

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:224

ANSWERED ON:21.07.2015

Areas under AFSPA

Rajesh Shri M. B.

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) the regions where the Armed Forces Special Powers Act (AFSPA) is operational in the country presently and the time since the Act has been operational;
- (b) the regions from where AFSPA has been withdrawn due to improvement in the situation;
- (c) the mechanism put in place to prevent human rights violations in the AFSPA imposed regions and action taken against complaints of grave human rights violations in the last three years, State-wise;
and
- (d) the details of other confidence building measures initiated or proposed in the said regions with a view to restore normalcy?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI HARIBHAI PARATHIBHAI CHAUDHARY)

a) Armed Forces Special Powers Act (AFSPA), 1958 was enacted on September 11, 1958. At present, AFSPA, 1958 is operational in entire State of Assam and 20 km wide belt bordering Assam in the State of Meghalaya since 27th November, 1990; entire State of Nagaland since 10th December, 1986; Tirap and Changlang districts in Arunachal Pradesh since 17th September, 1991; Longding district in Arunachal Pradesh since 30th July, 2012; entire State of Manipur excluding Imphal Municipal Area from August, 2004 and area falling in the jurisdiction of 16 police stations in districts of Arunachal Pradesh bordering Assam since 5th May, 2015.

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The Armed Forces (Jammu & Kashmir) Special Powers Act, 1990 was enacted in disturbed areas of the State of J&K w.e.f. 5th July, 1990. This Act is operational in the Districts of Anantnag, Baramulla, Badgam, Kupwara, Pulwama and Srinagar since 6th July, 1990 and in the Districts of Jammu, Kathua, Udhampur, Poonch, Rajouri and Doda since 10th August, 2001.

b) AFSPA, 1958 has been withdrawn from the areas falling in the jurisdiction of 30 Police Stations of the Tripura State by the State Government of Tripura vide its Notification dated 27.05.2015.

c) For preventing human rights violations in the AFSPA imposed regions, do's and don'ts have been issued for the Armed Forces deployed in Counter Insurgency Operation as per the direction of the Supreme Court in Naga People's Movement of Human Rights versus Union of India. Violation of these guidelines by members of the Armed Forces makes them liable for prosecution under the Army Act and the respective Acts of the Central Armed Police Forces. The Human Rights Cells established at various levels of Army and the Central Armed Police Forces regularly monitor alleged human rights violations, by the members of the Armed Forces. The troops are sensitized at regular intervals regarding the importance of upholding Human Rights. As regards the institutional mechanisms in place to deal with cases of human rights violation, the details are as follows:

(i) The first level of approach for the complainant is the Police Station, which conducts an immediate inquiry into the allegation. If found correct, the inquiry leads upto the registration of a formal investigation via a First Information Report (FIR). In the event that a complainant has a grievance, s/he has the opportunity to approach any senior police or administrative official, elected representative or the local judiciary, directly.

(ii) Besides, the Police as well as the Security Forces hierarchy conduct parallel processes, both of which are judicial processes as enshrined in law. Another central agency, the Central Bureau of Investigation (CBI) can also be ordered by any higher Court of State or Central Government to investigate or re-investigate any such allegation of human rights violation.

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(iii) Moreover, an entirely different institutional mechanism exists parallel to the district-level machinery i.e. Human Rights Commissions at the Centre and in States.

(iv) Also, the higher judiciary i.e. High Courts and Supreme Court are available to record a primary or secondary complaint, apart from sitting in judgement of investigated, charged and district court-judged cases. Under Articles 32 and 226 of the Constitution, wide-ranging powers are accorded to the Supreme Court and High Courts, respectively, to hear a matter of immediate public concern. Added to this is the well-formed procedure of filing public Interest Litigations (PIL) on any matter of importance, directly before the higher Courts.

(v) In response to extra-ordinary allegations of human rights violations the central or state governments set up specific commissions of inquiry, under the Commissions of Inquiry Act. These commissions function autonomously and submit reports, which are placed before the relevant legislature.

The above clearly indicates the intricate and well-structured procedure available to ensure fair play and justice to each citizen. This mechanism has played an important role in preventing human rights violations in the AFSPA imposed regions.

Statement, as per the report of National Human Rights Commission (NHRC), showing state wise number of cases disposed of during last three years and current year upto 30.06.2015 under Defence Force Category and Para-Military Force Category are annexed at Annexure 'A' and Annexure 'B' respectively.

d) The Government has adopted various counter terrorist methods to neutralise the efforts and capabilities of militants/extremists to disturb peace in the North East States and Jammu & Kashmir. The Government has also encouraged policies to mainstream the youth including providing employment opportunities and discourage the local youth from joining extremists. As such, the focus includes:-

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(i) Proactively take suitable measures by all the Security Forces to safeguard the borders from cross-border terrorism and to contain militancy.

(ii) To ensure that the democratic process is sustained and primacy of civil administration is restored to effectively tackle the socio-economic problems facing the people on account of the effects of prolonged militancy/extremism in the States, and

(iii) To ensure sustained peace process and to provide adequate opportunities to all sections of the people in these States who eschew violence to effectively represent their view points and to redress their genuine grievances.