AFSPA

History

- The Armed Forces Special Powers Ordinance of 1942 was promulgated by the British on 1942 to suppress the QIM
- Armed Forces (Assam and Manipur) Special Powers Act, 1958.
  - To deal with challenges posed by fissure tendencies.
  - Empowered only the Governors of the States and the Administrators of the UT's to declare areas in the concerned State or the Union Territory as 'disturbed'.
  - The territorial scope of Act also expanded to the five states of the North-East - Assam, Manipur, Meghalaya, Nagaland, Tripura, Arunachal Pradesh and Mizoram.
- The Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983
  - The terms of the Act broadly remained the same as that of the Armed Forces Special Powers Act (Assam and Manipur) of 1972.
  - Section 4 (e) stipulates that any vehicle can be stopped, searched and seized forcibly if it is suspected of carrying proclaimed offenders or ammunition.
  - Section 5 was added to the Act specifying that a soldier has the power to break open any locks "if the key there of is withheld".
- The Armed Forces (Jammu and Kashmir) Special Powers Act, 1990.
  - If the Governor of Jammu and Kashmir or the Central Government, is of opinion that the whole or any part of the State is in such a disturbed and dangerous condition then this act can be imposed.

Way Ahead

- Second ARC in its fifth report on "Public Order," recommended to repeal AFSPA,1958. It commented that its scrapping would remove sentiments of discrimination and alienation among the people of the northeast India.
- The judicial commission set up by SC is trying to make AFSPA more humane, and the security forces more accountable.
- Human rights group accept that people to people communication and development of new avenues are the only way for peace, however laws like AFSPA are continuously violating human rights issues there.

Provisions

- Constitutional Provisions where Emergency can be declared.
  - Failure of the administration and the local police to tackle local issues.
  - Return of (central) security forces leads to return of miscreants/erosion of the "peace dividend".
  - The scale of unrest or instability in the state is too large for local forces to handle.
- Powers given to Armed Forces under AFSPA
  - Destroy any arms dump, hide-outs, prepared or fortified position or shelter or training camp
  - To arrest without a warrant anyone who has committed cognizable offences or is reasonably suspected of having done.
  - After giving such due warning, Fire upon or use other kinds of force even if it causes death, against the person who is acting against law or order in the disturbed area
  - To enter and search any premise in order to make such arrests, or to recover any person wrongfully restrained. Stop and search any vehicle or vessel reasonably suspected.
  - 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.
  - 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.

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