

## BALANCING NATIONAL SECURITY AND CIVIL LIBERTIES: RETHINKING AFSPA IN THE CONTEXT OF COUNTERTERRORISM IN MANIPUR

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### ABSTRACT

The Armed Forces (Special Powers) Act (AFSPA) has been a subject of intense debate in India, particularly in conflict-prone regions like Manipur. While it grants extraordinary powers to security forces to combat insurgency, it has also raised concerns about human rights violations and the erosion of civil liberties. This paper critically examines AFSPA in the context of counterterrorism efforts in Manipur, analyzing its effectiveness, legal and ethical dimensions, and its impact on the civilian population. It explores the balance between national security imperatives and fundamental rights, drawing on case studies, legal frameworks, and policy perspectives. The study advocates for a nuanced approach that ensures both security and justice, proposing reforms that align counterterrorism strategies with democratic principles and human rights where it has been implemented to combat insurgency and maintain national security. This abstract explores the delicate balance between ensuring national security and protecting civil liberties within the context of AFSPA and counterterrorism efforts in Manipur. It examines the historical background of AFSPA, its implications on human rights, and the local populace's grievances against its enforcement. Additionally, the abstract considers alternative approaches to counterterrorism that uphold democratic values and human rights while effectively addressing security concerns. By analyzing case studies and alternative frameworks, this discourse advocates for a rethinking of AFSPA to foster a more just and secure environment in Manipur, highlighting the need for policies that respect the dignity of individuals while ensuring the safety of the state.<sup>1</sup>

**Keywords:** AFSPA, National Security, Civil Liberties, Counterterrorism, Human Rights.

### 1. INTRODUCTION

The insurgency in Manipur has led to the imposition of the Armed Forces (Special Powers) Act, 1958, which provides sweeping powers to the military to maintain law and order. While AFSPA is justified by the government as a necessity for counterinsurgency, it has been widely criticized for its alleged misuse, leading to human rights abuses. This paper explores the implications of AFSPA in Manipur and evaluates whether the act

remains a viable solution or requires urgent reforms.<sup>2</sup>

The Armed Forces (Special Powers) Act (AFSPA), enacted in 1958, has been a contentious piece of legislation in India, particularly in the northeastern states, including Manipur. Designed to empower the armed forces to maintain public order in regions deemed "disturbed," AFSPA has faced significant criticism for its broad and often vague provisions, which many argue lead to human rights violations

and abuses by security forces. The act has become synonymous with the ongoing conflict in Manipur, where insurgency movements have persisted for decades, prompting calls for better governance and security measures. As both a response to and a catalyst for conflict, AFSPA has not only influenced military operations but has also profoundly affected the daily lives of civilians, fostering an environment of fear and mistrust. The introduction of AFSPA has sparked a large-scale debate over national security, civil rights, and the ethical implications of using military force in civilian populations. This overview seeks to explore the historical context, legal and ethical concerns, and the implications of AFSPA on citizens, particularly in Manipur, highlighting the urgent need for reform in addressing human rights violations while maintaining security.<sup>3</sup>

## 2. HISTORICAL BACKGROUND OF AFSPA

The Armed Forces (Special Powers) Act (AFSPA) was enacted in 1958 in response to increasing insurgency and unrest in northeastern India, particularly in Manipur and Nagaland. The Act was introduced during a time of heightened security concerns and political instability, as separatist movements began to gain momentum in these regions. AFSPA granted the armed forces extraordinary powers to maintain public order, allowing them to declare areas as "disturbed" and to conduct operations with limited legal oversight. Initially intended as a temporary measure, AFSPA has been extended repeatedly, leading to its long-term presence in the region. The law became a focal point of controversy as reports emerged of human rights violations, prompting widespread criticism from civil society, human rights organizations, and local populations who argue that it perpetuates a climate of fear and impunity. Over the decades, AFSPA has been synonymous with the struggle between maintaining national security and respecting civil liberties, making it a contentious issue in India's political landscape and a reflection of the broader challenges faced in addressing insurgency and unrest in the northeast.<sup>4</sup>

The Armed Forces (Special Powers) Act (AFSPA) has had a profoundly negative impact on the citizens of Manipur, exacerbating tensions and fostering an environment of fear and mistrust between the local population and security forces. The sweeping powers granted to the military under AFSPA have led to numerous reported human rights violations, including extrajudicial killings, arbitrary arrests, and torture. These abuses not only inflict direct harm on individuals and families but also instill a pervasive sense of insecurity within the community. Civilians often feel trapped in a cycle of violence, as the presence of armed forces is perceived as an occupying force rather than a protective entity, leading to feelings of alienation and resentment. The psychological toll of living under such oppressive conditions can result in trauma, loss of trust in institutions, and a deteriorating social fabric. Additionally, the stifling of dissent and suppression of political voices further marginalizes the population, preventing meaningful dialogue and resolution of underlying grievances. As a result, AFSPA has not only failed to achieve its intended goals of restoring order but has also contributed to a deepening conflict and a profound deterioration of civil liberties in Manipur.<sup>5</sup>

One of the most notable and devastating incidents similar to the case of Thangjam Manorama Devi, who was allegedly raped and killed by personnel of the Assam Rifles in 2004, is the case of the **Manipur "fake encounter" killings**. In 2009, the killing of **Irom Sharmila Chanu's fellow activist**, Nanak Singh, during a police operation drew widespread outrage. This event was emblematic of the broader issues plaguing Manipur regarding the abuse of power under AFSPA.<sup>17</sup>

Another tragic instance is the **2000 firing on civilians** in the village of **Malom**, where the Assam Rifles reportedly opened fire on a group of people waiting at a bus stop, resulting in the deaths of 10 individuals, including a 12-year-old boy. These types of incidents have fuelled public outcry and protests against AFSPA, highlighting

the severe consequences of military operations in civilian areas and the urgent need for accountability and reform to prevent further human rights violations.<sup>6</sup>

Enacted in 1958, AFSPA was introduced to combat armed rebellions in Northeast India. Over the decades, its implementation in Manipur has been marked by both successes in curbing insurgency and allegations of excessive force.<sup>7</sup>

### 3. LEGAL AND ETHICAL CONCERNS

The implementation of the Armed Forces (Special Powers) Act (AFSPA) raises significant legal and ethical concerns that have sparked widespread criticism and debate. Legally, AFSPA has been challenged for its vague definitions of “disturbed areas” and the sweeping powers it confers upon armed forces, which allow for detention, search, and arrest without a warrant, essentially placing military actions above civilian law.<sup>8</sup>

This has raised serious questions about compliance with constitutional protections and international human rights standards. Ethically, the act has been associated with numerous human rights abuses, including extrajudicial killings, torture, and unlawful detention, leading to a profound erosion of trust between the military and local communities. The existence of provisions allowing military personnel to operate with impunity in conflict zones undermines the rule of law, inviting moral dilemmas regarding the justification of such measures for national security. Furthermore, the psychological impact on affected communities, including trauma and fear, poses ethical concerns about the long-term implications for social stability and justice. Addressing these legal and ethical challenges is crucial for reforming AFSPA and re-establishing a framework that prioritizes human rights while ensuring national security.<sup>9</sup>

**Violation of Human Rights:** Reports of extrajudicial killings, enforced disappearances,

and sexual violence have raised ethical concerns.

**Judicial Scrutiny:** The Supreme Court of India has ruled that AFSPA does not grant absolute immunity to security forces.

**Impact on Civilian Population:** Fear and alienation among locals have fuelled resentment against the state.<sup>10</sup>

### 4. STRATEGIC AND SECURITY IMPLICATIONS

The strategic and security implications of the Armed Forces (Special Powers) Act (AFSPA) in Manipur are significant, influencing both military operations and the broader socio-political landscape. AFSPA grants sweeping powers to the military, which can lead to effective immediate responses to insurgency; however, it also risks exacerbating tensions between security forces and civilians. The heavy-handed application of AFSPA has often resulted in human rights violations, fuelling resentment among local populations and potentially driving more individuals towards insurgency. Strategically, this can undermine long-term stability and security, as alienated communities may support militant activities. Furthermore, the international scrutiny of human rights practices can affect India's diplomatic relations and its image on the global stage. To foster a sustainable security environment, it is crucial to reassess the implications of AFSPA, balancing robust counterinsurgency measures with respect for civil liberties and community engagement. This approach can lead to more effective and enduring security outcomes in Manipur and similar conflict-affected regions.<sup>11</sup>

**Effectiveness in Counterterrorism:** AFSPA has enabled military operations to dismantle insurgent networks.

**Alienation and Radicalization:** The prolonged imposition of AFSPA has contributed to local grievances, potentially fuelling radicalization.

**Regional Stability:** Comparisons with other conflict zones in India highlight the need for alternative security strategies.<sup>12</sup>

## 5. RETHINKING AFSPA: POSSIBLE REFORMS

**Increased Accountability:** Establishing independent oversight mechanisms to investigate alleged abuses.

**Periodic Review:** Ensuring that AFSPA is not imposed indefinitely without reassessment of ground realities.

**Community-Centric Approaches:** Encouraging dialogue and developmental initiatives alongside security measures.<sup>13</sup>

Rethinking the Armed Forces (Special Powers) Act (AFSPA) requires a multi-faceted approach to reform that addresses both security concerns and the protection of civil liberties. One possible reform is the establishment of clear and stringent guidelines for the use of force, ensuring that military action is proportionate and accountable. Implementing a robust framework for judicial oversight and requiring mandatory reporting of incidents involving the use of AFSPA can enhance transparency and accountability. Additionally, integrating local law enforcement into counterinsurgency operations could bridge the gap between the military and civil society, fostering community trust and cooperation. Promoting dialogue and conflict resolution through engagement with local leaders and civil society organizations can also help address the root causes of insurgency, reducing the reliance on military measures. Lastly, considering a gradual repeal or amendment of AFSPA, focusing instead on comprehensive security strategies that uphold human rights and foster political dialogue, could pave the way for a more just and peaceful resolution in regions like Manipur. These reforms, grounded in respect for human dignity, are essential to create a balanced approach that prioritizes both national security and civil liberties.<sup>14</sup>

## 6. CONCLUSION

Balancing national security and civil liberties remains a critical challenge in Manipur. While AFSPA has played a role in counterterrorism, its continued enforcement requires democratic

scrutiny. A reformed approach that integrates security with human rights protections can foster lasting peace and stability in the region.<sup>15</sup>

The discussion surrounding the Armed Forces (Special Powers) Act (AFSPA) in Manipur highlights the intricate relationship between national security and civil liberties. While the act was initially intended to restore order in a region plagued by insurgency, its long-term implications have often undermined the very democratic principles it seeks to protect. The persistent human rights violations and the local population's growing discontent illustrate the urgent need for reform. Moving forward, it is essential to adopt a more nuanced approach to counterterrorism that prioritizes the protection of human rights and fosters community trust. Policymakers must engage with local voices and consider alternatives that balance security with civil liberties, ensuring that counterterrorism strategies do not perpetuate cycles of violence and alienation. Ultimately, rethinking AFSPA is not just about altering legislation; it is about reaffirming India's commitment to justice, peace, and the fundamental rights of its citizens, paving the way for sustainable security solutions in Manipur and beyond.<sup>16</sup>

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