



Extension of BSF Jurisdiction

For Prelims: [Border Security Force \(BSF\)](#), [Seven Central Armed Police Forces](#), [Code of Criminal Procedure \(CrPC\) of 1973](#), the [Passports Act 1967](#), the [Passport \(Entry into India\) Act 1920](#), and the [Narcotic Drugs and Psychotropic Substances Act \(NDPS\), 1985](#)

For Mains: Extension of BSF Jurisdiction, Role of external state and non-state actors in creating challenges to internal security.

Source: [HT](#)

Why in News?

The Supreme Court (SC) is set to hear the dispute over the expansion of the [Border Security Force \(BSF\) jurisdiction](#) in Punjab.

- In 2021, the Ministry of Home Affairs issued a notification expanding the jurisdiction of the BSF in Punjab, West Bengal and Assam. This was challenged by the Punjab government.

What is BSF?

- The BSF was **raised in 1965, after the [India-Pakistan war](#)**.
- It is one of the **[seven Central Armed Police Forces](#)** of the Union of India under the administrative control of the Ministry of Home Affairs (MHA).
 - Other **Central Armed Police Forces are:** [Assam Rifles \(AR\)](#), [Indo-Tibetan Border Police \(ITBP\)](#), [Central Industrial Security Force \(CISF\)](#), [Central Reserve Police Force \(CRPF\)](#), [National Security Guards \(NSG\)](#) and [Sashastra Seema Bal \(SSB\)](#).
- The 2.65-lakh force is deployed along the Pakistan and Bangladesh borders.
 - It is deployed on the Indo-Pakistan International Border, Indo-Bangladesh International Border, and [Line of Control \(LoC\)](#) along with the Indian Army and in [Anti-Naxal Operations](#).
- BSF has been defending [Sir Creek in the Arabian Sea](#) and [the Sundarbans delta in the Bay of Bengal](#) with its state of the art fleet of Water Crafts.
- It contributes dedicated services to the [UN peacekeeping Mission](#) by sending a large contingent of its trained manpower every year.

Why was the BSF Jurisdiction Extended?

- **Jurisdiction of BSF:**
 - The BSF is **meant to secure India's borders with its neighbouring nations** and is empowered to arrest, search and seize under a number of laws, such as the [Code of Criminal Procedure \(CrPC\) of 1973](#), the Passports Act 1967, the [Passport \(Entry into India\) Act 1920](#), and the [Narcotic Drugs and Psychotropic Substances Act \(NDPS\), 1985](#) etc.
 - **Section 139(1) of the BSF Act** allows the central government, through an order,

to designate an area **“within the local limits of such area adjoining the borders of India”** where members of the BSF can **exercise powers to prevent offences under any Acts** that the central government may specify.

▪ **Extension of BSF Jurisdiction:**

- Prior to the notification issued in October 2021, the BSF could exercise its powers within 15 kilometres of the border in Punjab, West Bengal and Assam. The Centre expanded **this to within 50 kilometres of the border.**
 - The notification states that, within this larger 50-kilometre jurisdiction, the BSF can only exercise powers under the **CrPC, the Passport (Entry into India) Act and the Passports Act.**
 - For **other central legislations**, the 15-km limit remains.
- In the **states of Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Jammu & Kashmir and Ladakh, it extends to the entire area of the state.**

▪ **Reasons for Extension of Jurisdiction:**

- **Increased Use of Drones and UAVs:** The expansion of the Jurisdiction of BSF was in **response to the increased use of drones** and **Unmanned Aerial Vehicles (UAV)**, which have long-range capabilities and enable spying and smuggling of arms and fake currency.
- **Cattle Smuggling:** Cattle Smuggling is another issue that the BSF aims to combat. The extension of jurisdiction allows the BSF to address the challenges posed by smugglers who may attempt to take advantage of areas beyond the original jurisdiction of the force.
 - Smugglers **often seek refuge** outside BSF jurisdiction.
- **Uniform Jurisdiction:** Extension of BSF Jurisdiction in Punjab, West Bengal and Assam **establishes uniformity in the jurisdiction of the BSF across states in India** by standardising the 50-kilometer limit, which was already applicable in Rajasthan.
 - Additionally, the notification **reduced the jurisdiction in Gujarat from 80 kilometres to 50 kilometres.**

What are the Issues Raised by the States Related to the Extension of BSF Jurisdiction?

▪ **Concerns about State Powers:**

- The expansion of BSF's jurisdiction **would encroach upon the state's exclusive powers to legislate** on matters related to the **police and public order.**
- These powers are **granted to the states under Entries 1 and 2 of the State List as per Article 246** of the Constitution.
 - Although, the Union government also has the **legislative capacity** to issue the direction under **Entries 1 (defence of India), 2 (armed forces) and 2A (deployment of armed forces)** of the Union Lists.
- By extending the BSF's jurisdiction, the central government has overstepped into areas where **states traditionally have authority.**

▪ **Non-Cooperative Federalism:**

- Some states view the extension of BSF's jurisdiction as a challenge to the **principles of Federalism**, which emphasize a distribution of **powers between the central government and the states.**

▪ **Geographical Differences:**

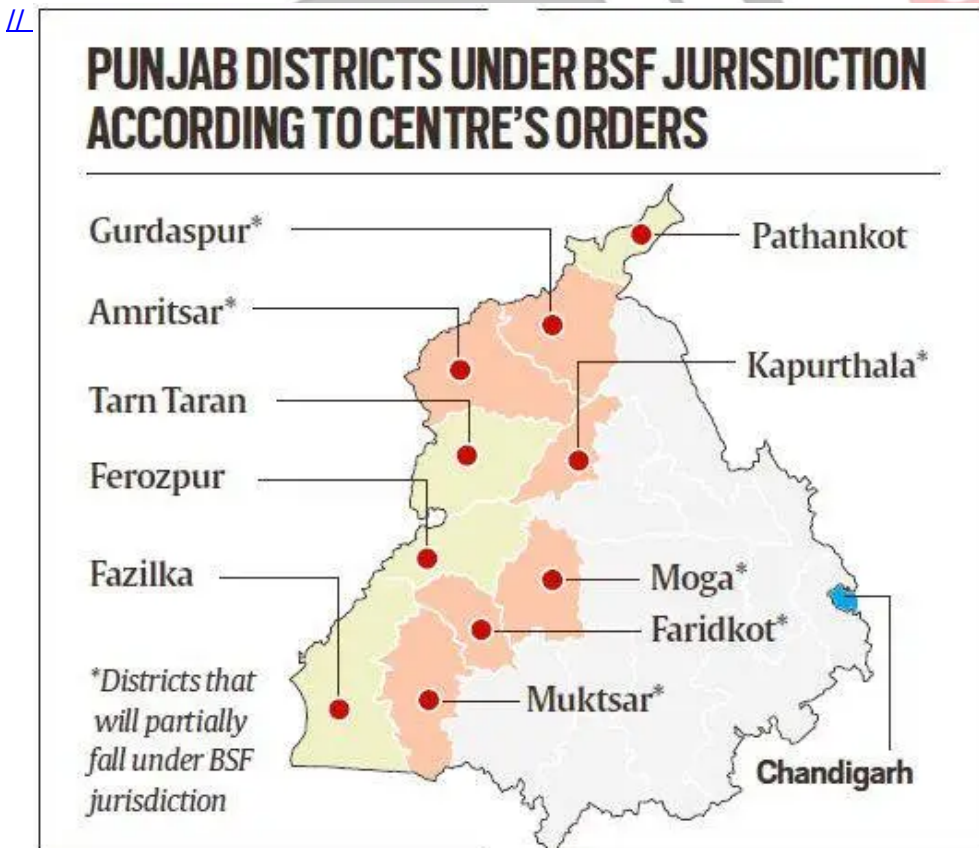
- In Punjab, a significant number of cities and towns would fall within the 50-kilometer jurisdiction, while in Gujarat and Rajasthan, the areas along the international border **are sparsely populated**, primarily consisting of marshlands or deserts.
- This geographical difference is one of the Prime factors influencing the **impact of the jurisdiction extension.**

What Needs to be Done for Borders Management Without Compromising Jurisdiction of States?

▪ **Collaborative Approach:**

- There is a need to foster **collaboration between central and state law enforcement agencies** to jointly manage border security.

- Establishing a framework for **information sharing and coordination** among different security forces.
 - **Create joint task forces** comprising both central and state police personnel for specific border regions.
- **Involvement of State Police:**
 - There is a need to **involve units of state police** in border surveillance to complement the efforts of central forces like the BSF.
 - Adopt a model similar to the arrangements made by the [Coast Guard](#) and [Indian Navy at sea](#), where each force has **exclusive jurisdiction but engages in mutual vigilance**.
- **Technology Integration:**
 - Invest in **advanced surveillance technologies**, including drones, sensors, and communication systems, to enhance border monitoring.
 - Establish a centralised information-sharing platform that integrates data from **different sources for real-time analysis**.
- **Clear Legal Framework:**
 - Develop a **clear legal framework that outlines the roles, responsibilities**, and jurisdiction of both central and state forces in border areas.
 - Establish protocols for addressing cross-border incidents and conducting joint investigations when required.
- **Regular Consultations:**
 - There is a need to **conduct regular consultations and meetings** between central and state authorities to address concerns and challenges related to border management.
 - Establish a platform for continuous dialogue to adapt strategies based on evolving security dynamics.
- **International Cooperation:**
 - Engage in diplomatic initiatives to enhance cooperation with neighbouring countries on border security matters.
 - Explore joint initiatives, information sharing, and coordinated patrols with neighbouring countries to address transnational security challenges.



What is the Constitutional Viewpoint on Deployment of Armed Forces in States?

- Under **Article 355**, the central government has the **authority to deploy its forces to safeguard a state from "external aggression and internal disturbance,"** even in cases where the state has not requested assistance from the Centre and is hesitant to accept central forces.
- In the case of a state's opposition to the deployment of armed forces of the Union, the right course for the Centre is to first issue **directives under Article 355** to the state concerned.
- In the event of the state not complying with the directive of the Central government, the Centre can take further action under [Article 356 \(President's Rule\)](#).

What are the Constitutional Provisions Related to Centre-State Relations in India?

- **Legislative Relations:**
 - **Articles 245 to 255** in Part XI of the Constitution deal with the legislative relations between the Centre and the states.
 - Given the federal nature of the Indian Constitution, it divides the legislative powers between the Centre and the states with respect to both the territory and the subjects of legislation.
 - **Distribution of Legislative Subjects (Article 246):** The Indian Constitution provides for a **division of the subjects between the Centre and the states through three lists - List-I (Union), List-II (State) and List-III (Concurrent)** in the Seventh Schedule.
 - **Parliament Legislation in State Field (Article 249):** In abnormal times, the scheme of distribution is either modified or suspended.
- **Administrative Relations (Article 256-263):**
 - Articles spanning from 256 to 263 in Part XI of the Constitution deal with the administrative relations between the Centre and the states.
- **Financial Relations (Article 256-291):**
 - Articles spanning from 268 to 293 in Part XII of the Constitution deal with Centre - state financial relations.
 - Because India is a federal country, it adheres to the division of powers when it comes to taxation, and it is the responsibility of the Centre to allocate funds to the states.
- **Article-131: Original Jurisdiction:**
 - The [SC \(as a federal court of India\)](#) possesses original jurisdiction **to decide the disputes arising between different units of the Indian Federation** like:
 - Centre and one or more states; or
 - Centre & any state(s) on one side and one or more states on the other; or
 - Two or more states.
 - In the above-mentioned cases, the **SC has exclusive original jurisdiction**, which means that **no other court in the country** can decide such disputes and SC has the power to hear such disputes in the first instance & not by way of appeal.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q. Department of Border Management is a Department of which one of the following Union Ministries? (2008)

(a) Ministry of Defence

- (b) Ministry of Home Affairs
- (c) Ministry of Shipping, Road Transport and Highways
- (d) Ministry of Environment and Forests

Ans: (b)

Mains

Q1: Analyze the multidimensional challenges posed by external state and non-state actors, to the internal security of India. Also, discuss measures required to be taken to combat these threats. **(2021)**

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