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# **THE AFSPA-NSA NEXUS: LESSONS FROM MANIPUR**

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## **I. Introduction**

From Sharmila's sixteen-year fast is still one of the most compelling acts of civil disobedience in contemporary India, a singular and prolonged rejection of the militarized reality imposed on Manipur. She was protesting against violence and the legal framework that supported it. The Armed Forces (Special Powers) Act was enacted in 1958 and provides extensive powers to security forces in areas classified as "disturbed." These powers include shooting on suspicion, arresting without a warrant, and operating with almost complete legal protection. The National Security Act complements this legislation; it was introduced in 1980 and allows preventive detention for up to one year without formal charges against an individual, usually based on vague threats to "public order" or "national security." These laws have come together in Manipur with the most destructive effect. Here, AFSPA has been in force for over four decades, and NSA is routinely used during times of political turmoil; hence the intersection of these laws has made extraordinary state power a normalized condition. Public spaces are militarized, protests are seen as provocations, and the presumption of innocence is frequently switched for indefinite detention.

Section 4 of AFSPA authorizes armed forces in disturbed areas to:

- (a) fire upon individuals violating prohibitory orders;
- (b) destroy shelters suspected of harbouring militants;
- (c) arrest without warrant; and
- (d) search premises without judicial approval.<sup>1</sup>

Section 3 of the National Security Act, 1980 empowers the Central or State Government to:

- (a) detain individuals to prevent actions prejudicial to national security, public order, or essential supplies and services;
- (b) authorize District Magistrates or Commissioners of Police to issue detention orders in urgent situations, initially for up to three months (renewable);

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<sup>1</sup> Section 4, Armed Forces (Special Powers) Act, No. 28 of 1958, § 4, India Code (1958).

- (c) require such officers to report detentions to the State Government within 12 days (extendable to 20 days if grounds are communicated late); and
- (d) mandate the State Government to inform the Central Government within 7 days of approving any such order.<sup>2</sup>

## II. AFSPA History

The Indian parliament passed it on September 11, 1958. The AFSPA was modeled on a British colonial ordinance from 1942 that sought to suppress the Indian independence movement during World War II. In the following decade, the northeast was reorganized into various states to meet ethnic aspirations from different tribes and other ethnic communities. In 1972, the AFSPA was amended to cover all the new states created then. This Act has been responsible for numerous violations of human rights since its inception. Although it was meant to be a temporary law, for five decades large parts of northeastern states have been declared as "disturbed" (now every six months) so that this law can continue in force. Though security forces are supposed by law to inform the police when a person is killed in an armed encounter, there are grave doubts about how these matters are actually handled. Reports indicate that sometimes people are taken into custody and later killed, with their deaths being falsely reported as due to a "gunfight." Government officials have even admitted in conversations with Human Rights Watch that such extrajudicial killings do happen sometimes, invariably under the pretext of preventing future hostage situations or prison breaks. However, independent investigations by both the judiciary and police have revealed cases where persons unconnected with militancy were wrongly identified as combatants and executed without due process.<sup>3</sup>

## III. Evolution of Preventive Detention in India

India's history with preventive detention laws does not begin with Independence. It goes back to 1784 when the East India Company enacted legislation empowering the Company's officers to arrest without trial anyone whom they considered a threat to British interests. These were not laws for justice or due process; but simply instruments of power, meant to control and subjugate. The British used preventive detention once again in both World Wars, calling it a necessary evil in times of total war. After Independence, the Indian state inherited this colonial legacy of control and repression. The Preventive Detention Act, 1950 was one of the first steps

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<sup>2</sup> Section 3, The National Security Act, No. 65 of 1980, India Code

<sup>3</sup> Human Rights Watch, *Getting Away with Murder: 50 Years of the Armed Forces (Special Powers) Act* (2008)

taken in this direction by an independent Indian government, empowering the state with unbridled authority to detain any person without trial on grounds of perceived threats to security or public order. Although this Act lapsed in 1969, its framework became the basis for subsequent laws including what we know today as the National Security Act (NSA). In 1971, during another politically charged atmosphere, came into force one more law masquerading under national safety, the Maintenance of Internal Security Act (MISA). While MISA was ostensibly intended for internal security maintenance within India, it gained notoriety due to its application during Emergency Rule imposed between 1975 and 1977 when dissenters were jailed en masse without any recourse to legal remedy. There was enough public outrage against this arbitrary use that MISA was finally repealed in 1978; however just two years later this very same machinery was revived with different nomenclature under National Security Act, 1980 but essentially continuing from where MISA left off.

#### **IV. Purpose and Misconceptions around the NSA**

Preventive detention is intended to be a safety tool, a pre-emptive measure against the commission of a serious crime. It is about acting before an injury occurs, by removing the individual from society until the danger has passed. In practice, however, the NSA operates in a nebulous area. Although it should never be applied to minor infractions or ordinary breaches of the law, the Act has been used against individuals only suspected of having committed serious offences. This makes it susceptible to abuse. Rather than being a rare and exceptional measure, preventive detention can easily become an expedient means of avoiding the extensive protections that accompany criminal trials. Such detention does not require proof beyond reasonable doubt; mere suspicion is often sufficient. Though not meant as a replacement for real legal processes, the NSA can be misused to destroy the very principles of justice that it claims to uphold. It is a preventive measure, indeed, but one that requires moderation and transparency.<sup>4</sup>

#### **V. How Manipur Became Ground Zero**

On September 8, 1980, Manipur was declared a “disturbed area,” and AFSPA was imposed, initially targeting just the Naga-dominated districts of Senapati, Tamenglong, and Ukhrul before expanding statewide by the late 1970s as Meitei insurgency in the Imphal Valley intensified. Insurgency’s roots in Manipur can be traced to the Naga nationalist movement

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<sup>4</sup> National Security Act, 1980, iPleaders (Jan. 10, 2023)

spilling over from Nagaland, triggering the rise of armed Kuki and Meitei groups. When ten civilians were killed in the Malom massacre in 2000, a single woman stood up, Irom Sharmila, who began a hunger strike that lasted 16 long years. Her protest was started most brutally by the rape and killing of Thangjam Manorama by Assam Rifles workers, an event that also incited Meira Paibis (women torchbearers) to confront the military with torchlight protests to demand justice. Between 1979 and 2012, 1,528 civilians, including at least 98 children, were killed in what are widely acknowledged as extrajudicial “fake encounters” in Manipur. Investigative summaries and human rights bodies, including a petition by EEVFAM and Human Rights Alert, characterize these deaths not as casualties of conflict, but as premeditated executions, often accompanied by torture, enforced disappearances, and the planting of weapons to make a militant narrative.<sup>5</sup> The Santosh Hegde Committee, appointed by the Supreme Court to review six of these cases, confirmed that none were genuine encounters, and all six were staged. Yet, despite these findings, not a single high-ranking official was prosecuted.<sup>6</sup>

The Supreme Court’s 2016 landmark ruling ordered a CBI Special Investigative Team (SIT) to probe all 1,528 cases, demanding accountability from security agencies and emphasizing that AFSPA cannot be used as a defense for unlawful killings. “AFSPA was supposed to be temporary. But it has been there for decades,” the bench noted, underscoring how extended militarization has corroded democratic trust. Implementation has been very slow. By early 2018, only 11 FIRs had been registered, despite the SC’s directive prompting the Court to sharply reprimand the CBI and demand faster action.<sup>7</sup> Later that month, the SIT added 30 more FIRs, raising the total to 42, yet these still stand in huge contrast to the high death toll and lack of convictions.<sup>8</sup>

## **VI. The Present Crisis**

The May 2023 outburst of ethnic violence in Manipur between the valley-based Meitei community and the hill-based Kuki-Zo tribes, quickly escalated from a political demand into a huge communal war. Analysts and datasets put the official death toll in the low hundreds (estimates vary as events unfolded), while independent counts and later reporting place deaths

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<sup>5</sup> Manipur: 1,528 Victims of Fake Encounters, Times of India (Oct. 2, 2012)

<sup>6</sup> Manipur Fake Encounters: Six Deaths, All Fake, Finds Supreme Court-Appointed Panel, The Hindu (Apr. 5, 2013)

<sup>7</sup> Supreme Court Pulls up CBI for Lodging FIR Against Victims of Manipur Fake Encounters, Times of India (Feb. 12, 2018)

<sup>8</sup> CBI Registers 30 More FIRs in Manipur Fake Encounter Case, Hindustan Times (Feb. 1, 2018)

well above 200 and displacement at tens of thousands: ACLED and Reuters documented sustained violence, about 250–260 deaths by late 2024 and 60,000+ displaced persons, with whole hill and valley districts split along ethnic lines.<sup>9</sup> What began as the Meitei community's push for Scheduled Tribe (ST) status became a spark in a tinderbox of long-running grievances, land, political representation, and resource access, turning localized protest into what many observers describe as ethnic-cleansing-like attacks on villages, places of worship, and civilian infrastructure. The human consequences were very severe, thousands sought shelter in provisional relief camps, churches and temples were damaged or burned, and entire communities became internally segregated and cut off from each other.<sup>10</sup> Two features sharpened the crisis and its national resonance. First, horrific imagery circulating online, most notably a widely shared video showing two women paraded naked and assaulted, generated nationwide outrage and became emblematic of the sectarian brutality. The viral video, independently verified and widely reported, led to protests across India and calls for accountability.<sup>11</sup> Second, the state response combined militarised law-and-order measures with draconian communications controls. AFSPA-empowered forces were deployed across sensitive districts, yet multiple human rights organisations and local campaigners accused security personnel of inaction, bias, or complicity in attacks, allegations that fuelled more distrust and retaliatory violence. Meanwhile, the state government ordered repeated internet blackouts, one of the longest sustained shutdowns in memory, lasting over 200 days through a series of consecutive orders, disabling information flows, humanitarian coordination and journalistic verification.<sup>12</sup>

The legal tools used during and after the violence further expose the governance logic of the crisis. Authorities invoked preventive measures. The National Security Act was publicly discussed and proposed by senior officials (including state governors) as a tool to detain “miscreants.” NSA detentions were used against protestors and suspects, frequently activists and community organisers, rather than being a clear instrument to hold alleged attackers to account. Human rights groups flagged the selective use of preventive detention and raised concerns about due process and arbitrary arrests.<sup>13</sup>

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<sup>9</sup> Political Violence in India's Manipur State: 2023–2025, ACLED (2025)

<sup>10</sup> India: Authorities Should Urgently Rehabilitate Thousands Displaced in Two Years of Ethnic Violence in Manipur, Amnesty International (May 2025)

<sup>11</sup> In Manipur Horror, 2 Women Paraded Naked On Camera, Allegedly Gang-Raped, NDTV (July 20, 2023)

<sup>12</sup> India: Renewed Ethnic Violence in Manipur State, Human Rights Watch (Sept. 14, 2024)

<sup>13</sup> India: Wanton Killings, Violence, and Human Rights Abuses in Manipur, Amnesty International (2023)

## VII. What Manipur Teaches Us

Manipur has lived under the Armed Forces (Special Powers) Act for decades. It is not just an account of suffering from one state but serves as a warning against the risks involved in making emergency powers routine. In 1958, AFSPA was designed as a temporary wartime tool, with the justification that it was essential to restore order in “disturbed” areas. Yet it has transformed into almost a permanent legal regime that has survived many governments, insurgencies and peace negotiations. This normalization has changed the balance of power between citizen and state; armed forces operate with immunity, civilian oversight mechanisms are eroded, and the moral legitimacy of the state itself is questioned. When emergency law becomes governance by default its corrosive effects spread well beyond the initial security rationale. Immunity provisions like AFSPA's protection from prosecution without central sanction effectively decouple state power from legal responsibility. In practice this means even when judicial commissions or fact-finding panels confirm abuses prosecutions rarely follow fostering an entrenched culture of impunity where abuses are not aberrations but foreseeable outcomes of the system. In such a climate national security becomes a shield not only against armed insurgents but also against demands for transparency accountability and justice. The implications for India's federal structure are profound. Law and order is constitutionally a State subject but in disturbed areas like Manipur policing and security policy are dictated by the Centre. The state government's role becomes increasingly symbolic often reduced to endorsing or rubber-stamping the continuation of AFSPA under central advisories. This undermines the federal principle envisioned in the Constitution and raises a broader question- can a unit of the Indian Union be truly autonomous when its civilian governance is effectively subordinated to a security framework imposed from Delhi?

Manipur also shows the dangerous weakness of democratic control in border areas. Oversight bodies, whether parliamentary committees, human rights commissions, or judicial interventions, have little power when the security forces have special powers and when the political cost of going against the military is too high. This is why even major decisions, like the Supreme Court's 2016 ruling that "encounter" killings must be looked into, have had a hard time bringing real change on the ground. The politics of memory adds to this crisis. Public anger over events like the 2004 naked protest by Meira Paibi women in front of Kangla Fort or Irom Sharmila's historic 16-year hunger strike momentarily breaks through national indifference toward Manipur. Yet these moments, no matter how intense, quickly disappear from national attention to be replaced by other news stories. The result is a brutal cycle,

violence breaks out; images and testimonies spread far enough to raise public outrage; then silence again. This calculus for the state knows that while protests may be intense, they rarely last long enough to threaten entrenched policies, hence the amnesia about public anger. It has become increasingly evident that under this "security over justice" paradigm even the definition of peace gets warped. In Manipur, just absence from open conflict has been mistaken for stability while unaddressed grievances such as impunity, marginalization, and economic neglect continue to fester beneath the surface. In this sense, AFSPA's continued enforcement does not merely respond to instability but rather creates conditions conducive for instability by alienating communities from political processes and deepening trust deficits between citizens and their state.

The lesson from Manipur is dual. First, security cannot be allowed to eclipse justice, because when the two are separated, neither can survive fully. Second, democracy is not only threatened by insurgents or hostile powers; it is equally threatened when the democratic state itself accepts that certain citizens must live under a lesser standard of rights. If the Indian Union tolerates a permanent state of exception in Manipur, it sets a precedent for other regions and strips away at the universality of constitutional rights. How long can a democracy afford to ignore a part of itself before the silence becomes complicity? No democracy can survive if it learns to live with its own exceptions, if it comes to believe that some citizens can be indefinitely governed by force while others enjoy the full effect of rights. To repeal it is to reclaim legitimacy. For every year it remains, the distance between the Indian state and its border citizens grows wider, and the idea of equal citizenship becomes a little less true.

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