate the requirement with reference to the view held by the Apex Court. **(2015)**

Source: [TH](#)

