

WRAP Exams · wrapexams.com

Prelims PYQ, Mains model answers, and copy evaluation. Write to the desk for this paper, a doubt, or the AI waitlist.

ask@wrapexams.com · +91 85951 84903 · wrapexams.com

Q17

Human right activists constantly highlight the fact that the Armed forces (Special Powers) Act, 1958 (AFSPA) is a draconian act leading to cases of human right abuses by security forces. What sections of AFSPA are opposed by the activists. Critically evaluate the requirement with reference to the view held by Apex Court.

UPSC Civil Services Mains 2015 · GS III · 12 marks · Indian Economy

Indian Economy and issues relating to planning, mobilization of resources, growth, development and employment.

Core demand of the question

- Identify the AFSPA sections that human-rights activists oppose
- Critically evaluate whether the Act is still required, using the Supreme Court's view

Revision summary

Activists oppose AFSPA **Section 3** (open-ended disturbed areas), **Section 4** lethal force and warrantless search and arrest, and **Section 6** sanction for prosecution.

The Supreme Court in 1997 held the Act valid but subject to judicial review, minimum force, and prompt handover to police.

Section 6 does not legalise murder or rape; abuse can still be tried if sanction is not a burial.

Operational need can exist in a live insurgency; permanent, unreviewed AFSPA fails both rights and counter-insurgency legitimacy.

Reform is time-bound maps, audited force, and fast sanction decisions.

Flow diagram

Section 3 disturbed area -> Section 4 fire search arrest

Section 4 fire search arrest -> Section 6 Central sanction

Section 6 Central sanction -> Impunity complaint

Supreme Court 1997 -> Act valid

Supreme Court 1997 -> Review minimum force no abuse immunity

Review minimum force no abuse immunity -> Time-bound operational need only

Conclusion

- Follow the 1997 guidelines in the field, not only in affidavits.
- Independent investigation of encounter deaths; fast yes-or-no on prosecution sanction.

- Review disturbed-area maps every six months in Parliament's sight.
- Train troops in minimum force and in recording warnings, so **Section 4(a)** is not a street-execution clause in practice.
- **Activists target Sections 3, 4(a)-(d), and especially 6:** disturbed-area permanence, lethal force, warrantless search and arrest, and Central sanction. The Supreme Court upheld AFSPA but bound it to review, minimum force, and no immunity for abuse. The Act may still be required in a narrow, time-bound insurgency. It is not required as a permanent shield against the criminal law.

Facts & figures

AFSPA, 1958

Law granting special powers to armed forces in areas declared disturbed, first for the North-East; a related law applied to Jammu and Kashmir.

Section 4

Empowers firing even to death (with the section's conditions), destruction of hideouts, warrantless arrest, and warrantless search.

Section 6

Bars prosecution or other legal proceedings without previous Central Government sanction for acts under the Act.

NPMHR, 1997

Supreme Court judgment upholding AFSPA's constitutionality while listing limits and dos and don'ts.

Jeevan Reddy Committee, 2005

Recommended repeal of AFSPA and a less sweeping substitute; the report was not enacted as recommended.

WRAP Exams · Write. Read. Analyse. Practice. · <https://wrapexams.com/upsc/mains-answers/gs-3/2015/human-right-activists-constantly-highlight-the-fact-that-the-armed-forces-special-powers-act-1958-afspa-is-a-draconian-act-leading-to-cases-of-human-right-abuses-by-security-forces-what-sections-of-afspa-are-opposed-by/> · ask@wrapexams.com · wrapexams.com