

Monday Morning Webinar

On “Implications of Enhancement of Area of Jurisdiction of BSF”

25 October 2021

Event Report

Dr Pushpita Das, Research Fellow and Centre Coordinator Internal Security Centre, MP-IDSA spoke on the topic “Implications of Enhancement of Area of Jurisdiction of BSF” at the Monday Morning Webinar held on 25 October 2021 at 10 am. The webinar was chaired by Dr Smruti S Pattanaik, Research Fellow MP-IDSA.

Director General, MP-IDSA, Ambassador Sujan R. Chinoy; Deputy Director General, Maj. Gen. (Dr) Bipin Bakshi, Retd, and scholars & members of the Institute attended the webinar.

Executive Summary

The Union Government on 11 October 2021 through a notification amended the BSF Act to enhance the jurisdiction of the Border Security Force (BSF) in States sharing border with Pakistan, Bangladesh and Myanmar. The Notification increased the operational area of BSF from 15 kms to 50 kms in States of Punjab, West Bengal and Assam. In the North Eastern States of Manipur, Mizoram, Tripura, Nagaland, and Meghalaya and in Union Territories of Jammu & Kashmir and Ladakh no change has been made as the whole area comes under the jurisdiction of the BSF. However in Gujrat, the operational area is reduced to 50 km from 80 km. The States of Punjab and West Bengal have opposed this and called it an attack on federalism. These states asked why the Union government did not consult state governments before taking such a decision. The BSF however welcomed the decision and hoped the move will help in curbing the trans-border crimes. Although BSF welcomed the move but the need is to train and educate BSF about various acts and their implementation. The central government also should work closely with state governments to better manage the country’s international borders.

Detailed Report

Dr Pushpita Das began her presentation by talking about the MHA Notification. She explained that the Notification increases the operational area of BSF from 15 kms to 50 kms in three states of Punjab, West Bengal and Assam. In Gujrat, the operational area is decreased from 80 Kms to 50 Kms and in states like Manipur, Mizoram, Tripura, Nagaland, and Meghalaya and in Union Territories of Jammu & Kashmir and Ladakh the operational area remains the same.

The decision to amend the BSF Act of 2014 to enhance the operational area and jurisdiction of BSF has come in the backdrop of the changing political situation in Afghanistan. There are apprehensions that anti-India elements in Afghanistan and Pakistan might try sneak into India through international borders or try to disrupt peace in the country. In recent months, terrorist

incidents have increased in Jammu & Kashmir, and the movement of terrorists and drones dropping weapons along LoC and international border was reported as well. There were reports of drones dropping weapons in Punjab also. Similarly, along the Bangladesh border, the incidents of illegal migration, cattle smuggling and smuggling of fake Indian currency notes are issues of national security concern which apparently triggered MHA to enhance the operational area of BSF.

The MHA Notification extends the jurisdiction of the BSF in powers that it already enjoys under Criminal Procedure Code (CrPc), the Passport Act 1967, and the Passport (entry into India) Act 1920. The BSF still does not have authority to investigate and prosecute anyone in the extended operational area. They are authorized to raid and make arrests but they will have to handover the seized consignment and the arrested persons to the local police.

The Notification evoked mixed responses. Some believe that the extension of the jurisdiction will help in defeating the cross-border smuggling and illegal infiltration. Others see the move as an infringement on the rights of the states or in other words “a direct attack on federalism”. The BSF welcomed the decision. They believe it will bring uniformity in areas of operations and help in effectively curbing the trans-border crimes. Based on her interviews with BSF officers, Dr Pushpita highlighted an important issue of relationship of BSF with police and local police of the states. In areas close to border, people generally don't like the presence of BSF. The police fails to perform their duties when it comes to dealing with infiltrators and smugglers. Some officers believe that the police is susceptible to political pressure which makes it necessary for BSF to have additional powers of investigation and prosecution. However, some officers do not agree with this demand for additional powers and seek the authority to hand-over the suspected cases to central investigating agencies like NIA and CBI instead to local police. Without such powers trans-border crimes can't be curbed effectively.

The Assam government has supported the Notification and is sure that it will help in addressing the issue of cross-border smuggling and illegal infiltration. The Punjab and West Bengal governments have criticized the central government for unilaterally taking such an important decision. Both the state governments have termed it as direct attack on federal structure of India.

Dr Pushpita also reminded about the BSF Amendment Bill of 2011, wherein the United Progressive Alliance (UPA) attempted to extend the jurisdiction of BSF to the whole country. The UPA government of the day reasoned that BSF is deployed in counter insurgency and anti-naxal operations in the country and should be allowed to operate in any part of the country without any restriction. She further informed that under Section 139 (3) of the BSF Act, the government has to lay the Notification for discussion in both Houses within thirty days.

Q & A Session

The **Deputy Director General of MP-IDS** Maj Gen (Dr) **Bipin Bakshi** in his remarks said that there are pros as well as cons of the new Notification and the operational benefits outweigh the cons. He further said that extension of jurisdiction is necessary because 15 kms is not enough for better results, but at the same time coordination and synergy is important between BSF and local police. About BSF's demand of directly handing over cases to central investigating agencies, DDG said that there may be capacity issues with this proposal as there could be a barrage of cases to CBI or NIA if BSF starts referring cases directly to them.

Answering a query about impact on cities within 50 Kms, Dr Pushpita made it clear that BSF can operate under Criminal Procedure Code (CrPc), the Passport Act 1967, the Passport (entry into India) Act 1920. It is still not clear how BSF can address the issue of drones in the extended areas of jurisdiction. Answering the question about necessity of consultation with states, she agreed that taking state governments on board before taking such decisions should be a priority.

Key Takeaways

- The decision to extend the jurisdiction of BSF in states sharing border with Pakistan and Bangladesh will certainly help in effectively curbing cross-border smuggling and illegal infiltration.
- However, before taking such significant decisions, the Union government should consult the state government. That is the main question that states like Punjab and West Bengal have been asking since MHA issued the Notification.
- Moreover, coordination and synergy between BSF and local police is necessary for better results.

Report prepared by Dr Manzoor Ahmad, Research Analyst, Internal Security Centre, MP-IDSA