



AFSPA

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For Prelims: Armed Forces Special Powers Act (AFSPA), 1958, National Human Rights Commission (NHRC).

For Mains: Armed Forces Special Powers Act (AFSPA), 1958, Northeast Insurgency.

Why in News?

Recently, the Union Government has partially withdrawn the [Armed Forces Special Powers Act \(AFSPA\), 1958](#) from parts of **three Northeast states— Assam, Nagaland and Manipur**.

- Currently, AFSPA remains in force in parts of **these three states as well as in parts of Arunachal Pradesh and Jammu & Kashmir**.

What is AFSPA?

▪ Background:

- The British colonial government had on 15th August, 1942, **promulgated the Armed Forces Special Powers Ordinance to suppress the [Quit India movement](#)**.
- It was the foundation for four ordinances, including **one for the “Assam disturbed areas” invoked in 1947** to deal with Partition-induced internal security challenges.
- The **Armed Forces (Assam and Manipur) Special Powers Act, 1958, followed the Assam Disturbed Areas Act of 1955** to deal with the uprising in the Naga Hills and adjoining areas.
- The Act was **replaced by the AFSPA for wider application. A similar Act specific to Jammu and Kashmir** was enacted in 1990.

▪ About:

- The Armed Forces (Special Powers) Bill was passed by both the Houses of [Parliament](#) and it was **approved by the President on September 11, 1958**. It became known as the Armed Forces Special Powers Act (AFSPA), 1958.
- The Act came into force in the context of **increasing violence in the [North-eastern States](#)** decades ago, which the State governments found difficult to control.
- AFSPA gives armed forces the **power to maintain public order in “disturbed areas”**.
 - They have the **authority to prohibit a gathering of five or more persons in an area**, can use force or even open fire after giving due warning if they feel a person is in contravention of the law.
- If reasonable suspicion exists, the army **can also arrest a person without a warrant**, enter or search premises without a warrant, and ban the possession of firearms.

What are the Disturbed Areas?

- A disturbed area is one that is **declared by notification under Section 3 of the AFSPA**. It can

be invoked in places where the use of armed forces in aid of civil power is necessary.

- 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.**
- An area can be disturbed due to **differences or disputes between members** of different religious, racial, language or regional groups or castes or communities.
- The Central Government, or the Governor of the State or administrator of the Union Territory **can declare the whole or part of the State or Union Territory as a disturbed area.**
- The Ministry of Home Affairs would usually enforce this Act where necessary, but there have been **exceptions where the Centre decided to forego its power and leave the decision to the State governments.**
- Once declared ‘disturbed’, the region is **maintained as disturbed for a period of three months straight**, according to **The Disturbed Areas (Special Courts) Act, 1976.** The government of the state can suggest whether the Act is required in the state or not.

- Currently, the Union Home Ministry issues periodic **“disturbed area” notification to extend AFSPA only for Nagaland and Arunachal Pradesh.**

- **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.**

Why was AFSPA imposed on the Northeast in the first place?

- **Naga Insurgency:** When the Naga nationalist movement kicked off in the 1950s with the setting up of the [Naga National Council \(NNC\)](#), the Assam police forces allegedly used force to quell the movement.
 - As an armed movement took root in Nagaland, **AFSPA was passed in Parliament, and subsequently imposed on the entire state.**
 - In Manipur, too, it was imposed in 1958 in the three Naga-dominated districts of Senapati, Tamenglong and Ukhrul, where the NNC was active.
- **Secessionist and Nationalist Movements:** As secessionist and nationalist movements started sprouting in other Northeastern states, AFSPA started being extended and imposed.

What is the History of Nagaland Insurgency?

- The British annexed Assam in 1826, and in 1881, the Naga Hills too became part of British India.
- In 1946 Naga National Council (NNC) was formed **under the leadership of Angami Zapu Phizo.** It declared Nagaland **“an independent state”** on August 14, 1947.
- On March 22, 1952, Phizo formed the underground **Naga Federal Government (NFG) and the Naga Federal Army (NFA).**
- The Government of India sent in the Army to deal with insurgency and, in 1958, **Armed Forces (Special Powers) Act was enacted.**
- The Naga Hills, a district of Assam, was upgraded to a Nagaland state in 1963.
- On November 11, 1975, the government got a section of NNC leaders to sign the **Shillong Accord**, under which this section of NNC agreed to give up arms.
- A group of about 140 members led by Thuingaleng Muivah, who were at that time in China, refused to accept the Shillong Accord, and formed the National Socialist Council of Nagaland (NSCN) in 1980.
- In 1988, the NSCN split into NSCN (IM) and NSCN (K) after a violent clash. While the NNC began to fade away, the NSCN (IM) came to be seen as the “mother of all insurgencies” in the region.
- NSCN (IM) seeks a **“Greater Nagalim” comprising “all contiguous Naga-inhabited areas”**, along with Nagaland. That included several districts of Assam, Arunachal and Manipur, as also a large tract of Myanmar.

What is the Need for AFSPA?

- Army is of the opinion that the AFSPA is absolutely essential **to combat insurgency in the**

country and protect the borders.

- In a virulent insurgency, security forces **cannot operate without the cover of the AFSPA**. Without it, there would be hesitation which would work to the advantage of insurgents.
- Army officials also cite the **need to protect the morale and integrity of the army** as reason not to scrutinize allegations against army personnel.

Why has AFSPA been Withdrawn now and Its Impact?

- **Withdrawal:** Reduction in areas under AFSPA is a result of the **improved security situation and fast-tracked development** due to the consistent efforts and several **agreements to end insurgency** and bring lasting peace in the North-East by the Indian government.
 - For example, In **Nagaland, all major groups — the [NSCN\(I-M\)](#) and [Naga National Political Groups \(NNPGs\)](#)** — are at advanced stages of concluding agreements with the government.
- **Impact:** The Northeast has lived under the shadow of AFSPA for **nearly 60 years, creating a feeling of alienation from the rest of the country**.
 - The move is expected to help **demilitarise the region, it will lift restrictions on movements through checkpoints and frisking of residents**.

What are the Controversies on the Application of the AFSPA 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.
 - AFSPA violates the [Universal Declaration of Human Rights \(UDHR\)](#), the [International Covenant on Civil and Political Rights \(ICCPR\)](#), and [the Convention against Torture](#) (India is a signatory, but it has not ratified it).
- **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 can be the Way Forward?

- AFSPA **should be amended to make it more comprehensive**, with elaborate rules with respect to the manner of investigations of alleged human rights violations to reduce the possibility of it being abused.
 - 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 \(NHRC\)](#).**
- The government should **try to resolve the long running insurgency in North-eastern states**

through dialogue with insurgent groups.

- Development deficit in North-east region is also said to be major reason for insurgency, Government thus should take **urgent steps to create new avenues of growth through Industrialization and Infrastructural development.**
- 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 to the whole state.

UPSC Civil Services Examination, Previous Year's Question (PYQs)

Mains

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)**

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