

7. AFSPA – Internal Security

The government has extended the controversial Armed Forces (Special Powers) Act (AFSPA) in parts of three north-eastern states for another six months. This law grants sweeping powers and legal immunity to armed forces in "disturbed areas" but faces severe criticism for alleged human rights abuses, with expert committees recommending its repeal. The Ministry of Home Affairs has extended the Armed Forces (Special Powers) Act (AFSPA) for another six months in designated "disturbed areas" within the states of Manipur, Arunachal Pradesh, and Nagaland. This periodic extension continues the long-standing and often controversial application of the Act in the region.

AFSPA – The Armed Forces (Special Powers) Act, 1958, is a parliamentary act that grants special powers to the Indian Armed Forces to maintain public order in "disturbed areas." It is a powerful law specifically designed for counter-insurgency operations.

Key Provisions –

Section 3 – It empowers the Governor of a state or the administrator of a Union Territory to declare the whole or any part of the state/UT as a "disturbed area." This declaration is made when the situation is deemed so disturbed or dangerous that the use of armed forces in aid of the civil power is necessary.

Section 4 – This is the most potent section, granting armed forces personnel in a disturbed area the authority to – Search any premises and arrest individuals without a warrant. Use force, including up to the point of causing death, against any person acting in contravention of any law or order prohibiting the assembly of five or more persons.

Section 6 – It mandates that any person arrested and any property seized under the Act must be handed over to the officer in charge of the nearest police station "with the least possible delay."

Section 7 – This section provides a degree of legal immunity to armed forces personnel. No prosecution or other legal proceeding can be initiated against them for actions taken under the Act, except with the prior sanction of the Central Government.

Criticisms and Controversies

AFSPA has been widely criticized by human rights organizations and civil society groups for its potential for misuse and its impact on fundamental rights.

Alleged Human Rights Violations – The Act has been linked to numerous allegations of extrajudicial killings, torture, enforced disappearances, and other severe human rights abuses by security forces.

Conflict with Democratic Ethos – Critics argue that the sweeping powers granted under AFSPA are contrary to the principles of a democratic society, as they can lead to the suspension of fundamental rights, particularly the Right to Life and Personal Liberty (Article 21).

Limited Success in Counter-Insurgency – Many observers believe that instead of curbing insurgency, the Act has often fueled resentment and alienation among local populations, thereby acting as a recruitment tool for insurgent groups.

Key Committee Recommendations

Over the years, several high-level committees have reviewed the functioning of AFSPA and suggested reforms.

Committee / Commission	Year	Key Recommendation / Finding
Justice Jeevan Reddy Committee	2005	Recommended the complete repeal of AFSPA, suggesting that its essential provisions could be incorporated into other existing laws like the Unlawful Activities (Prevention) Act (UAPA) with necessary modifications.
Santosh Hegde Commission	2013	Appointed by the Supreme Court to investigate encounter deaths in Manipur, the commission found that the Act was being widely misused and that many of the "encounters" were not genuine and were, in fact, extrajudicial killings.

The Way Forward

Reforming the approach to security in disturbed areas requires a balanced strategy that

addresses both security imperatives and human rights.

Enhance Transparency and Accountability – The vague provisions of the Act, particularly those related to the use of lethal force, should be amended to make them clearer and less prone to misuse.

Independent Oversight – An independent body should be established to monitor and investigate allegations of human rights violations by security forces in areas where AFSPA is active.

Focus on Socio-Economic Development – The government should prioritize the development of Northeastern states by investing in infrastructure, education, and employment opportunities to address the root causes of insurgency.

Create a Balanced Framework – The ultimate goal should be to create a legal and administrative framework that effectively balances national security needs with the non-negotiable protection of citizens' fundamental rights.

Source – <https://www.thehindu.com/news/national/mha-extends-afspa-in-parts-of-manipur-arunachal-and-nagaland-for-another-six-months/article70098633.ece>

