



Centre Extends AFSPA in Nagaland

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The entire State of **Nagaland** has been **declared 'disturbed area'** for six more months up to June 2019, under Armed Forces (Special Powers) Act (AFSPA) 1958.

- In a notification, the **Ministry of Home Affairs** said that the Central government is of the opinion that the area comprising the whole of State of Nagaland is in such a disturbed and dangerous condition that the use of armed forces in aid of civilian power is necessary.
- The decision has been taken as killings, loot and extortion have been going on in various parts of the State which necessitated the action.

Armed Forces (Special Powers) Act, 1958

- The **Act was enacted in 1958** to bring under control what the government considered 'disturbed areas'.
- **Jammu & Kashmir has a similar but separate act** Armed Forces (Jammu & Kashmir) Special Powers Act, 1990.
- It is effective in the whole of **Nagaland, Assam, Manipur** (excluding seven assembly constituencies of Imphal) and **parts of Arunachal Pradesh**. The Centre revoked it in Meghalaya on April 1, 2018.
- The Act **empowers the Governor/Administrator of state/UT to declare an area as 'disturbed'**. Once declared, the region has to maintain the status quo for a minimum of three months (according to Disturbed Areas (Special Courts) Act, 1976).
- As per the Act, it can be invoked in places where the use of armed forces in aid of civil power is necessary.
- The AFSPA gives power to the Army and Central forces deployed in "disturbed areas" **to search premises and arrest without warrant, to use force even to the extent of causing death**.
- It also gives **immunity to security forces** in carrying out various operations and provides cover to forces from prosecution and legal suits without the Centre's sanction.

- To check arbitrariness there should be a **periodic review of 'disturbed area' every six months.**

Debate Around AFSPA

- AFSPA has become a controversial act due to the **wide-ranging power** it gives to armed forces and **alleged human rights violation** under the act.
- There were questions about the **constitutionality of AFSPA**, given that **law and order is a state subject.**
- **Supreme Court's Judgement:** 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,
- **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.