



# Guns, Laws, and Guerrillas: The Arms Act as India's Shield Against Insurgency

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## ABSTRACT :

In general, an attempt is made to explain various arms-control measures for counter-insurgency in India through the grand framework of the Arms Act, 1959, tracing the lineage of this Act from colonial repression and projecting it as an internal security measure for the then-independent democratic India. The Arms Act, therefore, replaced the discriminatory Indian Arms Act, 1878, which needed to be tailored post-independence to the demands emanating from separatist, Maoist, and terrorist insurgency. Through a detailed legal-historical discourse, the article delves into significant sections of the Arms Acts, including Sections 3, 25, and 4A, as well as their amendments, especially the Arms (Amendment) Act, 2019, which to an extent tightened licensing provisions, criminalized illegal arms trafficking, and carved out exceptions in favor of sports shooters. Enforcement mechanisms are set up through illustrative case studies from Jammu & Kashmir and Northeast India, demonstrating the successes of the Act in arms seizure and disarmament drives. Yet challenges stand on the way of the Act: porous borders, corrupt licensing, slow judiciary. Newer methods of law enforcement such as Aadhaar-linked digital tracking, community policing, combined implementation of the Act with other laws like the Unlawful Activities (Prevention) Act-give it a stronger enforcement foundation. The Article contends that the Arms Act has been and will forever remain the cornerstone of the Indian counterinsurgency efforts; however, the ever-evolving nature of insurgency and threats beckon its rejuvenation through vigorous legislative empowerment, administrative reforms, and international cooperation.

**Keywords:** Arms Act 1959, Insurgency in India, Firearms Regulation, Arms (Amendment) Act 2019, Illegal Arms Trafficking, Counterinsurgency Law, Maoist and Separatist Movements, Digital Arms Licensing

## Introduction

Analysing the Arms Act, 1959, in its historical perspective, the article views it as an important legislative tool for the prevention of insurgency in India. It traces the evolution of the law from its repressive colonial origins to one geared towards the maintenance of democratic internal security. The Armory Act of 1959 is an essential legal tool recognized in the article as being used for thwarting insurrection in India after looking at the Law in a historic setting. The journey of the law is traced from colonial times of repressive beginnings towards a democratic kind of internal security.<sup>1</sup>

India has distinguished itself in offering security forces against insurgency, including separatist movements in Jammu & Kashmir, ethnic conflicts in the Northeast, and Maoist uprisings in the Central States. Viewed thus, firearms legislation assumed paramount importance. Any attempt to regulate arms was put forth under the Arms Act of 1959 to restrict manufacture, possession, and trade so that arms are not diverted for use by insurgents. The article sought to analyze the evolution, implementation, and capacity of the law to face the new threats of drone smuggling and 3D-printed firearms. While statutory provisions, judicial interpretations, and implementation challenges are analyzed here, it remains that although the Act may stand sturdy by itself, with the rapid development of technology and complications caused due to issues of the international border, reforming the Act tops the agenda of strengthening counterinsurgency in India.

The Arms Act, 1959, is considered a foundation for the internal security structure in India and came into force by repealing the colonial laws that no longer fit an independent state. It was enacted at a time of growing regional tensions and with no almost uniform arms regulations to speak of and sought to keep a fine balance between individual rights and state security. It therefore stands chiefly for the attempt to comprehensively regulate firearms, something that is much needed for a country facing insurgency promoted by illegal arms. Amendments to the Arms Act, especially in 2019, show the constant endeavour to tighten control over ever-changing threats, thus making it a live weapon in maintaining public order and countering insurgent violence.

The Arms Act of 1878 was an Indian Act, being enacted in the post-Sepoy Mutiny atmosphere where the British Crown feared rebellion. It imposed severe restrictions on licensing arms to disarm the Indian peoples, giving more credence to the colonialist authority than public safety. While it, in fact, cannot be seen to have prevented armed resistance really, it has been charged with being applied cynically against the nationalists, the best-known instance

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<sup>1</sup> British Laws to Curb Resistance: The Indian Arms Act 1878, *available at*: <https://amritmahotsav.nic.in/district-repository-detail.htm?25140> (last visited on February 28, 2025).

being *Queen-Empress v. Bal Gangadhar Tilak*<sup>2</sup>, where he was charged for unlawful possession of arms. The establishment of the newly formed government under this Arms Act 1959 was that it would look after internal threats to security such as insurgency, while any licenses needed for firearms for genuine purposes would be granted fairly.

## Historical Context and Evolution of the Arms Act

Like many of those acts that, in one way or the other, had become serious in times past, this 22-chapter Act still retains one major purpose of the law: to institutionally maintain public order by regulating firearms in insurgency-promoting areas of Manipur and Chhattisgarh...Its stringent provisions herein stop illegal arms supply to those groups such as NSCN or Maoist, whose smuggled weapons are then used to perpetrate acts. In fact, amendments made in 2019 show its counterinsurgency orientation as licensing was reduced while penalties were increased. Section 25 has been referred to in the operational manuals on the seizure of arms and huge lots of ammunition in Kashmir by armies. Act stabilizes arms trade and hence stability along with keeping check and balance on misuses of arms; however, its continued efficiency is really under threat from new technologies because such evolutions are kind of a race.<sup>3</sup>

### Pre-independence Arms Regulations

To begin with, more or less serious acts still retain at least one major purpose for the Act: the maintenance of public order through controlling arms in insurgency-prone areas of Manipur and Chhattisgarh. This Act is strongly enforced to make sure the illegal arms supply to these groups like the NSCN or the Maoists is stopped, for they use these smuggled arms to commit various acts. And the amendments of 2019 that have reduced licensed firearms and increased penalties edges the Act towards an explicit counterinsurgency bias. Section 25 has, for instance, been referenced in operational manuals whereby great quantities of arms and ammunition have been seized by armies in Kashmir. The Act stabilizes arms trade and hence stability, along with keeping check and balance on misuse of arms. The thing that really poses an obsolescence to the continued efficacy of the Act is thus the advent of new technologies, for such evolutions are really a race.

### The Indian Arms Act, 1878: Purpose and Key Provisions

For a long time, arms regulation in India has undergone a messy evolution and likewise has also been affected by colonial oppression and post-independence security concerns. It is for this reason that the changing legislation with changing priorities- from the Indian Arms Act (1878), a stringent law made to suppress a rebellious populace, to the Arms Act (1959), aimed at a free nation-will hereby be briefly tracked in relation to each stage of social-political challenges with which it was answering. The section, by looking at the Indian Arms Act of 1878 on colonial lines, the Indian Arms Act of 1959 on democratic lines, and the amendments in 2019, discusses how the statute responded to past insurgencies and adapted to meet modern threats like illicit arms trafficking to create a legal security mechanism.<sup>4</sup>

### Impact on Indian Society and the Independence Movement

The regulation of weapons during the British reign had provided, quite literally, a strong arm for the colonial exercise of power, serving as a deterrent against any hopes of a mutiny and to assert control over India and her people. By Land Marks in the History of Control of Arms in India, the Indian Arms Act of 1878 was meant to impose very strict restrictions in order to inhibit any persons or bodies that would threaten British interests. The section deals with the purpose of the Act, its main provisions, and the effect on Indian society. By limiting access to arms, the colonial government not only kept rebellions at bay but also disturbed social arrangements within Indian society; such disturbance became one of the powerful motivators in the making of the Indian independence movement. Their enduring legacy found itself resurrected through amendments to the post-independence arms laws and thus laid down the groundwork for the Act of 1959.

### Enactment of the Arms Act, 1959

Following almost a year of events culminating in the Mutiny of 1857, this Act was intended as an Indian Arms Act 1878 to ensure greater authority of the British over India. At the core of this legislation was to keep firearms away from Indians, thus preventing any armed revolt. It prescribes preventive regulations necessary for the possession of arms, for the manufacture of arms, and for the sale of arms, with the criteria for issuance of a license being highly discriminatory, favoring persons loyal to the British. Section 4 prohibited carrying any firearm without license, and Section 19 prescribed very severe punishments, including imprisonment. In some cases, it was permitted to use this law to crush those suspected of being engaged in revolutionary activities, thus strengthening colonialism in India at that time in a precedent set by *Emperor v. Har Bilas*<sup>5</sup>. By disarming people, the Act did tilt the balance of power against the colonial rulers and hence altered the Indian socio-political terrain and resistance strategies.<sup>6</sup>

<sup>2</sup> (1897) ILR 22 Bom 112.

<sup>3</sup> Bikash Sen Deka, "The Arms Act, 1959: A Legal Analysis and Comparative Study with USA", 1 *Asian International Journal of Advanced Contemporary Legal Affairs* 146 (2021).

<sup>4</sup> IANS, "Arms Control In India: Government Planning Amendment To Arms Act, Harsher Punishments To Check Illegal Weapons", *Swarajya*, October 2, 2019.

<sup>5</sup> (1887) ILR 9 All 211.

<sup>6</sup> The Arms Act In India, available at: <https://legalserviceindia.com/legal/legal/article-11239-the-arms-act-in-india.html> (last visited on March 9, 2025).

### ***Reasons for Enactment: Need for a Comprehensive Law Post-Independence***

The 1878 Act was passed in a post-Sepoy-Mutiny atmosphere when the British Crown was fearful of a possible uprising. It imposed severe restrictions upon licensing arms to disarm the Indian people, giving priority to colonial authority over public safety. Although erroneously intended to be effective in preventing armed uprisings, it was allegedly enforced in a discriminatory manner against nationalists, the classic case being *Queen-Empress v. Bal Gangadhar Tilak*<sup>7</sup>, where he was charged with unlawful possession of arms. The new government stated that the new Arms Act of 1959 would so operate as to deal with internal threats to security like insurgency and to grant licenses for firearms for bona fide purposes in a fair manner.

### ***Key Features and Structure of the Act***

By way of the regional unrest and a stumbling block in the nation-building process, an attempt to regulate arms democratically was kick-started. Since that time, the question arose of repealing the Arms Act, 1878 and enacting new legislations with the sovereignty and security needs of newly independent India in view. This section attempts to situate the reasons for the interregnum from colonial legislation and by so doing inspects the salient features of the 1959 Act. Thus, by filling the lacunae that existed in earlier legislations and re-styling arms' control to national security concerns, the Act envisaged the programme for combating insurgencies and maintaining public order, representing India's commitment to the balanced governance.

### ***Major Amendments and their Implications***

In this way, the Arms Act, 1959, was a paradigm shift that destroyed all vestiges of colonialism and built up a legal edifice suitable to the needs of a sovereign nation. It was enacted during regional unrest and dangerous nation-building. The purpose of the Act was to keep a check on firearms in a democracy. This section will speak of the reasons for pursuing the road away from colonial laws and why the 1959 Act should be placed at the crux of that road. This Act, by pointing out the weaknesses of the previous enactment and also by gradually linking the regulation of arms with a broader scheme of national security, provided the basic foundation for the suppression of insurgency and maintenance of public order and, thus, stands testimony for India's commitment to good governance.

### ***The Arms (Amendment) Act, 2019***

The Arms Act is a highly comprehensive Act comprising six chapters dealing with our humble attempt at regulating arms and ammunition. Chapter I lays down all the definitions, including those of "firearm" and "ammunition." The second chapter is in respect of the acquisition and possession of arms and ammunitions and also permits the issuance of licenses under Section 3. Licensing matters have been given due consideration in Chapter III, with Sections 13-14 describing the role of the authorities in granting or refusing licenses. However, Chapter IV deals with search and seizure, while in Chapter V, penalties are detailed along with other punishments depending upon the type of offenses; illegal possession being punishable with imprisonment not exceeding seven years under Section 25. Chapter VI deals with miscellaneous provisions, exemptions included. Thus, the structure provides a systematic control to strike a balance between individual prerogatives and security requirements, core of which has no doubt been reinforced through many making amendments in due course of time.

The 1959 Arms Act has been amended time and again to address emerging security concerns, but the amendments in 2019 turned the arms law into a completely different animal. The changes were in response to rising insurgency or advent of technology and new modus operandi of illegal arms trafficking. This section throws some light on the Arms (Amendment) Act, 2019, the key provisions, and their counterinsurgency implications. The previous amendments such as the 1983, 1985, and 1988 amendments are also studied, as they sought to enhance the discretion of licensing and its penalties. These amendments were to strengthen the Act in dealing with illegal arms in the context of contemporary threats; nevertheless, the difficulties in implementation stand in the way of further reform.<sup>8</sup>

The law title Arms for Guns was created as an all-encompassing legislative framework for firearms regulation with six chapters in all. Chapter I has definitions such as firearm, ammunition, etc. Chapter II has provisions relating mainly to store or possession of arms and licenses under Section 3. Licensing is dealt with in Chapter III, authorizing officials in the grant or refusal of issuance of licenses (Sections 13-14). Neither Chapter IV and V deal with powers of search and seizure and other penalties such as imprisonment for illegal possession not exceeding seven years (Section 25). Chapter VI consists of miscellaneous provisions including exemptions thus giving a systematic control balancing individual prerogatives with security requirements- the core of which, indeed, has been fortified especially through later amendments.

The 2019 amendment to Section 3 of the Arms Act makes it so that where formerly a person used to keep three guns under a license, the persons can now only keep one, aiming to curtail gun circulation. The measure was attempted so that licensed guns would not be converted by insurgents or offenders for their use- the situation that is observed in Manipur. The amendment is sensing further checks by restricting lawful access, thereby ensuring even stricter enforcement of licensing rules. This modification was introduced in reaction to various negative uses of licensed firearms, further reinforcing the preventive measures under the Act. However, for the changes to take effect, firm objectives must be put in place to monitor and prevent an ever-expanding black market.<sup>9</sup>

<sup>7</sup> (1897) ILR 22 Bom 112.

<sup>8</sup> Chinmay Menon, "A guide to India's stringent gun laws", *Deccan Herald*, April 22, 2022.

<sup>9</sup> Mahendra Soni, "Law Relating to Regulation of Arms and Ammunition in India: An Analytical Review of The Arms Act, 1959", 1 *Indian Journal of Law and Society* 174 (2024).

### ***Other Significant Amendments***

Specific offenses were inserted into Section 25, including illicit trafficking (Section 25(1AA)) and unauthorized changes to firearms, thereby filling the gaps in the original Act. There was an increase in penalties with a life sentence introduced for trafficking and for illegal possession for a term not exceeding seven years (Section 25(1A)). These amendments were made in the backdrop of arms networks operating with sophistication to nurture insurgencies, for example, in the Northeast region of India. These stringent laws are laid down to curb offenders in tune with the spirit of stringent punishments set by the apex court in *Sanjay Dutt v. State*<sup>10</sup>. The Act has thus become so far relevant to counterinsurgency operations by meeting present-day threats through penalization of firearm modifications.

### ***Amendment: Eased Restrictions for Sports Shooters.***

A further amendment was made to Section 7 in 2019, thereby making it criminal to entice and procure unlicensed arms and punishable with imprisonment for a term which may extend to 7 years. This provision strikes at the supply chain of illegal arms, a well-placed intervention in insurgency-hit areas like Chhattisgarh, where arms-smuggling operations are to the advantage of the Maoists. With this offence of procuring unlicensed arms being outlawed, the Act prevents insurgents from getting them, thus complementing seizure-based operations. The amendment being relied upon in pre-emptive actions takes a cue from the judgment in *State of Punjab v. Dalbir Singh*<sup>11</sup>, where the court highlighted the importance of strict licensing so as to prevent its abuse. Further, the success of the Act will rest upon border surveillance and intelligence-led enforcement.

There is, however, an important exception introduced in The Arms (Amendment) Act of 2019 granting sports shooters some relaxed norms under certain conditions. The amendment has thus decreased the permissible ceiling with civilians from three arms to one, but it has also granted professional shooters related to duly recognized sporting bodies special rights. Henceforth, they may own, for each firearm needed in competitive sport duly registered and licensed, up to twelve firearms. This amendment is expected to facilitate skill building or competition for the bona fide sportspersons both at the national and international levels.<sup>12</sup>

As the introductory clause would indicate, the Arms (Amendment) Act goes into an important exception: granting peculiarly peculiar rights to sports shooters under special circumstances, against the general restrictions on firearm ownership by civilians. Here one would find a late amendment to permissible guns for one civilian use wherein previously it was three and now one. Concomitant with this adjustment wherein civilian firearm possession limits went low, higher limits of possession simultaneously got given to professional sportsmen who are members of a recognized sports body either at the state level or at the central level. These persons are allowed to retain a maximum of twelve firearms only if they are required for the competitive sporting activity and are duly registered under valid licenses. Such an exemption should assist bona fide sportsmen and, in any event, should not hamper their training and participation in events conducted at the national level as well as international-level conferences.

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### **Key Provisions of the Arms Act, 1959**

The person will have to be a member of some recognized sporting body such as the National Rifle Association of India or an equivalent state-level organization. Ownership of arms must be for their sporting need, so storage and use are required to be in accordance with security measures prescribed. These were considered a perfect balance between public safety and the rights of persons who shot as a sport. It further affirms the spirit of promoting excellence in shooting sports that have hitherto brought glory on the international stage. The exception is sought to imply that restrictions on ownership of firearms should never be an impediment to legitimate sports activity.

### ***Licensing and Regulation of Firearms***

The person must just be a member of a recognized sporting body such as the National Rifle Association of India or equivalent state-level bodies to qualify. Ownership of arms must be for their sporting requirement, so storage and use need to be as per the security measures prescribed. These measures provide a balance between public safety and the rights of those who shoot for sport. The amendment further reiterates the commitment towards nurturing excellence in shooting sports, which have brought international glory in the past. The intent of the exception is to express that firearm ownership restrictions must not stand in the way of legitimate sport activities.

### ***Section 3: Prohibition of Acquisition or Possession without Licence***

The issuing of licenses forms the very essence of the arms law, compelling the authorities to restrict access to firearms and ammunition to decrease the misuse of arms in insurgency-prone areas. Sections 3, 13, and 14 provide for a procedure for grant, possession, and refusal of licenses that tries to meet requirements of an individual against that of the State. The said sub-section goes into these provisions and emphasizes their role in ensuring that no arms fall into unauthorized hands. The impartment of such a strict regime based on the power given to the authorities to refuse licenses as a control process is necessary because the large-scale illegal trafficking of arms in Jammu & Kashmir has sadly contributed to the rise of militancy, a fact that has been recognized and reiterated in a number of judicial pronouncements.<sup>13</sup>

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<sup>10</sup> 1994 SCC (5) 410.

<sup>11</sup> (2012) 3 SCC 346.

<sup>12</sup> Brig Narender Kumar, "Decoding Threat to India from Terrorism and Insurgency", available at: <https://www.vifindia.org/article/2018/december/20/decoding-threat-to-india-from-terrorism-and-insurgency> (last visited on February 25, 2025).

<sup>13</sup> Subir Bhaumik, *Insurgencies in India's Northeast: Conflict, Co-option & Change* 163 (East-West Center, Honolulu, 1st edn., 2007).

### ***Section 13: Grant of Licences for Acquisition and Possession***

A key control mechanism the Act furnished is this: Section 3 of the Arms Act 1959 prohibits persons from acquiring or possessing, carrying or even having in their possession firearms or ammunition if they do not possess a valid licence. This prohibits unauthorized persons from gaining arms, especially in insurgency-hit areas where smuggled arms are handed over to such groups as the Maoists. The 2019 amendment further tightened this control by permitting only one firearm per person on a license so as to limit circulation. The case of *Jaswinder Singh v. State Govt. of NCT of Delhi*<sup>14</sup> saw the Supreme Court uphold a "rigid enforcement of Section 3," arguing that this was in sync with public interests for safety against illegal possession. Those who possess licenses access firearms less often than those who do not, thereby cutting down on insurgent access to weapons.

### ***Section 14: Refusal of Licences***

According to Section 13, the licensure process is prescribed, with regard to acquisition and possession for purposes such as self-defense, sport, or crop protection, while maintaining the minimum age requirement of 21 years. When administered by the District Magistrates, ample scrutiny is placed on individuals so that people possessing licenses could not pose a risk to the State. Such scrutiny is necessary, especially in states like Manipur where ethnic conflicts increase the chances of misuse. The provision, while providing ample room to accommodate legitimate cases, prioritizes security, most prominent in the relaxation given to the issuance of licenses to sports shooters in 2016. The criteria under Section 13 help reduce the chances of arms flowing to insurgents and therefore work towards counterinsurgency indirectly through controlled access.<sup>15</sup>

### ***Prohibitions and Penalties***

Under Section 14, licensing authorities may refuse granting licenses to persons with criminal antecedents or where the authorities feel that by granting a license to an applicant, the life or safety of the public will be endangered, or if the authorities suspect that the applicant is an insurgent. With this provision, in disturbed areas such as Chhattisgarh, no license is granted to those with Maoist connections. The power to assess dangers ensures that firearms do not fall into dangerous hands. In *State of Punjab v. Dalbir Singh*<sup>16</sup>, the Supreme Court upheld this power and further accentuated that such power was necessary to ensure public order. This forward approach from the provision strengthens the Act's ability to respond to threats and ensure that licenses are issued in consonance with the security goals of the nation.

### ***Section 25: Punishment for Possessing Prohibited Arms***

The Arms Act, 1959, imposing stringent prohibitions and penalties against illegal arms activities, is, therefore, one of the most important acts to disrupt the insurgency network. Sections 25, 27, and 29 of the Arms Act, 1959, prescribe severe punishments, including, among others, possessing prohibited arms, unauthorized use, and clandestine violations. It is this sub-section wherein the analysis of the said provisions occurs and how these provisions work towards increased deterrence, supported in areas where law is enforced in insurgency-prone regions. These penalties were implemented as deterrents designed to disrupt supply chains and threaten punishments against offenders, as seen in many famous cases of conviction. The stringent nature of these provisions primarily ensures that weapons do not flow into the hands of insurgents, thereby keeping India's security structure in a stronger position.

### ***Section 27: Punishment for Using Arms in Certain Cases***

The main Act governing arms control in India is that of 1959, wherein specifically the Act extends the application of arms control laws toward the illegal use of arms by insurgent groups. The Act lays down a comprehensive system dealing with licensing, prohibitions, and special provisions regarding disturbed areas so as to effectively curb this menace and impart safety to the people of the country. In short, the section examines the key provisions of the Act concerning licensing under Sections 3, 13, & 14; penalties under Sections 25, 27, and 29; and special provisions relating to disturbed areas under Sections 4 and 4A. It then considers these provisions with the ability to curb illegal arms trafficking, challenges posed in this context in the present, and how they assist counterinsurgency strategies in India.

### ***Section 29: Secret Contraventions***

In its original form, Section 25 rendered an individual subject to a possible penalty of imprisonment for a term extending to seven years for possession of arms or ammunition prohibited to him without a license. This served as a major deterrent to the illegal trafficking of arms. The 2019 amendment under Section 25(1AA) proposed life imprisonment as a penalty for illicit trafficking to chase those networks supplying arms to insurgents, especially in Kashmir. The Supreme Court, in *Sanjay Dutt v. State*<sup>17</sup>, upheld the conviction on Section 25, thus giving due importance to the section concerning illicit possession. The provision, with its severe punishments, works towards hampering the supply of sophisticated weapons to militant groups, thereby allowing authorities to seize illegal stockpiles and weaken insurgent capabilities.

<sup>14</sup> (2013) 7 SCC 256.

<sup>15</sup> Professor Dabiru Sridhar Patnaik, "Civilians as Human Shields: High Time India Declares it Illegal", *The Quint*, April 18, 2017.

<sup>16</sup> (2012) 3 SCC 346.

<sup>17</sup> 1994 SCC (5) 410.

### ***Special Provisions for Disturbed Areas***

Section 27 presents a sanction for unlawful arms use and includes several lesser punishments of up to seven years with life imprisonment and even with the death penalty in respect of really violent acts, for example, those with which insurgents are charged, such as ambushes on the Maoist ghats. Hence, the severer punishment is enacted for purposes of deterring reckless or criminal acts in the already unstable areas. In instances such as Navjot Sandhu, the court considered Section 27 with respect to the use of arms for terrorism, thus establishing the legal nexus with insurgency. By discouraging wrongful use of arms through prosecution, Section 27 keeps public safety in view as against counterinsurgency actions.

### ***Section 4: Security for Licensed Arms in Disturbed Areas***

This section invites imprisonment of seven years and above for secret violations like any concealment of arms work to escape arrest. It is an important provision to counter clandestine arms operations by insurgent formations, as hiding of weapons is done extensively in far-flung areas of the Northeast. Dealing with covert offenses, Section 29 is useful for the disruption of clandestine arms operations and activities, as was in the case of confiscations from ULFA operatives. Since secrecy applies to the impugned offenses of the modern insurgent, it endowed the Act with the ability to sieve through and effectively operate against underground activities. Enforcement of this provision greatly boosts intelligence-based operations, which are equally necessary for ensuring security in conflict areas.

### ***Section 4A: Additional Powers in Disturbed Areas***

At the very heart of the Act lies a central theme: the regulation of the use of arms and ammunition within limited purposes. Theoretically, it gives to all citizens of India the right to carry arms with due license unless such carrying is prohibited by law in furtherance of a greater public interest. Having distinguished between “disturbed areas” and the currently evolving situation, the Acts, particularly Sections 4 and 4A, confer upon the authorities greater powers to regulate licensed arms and apply further controls in the disturbed areas. This subsection examines the role with respect to the prevention aspects of the usage of firearms for militant activity in disturbed areas like Jammu & Kashmir and Chhattisgarh. In doing so, they provide for stronger enforcement and speedy action under the counterinsurgency ambit of the Act, thus affording the provisions some flexibility to address specific regional challenges in the preservation of public order in some of the most sensitive security settings in India.<sup>18</sup>

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## **Insurgency in India: an Overview**

The provisions in Section 4A, whilst not expressly codified, stand for the implied or proposed powers within the disturbed areas under the framework of this Act—that is, it augments the powers of the authority, for example, by suspending licenses during emergencies. Under this power, the regions like Kashmir have witnessed temporary restrictions on arms circulation to thwart their use during militancy escalations. These powers are essentially the powers under the Disturbed Areas Act, meant to be invoked for a speedy remedy to emerging security threats, such as in the operation of arms recovery in Sopore (2023). The powers grant adequate legal elasticity to suit the Act to meet the current insurgency challenges, and thus play the important role of stabilizing the region.

### ***Definition and Forms of Insurgency***

Insurgencies in India form a wide armed force-like challenge to the authority of the state, motivated by ideological, ethnic, or geopolitical factors. From separatist struggles to Maoist rebellions, these issues largely concern illegal arms, bringing the Arms Act, 1959 into sharp focus. This part deals with the conceptualization and variations in insurgency and the regional dimensions of such movements while stressing the role of firearms in sustaining the violent threats arising from them. An exposition of separatist movements, Maoist extremism, and terrorism shall throw light on the manner in which procurement and use of arms fuel violence. In so doing, it shall be revealed that the Act is of immense significance in the check of insurgency, which addresses both the traditional and new security threats.<sup>19</sup>

### ***Separatist Movements***

Since arms are available in the state, security always remains a problem. Section 4 allows for the enforcement of security against licensed arms in disturbed areas, such as cases requiring owners of licensed arms to deposit the same during times of disturbance. This becomes very important in disturbed states such as Manipur, where ethnic tensions lead to the misuse of arms. By doing this, Section 4 tries to prevent licensed arms getting into the hands of insurgents and hence provide for local security. The section has proved to be effective in counter-insurgency measures such as during the Naga peace talks. Being so flexible, Section 4 enables the formulation of effective security measures to forestall the use of licensed arms in aggravating local threats so as to promote the larger objective of public safety laid down in the Act.

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<sup>18</sup> Nikhil, "Arms and Ammunition laws in India", available at: <https://getlegalindia.com/arms-act/> (last visited on March 17, 2025).

<sup>19</sup> Heidi Kaila, Saurabh Singhal, et.al., "Development programs, security, and violence reduction: Evidence from an insurgency in India", 130 *World Development* 104911 (2020).

### ***Maoist Insurgency***

The insurgency in India is an organized, armed resistance against the State. Various reasons ranging from seeking autonomies to pushing for ideological revolutions may form the basis of the insurgency movement within India. Organized insurgencies differ from momentary derangement in that they involve prolonged campaigns conducted to instill premeditated terror in people, increasingly relying on illegal arms to confront governance. The sub-section defines insurgency and examines its main forms: separatist movements for the independence of various regions; Maoist insurgency for overthrowing the establishment, and terrorist activity for disrupting law and order. All the forms use weapons to abet their respective aims, calling for stringent categorization vis-a-vis a lawful control such as under the Arms Act, 1959. Such categorization of threats will, therefore, further clarify in this study the complexity of the insurgency vis-a-vis the required counterinsurgency methods.<sup>20</sup>

### ***Terrorist Activities***

The Maoist insurgency, an offshoot of Left-Wing Extremism, wishes to overthrow the Indian state by a method of protracted people's war carried mostly in central Indian tribal belts. These groups, operating as the Communist Party of India (Maoist), exploit socio-economic inequalities and use various forms of armed violence to challenge governance. Their arms inventory might include arms taken from the security personnel or smugglers, which they would then use to carry out offensive actions such as the 2021 Sukma ambush in which security personnel were killed. The Arms Act, 1959, tries to curtail such illegal arms for checking the Maoist activities. The object of the Act is to choke the communication links of the proscribed organizations by enforcing restrictive control, although the really important issue of redressal of grievances must be addressed for restoration of peace.

### ***Regions Affected by Insurgency***

Different types of terrorist activities in India, from attacks across borders to domestic terrorism, aim at destabilizing society through chosen victim violence, many involving the use of sophisticated firearms. A cross-border organization like Lashkar-e-Taiba-smuggling arms may carry out attacks such as the 2008 Mumbai attacks, while domestic cells use local smuggling networks. The Supreme Court in *State v. Navjot Sandhu*<sup>21</sup> held that the possession of illegal arms is linked to the offense of terrorism, affirming that the Arms Act is also applicable. These crimes, which are aimed at carrying out acts of high-grade violence, call for an even more stringent regulation of firearms. By way of its provisions like Section 25, which allow authorities to cut off the supply of arms to terror groups, the Act has enhanced the scope of national security.

### ***Northeast India: Assam, Nagaland, Manipur, Etc.***

Autonomist or secessionist movements in India rebel through armed struggle in Jammu & Kashmir and the Northeast. Groups such as Hizbul Mujahideen in Kashmir and the National Socialist Council of Nagaland (NSCN) either demand self-determination or foster ethnic and cultural grievances. Thus, the movements survive on illegal arms trade, with cases such as the 2019 Pulwama attack being tried under arms and terror laws. By its very presence, the continued relevance of the Arms Act acts against separatists acquiring arms. The Act prohibits sanctioning the use of smuggled weapons, thus tightening control over them; the scenery of cross-border support makes enforcement difficult - yet presents a daunting task.

### ***Jammu & Kashmir***

As it stands on land boundaries surrounded by nations and a wide range of sociopolitical factors, India faces numerous insurgencies. Illegal arms trade and violence go hand in hand in these areas of Northeast India, Jammu and Kashmir, and LWE-Gangetic central India. It intends to trace these areas and study the activities of groups looking for ULFA, Hizbul Mujahideen, and Maoists. It looks into the regional factors and brings out the provisions of the Arms Act, 1959, in the control of arms and giving relief to these strife-ridden areas. Arms control within these areas will be best to strike a blow to the insurgency, but because of regional conflicts, enforcement should also be location-specific to bring about stability.<sup>22</sup>

### ***Left-wing Extremism Areas: Chhattisgarh, Jharkhand, Odisha, Etc.***

Survival of insurgencies in Northeast India, comprising Assam, Nagaland, and Manipur, are based on ethnic diversities and historical ill-treatment. While such groups as ULFA and NSCN took to arms forcing their respective autonomy, these groups carried out buying and procurement of illegal arms within the internal territory. ULFA arms caches discovered in 2022 operations demonstrate the enforcement of the Arms Act. This porous border with Myanmar as it is, permits easy smuggling contrary to the regulations. The provisions in the Arms Act regarding licensing and seizure are intended to prevent such flow as would in turn support a peace process like the Naga accords. Hence, complex ethnic issues require socio-political intervention in parallel with arms control.

<sup>20</sup> Sajal Nag, "A Gigantic Panopticon: Counter-Insurgency and Modes of Disciplining and Punishment in Northeast India", available at: <http://www.mcrg.ac.in/PP46.pdf> (last visited on February 26, 2025).

<sup>21</sup> (2005) 11 SCC 600.

<sup>22</sup> M. S. Siyech, "Arms Smuggling in India: Exploring Links between Crime and Terrorism", 45 *Studies in Conflict & Terrorism* 445 (2019).

### ***Role of Arms in Insurgent Activities***

Jammu and Kashmir has remained a hotspot for insurgencies, with militant assistance across the border from Pakistan. Groups such as Hizbul Mujahideen and Jaish-e-Mohammed used smuggled arms to perpetrate attacks in events like Pulwama in 2019. The Arms Act, 1959, also permits seizure of illegal arms, as in the 2023 Sopore operations, thus disrupting crocodile chains of militants. Stricter scrutiny of licensing under Section 14 prevents one from misusing an arm; worse deterrent punishments under Section 25 stop trafficking. On the other hand, the volatile geopolitics in the region complicates enforcement and calls for a concerted stand with the likes of laws like the Unlawful Activities (Prevention) Act, both to deal with the arms and the ideology of militancy.

### ***Procurement and Smuggling of Arms***

Illegal arms sustain insurgent activities in India that foster violence, intimidation, and establishing control over territory. Thus, from smuggling rifles to explosive devices, these arms put up challenges for the State, making the Arms Act, 1959, the foremost available countermeasure. This sub-section delves into how arms are acquired and used by insurgents, looking into smuggling networks and tactical uses thereof. Disrupting these supply chains therefore seeks, under the Act, to weaken the ability of insurgents. The central importance of arms to these activities reinforces the need for strong regulation, especially in those areas where illegal arms keep these conflicts active for so long that national integration is threatened.<sup>23</sup>

### ***Use of Arms in Attacks and Intimidation***

Armed criminals and insurgents times have maximum use of weaponry for kill, extortion, and intimidation-the more they exploit their power. Being targeted acts in Kashmir; a host of more and more initiatives is also conducted with those rifles. The Maoists, on the other hand, resort to explosives for ambushes such as that of 2021 in Sukma.

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## **The Arms Act in Countering Insurgency**

Armed groups attack, extort, intimidate and thus, increase their sphere of influence. The militant groups in Kashmir use rifles for assassinations, whereas the Maoists employed IEDs to carry out ambush killings in the Sukma attack of 2021.

### ***Case Studies of Successful Implementation***

Weapons are utilized for attacks, extortions, intimidation, and thereby for power extension. Armed militants in Kashmir target killings with rifles, while the Maoists use IEDs for ambushes, such as the Sukma attack of 2021.

### ***Arms Seizures in Jammu & Kashmir***

The prime objective of the Arms Act, 1959, has been to combat insurgency in India, the latter armed with illicit firearms. Besides providing for seizure of arms and disarmament, licensing under this Act obstructs insurgent in troubled areas. This section reviews the Act from a practical point of view, with the help of case studies, exposes difficulties in its enforcement, and focuses on recent technical and community adaptations. In broad terms, interdicting arms caches in Kashmir and applying technologies act as a metaphor for a multi-pronged assault on complex and ever-evolving security threats. Paramount to insurgency studies is that the success and limitations of the Act call for adopting new methods to counter changing modus operandi of the armed groups.

### ***Disarmament Efforts in Northeast India***

By criminalizing the possession of arms in the State of Jammu and Kashmir under the Arms Act, 1959, large-scale seizures have been effected, thereby impairing militant skills. In 2023 in Anantnag, AK-47s and explosives were recovered and persons prosecuted. These raids target arms consignments that are smuggled from Pakistan into India for use by Lashkar-e-Taiba and other such groups. Section 25 allows making preemptive raids on the basis of intelligence information to thwart attacks. By seizing arms before they reach the militants, the security environment in the region is thus enhanced; this concept was established in the classic ruling in *State v. Navjot Sandhu*<sup>24</sup>, which offered the principle of controlling the arms as an arm of counter-terrorism. Operations such as the above prove the utility of the Arms Act, which is essential for maintaining security in insurgency-affected areas.

### ***Challenges in Enforcement***

The Arms Act, 1959, serves one of the most important legal tools for effectively targeted operations meant at breaking down insurgent networks and disarmament. Sections 25 and 4 of the Act provide for illegal arms to be seized and surrenders of arms to be organized in areas affected by the conflict. This sub-section will discuss two significant successes: the seizure of arms in Jammu & Kashmir with a view to disrupting the militants' logistics, and

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<sup>23</sup> Rachel Kleinfeld, Rushda Majeed, "Fighting Insurgency With Politics: The Case of Bihar", *available at*:

<https://carnegieendowment.org/research/2016/06/fighting-insurgency-with-politics-the-case-of-bihar?lang=en> (last visited on February 22, 2025).

<sup>24</sup> (2005) 11 SCC 600.

disarmament in Northeast India, wherein disarmament is a step toward peace through the process of rehabilitating insurgents. These situations put forth practical applications of the Arms Act and limit the ability of insurgents to procure firearms as an active way in the Indian counter-insurgency space alongside cooperative law enforcement.

### ***Porous Borders Facilitating Arms Smuggling***

Although the Arms Act, 1959, is an intricately woven piece of legislation, it was, in the beginning, extremely difficult to enforce, thereby stopping it from imparting any significance to counterinsurgency measures. This vector of an obstacle would only go on to dilute the efficacy of the Act, with smuggling owing to more or less porous borders, straight-line forms of corruption from factions within respected circles, or even just judicial delays. The sub-section treats with three major challenges: smuggling across the different borders of India, arms license misuse due to corruption, and delay in judicial processes that take away deterrence. Consequently, the solution could be intensified surveillance, administrative reforms, and expedited judicial order. This study by highlighting these impediments argues that a wider policy has to be formulated to ensure that the Act works effectively in insurgency-hit states.<sup>25</sup>

### ***Corruption and Misuse of Arms Licences***

One could say that the Arms Act was never fully implemented with a view to counterinsurgency against a porous border that allowed trafficking of arms into India. Besides the Prime facie permeability of the border, there have been such systemic impediments as corruption and judicial delay that tend to effectively dilute the Act. Legally, the arguments fall under the purview of the border smuggling, misuse of arms licenses through corruption, and delay in the judicial processes that lessen its deterrence. The remedy might lie in better surveillance, administrative reforms, and timely judicial orders. By identifying the impediments, this study suggests why a more elaborate mechanism should be put in place to ensure the working of the Act in states that have an insurgency problem.

### ***Judicial Delays in Arms-Related Cases***

With porous borders open to Myanmar and Pakistan, it opened a conduit for major arms inflows and posed great challenges in enforcing the Arms Act, 1959. The India-Myanmar border is a dreaded arms highway for the Northeast insurgents like NSCN, while the Pakistan side provides arms to Kashmiri militants, as seen in the 2023 Kupwara seizures. Besides penalties provided under Section 25, smugglers exploit the alternate weak canvassing. It will involve the fortification of border security in the success of the Act in keeping out arms, including the option of putting drone surveillance for catching illegal arms. Without plugging these gaps, smuggled firearms will continue to arm insurgencies with international cooperation and technological support for countering the Act in disruption of illicit supply chains.

### ***Recent Trends and Adaptations***

Delay in judicial processes weakens the deterrence of arms cases under the Arms Act, 1959, thus, allowing offenders the opportunity to evade prosecution within a reasonable time. Cases under Section 25 remain pending for long periods with a backlog north of 5,00,000 in 2023, according to the National Judicial Data Grid. The slow prosecution thus forms the crux of weakening the punitive mechanism provided in the Arms Act about which insurgents seem to have a clear advantage. While in *Sanjay Dutt v. State*<sup>26</sup>, timely conviction had a deterrent effect, it, in fact, is an exception rather than the rule. The timely disposal of cases through the implementation of fast-track courts and the use of digital case management systems is the need of the hour, so that the imposition of penalties under the Act can go a long way in preventing illegal arms activities and counterinsurgency.

### ***Use of Technology: Aadhaar-Linked Licensing, Digital Tracking***

Corruption in licensing grants breaches to the Arms Act, 1959, allowing the undeserving to acquire firearms and some of these weapons reaching insurgents. The scandal in Madhya Pradesh in 2020 revealed licenses being given to criminals in violation of the criteria laid down under Section 14 of the Act. Such lapses created by bribery assist in the diversion of arms into the hands of groups like the Maoists. Administrative malfeasance is used to dilute the Act's strict process of vetting for the weakening of anti-insurgency efforts. Reforms like digital licensing and oversight could starve them of avenues for such misuse. So as per the court in *State of Punjab v. Dalbir Singh*<sup>27</sup>, licensing must be made stringent to ensure that illegalities of this kind are never committed-again putting into question systemic integrity.<sup>28</sup>

### ***Community Policing and Intelligence Gathering***

The insurgency problem is a multidimensional issue because insurgencies function in a dynamic environment with changing parameters. The glaring factor of technology impacts insurgency processes, including smuggling of arms, which involves the importation and free flow of arms into insurgent

<sup>25</sup> Tanveer Ahmad Khan, Arshid Iqbal Dar, "Kashmir Insurgency: An Enduring Internal Security Threat to Emerging India", 78 *The Indian Journal of Political Science* 839 (2017).

<sup>26</sup> 1994 SCC (5) 410.

<sup>27</sup> (2012) 3 SCC 346.

<sup>28</sup> Tanveer Ahmad Khan, Arshid Iqbal Dar, "Kashmir Insurgency: An Enduring Internal Security Threat to Emerging India", 78 *The Indian Journal of Political Science* 839 (2017).

zones. The arms trade becomes convoluted because of technology; hence the Act combines technology with the local to make the act strong in counterinsurgency activities. Various methods attempted can be grouped into two broad categories: those employing technology and those that employ community policing.

The first involves technology aids like Aadhaar-linked licensing or digital tracking to prevent fraud, and the second involves community policing to gather intelligence. These represent the Act's response to contemporary threats of arms smuggling. It uses technology and local cooperation to reinforce the Act against insurgency threats, thus keeping it relevant amidst the complex security set-up of India.

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## Conclusion

The Unlawful Activities (Prevention) Act, 1967, is the very foundation of anti-terrorism law in India. Other laws, such as the Arms Act, deal with insurgency or terrorist activities. Section 15 defines terrorist acts, including trafficking in illegal arms, thereby attracting prosecution against groups such as Lashkar-e-Taiba. In 2019, in the case of *Zahoor Ahmad Shah Watali v. NIA*<sup>29</sup>, the Supreme Court found bail provisions under UAPA to be stringent and upheld its application along with the Arms Act in cases of trafficking in arms under Section 25 of the Arms Act. The UAPA, being a more stringent law containing a provision against aiding insurgency, will strengthen the Arms Act so that perpetrators can be prosecuted for insurgency through the use of arms particularly in Kashmir.

While interpreting the word "ammunition" in Section 2(b) of the Arms Act, 1959, in connection with prosecution, the Supreme Court, in *Jaswinder Singh v. State Govt. of NCT of Delhi*<sup>30</sup>, held that possession of ammunition in any small quantity would attract the provisions of Section 25 of the Arms Act against such persons. Much definition continues to provide enforcement agencies with the basis for conducting seizures against insurgents whose storage facilities are really being interfered with in Northeast India. The judgment presumably will put to rest any further doubts on the issue of definition and thus ensure that the provisions of the Arms Act are used with full rigor to aid counter insurgency through dismantling of each and every facet of illegal arms network.<sup>31</sup>

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## Suggestions

- To enhance the effectiveness of India's firearms regulation in countering insurgency, as outlined in the discussion of the Arms Act as a legal shield, the following measures are recommended:
- Expand digital licensing across all states and link arms databases with national crime records. This would reduce fraudulent issuances and improve real-time monitoring of firearm ownership.
- Deploy advanced surveillance tools, including drones and satellite imaging, along porous borders. These technologies will strengthen interdiction efforts against arms smuggling, especially in the Northeast and Kashmir.
- Institutionalize fast-track courts specifically for arms-related offenses. This will expedite trials under Sections 25 and 27, reinforcing legal deterrence against illegal possession and use.
- Mandate periodic audits of licensed firearms and enforce digital tracking from manufacture to end-user. Such accountability would minimize the risk of diversion to insurgent groups.
- Establish cross-border intelligence-sharing protocols with Myanmar, Nepal, and Bangladesh. This will enhance interception of arms destined for insurgent groups through regional cooperation.
- Introduce AI-based profiling tools to flag high-risk applicants during the arms license vetting process. Integrating this with Aadhaar verification would help eliminate potential insurgent sympathizers from obtaining licenses.
- Strengthen the Arms Act's synergy with counterterrorism laws through unified investigative task forces. This integrated approach will ensure seamless enforcement of laws like UAPA and PSA alongside the Arms Act.
- Expand community policing models like Operation SAMADHAN to all insurgency-affected districts. These programs can boost grassroots intelligence and reduce insurgents' local influence.
- Increase penalties for administrative misconduct in arms licensing. This would deter corrupt practices and reinforce trust in the law's fair implementation.
- Fund research into non-lethal arms alternatives for civilian self-defense and sport. Promoting safer substitutes could reduce the civilian arms pool without compromising rights, thereby indirectly weakening the illegal market.

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<sup>29</sup> (2019) 5 SCC 1.

<sup>30</sup> (2013) 7 SCC 256.

<sup>31</sup> Dinesh Kotwal, "The Contours of Assam Insurgency", 24 *Strategic Analysis* 12 (2001).