

The Doon School Model United Nations
Conference 2019

Background Guide

Lok Sabha





DSMUN '19

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Nandil B. Sarma

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chair.ls@doonschool.comwww.dsmun.in**Secretary General's Address**

Dear delegates,

As the Secretary General, It is my honour and privilege to welcome you all to the 13th Doon School Model United Nations Conference. DSMUN has been growing exponentially and actively augmenting the level and intensity of crises, debate and co-operation with each passing year. It is a legacy that we hope to continue and reinforce with this year's conference.

In an ever volatile, dynamic and adaptive international status-quo, it becomes increasingly vital for us as students- and thereby potential actors in the same system of compromise- to deliberate, discuss and formulate the groundwork of bi-lateral and multi-lateral ties that are to be established in the future.

With firm precedence, it would not be wrong to say that delegates, having attended this conference in the past, have developed a deeper and a more empirical understanding of diplomacy, compromise and conflict. While the Viceroy's Executive Council strives to ensure the peaceful transfer of power from the British to the Indian Union in 1946, the NATO contemplates the feasibility of occupying Antarctica. From condemning theocracies to enforcing climate laws, DSMUN will be an invigorating amalgamation of resolving and debating dissidence, dispute and disparity.

Besides whiling away my time watching typical Netflix Rom-coms, I find myself engrossed in reading about the framework and history of international and national politics. I am in- charge of the historical and political society and the editor of various publications in school. Having participated in various MUNs in India and abroad, I have had the opportunity to serve DSMUN in various capacities, and subsequently feel privileged to be given the opportunity to be at the organisational apex of the conference this year.

I eagerly await your presence at Chandbagh.

Warm regards,

Vikram Jain



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President's Address

Greetings!

As the President of the Doon School Model United Nations Society, it gives me immense pleasure to invite you to the 13th Session of the Doon School Model United Nations Conference. Being at the pinnacle of a conference that finds itself amidst the top ranks in the country, both in terms of global outreach and quality, has been an absolute honour. However, we at Doon constantly strive to outdo ourselves and promise that this edition of DSMUN will outdo all of its predecessors be it in terms of organizational skill, quality of debate or participation not just from the South Asian region but from around the world. It is with this vision in mind that I extend my heartiest welcome to each one of you to this year's conference.

The scope of this year's DSMUN will not remain confined to conventional committees. Keeping this in mind, we have expanded DSMUN's committee choices incorporating some bold and new ideas. With the introduction of highly challenging committees such as Lincoln's War Cabinet (1864), Viceroy's Executive Council (1946), Union Council of Ministers (1984) and the Rajya Sabha, we aim to pull off a conference not limited to one's imagination. This year's committees are aimed at developing informative deliberations and solutions to issues: both of global and national significance. Discussions pertaining to context of historical events allows one to explore the multitude of possibilities and find answers to the fundamental question of 'what if'. Having said so, the essential Model UN committees still remain intact providing an interesting challenge in terms of debate, wit and diplomacy to one and all.

As for myself, I am currently surviving the ISC curriculum and hold a keen interest in Politics and History. I deeply enjoy playing sports be it athletics or football. If not on the sports field, you can probably catch me commenting on Tottenham Hotspurs bleak chances of clinching a trophy. I also serve as the School Captain of the Doon School and the Editor-in-Chief of the Yearbook, one of the school's flagship publications.

Looking forward to seeing you all in August.

Warm Regards,

Nandil B. Sarma

Introduction to the committee

The crown state of India, Kashmir has found itself in heavy debates as to the political machinery and the Constitution of the State and the conditions that prevail in Kashmir due to the same. Ever since the State's accession to the Indian Union on the 26th October 1947, the state has functioned under Article 35 A (initiated in 1954) and Article 370 which have distinguished the functioning of the State from that of the others in the Indian Union. While Kashmir has been granted an autonomous status and has the power to define its permanent residents among the many other distinctions, the very same have found themselves under the scanner for reasons ranging from violation of the Right to Equality under Article 14 to prevention of privatization in the State which incurs heavy revenue losses for the State.

The Armed Forces (Special Powers) Act which grants special powers to the Indian Army operating in disturbed areas is another contentious topic for the State; one which has resulted in numerous Human Rights violations. With so much bloodshed and political instability taking place in the crown State of India, the Lok Sabha session of DSMUN will focus on the following issues and work towards resolving them –

- Article 35 A
- Article 370
- Armed Forces (Special Powers) Act

The committee is expected to debate on the following issues and they can either repeal, amend or let the Articles remain unchanged in accordance with the discussion in the committee. The members of Parliament are expected to follow their party stances and accordingly lobby for or against the issues under discussion. To make the committee more dynamic, there will be 15 special invitees who would provide their expert opinions and insight into the debate.

As to how the discussion will take place in the Lok Sabha, all parliamentarians are to strictly adhere to parliamentary language and observe formal and courteous behaviour. As the agenda is one which is politically charged and legally complex, a thorough research and understanding will be essential.

As for myself, I am currently a Humanities student in the ISC and my keen interests lie in History and Political Science, especially that of our nation. As for my co-curricular pursuits, I am interested in English Debating, MUNing and writing. I have engaged in MUNs for the past 4 years in multiple capacities and will be the Speaker of Lok Sabha in this year's DSMUN; one committee which truly stands out in the conference for the diplomacy and

politically heated debates it enjoys. In addition to this, I am an avid reader of literature and politics and am the Editor of a few school-based publications. Our deputy speakers will be Sriman Goel and Nand Singh Dahiya who will help me in running the committee. All delegates are more than welcome to contact us for any help.



Agenda

Solving the Kashmir Dispute: Article 35A, Article 370 and AFSPA.

Running of the Committee

Lok Sabha is one committee across MUNs which heavily runs on the power dynamics that exist within the committee. Bearing in mind the results of the Lok Sabha elections for this year, the delegates are expected to follow party stances on policies and ideologies and most importantly the diplomatic handlings in the committee. In addition to this, there will be special invitees in the committee who will add their professional insight into the matter and add perspective more than just what the political parties have to offer. On the matter of documentation, the delegates will be expected to come up with working papers for the first two matters on the agenda (Article 35 A and Article 370) and a resolution on the last topic of AFSPA. While researching on the agenda, one will also understand the legal complexities that riddle these topics. They shall be rightly dealt with by the Chair's discretion as being a simulation of a Lok Sabha, we do enjoy some flexibility and leniency. As for the documentation itself, while it is expected to be well structured and presented, the prime focus shall always be on the content it has to offer. As for your research and further reading, the background guide entails several links of sites that have helped us build this background guide one bit at a time. It is highly recommended that you take help from them but also go beyond

into your own realm of research and reading.

Needless to say, one is expected to be well versed with the rules and proceedings of the Lok Sabha. More than anything else, a civics 101 lesson on the rules and procedure of Lok Sabha would suffice. Before we get down to debate as a committee, the Executive Board will spare and give out time for clarifying any queries that one might have; no need to panic there. Finally, all the best and we look forward to hosting you!

Article 35A

Background and Statements

Article 35A of the Indian Constitution allows the autonomous state of Jammu and Kashmir to define a 'permanent resident' of the state. This article was introduced to the constitution in the Presidential Order of 1954. The article states the following (paraphrased)–

1. The State of Jammu and Kashmir may define the persons who are the permanent residents of the State.
2. The State may confer any special rights or privileges or impose restrictions upon these permanent residents with respect to the following areas:
 - a. Employment by the government
 - b. Acquisition of immovable property in the State
 - c. Settlement in the State

- d. Right to scholarships and other such forms of aid as the State may provide

This means that the state decides who is classified as a resident and controls their government employment and scholarship, residency and land acquisition.

The Current Definition of a Permanent Resident (PR) of J&K and its Potential to Change

The State of Jammu and Kashmir defines a permanent resident of the State if the person –

1. Was a state subject on **May 14, 1954** (permanent resident under Maharaja Hari Singh's Rule)
2. Has lived in Jammu and Kashmir for 10 years and has lawfully acquired immovable property.

The Vidhan Sabha (state legislature) of Jammu and Kashmir can change the definition of a permanent resident provided there exists a two-thirds majority in session.

Relevance of the Article to non-residents of the State

Article 35A means that a person who is not a permanent resident of Jammu and Kashmir cannot –

1. Own land or housing in the state
2. Work a government job in the state

3. Join a professional government college or gain any government aid or funds.

History and Timeline of the Article

The state of Jammu and Kashmir was known as a princely state before **1947**.

The citizens of the state were not regarded as colonial subjects, but as subjects of the state while under British Raj. The Hereditary State Subject Order was a decree by the Maharaja of Kashmir in the year **1927**, which granted these subjects the right to government employment, land use and land ownership. The order made clear that these rights are only to be granted to state subjects, with no exceptions for non-state subjects.

The Hereditary State Subject Order by the Maharaja was born due to protests to keep the culturalism of Kashmir intact and because of demonstrations such as the 'Kashmir Kashmiriyon ke liye' (Kashmir for the Kashmiris) movement by Kashmiri Muslims and Hindu Kashmiri Pandits. The order was further emphasized as the Maharaja's court wanted to prevent any Englishmen or rich aristocrats from settling in Kashmir. Therefore, the order was authorized with the purpose of keeping land preserved for the ethnic people of Kashmir.

After Jammu and Kashmir joined the Indian Union in **1947** and the Maharaja of Kashmir gave up control of the state,

the Hereditary State Subject Order was still in effect as the state subjects retained their exclusive status. In the Delhi Agreement of 1952, held between the PM of the Indian Union Jawaharlal Nehru and the PM of Jammu and Kashmir Sheikh Abdullah, both state governments agreed to provide Indian citizenship to all J&K state residents while also ensuring that the state government of J&K makes decisions on the rights of the state subjects, giving them the renewed status of permanent resident (PR).

This was further reflected in The Presidential Order of 1954 (officially ‘The Constitution (Application to Jammu and Kashmir) Order, 1954’) when Article 35A was formally introduced into the Indian constitution.

The purpose of The Presidential Order of 1954 was to implement the 1952 Delhi Agreement itself. It codified the agreement of the following –

1. Granting Indian citizenship to permanent residents of Jammu and Kashmir.
2. The introduction of Article 35A, granting the state of Jammu and Kashmir the right to decide the privileges accorded to the state’s permanent residents, with regards to permanent property, settlement in the state and government employment.
3. The fundamental rights of the Indian Constitution to be applied to the state of Jammu and Kashmir.
4. The Supreme Court having jurisdiction over the state.
5. The central government obtaining the ability to declare a national emergency in the event of external aggression.

Article 35A was placed under Article 370 of the Indian Constitution that pertained to the state of Jammu and Kashmir. The article is seen as an exception allowed by Article 370.

Debate on the Article

Article 35A has faced debate and criticism for various reasons-

Article 35A is the primary obstacle to the privatisation of land and creating private industries in Jammu and Kashmir. Due to the property ownership laws only providing for permanent residents, any external companies or agents cannot set up industries or businesses permanently in J&K. This hurts the development in Jammu and Kashmir since all development is internal without any tangible capital or industry from external sources.

Article 35A also discriminates between citizens of India, making Jammu and Kashmir an area almost untouchable by non-residents of the state. This makes Kashmir almost prime as a tourism-only area. This discrimination further extends to whom a permanent resident woman may marry. If the spouse of a PR woman does not have a PR status, their children will not be considered permanent

residents. This hurts the family's future as the children will not be allowed to study in government colleges. This results in a norm where marriages are between permanent residents, similar to keeping bloodlines pure. This amounts to a violation of Article 14 too i.e. Equality before the Law.

The article's institution is also a matter of relevance and dispute since it was constructed into the Constitution through the Presidential Order of 1954. This was not the standard procedure of making amendments to the Constitution under Article 368. Adding such an article requires approval by the Parliament, but Article 35A was not presented to the Parliament for approval. This claim is disputed by the fact that Article 35A was presented and approved by the Constituent Assembly of India.

Political Stances

As political parties each have a separate agenda and different methods to deal with the situation in Kashmir, they have unique stances on Article 35A too. The stated stands of major political parties are compiled below –

BJP

In the words of the BJP Manifesto itself, the Bhartiya Janata Party is “committed to annulling Article 35A of the Constitution of India”. The reasons it provides are of discrimination against non-permanent residents and women of

Jammu and Kashmir. The BJP also claims that the article hinders development in the state.

INC

Although not expressly mentioned in the Congress Manifesto, the party insinuates in the manifesto that they would not review Article 35A, since their belief is that “nothing will be done or allowed to change the Constitutional position”. Instead, the model Congress vows to implement involves steps to increase discourse and review the AFSPA and Disturbed Areas Act, among other steps.

BSP

The Bahujan Samaj Party continually refuses to make their stand on Article 35A clear, stating only that the government should not make decisions about such a topic in haste. The BSP has not made any statements about Article 370 in the recent past.

CPI(M)

The Communist Party of India (Marxist) firmly believes that Article 370 and Article 35A should not be abrogated, and “oppose any move to interfere with Article 35A”. CPI(M) even called upon the central government to make a public commitment to retain the articles in the constitution.

AAP

The Aam Aadmi Party stands against the removal of Article 35A and 370. AAP believes that autonomy in Kashmir is a requirement and that solutions to the Kashmir dispute can be found “in the Indian Constitution itself”. AAP also went on to state that every Indian state should “have the right to draft their policies according to need”.

RJD

The Rashtriya Janata Dal took a neutral stance on Article 35A, stating that “the matter is for the judiciary to decide upon”.

JKNC

The Jammu and Kashmir National Conference took the boldest step in making a statement against the central and state governments’ position on Article 35A. The JKNC declared that they will boycott the local elections and will not contest the polls until the governments explain their stance and take steps to protect Article 35A. Soon after, the JKPDPP also stated that they plan to boycott the polls.

JKPDPP

The Jammu and Kashmir Peoples Democratic Party states that Article 35A is a matter of right and not of privilege. They stand completely with retaining the

article. They further mentioned that abrogating the article could only lead to disaster. They too boycotted the municipal elections in J&K over Article 35A.

JKNPP

The Jammu and Kashmir National Panthers Party is openly against the BJP, having staged protests against BJP’s actions and stance on Article 35A. The JKNPP also made clear that the BJP-PDP alliance cannot maintain conflicting positions on a situation as important as Article 35A. The JKNPP also accused the alliance of intentionally creating confusion about the relations between the centre and the state to bring in votes.

JD(U)

Contrary to earlier belief, the Janata Dal (United) party, has a stance opposing its ally the BJP on Article 35A. The JD(U) stated that making changes to the provisions for Jammu and Kashmir would be “detrimental to the national unity and integrity”.

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Article 370

Introduction

Article 370 of the Indian Constitution was initially introduced in order to bring the people of Jammu and Kashmir into

the mainstream democracy of India and strengthen the nation but has proved to be the biggest hurdle in modern debate and has significantly given rise to the causes of separatists, contrary to its intended purpose.

The article provides the state of Jammu and Kashmir with autonomous status and the authority to make a separate individual constitution along with control over every government affair other than defence, foreign affairs and communications. According to Article 370, the state's concurrence is required by the central government to apply any law other than the features of the Instrument of Accession.

History

Similar to any other princely state, the state of Jammu and Kashmir aimed to develop their own constitution and create their own laws for unique governance. All of India's princely states were invited to send a representative to India's Constituent Assembly and were motivated to set up constituent assemblies for their respective states. Even though the states of [Saurashtra Union](#), [Travancore-Cochin](#) and [Mysore](#) had developed their own model constitution, they accepted the Indian Constitution after making a few amendments. They believed that the subjects available for legislation by the

central government and the state governments across India should be uniform.

In the case of Jammu and Kashmir, the representatives to the constituent assembly proposed that only those provisions of the Indian Constitution that correspond with the original Instrument of Accession (which was on three matters: defence, foreign affairs and communications) should be applied. The provision was drafted by Sheikh Abdullah who had been appointed by Jawaharlal Nehru and then the prime minister of Jammu and Kashmir - Maharaja Hari Singh. Maharaja Hari Singh wanted an 'iron clad autonomy' which means a sole government without any foreign intervention; which the central government at the time did not agree to. The government wanted control over defence, foreign affairs and communications as a minimum requirement for providing Jammu and Kashmir autonomous status. These sectors were the most important to the central government due to the close proximity between Jammu and Kashmir and Pakistan.

Article 370 of the Indian Constitution gives the state of Jammu and Kashmir a special autonomous status which, if simply put, is a near intervention-free state of governance directed by a separate constitution but approved and authorised by the Government of India. Despite this status, three matters that hold extreme

importance in the governance of a country, i.e. international relations, communications and external affairs are looked after by the Government of India itself.

Timeline

Kashmir Conflict (Kashmir as independent)

The princely state of Kashmir was formed on the **16 March 1886** with signing of the '*Second treaty of Amritsar*' between the British East India Company and Raja Gulab Singh. In **June 1932**

Sheikh Abdullah in alliance with Chaudhary Gulam Abbas founded the All Jammu and Kashmir Conference to fight for the rights of the Muslims in the state.

After winning all the 19 constituencies contested in the state legislative assembly elections held in **May 1938**, Sheikh Abdullah later in **June 1939** changed the

name of the Muslim Conference to the National Conference and welcomed people from other religions to contribute to the party's motive. Along with National Conference becoming secular at the same time it joined the All India States Peoples Conference, a Congress allied group of movements in the princely states. The Pakistan Resolution passed on the **23 March 1940** demanded a fully sovereign state comprising of all the princely states with Muslim majority, Kashmir being a Muslim majority state was asked to join the Muslim League's vision. But in **April 1944** Sheikh Abdullah introduced the '*Naya Kashmir*' program to

Maharaja Hari Singh proposing the idea of constitutional monarchy.

Due to the economic offsets of the World War II on the British they intended to leave India, as a method to transfer power on the **3 June 1947** Lord Mountbatten proposed the partition plan or the Lord Mountbatten Plan which entailed a clause stating that the princely states would have a choice to conjugate to any of the two nations being formed or stay as a different state all together. As stated in the Mountbatten Plan that was passed in the British parliament on the **5 July 1947** every princely state in the Indian Territory had a choice of either joining any of the two nations being formed or to remain independent. After the British had granted India and Pakistan independence from the British rule on the **15 August 1947**, the state of Jammu and Kashmir opted to remain as an independent territory.

On the **20 October 1947**, Azad Kashmir Forces that were backed by the Pakistan Army marched into the state of Jammu and Kashmir. The state had a 75% Muslim population and was consequently forced to join Pakistan. The troops attacked the frontier of the state and marched towards Srinagar amassing local support. The increasing backing of the Azad Kashmir Forces in the state increased the tension and disarray in the state.

Maharaja Hari Singh, the then ruler of the state, approached India for assistance.

India dispatched its troops to the state to provide support only on the following conditions:

- i. The Maharaja must accede to India and hence the state would join the Indian Union.
- ii. He would democratise the entire state of Kashmir and form a new constitution.
- iii. Sheikh Abdullah the leader of the National Conference would be entertained in the government.

Therefore, an 'Instrument of Accession' was signed between the Indian Prime Minister Pundit Jawaharlal Nehru and Maharaja Hari Singh, and from then, the state of Jammu and Kashmir officially became a part of the Indian Union on the **26 October 1947** known as the accession day.

Article 370

Kashmir joined the Indian Union on the **27 October 1947**. Later in **1948** the Maharaja had appointed Sheikh Abdullah as the prime minister of Kashmir. In the interest of Kashmir's demand to attain autonomy, the Indian Constituent Assembly adopted the Article 370 providing the state of Jammu and Kashmir special status and internal autonomy. The Article 370 came in power with the constitution of India coming in power on the **26 January 1950**. The president from then with the unanimity of the state legislative assembly made a series of amendments in the

article. The constitution of Jammu and Kashmir came into power along with the Indian constitution on the **26 January 1950** known as the constitution order. It stated all the subjects and articles that overlapped in the Instrument of Accession and the Indian Constitution as said by the clause b(i) of the Article 370. Thirty eight subjects from the union list fell under the state legislative assembly and a few particular articles were accepted by the state government with some amendments. The constituent assembly of Jammu and Kashmir was elected in **1951** and was summoned on the **31 October 1951**. Majorly the assembly proposed the abolishment of monarchy from the state and the state to be democratised. Hence, the Delhi Agreement was concluded in 1952. As the state was no more under a monarchy rule the Article 370 was amended by the presidential order issued on the **15 November 1952** replacing ‘recognised by the President as the Maharaja of Jammu and Kashmir’ by “recognised by the President on the recommendation of the

Legislative Assembly of the State as the Sard-i-Riyasat. After the amendments made in **1952** the constitution of Jammu and Kashmir eventually came into play on the **14 May 1954** in a more official way. The Constitution Order **1954** was simply a comprehensive order to implement the **1952** Delhi Agreement. The Delhi Agreement concluded of the following provisions:

Citizens of Jammu and Kashmir were recognised as Indian citizens from then.

- i. The state shared the same set of fundamental rights as mentioned in the Indian Constitution.
- ii. The judiciary powers came to the centre, as Supreme Court of India’s jurisdiction extended to the state.
- iii. In the case of external aggression the Central Government was given the powers of declaring national emergency.

Around forty seven presidential orders were passed between **11 February 1956** and **19 February 1994** with the agreement of the state legislative assembly.

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Should it be repealed?

Any efforts made to repeal this article would be in vain until a sense of togetherness and acceptance arises in the people of Kashmir.

The mere fact that the people of Kashmir have been given special rights arises a feeling of secession amongst them. Separatists in the state have been taking extreme advantage of this situation by imbuing a feeling of alienation towards the rest of the nation in the people of Kashmir and by promulgating militancy. This is a severe case of national tension as Kashmir floats away from India.

If the article is abolished, it will prove to be a good diplomatic step towards bettering India's relations with Pakistan over terrorist disputes since militancy would be reduced. The abolishment of this article could possibly let other parties to lead Kashmir.

Why can't it be removed?

As the constituent assembly of Jammu and Kashmir had been dissolved in 1956 after the Jammu and Kashmir constitution was passed, therefore the article cannot be abrogated without a constituent assembly to resolve it.

The Supreme Court of India has confirmed that the article 370 is permanent due to the same.

Political Stances

The foreign office spokesman of **Pakistan** Mohammad Faisal on the 5 April 2019 said that abolishing the Article 370 would be a violation of the UN resolutions.

BJP

In its manifesto for the 2019 general elections stated clearly that the article 370 should be abolished. They believe that the Article 370 is an obstacle in the way of development of the state and to provide adequate financial resources to each and every region of the state.

Accordingly article 35A another article giving Kashmir special rights does not allow any non-permanent resident of the state to personalise any form of resource coming under the state authorities. This resists the state from getting any external investments. But, Modi government has to be careful in their next step as Mehbooba Mufti the leader of the BJP alliance in Jammu and Kashmir, Jammu and Kashmir Peoples Democratic Party says that if BJP meddle with the article it would result in BJP losing their alliance in the state of J and K.

INC

On the other hand contradicts BJP saying that the Article 370 couldn't be just repealed. Manish Tewari member of the INC said that repealing the article will need the consent of the constituent assembly of the state which does not

exist now. He added that according to the Article 370's section 3 the President of India could only repeal the article when he has a clear consent of the constituent assembly.

The two major opposing parties of Jammu and Kashmir, the **Jammu and Kashmir Peoples Democratic Party** and the **Jammu and Kashmir National Conference** both have a common say on the issue. Omar Abdullah the vice-president of the National Conference and Mehbooba Mufti the party president of Peoples Democratic Party cautioned the centre saying that any attempts to tamper with the Article 370 or Article 35A would result in serious divarication of the community. Ms. Mufti in her statement stated that the scrapping of this article will nullify the legitimacy of accession of Jammu and Kashmir with the Indian Union.

BSP

Mayavati Prabhu Das also opposed BJP's proposal saying that the BJP government has not thought about the backlashes that would follow if the article is scrapped out of the constitution.

CPI(M)

Believes that the Article 370 cannot be abrogated as the constituent assembly has ceased to exist after 1956 and the special status given to the state couldn't be just taken away. They

perceive the need of the article to return to its original form.

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Armed Forces (Special Powers) Acts

Background

Armed Forces (Special Powers) Act was passed on 11 September, 1958 to handle the chaos happening in the disturbed regions of the North Eastern region of the country. Later due to the increasing insurrection the act was implemented in Kashmir as well. The act provides the Indian armed forces with special permission to take whatever action they consider necessary in the interest of maintaining law and order in the disturbed areas. An area is declared to be

disturbed according to the when differences in the communities ascend based on religion, race, language, caste and region or any radical situation arises. AFSPA is only imposed in those areas which have been declared disturbed by the government. AS soon as the AFSPA law is implemented upon a state the Army and the armed forces are sent to the concerned region. Any state declared as a disturbed state would stay in the control of the armed forces for at least three months. Section (3) of the AFSPA act specifies that for the central government to declare any area as disturbed the state government of the state's opinion should be considered deeply as to take any further action. AFSPA gives the armed forces the following allowances:

- I. Any suspect could be arrested without a warrant.
- II. The armed forces could search any house without any search warrant.
- III. The law enables the armed forces to forbid any gathering of five or more people in an area.
- IV. After giving due warning to any disturbing factor, if it still persists to stay the armed forces have the authority to open fire on the disturbing factor.
- V. If a person is a repeated offender and keeps at disturbing the peace of the area, then the armed forces have been authorized to use force till his/her death.
- VI. If the armed forces suspect any militant or offender hiding in a building, then the armed forces can destroy the site.

- VII. Under this law the armed forces could stop any vehicle or search.
- VIII. In the case of any wrongful action taken by the armed forces the armed forces are exempted of any legal action against them.

Debate on AFSPA

The debate on AFSPA hinges around fundamental human rights violations and the matter of security. On one hand, AFSPA are required to maintain decorum and reduce encounters of violence in areas which are fueled by unrest. They help protect the country's boundaries and require special status and strict law, so that citizens of the state and potential insurgents cooperate with the forces and stay civil. There is also the possibility that the special status that the armed forces are provided contributes to the reasons why the citizens remain civil, in other words under the force of fear. Without the special permissions accorded to them, the armed forces may not be able to control a serious insurgency, should such an occasion arise in disturbed areas. Dealing with home and foreign terrorists alike is not feasible without the special permissions accorded to the armed forces, as claimed by the army. The armed forces are also bound by morality in a social contract as they enforce law in disturbed areas in return for the special permissions that allow them to do so. Furthermore, if AFSPA is repealed in a particular area, the army would have to withdraw, leaving an area all the more vulnerable to violence and attack.

On the other hand, the special permissions in the AFSPA have been repeatedly used for the wrong reasons. There are claims of the armed forces using their legal immunity to force sexual favours and of conducting fake encounters in disturbed areas. The Supreme Court recently ordered an investigation by a CBI Special Investigation Team into these allegations

and also for extra-judicial killings in Manipur. Similarly disturbing reasons that stand against the AFSPA are the human rights violations that it so clearly commits by existing as an act itself.

AFSPA is in violation of the following human rights in the Indian Constitution and International Conventions –

Article 21: The right to life – As AFSPA gives the armed forces the right to kill suspects and arrest them by force.

Article 22: The protection against arrest and detention: AFSPA gives the forces authorization to arrest any person simply on the basis of doubt.

Immunity to security forces: AFSPA provision of legal immunity to the armed forces count for all actions, including killing a person under suspicion. This does not bring justice to the armed forces for any crimes and does not hold the doer responsible. Prosecution of one's actions is the most important factor in bringing justice to any disturbed area, and it is one that has been overlooked through AFSPA.

Political Stances

BJP

The Bhartiya Janata Party is in complete support of the AFSPA and claim that they shall be a 'rock solid' support of the security forces. The party does not consider removing or diluting AFSPA in any manner a feasible option.

INC

The Congress vowed to review and amend the AFSPA to "create a balance between security and human rights and to remove immunity for the actions of the armed forces.

CPIM

The Communist Party of India (Marxist) believes that AFSPA is a threat to the safety of citizens of the state. Since the

act provides legal immunity to the armed forces, CPIM claims that the act allows the forces to act "without being brought to justice".

AAP

The Aam Aadmi Party vies for lifting the AFSPA in Jammu and Kashmir, on the reasons of the alienation that AFSPA causes amongst people and the gross human rights violations.

JKPDP

The Jammu and Kashmir Peoples Democratic Party leans towards the revocation of the AFSPA, a position in stark contrast with their ally the Bhartiya Janata Party. They have not made a statement about what their intentions or actions are to be regarding this issue.

JKNPP

The Jammu and Kashmir National Panthers Party last made a statement upon AFSPA in 2012 and have not changed stance affirmatively yet. The JKNPP last claimed that the Centre should not withdraw the army or revoke AFSPA. This stance may have changed without notice since, due to numerous human rights violations in the years that followed.

JKNC

The Jammu and Kashmir National Conference is openly and firmly against the AFSPA since their last tenure as ruling party. Their stance has not changed since. The JKNC also holds the JKPDP responsible for not attempting to do away with the AFSPA in accordance with their stance and despite their position with the BJP alliance.

JD(U)

The Janata Dal (United) party believes that AFSPA should be repealed in the

northeast of the nation, reasoning on the human rights violations committed. This position is also in direct opposition to the JD(U)'s ally, the BJP.

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DSMUN '19