

# **A Contentious Legislation—The AFSPA**

Permeating fear in people's hearts often gives megalomaniacs the illusion of control. From individuals to organisations, everyone craves to exercise power in every possible form. In the context of security forces, this takes the shape of arms, ammunition, and a smart strategy. An allegedly botched up intelligence report to a foiled counter-insurgency operation, covered up by a dubious tale that makes one question the ability of people in power, made the Indian Armed Forces the centre of unwanted attention over the past few weeks.

## **Decoding the Nagaland killings**

On 4th December 2021, soldiers of an elite para commando battalion—the Assam Rifles—opened fire at civilians in the Mon region of Nagaland, near the Assam border. Claiming to have mistaken the civilians in an open-bed pickup truck for militant insurgents from across the border, the battalion killed six of the villagers before they realised their mistake. Even as help rushed in from neighbouring villages, protestors intercepted the military convoy who were seen carrying the dead bodies of the villagers.



*Officials taking a look at the destruction that took place in the ambush at Mojo, Nagaland [Image Credits: EastMojo]*

In the ensuing struggle between protesting villagers and the retreating soldiers, seven more civilians were killed by retaliatory gunfire. The Army maintains that it fired shots only on being provoked and after the death of one of its men. Locals also claim that the Army was trying to dress up the dead bodies to make them look like militants. Several people got injured in the entire incident and needed medical attention. Adding fuel to the already raging fire was the fact that the President of BJP in Nagaland claimed to have been fired at, despite his vehicle bearing the party flag.

Incidents of alleged intelligence failure like these have been the cause of the deaths of civilians multiple times in the past. Even though the Nagaland Police, and other witnesses, have made statements indicating that the Army opened fire indiscriminately, top Army officials and the rest of the political diaspora are yet to give their concrete views on the topic.

## **A Troubled History and a Contested Existence**

Passed by both Houses of Parliament and approved by the President in 1958, The Armed Forces Special Powers Act (AFSPA) has never been more relevant in the contemporary context. It grants the Indian Army special powers to maintain order and peace in 'disturbed areas'. According to the law, once an area is declared 'disturbed', it needs to maintain the status quo for three months before the Act can be lifted again. The Act gives the Army the power to prohibit a gathering of more than five people in an area, use force or open fire to dispel the crowd, or even arrest a person without a warrant.

North-eastern states like Tripura, Manipur, and Assam have faced the brunt of this Act with multiple occurrences of violence, terrorism and protesting citizens forcing the government to grant more liberty to the Army. Even though the Act was lifted in Tripura, it persists in parts of Arunachal Pradesh and Nagaland even today.

Another region where this Act has played a pivotal role is the Punjab-Chandigarh-Jammu and Kashmir belt. The Act was withdrawn from Punjab and Chandigarh in 1997, around 14 years after being imposed. On the other hand, a rudimentary state-enforced version of the AFSPA was already present in J&K since 1978. Despite being [dubbed a "lawless law" by Amnesty International](#), the Jammu and Kashmir Public Safety Act failed to sensitise the country's masses about its debatable nature. The AFSPA has been in power in J&K since 1990, despite multiple protests by a weak opposition.



*Protests against the imposition of the AFSPA in Jammu and Kashmir have not resulted in a fruitful decision yet. [Image Credits: Outlook India]*

The AFSPA was initially convened, drawing inspiration from the Armed Forces (Special Powers) Ordinance, formulated by the British to suppress the Quit India Movement. But, as it turned out, the AFSPA is considered a better and meaner version of its predecessor. For example, concerning the protection of soldiers from prosecution, Section 4 of its colonial counterpart restricted the soldier's actions presumed as being in "good faith". In Section 6 of the newer ordinance that deals with the same issue, the words "good faith" are missing, granting soldiers free rein.

The two main events defining aspects of the AFSPA are the prolonged deployment of armed forces in apparently disturbed areas and the lack of transparency in dealing with the law. This has led to the armed forces coming up with their own variations of the rules helping them operate more ruthlessly in unstable areas. Subsequently, it has also been a knee-jerk reaction of those in power to hide under the AFSPA umbrella every time a rogue action is committed.

## **The Way Forward**

It is a widely known and lesser accepted fact that most insurgency problems, unrests, and clashes between militant groups in various parts of the country are primarily fuelled by diverse political or personal interests. The armed forces being granted special powers to tackle political or personal fights tips the scale to favour an eventual loss in military capability for the country rather than regional political peace. It is for this very reason that people and organisations across the nation have been clamouring for a repeal of the AFSPA laws.

Historically, the AFSPA has been received with mixed opinions from the country's top brass. People across the nation have expressed their views on the varied humanitarian angles of the Act. From Tamil Nadu's P. Chidambaram to Saifuddin Soz of Jammu and Kashmir, both being from the Congress party, there have been various politicians over the years who have condemned the Act and wanted it revoked. On the other hand, some others like Amarinder Singh have been staunch supporters of AFSPA.

Amongst its civilian disapprovers, Irom Sharmila, hailing from Manipur, had risen to fame for her stubborn and widely known opposition of the Act since November 2000. Dubbed the "Iron Lady of Manipur", she undertook a hunger strike that lasted 16 years, from 16th November 2000 to 9th August 2016. Being denied the right to vote since she was imprisoned for her protest, she stoically refused food and water for more than 500 weeks, demanding that the AFSPA be repealed in the region of the Seven Sisters. Declared a prisoner of conscience by Amnesty International, she was voted the top woman icon of India by the MSN Poll on International Women's Day in 2014.



*Hundreds of people carry out rallies and protests demanding the repeal of the AFSPA in Nagaland [Image Credits: Hindustan Times]*

Following the recent deadly Nagaland killings, hundreds of people walked 70 km to demand the repeal of the controversial Act. They began their protest in Dimapur, a city in Nagaland state, and walked to the capital city of Kohima, raising slogans against the AFSPA. Despite these protests, the Central Government extended AFSPA throughout Nagaland for another six months, effective from 30th December 2021. It was stated that *"the area comprising the whole of the State of Nagaland is in such a disturbed and dangerous condition that the use of armed forces in aid of the civil power is necessary"*. Additionally, in consultation with top leaders from Nagaland, the government also formed a seven-member committee, chaired by Dr. Vivek Joshi, Registrar General & Consensus Commissioner, to review the situation and submit a report within three months.

Ultimately, people's opinions, the political turmoil in the region, and the influence of various tribal and militant groups need to be considered while making decisions that

directly affect people's lives. Though promulgated with good intentions in mind and premeditating certain necessities, the Armed Forces Special Powers Act, in addition to allocating more power to the armed forces, needs to ensure that it does not get misused as it has been over the course of time. If not, the Rule of the Gun will become the new norm in various regions of the largest active democracy of the world.

*Featured Image Credits: Orissa Post*