

Political and Economic Notes:

Army Personnel Attempts to Defeat Justice and Righteous Aspirations of Citizens

In 1980 the central government had imposed the Armed Forces (Special Powers) Act, 1958 (AFSPA) in Manipur in the name of countering insurgency. Subsequently the AFSPA has been imposed in other north-eastern states besides in Jammu & Kashmir state under some pretext or other.

With that the army personnel and other para-military forces engaged in those states in their "policing" roles have been playing havoc with the lives of common innocent citizens in the way of fake encounter killings, maiming, rape, plunder and loot, under the protection of AFSPA with impunity.

The people of those states have been continuously protesting the outrages committed by the army personnel playing havoc with their lives property and dignity and have been demanding to punish the concerned army personnel that have been committing such ghastly crimes against common innocent people. They have been also demanding for the revocation of the AFSPA in their states and to safeguard them from the ravages of the military personnel.

But the rulers of the central government have been keeping a deaf ear to the righteous demands of the affected people to revoke the AFSPA, particularly on the argument and pretext that the military institution is not agreeing to revoke the AFSPA in the interests of sovereignty, security and integrity of our country.

Many officers of the highest echelon of the military as well the Lt. governors of those states have been voicing and trumpeting the same reasons about the inadvisability of revoking the AFSPA that has become the hanging rope for the people of those states in their practical levels.

From 1979 to 2012 in Manipur state alone 1, 528 cases of extra judicial killings (fake encounters) have occurred besides many citizens were maimed, raped and abducted without a trace. Neither the state nor the concerned military personnel were made responsible for these crimes and no one was punished under the protection of AFSPA. Not even attempts were made to find out the culprits even under the military law and to punish them.

During the course of time the military personnel who are supposed to be working with the commitment of "safe guarding all citizens irrespective of religion, caste, sex, region" have developed a perception that AFSPA is a privilege for them for doing the job of countering internal disturbances and insurgencies. They even took it as a privilege to the extent of unmitigated right to "plunder, kill and loot" as they please in these areas. They even perceive that they should be placed the law and justice of the land.

On the other hand, the citizens being the victims to the untold brutalities of the military personnel in those states are agitating with protests opposing the AFSPA demanding its revocation and punishments to those military personnel that committed the outrages. They are righteous aspiring for the withdrawal of AFSPA totally.

A public interest litigation was filed in the Supreme Court seeking a probe in to as many as 1528 cases of extra judicial killings that took place in Manipur. The Supreme Court rightly responded to this PIL formed a committee with 3 eminent personalities in public life-Retired Supreme court justice, Santosh Hegde former chief election commissioner, J.M.Lingdo and ex-DGP Ajay Kumar Singh-to examine into the allegations and submit a report on the petition. The committee which examines the petition in depth concluded that all those encounters were fake and extra judicial killings. Then the Supreme Court intended to conduct an enquiry in to all those incidents of encounters. But the then Attorney General on behalf of the government had argued that there was no necessity to enquire in to those encounters, since there was a 'war situations' in that state and that the military was empowered with extraordinary powers with AFSPA. But the Supreme Court not agreeing with the contention of the government had constituted a Special Investigation Team under the CBI and ordered the framing of charge sheets in a time bound manner against Army and Police officers involved in the encounters.

Accordingly the SIT had filed charge-sheets in connection with fake encounters by the Army, Assam Rifles and police in Manipur.

Now the Army personnel are making a collective attempt to thwart and defeat this judicial process and the righteous aspirations of the people of north-eastern states and J&K state against AFSPA and extra judicial killings by way of filing petitions in the Supreme Court against 'prosecution' of the army

personnel involved in those crimes. Such an attempt is being made systematically by the army personnel.

In the name of presenting their view on the cases relating to AFSPA, their “sense of worry” and their foreboding sense of the unending “tightening of hands” (their) 700 army officers and other personnel-75 officers including a brigadier-filed petitions (two) in the Supreme Court against a so-called “an attempt to dilute the provisions of the AFSPA”.

This collective petition follows a similar plea filed by the father of an army officer (Major), who approached the SC after an FIR was lodged against his son by the J&K police for killing a civilian in army firing in Shopian.

Such a united move by the personnel of the army is unprecedented in the history of the army, where collective action is banned. Even in other governmental services including, semi-state-government services like APSRTC the conduct regulations, Fundamental Rules or standing orders such a collective action is treated as serious misconduct. But in the present case of army personnel filing a collective petition is ‘liberally’ viewed by the present day NDA rulers, whose defence minister indirectly supports the move of army personnel by stating “I, (Nirmala Seetharaman) have no “grudge” a group of Army officers who have approached the Supreme Court to present their views on cases relating to “AFSPA.” “grievance redress is a right. I will never want to say if you have a grievance, you should not voice it.” .. “There are institutional mechanisms available for grievance redressal with in the Army, Navy and Air force.... But in the case of AFSPA, they have chosen to go to the court, there is a certain sense of worry in the minds of men and officers... we are speaking up for the men and officers who are on the field and that is why the Advocate General, Attorney General appear (in the Supreme Court) on behalf of the government’s position”.

With such a “liberal” and “fair” posture the NDA rulers are justifying the act of Army official and personnel collectively filing a petition in the Supreme Court against the prosecution of those who killed the innocent civilians under the protection of the umbrella of AFSPA. By this we can safely conclude that the NDA rulers themselves are inciting and supporting the army personnel against revocation of AFSPA and the misuse of the act by trigger happy personnel killing, raping, maiming and looting public and citizens with impunity unquestioned, unchecked and unaccountable and at their behest the army is acting in opposition to the aspirations of the people.

In order to grab such unquestionable immunity for killing, maiming, raping and looting the people, the army personnel have filed petitions in the Supreme Court against the prosecution of the criminal army personnel. To achieve this and they argue that “since they believe that sovereignty, security and integrity of the nation is at higher pedestal than even the Constitution of India and is actually the foundation on which we exist, survive, sustain and prosper as nation” and since they (the officers) are now facing confusion and countering questions from the soldiers under their command, as to whether they are supposed to continue to engage the proxy war and insurgency... and operate as per the yardsticks of peace time operations, law and order issues and Cr.P.C”. They also argue that “if the armed forces are not given the protection they require to engage with their bonafide duties, it would cause grave peril to our sovereignty and integrity, thereby endangering, our very existence as a constitutional sovereign democratic republic”. They also argue that “the civil police or even the CBI can’t be expected to be in the know of the complete picture (of a soldier’s functioning and operations in extraordinary circumstances of proxy war, insurgency, armed hostility, covert and overt operations”.

By depicting such lofty slogans, beliefs and grand terminological clichés the petitioners (Army personnel) want to be kept above law and the citizens of the land with whom our supposed republic is composed.

The supporters of this argument of army personnel argue that since Indian military is tasked additionally to their job of countering internal disturbances. In cases like J&K, civic disturbances like Panchakula or in providing relief operations like the recent flood-hit Kerala and that there is also no additional rupee in the soldiers pay structure to working under AFSPA covered areas exclusively and since the efficacy of military is guaranteed even at the potential cost of paying the “ultimate price” by its personnel and since the operational sensibilities governing AFSPA areas are not applicable non-AFSPA for the military-they shall not be prosecuted for killing, maiming, raping and looting innocent citizens.

In fact the FIR’s filed against certain army personnel are not at all for their ‘efficacy’ ‘protecting the sovereignty (border), integrity and security of our country or for doing their commendable services in cases of civic disturbances when the police had failed or for their relief works in cases of national calamities. Moreover the prosecution is not against all the army personnel but against those who

committed inhuman and brutal crimes against citizens by way of fake encounter-killings, rapes, loot and maiming in AFSPA areas. There were charges for killings (murders), destroying and erasing evidences and for threatening witnesses etc.

The Supreme Court had rightly, clearly and categorically declared that “there is no concept of absolute immunity from trial by a criminal court” if an army man has committed an offence.” It also declared that” the extra judicial killings and fake encounters by the Army, Assam rifles personal and the police in Manipur cannot be tolerated”.

So the protest issue of prosecution is not against the army institution or its entire personnel but only against the army personnel who committed the crimes. Nor it is the questions concerning the alleged sovereignty, integrity and security of India. It is simply about the crimes committed by some army personnel against citizens.

It is not understood why this simple and proper issue shall cause confusion and why the army officers face confusion and how they are unable to answer the countering questions of the soldiers and why they are unable to clarify them that doing their bonafide duties in good faiths without any “criminal intent or mens rea” is entirely different from committing inhuman crimes against people with total disregard to citizens.

It is apparent from various incidents of army personnel opposing prosecution for the crimes of some army personnel, that they are being propped up by the vary rulers who are not interested in revoking AFSPA and to agree that crimes occurred in AFSPA involved areas.

Even the army top brass has been supporting and encouraging those officers who blatantly committed crimes against people instead of diminishing and punishing them under the provisions of military law.

For example in J&K on April 9, 2017, one Farook Ahmed dar was used as a human shield by the Major Leetul Gogoi, who sparked a nation –wide out cry against using a ‘human shield’ against stone pelters in J&K.

Instead of honouring the public sentiments and reprehending the errant major, the army chief awarded him “for his ‘stained’ distinguished service till now is counter insurgency operations in Jammu&Kashmir”. The major is allowed to announce proudly in public that “he saved lives without firing a bullet or beating anyone” by using Dar as a human shield.

The NDA govt. supported the errant major through its attorney general in court defending him and publicly announced that “Nothing wrong... if it has to be done again it should be done. We are 100 cent backing the army and the Major” and “Major Gogoi risked his life for the nation; his critics are speaking rubbish”.

But however very recently the very same major Gogoi had to be indicted by the Army court of enquiry for “fraternizing” with a local woman and for “being away from place of duty while in operational area” and he has been shifted out of his unit for his bad behaviour. Such has been the real face of the army personnel committed crimes.

Such has been the affairs with the Army and its top brass in protecting their personnel who have been committing crimes against people. The army chief allowed to comment on governmental policies in public with media without remaining an apolitical as chief of the army institution but as a supporter of the policies of the present day rulers and ruling party the BJP. Since the BJP polices are anti-people particularly with the north-eastern states and J&K, the army chief role has become controversial and anti-people in essence, which a real democratic government ought not allow and accept.

In fact the Indian army is not supposed to handle internal strife and it is not its domain. Its core role is to safeguard the sovereign borders, to undertake front operations against the enemies that exist on the border. But our rulers of ‘independent’ India being the ‘heirs’ of colonial rulers adopting the very same colonial policies of suppression and oppression of the people of the country, have been using the army against people during the conflicts with people, making the army as a tool to suppress the people in the name of internal strife national integrity, to which the army has been willfully serving the political interests of the ruling parties and ruling classes in power.

This is the real problem the army is facing from the rulers in power. To appease the army and make it a willful tool in their hands, the rulers have been privileging it with acts like AFSPA granting immunity to all its acts with impunity which made the army officers of high echelon arrogated to the extent of defying the law of land and demanding an absolute immunity even from the criminal acts perpetuated at innocent citizens of this land. This demand is indirectly being abetted and supported by the NDA rulers in the form “presenting the government’s position” by deputing its advocate generals and attorney generals to the courts-to Supreme court –as has already occurred in the case of Major Lalit Gogoi who used civilian as a shield to his zeep.

This is how a persistent attempt is being made systematically against the righteous aspirations and demands of people of AFSPA imposed states for the revocation of the draconian AFSPA law besides punishing those responsible for extra-judicial killings fake encounters, rapes, maiming and looting of innocent people in the areas, for defeating the very judicial process that has started trail into inhuman atrocities of the concerned army officials and personnel particularly in Manipur state.

To attempt to project this as a 'tightening the hands of army' and opposing the entire army institution is nothing but a false hood assigned at the peoples aspirations and interests opposing them fluently with a deadly might which cannot be allowed in any real democratic republic!