

On Ending the War against Our Own People

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Ten years of Irom Sharmila's heroic fast and more than four decades of struggle against the Armed Forces (Special Powers) Act, 1958 should convince us that the time has come to demand an end to war against our own people as the most principled and realistic stance.

In order to understand the significance of the Armed Forces (Special Powers) Act (AFSPA) and our response to it, we must comprehend the role of the armed forces of the Indian union in wars of suppression. It is my contention that our opposition to AFSPA is not only because it protects the Armed Forces of the Union (the AFU, which is how the Indian Constitution defines army, navy, air force and the central paramilitary forces) but also because we, in the civil liberties and democratic rights groups, oppose the policy of military suppression of our own people in the first place. Indeed, it is the Indian state's policy of military suppression of its own people that necessitates protection from prosecution of the military forces deployed to carry out the dirty task of brutally restoring the State's authority, which, in turn, legitimises counter-violence.

Repealing AFSPA: Background

Out of 626 districts in India, no less than 136 districts, with a population in excess of 150 million people, witness the State's

policy of military suppression. Of these 136 districts, 101 have been notified as "disturbed areas" where the AFSPA and state-level Disturbed Areas Act, either separately or concurrently, operate. In 35 districts, where the so-called joint forces operations against "Left-Wing Extremists" are underway, neither of these Acts is invoked and yet the war continues. (Of course, in Chhattisgarh, Bihar, Orissa, Jharkhand, Andhra Pradesh, Maharashtra and West Bengal, there could be some other state-level Act in operation which indemnifies the forces). However, for all practical purposes, the ground reality is no different in these 35 districts spread over nine states and the 101 districts where AFSPA is notified.

The second thing to note is that the central government has set aside Rs 40,000 crore for "internal security" (which falls under the Union Ministry of Home Affairs), i.e., for wars in these districts, where nearly 80% of the central paramilitary forces (CPMFs, whose strength is 9,00,000 plus 145 battalions of the India Reserve Battalion or 1,50,000 personnel) and half of the Indian Army (3,37,000 in Jammu and Kashmir, and 2,80,000 in the north-east) is engaged in counter-insurgency. Were we to add this Rs 40,000 crore allocated towards "internal security" to what the Union Ministry of Defence spends on "internal security" (taking merely wages

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and allowances and pensions of this force), which comes to approximately Rs 29,000 crore, the Indian government is spending a staggering sum of Rs 69,000 crore annually to pay for these wars. This amount could suffice to pay for a universal Food Security Act in India. Significantly, the union finance ministry has cited paucity of funds to pay for such an Act.

There is another dimension to this which needs to be considered. In an interview to *Tehelka* (5 June 2010), Union Home Secretary G K Pillai said that "Manipur has the highest police to population ratio in the country". And yet Manipur is raising another four battalions of Manipur Commandos! Of course, he did not spell out what the ratio was. J&K, according to its chief minister Omar Abdullah, has 5 to 7 lakh troops (army, CPMFs, and state armed police), or, say, 6,00,000 for a population that is said to be 1.1 crore. This means a ratio of one armed soldier for 20 persons. Of course, the ratio changes even more if we consider the actual concentration of troops in the Kashmir Valley and those districts of Jammu which have a sizeable Muslim population. It could be approximately one armed soldier for 15 persons or even less. Recalling what the union home secretary said in Manipur, the ratio could be a lot worse. Such a heavy concentration, deployed in a manner which monitors and controls the public and private lives of people, creates impediments for normal activities of people and causes a heavy loss of scarce human and material resources whose actual cost is yet to be calculated.

To this, one ought to add another dimension. As evident from the case of J&K, there is pressure on the J&K government to recruit and train a force which can replace the central forces. Thus, accretion in strength of armed police gets compounded because, apart from the bloated CPMFs, we now have inflated state-level armed police formations. And like the central forces protected by the AFSPA, these state forces have their own state-level protection against prosecution for any act committed in the course of "active service".

In other words these conflicts become the occasion for a stupendous augmentation of personnel in existing armed formations (in 2007-08, Shivraj Patil, the then

union home minister, spoke of raising 206 battalions of CPMFs over the next five years) and/or through the creation of new force of armed police battalions or of Rashtriya Rifles, which was raised in 1993-94 for fighting the insurgency in J&K. Also, it is little known that the armed police are trained along the lines of infantry formations of the army. We must keep in mind also the fact that, since 1947, not a year has passed when the Indian state has not been engaged in waging an internal war (call it by any name – war, armed conflict, or military suppression) against our own people in some part of the country or the other. It can also be established empirically that almost all movements which picked up guns did so only after non-violent struggles were run aground by the Indian state one way or the other or dismissed out of hand. In all these cases of internal wars, the military (army and CPMFs, in particular) is deployed for a prolonged period with enhanced powers to act on its own, i.e., minus civilian supervision. This is unlike its short-term usage during riots where they operate under the orders of a magistrate and are protected under Section 45 (Protection of Members of the Armed Forces from Arrest) of the CrPc. This is the background in which the campaign to repeal AFSPA should be situated.

Review of AFSPA

When the AFSPA was passed in 1958, after a truncated debate in the Parliament, the then Union Home Minister G B Pant had assured the Members of Parliament that the Act was temporary and only confined to fighting the "Naga hostilities". What was temporary became a permanent feature and can now be imposed anywhere in the Indian union. Parliament also never saw it fit to debate/review this Act since its enactment. Prior to the United Progressive Alliance government instituting this review process, the Supreme Court had examined the Act. The judicial process had resulted in the Supreme Court, in 1997, upholding the legal validity of AFSPA, asserting that Parliament had the powers to enact such an Act. The review of the Act undertaken by the Justice Jeevan Reddy Committee, as per its Terms of Reference, was not mandated to recommend its repeal. However, having decided to ask for its repeal, it went on to

suggest that provisions of the Act could be incorporated in the Unlawful Activities Prevention Act, 2004. Thus both the Supreme Court, in its 1997 judgment, as well as the Justice Reddy Committee, in its report, have upheld the need to empower the Armed Forces of the Union when they are deployed for a prolonged period in an area declared to be "disturbed". The other drawback of the Reddy Committee was that the review and the public hearings that followed were confined to the north-east, particularly Manipur and Assam. The conspicuous absence of J&K from its purview was most unfortunate.

It needs to be reiterated that the AFU empowered with the AFSPA are introduced not to curb armed militancy but are meant to control the civilian population from extending support to secessionist activities. The AFU empowered with the AFSPA thus antagonise more and more people and swell the ranks of militants contrary to official pretence that they are fighting only armed groups.

Human Rights Abuse

This is clear from the ground reality of J&K with a huge deployment exceeding six lakh troops (which comprises army, CPMFs, state armed police, etc). Bunkers, checkpoints and road blocks are manned by CRPF/BSF in towns and Rashtriya Rifles (RR – the Army's 66 battalions, counter-insurgency force) maintains vigil in rural areas. Virtually every neighbourhood in urban areas boasts of a camp of security forces and between every four and five villages, there is an RR camp. Just Srinagar town has 400 bunkers; thus removal of 16 of them is inconsequential. This level of deployment exists at a time when it is officially claimed that the number of militants is no more than 600 and no more than 250 remain in the Kashmir Valley. Movements of people on the roads and bazaars are regulated with a frequent demand to show the IDs and search bags. It is a known fact that anyone, in an area declared "disturbed", found without an ID can suffer anything from having to bribe her/his way to freedom to becoming a victim of enforced disappearance.

Again the very deployment of security forces necessitates occupation of land and buildings. On 24 August 2009, the state

government had informed the J&K assembly that out of 10,54,721 kanals (or 1,31,840 acres), spread over 82 tehsils of J&K, occupied by the Indian security forces, only 1,99,314 kanals (24,914.25 acres) were under lease licence and acquisitions made under the Land Acquisition Act. Thus nearly 80% of the land was in illegal occupation. As a result, when the Union Ministry of Defence announced with much fanfare that it was increasing the rental for land and buildings it had occupied, it obviously meant that it would be paying higher rent for land leased (obviously, there is no question of paying rent for land illegally occupied).

It also occupies more than 1,572 buildings, which includes 98 schools. This impacts normal life and economic activities. However, all this is a quintessential aspect of counter-insurgency policy which is meant to break the link between armed groups and the people through recourse to force or threat of use of force. In other words, while atrocities may come down if the legal cover indemnifying the security

forces is withdrawn, it would be naïve to believe that atrocities will *cease* if this cover is withdrawn. This is because atrocities are inherent in the very nature of counter-insurgency, whose main purpose is to coerce a people into submission.

The findings of civil liberties' groups, as well as those of official inquiries undertaken from time to time, show that once the AFSPA comes into operation, civil administration begins to play second fiddle. Instead of "coming to the aid of civil administration", the armed forces virtually replace it. Thus the overlap between law and order that pertains to the civilian domain and internal security, which is the *raison d'être* of AFSPA, is difficult to keep apart. In real life the lines get blurred to the point that even traffic management invites the overbearing presence of the AFU. Lately, the AFU have been entrusted with the running of schools, health centres, road building and now construction and management of micro hydel projects (as in J&K). Thus, more and more of matters, which were considered part of civil administration, are

becoming part of the activity of the AFU, all in the name of "winning hearts and minds" (WHAM, "operation sadbhavna").

We have, in recent times, also witnessed the heads of coordination centres, invariably the corps commander belonging to the army, intervening in the public domain with their own assessment of the situation. The most reprehensible was the statement of the General Officer Commanding (GOC) of the Northern Command who characterised non-violent protests in Kashmir as being "agitational terrorism". This amounts to declaring all protestors as "terrorists" and thus made them legitimate targets of the firepower of the Indian security forces. Between 11 June 2010 and 15 October 2010, 110 civilians were killed (all victims of bullets, tear gas shells, or beatings), 1,500 were injured from firearms/tear gas shells/pellets, 500 were severely beaten and 38 were blinded from bullets or pellets or marbles used as projectiles in slingshots by the CRPF. Despite these killings and serious injuries, just a single FIR has been filed in a case against the CRPF for killing a

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youth in unauthorised firing, but no one has been arrested. In other words, civilian protestors are easy pickings. The problem gets compounded because promotion and reward provide material incentives for extrajudicial killings.

Untrammelled Power

Often the officers of the security forces adopt a position which is at odds with that of the political authority. A recent example was witnessed in Assam where both the corps commander as well as the governor (usually a retired general) came out opposed to a political initiative to begin dialogue with the United Liberation Front of Asom. This is the result of the direct fallout of employing security forces over a long duration in internal situations which creates a kind of vested interest and where they come to enjoy untrammelled power.

Arguably, as the situation worsens with the recourse to military suppression, it throws up its own compulsions where some militant or renegade groups begin to browbeat civilians. There are times when inimical neighbours exploit this situation to fan the fuel of militancy. I believe that such a situation can be dealt with most effectively only when there is a political process and government appears sincere and serious in addressing the legitimate grievances and takes recourse to democratic solutions be it respecting the right to self-determination in Kashmir or in Manipur or the Naga areas or in pursuing the path of dialogue with the Maoists. To believe that problems get resolved when people are suppressed is contrary to ground reality. Developments in J&K are a reminder that despite the most horrendous 20 years of repression and most extraordinary control that grips the lives of people in Kashmir, the demand for *Azaadi* from India remains robust.

Half Measures Are Deceptive

Now, having gone through the debate over AFSPA for over three decades, our (civil liberties and democratic rights' groups) struggle saw the Supreme Court uphold the constitutional validity of the Act (in *NPMHR vs Union of India 1997*), albeit with suggestions regarding some minimal safeguards in the shape of a six-monthly review of its

working or defining strictly the "shortest possible time" for handing over a person arrested by the AFU to the police. The next round of our collective efforts saw the appointment of Justice Jeevan Reddy Committee (2004-05) which called for repeal of AFSPA, because the title had come to acquire a pejorative meaning. Therefore, he suggested that AFSPA's provisions should be incorporated into the Unlawful Activities (Prevention) Act. And now, even as the demand grows for repeal of the AFSPA, to coincide with 10 years of Irom Sharmila's fast-unto-death, there are efforts afoot to persuade us that we should become pragmatic/realistic and settle for dilution of some provision or amendments to certain sections of AFSPA or for its step-by-step withdrawal from a state. Thus the struggle is not only confined to one part of a larger problem, i.e., AFSPA, it now gets further weakened with a call for being sensible and settling for dilution/partial withdrawal.

Actually, even the repeal of the AFSPA would not mean an end to military suppression, war, or armed conflict per se because state-armed constabularies too are deployed. Looking at the experience of Manipur or J&K and the role of the state-level forces in the nine states where joint operations are going on against the Maoists, there is absolutely no reason to believe that they are any less brutish and dastardly. This is evident from the recent incidents in Manipur which were perpetrated by the Manipur commandos, or in J&K, where large-scale war crimes were committed by the Special Operations Group/Special Task Force of the J&K police or the horrendous record of the state forces of the nine states where anti-Maoists operations are going on. Thus, for one, we might get rid of AFSPA and the Army partially. But we will see them get replaced by state armed forces and state-level Disturbed Areas Acts. In other words, our major concern about ending the use of military suppression to resolve political problems will not be addressed. All in all, a piecemeal approach focuses on merely one aspect of the conflict.

The conventional wisdom is that this is better than nothing or that at least it can provide immediate relief for civilians in the conflict zone. While this appears

attractive, it does not, unfortunately, resolve the predicament we face which has become worse now that there is a near consensus among all the parliamentary parties, from left to right, ruling out the repeal of AFSPA, and there exists a fractured support even for pulling out the army from the theatre of internal war/s.

Indeed, if one has to settle for a piecemeal approach why should we not replace the call for the repeal of the AFSPA with a call for the withdrawal of military forces? If there is no alternative to a piecemeal approach, why not explore the possibility of achieving our objective by demanding the withdrawal of the army and the CPMFs from counter-insurgency? There are many retired and serving army officers who believe that army's primary responsibility has been compromised and discipline has been affected by making the Indian army focus more on its secondary role (of aiding civil administration in conflict or calamity). They also feel that while protection from prosecution is essential if the army is called in and therefore AFSPA should remain, they favour withdrawal of the army from counter-insurgency as being necessary. Besides, calling for repeal of AFSPA has been made complex with most political parties (including left parties and Congress) in favour of pull-out of army but they are not in favour of repeal of AFSPA or its revocation where army has been deployed.

However, even this leaves much to be desired because there is another section of the Armed Forces which favours the army's induction in internal security affairs since power and pelf accompanies such a role. This section also happens to outnumber those who are against it. This view is not only the official position; the army is engaged in honing its counter-insurgency skills as shown in its doctrine of sub-conventional warfare and doctrine of perception management (an important part of counter-insurgency). Something unstated is also the fact that "disturbed areas" provide the army an occasion to shake off civilian control and garner resources. Thus the call for pull-out of the army can and has also been countered by saying that Article 355 of Constitution read together with 2(A) of the Union List empowers central government to deploy central forces in situations of internal

security. And further, whatever may have been the cause, once there is a rebellion, it has to be put down, if need be by the army. So a fait accompli is offered to us.

Thus it is abundantly clear that a piecemeal approach, either demanding the repeal of AFSPA or withdrawal of the army, is not without problems and does not adequately address the problem. I am reminded of what happened when the Prevention of Terrorism Act, 2002 (POTA) was revoked. We were told by many a progressive commentator to be happy with the half victory since confession to police, while in their custody, was dropped. What these progressives failed to realise was that the rest of the Prevention of Terrorism Act (POTA) got incorporated in the Unlawful Activities Prevention Act, 1967 (that got further strengthened in 2004 and then again in 2008) and which by now has become more lethal a threat than the Terrorist and Disruptive Activities (Prevention) Act or POTA.

Take another example. The Indian government offered a sop to people after the rape and murder of Manorama Devi by the Assam Rifles in the shape of withdrawal of the AFSPA from Imphal. The result was that instead of the Assam Rifles, now the Manipur Commandos carry out killings in Imphal (and elsewhere too) since they enjoy protection provided by the state government. Thus AFSPA may not be in operation in Imphal but conditions in Imphal are no different, and no better, than elsewhere in Manipur, the point being that, very often, a half measure ends up biting us and leaves us worse off than before.

Of Armed Struggle

Will this mean that non-state groups can continue fighting while the state demilitarises? I doubt it. No to war against our own people robs even non-state actors of their source of legitimacy. If the state does not wage war, i.e., there is no prolonged deployment and empowerment of military forces against our own people, why would people or any political group take up arms? If there is a possibility of non-violently resolving matters, including the prospect of transforming state and society, why would anyone take to armed resistance? There is no natural

propensity of people to opt for armed resistance. Indeed, the likelihood of people taking to arms is directly linked to the Indian state's propensity to use military suppression as the mother of all policies against popular movements demanding either right of self-determination or radical transformation.

But are there not groups which possess weapons or believe in armed resistance? Mere possession of weapons does not mean declaration of war against the state. Also, opting for armed resistance is never an automatic choice; rather it is a proposition which is contested and debated within revolutionary parties and liberation groups prior to the decision being taken. In an interview given to *The Hindu* (14 April 2010) Cherukuri Rajkumar (Azad) said that it was the "imposition of the ban [against the CPI(Marxist-Leninist) (People's War)] that had led the Party and the mass organisations to take up arms in the first place...What shook the rulers at that time and compelled them to declare Jagtiala and Sircila taluks in Karimnagar district of North Telengana as disturbed areas in 1978 was not the armed struggle of the Maoists (which had suffered a complete setback ...by 1972) but the powerful anti-feudal order in the countryside..." Were the State not to wage war against people, the chances of debate veering towards armed resistance get reduced.

It is also worth remembering that there are, according to International Action Network on Small Arms, an estimated 40 million private weapons in India. It does not require rocket science to believe that these tens of millions of weapons are mostly in the possession of people in Indian society who wield power and are privileged. This reality, and an India, which for

all its verbosity about non-violence, is one of the most heavily armed states, both in terms of accumulation of destructive power of its arsenal as well as size of its military force, which gets force multiplied by draconian laws, and thus enables the ruling classes to remain lukewarm/indifferent to the inhuman working and living conditions of the majority of our people. Therefore, I believe we should be pitching for something that helps us focus on the fundamental concern and not its symptom (militancy being in essence a manifestation against oppression) to enable us to argue for a peaceful and democratic way out. We should therefore say "No to War against Our Own People".

In other words, 10 years of Irom Sharmila's heroic fast and more than four decades of struggle against the AFSPA should convince us that the time has come to demand an end to war against our own people as the most principled and realistic stance. Once we accept legitimacy of wars against our own people, we enable the State to argue for AFSPA, Disturbed Areas Acts, etc. Of course, those who believe that AFSPA alone should be repealed but wars against our own people should carry on will oppose this because they believe that no state can allow any non-state group to overthrow it. But they must have the courage of conviction to come out and say so rather than hide behind the façade of being "pacifist" while intellectually supporting the policy of military suppression and the blood-letting that ensues. But those of us who argue that the State must give up prosecuting wars against our own people must seriously consider a course correction lest we are led to "desolation row" through a piecemeal effort.



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