



KAMARAJ IAS ACADEMY
Only IAS Academy by Grandson of "Perunthalaivar Kamarajar"

AFSPA – Armed Forces Special Power Act

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Why is in news? Govt. likely to lift AFSPA in four States only after a Naga political solution

Armed Forces (Special Powers) Act (AFSPA), 1958 is an act of the Parliament of India that grants special powers to the Indian Armed Forces to **maintain public order in "disturbed areas"**.

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.**

AFSPA gives **sweeping powers to the armed forces**.

For example, it allows them to open fire, even causing death, against any person in contravention to the law or carrying arms and ammunition.

Also, it **gives them powers to arrest individuals without warrants**, on the **basis of “reasonable suspicion”**, and search premises without warrants.

AFSPA is unconstitutional because it **denies the citizen's right and thereby violates Article 21 -- right to life -- of the Constitution**. The national security discourse has engulfed the citizen's constitutional rights, thereby jeopardising the very people's security for which special laws such as AFSPA were enacted.

It can be **imposed by the Centre or the Governor of a state**, on the state or parts of it, after these areas are declared “disturbed” under Section 3.

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Tripura revoked the Act in 2015 and Meghalaya was under AFSPA for 27 years, until it was revoked by the MHA from 1st April 2018.

Allegations of human rights abuses under AFSPA include personnel committing rape, using human shields on army vehicles, fake encounters, and disappearance while in custody.

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WHAT IS **ARMED FORCES SPECIAL POWERS ACT?**

➤ **Introduced in 1958, AFSPA** confers on members of the armed forces special powers to rein in suspects in areas declared "disturbed" on account of insurgent activities or similar threats. It has been in **force in Manipur since 1980**, and the alleged **excesses committed under it are the reasons** why activist **Irom Sharmila** has been on a **hunger strike since 2000**.

WHAT ARE SPECIAL POWERS?

AFSPA allows any commissioned officer, warrant officer and non-commissioned officer — or any other



person of equivalent rank — to:

- Fire upon or use force against any person acting 'in contravention of any law for the time being in force in the disturbed area'
- Arrest suspicious people without warrant
- Destroy any structure suspected to house an arms dump, shelter from which armed attacks are made or are likely to be made
- Conduct searches without warrants for evidence, to recover a wrongfully confined person or property or arms or explosives
- **AFSPA bars prosecution or proceedings— except with Centre's nod— against personnel for action committed while exercising powers under the Act**