

Revoking AFSPA Blown Out of Proportion

*K.C. Dixit**

The current spurt in violent activities in valley and death of civilians in police actions against unruly mobs is a cause of serious concern and requires introspection not only by the government but also by the political parties including the separatists. The demands of separatists to revoke AFSPA and Public Safety Act from the valley and release of all political prisoners in the prevailing circumstances is neither justifiable nor in the interest of Kashmiri people. Such demands will only aid anti-national motives of terrorist outfits and external forces.

Today whatever peace is noticed in Kashmir Valley, it is due to presence of the Army in that state. The vested interests do not wish peace in the valley and their efforts have been directed solely towards tarnishing the image of security forces in general and the Army in particular. If the government succumbs to the dictum of highly misplaced and self-proclaimed benefactors of Kashmiri people and revokes the AFSPA from valley, it might be suicidal. The Army is the ultimate instrument of the nation that acts in a disciplined manner as per the directives of the government and shall continue to act accordingly.

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The issue of revoking AFSPA from J&K whether partially or completely has been deliberately blown out of proportion by those who do not desire peace in the valley, who gain from boiling Kashmir, who have comparatively more inclination and sympathy towards Pakistan and are indifferent towards national sentiments. The government has to act very carefully on this national policy issue. The AFSPA provides mainly police powers to the Army since the efforts involved in counter-insurgency

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Special Powers of the Armed Forces Under AFSPA

Any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may, in a disturbed area;

- (a) if he is of opinion that it is necessary so to do for the maintenance of public order, after giving such due warning as he may consider necessary fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or fire-arms, ammunition or explosive substances;
- (b) if he is of opinion that it is necessary to do so, destroy any arms dump, prepared or fortified position or shelter from which armed attacks are made or are likely to be made or are attempted to be made, or any structure used as training camp for armed volunteers or utilised as a hide-out by armed gangs or absconders wanted for any offence;
- (c) arrest, without warrant, any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence and may use such force as may be necessary to effect the arrest;
- (d) enter and search without warrant any premises to make any such arrest as aforesaid or to recover any person believed to be wrongfully restrained or confined or any property reasonably suspected to, be stolen property or any arms, ammunition or explosive substances believed to be unlawfully kept in such premises, and may for that purpose use such force as may be necessary.

Arrested Persons to be Made over to the Police

Any person arrested and taken into custody under this Act shall be made over to the, officer in charge of the nearest police station with the least possible delay, together with a report of the circumstances occasioning the arrest.

Protection to Persons Acting Under Act

No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the Central Government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

Therefore, it is clearly visible that AFSPA is neither arbitrary nor suppressive in nature as claimed by the separatists. If these powers are not vested with the action-

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takers, it will amount to both hands tied behind the back with weapon slung around the neck. Assigning responsibility to the Army without essential authority to ensure peace in affected area of jurisdiction not only lacks rationale but also sounds absurd.

The demand for AFSPA's revision or its removal from selected valley districts – rightly resisted by the armed forces – is a red herring as the current protests have been provoked by the police and not military action. Any concession under duress will become the baseline for further demands by the

separatists in the next phase of their agitation in an attrition strategy now drawing on globally tested protest techniques.

It is the separatists and not the security forces that are responsible for the deaths in the valley. To achieve their personal objectives, they would not hesitate in sacrificing even more lives. People have to start respecting the sentiments of majority of silent common people like shikarawalas and small-scale shopkeepers who are the actual sufferers of bundhs and protests by the separatists. One should not get carried away that violence on the streets in urban areas will strengthen separatists' demands. The common man is fed up of such violent actions by the separatists. You meet the school and college students who are being deprived their legal rights to education due to separatists' agitation and share their concern for their future. It is heartening when they display their genuine concern about their future due to breaks in education. The common men and youth are actually frustrated due to abnormal life forced on them by the separatists.

What is more important for political leaders in J&K is to bring peace through their serious and deliberate visible actions of pacifying and encouraging masses. If separatists and other political groups are really worried about the interests of poor people of Kashmir, they have to shed their selfish desire of keeping the irrelevant issues alive. They have to stop instigating and misguiding simple and innocent Kashmiri people. The ground realities are totally out of phase. While these leaders claim themselves to be actual leaders of Kashmiri people in the valley and assure the government that their protests are confined to peaceful rallies, public meetings and processions, they deliberately instigate the masses and convert their protests into violent mob actions through their escalatory speeches. The motives of these vested interests have to be carefully studied and appropriate safeguard measures initiated.

If the separatists actually desire peace, it will not take much time to conclude the insurgency in J&K. They have to join the mainstream. They have to themselves carry out a serious introspection of their intentions and real issues to break the dead-lock. They can achieve what they wish to achieve if they create real peace in

J&K by displaying to the nation that insurgency has vanished from the state. But this will be feasible if and only if they are serious about it with out any hidden malaise intention. And it will not take long for the nation and the government to realise that peace has been achieved in the state of J&K and people are actually in a mood to govern themselves. That will be an indication to the government to shift the responsibility of ensuring law and order from Army to civil police. The AFSPA will then no more be applicable in the state. Thereafter, the role of Army gets limited to management of borders against external threats. The civil administration with the assistance of state and central police forces will become the sole law and order enforcing agency. But this can only be achieved with the combined determined and serious efforts from political parties and separatists of J&K. If separatists can instigate simple Kashmiri people to pelt stones at security forces, burn government assets and make the security environment tense, they also have no dearth of energy to bring in peace in the valley, if they wish to. We have to wait and watch their efforts towards this end.

Another issue that separatists in J&K talk and demand is 'AZAADI'. But when one interacts with them they are unable to explain what they actually understand by 'AZAADI'. The people have been confused by the vested interests and the term 'AZAADI' is being misused. To say that they want an independent state is a smokescreen to hide their real objective of merging with Pakistan. They know it too well that Kashmir is not viable as an independent state due to both economic and security reasons. One may ask them why they would want to merge with Pakistan. What do they hope to get from Pakistan that India has not given to them? Compare the life of an average person in states like UP and Bihar and other less developed states with those

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in J&K, and the difference is visible. If it is religion, what about the millions who are quite content living in India irrespective of their religion. This is mainly because of the secular nature of Indian democracy. The Indian State, irrespective of which party has been in power, has done and doing all that is humanely possible. But if the government has to keep guarding its back all the time, any forward movement is bound to be stymied.

The separatists must realise that the violent methodology being adopted by them in India has been tolerated beyond justification because

of resilience on the part of democratic structure. If this was done in Pakistan, the separatists would have faced serious consequences. It is only in a liberal democracy like India where human values are regarded and adequate space is provided for expressing grievances. All differences can only be settled through unconditional meaningful dialogue between the government and the aggrieved leaders within the framework of Indian Constitution. The separatist leaders have to first accept that they are Indians and only after that claim themselves to be leaders of Kashmiri people.

On 11th September 2010, violence triggered by the speeches of separatist leaders at Lal Chowk in Srinagar on the occasion of Eid was observed by the whole world on the TV networks. It is not understandable how demilitarisation could resolve the issue as claimed by the separatists. It is essential for the people to control their violent actions and display discipline during peaceful protests. The separatists as also political parties and common people of J&K must realise that the deaths of civilians during protests are due to police actions against violent mobs. It has to be understood that the Army is generally not involved in such actions in populated areas. Over 100 civilians have been killed in police actions against violent mobs resorting to pelting of stones on police personnel, burning of government buildings and causing damage to public assets during protests in various parts of J&K from May to September 2010. Thousands of police personnel have got injured in stone pelting incidents during the same period.

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valley and release of all political prisoners in the prevailing circumstances is neither justifiable nor in the interest of Kashmiri people. Such demands will only aid anti-national motives of terrorist outfits and external forces. The sentiments of defence minister as also the armed forces on revoking AFSPA in J&K should be respected by the nation. The demands of separatists might merit consideration if they display restraint and resort to only peaceful protests with no room, what-so-ever, for any violence.

The recent visit of All Party Delegation to J&K under Home Minister and subsequent 8-point package for the state is a right step towards building confidence among common people. Opening of schools and colleges has evoked positive response from the

students and their parents. Deputing interlocutors to resolve the issue by the central government is also a right step in the pipe.

There is an immediate need to consolidate peace in the valley with firmness. Once peace is re-established, the process of unconditional dialogue between the government and political leaders including separatists must begin with out delays. The government must make it clear that dialogue will take place within the framework of Indian Constitution. Disturbed Area Act may then be withdrawn from various districts in phases depending upon the prevailing situation. *idsa*