



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published book. Published 8 Articles in various reputed Law Journals. Conducted IMoot competition and participated in nearly 80 National and International seminars webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



*one
court
and
and*

Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

GUNS LAWS IN INDIA: A CRITICAL ANALYSIS ON THE ARMS ACT

AUTHORED BY - RITVIK SHARMA

ABSTRACT

This paper presents a comprehensive examination of the Arms Act in India, delving into its historical evolution, legal framework, recent amendments, judicial interpretations, and socio-economic implications. Beginning with an introduction to the significance of firearms legislation in India, the paper traces the historical development of arms laws, highlighting key milestones and influences. It then scrutinizes the legal framework of the Arms Act, elucidating its structure and provisions. The study proceeds to analyse the Rules and Regulations of 2016, exploring their impact on firearms governance. Furthermore, it investigates recent amendments and revisions to the Arms Act in 2019, assessing their implications for gun control and public safety. Drawing on judicial interpretations and case law, the paper examines the evolving jurisprudence surrounding arms regulation, shedding light on landmark legal decisions and their ramifications. Through a critical analysis of the Arms Act, this paper offers insights into the complexities of firearms governance in India and underscores the need for balanced approaches to address legal, societal, and public safety concerns.

KEYWORDS

- Arms Act
- Gun laws
- India
- Firearms regulation
- Historical evolution
- Legal framework

TABLE OF CONTENTS

1. Introduction
2. Historical Evolution of Arms Legislation in India
3. Legal Framework of the Arms Act

4. Rules and Regulations – 2016
5. Amendments and Revisions – 2019
6. Judicial Interpretations and Case Law
7. Conclusion

CHAPTER 1: INTRODUCTION

Firearms regulation stands at the intersection of public safety, individual rights, and governmental authority, shaping the contours of societal order and personal liberties. In India, where the possession and use of firearms carry profound historical, cultural, and socio-political significance, the Arms Act serves as the cornerstone of firearms governance. This paper embarks on a critical analysis of the Arms Act in India, dissecting its provisions, historical evolution, recent amendments, judicial interpretations, and socio-economic implications.

India's relationship with firearms legislation is deeply rooted in its colonial past, marked by the imposition of British firearms laws aimed at consolidating imperial control. Over the years, the regulatory landscape has undergone significant transformations, reflecting changing societal norms, technological advancements, and governmental priorities. Against this backdrop, understanding the historical evolution of arms legislation in India provides crucial insights into the underlying principles and objectives of contemporary firearms governance.

At its core, the Arms Act delineates the legal framework governing the possession, manufacture, sale, and use of firearms in India. By examining the Act's structure, provisions, and regulatory mechanisms, this paper elucidates the complexities of firearms regulation and its implications for public safety, security, and individual rights. Furthermore, the analysis extends to the Rules and Regulations of 2016, exploring their impact on firearms governance and enforcement practices.

Recent amendments and revisions to the Arms Act, particularly those enacted in 2019, have introduced significant changes to the regulatory landscape, eliciting debates and discussions on issues ranging from gun control to the protection of constitutional rights. Through a nuanced examination of these legislative developments, this paper aims to provide a comprehensive understanding of the evolving dynamics of firearms governance in India.

Moreover, judicial interpretations and case law play a pivotal role in shaping the contours of arms regulation, providing clarity on legal ambiguities and delineating the boundaries of governmental authority. By delving into landmark legal decisions and emerging jurisprudence, this paper illuminates the intricate interplay between statutory provisions, constitutional rights, and judicial scrutiny in the

realm of firearms governance.

In sum, this paper endeavours to provide a comprehensive analysis of the Arms Act in India, navigating through its historical evolution, legal framework, recent amendments, judicial



interpretations, and socio-economic implications. By shedding light on the complexities and nuances of firearms governance, this study aims to contribute to informed discourse and policy deliberations on an issue of paramount importance to Indian society and governance.

CHAPTER 2: HISTORICAL EVOLUTION OF ARMS REGULATION IN INDIA

India needed gun laws and arms control legislation to regulate the distribution, usage, and ownership of weapons and ammunition within the nation. These regulations were put in place to protect the public, stop gun abuse, stop violence, and uphold law and order. The Indian Arms Act of 1878, which the British enacted during the colonial era to forbid Indians from possessing firearms and avert any insurrections, is the historical backdrop to gun legislation in India. This legislation aimed to keep Indian subjects unarmed and prevent armed rebellions like the Sepoy Mutiny of 1857.

- Colonial Era Regulations: During the colonial era in India, the historical evolution of arms legislation saw significant changes under British rule. Before the Indian Rebellion of 1857, there were minimal gun control laws in South Asia. However, in 1878, the British Raj passed the Indian Arms Act, which regulated the manufacture, sale, possession, and carry of firearms in British-ruled India.¹
 - i. The Indian Arms Act of 1878 was the first gun control law in India, introduced by the British to restrict Indians from owning weapons and prevent potential uprisings in the future.
 - ii. The Act regulated the possession and carry of firearms in British-ruled India by introducing mandatory licensing requirements for carrying firearms.
 - iii. It mandated licenses for individuals to possess and carry firearms, but it included exclusions for certain ethnic groups like Europeans, Anglo-Indian people, and the Kodava people.
 - iv. Additionally, the act prohibited the possession of rifles chambered in calibres corresponding to British military ammunition, such as .303, .450, and .577, to prevent outbreaks of anti-colonial violence amidst the rising Indian independence movement.

¹ Bikash Sen Deka, The Arms Act, 1959: A Legal Analysis and Comparative Study with USA, 1, AIJACLA, 146, 146-168, (2021), Retrieved [25-03-2024] from World Wide Web, <https://www.aequivic.in/post/aijacla-the-arms-act-1959-a-legal-analysis-and-comparative-study-with-usa>

- v. The legislation aimed to restrict access to arms among local Indians and ensure that possession of weapons was only permitted when the Crown was satisfied that an individual was a loyal subject.²

Gun control laws were put in place by the British colonial rulers in an effort to quell anti-colonial violence amid the escalating Indian independence movement. To put an end to possible uprisings, India outlawed rifles chambered in calibres matching British military ammunition in 1907. As a result, certain cartridges had to be replaced, and British manufacturers hurried to create alternatives to widely used hunting cartridges.

During this time, the right to bear arms was a divisive one. Mahatma Gandhi supported the abolition of regulations limiting gun ownership and attacked the Indian Arms Act of 1878. Nevertheless, when the Indian constitution was being drafted, his suggestion to add the right to bear arms as a basic right was turned down.

Overall, the colonial-era regulations on arms legislation in India reflected a shift from relatively unrestricted gun possession before British rule to stricter controls aimed at maintaining colonial authority and preventing armed resistance.

- Post – Independence Reforms: The Arms Act of 1878 remained in force for almost 82 years after Indian independence, highlighting its enduring impact on gun control regulations in the country.³ The major criticisms of the Indian Arms Act of 1878 included its biased nature, restrictions primarily targeting Indians, and the cumbersome process for Indians to obtain gun licenses. The Act was perceived as discriminatory as it imposed strict regulations on Indians while allowing exemptions for Europeans and Anglo-Indians to own weapons freely. Additionally, the licensing process for Indians to own guns was arduous and time-consuming, making it challenging for them to acquire firearms legally.⁴

In response to these criticisms, the Indian government took significant steps to address the issues raised against the Indian Arms Act of 1878.

² Tamanna Thakran, Gun Laws in India: Requirement of New Framework, Legal Lore, Article, Retrieved [25-03-2024] from World Wide Web, <https://www.legallore.info/post/gun-laws-in-india-requirement-of-new-framework>

³ Ibid

⁴ Singh et al, The Arms Act, 1959: A Legal Analysis and Comparative Study With USA, 2023 IJCRT | Volume 11, Issue 11 November 2023 | ISSN: 2320-2882, Retrieved [25-03-2024] from World Wide Web, <https://www.ijcrt.org/papers/IJCRT2311472.pdf>

The major reforms in arms legislation in India after independence include:

- i. **Arms Act of 1959:** The Arms Act of 1959 was a crucial reform that repealed the Indian Arms Act of 1878, consolidating and amending laws related to arms and ammunition. This act introduced stringent regulations on gun ownership, possession, manufacture, sale, transport, and licensing procedures to curb illegal weapons and violence.
- ii. **Categorization of Firearms:** The Arms Act of 1959 categorized firearms into Prohibited Bore (PB) and Non-Prohibited Bore (NPB) categories, with strict penalties for contravention of the law. Prohibited Bore includes fully automatic and semi-automatic firearms, while NPB covers other types issued by central and state governments.
- iii. **Licensing Procedures:** The Act detailed the procedures for acquiring licenses, rules around grant, refusal, and fees for licenses. It aimed to ensure that permits and licenses for gun ownership were granted after proper scrutiny, background checks, and compliance with specific criteria.
- iv. **Powers and Penalties:** The legislation outlined the powers that government officials have to enforce the act and the penalties associated with breaking the rules. This aimed to deter illegal possession or use of firearms through strict enforcement measures.
- v. **Amendments:** The Arms Act has undergone several amendments since its enactment in 1959 to address evolving needs and challenges related to arms control in India. These amendments have aimed to enhance the effectiveness of the law in curbing illegal weapons circulation and reducing gun-related crimes.

Overall, the reforms in arms legislation after independence in India focused on strengthening regulations around gun ownership, possession, and use to align with democratic principles, enhance public safety, and prevent misuse of firearms.

CHAPTER 3: LEGAL FRAMEWORK OF THE ARMS ACT, 1959

- **Enactment & Purpose:** The Arms Act of 1959 was enacted by the Parliament of India with the primary objective of consolidating and amending the laws related to arms and ammunition in the country. This Act aimed to regulate and restrict the circulation of arms and ammunition, which were illegal, in order to maintain public safety, prevent misuse of firearms, and curb violence. ⁵The Arms Act of 1959 replaced the Indian Arms

⁵ Mahawar (2019), Arms Act, 1959, Ipleaders, Article, Retrieved [25-03-2024] from World Wide Web, <https://blog.ipleaders.in/possession-of-arms-under-the-arms-act-1959/>

Act of 1878, which was introduced during colonial times to regulate the manufacture, sale, possession, and carrying of firearms in India.

The Arms Act of 1959 is divided into six chapters, each addressing specific aspects related to arms regulation:

- i. Chapter I: Preliminary: Provides a short title and definitions of terms used in the act.
- ii. Chapter II: Acquisition, Possession, Manufacture, Sale, Import, Export, and Transport of Arms and Ammunition: Explains rules and regulations around these activities.
- iii. Chapter III: Provisions relating to licences: Details how to procure licenses, rules around grant, refusal, and fees for licenses.
- iv. Chapter IV: Powers and Procedure: Provides details on the powers that government officials have to enforce this act.
- v. Chapter V: Offences and penalties: Explains punishments associated with breaking rules related to this act.
- vi. Chapter VI: Miscellaneous: Deals with other miscellaneous parts of the act such as exemptions

The Arms Act of 1959 acknowledges the right of law-abiding residents to own and carry firearms for defence, sports, and agricultural protection, among other uses. It restricts hazardous weapons while offering a legal framework for obtaining licences for specific types of weapons or ammunition. The Act, which is applicable throughout India, recognises a person's legal right to keep and bear guns in certain situations, such as when they are defending themselves or their property from grave dangers.

➤ **Definitions & Interpretations:** The Arms Act, 1959 provides several important definitions under Chapter I Section 2 that are essential to understanding the legislation. These definitions are crucial for interpreting the Act and ensuring that its provisions are implemented effectively. Some of the key definitions include:

- i. **Acquisition:** The term "acquisition" includes hiring, borrowing, or accepting as a gift.
- ii. **Ammunition:** "Ammunition" means objects used to shoot firearms. It includes various types of weapons, such as rockets, bombs, grenades, shells, torpedo service and submarine mining articles, and other items containing explosive, fulminating, or fissionable material or noxious liquid, gas, or other such things, whether capable of use with firearms or not.

- iii. Arms: "Arms" means articles of any description designed or adapted as weapons for offence or defence, and includes firearms, sharpened and other deadly weapons, and parts of, and machinery for manufacturing, arms.
- iv. Firearms: "Firearms" means arms that are designed to discharge a projectile(s) through an explosion or any other form of energy. It includes artillery, hand grenades, riot pistols, weapons designed to discharge noxious liquid or gas, accessories for firearms used to diminish the noise or flash caused by such firearms, and manufacturing machinery or parts of firearms.
- v. Licensing Authority: "Licensing Authority" refers to an officer or other person authorized by the Central Government to grant licenses under the Act.

The act further provides definitions for 'Prohibited Ammunitions' and 'Prohibited Arms':

- i. The Arms Act, 1959 defines "prohibited arms" as firearms that are designed or adapted in a specific manner. This includes firearms that do not discharge a missile until pressure is removed from the trigger or the magazine containing the missiles is empty. It also encompasses weapons designed for the discharge of any noxious liquid, gas, or other similar substances, such as artillery, anti-aircraft and anti-tank firearms, and any other arms specified by the Central Government through notification in the Official Gazette.

Some examples of prohibited arms under the Arms Act, 1959 include:

- a) Automatic firearms and semi-automatic firearms except pistols.
 - b) Firearms capable of chambering and firing ammunition of specific calibres such as .303, 7.62mm, .410, .380, .455, .45 rimless, and 9mm.
 - c) Smooth bore guns with a barrel length of less than 20 inches.
 - d) Hand grenades, riot pistols, firearms designed for discharging projectiles by atomic energy, and cannon
- ii. On the other hand, "prohibited ammunition" under the Arms Act refers to any ammunition that contains or is designed or adapted to contain any noxious liquid, gas, or similar substances. This category includes rockets, bombs, grenades, shells, missiles, articles designed for torpedo service and submarine mining, and any other articles specified by the Central Government through notification in the Official Gazette as prohibited ammunition.

⁶Some examples of prohibited ammunition under the Arms Act, 1959 include:

- a) Rockets
 - b) Bombs
 - c) Grenades
 - d) Shells
 - e) Missiles
 - f) Articles designed for torpedo service and submarine mining
 - g) Any other articles containing or designed to contain explosive, fulminating, or fissionable material, noxious liquid, gas, or other similar substances specified by the Central Government.
- Regulations under Chapter II of the Act: Key provisions under Chapter II of the Arms Act, 1959 include regulations related to the acquisition, possession, manufacture, sale, import, export, and transport of arms and ammunition. These are as follows:
- i. Licence for acquisition and possession of firearms and ammunition: This provision details the requirement for individuals to obtain a license for acquiring and possessing firearms and ammunition.
 - ii. Licence for manufacture, sale, etc., of arms and ammunition: It lays down rules regarding the licensing process for manufacturing, selling, or dealing with arms and ammunition.
 - iii. Prohibition of acquisition or possession, or of manufacture or sale of prohibited arms or prohibited ammunition: This provision prohibits the acquisition, possession, manufacture, or sale of arms or ammunition that are classified as prohibited under the Act.
 - iv. Prohibition of sale or transfer of firearms not bearing identification marks: It prohibits the sale or transfer of firearms that do not bear proper identification marks as required by law.
 - v. Prohibition of acquisition or possession by, or of sale or transfer to, young persons and certain other persons of firearms: This provision restricts the acquisition or possession of firearms by young persons and certain other individuals as specified in the Act.
 - vi. Licence for import and export of arms: It outlines the licensing requirements for importing and exporting arms and ammunition.

⁶ Ibid

The scope of the chapter also includes:

- i. **Identification Marks:** Rules are set regarding the sale or transfer of firearms that must bear proper identification marks as required by law.
- ii. **Restrictions on Acquisition by Certain Individuals:** This section restricts the acquisition or possession of firearms by specific categories of individuals as specified in the Act.
- iii. **Punishments and Penalties:** The chapter also covers penalties and punishments for contravention of the provisions outlined in the Act.
- iv. **Government Powers and Procedures:** It details the powers that government officials have to enforce the Act effectively.

The provisions under Chapter II of the Arms Act play a crucial role in regulating various aspects related to arms and ammunition in India to ensure safety, security, and proper control over firearms within the country.

- **Provisions Relating to Licences:** The provisions relating to licenses under Chapter III of the Arms Act, 1959 focus on the grant of licenses for various activities related to arms and ammunition
 - i. **Grant of Licences:** Section 13 of the Arms Act outlines the process for applying for a license under Chapter II. An individual seeking a license must make an application to the appropriate licensing authority.
 - ii. **Types of Licences:** Licenses are required for various activities such as acquisition, possession, manufacture, sale, import, export, and transport of firearms and ammunition.
 - iii. **Duration and Renewal:** Section 15 of the Act specifies the duration of licenses and the procedure for renewal. License holders need to adhere to renewal requirements to continue legally possessing firearms and ammunition.
 - iv. **Conditions for Granting Licenses:** The licensing authority has the power to grant or refuse licenses based on certain conditions. For example, licenses may be denied if an individual is prohibited under the provisions of the Act or found to be of unsound mind or a minor.
 - v. **Application Process:** Applicants must follow a prescribed application process that includes obtaining reports from the officer in charge of the nearest police station and undergoing necessary inquiries by the licensing authority before a decision is made on granting or refusing a license.
 - vi. **Fees for Licences:** The chapter also covers fees associated with obtaining licenses, providing clarity on financial aspects related to licensing under the Arms Act.
 - vii. **Variation, Suspension, and Revocation of Licences:** Section 17 outlines provisions for varying, suspending, or revoking licenses as necessary, ensuring compliance with regulations and addressing any violations or changes in circumstances.

- viii. Appeals: Chapter III includes provisions for appeals related to licensing decisions, allowing individuals to challenge refusals or other licensing matters through established procedures.

These provisions under Chapter III ensure that licenses for various activities related to arms and ammunition are granted in accordance with the law, with due consideration given to public safety and security concerns.

- Powers and Procedures: Chapter IV of the Arms Act, 1959 focuses on detailing the powers and procedures that government officials have to enforce the provisions of the Act. The primary purpose of Chapter IV is to empower government officials with the necessary authority and guidelines to effectively enforce the regulations outlined in the Arms Act, 1959.

This chapter provides a framework for the exercise of powers by government authorities in relation to the enforcement of the Act, including aspects such as demanding the production of licenses, arresting individuals under suspicious circumstances, depositing arms when possession ceases to be lawful, conducting searches and seizures, and issuing prohibitory orders.

- i. Power to Demand Production of Licence: Section 19 of Chapter IV grants authorities the power to demand the production of licenses or other relevant documents related to arms and ammunition, ensuring compliance with legal requirements.
- ii. Arrest of Persons Conveying Arms under Suspicious Circumstances: Section 20 empowers authorities to arrest individuals who are found conveying arms or ammunition under suspicious circumstances, allowing for immediate action in cases where potential risks or violations are suspected.
- iii. Deposit of Arms on Ceasing to be Lawful: Section 21 outlines the procedure for individuals to deposit arms or ammunition when their possession ceases to be lawful, ensuring proper handling and storage of such items.
- iv. Search and Seizure by Magistrate: Section 22 provides guidelines for magistrates to conduct searches and seizures related to arms and ammunition, enabling legal authorities to take necessary actions in accordance with the law.
- v. Search of Vessels and Vehicles for Arms: Section 23 allows for the search of vessels and vehicles to detect and prevent illegal transportation or possession of arms and ammunition, enhancing enforcement measures.
- vi. Seizure and Detention under Orders of the Central Government: Section 24 empowers the Central Government to issue orders for the seizure and detention of arms and ammunition as deemed necessary, ensuring effective control and regulation of such items.
- vii. Disturbed Areas: This Act has particular provisions under Sections 24A and 24B that apply to disturbed areas, or places where there is a disturbance of public peace and tranquility or where there is

fear of impending danger and the use of weapons or ammunition. Under such circumstances, it becomes necessary to prohibit the possession of weapons or ammunition within that area and give the officers, who report to the federal or state government, the authority to take various measures.

- **Offences & Penalties:** The Offences and Penalties under Chapter V of the Arms Act, 1959 outline the legal consequences for various violations related to arms and ammunition.
 - i. **Manufacture, Sale, or Possession Contravention:** Section 25 specifies punishments for manufacturing, selling, transferring, converting, repairing, testing, or possessing arms or ammunition in contravention of Section 5, with imprisonment ranging from three to seven years and a fine.
 - ii. **Possession of Prohibited Arms or Ammunition:** Section 25 also addresses the possession of prohibited arms or ammunition, with imprisonment ranging from five to ten years and a fine.
 - iii. **Transportation Contravention:** Section 25 includes penalties for transporting arms or ammunition in contravention of Section 12, with imprisonment ranging from one to three years and a fine.
 - iv. **Failure to Deposit Arms:** Section 25 outlines penalties for failing to deposit arms or ammunition as required by the Act, with imprisonment ranging from one to three years and a fine.
 - v. **Offences in Disturbed Areas:** Section 25 specifies enhanced penalties for committing offences in disturbed areas, with imprisonment ranging from three to seven years and a fine.
 - vi. **Offences by Companies:** Section 33 holds companies accountable for offences committed under the Act, with individuals in charge of the company also deemed guilty and liable for punishment.

These provisions under Chapter V of the Arms Act, 1959 establish the legal framework for imposing penalties on individuals or entities involved in various offences related to arms and ammunition, ensuring compliance with the law and maintaining public safety and security.

Table : Offences and Penalty under Chapter V

Offence	Penalty
Manufacture, Sale, or Possession Contravention	Imprisonment ranging from three to seven years and a fine.
	- Includes manufacturing, selling, transferring, converting, repairing, testing, or possessing arms or ammunition in contravention of Section 5.
Possession of Prohibited Arms or Ammunition	Imprisonment ranging from five to ten years and a fine.

	possession of prohibited arms orammunition.
Transportation Contravention	Imprisonment ranging from one to three years and a fine. arms or ammunition in contraventionof Section 12.
Failure to Deposit Arms	Imprisonment ranging from one to three years and a fine. osit arms or ammunition as requiredby the Act.
Offences in Disturbed Areas	es: Imprisonment ranging from three toseven years and a fine. es apply to committing offences indisturbed areas.



Offence	Penalty
Offences by Companies	Companies held accountable: Individuals in charge of the company also deemed guilty and liable for punishment.
	ble for offences committed under the Act.

- **Miscellaneous Provisions under the Act:** Chapter VI of the Arms Act, 1959, titled "Miscellaneous," encompasses various additional provisions and aspects that are not covered in the preceding chapters of the Act.
 - i. **Sanction of Central Government for Warehousing of Arms:** Section 34 of Chapter VI addresses the requirement for the Central Government's sanction for the warehousing of arms, ensuring proper authorization and control over storage facilities for arms and ammunition.
 - ii. **Criminal Responsibility of Persons in Occupation of Premises:** Section 35 outlines the criminal responsibility of individuals occupying premises in certain cases related to arms and ammunition, establishing accountability for those involved in such activities.
 - iii. **Information Regarding Certain Offences:** Section 36 specifies the obligation to provide information regarding certain offences related to arms and ammunition, facilitating transparency and compliance with legal requirements.
 - iv. **Arrest and Searches:** Section 37 details procedures for arrests and searches in matters concerning arms and ammunition, ensuring that necessary actions are taken in accordance with the law.
 - v. **Cognizability of Offences:** Section 38 addresses the cognizability of offences under the Arms Act, determining whether certain offences are cognizable or non-cognizable for legal purposes.
 - vi. **Protection of Action Taken in Good Faith:** Section 40 provides protection for actions taken in good faith under the Act, safeguarding officials or individuals acting in accordance with the law from legal repercussions.
 - vii. **Power to Exempt:** Section 41 grants authorities the power to exempt certain individuals or entities from specific provisions of the Arms Act under specified conditions, allowing for flexibility in enforcement based on unique circumstances.
 - viii. **Power to Make Rules:** Section 44 empowers the government to make rules regarding various matters not explicitly covered by the Act, enabling the establishment of detailed regulations to support effective implementation.

Chapter VI, being a comprehensive section covering miscellaneous provisions, plays a crucial role in

addressing diverse aspects related to arms and ammunition regulation beyond what is specifically outlined in earlier chapters of the Arms Act, 1959.

CHAPTER 4: RULES & REGULATIONS, 2016

The Arms Rules 2016 introduced significant provisions that impact the possession and licensing of arms and ammunition in India. These rules play a crucial role in regulating the acquisition, possession, and carrying of firearms, aligning with the broader framework established by the Arms Act 1959. Some key provisions and their significance are as follows:

- i. **Licensing Requirements for Air Weapons:** The Arms Rules 2016 brought air weapons, including air rifles and air guns, under licensing requirements based on specific criteria such as muzzle energy and bore size. This provision ensures that even air weapons exceeding certain energy levels or bore sizes are subject to licensing, aligning with safety and regulatory standards.
- ii. **Inclusion of New Arms under Licensing Regime:** The rules expanded the scope of arms brought under the licensing regime to include electronic disabling devices, blank firing firearms, and paintball markers exceeding specified muzzle energy. By incorporating these new arms into the licensing framework, the rules enhance oversight and control over potentially dangerous or specialized firearms.
- iii. **Transporters Licensing:** The Arms Rules 2016 introduce new licensing requirements for transporters of arms and ammunition. Transporters are required to obtain a license in Form XIV of the rules, ensuring regulatory oversight over the transportation of firearms.
- iv. **Time Limits:** The rules define time limits for various services to be provided by licensing authorities. These time limits ensure efficiency and transparency in the licensing process, outlining the duration within which different services must be granted.
- v. **Change of Residence:** Rule 17 of the Arms Rules 2016 addresses the process of registration with an outside licensing authority in case a licensee shifts their residence.

License holders are required to inform the new licensing authority within a specified period and undergo a registration process to transfer their license jurisdiction.

- vi. **Clarification on Licensing Authorities:** Rule 20(3) of the Arms Rules 2016 outlines obligations for granting licenses for permissible arms and ammunition based on police reports and assessments by licensing authorities. This provision ensures that licenses are granted to individuals with genuine requirements for protection or sports purposes, maintaining a balance between individual rights and public safety.
- vii. **Impact on Air Guns Licensing:** The rules redefined the categorization of air guns under Schedule I, specifying criteria based on muzzle energy and bore size for licensing requirements. This revision

clarifies the licensing obligations for different categories of air weapons, ensuring that regulatory standards are met for possession and use.

Overall, the Arms Rules 2016 have modernized and streamlined the regulatory framework governing arms possession in India.

The Difference: The Arms Act, 1959, and the Arms Rules, 2016, serve as complementary components in regulating arms and ammunition in India. Here are the key differences between the Arms Act, 1959, and the Arms Rules, 2016 based on the provided sources:

➤ Arms Act, 1959:

- i. The Arms Act, 1959, is the primary legislation that governs the possession, acquisition, and use of arms and ammunition in India.
- ii. It defines the legal framework for licensing requirements, prohibitions, penalties, and enforcement mechanisms related to firearms.
- iii. The Act lays down the fundamental provisions regarding the acquisition, ownership, and usage of firearms, including the definition of arms and firearms, licensing procedures, and penalties for contraventions.

➤ Arms Rules, 2016:

- i. The Arms Rules, 2016, are subsidiary legislation that provide detailed guidelines and procedures for implementing the provisions of the Arms Act, 1959.
- ii. These rules specify the practical aspects of licensing, manufacturing, sale, import, export, and transport of arms and ammunition.

- iii. The Arms Rules, 2016, outline specific requirements for obtaining licenses, procedures for renewal, suspension, and revocation of licenses, and the roles and responsibilities of licensing authorities.

Table: Key Differences between the Arms Act, 1959 and Arms Rules, 2016

Aspects	Arms Act, 1959	Arms Rules, 2016
Type of Legislation	Primary Legislation	Subsidiary Legislation
Purpose	Governs possession, acquisition, and use of arms and ammunition in India.	Provides detailed guidelines and procedures for implementing the provisions of the Arms Act, 1959.
Content	Defines legal framework for licensing requirements, prohibitions, penalties, and enforcement.	Specifies practical aspects of licensing, manufacturing, sale, import, export, and transport.
Focus	Establishes fundamental provisions regarding acquisition, ownership, and usage of firearms.	Outlines specific requirements for obtaining licenses, procedures for renewal, suspension, and revocation.
Relationship to Each Other	Parent legislation setting overarching legal framework.	Subordinate legislation elaborating on provisions of the Arms Act for effective implementation.
Functionality	Sets out broader legal framework.	Provides specific regulations and operational details for compliance.

In summary, the Arms Act, 1959, sets out the foundational legal framework for arms regulation, while the Arms Rules, 2016, provide detailed guidelines and procedures to operationalize the Act's provisions.

- **Effect of Non-Compliance:** The penalties for violating the Arms Rules, 2016, include stringent measures to deter non-compliance with the regulations. Some of the penalties outlined in the Arms Rules, 2016 are as follows:

- i. **Penalties for Contraventions:** Violations of the Arms Rules, 2016, can lead to penalties such as fines, imprisonment, or both, depending on the nature and severity of the offense. Individuals found guilty of contravening licensing requirements, possession limits, or other provisions of the rules may face legal consequences.
- ii. **Increased Imprisonment Periods:** The Arms (Amendment) Bill, 2019, introduced amendments to the Arms Act and Rules, enhancing penalties for offenses related to prohibited arms. The minimum imprisonment period for certain violations was extended to 14 years, with a maximum term of life imprisonment for severe breaches.
- iii. **Enforcement and Prosecution:** Enforcement agencies are tasked with ensuring compliance with the Arms Rules, 2016, and prosecuting individuals found violating the regulations. Strict enforcement measures are in place to address illegal possession, sale, or transfer of arms and ammunition.
- iv. **Revocation of Licenses:** In cases of serious violations or repeated offenses under the Arms Rules, 2016, licensing authorities have the power to revoke firearms licenses. Revocation of licenses serves as a significant penalty for individuals found in breach of the rules and regulations governing arms possession.
- v. **Legal Consequences:** Non-compliance with the Arms Rules, 2016, can result in criminal charges, fines, imprisonment, and confiscation of firearms.

The rules aim to maintain public safety by imposing strict penalties on individuals who violate arms regulations.

CHAPTER 5: AMENDMENTS & REVISIONS

The Arms Act, 1959 has undergone significant amendments and revisions over the years to address evolving challenges and enhance regulations related to arms and ammunition. The recent amendments introduced through the Arms (Amendment) Act, 2019 have brought about notable changes to the existing provisions of the Act.

These changes are as follows:

- **Reduction in Number of Firearms Allowed:** The Arms (Amendment) Act, 2019 introduced significant changes regarding the number of firearms allowed per person. The Act decreased the number of licensed firearms permitted per individual from three to one. This reduction in the number of firearms allowed aims to tighten regulations and control the proliferation of firearms by limiting individuals to possessing only one licensed firearm, except for specific circumstances such as licensed firearms dealers. Additionally, the Act provides a one-year timeframe for individuals who possess more than one firearm to deposit the excess firearms with the nearest police officer-in-charge.

or a licensed dealer. Members of the armed forces have the option to deposit excess firearms with a unit armoury. The Act stipulates that any excess firearms must be delicensed within 90 days from the end of the one-year period.

- **Extension of Licence Duration:** It introduced a significant change regarding the extension of the duration of firearm licenses. The Act extends the validity of a firearm license from three years to five years. This extension provides individuals with a longer period of validity for their firearm licenses, allowing them to possess and use firearms legally for an extended duration without the need for frequent renewals.
- **Enhanced Punishments for Offences:** The Arms (Amendment) Act, 2019 introduced enhanced punishments for various offences related to arms and ammunition. Some key provisions regarding enhanced punishments under the Act include:
 - i. **Illicit Trafficking of Firearms and Ammunition:** The Act imposes imprisonment for a term not less than ten years, which may extend to life imprisonment, along with fines for individuals involved in illicit trafficking of firearms and ammunition, including smuggled firearms.
 - ii. **Manufacture, Sale, Transfer, or Conversion of Firearms:** Individuals engaged in activities such as manufacturing, obtaining, selling, transferring, converting, repairing, testing, or proving arms or ammunition in contravention of specified sections face imprisonment for a term not less than ten years, which may extend to life imprisonment, and fines.
 - iii. **Possession or Carrying of Arms in Contravention of the Act:** Members of organised crime syndicates or individuals on their behalf found in possession or carrying arms or ammunition in violation of the Act are subject to imprisonment for a term not less than ten years, which may extend to life imprisonment, and fines.
 - iv. **Involvement in Illicit Trafficking:** Those involved in or aiding the illicit trafficking of firearms and ammunition face imprisonment for a term not less than ten years, which may extend to life imprisonment, along with fines.
 - v. **Negligent Use of Firearms:** Individuals involved in negligent and rash use of firearms or in celebratory firing that endangers human life are subject to a fine of Rs. 1,00,000 or imprisonment for 2 years, or both.
- **Introduction of New Offences:** The Arms (Amendment) Act, 2019 introduced new offences and prescribed punishments for them to strengthen regulations related to arms and ammunition. Some of the new offences defined under the Act include:
 - i. **Taking Firearms from Police or Armed Forces:** The Act criminalizes the act of forcefully taking firearms from police or armed forces. Individuals involved in such actions are subject to imprisonment

- for a term ranging from 10 years to life, along with fines.
- ii. **Involvement in Organized Crime Syndicate:** Being part of an organized crime syndicate and engaging in activities related to firearms and ammunition in contravention of the law is now an offence. The punishment for involvement in organized crime syndicates includes imprisonment for a term not less than 10 years, which may extend to life imprisonment, and fines.
 - iii. **Illicit Trafficking of Firearms and Ammunition:** The Act addresses illicit trafficking, including smuggled firearms of foreign make or prohibited arms and ammunition. Individuals involved in illicit trafficking face imprisonment for a term not less than 10 years, which may extend to life imprisonment, along with fines.
 - iv. **Negligent Use of Firearms:** Another new offence pertains to the negligent and rash use of firearms or engaging in celebratory firing that endangers human life. The Act imposes a fine of Rs. 1,00,000 or imprisonment for 2 years, or both, for individuals involved in such actions.

These new offences introduced under the Arms (Amendment) Act, 2019 aim to address emerging challenges, enhance public safety, and deter illegal activities related to firearms and ammunition.

- **Addressing Organized Crime:** The Arms (Amendment) Act, 2019 addresses organized crime by defining it as a continued unlawful activity by a person, either as a member of a syndicate or on its behalf, using unlawful means to gain economic or other benefits. The Act introduces stiffer punishments for members of organized crime syndicates, such as possession of unlicensed firearms, with a minimum term of seven years extendable to life imprisonment and a fine. Additionally, the Act punishes illicit trafficking of firearms and ammunition with imprisonment between 10 years and life, along with a fine. The Act aims to strengthen the existing legislative framework to effectively curb crimes related to or committed using illegal firearms and provide deterrence against violations of the law.
- **The Differences between the Arms Act 1959 and the Arms (Amendment) Act, 2019:**
 - i. **Year of Enactment:** The Arms Act, 1959 was enacted in 1959, while the Arms (Amendment) Act, 2019 was introduced in 2019 to further amend the provisions of the Arms Act, 1959.
 - ii. **Licensing Provisions:** The Arms (Amendment) Act, 2019 introduced changes to licensing requirements. It specified that a person in possession of more than two firearms at the commencement of the amendment act could retain any two firearms and had to deposit the remaining firearm within a year. This amendment aimed to regulate the number of firearms individuals could possess.
 - iii. **Firearm Limit:** The Arms (Amendment) Act, 2019 reduced the maximum number of firearms that a person could possess from three to two. Individuals who owned three firearms were given the option to retain any two and had to deposit the third firearm within a specified timeframe.

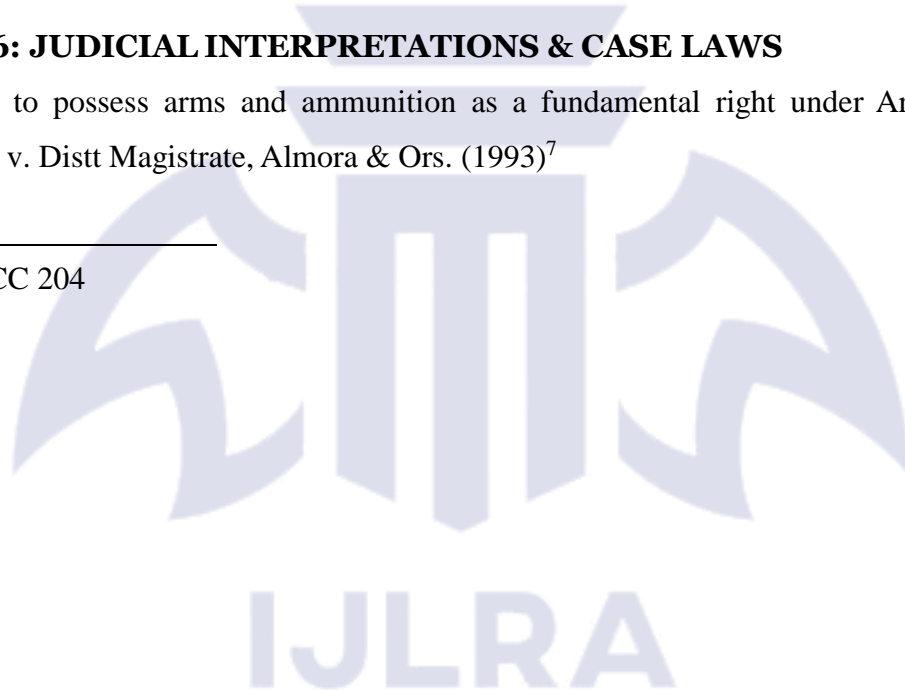
- iv. Provisions for Shooters: The Arms (Amendment) Act, 2019 included provisions to increase the number of firearms that shooters, including international medallists and renowned shooters, could possess. It allowed for exemptions for shooters to keep additional weapons, facilitating their shooting practice. The Act also enhanced the quantity of ammunition that shooters could purchase for practice.
- v. Small Arms Acquisition: The Arms (Amendment) Act, 2019 clarified that Indian citizens do not require a license for acquiring and possessing small arms falling under the category of curio. However, a prescribed license is necessary for the use, carrying, or transport of such small arms. This amendment aimed to streamline regulations for small arms possession.

The Arms (Amendment) Act, 2019 introduced changes to licensing provisions, reduced the maximum number of firearms individuals could possess, included provisions for shooters to possess additional firearms, and clarified regulations for small arms acquisition compared to the original Arms Act, 1959.

CHAPTER 6: JUDICIAL INTERPRETATIONS & CASE LAWS

➤ Right to possess arms and ammunition as a fundamental right under Article 21 Ganesh Chandra Bhatt v. Distt Magistrate, Almora & Ors. (1993)⁷

⁷ 1993 (30) ACC 204



- i. Background: In the case of Ganesh Chandra Bhatt v. Distt Magistrate, Almora & Ors. (1993), the central issue revolved around whether the right to bear arms was encompassed within the right to self-defence, which is a facet of the right to life and liberty under Article 21 of the Indian Constitution. The Court deliberated on the constitutional implications of possessing arms and ammunition as a fundamental right.
- ii. Issue: The key issue in this case was to determine whether the right to possess arms and ammunition could be considered a fundamental right under Article 21 of the Indian Constitution. The Court examined the interplay between the right to self-defence and the broader constitutional guarantees of life and liberty.
- iii. Judgement: The Court observed that the right to bear arms fell within the ambit of Article 21, specifically under the right to self-defence. It recognized the significance of self-defence as an inherent aspect of the right to life and liberty. However, the constitutional protection granted to the right to bear arms was later repealed in the aftermath of the 1993 Bombay bomb blasts, leading to a shift in the legal framework governing the possession of arms and ammunition.⁸

This case highlighted the evolving interpretation of the right to possess arms and ammunition in India, emphasizing the delicate balance between individual rights and public safety within the constitutional framework.

➤ Constitutional Validity of Section 27 of the Act *State of Punjab vs Dalbir Singh (2012)*⁹

- i. Background of the case: The background of the *State of Punjab v. Dalbir Singh* case involves an incident where the respondent, Dalbir Singh, who was a constable in the 36th Battalion of the Central Reserve Police Force in Amritsar, was involved in an altercation with his superiors. The Battalion Havaldar Major reported to the Deputy Commandant that Dalbir Singh had refused to perform his duties, leading to a series of events where Dalbir Singh was given a verbal warning for non-compliance. Subsequently, an open firing incident occurred at the Commandant's office, resulting in injuries to both the Commandant and the Havaldar Major. Dalbir Singh was caught while trying to reload the gun and was then produced before the police for investigation.

⁸ Arms Act, 1959, Ipleaders, Article, Retrieved [25-03-2024] from World Wide Web, <https://blog.iplayers.in/possession-of-arms-under-the-arms-act-1959/>

⁹ (2012) 3 SCC 346

The case involved charges under Sections 302 and 307 of the Indian Penal Code, 1860, and Section 27 of the Arms Act, leading to his initial conviction and subsequent acquittal by the High Court, which was challenged in the Supreme Court.¹⁰

- ii. Issues of the case: Constitutional Validity of Section 27(3) of the Arms Act, 1959
- iii. Decision: The Supreme Court of India conducted a constitutional review of Section 27(3) of the Arms Act, 1959, which mandated a death sentence. Finding this provision unconstitutional, the Court ruled that it infringed upon judicial discretion to consider mitigating factors during sentencing. Consequently, the judgment nullified Section 27(3) of the Arms Act, deeming it arbitrary and unreasonable. The ruling underscored the significance of judicial review in sentencing and upheld fundamental rights enshrined in the Constitution, notably Articles 14 and 21. This landmark case establishes a crucial legal precedent, ensuring that laws concerning arms and ammunition align with constitutional principles and safeguard the rights of individuals within the legal framework.

➤ Legality of Celebratory Firings

Shyam Sunder Kaushal v. the Union of India (2017)¹¹

- i. Background: In the case of Shyam Sunder Kaushal v. the Union of India (2017), a public interest litigation was filed by Shyam Sunder Kaushal regarding celebratory firing practices in India. The petitioner sought directions from the state and central governments to address the issue of celebratory firing, which involves firing shots into the air during celebrations, posing a risk to public safety.
- ii. Issue: The primary issue in this case was to address the practice of celebratory firing and its implications on public safety. The petitioner raised concerns about the use of firearms in celebratory events, highlighting the risks posed to human life and the need for regulatory measures to curb this practice.
- iii. Judgement: The court deliberated on the practice of celebratory firing and its impact on public safety. It was observed that celebratory firing, although a part of certain traditions, poses significant dangers and risks to human life. The court emphasized the

¹⁰ Verma, Decoding Capital Punishment in India: Analysing State of Punjab v/s Dalbir Singh, Legal Services E- Journal, Retrieved [25-03-2024] from World Wide Web, <https://legalserviceindia.com/legal/article-14700- decoding-capital-punishment-in-india-analyzing-state-of-punjab-v-s-dalbir-singh.html>

¹¹ (2017) 10 DEL CK 0309

need for strict enforcement of laws to deter individuals from engaging in celebratory firing, especially in rural areas where the practice is prevalent.

The court's decision underscored the importance of creating awareness about the laws governing celebratory firing and the need for stringent enforcement to prevent injuries and fatalities resulting from this practice. The judgement highlighted the amendment in the Arms Act in 2019, which specifically addresses celebratory firing under Section 25(9), imposing penalties for endangering human life through negligent or rash use of firearms.

This case brought attention to the need for regulatory measures to curb celebratory firing practices and ensure public safety in India.

CHAPTER 7: CONCLUSION

In conclusion, the analysis of India's Arms Act reveals a complex tapestry of historical evolution, legal frameworks, regulatory updates, and judicial interpretations. The journey from its inception to the present day reflects the nation's evolving attitudes towards firearms regulation, balancing the imperatives of public safety with individual rights.

The amendments and revisions in 2019 underscored a responsive approach to contemporary challenges while upholding the Act's core objectives. Judicial interpretations and case law have provided crucial guidance, shaping the practical application of the law in diverse contexts. Yet, amidst this legal landscape, questions persist regarding the Act's efficacy in addressing emerging threats, such as illicit arms trafficking and firearm-related violence. Striking the delicate balance between facilitating legitimate firearm ownership and preventing misuse remains an ongoing challenge for policymakers and law enforcement agencies. Additionally, the Act's implementation across different states warrants attention to ensure uniformity and effectiveness.

Moving forward, a comprehensive review of the Arms Act should consider not only legislative amendments but also strategies for robust enforcement and public awareness. Collaborative efforts involving stakeholders from government, civil society, and law enforcement are essential to foster a culture of responsible firearm ownership and enhance public safety. By addressing these multifaceted dimensions, India can chart a course towards a more secure and regulated environment for firearms, aligning with its constitutional values and international commitments.