

## Revisiting AFSPA

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The Centre has done well to withdraw the Armed Forces Special Powers Act (AFSPA) from the entire Meghalaya state and restrict its operation to parts of Arunachal Pradesh. These states have not reported any incidents of insurgency in 2017. Three years ago, the Act was withdrawn from Tripura after the Manik Sarkar government sought its removal on the ground that it had ended insurgency in the state. It is only right that the government acknowledges and rewards a people for holding the peace. The Act continues to be in operation in Assam, Nagaland and most parts of Manipur.

The AFSPA is a draconian law that gives enormous discretionary powers to the armed forces over a civilian population. Of course, it is imposed in extreme situations and on the plea of the local administration that it is unable to enforce the writ of the state. However, once in place, administrations tend to be reluctant to lift the Act, a modified version of a 1942 colonial law devised to subjugate local populations. For instance, the AFSPA has been in force in Meghalaya for the past 27 years though the state ceased to have any active insurgency years ago. It was reluctantly withdrawn from the Imphal Municipal Area in 2004 after several civil society campaigns — the hunger strike by Irom Sharmila being the most high-profile of them — and public mobilisations in Manipur. The Assam government declared the entire state “disturbed” and embraced the cover of the Act in February this year, though militancy in the state has nearly petered out. Clearly, the government loves this law, which causes the suspension of basic civil rights. However, a 2016 Supreme Court judgment clarified that the notion that the Act provides a free hand to security forces is flawed. Ruling on a petition filed by the Extra Judicial Execution Victims Families Association, a representative platform of people in Manipur whose kin have allegedly been killed by security forces, the Court held that due process needs to be followed in civilian complaints reported from areas under the AFSPA and that the Act doesn't provide blanket immunity to army personnel in anti-insurgency operations.

The continuance of the Act in any region for extended periods symbolises, according to the apex court, “failure of the civil administration and the armed forces”. This is most evident in Jammu and Kashmir, where the Centre has continuously stonewalled pleas to lift the Act even when it had opportunities to remove it from relatively peaceful districts and entrust the task of enforcing the rule of law to local agencies. Worse, in cases like the shooting of three civilians in Shopian in January this year, there have been attempts to ignore the rights discourse the 2016 SC order had laid out and revert to the immunity argument. The Meghalaya experience will hopefully revive a sober debate on the Act and its limits.

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