

## Assam under AFSPA

### Why in news?

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The Centre has declared **the entire State of Assam a “disturbed” area** under the AFSPA for three more months, citing various violent activities by insurgent groups ULFA, NDFB and others.

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### What is AFSPA?

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- AFSPA are Acts of the Parliament of India that grant special powers to the Indian Armed Forces in disturbed areas. It was enacted in 1958.

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- According to The Disturbed Areas (Special Courts) Act, 1976 once declared 'disturbed', the area has to maintain status quo for a minimum of 3 months.

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- The Armed Forces Special Powers Ordinance of 1942 was promulgated by the British on 15 August 1942 to suppress the Quit India Movement.

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- AFSPA is confined to be enacted only when a state, or part of it, is declared a 'disturbed area'.

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- Continued unrest, like in the cases of militancy and insurgency, and especially when borders are threatened, are situations where AFSPA is resorted to.

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- **Section (3) of the AFSPA Act empowers the governor of the state or Union territory** to issue an official notification on The Gazette of India, following which the centre has the authority to send in armed forces for civilian aid.

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- But under Section (3) of the Act, their opinion can still be overruled by the governor or the centre.

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- Originally, it came into being as an ordinance in 1958 and within months was

repealed and passed as an Act.

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- At present AFSPA is in Assam, Nagaland, Manipur (except the Imphal municipal area), Arunachal Pradesh (only the Tirap, Changlang and Longding districts plus a 20-km belt bordering Assam), Meghalaya (confined to a 20-km belt bordering Assam) and Jammu and Kashmir.

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### **What are the powers of AFSPA?**

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- After giving such due warning, Fire upon or use other kinds of force even if it causes death.
- To arrest without a warrant anyone who has committed cognizable offences or is reasonably suspected of having done so and may use force if needed for the arrest.
- To arrest without a warrant anyone who has committed cognizable offences or is reasonably suspected of having done so and may use force if needed for the arrest.
- Stop and search any vehicle or vessel reasonably suspected to be carrying such person or weapons.
- Army officers have legal immunity for their actions.
- There can be no prosecution, suit or any other legal proceeding against anyone acting under that law.
- Nor is the government's judgment on why an area is found to be disturbed subject to judicial review.
- Protection of persons acting in good faith under this Act from prosecution, suit or other legal proceedings, except with the sanction of the Central Government, in exercise of the powers conferred by this Act.

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### **What is the present status of AFSPA?**

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- On July 8, 2016, in a landmark ruling, The Supreme Court of India **ended the immunity of the armed forces from prosecution** under AFSPA.

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- It does not matter whether the victim was a common person or a militant or a terrorist, nor does it matter whether the aggressor was a common person or the state.

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- The law is the same for both and is equally applicable to both.

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- The Tripura government also decided to lift the controversial law which according “was in effect for the last 18 years to curb insurgency.”

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- The state governments, as in Tripura’s case, can suggest whether the Act is required to be enforced or not.

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**Source: The Hindu & Live Mint**

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