AFSPA Extended in Northeast for Six Months, Renewing Debate on Internal Security, Federalism and Human Rights

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Recent Developments:

- The **Ministry of Home Affairs** has extended the application of the **Armed Forces (Special Powers) Act, 1958 (AFSPA)** in specified areas of **Manipur, Nagaland and Arunachal Pradesh** for another 6 months from **1 October 2026**, unless withdrawn earlier.
- In **Manipur**, the entire State remains a disturbed area except areas under **13 police stations** in 5 districts, including Imphal West, Imphal East, Thoubal, Bishnupur and Kakching.
- In **Nagaland**, AFSPA continues in **9 districts** and specified areas under **21 police stations** in 5 additional districts.
- In **Arunachal Pradesh**, the Act continues in **Tirap, Changlang and Longding districts**, along with specified areas under 3 police stations in Namsai district.
- The extension follows a periodic review of the **law-and-order situation**, illustrating the statutory link between AFSPA and the declaration of an area as a **"disturbed area"**.

AFSPA: Constitutional and Legal Framework:

Origin and Purpose:

- The **Armed Forces (Special Powers) Act, 1958** was enacted to confer specified powers upon members of the armed forces operating in areas declared as **disturbed areas**.
- The Act is administered by the **Ministry of Home Affairs** and was enacted on **11 September 1958**.
- AFSPA is a statutory framework for deploying the armed forces **in aid of civil power** in areas affected by serious disturbance or insurgency; it does not transfer ordinary civil administration to the armed forces.

Declaration of a Disturbed Area:

- **Section 3** empowers the **Governor of a State, Administrator of a Union Territory or the Central Government** to declare the whole or part of a State or Union Territory as a disturbed area when the area is in such a disturbed or dangerous condition that the use of armed forces in aid of civil power is considered necessary.
- The declaration is made through a notification in the **Official Gazette**, and the present Northeast notifications specify a definite period subject to earlier withdrawal.

Special Powers and Legal Safeguards:

Powers under Section 4:

- In a disturbed area, specified armed forces personnel may, after giving due warning where required, **use force, including force causing death**, against persons acting in contravention of specified laws or orders

concerning prohibited assemblies, weapons, firearms, ammunition or explosives.
- The Act also permits **arrest without warrant**, **search without warrant** and the destruction of arms dumps, fortified positions, shelters or structures used as training camps or hideouts, subject to statutory conditions.

Arrest and Accountability:

- **Section 5** requires a person arrested under the Act to be handed over to the officer in charge of the nearest police station with the least possible delay, together with a report explaining the circumstances of arrest.
- **Section 6** requires prior sanction of the Central Government before prosecution, suit or other legal proceedings can be instituted against a person for anything done or purported to be done under the Act.
- The Supreme Court has clarified that this protection does not amount to absolute immunity because the statutory protection operates through the requirement of **prior sanction**, which remains subject to judicial review.

Supreme Court's Position on AFSPA:

Naga People's Movement of Human Rights v. Union of India, 1997:

- In **Naga People's Movement of Human Rights v. Union of India, 1997**, the Supreme Court upheld the constitutional validity of AFSPA while examining its relationship with fundamental rights and the federal distribution of legislative powers.
- The Court clarified that the armed forces deployed under AFSPA **assist the civil power rather than replace or supplant it**.
- The powers under AFSPA permit functions such as search, seizure and arrest, while investigation, prosecution, trial and other components of the criminal justice system remain with the **civilian authorities and State criminal justice machinery**.
- The Court also required compliance with operational safeguards, including restrictions against excessive force, harassment of civilians and improper treatment of women and children.
- Complaints concerning misuse or abuse of AFSPA powers must be properly investigated, and where allegations are established, appropriate action and compensation mechanisms should follow.

Why Does Insurgency Persist in Parts of Northeast India?

Historical and Political Factors:

- Several Northeast communities possess distinctive **ethnic, linguistic, cultural and historical identities**, and post-independence integration generated demands for greater autonomy and political recognition.
- Insurgency has therefore involved a combination of **identity-based mobilisation, demands for autonomy, territorial claims and political alienation** rather than a single uniform cause.

Economic and Developmental Factors:

- Perceived **economic marginalisation, unemployment, inadequate infrastructure and uneven development** have contributed to grievances in some areas.
- Difficult terrain and connectivity constraints have historically complicated the delivery of public services and integration with wider national markets.

International Borders and Cross-Border Networks:

- The Northeast shares international borders with **Myanmar, Bangladesh, Bhutan and China**, creating strategic challenges involving difficult terrain, illegal movement, arms trafficking and cross-border insurgent networks.

- Porous sections of international borders have historically provided opportunities for militant groups to obtain **safe havens, logistical support and weapons**.

Migration and Demographic Change:

- Migration has generated concerns in some States regarding **land, employment, political representation, demographic change and cultural identity**.
- These concerns can interact with ethnic mobilisation and intensify local political tensions.

Arguments Supporting AFSPA:

Operational and Security Considerations:

- AFSPA provides **operational flexibility** to security forces confronting armed insurgency and serious security threats.
- Powers relating to search, arrest and use of force can enable rapid action where conventional policing capacity is considered insufficient.
- The statutory framework provides legal protection to personnel performing difficult **counter-insurgency operations**, while remaining subject to statutory and judicial safeguards.
- AFSPA is linked to the declaration of a **disturbed area**, allowing the Union Government to periodically review the geographical and temporal extent of its application.

Concerns Associated with AFSPA:

Human Rights and Accountability:

- Critics have raised concerns that extensive operational powers can create risks of **excessive use of force, arbitrary detention and violations of fundamental rights**.
- The prior-sanction requirement under Section 6 has generated concerns regarding effective criminal accountability for alleged abuses.

Civil-Military Relations and Federalism:

- **Public order** is primarily a State subject under the Seventh Schedule, while deployment of Union armed forces and national security fall within the Union domain.
- AFSPA therefore raises questions regarding the appropriate balance between **State police authority, Union security responsibilities and federalism**.
- The Supreme Court's interpretation makes clear that armed forces operating under AFSPA do not replace the State's civilian criminal justice machinery.

Alienation and Long-Term Security:

- Prolonged military deployment can create **mistrust between local communities and security forces**, particularly where allegations of abuse remain unresolved.
- Consequently, counter-insurgency policy requires security operations to be accompanied by **political dialogue, development, effective governance and grievance redressal**.

Major Committees and Reform Recommendations:

Justice B. P. Jeevan Reddy Committee, 2005:

- The committee recommended **repealing AFSPA** and incorporating its essential provisions into the **Unlawful Activities (Prevention) Act, 1967**, along with safeguards and grievance-redressal mechanisms.

Second Administrative Reforms Commission, 2007:

- The **Second Administrative Reforms Commission**, headed by Veerappa Moily, also recommended repeal of AFSPA and supported an alternative legal framework incorporating necessary safeguards while addressing security requirements.

Justice Santosh Hegde Commission, 2013:

- The Commission examined alleged extrajudicial killings in Manipur and highlighted concerns regarding the **accountability of security forces and alleged misuse of AFSPA**.
- Its findings strengthened the debate over independent investigation, accountability and safeguards in counter-insurgency operations.

UPSC Relevance:

General Studies Paper II:

- **Polity:** Federalism, fundamental rights, constitutional safeguards, Union-State relations.
- **Governance:** Accountability, transparency, grievance redressal and civilian oversight.
- **Constitutional Issues:** Legislative competence, fundamental rights and judicial review of security legislation.

General Studies Paper III:

- **Internal Security:** Insurgency, counter-insurgency, border management and security forces.
- **Northeast India:** Ethnic conflict, connectivity, development deficit, cross-border militancy and peace processes.
- **Security-Governance Linkage:** Long-term internal security requires a combination of security operations, political engagement and development.

Value Addition for UPSC:

Key Constitutional and Legal Points:

- **Article 14:** Equality before law and equal protection of laws remain relevant to the exercise of extraordinary statutory powers.
- **Article 19:** Restrictions on specified freedoms must operate within the constitutional framework.
- **Article 21:** Protection of life and personal liberty remains relevant to arrests, use of force and allegations of excessive action.
- **Article 246 and Union List:** The Supreme Court in the 1997 judgment recognised Parliament's legislative competence to enact AFSPA in the context of deployment of armed forces in aid of civil power.
- **Seventh Schedule:** AFSPA illustrates the interaction between Union responsibilities relating to defence and armed forces and State responsibilities relating to public order and policing.
- **UPSC Core Insight:** AFSPA represents the constitutional challenge of balancing **national security, operational effectiveness, fundamental rights, federalism and democratic accountability**; therefore, its continuation requires periodic security assessment together with effective safeguards, civilian oversight and mechanisms for addressing legitimate grievances.