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AFSPA And Manipur: Revisit and Path to Reform

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Abstract

The Paper explains the Armed Forces Special Powers Act with focus on its implementation on Manipur. It tries to address the debate between national security and human rights by proposing various reforms to the act. The study follows a descriptive tone discussing the various provisions of the act, the history, time line and reason for the imposition of the act in Manipur. Besides addressing various humanitarian and governance concerns it also provides the justification forwarded by the supporters of the act. In the last section the paper also discusses the various reforms that could be undertaken to make the act more humane and sustainable for the future.

Keywords: AFSPA, Human Rights, Legal Reforms, Manipur, National Security

Introduction:

India's democratic fiber is woven into its rich and diverse cultures and languages. This diversity is best reflected when we look at our North Eastern States, which are comprised of 7 Sisters and 1 Brother (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Sikkim) The region is home to than 200 ethnic groups which have distinct languages, dialects and socio-cultural identities (mha, nd). Managing such a diverse area from the time the British Imperialists left the country to this day is a *Herculean Task*. Right from the very beginning, there have been insurgencies and ethnic conflicts and to manage these situations, the Union Government has taken many steps. Among them is the revival of the Armed Forces (Special Powers) Act. This Act has been implemented in the North-Eastern states, as well as in Chandigarh, Punjab, and the erstwhile state of Jammu and Kashmir. Times without number, the provisions of this act are debated in the media and academic discourses, especially in context in Manipur because it has been active there for over 40 years. The reason behind the application of AFSPA in Manipur pre 2023 was to subdue the insurgent and secessionist activities but the recent conflict that is the armed rebellion between the two ethnic groups Kuki and Meitei (which arouse due to the fact that ST status was given to the Meitei community) and to subdue this conflict AFSPA was imposed. The contentious aspect of Armed Forces (Special Powers) Act is its *Draconian Overtone* which not only violates the fundamental rights but also falls short in regards to the International Human Rights Standards. My article is an attempt to develop an integrated understanding of Armed Forces Special Powers Act in the context of Manipur and to examine the potential pathways the act could be reformed or reoriented.

AFSPA Historical Evolution and Features:

The Armed Forces Special Powers Act was passed by both the houses of the parliament that is the Lok Sabha and the Rajya Sabha and received the assent of the President on 11th September 1958, and became the part of the statute book as THE ARMED FORCES (SPECIAL POWERS) ACT, 1958, Under this Act some “Special Powers” are given to the armed forces to maintain public order in the “disturbed areas” that is the areas which faces insurgency and internal conflict and in turn poses a risk to the sovereignty and integrity of the nation .

Historical Background:

The Armed Forces Special Powers Act has its roots in the British Colonial Period. In 1942, a strong resistance movement emerged against the British, led by Mahatma Gandhi, in the form of the Quit India Movement. To contain this resistance, the then-Viceroy, Lord Linlithgow, promulgated the Armed Forces Special Power Ordinance in 1942. This Ordinance gave the armed forces power to arrest and take into custody, and also justified the use of force which could cause death to effect such arrest. And the Person issuing the order and following orders were both given legal immunity, so that no civil, criminal, or legal proceeding could be initiated against that person unless permission was being issued by the central government.

Again, to deal with the Naga Insurgency in Assam (Naga hills of Assam) the then parts of Manipur and Arunachal Pradesh the Government initially deployed the Assam Rifles and the Assam Disturbed Area Act 1955, then when situation got out of control the then President Dr Rajendra Prasad promulgated an ordinance The Armed Forces (Assam and Manipur) Special Power Ordinance 1958. Later, the ordinance was replaced by The Armed Forces (Assam and Manipur) Special Powers Act on 11th September 1958 (Wikipedia, 2025). Again in the wake of Khalistan Movement during the 1980s in Punjab we come across the application of Armed Forces (Chandigarh and Punjab) Special Powers Act to overcome the political and the social unrest, However this time two more section was added to for giving additional power to the armed forces firstly any vehicle can be stopped and searched forcefully if suspected of carrying arms or any proclaimed offender, and secondly the soldier had the power to break any lock if no co-operation was provided to them. When the movement died down, the Armed Forces (Chandigarh and Punjab) Special Powers Act was withdrawn in 1997. In 1990, the Armed Forces (Jammu and Kashmir) Special Powers Act was imposed on Jammu and Kashmir due to the rise of insurgencies. It was a tumultuous period for Jammu and Kashmir because it was facing an exodus of Kashmiri Pandits, a spike in terrorism, and the rise of radicalization (Aphun, 2023)

Features of the Act:

The Features of Armed Forces (Special Powers) Act 1958 are as follows:

The Act extends to the whole state of Arunachal Pradesh, Assam, Meghalaya, Mizoram, Nagaland and Tripura.

The Term Armed forces’ means the military forces and the air forces operating as land forces, and includes other armed forces of the Union so operating;

Section 3- Power to declare any area as disturbed areas: If, in relation to any state or Union Territory to which this act extends, the Governor of that State or the administrator of that Union Territory or the Central Government, in either case, if of the opinion that the whole

or any part of such State or Union territory, as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, the Governor of that State or the Administrator of that Union Territory or the Central Government, as the case may be, may by notification in the Official Gazette, declare the whole or such part of such State or Union territory to be a disturbed area.

Section 4- Special Power of Armed Forces: Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area,

- if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances;
- if he is of opinion that it is necessary so to do, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as a training camp for armed volunteers or utilized as a hide-out by armed gangs or absconders wanted for any offence;
- arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
- enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

Section 5- Arrested persons to be made over to the police: Any person arrested and taken into custody under this Act shall be made over to the officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

Section 6- Protection to persons acting under Act: No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

Timeline Of Afspa in Manipur:

As I have stated earlier, AFSPA was introduced in Manipur in 1958 as an Ordinance to counter the Naga Insurgency. Since then, AFSPA has been renewed from time to time despite its record of human rights violations (Singh, 2014). In 1972, AFSPA was amended as an act to cover the newly created political units of Arunachal Pradesh, Manipur, Meghalaya, Tripura, Assam, and Nagaland to accommodate the ethnic claims of various tribal and other ethnic groups. From 1980 onwards, the entire state of Manipur was declared a disturbed area due to heightened violence, and it was only in 2004 that AFSPA was withdrawn from the Imphal Municipality area following the protest and custodial death of Thangjam

Manorama. In 2022, a partial withdrawal occurred from 15 police station areas in six districts, reflecting the stability in the region. Again in 2023, due to the ethnic violence between the Kuki and Meitei communities, AFSPA was imposed. According to an article in the Hindu newspaper, on November 14, 2024, out of 19 police stations in seven districts of Manipur, the AFSPA was reimposed in the limits of six police stations in five districts, mostly in the valley, in the wake of ethnic violence in the State that erupted on May 3, 2023.

Impact Of Afspa from The Governance and Human Right Prespective:

To state the impact of AFSPA on governance, the first thing that comes to mind is the significant shift of control from civil authorities to the armed forces, weakening the state administrative machinery, as the local police is being sidelined in the “disturbed areas” by the armed forces. Right from the inception of AFSPA in Manipur it has been also criticized for human rights violation, Asian Centre for Human Rights in a 2006 report have documented that “under the the cover of the Armed Forces Special Powers Act (AFSPA) of 1958, the Central security forces carried out arbitrary arrest, torture and extrajudicial killings with impunity in the name of fighting insurgency” Another instance of Human rights violation by the Armed Forces under AFSPA can be seen in the story of Irom Sharmila Chanu a human rights activist in Manipur. She initially was a part of the committee that was created to investigate the impact of AFSPA. During this process, she spoke to many survivors of gang rapes, parents, and children of people killed by the Indian armed and paramilitary forces. (Wikipedia, 2025) She went on a hunger strike in the year 2000 after the Malom Massacre, where 10 civilians had been shot by the Assam Rifles. The victims included an 18-year-old girl named Sinam Chandramani, who had been awarded the National Bravery Award by the Rajiv Gandhi Government. Though her hunger strike went on for 16 years, the government did not revoke AFSPA. And then there is the widely cited case of Thangjam Manorama Devi who had been raped and killed by personnel in the Assam rifles in July 2004, and this was followed by the “naked protest” by 30-year-old women holding banners that read “Indian Army Rape Us”, “Indian Army Take Out our Flesh “, etc. (Wani, 2022)

But during the contemporary Kuki Meitei conflict, there were fewer cases of extrajudicial killing or sexual violence by the armed forces. One incident that can be cited is the encounter killing in the Jibiram District of Manipur on 11 November 2024, in which 10 Kuki Zo Young Men were shot by the CRPF in the back. The Indigenous Tribal Leaders Forum, (a Kuki Zo Organization), stated that those men had no connection with the militants and were “village volunteers,” and the organization now demands a judicial probe (Joshi, 2024). But the presence of controversial features in the act (Section 4 and Section 6) remains a debatable issue among the civil society organizations, scholars and many others. While organizations such as the Committee on Tribal Unity, (a prominent tribal organization), have favored the imposition of AFSPA, organizations such as the Coordinating Committee of Manipur Integrity, (a valley-based organization), have called the imposition of AFSPA “illogical”. Author and Historian Malem Ningthouja stated that the current ongoing conflict needs to be politically addressed because AFSPA had failed to stop insurgency in Manipur (Hasnat, 2023)

The Success of AFSPA:

It is not only that AFSPA has faced severe criticisms but it also had an immense impact not only in conflict resolution but also peace building in Manipur. Some of them are:

- **Reduction in Insurgency Operation:** According to the Press India Bureau 2024, the security situation in the North Eastern States has seen significant improvement since 2014. Compared to 2014, there has been a 71% reduction in insurgency incidents, a 60% decrease in the number of Security Forces personnel's deaths, and an 82% decrease in civilian fatalities in 2023.
- **Recovery of Stolen Arms and Ammunition:** A Major operation on 15th July 2025 by the Armed Forces of Imphal East, Imphal West, Thoubal, Kakching, and Bishnupur districts of Manipur, resulting in the seizure of 974 rounds of live ammunition, 9 grenades, 6 HE motors shells, 2 tube launchers, etc. According to Manipur's Intelligence Office, Khabib said that the recovery would bolster peace initiatives across the State (Times of India, 2025)
- **Facilitation of Surrender:** AFSPA-led military pressure has sometimes led to the surrender of insurgents. According to a 2023 Home Ministry press release, over 1,200 militants in the Northeast – including 263 from Manipur – surrendered between 2018 and 2023.
- **Phased Withdrawal and Reduction in Disturbed Areas:** In response to the improved security situation, the Ministry of Home Affairs (MHA) has gradually eased AFSPA deployment in various parts of Manipur. A response in the Lok Sabha on 6 August 2024 noted that AFSPA was withdrawn from 19 police stations across seven districts, leaving only select areas still under the Act (Economic Times, 2024)

Debates Over the Provisions of AFSPA:

The provisions of AFSPA (1958) has been an issue of debate and controversies right from the beginning such as the act which was introduced in Manipur and Assam was under the pretext of a “fictionalized narrative on war and terror”, which not only permitted the suspension of “rule of law but also permitted the use of brute force and state sponsored killing of innocent person on the slightest hint of connection of a particular person to a militia or insurgent groups (Arora, 2020). To quote Sanjib Baruah, “AFSPA permits a form of indefinite emergency rule which has its roots in colonial constitutionalism.” The impunity provision of Section 6 of the AFSPA Act (immune from punishment for the killing that the forces have committed) has, time after time, blurred the lines of legality and illegality. The committee, such as the Justice Jevan Reddy Committee 2005, has recommended a repeal of the law, while the Justice Verma Committee 2013 has proposed the amendment of the law relating to the crimes against women and also legal protection of women in disturbed areas. Neiwang Kikon, a Naga scholar and anthropologist, in her work on the critical aspect of AFSPA, has stated that AFSPA is more than a law. It is a ‘security framework that has given to a distinct culture’, it is ‘a culture of repression and intimidation’ and fundamentally ‘a culture of terror in militarised societies.’ Amnesty International, in its 2006 public statement, has called for the immediate repeal of AFSPA, citing sexual assault and extrajudicial killing of Thangjam Manorama Devi.

While there are various criticisms of AFSPA, the support of keeping the act came from the scholars, the army personnel, and others. In a debate on the DD India YouTube Channel, Lieutenant General Vinod Bhatia states that AFSPA is an “enabling act” which allows the armed forces to carry out certain functions when the violence is too high. The protection granted under AFSPA is necessary for the soldier to carry on their task. Alok Bansal, Director of the Indian Foundation, while addressing the sexual harassment cases done by the armed

forces, stated the presence of fake cases with a “malicious intent” to demoralize the soldiers. A study done in 2011 stated that out of 1511 cases reported of human rights violations, only 54 were found to be true, and the punishment awarded to the convicted army personnel was severe and exemplary, including dismissal from service and life imprisonment (Adrianwallah, nd). He also stated the fact that curtailing the provisions of AFSPA is like asking a soldier to enter into a battlefield with his hands tied behind his back. The Supreme Court, in the judgment *Naga People’s Movement on Human Rights vs. Union of India*, stated that the Act cannot be called a colorable legislation or a fraud, and the powers conferred in Section 4 and Section 5 of the Act are not arbitrary and unreasonable, and hence not in violation of the Constitution.

A Path Towards Reform:

Neither the dilution of AFSPA nor the unchecked use of AFSPA is a probable solution to the problems of the act an attempt should be made towards systematic reforms for in the provisions. Some of the potential way forward could be:

- Whenever the army is used in an area and their actions lead to the death of a civilian, serious injury to someone, or damage to a person’s property (like their house or shop), a proper investigation should be compulsory. This investigation should be done by the army itself through a process called a staff court of inquiry. It is a formal method used by the military to find out what happened, who was responsible, and whether the rules were followed. Making this investigation mandatory in such cases will help ensure accountability, prevent misuse of power, and build public trust (Kumar, 2013)
- An enquiry should be held in the cases involving sexual violence within 72 hours a civilian officer not below the rank of deputy collector should be present at the investigation and an women officer should be nominated as an attendee or a member of such investigation (Kumar, 2013)
- The Act does not have a clear meaning of the word “disturbed”. The word should be defined properly with no room for subjective opinion for the Central or the State Government. And the word should fall under the purview of judicial review. Moreover, the area declared disturbed should have a specified time limit that is not more than six months (Roy, nd)
- Local NGOs should be allowed to report human rights violations directly to nearby military commanders. These complaints should be handled with the same seriousness and process as requests made under the Right to Information Act. The army must be required to inform the NGOs about the results or final findings of the investigations. This approach would promote greater transparency and help ensure that inquiries are fair, quick, and unbiased. (Kumar, 2013)
- In case of minor being killed during operations the matter should be transferred to the civil court. Initially the case should be inquired by an independent tribunal and then the report is should send to the central government to improve the chances of central government sanction. (Wani, 2022)
- A prerequisite of all this action would be to amend the Army Act of 1950 which states that offences like rape, murder etc committed by armed forces while on active service should be tried by the court martial. Rape should be excluded from it because the court martial have an opaque bias towards army personnel (Wani,2022)

Conclusion:

In the concluding lines stating my viewpoint from an Aristotelian Perspective that it's never judicious for one to go for the extreme sides the same can be said regarding the AFSPA it is not practical for complete revocation or dilution of the act but at the same time observing the human rights violations we cannot let AFSPA go unchecked. There is the urgent need for reforms in the act the above stated chances could be a good starting point. Moreover, Sustainable Peace in the North Eastern Region could come from socio, political and economic development. As Progress takes roots the need for AFSPA would gradually diminish paving the way for a better future.

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