

05– 05 – 2024

News: Armed Forces (Special Powers) Act, 1958

- Recently, the Union Ministry of Home Affairs (MHA) extended the Armed Forces (Special Powers) Act, 1958 in parts of Nagaland and Arunachal Pradesh for another six months.

Armed Forces Special Powers Act (AFSPA)

- Armed Forces Special Powers Act (AFSPA) was enacted in **1958**, granting **extra-ordinary powers and immunity to the armed forces to bring back order in the disturbed areas.**
- A disturbed area is one which is declared by notification **under Section 3 of the AFSPA.** An area can be **disturbed due to differences or disputes between members of different religious, racial, language or regional groups or castes or communities.**
- Once a region is declared '**disturbed**' then it has to **maintain the status quo for a minimum of three months**, as per The Disturbed Areas Act of 1976.
- The **state governments can suggest** whether the Act is required to be enforced or not. But under Section (3) of the act, their **opinion can be overruled** by the governor or the Centre.

- Ministry of Home Affairs (MHA) is the authority that would decide on the imposition of AFSPA in the Union Territories of Jammu and Kashmir (J&K) and Ladakh.
- Initially when the act came into force in 1958 the power to confer AFSPA was given only to the governor of the state. This **power was conferred on the central government with the amendment in 1978** (Tripura was declared a disturbed area by the central government, over the opposition by the state government).
- The act **does not explicitly explain the circumstances on which it can be declared as ‘disturbed area’**. It only states that “the AFSPA only requires that such authority be of the opinion that whole or parts of the area are in a dangerous or disturbed condition such that the use of the Armed Forces in aid of civil powers is necessary.
- The **Union Government or the Governor of the State or administrator of the Union Territory can declare the whole or part** of the State or Union Territory as a disturbed area. A suitable notification would have to be made in the Official Gazette. As per Section 3, it can be invoked in places where “**the use of armed forces in aid of the civil power is necessary**”.

Some of the Immunities / Powers include:

- **Fire upon anyone** after giving warning who is acting against law and order in disturbed areas.
- **Arrest anyone** without warrant.
- **Stop and search** any vehicle or vessel.
- **Legal immunity** for these actions.
- Presently, AFSPA is enforced in Area **under 8 police stations of Arunachal Pradesh, Assam, Manipur (excluding 7 assembly constituencies of Imphal), Mizoram, Nagaland (excluding 15 police station limits in seven districts) and Jammu and Kashmir.**