

Oppose Piecemeal Changes to AFSPA!!

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Armed Forces Special Powers Act (AFSPA) continues to be used rampantly to crush democratic rights. With many years of the Act being used to arbitrarily detain, search, disappear and even kill people has given rise to a culture of impunity that has pervaded even the state police forces. Despite years of evidence that repression let loose by the central security forces has led to rampant violation of human rights, the government of India has not heeded the demand for repeal of AFSPA.

AFSPA has its genesis in a colonial ordinance promulgated to suppress the Quit India Movement in 1942. The law in the present form was enacted by the Parliament as the Armed Forces (Special Powers) Act in 1958. The same in a different name was extended to Jammu and Kashmir as the The Armed Forces (Jammu and Kashmir) Special Powers Act in July 1990.

Section 4 (a) of the Act empowers even a Non-Commissioned Officer (NCO) of the Armed forces to fire or otherwise use force *to the extent of causing death* of any person who contravenes an order prohibiting the assembly of five or more persons or is carrying a weapon or *a thing capable of being used as a weapon* or fire-arm. This power represents a drastic departure from the general law. Under ordinary law, the violation of an order under Section 144 CrPC prohibiting the assembly of five or more persons is punishable with one months' imprisonment, while under the AFSPA a person can be killed for the same violation. It essentially criminalises any assembly, even a peaceful one.

Section 6 of the Act says: 'No prosecution, suit or other legal proceedings 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 powers conferred by this Act.' The Central Government invariably does not give sanction even in grave cases of rape and murder. This culture of impunity is reflected in the barbaric way protestors in Kashmir have been killed by the security forces. More than 50 persons, many of them under 20, have been killed since June this year.

In a 1997 judgment, the Supreme Court upheld the Act as constitutional but said complaints of human rights violations should be investigated and sanctions should be given by the central government. However this has never happened. The Jeevan Reddy Committee constituted by the government of India recommended repeal of the Act. In Kashmir a working group on confidence building measure set up by the Prime Minister also recommended repeal of the Act in J&K. Similarly the Second Administrative Reforms Commission also recommended repeal of the Act. Last year the UN Commissioner for Human Rights asked India to repeal AFSPA. She described it as a 'dated and colonial-era law that breaches contemporary international human rights standards.'

Following these reports and the recommendations by the UN agencies government of India's ministers have been giving statements to media regarding amendments to the Act. It is not clear what amendments are these and in what ways any amendment will change the ground situation in AFSPA areas.

We the student groups, civil liberty and democratic rights groups, women's groups and trade unions are clear that no amount of amendments to this Act would ease the tensions in the affected areas. Therefore we demand that:

- The Act must go lock, stock and barrel.
- No part of this law be put into any other law
- The central government must give sanctions in all cases where the security personnel have been accused by a court of law, judicial commissions and magisterial inquiries. A thorough investigation must be launched into all pending complaints against central security personnel as well as police personnel.
- The government must withdraw central security forces if it is serious about resolving the outstanding issues in the AFSPA-imposed areas and restore peace.

REPEAL AFSPA

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WITHDRAW CENTRAL FORCES

PUNISH GUILTY SECURITY PERSONNEL

LONG LIVE DEMOCRACY

Joint statement: All India Students' Association (AISA), Asha Parivar, Campaign for Peace & Democracy (Manipur), Delhi Tamil Students Union, INSAF, Intercultural Resources (Delhi), Jamia Teachers & Solidarity Association, Janpaksh, Krantikari Yuva Sangathan, Lok Raj Sangathan, Manipur Students' Association Delhi, National Alliance of People's Movement, NPMHR, NTUI, PDFI (Delhi), Peoples Union for Democratic Rights, Progressive Democratic Students' Union, PUCL, Repeal AFSPA Alliance, Saheli, The Other Media, Anand Chakravarti, Anuradha Chenoy, Bipin Kumar, Dr Walter Fernandes Gowhar Fazili, Kamal Chenoy, Pushkar, Rita Manchanda, Tapan Bose, Uma Chakravarti, Vasanthi Raman & several other individuals