

The Civil Defence (Amendment) Bill, 2009

The Principal Act

What is Civil Defence?

The Civil Defence Act, 1968 defines civil defence as any measure, not amounting to actual combat, that protects persons, property and places in India from hostile attack. It includes measures that deprive such attack of its effect. The measures may be taken before, after or during such attack.

Powers of the Central Government

The central government may make rules regarding a number of items. Some of these are related to:

- Instruction of members of public regarding civil defence and equipment for that purpose
- Prohibiting and regulating traffic
- Control of light and sounds
- Prohibiting or regulating the use of explosives, vessels, wireless telegraph, photographic and other recording equipment
- Control of roads, waterways, water supply etc.
- Preventing and controlling the use of uniforms
- Prohibiting any person to be out of doors between specified hours
- Regulating the conduct of persons in areas, the control of which is considered necessary or expedient
- Prohibiting the printing and publishing of newspaper, book etc containing matters prejudicial to civil defence.

Powers of the State Government

- Constituting Civil Defence Corps for any area within the state, and appointing a person of the rank of District Magistrate or higher as its Controller
- Appointing a Director of Civil Defence, to whom the Controllers have to report
- Making orders under the rules framed by the central government

Other Key Features

- The Act specifies penalties for non-compliance
- Orders made in exercise of any power conferred by this Act may not be questioned in any court
- The provisions of this Act do not apply to the Armed Forces of the Union.

The Amendment Bill

The Civil Defence Amendment Bill, 2009 expands the definition of civil defence to include “any measure taken for the purpose of disaster management before, during, at or after any disaster”.

The Bill defines “disaster” and “disaster management” as defined in the Disaster Management Act, 2005.

Issues for Consideration

This Bill amends the Civil Defence Act, 1968 to enable the provisions of that Act to be applied during disasters. Currently, these provisions may be used only at times of a hostile attack.

There are two key issues that need to be considered.

- Is it proper to equate the measures needed to combat a disaster with those needed to combat hostile attack during war, external aggression or internal disturbances?
- For the purposes of disaster management, should the central government be given the power to frame rules such as those listed under the Civil Defence Act, 1968? Does this comply with the spirit of federalism envisaged in the Constitution?

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