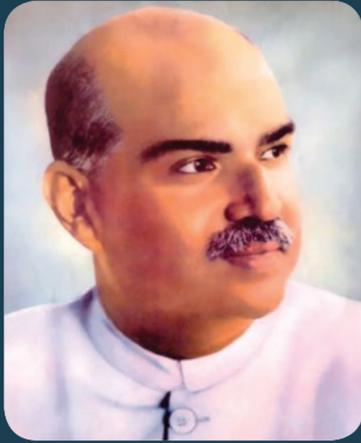




# ONE COUNTRY ONE CONSTITUTION





**“EK DESH  
MEIN  
DO VIDHAAN,  
DO NISHAAN,  
DO PRADHAAN  
NAHIN  
CHALEGA.”**

**— DR. SYAMA PRASAD MOOKERJEE**

**ON THE REVOCATION OF ARTICLE 370 & 35A**

**Thank you Prime Minister. Thank you very much. I was waiting to see this day in my lifetime.**

**— Sushma Swaraj**



**The historic blunders of special status had cost the country politically and financially. Today, when history is being re-written, it proves that Dr. Syama Prasad Mookerjee’s vision on Kashmir was the correct one and Panditji’s dream solution has proved to be a failure.**

**— Arun Jaitley**



**Dr. Syama Prasad Mookerjee  
Research Foundation**

# **ONE COUNTRY ONE CONSTITUTION**

September, 2019

**DR. SYAMA PRASAD MOOKERJEE RESEARCH FOUNDATION**  
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## **FOREWORD**

*A time comes in the history of a nation but rarely, when a momentous decision shapes its destiny. It changes the course of history and revitalizes its journey with a sense of reassurance and self confidence. It gives a sense of hope and trust in a future having a glorious saga of successes and achievements.*

*When a momentous decision is taken, it touches the life of the entire nation with a feeling of rejuvenation and new found dynamism. The revocation of Article 370 & 35A along with reorganization of Jammu-Kashmir is one such momentous decision in the history of India. It was a decision long awaited but considered most difficult and even impossible in the prevailing political scenario. It required a strong political will and a leadership, confident and determined, to take such a historic decision. As the decision was taken and the moment Parliament debated and passed resolutions and the Bill on Jammu & Kashmir with an overwhelming majority in both Houses, the country rejoiced and celebrated in unison. The moment has been recorded in the pages of history in golden letters.*

*The efficacy of Article 370 in effectuating a complete integration of Jammu-Kashmir with India was doubted right from the beginning. Although it was included under the “Temporary and Transient” provision within the Constitution, it was considered an unnecessary concession having no real purpose even for the development and progress of Jammu-Kashmir.*

*Experience shows that it not only thwarted complete integration of the state with Indian Union resulting in the growth of separatist-terrorist activities, it also proved a roadblock in the path of the progress of the region along with the rest of India. Its continuance for more than seven decades further compounded the problem and inflicted untold miseries on the people with around 41,849 innocent people losing their lives in terrorist violence. But even then, unfortunately, there exists a group of its supporters who have not yet been able to reconcile themselves with this momentous decision of abrogating Article 370 and 35A.*

*This group is apparently steeped in a kind of ‘status-quoism’ and feels that everything is now lost, from democracy to constitution and the related –isms: federalism, secularism, liberalism. As they refuse to open themselves to the realities which unfolded in the wake of experimenting with Article 370 & 35A, and the misplaced nostalgia attached to it further makes them blind to any alternative approach and ideas. Those criticising the new approach of the Modi government on Jammu- Kashmir are undoubtedly victims of the past.*

*The main argument of those backing Article 370 has been that the state of Jammu-Kashmir deserves a special status owing to its special history. But they fail to take note of the fact that India is as vast as it is diverse and every region has a history which has a uniqueness of its own. There is no doubt that Jammu -Kashmir has a history of its own but so do other regions which have histories that make them distinct. At the same time it*

*is forgotten that this distinctness never existed in a void but in an ecosystem interwoven by shared history and cultural togetherness and Jammu -Kashmir has been no exception.*

*What is more farcical is the portrayal of 'Kashmiriyat' as a cultural entity, endangered and requiring some kind of legal protection for its survival. The case of 'Kashmiriyat' is not only presented as an exclusive phenomenon but also underplays the cultural diversity of the Jammu, Kashmir and Ladakh regions of the state. If Kashmiriyat is conceptually a binding force with inclusive appeal within the region then why can't it gel with India as a whole? In fact those arguing for a special status are themselves not convinced that 'Kashmiriyat' is a culturally inclusive phenomenon but subconsciously are accepting it as something exclusive and Valley-centric having no chance to survive once the policy of protectionism is withdrawn.*

*Attempts to maintain status-quo in the region with the continuance of Article 370 & 35A have done much disservice to the cause of the Kashmiri people. Not only a disservice but it is premised on a deep sense of alienation and doubt of their Indianness and their being a part of India. The psyche celebrating that exclusivist notion of Jammu & Kashmir does not stop there; it appears unimaginable for the supporters of Article 370 & 35 A to accept them as Indian but sees them as Kashmiris who can only be retained in India through subsidies and concessions. It is impossible for them to imagine that Kashmir can be fully integrated with India and if such integration is attempted, they see a threat to India itself. For such a prejudiced understanding of the Kashmiri question, 'Indianization' of Kashmir is not possible, but if any such attempt is made 'Kashmirisation' of India is possible.*

*What a distorted depiction of the situation and despicable fear which makes that section tremble! But it is not only fear alone but an enormous distrust of the people of not only Kashmir but a section of India as a whole. It is in fact a colossal betrayal of the people for whom this group intends to plead. It presupposes that unlike other parts of India, Kashmir remains beyond the realm of Indian sovereignty and Indian Parliament enacting law on this part may lead to turmoil across the nation. Such mischievous assumptions are aimed at acutely misrepresenting a section of the people by doubting their adherence to the Indian nation.*

*A section of the Indian intelligentsia is in the habit of even questioning Parliament and its authority to enact laws in the name of democracy. As Parliament legislated on the relevant amendments to the Constitution and passed bills for the removal of the relevant portions of Article 370 & 35A and reorganized Jammu -Kashmir into two Union Territories, such questions were raised again. It is, very often, mischievously argued that democratic norms require direct dialogue with the people. While 'dialogue with people' remains a vague idea as neither the term 'people' nor mechanism of 'direct dialogue' is defined or clearly stated. In the vagueness of these claims of 'high sounding ideas' the decisions are delayed, actions are stigmatized and any exercise seeking solution is sabotaged. In the name of democracy, the rights of an elected government are questioned. In the name of democracy, the authority of Parliament is questioned, the Constitution is challenged and even the Judiciary upholding the law of the land is targeted.*

These 'public intellectuals' know no norms, refuse to adhere to constitutional and legal propriety, accept no ethical obligations – and all that in the name of democracy. It needs to be reiterated that democracy functions within the norms and constitutional mechanisms legitimized through the institutions dispensing them. It has to be borne in mind that democracy cannot be allowed to get reduced to 'mobocracy' and in India the 'will' of the people does not rest with 'kangaroo courts' but in the Parliament and the elected government.

In our parliamentary democracy, debates and discussions are its lifeline as long as it remains within the ambit of a democratic ethos and principles. But those swearing by the Indian Constitution, federalism, secularism, constitutional political morality and gender justice support the highly discriminatory and temporary provisions of Article 370 & 35 A. The plight of Ladakh and Jammu regions, deprivation of Dalits, tribals, women and refugees from PoK and West Punjab from their constitutionally guaranteed rights, denial of basic human rights of various sections of the society speaks volumes of the injustices heaped on a large section of the state. Even if we leave the predicament of Kashmiri Pandits aside for a while, the so called champions of liberalism have failed in questioning these highly discriminatory and inhuman provisions in public domain. In place of raising their voices against these criminal deprivations they have chosen to falsely propagate the Kashmir under 'military occupation' narrative. They have gone to the extent of claiming that abrogation of Article 370 & 35 A is an attempt to not allow a Muslim majority state to exist. What a mockery of secularism and democracy – are there Muslim and Hindu states in India? It is a heartless attack on the very fabric of secularism and if such arguments are given credence, such distorted version of secularism is accepted; the idea of secularism may become the first victim of such a banal deception.

It will be a mistake to see abrogation of Article 370 & 35 A through a communal prism. It is an issue intertwined with a large number of issues having multiple stakeholders. If Ladakh is today welcoming the decision then undoubtedly this decision celebrates the idea of federalism enshrined in our constitution. If the decision is ensuring equal rights to women, tribals, Dalits, refugees and various other minorities in Jammu & Kashmir then undoubtedly it is aimed at safeguarding the sanctity of constitutional provisions in the region. In fact it ensures that the constitutional-political morality is now in place and people can enjoy the rights guaranteed under the constitution. In the wake of this historic decision by the Modi government, a class of doomsayers have emerged warning about the disastrous consequences while conveniently ignoring the ground realities which are complex and replete with internal diversities. The Jammu-Kashmir problem is further compounded by attempting to see it through a communal angle and by allowing it to fend for itself. A weak and indecisive approach has long caused immense damage to the people who are facing untold miseries. It is for the first time that a bold decision has been taken with a determination to find solutions which may bring equality, harmony, prosperity, peace and development in the region.

There is not an iota of doubt that a broad consensus always existed in India in

*favour of abrogation of Article 370 & 35A and the reorganisation of Jammu-Kashmir. This broad consensus is also evident in the overwhelming majority through which Parliament has voted in favour of this historical decision. And this overwhelming majority is the result of the support coming from across the large spectrum of political parties strongly backing it and voting the proposal and Bills related to this momentous decision in both the Houses of Parliament. The Congress and its allies have committed a grave blunder in opposing the abrogation of Article 370 & 35A. In doing so the Congress has not only gone against the national sentiment but has opposed national interest and is trying to create hurdles in the way of finding a lasting solution for Jammu - Kashmir.*

*The nation now stands strongly with the bold and strong political will displayed by Prime Minister Shri Narendra Modi in taking a decision which was hitherto considered impossible. At the same time Union Home Minister Shri Amit Shah has been able to make this happen through his assailable arguments and indomitable courage in sailing the proposals through both Houses of the Parliament. It has opened the door for a vast range of opportunities for the people of the state. Now no one can stop the people of Jammu & Kashmir from marching ahead along with the rest of India on the path of development and progress. The decision is not only going to benefit the people of Jammu & Kashmir in a big way but is also slated to bring huge dividend to the people of Ladakh. It has created a win-win situation for people of both the regions and paved the way for a complete integration with rest of India. A new era of development, progress and peace is set to dawn in the region.*

*This booklet is an attempt to bring together excerpts, portions, sections from key debates, discussions, political documents, writings and speeches on the entire narrative of the abrogation of Article 370 spanning decades since independence. One realises how consistent and persistent the demand was, and how over the years it was made from across the political spectrum and divide of ideology. What inspired and moved all those who made this demand starting from Dr Syama Prasad Mookerjee was the dream and determination to see India united, to see her great, prosperous, stable and free.*

*The booklet is not exhaustive and but has prepared in such a way that it can kindle the aspiration for a greater study and dissemination on the real narrative of the abrogation of Article 370 and 35A. The Dr Syama Prasad Mookerjee Research Foundation team has put in great effort in a short time as a tribute to Dr Mookerjee's sacrifice and struggle for the abrogation of Article 370.*

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**PART (1)**

# **THE STATEMENTS OF THE CRAFTSMEN WHO TOOK THE HISTORIC DECISION TO ABOLISH ARTICLE 370 & 35A**

*Prime Minister Shri Narendra Modi and Home Minister Shri Amit Shah have worked to unite the entire country in effecting revocation of Article 370 & 35A and passing of a historic bill in the Parliament regarding the reorganization of Jammu-Kashmir and Ladakh. The speech of Home Minister Shri Amit Shah in Lok Sabha and Rajya Sabha was historical. Similarly, after this bill was passed, Prime Minister Shri Narendra Modi, in his address to the nation on 08 August 2019. In this section we can read the main points of these historical statements.*

## **I. KEY POINTS OF THE PRIME MINISTER SHRI NARENDRA MODI ADDRESS TO THE NATION - 08 AUG, 2019**

- As a country and as a family, you and us, together we took a historic decision. A system which denied due rights to our brothers and sisters of Jammu, Kashmir and Ladakh; a system which was huge hurdle in their development has now been eradicated. A dream which Sardar Vallabhbhai Patel had, a dream which Babasaheb Ambedkar had, the dream shared by Syama Prasad Mukherjee, Atalji and crores of citizens, has now been fulfilled.
- Sometimes certain things of the social life get so entangled with time that they are considered to be permanent. A sentiment of complacency develops and it is thought that nothing is ever going to change. A

similar sentiment prevailed for Article 370. Because of this there was no debate or talk about the damage done to our brothers and sisters, our children in Jammu-Kashmir and Ladakh. Astonishingly, nobody was able to list the benefits that Article 370 delivered to the people of Jammu-Kashmir.

- Article 370 and 35A have given nothing but secessionism, terrorism, nepotism and widespread corruption on a large scale to Jammu-Kashmir. Both these articles were used as a weapon by Pakistan to flare up the emotions of some people. Due to this about 42,000 people lost their lives in the last three decades. The development in Jammu-Kashmir and Ladakh could not be done on levels which the region deserved.
- The laws that are enacted after undergoing this process are beneficial for the people of the nation. However, it's unfathomable that so many laws are enacted in the Parliament but are not implemented in a particular region of the country. Even previous governments who were hailed after enacting a law couldn't claim that the same law would be implemented in the Jammu & Kashmir region.
- Imagine children in rest of the country have a right to education while children in Jammu & Kashmir were deprived of this right. The daughters of Jammu & Kashmir were deprived of the right that our daughters had in rest of the states.
- In all the other states, SafaiKaramchari Act was enacted for hygiene workers but the workers of Jammu & Kashmir were deprived of this. In other states, strict laws were enacted to stop atrocities on Dalits but no such laws could be implemented in Jammu & Kashmir. To protect the rights of blue-collar workforce, Minimum Wages Act was enacted and implemented in all the other states while such a law is only found on papers in the state of Jammu & Kashmir.
- After abrogation of Article 370, the central government has decided to keep the state of Jammu and Kashmir under its administration after putting in a lot of thought process it. It is essential for you to understand the reasons behind the decision. Ever since the state has been under governor's rule, the administration of Jammu and Kashmir is directly under the central government. As a result the positive effect of Good Governance and Development have been observed on the ground.
- The Democracy in our country is very strong; but you will be surprised to know that there have been thousands of brother and sisters living for decades in Jammu and Kashmir who had the right to cast their vote in Lok Sabha polls but were not allowed to cast vote in assembly and local

body elections. They are the ones who had come to India following partition in 1947. Should we have allowed the injustice to continue in the same way?

- I would also like to clarify another important point to my brothers and sisters of Jammu and Kashmir. Your political representative will be elected by you, He will be one of you. The MLAs would be elected just as they used to be elected earlier. The forthcoming cabinet would just be as it used to be earlier. The chief ministers would just be as they were before. I am fully confident that, under the new system, we would collectively be able to keep the state of Jammu and Kashmir free from terrorism and secessionism.
- When our Jammu and Kashmir- the paradise on earth, after achieving new heights of development, attract the whole world, and when there will be greater Ease of Living in the lives of citizens; when they would ceaselessly get their rights, when all the tools of governance would speed up the work in favor of the masses, then I don't think there would be any need to continue with the system under the union government.
- Family rule has not given any opportunity of leadership to any young citizen of Jammu and Kashmir in the State. Now, my these young people will take leadership of the development of Jammu and Kashmir and take it to a new height. I appeal to the youth, sisters and daughters of Jammu and Kashmir and Ladakh to take over command of development of their area in their own hands.
- The decision taken by the Govt. will benefit youth of Jammu and Kashmir and Ladakh and those who aspire to progress in the world of sports. New sport academies, new sports stadium, training in scientific environment will help them to show their talent in the world.
- The riddance from Article 370 is a reality. But it is also true that whatever odds are being caused now because of these historic steps are being fought by them only. Our brothers and sisters of that region are patiently replying to those handful people, who want to vitiate the atmosphere there. We should not forget that it is the patriots of Jammu – Kashmir who are strongly opposing the conspiracies of Pakistan of instigating terrorism and separatism.
- Our brothers and sisters, who believe in Indian Constitution, deserve a better life. We are proud of them. Today I assure these friends of Jammu – Kashmir that the situation will gradually return to normal and all their troubles too will reduce.
- This decision will help in economic development of the entire country

alongwith Jammu - Kashmir and Ladakh. When peace and prosperity prevails in this important part of the globe, the efforts for peace in entire world will be naturally strengthened.

## II. HOME MINISTER SHRI AMIT SHAH'S SPEECH IN RAJYA SABHA ON 05 AUG, 2019

- The Parliament of India gave the right to education to all the children of the country in 2009 but the Government of J&K did not extend this right to education to people of J&K, now every child of J&K will get the right to education.
- Any citizen of the country who does not belong to J&K cannot invest in J&K because how can investment be made in a place where neither the land nor any property can be registered in the name of the owner. Now since this is allowed, investments will also pour in.
- The benefit of any law passed by both Houses of Parliament, never reached the people of J&K. The benefit will now be available to people of J&K also.
- Mr. Ghulam Nabi Azad said that people of J&K are doing inter-state marriages, but the question is that if a girl from J&K marries a boy from another state, her right on the property is taken away, but now the Government of J&K will not be able to take away any fundamental rights of the people.
- Why were dalits, people from backward community- scheduled castes, scheduled tribes and other sections of J&K not given any benefit of reservation till date? Now everyone will get the benefits from it. The poorer sections, the Gujjar Muslims, all the backward community and dalits in J&K will be able to benefit from this.
- Terrorism was born in J&K, reached the zenith and is now on the decline. It is as a result of Articles 370 and 35A, that the youth of J&K got brainwashed and Pakistan took advantage of it. Whose policy resulted in loss of more than 41,400 innocent lives? In 1988, Pakistan's President General Zia-ul-Haq had said that till there is Article 370, the youth of Kashmir would never be united with the soul of India. The point is this, that the youth of other states of the country are not misguided because there is no law to fuel separatism, but these laws are used in Kashmir only to provoke the youth and fuel separatism.
- Should we leave J&K at the mercy of the fundamentalists, who incite violence while their sons and daughters conveniently study abroad,

who want to maintain Article 370 as they have made a lot of money in Kashmir and have even made and invested in properties abroad. They want to keep the common youth of Kashmir away from the path of development, while the youth yearns for good education. Development will be done and requires improving medical and tourism sectors. For increase employment, investment is needed. For doing this the thorn of Article 370, needed to be removed from the developmental path of J&K.

- Nehru ji said that Article 370 in due course of time will be worn out, will be eliminated and so it was made temporary in the Constitution. They said that Sardar Patel gave Article 370, it is plain wrong. Sardar united and integrated the whole country. Sardar Patel did not deal with J&K he handled Junagadh and Hyderabad, as a result of which they are both with us today. Pandit Nehru dealt with J&K, and so we are seeing the problem even today.
- People say that Article 370 connects J&K with India, it is right only in expression, but not in reality. Article 370 came into existence in 1949 whereas India and J&K were merged in 1947 as a result of the letter of Maharaja Harisingh.
- Kashmir's culture is not safe not as a result of Article 370. When the local culture of every state including Maharashtra, Karnataka, Tamil Nadu is safe in the country, so why can't the people of Kashmir be kept together. The culture of Kashmir can also be protected like it is being done for the rest of the states. There is no reason to maintain Article 370 for this.
- Ram Manohar Lohia ji had said that as long as there is Article 370, there cannot be uniformity between India and Kashmir. Lohia ji had said this in the Parliament. All the prominent leaders of the country have said this.
- Today is the right time to remove Article 370. It could not be removed earlier due to lack of political will. With Narendra Modi as the Prime Minister of India, the will to do this has arisen in the country and the Home Ministry has decided to remove it.
- Why has the reservation bill being brought for J&K? The reason behind this is if we pass it here then it will become easier as when a government is formed in the state, it will be applicable to J&K on its own, without the need to pass legislation.
- I would like to convey it to the people of J&K that J&K is India's crown-jewel. In J&K, if the situation remains under control, then we will also

work towards normalising the situation.

- Many states have been divided after independence in the country and it has been done by both the BJP and the Congress. Opposition would clearly remember the bifurcation of Telangana and Andhra Pradesh and how the bill was passed in Parliament. Even the broadcasting was stopped and the process continued till late night in Parliament.
- The people of J&K have lived with Article 370 for 70 years. Now we urge to the youth of J&K to give us five years, we will show them how to make J&K the number one state in our country.
- This is the only way to resolve the J&K problem. We have to remove Article 370.
- I request this august house that we should try to bring normalcy in J&K. The way to solve the Kashmir problem will come from here only. We have to leave the politics of vote bank. We have to tell the reality to the people of Kashmir. Thanks to all those parties- AAP, BSP, BJD, & AIADMK who have supported this historic step. Thanks to the people of the country who have welcomed this verdict in one voice. Seeing the resolve of the people, my faith has also been restored and increased.
- Today we have placed two resolutions, one bill and a reservation bill in Parliament. Everyone is being requested that we send a good message to the people of J&K. I propose that the House concur on both the proposals and that both bills be passed.
- Even before we started winning municipal elections, the issue of removing Article 370 had always been part of our manifesto because we believed that the path of Article 370 is wrong. Today when the people of India have given us majority in 2014 and 2019, we believe Article 370 should be removed.

### **III. HOME MINISTER SHRI AMIT SHAH'S SPEECH IN LOK SABHA ON 06 AUG, 2019**

For the past 70 years, every person in this country has been claiming that Kashmir is an integral part of India. Surprisingly none of us has ever made this claim in respect of Uttar Pradesh or Bengal or Tamil Nadu etc. It is because the Article 370 had raised a suspicion in the minds of our citizens and the people living abroad about the real status of Jammu and Kashmir. I would like to congratulate the hon. Prime Minister that this blot on the face of our country is going to be erased today. A number of hon. Members have participated in this discussion and have raised

a number of queries. One of them is whether the Union Territory etc., status given to the State is forever.

I would like to make it categorically clear that the status of a full fledged State will be restored to the Jammu and Kashmir as soon as the circumstances permit. As far as the question of POK is concerned, our claim on that territory is as strong as ever. As far as the resolution passed by the United Nation Organization is concerned, it was abrogated on the day when the Pakistan Army had crossed the international border in the year 1965. This House, therefore, is fully entitled to take any decision within the Indian territory. I would like to further add that had Pt. Jawaharlal Nehru allowed the Indian Army, the entire POK would have merged into the Indian Union. A comparison has been made between the Article 370 and Article 371 during the discussion. I would like to make it clear that no comparison can be made between these two Articles and I would like to assure Maharashtra, Karnataka, Andhra Pradesh and all other States of the North-East that the Government of India has no intention to abrogate Article 371.

The way adopted by the Government of India to amend the Article 370 has no element of unconstitutionality in it as the previous Governments had also carried out amendments in the same Article by adopting the same route. Further, the decision to deploy the security forces in the valley is precautionary in nature so that no person should try to disturb the law and order situation by instigating the local public. Some hon. Members have made suggestions to hold consultation. We have been holding consultation for the past 70 years and we are tired now. Further, we do not want to negotiate with the Hurriyat. We will definitely hold consultation with the general public living in the valley if they do have any concern.

I would further like to make it clear that there is no parallels between the Naga accord and the Article 370. The House should rest assured. We will not commit any blunder there. An argument has been given that terrorism in the Jammu and Kashmir drew its strength from the large scale unemployment. In my view, the feeling of alienation and terrorism in Jammu and Kashmir have their roots in Article 370. Another argument is that Jammu and Kashmir is a big State and it cannot be governed by an Advisor. Let the House know that the Jammu and Kashmir will have its own public representatives. The State will have its own cabinet and it will be run by them.

The Government does not have any communal agenda as not only

Muslims but other communities like the Hindus, Jains, Buddhist and Sikhs etc also live in that State. Since the year 1989, about 41,500 persons have died in Jammu and Kashmir. I would like to ask the House whether we wish to tread on the beaten path or we should look other fresh avenues to defuse the situation. For how long we will be deaf to the aspirations of the people of Ladakh? Today, this House is going to correct a historic blunder. It is very surprising that not a single Member from the Opposition has enlightened the House about the possible benefit of the Article 370. How this Article can help the State? Because of this Article, the Government of India has not been able to apply 9 constitutional reforms and 106 Acts to the Jammu and Kashmir.

The State does not have any Act to stop child marriage. It does not have Minority Commission. A number of other legislations like the Right to Education Act, the National Council for Teachers Education Act, the Land Acquisition Act, the Whistle Blower Protection Act, the Multiple Disability Act, the Maintenance and Welfare of Parents Act, the National Commission for Safai Karamcharis do not apply to the State of Jammu and Kashmir. The delimitation exercise was held in the entire country but it was not allowed to be held in the Jammu and Kashmir. The provision of reservation for the Tribals and Dalits is not a part of the State Statute. The 73rd and 74th amendments to the Constitution are not applicable there. All these provisions will be applicable to the State of Jammu and Kashmir with the abrogation of this Article. The industries will be set up. The educational institutions and public health institutions will come up there. The people will get employment opportunities and they will get rid of poverty. The value of their land will increase. A number of luminaries like Madhu Limaye, Ram Manohar Lohiya, Abdul Gani, Atal Bihari Vajpayee had supported the abrogation of Article 370. All of them were secular in their approach. I, therefore, would like to request the House to think afresh about this Article and grant the opportunities of development to the people of three region namely the valley, Laddakh and Jammu. Let them have an opportunity to integrate with the mainstream of India.

PART (2)

## OUR LEADERS AND ARTICLE 370

*The removal of Article 370 and 35A is a true tribute to Dr. Syama Prasad Mookerjee who sacrificed his life for the integration of the country. After his great sacrifice, under the leadership of Pt. Deendayal Upadhyaya ji, Bharatiya Jana Sangh continued its struggle and movement for the integration of Jammu and Kashmir. The party always put this issue first in its agenda, even if the situation was adverse. This section shares some of the great ideas of our party leaders.*

### **I. DR. SYAMA PRASAD MOOKERJEE ON JAMMU & KASHMIR, EXCERPTS FROM LOK SABHA DEBATES (26 JUNE 1952)**

- We are anxious to find a satisfactory solution so that Kashmir may remain within India so that the great sacrifice which India has made along with the people of Kashmir during the last five years may blossom into fruits which will benefit the people of the entire nation.
- There is the question of the flag. Sheikh Abdullah spoke two days ago, and he said "Oh, of course, we will recognize the Union Flag." There is no question of his recognizing the Union Flag. The Union Flag is there in spite of anybody, and that is the flag of free India. Sheikh Abdullah has said: "We will treat both flags equally." You cannot do it. It is not a question of fifty, fifty. It is not a question of parity. It is a question of using one flag for the whole of India, India that includes Kashmir. There is no question of having a separate Republic of Kashmir having a separate flag. It is not a small matter.
- Let them keep the flag for the National Conference in Kashmir. No one objects to it, but when you work as Government, no matter where you function, only one flag can fly and will fly and that is the flag of the

free country, of free India.

- The major issue is how is Kashmir going to be integrated with India? Is Kashmir going to be a republic within a republic? Are we thinking of another sovereign Parliament within the four corners of India barring this sovereign Parliament? That is the claim of Sheikh Abdullah and we contest it. Are we thinking of the rights of the Kashmir people to get whatever they can from India and not to give anything? Money, resources, roads, bridges all to be taken? Is it a question of 'Give and take', or is it a question of 'Take and not give?' That is the question which has to be decided now. What is going to be the attitude of the people of Kashmir? We have proceeded up to now on this basis that we may carry the people with us. I would beg of the Prime Minister this much. Let him exercise that statesmanship that strength of will, and the determination as Sardar Patel exercised.
- In a democratic federal state, the fundamental rights of the citizens of one constituent unit cannot vary vis-a-vis the citizens of another unit. Are not the people of Jammu and Kashmir entitled to the fundamental rights that we have given to the people of India minus Jammu and Kashmir? There is no scope for varied constitutional patterns, disparities as between one federating unit and another, the legislative or executive authority of the units in respect of the States will be co-extensive with a similar authority in and over the provinces; subject to certain adjustments during the transitional period, the fiscal relationship between the provinces and the States and the Centre must also come under one authority. The Auditor-General of India must have fuller control over the audit systems in the States as also the Provinces. The jurisdiction of the Supreme Court must now extend to the States to the same extent as in the case of the Provinces. The High courts in the States are to be constituted so that they will function in the same manner as the provincial High courts. All citizens of India, whether residing in States or Provinces, must enjoy the same fundamental rights and the same legal remedies to enforce them. In the matter of constitutional relationship with the Centre and in internal set-up these States must be on a par with the provinces. That is the question that we have to settle.
- Take again the refugee question. You know we discussed it the other day. Thousands of Hindu refugees from Jammu and Kashmir are being settled in India. Why cannot they be given land in Jammu or Kashmir? That also indicates a discriminatory, policy.

- Let us discuss the whole question. We are anxious that Jammu and Kashmir should come to India just as any other State has come. Let us know what special precautions he wants. But let him [Sheikh Abdullah] say that the people of Jammu and Kashmir are Indians first and Kashmiris next. Prime Minister must firmly assert that we do not want this kind of Kashmiri nationalism; we do not want this 'sovereign Kashmir' idea. If you start doing it in Kashmir, others also will demand it.

## II. MOTION REGARDING KASHMIR STATE (7 AUGUST 1952)

- It is a matter of common knowledge that we have not got fair treatment from the United Nations which we had expected. As the Prime Minister pointed out, we did not go to the U.N.O. with regard to the question of accession, because accession then was an established fact. We went there for the purpose of getting a quick decision from the U.N.O. regarding the raids which were then taking place by persons behind whom there was the Pakistan Government...In any case, it does not seem as though we are going to get much or anything at all out of the U.N.O.
- I know that technically no case could be withdrawn from the U.N.O... Somehow, we should withdraw ourselves, so far as a consideration of the Kashmir case is concerned, from the U.N.O. We can tell them respectfully that we have had enough of the U.N.O. and let us now consider and try to settle the matter through our own efforts.
- The only matter regarding which the dispute still continues is about the one-third territory of Kashmir which is in the occupation of the enemy...We say that Kashmir is a part of India. It is so. So, a part of India is today in the occupation of the enemy and we are helpless.
- Supposing some sort of fulfilment of the pledge that we are thinking of so literally in relation to Kashmiris demanded by these States, would we have agreed to give that? We would not have because that would have destroyed India. But there was a different approach to the solution of those problems. They were made to feel that in the interest of India, in their interest, in the interest of mutual progress, they will have to accept this Constitution that we are preparing and the Constitution made elaborate provisions for naturally absorbing them into its fabric. No coercion; no compulsion.
- May I ask—was not Sheikh Abdulla a party to this Constitution? He

was a Member of the Constituent Assembly; but today he is asking for special treatment. Did he not agree to accept this Constitution in relation to the rest of India, including 497 States. If it is good enough for all of them, why should it not be good enough for him in Kashmir?

- But do not regard that, whenever an attack is made on certain matters of policy, some narrow, sectarian communal motive is prompting us. Rather it is the fear that history may repeat itself. It is the fear that what you are going to do may lead to the 'Balkanisation' of India, may lead to the strengthening of the hands of those who do not want to see a strong United India.
- We want to come to an agreement, an agreement which will make it possible for India to retain her unity and Kashmir to retain her separate existence from Pakistan and be merged with India.
- Let Sheikh Abdullah declare that he accepts the Sovereignty of this Parliament. There cannot be two Sovereign Parliaments in India. You talk of Kashmir being a part of India, and Sheikh Abdullah talks of a Sovereign Parliament for Kashmir. It is inconsistent. It is contradictory. This Parliament does not mean a few of us here who are opposing this. This Parliament includes a majority of people who will not be swayed by any small considerations. And why should he be afraid of accepting the Sovereignty of this Parliament of Free India.
- He wanted to call himself Prime Minister. That is how he first started. Some of us did not like it. We know one Prime Minister of India including Kashmir that is the Prime Minister who is sitting here. [Nehru] How can you have two Prime Ministers, one Prime Minister in Delhi and another Prime Minister in Srinagar, who will not call himself the Chief Minister, but a Prime Minister. At first I thought it was a small matter and we should not look at it but see how the process is developing—some sort of special treatment at every step and he must be treated in a very different way.
- Would Indians take all your property? It was not suggested that Indians should go and purchase property as they liked. Supposing some Indian comes and purchases some property, you may have legislative measures. We have accepted it. What is the fear? We have a Kashmiri Prime Minister of India. We have a Kashmiri Home Minister of India. We are happy in India. We do not mind it. We welcome them. What is the fear? Is it feared that Indians will go and invade Kashmir and one of them will become the Chief Minister of Jammu and Kashmir? We are not going to raid Jammu and Kashmir.

- I was really amazed to find how a special provision could be made. As you know two lakhs of people have gone away to Pakistan. There is a provision that a special law will be incorporated to get these people back to Kashmir.
- You are going to throw open the door and allow Pakistanis to go to Kashmir; for this there is to be a special law and there is a special agreement. Why this anxiety on the part of Sheikh Abdullah to make a special provision for getting back those who ran away to Pakistan and who are not prepared to come. Is there any point in it? How will it affect security?
- I do not know how many pandits have come away from Kashmir. They also must go back to Kashmir.
- So far as the other portion is concerned, that also is a serious matter. In the one-third portion of Jammu and Kashmir which is now under Pakistani occupation as you know, nearly 1 lakh of Hindus and Sikhs have come and taken shelter within the Kashmir territory. What will happen to them? They will have to be taken care of.

### **III. INTERVENTIONS IN THE MOTION ON ADDRESS BY THE PRESIDENT (17th FEBRUARY, 1953)**

- Jammu and Kashmir is a part of the Indian Union, and that State has to be governed according to some Constitution, The suggestion is: accept the Indian Constitution. This is a Constitution framed by a Constituent Assembly which was dominated by Shri Jawaharlal Nehru himself. This is a Constitution which is based on secular considerations. It is not a Constitution dictated by any communal motives. If it is good enough for four crores of Muslims in India why can it not be good for the people of Jammu and Kashmir?
- How many have been killed on the other side? The official figures are 11. The names which have been handed over to me come to 20. There are twenty more who are missing, some of whom are supposed to have been thrown into flaming fire which was lit by kerosene oil. Their number comes to 20. Whether it is 20 or 40, they have been shot dead. Two thousand have been sent to prison. They are not Hindus alone. There are Hindus, Muslims, men and women of all classes and conditions of society. Some have been taken and thrown into cold water. Two—their names are here— have died of pneumonia as a result. Men and women have been brought out naked. They have been

forced to apologise. Some have been placed on slabs of ice. Women have been molested and assaulted. Do these represent the functioning of democracy? Are we fighting for the safety of Jammu and Kashmir, for the purpose of perpetuation of this kind of authority this kind of rule? Do they represent Gandhism? [repression on the Praja Parishad workers by Sheikh Abdullah administration in J&K]

- There are people belonging to Jammu, refugees, who have their money in the Jammu and Kashmir Bank. Does the Finance Minister know that they are not allowed to draw their money because they cannot produce their documents? They went to the High Court of Jammu and Kashmir and the High Court gave an order that the money should be paid. An Ordinance had been passed prohibiting the Bank from paying this money. These are the grievances which have to be looked into.

#### **IV. INTERVENTION IN THE DISCUSSION ON THE SITUATION IN JAMMU (25 MARCH 1953)**

- Next comes the question of the applicability of the provisions of the Indian Constitution to that part of the territory...There again, the formula which has been suggested is that if the entire Constitution cannot be applied immediately, at least those portions of the Constitution which are deemed to be essential and fundamental, should be applied with the least possible delay...Why should it take so many months to implement the remaining portions? They relate to certain vital matters like Fundamental Rights, citizenship, jurisdiction of the Supreme Court, Emergency Powers of the President, financial and economic integration and conduct of elections in such manner indicated in the Constitution itself.

#### **V. PANDIT DEENDAYAL UPADHYAYA'S ARTICLE & REPORT WITH REFERENCE TO JAMMU AND KASHMIR**

**(Annual Session of The Bharatiya Jana Sangh At Bombay (24-26 January, 1954), The General Secretary's Report)**

#### **THE JAMMU & KASHMIR AGITATION**

The early months of last year were consumed by the agitation in Jammu &

Kashmir. As soon as the agitation was over, Dr. Syama Prasad Mookerjee wrote to Prime Minister Jawaharlal Nehru and the then chief minister of Jammu & Kashmir, Sheikh Mohammad Abdullah, demanding a change in policy. Pt. Nehru did reply, but it was more to put off the issue. His speech at the Congress session at Hyderabad made it amply clear that his outlook on Kashmir was entirely different from that of the Jana Sangh and he had been smithying his policies only on blind faith in Sheikh Abdullah.

The All-India executive committee met to decide on the policy to be followed in the light of Nehru's reply. Although the divergence in the view of the Government of India was amply clear, it was decided to try and explore ways to reach an agreement with it. Correspondence between Dr. Syama Prasad Mookerjee and Pt. Nehru followed but yielded no result. Dr. Mookerjee suggested a meeting between himself and Pandit Nehru for talks on this issue to find some solution, but Nehru refused to meet him. In such circumstances, there was no other option but to resort to a peaceful satyagraha. Dr. Mookerjee announced the decision to undertake satyagraha on this issue on March 6, 1953 at a huge public rally in Delhi together with the representatives of the Ramrajya Parishad and the Hindu Mahasabha, who had decided to cooperate on this issue. The course of the satyagraha was decided after paying homage to the martyrs of Jammu. The government in Delhi declared the imposition of Section 144 at the last moment to prevent the rally. Naturally, when lakhs of people had gathered to pay hoage to brave martyrs, no legal ban or impediment could stop such a whirlwind.

## **SATYAGRAHA AND REPRESSION**

There was a nationwide strike against this unjust crackdown and batches of satyagrahis from many states began proceeding towards Delhi and Pathankot.

The governments in Delhi and other states used all means, fair and unfair, to suppress this satyagraha. In Uttar Pradesh, even garlanding the satyagrahis, providing them shelter in one's home or expressing empathy with them, was banned by imposing Section 144. A ban was imposed on all meetings and pamphlets demanding the complete merger of Jammu & Kashmir with India, whereas every freedom was allowed to speak against the state's merger. There was widespread peaceful opposition to this thoroughly anti-democratic move by the state governments. The state government of Punjab had arrested all Jana Sangh workers one whole

month before the satyagraha began and thus tried to block the original source of support and empathy for our brethren of the Jammu region.

Jana Sangh workers were arrested at many places in Uttar Pradesh interned at Saharanpur. Despite the government unleashing all possible repression, the flood of satyagrahis did not cease. Not only satyagrahis, even passers-by in Delhi were beaten up with lathis. The moral courage of the satyagrahis was sought to be crushed by torture in jails. Rigorous imprisonment and hefty fines were handed out for mere peaceful protests against Section 144. The same section was applied against even those satyagrahis who were arrested after raids on the homes of peaceful citizens and cases slapped on them. All possessions found in their homes were seized to realize the money for the fines levied on them, with the police not even sparing the milk bottles of suckling infants.

The Satyagraha could not be suppressed by this reign of repression unleashed by the government but we decided that ours was a lawful struggle and therefore, tolerating the harsh repression of the police or the unlawful behavior of magistrates would be against the spirit of the satyagraha. We therefore began waging a struggle against the government's injustice in the legal field too.

This began with Shri Ramnarayan Singh filing a habeas corpus petition in the Supreme Court against the arrests of leaders like Dr. Syama Prasad Mookerjee. The Supreme Court accepted the application and ordered Dr. Mookerjee's release. The government's injustice was rudely exposed to the entire country. All newspapers condemned this move of the government, with uproar in the parliament too, but all this was like water flowing over an overturned pot, with no effect on regime. The appeals of those satyagrahis who were handed jail sentences were also accepted and you will be pleased to know that in hundred percent cases, the prison sentences were deemed unjust and have been either annulled or reduced to great extent. Excepting two, all arrested persons have been freed by the Supreme Court.

Dr. Syama Prasad Mookerjee began a tour of the entire country soon after his release from jail and mobilized public opinion on Kashmir's unification with India. Even otherwise, the rallies organized by the Jana Sangh, the public send-offs given to satyagrahis, processions of the urns containing the ashes of the martyred ones and other programmes had made the Kashmir issue the people's issue. Even those newspapers in the state that were not with us now began supporting us. We emerged victorious in the elections fought over this issue. Nehru, however,

refused to change his policies, bogged down as he was in narrow party interests and his sense of prestige.

The Jana Sangh was thus waging a struggle but our goal was not the victory or defeat of the government, but the change of policy on its part after talking to the leaders of Jammu. We kept knocking on its doors for negotiations even after launching our *satyagraha*. Dr. Mookerjee appealed to Nehru in parliament in a strong way to alter his policy. He was also constantly trying to ascertain the actual circumstances in Jammu and also to create an atmosphere of cordiality between the leaders of the Praja Parishad and the State government of Kashmir in accordance with the resolution adopted at the Kanpur session of the Jana Sangh, it was decided to send a delegation to Kashmir, but it was denied the permit for entry. The Vice President of the Jana Sangh's Punjab unit somehow managed to reach Jammu. The report he dispatched from there is very alarming. Barrister Umashankar Trivedi and Prof. VG Deshpande. Too demanded an entry permit to go to Jammu when the *satyagraha* began. Both were denied permission and therefore left for Jammu without a permit. They were detained at Jalandhar.

Dr. Mookerjee decided to pierce this iron wall of Kashmir and reach Jammu. Sheikh Mohammed Abdullah and the Government of India were informed of this. Dr. Mookerjee set forth from Delhi on the morning of May 6, 1953. Thousands of people had congregated to send off their leader, rending the sky with slogans of "India and Kashmir are one Long Live Dr. Mookerjee". The scenario virtually resembled Krishnna's departure from Gokul to Mathura. People's eyes were moist, but their hearts were full of hope. They were eager to demolish the barricade of injustice and emulate their leader. Dr. Mookerjee received a tumultuous welcome at every station. People from Delhi, Uttar Pradesh and Punjab turned out in huge numbers to support him in this quest.

There was every likelihood that the state government of Punjab would not let Dr. Mookerjee go to Pathankot and would arrest him *en route*. But contrary to all expectations, the government let him proceed all the way to Kashmir in keeping with a predetermined plan. As soon as Dr. Mookerjee entered Kashmir, he was arrested and lodged in the Srinagar sub-jail. This conspiracy on the part of the governments of India and Kashmir and Dr. Mookerjee's arrest unleashed a wave of anger throughout the country. Black days were observed everywhere. People gathered at Delhi's Diwan Hall to protest against Dr. Mookerjee arrest were brutally attacked by the police. A "Permit TodoMorcha" (break permit front) was

formed in Pathankot, which drew batches of *satyagrahis*. More than 500 *satyagrahis* successfully evaded the police to reach Jammu after crossing dense forests and rivers to continue the satyagraha there. The agitation gathered greater force and momentum in Delhi.

Mounting pressure from all sides became too much for the administration to handle. Sheikh Abdullah too saw that his policies were being exposed and decided to adopt a more open stance. Nehru reached Kashmir where he saw the utter failure of his policies. Talks began in earnest but before they could fructify in to any decision. Nehru left for London to attend Queen Elizabeth's coronation ceremony. Talks were suspended till he returned but upon his return...

Dr. Mookerjee's arrest in Kashmir was illegal. An appeal in the Supreme Court for his release was considered, but his legal advisor said it would be proper to present an appeal in the Jammu & Kashmir High Court first. Accordingly, Umashankar Trivedi went to Srinagar as Dr. Mookerjee's legal advisor. Sheikh Abdullah did not allow him to meet Dr. Mookerjee in private but the High Court ordered that Trivedi be allowed to meet him along. Barrister Trivedi presented an application in the High Court for Dr. Mookerjee's release. The decision was slated for June 23, but that very night, Dr. Mookerjee passed away. Dr. Syama Prasad Mookerjee's sudden demise was an unthinkable tragedy. The country was not prepared for it. We had no intimation of any illness of his and actually, he was never unwell. He suffered a heart attack inside jail. He was treated by the jail doctor Dr. Mohammad, but the result of which was his death in mysterious circumstances. Neither his associates nor barrister Trivedi was allowed to stay with him. Lack of proper treatment, deliberate neglect of his condition; make every right-thinking individual hesitate to call Dr. Mookerjee's death a natural one. Suspicion has permeated everyone's mind. There were demands from all quarters to probe Dr. Mookerjee's death, with the demand being reiterated strongly within and outside the parliament. But the Government of India is not ready to wash itself clean of the stain of suspicion. Bakshi Ghulam Mohammad understands the need and justification for a probe, but does not wish to extend his cooperation for the same. Shri Gyandendra Kumar Chowdhury, Vidhan Sabha member of the Jana Sangh, moved a resolution in the West Bengal Vidhan Sabha for an inquiry into Dr. Mookerjee's death. It was unanimously accepted. We have pushed this demand vociferously and shall not rest in peace till it is accepted.

After Dr. Mookerjee's mysterious death, the state government

of Kashmir freed Vaidya Gurudutt, Tekchandra Sharma and Pandit Premnath Dogra. The government also established contact with the underground leaders of the Jammu Praja Parishad and extended its hand for talks. Deputy home minister of Kashmir, Durgaprasad Dhar, and the then deputy chief minister and current chief minister, Bakshi Ghulam Mohammad, too came to Delhi and held talks with Pt. Mauli Chandra Sharma and Pt. Premanath Dogra. Prime Minister Nehru, through a statement, appealed for an end to the ongoing *satyagraha*. The outcome of the negotiations was that the joint agitation committee decided to end the *satyagraha* and give the government an opportunity to alter its policy and pave the way for Kashmir's unification with India. Later events proved that there has been a change of course, although the goal has not been attained yet.

Delhi, Punjab and Uttar Pradesh have had to bear much of the brunt of the agitation. But *satyagrahis* from Bihar, Rajasthan, Central India and PEPSU too took part in the agitation in large numbers. Batches of *satyagrahis* came forth from Saurashtra, Maharashtra, Bombay, Karnataka, Andhra Pradesh and the Vindhya region, although only the first few batches could offer *satyagraha* and it was called off. A total of 10,751 *satyagrahis* took part in this agitation. The termination of the *satyagraha* was announced on July 7th. The executive committee had earlier decided in this regard and now drew up a plan to strengthen the organization of the Jana Sangh. The responsibility of being the Pradhan Mantri (General Secretary) of the Jana Sangh as well as its working president was placed on the capable shoulders of Pt. Mauli Chandra Sharma. There is no need to reiterate how, unmindful of his health, he undertook continuous travel and worked ceaselessly for the party organization. We have again been entrusted with this task and are confident that we shall continue to be inspired by the great cause for which we have set forth.

The Akhil Bharatiya Pratinidhi Sabha met at Prayag on August 15-16, 1953, for its session to discuss the future programs of the Jana Sangh. Some Amendments were made in its constitution and it was decided to construct a memorial to Dr. Syama Prasad Mookerjee. Arrangements were made to appeal for the collection of funds for the purpose and for setting up a trust for the same. We had to engage ourselves in this task after returning from the Prayag session.

(Source: Panchjanya, February 8, 1954)

## VI. DR. MOOKERJEE, KASHMIR & THE FUTURE

It was on June 23, 1953 that Dr. Syama Prasad Mookerjee met a martyr's death in detention in Sheikh Mohammed Abdullah's jail. Soon after, the then Prime Minister of Jammu & Kashmir, who had all along behaved as an unquestioned ruler of the state and considered himself as an equal in status to the Prime Minister of India, found that he was a Prime Minister with a small 'P'. He was not only dismissed but detained for a full term of five years provided by the law in force in the state. After a brief interval of freedom, which he is alleged to have abused, he was again put behind the bars for conspiring against the state. So far as retributive justice is concerned, one can see that it has happened. The common man may feel satisfied, but those who know the purpose for which Dr. Mookerjee chose to suffer imprisonment and ultimately death in mysterious circumstances will have no such satisfaction. They know his mission remains to be fulfilled.

Dr. Mookerjee gave up his life for the unity of the country. He would not tolerate discrimination against the people of Jammu & Kashmir in the matter of fundamental rights and other privileges granted and guaranteed by our constitution. He would not allow the state to be treated as a private preserve of Sheikh Abdullah and his associates, without any constitutional bindings. He was also against the state government's practice of making the people of Jammu suffer so that the Muslim majority in the state might be appeased to remain with India. He also did not like that the Government of India should continue to give a favoured treatment not to the people, but to the government. These and many other things regarding the J&K state, which unlike other princely states that had merged with India, continue to pose problems. Dr. Mookerjee had enunciated them in his memorable letters to the Prime Minister. Even today it would not be useful if one goes through those letters. It is true that as a result of the movement by the J & K Praja Parishad and the Bharatiya Jana Sangh, and the martyrdom of Dr. Mookerjee, a number of constitutional changes have been brought about in the state and in its relations with India. It is a great step forward. But basically there has been little change in the attitude of the Bakshi and Abdullah governments, either towards the constitutional position of the state or towards the people of Jammu. The state is still not an integral part of Bharat as other states are. There is no Government of India in Jammu & Kashmir. It functions there through, and at the instance of, the state government. The sovereign Parliament of Bharat is not sovereign so far as that state is concerned. He has no rights in the state of Jammu

& Kashmir. There are serious limitations on our right to property and service in the name of 'state subject.'

The state government has been trying to make a case for continuing this discrimination by pointing to the people of the state some of the advantages that they are getting under its provisions. They are trying to create a vested interest. While it means a psychological barrier, it is between the people of the state and the rest of the country is being created, it is also hindering the economic development of the state. The Government of India is keen to invite even foreign capital and it offers the investor terms not only favourable to them but discriminatory towards the locals in certain cases. But the government of J & K is not prepared to allow even Indian industrialists and entrepreneurs to settle in the state, and develop it. The masses in Kashmir cannot be fed on doles and subsidies from the Central government. They should be provided with gainful employment. And that is possible only if it is industrialized. But the present government wants only tourists and visitors and not investors and entrepreneurs.

The rule of 'state subject' has also turned about fifty thousand families in Jammu into stateless persons without any citizenship rights. How can the Government of India take up the case of such persons of Indian origin in Ceylon when it cannot enfranchise its own people? The government is denying them this fundamental right as it is motivated only by communal considerations. It is afraid that if all the residents of Jammu are enrolled as voters, the communal ratio may be inverted. Representation in assembly is fixed not in proportion to the population but by constitutional provision. The province of Kashmir thus enjoys favourable weightage. It reminds one of the British policies of granting weightage to the minorities. But in the state of J & K, weightage has been given to what is considered to be majority in the state.

It is not only citizens of the rest of India who are denied fundamental rights in the state but also the people of the state who are not allowed to send their representatives to the Parliament. The members from Jammu & Kashmir are nominated by the President on the basis of earlier elections by the state legislative assembly. It is the state that is represented in the Parliament, and not the People of the state. The result is that elections in the state are fought on regional and provincial issues and not on all India issues. The Political parties in the state are hardly concerned with all-India policies. But for Praja Parishad, the people of the state would not have known anything about India. The government of the state is very

jealous in preserving this right of the legislature. It cannot and should not be dismissed as an ordinary lust of power in every government or party in power. It shows the psychology of the national conference. They do not want the people of the state to feel Indian sentiment. They do not want the emotional integration of the state with Bharat. This is also the reason for having a state flag, aSadar-i-Rayasat and also a separate constitution. Dr.Mookerjee was opposed all these symbols of separatism. He wanted deletion of article 370 of the constitution which was only inserted as a temporary measure. He had warned the government of India that if Jammu and Kashmir was allowed to be treated as a special case. There would crop up a number of demands of similar nature. His prophecy has come true. TheAkhali leader also wants his Panjabi Suba to have the same constitutional status as that enjoyed by the J&k state. The contagion has spread. The government has declared that it is against the AKali demand. Nationalist India has all along held this view, but what about the separatism that exists in Jammu and Kashmir ? That also needs to be rooted out.

The country will observe Dr Mookerjee's martyrdom day. On this occasion let us all pledge ourselves to the task that he laid down his life for. Dr Mookerjee died because of article 370 in the constitution we do not know how many more will continue to suffer and meet the same fate, till the article continues. On his way to Jammu and Kashmir Dr.Mookerjee had told to kathua gathering that he would get them the constitution or give up his life. He had said " Vidhanalungajanadunga" By vidhana meant 'the constitution' and not 'a constitution.' Today the people of the state have a constitution, but still the constitution of India is not their constitution. Let us not rest still we see the our brethren in Jammu and Kashmir stand shoulder to shoulder with us and enjoy all the rights that we enjoy and bear all the obligations of Indian citizenship. Then alone will they feel the pangs of having lost parts of our territory to Pakistan and red China. Then alone will they be inspired to sacrifice their all to regain these parts of our holly motherland. The deletion of article 370 will work as a magic to infuse the people not only of the state but of the whole country. In the light of the Chinese occupation of Ladakh, it is necessary that all psychological barriers between Bharat and the J &k state be removed.

(Source: Organiser, June 27,1960)

## VII. EXCERPTS FROM SHRI ATAL BIHARI VAJPAYEE

## **JI'S HISTORIC SPEECH ON ARTICLE 370 IN PARLIAMENT ( 30 AUG, 1968)**

- This House is of the opinion that the incongruous status of Jammu and Kashmir State should come to an end, because it has a separate Constitution, a separate Head of State and a separate flag in spite of this State being an integral part of India.
- Jammu & Kashmir should be brought fully at par with other States of India, and for this purpose the House recommends that all necessary steps such as abrogation of Article 370, be initiated forthwith.
- Jammu & Kashmir is an integral part of India. But Jammu & Kashmir still has a separate Constitution of its own. Jammu & Kashmir is an indivisible part of India, but it has separate citizenship. We call Kashmir is the crown of Mother India, the gem of the crown. But the Kashmir State has its separate flag. What is the reason for this?
- If the Constitution of India is suitable for all other States of India is it not suitable for Jammu and Kashmir? If the citizenship of India is a matter of pride and respect for fifty crores of its citizens why is it not a matter of pride for forty lakh people of Jammu and Kashmir?
- The question is, do we want to reverse the constitutional process that has already undergone with regard to Jammu and Kashmir? Do we want to go back to 1953? Do we want to continue this discrimination and partisanship in the name of special status? My submission is that such a demand is anti-national. This is an affront to democracy.
- The intention of the framers of the Constitution was quite clear-that article 370 was for some time only. Pandit Nehru had said that this article would erode itself. Does this mean that it would continue to exist? You can say that the time has not yet come to rescind it completely, but it is unimaginable that article 370 which is a temporary provision, could be made permanent.
- I want to ask, are we continuing with this article 370 for appeasement of Pakistan? It makes a hue and cry whenever you extend a new law there. Pakistan will always shout, but if the caravan of India's national integrity stops at Pakistan's shouting that would be the most unfortunate day for India. We cannot accept Pakistan as a party in the matter of Jammu and Kashmir.
- My submission is that today this case is before the Security Council. Pakistan, It makes a hue and cry whenever you extend a new law there. Pakistan is trying to open it afresh and it is, therefore, essential to remove that psychological barrier which divides the people of Kashmir from us.

## PART (3)

# DEBATE ON THE HISTORIC CONSTITUTIONAL AMENDMENT BILL SECTION 370 IN THE LOKSABHA

(SEPTEMBER, NOVEMBER, DECEMBER 1964)

*On 11 September 1964, Prakash Vir Shastri, an independent MP from Bijnor, brought a private member's bill in Parliament for the abrogation of Article 370 which was discussed in length. The debate on this bill continued through November and December 1964. Stalwarts cutting across party lines, such as Ram Manohar Lohia, K. Hanumanthaiah, Sarjoo Pandey, NC Chatterji, Loknayak Bapuji MS Aney, Mr. Inderjit Malhotra, Mr. Samanani, Mr. Abdul Ghani Goni, Bhagwat Jha Azad among others had supported the bill of Prakash Vir Shastri rising above party politics and spoke for the removal of Article 370. Apart from Jana Sangh MPs, several independent MPs also declared Article 370 as harmful for the people of the State and for country. It would be useful to see some of the arguments that they put forward in support of their demand for abrogation:*

As mentioned, the debate in the Lok Sabha on Article 370 in 1964, saw support for its abrogation being expressed from across the political spectrum. Interestingly a number of Congress leaders, Members of Parliament from J&K, Communists and Socialists and Independents supported the removal of the Article. There was a unanimity on the need to do away with this divisive provision which was temporary. Stalwarts such as K. Hanumanthaia, N.C. Chatterjee, H.V.Kamath, Dr M.S. Aney, among others, expressed their views on urgency of the removal of this

article.

Leaders who participated and supported Abrogation of Article 370

1. Shri Prakash Vir Shastri, (Independent)
2. H.V.Kamath - Socialist Party
3. Ram Manohar Lohia (Samyukta Socialist Party)
4. N.C.Chatterjee – Independent (supported by CPI)
5. Hanumanthaia – Congress
6. Shri Sarjoo Pandey (CPI)
7. Shri Bhagwat Jha Azad (Congress)
8. Inder J Malhotra – Congress
9. Shri S.M. Banerjee – Independent (supported by CPI)
10. Sham Lal Saraf – Congress
11. D.C.Sharma – Congress
12. Abdul Ghani Goni – National Conference (Congress)
13. S.S.More – Congress
14. C.K.Bhattacharya – Congress
15. M.S.Aney – Independent
16. Shri Gopal Dutt Mengi ( Nominated, Congress)

## **MP PRAKASH VIR SHASTRI BLEW THE BUGLE AGAINST ARTCILE 370**

Pandit Prakash Vir Shastri, an independent MP from Bijnor, Uttar Pradesh, proposed to remove section 370 in the Lok Sabha on 11 September 1964 by Prakash Vir Shastri. While presenting the bill, Shastri said that the, “The country is bigger than the parties and elections, we will go away, but if we do not rectify this historic mistake today, generations to come will never forgive us.”

## **BILL RELATED TO THE REMOVAL OF ARTICLE 370**

While presenting the bill related to the removal of Article 370, Mr. Prakash Vir Shastri said that “Article 370 of the Indian Constitution related to the special status to Jammu and Kashmir should be removed. A single Sardar Vallabhbhai Patel merged about five hundred and a half princely states into India in a short time without shedding a single drop of blood, but this government could not solve the problem of Jammu and Kashmir even after 17 years?

Warning the government on the issue of Jammu and Kashmir, he said, “The government had assured in the Constituent Assembly that this section will gradually be weakened. Even after the assurances and decisions

## SPECIAL STATUS FOR KASHMIR

### M.P.S. DEMAND ABOLITION

(FROM OUR SPECIAL CORRESPONDENT)

NEW DELHI, Sept. 11.

Members from all sections of the Lok Sabha vigorously supported the abrogation of Article 370 of the Constitution (temporary provisions with respect to the State of Jammu and Kashmir) so that all distinctions between Kashmir and other States in India might be ended and it will be fully integrated with India.

The House was considering this afternoon a non-official Bill seeking to amend the Constitution to this effect moved by Mr. Prakash Vir Shastri (Independent).

Several members, particularly those from Kashmir, were critical of Sheikh Abdullah's utterances about accession of Kashmir being not complete.

Mr. Prakash Vir Shastri wanted to know in what capacity Sheikh Abdullah was having talks with the Indian Government.

He pointed out that continuation of Article 370 only gave a handle to Pakistan propaganda. Unless the Government acted quickly the situation might worsen. If the U.N. failed to get Pakistan vacate her aggression in Kashmir, the Government would have to take its own steps.

12/09/1964

of the Constituent Assembly, Pandit Nehru and Gopalaswami Iyengar, I do not understand why the Government of India has kept it, and has allowed it to destroy the sanctity of the Constitution?

### SIDE EFFECTS OF SECTION

#### 370

On the consequences of the implementation of Article 370 in Jammu and Kashmir, Prakash Vir Shastri said, "that its biggest side effect has been that that of Pakistan spewing venom against India in other countries. Secondly, the countries which are ignorant of our constitution or the real situation are also beginning to suspect that the provision is not temporary as being bandied by the government of Pakistan."

## **ARTICLE 370 IS NOT A CLAUSE OF MERGER WITH INDIA**

The instrument of Jammu and Kashmir's integration with India is not Article 370 and I wish the government demonstrates its intelligence and accepts my bill and remove this tainted Article from the Constitution.

### **RAM MANOHAR LOHIA (SSP, FARRUKHABAD)**

- As long as article 370 is there, India and Jammu and Kashmir cannot be united. Lohia had said in the plea to remove Article 370, the Prime Minister should not create uncertainty in the public's mind about the future of Kashmir.
- This will give rise to a storm you will not dare to face.
- The end of the article of 'injustice' will be justice to both the people of India and the Constitution.
- As far as this government is concerned, it is a cynical, it does not have a single leg, both legs are missing and for this it keeps looking for some support.
- You do not have so much courage, if there is a feeling in the mind of the people and government of Pakistan that Kashmir should be theirs, then I will hold this government responsible for the mess that will happen due to this.

### **SHRI GOPAL DUTT MANGI (CONGRESS, JAMMU AND KASHMIR)**

- The real thing is that the Constitution of India should be applicable there and provide all the facilities, all the benefits that the rest of the state are enjoying.
- My opinion is that 370 has always been a shame for Jammu and Kashmir. Those who made this believed that it would prove to be an act, they believed that it would benefit the people of Jammu and Kashmir, but after fourteen years in this house I have to say with sadness that these last fourteen years, because of 370 the part of India which is called Jammu and Kashmir has shrunk and weakened.
- I want to make you aware of the situation in Jammu and Kashmir. Its condition is backward compared to the other states in the rest of the country, it is necessary that this provision removed to improve the condition of the people there. As long as this provision does not go, the people there will not do well.

### **SARJOO PANDEY (CPI, RASRA)**

- Government of India's policy regarding Kashmir was wrong from

beginning to end and there was no question of going to the United Nations. This is an agreed thing and everybody, the people of India and the whole world knows that America and Britain used to say that Kashmir is not a part of India. Still you are sitting.

- So that's why I want to say that if you have to do something, then the right time has come today. It was expected long ago, but even today is right time. It is absolutely certain that the Government of India should clearly declare their policy on Kashmir?

## **BHAGWAT JHA AZAD (CONGRESS, BHAGALPUR): -**

- I support the bill which Mr. Prakashn Vir Shastri has brought before the House.
- Kashmir did not get special facilities from this Special Status, but has suffered.
- The reason why we have not been able to remove this section till date, is that we look towards America and Britain and today we are looking towards Sheikh Abdullah.
- Today the Government of India should make a clear announcement of its policy in this regard. What Prime Minister afraid of?

## **S.M. BANERJEE (MP, INDEPENDENT, KANPUR - SUPPORTED BY CPI)**

- I have stood up to support this bill which my friend Mr. PrakashVirJiShastri has presented before the House. I understand today that the members in the House participated in this debate, especially the members from our Kashmir, be it Goni Sahab or others, when I heard their voice, it seemed it is the voice of Kashmir.
- I think that in view of the international situation today, it is necessary that Kashmir should be merged with India in every respect, it should be said that Kashmir belonged to India, belongs to India and will remain of India. I think there should be no two opinions in this.
- If this answer is given to the country today that the Constitution cannot abrogate 370, if the government today says that we will give the High Court in Kashmir, we will give other things in Kashmir, I think it will be a big mistake.
- Elections have been held in Pakistan and if the people there have made a mistake and have upheld Ayub Shahi, then I can say with certainty that Pakistan and China have a nefarious conspiracy, the matter of Kashmir will be uprooted and it can happen. It is at that time that we have nothing but the means to keep Kashmir away from the thrust of the sword.

**INDER JIT MALHOTRA** – Congress (Jammu) – Member 2nd, 3rd, 4th, 5th Lok Sabha

“...The people of the State have no special liking for this article 370 which exists in the Constitution and we shall be very happy as soon as this is omitted...I would like to say that I give my whole hearted support to this Bill, and would request the hon. Home Minister that this Bill should not be opposed. If he is not ready at this time to accept it, he can give us an assurance that in the next session of Parliament or after six months Government would move the Bill and remove article 370.

**HARI VISHNU KAMATH** – Socialist Party, freedom fighter, scholar, thinker, later Janata Party Member of Parliament, formerly member of the Constituent Assembly

“I and my colleagues here that belong to my party have been raising this issue in this House since August 1962, that is, for more than two years now...[on] 6th September, 1962, when a former member from this side of the House, asked the then Home Minister Shri Lal Bahadur Shastri as to whether there were any constitutional difficulties in the way of the integration of State of Jammu and Kashmir with the rest of the Indian Union and the Home Minister categorically said that there was no constitutional difficulty whatever...The Home Minister gave a categorical assurance that that stood, and that they would take steps, and speedy steps for the integration of the State of Jammu and Kashmir with the rest of India, as far back as 1962. Since then we have brought up this matter in 1963 and again in 1964...when this matter was raised in this House, I believe the Home Minister, and the Minister without Portfolio [Lal Bahadur Shastri] then, the former Home Minister and the present Home Minister [Gulzari Lal Nanda] both referred to this matter in their own way and promised the House that the article, if it was not going to be repealed immediately, would die a slow death of inanition or in other words, by erosion and that promise, and that assurance was given further recently by the Education Minister [M.C.Chagla] when he was in Kashmir a couple of months ago; he referred to this article then, and he expressed himself in favour of the repeal or abrogation of this article and the complete integration of that State with the rest of the Indian Union.

So, I take that there is no division in the Cabinet or in the Congress Party or in this Parliament or in the country with regard to the repeal of this article...

I take my stand, so far as this article is concerned, on the firm base

that now, Jammu and Kashmir State is suffering because this article [Article 370] is there, because difficulties are thereby created; if this article is repealed, the State will derive the same benefits as other States of the Union are deriving from their relationship with the Indian Union, and therefore, it is from that point of view that Jammu and Kashmir should be as much a beneficiary of the relationship with the Indian Union as every other State, such as Mysore, or Kerala or Bengal or Maharashtra or Madhya Pradesh is today..”

**SHAM LAL SARAF** – Congress, Nominated by the President to the Lok Sabha from Jammu & Kashmir, also a former minister in the State

“...One thing I would like to say very sincerely and honestly, that in these 17 years our State has suffered by not having been brought at par with the rest of the States in the country. Our people have suffered. Everybody has suffered...By retaining Art.370, by not bringing the State at par with the States in the rest of country, what has been happening? Firstly, there is a sort of insecurity in the minds of the people. Secondly, in certain cases local vested interests, some of them may have been my colleagues – want to have the best of everything and want to take advantage of the present situation. I will say that purely from the people’s point of view, the people of the State have suffered.

Let the Government bring forward a proper Bill and have this article removed from the Constitution..”

**K. HANUMANTHAI AH** – Congress, freedom fighter, member of the Constituent Assembly, legendary leader from Karnataka, second Chief Minister of Mysore State (Karnataka), and Member of Parliament from Bangalore between 1962 – 1977 was also Union Minister.

“In 1949, I was in the Constituent Assembly of India. The Government of India appointed a Committee to frame a model constitution for Indian States. I was a Member...We wanted to frame a model Constitution for the Indian States to adopt. After a few months’ time, we had decided that there need not be a separate Constitution for Indian States and that there should be one Constitution for the whole of India. We made that recommendations. When we, Members from Indian States, made that recommendation, Sardar Patel was very happy to accept it and it was done. ...We have now found that the representatives of Kashmir in this House have enthusiastically sponsored the idea of deleting this article 370 of the Constitution, which in a way stands in the way of full integration...The

present Bill seeks to eliminate a little differentiation that is being made under article 370. The representatives of the Kashmir people here agree and fully support this proposition. I would appeal to the Home Minister to look at this problem from the democratic point of view and accept it. Not merely Members of Parliament from Kashmir, but irrespective of parties, from the extreme right to the extreme left of this House as it is constituted, we are all of one opinion that this Bill should be made into law. To go against it or to say anything against this unanimous opinion of this House is to disown constitutional responsibility in a convenient manner.

**D.C.SHARMA** – Congress, Gurdaspur, Lok Sabha

“...when I read this article, No. 370, I come to the conclusion that our Constitution is disfigured by this article which is nothing but a kind of a constitutional anachronism...My hon. friend Shri Gopal Datt Mengi has said that article 370 is a wall. I would that it is not a wall. If it were a wall, I could demolish the wall easily and in no time. It is not a wall but it is a big mountain which stands between India and Jammu and Kashmir. Although we have dug the Banihal tunnel and we have done everything else, we have not demolished this mountain yet; I feel that this mountain should be blasted with dynamite, with the dynamite of goodwill, firmness and decision. That way lies the salvation of India and that way lies the good and welfare of the people of Jammu and Kashmir.”

**ABDUL GHANI GONI** – National Conference (Congress), Jammu & Kashmir

“...It [Article 370] is only a provisional provision and a temporary provision in the Constitution which can be removed at any time...I dispassionately appeal to the Members of this House, and appeal not only to the Opposition Members but also to the Congress Members to support this Bill and get it passed and have article 370 abrogated from the Constitution of India, so that we may also be treated as equal citizens, as good citizens of India as any other citizen...”

Everybody has said [need to abrogate article 370] it; Panditji has said, and our Shastriji [Lal Bahadur Shastri] has said it; and Mr Justice Chagla [union education minister]...has also expressed his views on the same lines in the Security Council. Why should we not abrogate it now? It will

not only solve our political problem. It will not only be a good reply to our opponent...but it will be a good reply to Pakistan and all anti-national forces who are trying to sabotage it in the United Nations...

So I would request in the name of democracy, in the name of Indian secularism, that this amending Bill must be accepted by the Government..."

**N.C.CHATTERJEE**— **Burdwan (Independent) supported by Communist Party of India. Leader of Hindu Mahasabha, former associate of Dr Syama Prasad Mookerjee, father of late Somnath Chatterjee, Speaker of Lok Sabha and veteran CPIM leader.**

I fail to understand what difficulty there is in the Government's immediately standing up and saying that "We completely endorse this demand; it is not a communal demand; it is not a party demand but a national demand, and it will be in the best interests of the nation itself."

I have in my hand an extract from The Hindustan Times dated the 29th November, 1963, which reads thus:

"The veteran...National Conference Leader Mr. Sadiq today confirmed reports of lawlessness and corruption in the administration of the Jammu and Kashmir State."

He was very eloquent there, but looks at the next sentence.

"Mr. Sadiq, who is the senior vice-president of the ruling National Conference declared in an interview that abrogation of article 370 of the Constitution was essential for the restoration of normalcy in that State."

I maintain that it is today more imperative for the restoration of normal conditions, for the upkeep of the democratic life of that State and for greater cohesion both of the people of Kashmir and of India as a whole. We should not delay any further.

It is in Part XXI of the Constitution-Temporary and transitional provisions. Therefore, article 370 was never meant to be a permanent part of our Constitution; it was only a temporary provision, a transitional provision. How long will a temporary provision continue? If the Prime Minister had been here, I would have asked him: in his dictionary, what is the meaning of 'temporary and transitional'?

...Then there is a clause:

"Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify."

Therefore, in the very content of this article, there is a clear demarcation, a clear expression of the will of the makers of the Constitution, that it shall not be a permanent feature, and the President, by a declaration, by a notification, can say that this article shall cease to operate. What is the difficulty?

## **S.S.MORE – Congress, Pune**

“...I rise to accord my hearty support to the present Bill. I have read article 370 and even as a lawyer I am not able to understand the rhyme and reason or reason behind that article... There is a sort of Chinese wall between Kashmir and the rest of India in the different articles and the Schedule in which the clauses have been described, where Kashmir has been mentioned. But why should there be such a discrimination between Kashmir and say Maharashtra? We should also like to be placed on a separate footing! Therefore, my submission will be that it is high time that this abrogation of article 370 was accomplished.

## **C.K.BHATTACHARYA – Congress, Raiganj, West Bengal**

Mr, Chairman, Sir, when the Editors’ Conference was meeting at Srinagar in November, 1962, I stood on the same platform with Bakshi Ghulam Mohammad and on that platform the Prime Minister of Kashmir declared before the entire assembly:

यावच्चन्द्रमा-दिवाकर काश्मीर भारत के अन्दर ही रहेगा

He made that declaration and repeated it, I am quoting his own words. That is the declaration of a Prime Minister of Kashmir... After that, we should have no hesitation in our mind as to what to do regarding this article 370 in our Constitution.

If I am to speak about Kashmir, I should say, there can be no India without Kashmir and there can be no Kashmir outside India...Kashmir is integrated in our life, spirit and culture, in everything. There can be no India without Kashmir and there can be no Kashmir outside India-that is my point, the second point is more emphatically stated than the first.

That is the point we should remember when we are discussing this particular article of the Constitution. Our late beloved Prime Minister himself gave the lead when he stated in the other House that this article will gradually erode away. Erosion has been accepted. It is only a question of time and nothing more. If the Government today adopts this resolution or follows the line indicated in the Bill, they would move in the line indicated by our late beloved Prime Minister that the article 370 has got

to erode away. We want to quicken the pace of erosion.

**DR M.S. ANEY**– Independent, Nagpur, Loknayak Bapuji Aney, veteran freedom fighter, statesman, legendary Sanskrit scholar, political disciple of Lokmanya Tilak, member of the Central Legislative Assembly, India's High Commissioner to Sri Lanka, Governor of Bihar and then Member of 3rd Lok Sabha

“...as a matter of convenience and expediency a provision has been made here and, as is mentioned there, it is a transitory provision. For the sake of convenience, a provision, namely article 370 has come in. The word ‘transitory’ has some meaning. A thing can be there as a transitory for a year or two years, three years or five years. But if it goes on for generations, then instead of remaining transitory it becomes stationary. And the danger is the longer the time you give for a transitory thing, the greater is it likely to settle itself into a stationary one instead of being transitory.

...Seventeen years is not a joke. We have passed several laws during all these seventeen years, and every time we pass a law we make an exception by saying “it shall not apply to Jammu and Kashmir.” When passing a law for the whole of India we say that it shall not be applicable to Jammu and Kashmir. Is that the way of befriending the people. We are telling them. “You are part of India, but for the time being we are not prepared to call you as our own.”

...My friend Shri Khadilkar [R.K.Khadilkar, Congress, Khed, Maharashtra] said let us not hasten. I am afraid, let us not go slow. We have been too slow. It time for you to hasten and create a situation where people would know that Kashmir and India is one inviolable, inviolate, inseparable entity. For that reason I submit that the resolution put forward today should be accepted by the House.

## QUESTIONS AND ANSWERS WITH REFERENCE TO JAMMU AND KASHMIR AND ARTICLE 370

**Q:** *What other changes needed to be made but were not made?*

**A:** Though they brought some improvement upon the extremely limited relationship [watering down of the Article 370 over the years] that obtained earlier, the changes did not touch the core issue: the infection in the roots, the separatist psyche that is embedded in Article 370. There is, moreover, a vast area that remains under the exclusive jurisdiction of the state government. This includes the Concurrent List and residuary powers. The citizens of India are not ipso facto (by that very fact or act) the citizens of Jammu and Kashmir. Even if they have been residing in the state for years, they cannot acquire right of settlement and hold property in the state. They have no right to vote in the election to the State Assembly or the local bodies or the Panchayats. What is worse, a woman citizen of J&K loses her property and other rights if she marries a non-state subject.

**Q:** *Some apologists for the grant of maximum autonomy to Kashmir often pose a question in the media: 'Why is an issue being made only of Article 370? What about Articles 371A, 371G and the like?'*

**A:** This is a misleading question, designed to plant doubts in the mind of the public by drawing a 'parallel' between the special provisions of Article 371A, 371G and the like on the one hand and the special provisions of Article 370 on the other. The 'parallel' is spurious and untenable. In states other than Jammu and Kashmir, there is no separate constitution, no separate citizenship, no limited applicability of the fundamental rights guaranteed under the Indian Constitution, no exclusive vesting of residuary power, no separate commission for delimitations of constituencies etc...

**Q:** *Is it your proposition that negativity is inbuilt in Article 370, and this negativity is vulnerable to exploitation by the state-level coteries of oligarchs who, in pursuance of their narrow end of personal and political power, have severely undermined our national goal of establishing a development-oriented and*

*poverty and illiteracy-free society?*

**A:** Yes. But one needs to go still deeper into the fundamentals. Viewed dispassionately and in depth, Article 370 is virtually an item of disrespect to the Indian Constitution. Its initial insertion and subsequent retention assumes that our Constitution is not inclusive, liberal, humanistic and enlightened enough to safeguard the social, cultural, religious, linguistic and educational rights of Kashmiri Muslims, and their identity and personality could be protected only by a separate Constitution framed behind the insulating wall of Article 370...

Has the distinct personality of various states of the Union, such as West Bengal, Tamil Nadu and Kerala, not only remained intact but also advanced under the Indian Constitution? Why could not the same Constitution provide protection and progress to what is loosely called Kashmiriyat? What objections could be taken to the extension of the jurisdiction of Supreme Court or the Election Commission or the Comptroller and Auditor-General of India? Would not these extensions make available a stronger framework of delivery of justice, a better system of accounting and a more independent body for conducting elections? Why should there be a separate State Delimitation of Constituencies Commission for Jammu and Kashmir? How would a common Kashmiri be benefitted by having a different nomenclature for the head of the State and the head of the government? What would happen if subjects of Defence, Foreign Affairs, and Communication alone are assigned to the Union Parliament/Government and the rest entrusted to the State Legislature/Government? How would Jammu and Kashmir Government then meet its requirements of finances which at present are provided by the Union Government to the tune of 74 per cent [2010] of its needs? Could the 'nuts and bolts' of security and governance structure be ignored in practice? Why do the persistent singers of Article 370 ode never sing a line about the huge financial assistance they get from tax-collection of their fellow countrymen from the rest of India?

**Source:** Jagmohan, *My Frozen Turbulence in Kashmir*, New Delhi: Allied Publishers, 12th revised edition, 2017

PART (4)

# ACCOMPLISH THE INTEGRATION OF INDIA

*Starting from the Jana Sangh uptil now, the party has repeatedly reiterated its determination to remove Article 370 and restore the development and peace of Jammu and Kashmir. The party has been prominently including in the manifesto, resolutions, commitments to remove Sections 370 and 35A.*

## **I. EXCERPTS FROM THE PRESIDENTIAL ADDRESS BY DR SYAMA PRASAD MOOKERJEE AT THE 1ST ALL INDIA SESSION OF BHARATIYA JANA SANGH DECEMBER 29-31ST, 1952, KANPUR**

“...We firmly believe that our plea for the full and complete integration of Jammu and Kashmir with India is consistent with true nationalism and the needs for the security of India including Kashmir. Sheikh Abdullah and others from Kashmir were party to the framing of our Constitution which, in every way, guarantees equal protection to all... We are often told that if there is any undue pressure for the application of the Indian Constitution to Jammu and Kashmir, the Muslims of the Kashmir valley may break away from India. This argument is totally unintelligible. If our Constitution had been so devised as to make the Muslim feel nervous about their future fate or about the possibility of their not receiving equal treatment, one could have understood, the force of this argument. When, however, this is not so, what can possibly be the ground for this hesitation?

...As a first step, let the Constituent Assembly of Jammu and Kashmir once and for all declare that the state has formally and

finally acceded to India. In the second place, let the Jammu and Kashmir Assembly accept, to start with, the provisions of the Indian Constitution relating to citizenship, fundamental rights, jurisdiction of Supreme Court and High Court, financial integration and emergency powers of the President...”

## **II. FIRM RESOLVE OVER THE YEARS FOR ABROGATION OF ARTICLE 370: EXCERPTS FROM MANIFESTOES: JANA SANGH TO BJP**

### **KASHMIR**

“Since Kashmir in an integral part of India and having regard to development at UNO the reference made to the latter should be withdrawn and there should be no further question of plebiscite. To end the state of uncertainty about Kashmir’s future it should be integrated with Bharat like other acceding States and not given any special position.”

[21st October, 1951; Delhi, Inaugural All India Session]

### **REPEALING ARTICLE 370**

“...For the future safety and security of Jammu and Kashmir with which the safety and security of Bharat is linked, it is essential that it should be brought fully under the Constitution of India by repealing Article 370 of the Constitution...”

[Jana Sangh Manifesto, 1957 General Elections]

### **ARTICLE 370 – A PSYCHOLOGICAL BARRIER**

“...The temporary and transitional Article 370 of the Indian Constitution on the basis of which Jammu-Kashmir State has a separate constitution of its own is a big hindrance in the way of...integration. It has created a psychological barrier between the people of the State and their counter-part of the rest of India which has been exploited all these years by anti-national elements and Pak agents to the detriment of vital Indian interests. Its abrogation is an essential pre-requisite for the normalisation of the situation within Jammu-Kashmir State.

The Central Working Committee, therefore, urges once again upon the Government of India to abrogate this Article forthwith and take steps to apply the Indian Constitution in full to Jammu-Kashmir State also...”

[Bharatiya Jana Sangh Central Working Committee meet, Kanpur,  
January 15, 1966]

## ONE COUNTRY FROM KASHMIR TO KANYAKUMARI

“..BJP is pledged to defend the unity and integrity of India. It believes that India, from Kashmir to Kanyakumari, is one country, and all Indians, irrespective of language, caste or creed, are one people..”

Among the things BJP proposed to do to restore “the balance between Centre and States as visualised by our constitution makers” was to “Delete the temporary Article 370 of the Constitution..”

[BJP Election Manifesto, 1984]

## NATIONAL UNITY AND NATIONAL INTEGRATION

“Delete the temporary Article 370 of the Constitution..”

[BJP Election Manifesto, 1989]

## ARTICLE 370 PSYCHOLOGICALLY SEPARATES

“We will delete the ‘temporary’ Article 370 from the Constitution, which more than anything else, psychologically separates J&K from the rest of the country..”

[BJP Election Manifesto, 1991]

## FULL AND FINAL INTEGRATION

“We will abrogate Article 370 of the Constitution, which puts Jammu and Kashmir on a separate and separatist pedestal, for the state’s full and final integration with the Union..”

[BJP Election Manifesto, 1996]

## JAMMU & KASHMIR

“Jammu and Kashmir was, is and shall remain an integral part of the Union of India. The territorial integrity of India is inviolable. BJP

will pursue an agenda of equal and rapid development in all the three regions of the state – Jammu, Kashmir and Ladakh.

...BJP reiterates its stand on the Article 370, and will discuss this with all stakeholders and remains committed to the abrogation of this article...”

[BJP Vision Document, 2014]

## **JAMMU & KASHMIR – ARTICLE 370**

“...We are committed to overcome all obstacles that come in the way of development and provide adequate financial resources to all regions of the state. We reiterate our position since the time of the Jana Sangh to the abrogation of Article 370.

We are committed to annulling Article 35A of the Constitution of India as the provision is discriminatory against non-permanent residents and women of Jammu and Kashmir. We believe Article 35A is an obstacle in the development of the state...”

[BJP, Sankalp Patra, 2019]

PART (5)

# HIGHLIGHTS OF ARTICLES WRITTEN BY EXPERTS ON REVOKING ARTICLES 370 AND 35A

*The article of some experts of this subject and their main points has been included in this section.*

## I. PM NARENDRA MODI & HM AMIT SHAH ACHIEVE THE IMPOSSIBLE

by **Shri Arun Jaitley**, 06 Aug 2019

The current session of Parliament has been the most productive where historical legislations have been passed. The Triple Talaq law, strengthening of India's anti-terror laws and the decision on Article 370 are all unprecedented. The popular belief that the promise BJP made on Article 370 is an unachievable slogan has been proved wrong. So strong is the public mood in support of the new Kashmir policy of the Government that several opposition parties had succumbed to the public opinion. For the Rajya Sabha to approve this decision by a two-third majority goes beyond anyone's imagination. I analyse the impact of this decision, history of failed attempts on resolving the J&K issue.

### HISTORY OF THE FAILED ATTEMPTS

The Instrument of Accession was signed in October, 1947. Refugees from West Pakistan had migrated to India in millions. Pandit Nehru's Government did not allow them to settle in Jammu and Kashmir. Kashmir, for the last 72 years, has been the unfinished agenda of Pakistan. Panditji wrongly assessed the situation. He volunteered a plebiscite and allowed UN to discuss the issue. He took a decision

trusting Sheikh Mohammed. Abdullah to head the State. He then lost trust in Sheikh Sahab in 1953 and jailed him. The Sheikh had converted the State into a personal kingdom. At that time there was no Congress Party in the State of Jammu and Kashmir. The Congressmen were National Conference members. A Congress Government in the name of National Conference was installed. It was headed by Bakshi Ghulam Mohammed. The National Conference leadership formed a separate group called the Plebiscite Front. But how would the Congress disguised as National Conference, win elections? The 1957, 1962 and 1967 elections were unquestionably rigged. One officer, Abdul Khaliq, the Collector of both Srinagar and Doda, was the Returning Officer and he prevented the nomination of any opponent in the valley. In these three elections, most Congressmen were elected unanimously. The people of the Kashmir valley lost faith in the Central Government.

This experiment of special status and handover of the State to Sheikh Sahab and then put Congress Governments in power was a historic blunder. The history of the past seven decades shows that the journey of this separate Status has been towards separatism and not integration. It created a separatist psyche. Pakistan was more than enthusiastic in trying to exploit the situation.

Mrs. Indira Gandhi then experimented releasing Sheikh Sahab and his forming a Government once again with Congress supporting the Government from outside. This was in 1975. Within months of taking over, Sheikh Sahab's tone had changed and Mrs. Gandhi was clear that she had been let down.

After Sheikh Sahab's demise, the leadership should have gone in the hands of senior National Conference leaders such as Mirza Afzal Beg but Sheikh Sahab wanted to convert Kashmir into his family fiefdom. Farooq Abdullah became the Chief Minister as Sheikh Sahab's successor. Instead of strengthening the mainstream party, in early 1984, the Congress destabilised the Government. Overnight Chief Minister was changed through manipulation and jointly with a rebel group of the National Conference led by Sheikh Sahab's son-in-law Gul Mohd. Shah was made the Chief Minister. The new Chief Minister obviously could not control the situation. His subsequent statements clearly establish his sympathies with the separatists. In 1987, Shri Rajiv Gandhi again reversed the policies and jointly contested the election with Farooq Abdullah's National Conference. This election was also rigged. Some candidates, whose defeat was manipulated, subsequently

turned separatists and even terrorists.

By 1989-90, the situation had gone out of control and the sentiment of separatism alongwith terrorism picked up. Kashmiri pundits, who are essential part of Kashmiriat, suffered the kind of atrocities which only the Nazis had inflicted in the past. The ethnic cleansing took place and the Kashmiri pundits had to move out of the valley.

With separatism and terrorism picking up, Central Governments headed by various political parties made three new kinds of efforts. They tried a dialogue with the separatists which turned into a futile exercise. The dialogue with Pakistan was attempted by Governments to resolve the Kashmir problem as a bilateral issue. Governments were talking to the creator of the problem in order to find a solution to the problem. After the dialogue experiment failed, many Governments at the Centre in larger national interest, decided to align with the so called mainstream parties of Jammu and Kashmir. The two national parties at some stage undertook the experiment of trusting the two regional parties – the PDP and the National Conference, installing them in power so that they can, with the help of the regional parties, communicate with the people. On each occasion, this experiment did not work. The regional parties spoke one language in New Delhi and another in Srinagar. The worst attempt to appease separatists thought was the 1954 decision on surreptitiously slipping Article 35A into the Constitution. It discriminated between two categories of Indian citizens and resulted in distancing Kashmir from the rest of the country. Meanwhile the Jamaat started a huge campaign to convert the liberal valley from Sufism to Wahhabism.

The historic blunders of special status under Article 370 and Article 35A had cost the country both politically and financially. Today, when history is being re-written, it has given a verdict that Dr. Syama Prasad Mookerjee's vision on Kashmir was the correct one and Pandit ji's dream solution has proved to be a failure.

## **PRIME MINISTER MODI'S KASHMIR POLICY**

In the last seven decades, different attempts to resolve the issue proved a disaster, Prime Minister Modi decided to follow an alternative approach. A few hundred separatist leaders and armed terrorists were holding State and country to ransom. The nation lost thousands of citizens and security personnel. Instead of spending on development, we were spending on security. The present decision makes it clear that

just as the rule of law prevails in other parts of the country, it will equally prevail in the Kashmir valley. Security steps have been strengthened. Armed terrorists have been liquidated in large numbers. Their number has been reduced substantially. Security provided to separatists was withdrawn, the Income-tax Department and the NIA discovered the unlawful resources that these separatists and terrorists were getting. Between these two categories, only a few hundred people in the last ten months have suffered. But the remaining population of the Kashmir valley, after decades, has seen an era of peace. They were now the victims of terrorism since none other than Kashmiri Muslim lived in the valley. Many of them, out of fear, also shifted to the other states.

Enforcing law and order strictly and not sparing anyone who breached the law and make life safe for lakhs of Kashmiris and put pressure through all measures on the handful of separatists and terrorists. The last ten months have not seen any protest. Not even in Srinagar. The next logical step obviously is to re-examine the laws which created a separatist psyche. Total integration of the State with the country had to be done.

The argument given by the PDP and the National Conference leadership that if Article 370 or Article 35A are diluted, this will lead to Kashmir breaking away from India because it is the only conditional link between the country and Kashmir. The argument is clearly flawed. The Instrument of Accession was signed in October, 1947. There were no Article 370 or Article 35A even mentioned once by anyone. Article 370 came into the Constitution in 1950. In the Constitution Assembly, the debate lasted less than ten minutes. Leaders of the Government abstained from the debate and N. Gopalaswamy Ayyangar tabled the provision with a solemn promise that this is a temporary arrangement. Only one other member spoke on the subject. This minority community member did not oppose Article 370. He demanded that it also be made applicable to the region from which he came. Today there is only one nation where every citizen is equal. Initially, Panditji did not allow even the Supreme Court and Election Commission's jurisdiction to extend to Jammu and Kashmir. Little did he realise that he was creating a sub nation. It is only after Sheikh Sahab was removed and imprisoned that these got jurisdiction over the State of Jammu and Kashmir. The decision to reverse the situation needed clarity, vision and determination. It also needed political courage. The Prime Minister has created history through his absolute clarity and determination.

## **THE NEGATIVE IMPACT OF ARTICLE 370 AND ARTICLE 35A ON CITIZENS OF KASHMIR**

Any citizen of India could go and settle in Kashmir, make investments and create jobs for development. Today, there are no industries, hardly any private sector hospital, no credible educational institution set up by the private sector. India's most beautiful State has not had investments from even the hotel chains. Consequently, there are no new jobs for the local people, no revenue for the State. This gave rise to frustration in all regions of the State. These constitutional provisions are not cast in stone. They had to be removed/ diluted through the due process of law. Article 35A was not even approved by the Parliament or State Assembly. It defied Article 368 which lays down the procedure for amending the Constitution. It was brought in through back door by an executive notification. It permits discrimination and makes it non-justiciable.

## **THE ROLE OF THE TWO REGIONAL PARTIES**

The leaders of the two regional parties speak in two voices. Their statements in New Delhi at times are re-assuring. But in Srinagar they speak a different language. Their stand is influenced by the separatist environment. It is a hard reality that both of them have lost support on the ground. Several national parties have allowed themselves to be misguided. An issue of national integration has been translated into an issue of secularism. The two have nothing in common.

The level of popular support to this move have compelled several opposition parties to support the move. They have sensed the ground reality and do not want to face the wrath of the people. Regrettably, the Congress Party legacy, which first created the problem and then added to it, fails to see reason. Just as Rahul Gandhi's support to the 'tukde-tukde' gang at the JNU was at variance with the sentiment of even the Congress workers, the same applies to this stand of the Government. Overwhelming majority of Congressmen support this Bill. Their private and public comments are in this direction but the National Party, as a 'headless chicken', is further consolidating its alienation from the people of India. The New India has changed. Only the Congress does not realise this. The Congress leadership is determined to succeed in its race to the bottom.

## **II. ARTICLE 370: RESOLUTION OF DOUBTS**

- Since 2016, about 10, 489 crores of assistance was given to Jammu and Kashmir every year, but out of this, very little was being spent on

- development work of the state. Due to corruption, there is a lack of good roads, health facilities and infrastructure in Jammu and Kashmir.
- The Panchayats established by the state were not functioning properly, democracy did not percolate to the villages in the state, and due to this its backward and weaker sections had to suffer. Panchayat elections were not held in Jammu and Kashmir, even after the Panchayati Raj Act of 1989 came into force for nearly 12 years.
  - For the past several years, the Jammu and Kashmir government did not even give details of the expenditure incurred to the central government. Bank scam, recruitment scam in government jobs, license scam, and many scams has been indulged in by the governments in the state, but the common citizen had no idea of these scams.
  - The Constitution makers of India had added to the 5th Schedule the Constitution for the protection of tribal culture, tribal rights and tribal areas. Due to non-implementation of Part 10 in Jammu and Kashmir, the Scheduled Tribes of the state have suffered a lot. They were deprived of many public welfare schemes which they were entitled to under the 5th schedule.
  - Due to 35A, because outsiders could secure jobs in the state, as a result, a number of subject experts in schools, colleges and universities have not been able to come here to teach. Professionals were not coming in medical and engineering colleges.
  - Multinational companies are opening their offices across the country, but due to 35A, no multinational company opens its office in Jammu-Kashmir. Because of this educated youth were deprived of good jobs and opportunities. Banks do not provide large loans due to the limited income of the people here. And this is why locals here could not start any big business or venture.

### **III. JAMMU-KASHMIR AND LADAKH: JOURNEY OF UNITY**

- Some people say that the accession of Jammu and Kashmir was delayed due to which problems arose. They should know that many states entered into India after Jammu and Kashmir. Tripura joined in 1949. Many states also joined India after this. Jammu Kashmir was not the last state to join the Indian Union.
- Legislative assemblies were being put together in a very unconstitutional way and elections were also being conducted in the

same manner. But the Centre did not take any step. On top of it, the Union government in the past recognized the Constituent Assembly elected by such a rigged electoral process.

- In 1951, the Assembly of Jammu and Kashmir was held. But there was no election held in reality, it was a simple nomination of the candidates of their choice by Sheikh Abdullah's National Conference. Opposition nominations were cancelled. Out of 75 assembly seats, 73 candidates of National Conference were declared elected unopposed. The remaining two were also their candidates. It means all 75 members were the part of National Conference. This was democracy practiced then!
- During that period, Nehru had surrendered to Sheikh Abdullah's separatist policies and considered implementing all his outrageous demands and proposals. To show the world that Jammu and Kashmir is with India, Nehru accepted all his proposals. Today those who are saying that all this work [abrogation of 370 and reorganization of the state] have been done in an unconstitutional manner. They should understand how the Constitution was ignored under Article 370.
- The 1954 order was unconstitutional. The basic structure of the Constitution of India was tampered with. It limits the powers of the Supreme Court. "Text of Oath" used to change. It limits the powers of the President. It was used to divide the inhabitants of India into two classes. Its broke the feeling of Preamble which says - "We the People of India", into two sections.

## **IV. GOOD RIDDANCE: ARTICLES 370, 35A WERE NOTHING BUT AN ALBATROSS FOR THE PEOPLE OF J&K**

- 'Special' has been the most abused word in the context of Jammu and Kashmir state. Violation of rights, exploitation of people and resources, and rampant corruption were justified and nurtured here for decades in the name of 'special'.

## **MISCONCEPTION OF SPECIAL PRIVILEGES**

- Article 35A, drawing power from Article 370, gave the state government the right to decide who could qualify as a 'permanent resident' of Jammu and Kashmir. Those who fit the state-defined

criteria were given Permanent Resident Certificates (PRCs). And only those who had PRCs were entitled to certain 'privileges'. What were these privileges? When you look closely, these so-called privileges were nothing but rights that people in other states enjoy anyway!

1. Right to buy immovable property
  2. Right to apply for merit-based scholarships
  3. Right to higher technical education
  4. Right to apply for government jobs
  5. Right to vote and participate in assembly and local bodies elections
  6. Right to benefit from government-sponsored schemes
  7. Right to marry a person of your choice (though this right DID NOT apply to women of the state)
- Because laws could not be automatically extended to J&K, people were deprived of the benefits of many key central legislations such as anti-rape law, Prevention of Corruption Act, National Commission for Minorities Act and over a 100 other important legislations.

## BACKWARD COMMUNITIES

- The disadvantaged sections i.e. Scheduled Castes (SCs), Scheduled Tribes (STs) and Other Backward Classes (OBCs) – though PRC holders – were deprived of reservation benefits that their brethren enjoyed in other states.
- J&K's permanent resident Scheduled Tribes comprise almost 10% of the population, but have been denied reservation in the State Assembly.
- In 2002, J&K State Assembly stayed the delimitation of assembly seats till the year 2031. This deprived the backward areas of the state from proper representation in the assembly, but no one could even approach the courts for reprieve.

## WOMEN FACED LEGALISED DISCRIMINATION

- Since the PRC rules took away her right to choose her life partner. If a PRC-holder woman married a non-PRC holder, her family did not get any of the above privileges. Which basically meant that either her family lived as second-class citizens or decided to move out of the state of J&K.

- This law did not apply to men – their wives and children automatically acquired ‘resident’ status.

## **DISPLACED FAMILIES**

- In an unjustifiable decision, the state government had, between 2014 and 2016, denied permanent resident status to 4300 families whose forefathers had come in from Pakistan-occupied Jammu Kashmir (PoJK) in 1947. These families were official residents (state subjects) of J&K during Maharaja Hari Singh’s rule, and had moved to other areas to escape the atrocities of Pakistan, which had forcibly occupied parts of the state in 1947-48. These families were even denied the assistance provided to PoJK displaced persons under the Prime Minister Development Package.
- Shockingly enough, the state’s laws allowed those who had moved to Pakistan during Partition to come back to J&K and reclaim their land and resident rights!

## **NON-PRC HOLDERS DEPRIVED OF BASIC RIGHTS**

- They could vote for Lok Sabha elections, but could neither vote nor participate in local level elections.
- Hundreds of thousands of such residents who have lived in the state over last 70 years – more than three generations– have suffered injustices.

## **THE COMMUNITIES THAT DIRECTLY SUFFERED THE REGRESSIVE LAWS UNDER ARTICLE 35A WERE:**

### **Valmiki (safaikarmacharis)**

- In 1957, the J&K government specially invited around 200 Valmiki families from Punjab, to be employed as safaikarmacharis (sweepers). These families agreed to work in the state after being promised permanent resident status. What they did not realise was that their status would be beset with the clause ‘only to the extent of being safaikarmacharis’ — a clause that would ruin the aspirations of generations!
- More than 60 years later, the community has grown in numbers. Parents sent their children to school and hoped to build a better

future for them. However, their dreams and efforts were shattered simply because they are 'permanent residents' only to the extent of being safaikarmacharis!

- Their children could not get admission to government-run institutes. The educated youths of Valmiki families were only eligible to apply for the post of sweepers. They were even denied promotions.

## **'West Pak Refugees'**

- Thousands of Indians who crossed over during 1947 partition, from what is now west Pakistan, to the state of J&K were referred to as 'West Pakistani Refugees' till now! A baby born in 2019 was also called a 'West Pak refugee'!
- They were like other Hindus who chose to live in India, but happened to enter the state of Jammu and Kashmir. More than seven decades later, they are still identified as 'refugees' and forced to live in 'camps'. Even the third generation is tagged as 'refugees' and denied rights and privileges that should have been automatically theirs.
- Compare their situation with those who moved from Pakistan to other parts of India such as Delhi, Mumbai, Surat etc. They were rehabilitated with a number of welfare measures such as allotment of houses, jobs etc. and seamlessly integrated into the mainstream.
- After 70 years of living like bonded labour, these families now hope to be free of the 'refugee' tag and live a life of honour.

## **Gorkhas**

- Gorkhas settled in Jammu-Kashmir in the 18th century. Their population numbers around one lakh and is spread across J&K, including Kashmir Valley.
- There are innumerable instances of Gorkhas who have made supreme sacrifices for the integrity of India and the safety of J&K. However, they faced big hurdles in getting PRCs, without which educated young Gorkha boys and girls could not get government jobs and admission to educational institutes.

## **Sacrifice of Soldiers Overlooked**

- Soldiers of the armed forces have sacrificed their lives in large numbers while securing the state's borders with Pakistan and China, and in anti-terror operations.

- Twenty-one soldiers who made the supreme sacrifice while fighting the enemy at the borders have been awarded India's highest military award, the Param Veer Chakra (PVC). Fourteen of them were from other states.
- It is extremely unfortunate that those who risked their life and limb, and made supreme sacrifices while safeguarding the lives of J&K residents and protecting every inch of its land, could never be given even a small piece of the land as a token of appreciation. Such were the laws of the state!

## **Unfair Treatments of Civil Servants**

- Officers of central Civil Services, who were posted in Jammu and Kashmir and served the state for 30-32 years, were never allowed to settle in the state after retirement. Even their children were not allowed admission in state-run professional institutes, nor could they apply for any state jobs.
- An educated analysis of the effects of Articles 370 and 35A will convince the people of J&K that it is actually good riddance! This is the time to look ahead with positivity and to work hard towards building a bright future.

## **V. IMPLICATIONS OF LADAKH AS UT**

- The most significant decision has been to separate Ladakh from Jammu and Kashmir and to convert it into a Union Territory. The spontaneous jubilations in Ladakh clearly indicated the popular support this measure enjoyed in the region, which has suffered seven decades of neglect by the state government and relative isolation.
- Brave citizens of Ladakh under the leadership of Chewwang Rinchen put up a stiff resistance against the tribal raid sponsored by Pakistan Army in 1948. Their resistance not only allowed Indian Army to reach in time to push back Pakistan Army masquerading as tribal raiders, the locals led by Sonam Norbu also facilitated Indian Air Force to establish a vital airfield at Leh, which eventually ensured that the raiders who had reached up to Zaskar were completely pushed back from the track connecting Srinagar to Leh.
- The population of the region has stood shoulder to shoulder with Indian troops during Sino-Indian War of 1962, Indo-Pak War of 1965 and Kargil conflict of 1999. Besides they helped Indian Army immensely in maintaining its control over Siachen Glacier, world's

highest battle ground, when Pakistan surreptitiously tried to capture the strategic heights.

- The citizens of Ladakh never got their due from the government at Srinagar. Despite comprising almost 60 per cent of the territory of the state, the region, has largely been ignored because of its sparse population and remote location.
- This resulted in scarce development, despite enormous resources and potential of the region. Its unique ethno-linguistic identity was allowed to wither away, till popular movement forced the government to establish Autonomous hill councils.
- After independence and 'the tribal raid', in 1949 China banned trade convoys from Nubra Valley [in Ladakh] into Xinjiang, this seriously impacted the livelihood in the region. Chinese occupation of Tibet further worsened the situation. Consequently, the residents of Ladakh who primarily depended on trade through the region were reduced to penury. The region which had been one of the 'highest commercial crossroads of the world' was left to languish in complete isolation.
- This region had inadequate health and education facilities till the establishment of Ladakh Autonomous Hill Council in 1995. Avenues of livelihood which started opening once the region was opened up for tourism in 1974, really took off only after the autonomous hill development council was established.
- With the establishment of Union Territory, new offices will need to be created, possible at a new capital, which should trigger huge investment in construction.
- New government jobs will be created and central grants and investments will come to the region, without any dangers of it being diverted to Srinagar. Tourism sector will see new investment especially in the field of high end tourism.
- The UT status will also ensure that the unique ethno-linguistic and religious identity of the region will be preserved.

## **VI. ARTICLE 370 / 35A: WHY PAKISTAN FAILED TO INTERNATIONALIZE!**

- After the Abolition of Article 370, the steps announced by Pakistan will worsen their economic conditions. After stopping exports from India, inflation in Pakistan will increase further whereas it will not have any significant impact on India.
- The existing bipolar system of international power balance may change

in the next decade or two. Both the US and China cannot afford to offend India at this time. America wants India to maintain the status quo in the balance of power internationally while China having India as her neighbour needs to maintain a balance.

- Pakistan believes that China is its evergreen ally. This is why after the decision to abolish Article 370 was taken, Pakistan Foreign Minister Shah Mehmood Qureshi rushed to China. Pakistan wanted China to issue strong diplomatic message that would floor India on the international stage or place her in an awkward position. But China did nothing like this.
- US State Department spokesman Morgan Ortega said on Section 370 that this was India's "internal matter." Pakistan did not receive any consolation from Russia's stand either. Russia clearly stated that the removal of Article 370, the changes were "carried out within the framework of the Constitution of the Republic of India." On August 28, the Russian Ambassador in New Delhi said, "Abrogation of Article 370 is a sovereign decision of the Indian government. It is an internal matter of India... Our views are exactly the same as India's."
- Pakistan has been consistently describing itself as the leader of the Muslim Umma i.e. Muslim Brotherhood countries. But no Muslim country has yet given a statement in favor of Pakistan. The United Arab Emirates openly said that the changes made in Jammu and Kashmir are an internal matter of India. The UAE Ambassador in India said on August 6 2019: "The re-organisation of states is not a unique incident in history of independent India & that it was mainly aimed at reducing regional disparity & improving efficiency. It is an internal matter as stipulated by the Indian Constitution..."
- Within a week of the abrogation of Article 370, Saudi Arabia's largest government oil company Aramco invested over one lakh crore rupees in an Indian company. Saudi Arabia, the keeper of the Holy Mecca-Medina is a leader in the Sunni world.
- Among the neighboring countries, Sri Lanka, Maldives, Bangladesh have openly spoken in support of India's move to abrogate Article 370.
- After becoming a nuclear power, it also redeemed its status as the only nuclear weapon state in Muslim countries. But after Pakistan's declining international status, both these strategies are failing. Pakistan seems to be increasingly isolated.

## VII. DEENDAYAL UPADHYAYA AND ARTICLE 370

- Jana Sangh was established on 21 October 1951 under the presidentship of Dr. Syama Prasad Mookerjee. Among other issues that the Jana Sangh began its journey was the protection of fundamental rights, the nurturing of social justice and equity, establishing a united India with full accession of Jammu and Kashmir.
- A three-day national working committee meeting of the Jana Sangh was held in Delhi on 10-12 February 1952. Deendayal Upadhyaya also attended the meeting as a delegate from Uttar Pradesh.
- The working committee passed a resolution in the context of Jammu and Kashmir, among other proposals, “The state of Jammu and Kashmir should also merge with India in the same way as all the states have been included in the Union of India.”
- A meeting of the Second National Working Committee of the Jana Sangh was convened on 14-15 June in Delhi. A resolution was passed regarding Jammu and Kashmir and it was decided that on June 29, 1952, ‘Jammu and Kashmir Day’ will be celebrated across the country.
- On the occasion of ‘Jammu and Kashmir Day’, Deendayal Upadhyaya said in a public meeting in Kanpur that, “Kashmir does not belong to any party, class or community. It is an issue of the entire nation. It is, therefore, imperative that all Indians demand in once voice that:  
Kashmir’s merger with India must be made complete and it must be treated like all other state....”
- On July 24 1952, an agreement was reached between Nehru-Sheikh, which is known as Delhi Accord or July Agreement. [Among the provisions of the Delhi Agreement were: “continuance of special citizenship rights for the ‘State subjects’, flying of a separate flag for the state ... subject to certain restrictions and limitations, extension of provisions of the Indian constitution in respect of the fundamental rights, emergency powers of the President and the jurisdiction of the Supreme Court.”] On this July Agreement Deendayal Upadhyaya was to say that “from a political point of view, this agreement has been a blunder, as it conceded the separate status of Kashmir one way or the other.”
- Four days after this agreement, Deendayal Upadhyaya addressed a public meeting in Meerut. In the meeting, he criticized the July Agreement as a separate flag and the terms of limited fundamental rights, stating, “In the terms of this so-called agreement with Kashmir,

the clauses regarding the flag and fundamental rights have found a place not because of any historical reasons, but entirely due to communal factors. As such, this agreement is a victory only of communalism at the hands of Nehru.”

- Deendayal Upadhyaya said in a meeting that “The reality is that taking advantage of the circumstances arising out of the death of Iron Man Sardar Patel, Nehru’s appeasement policy and the placing of the Kashmir issue in the United Nations Organisation – which can in no way be called patriotic – Sheikh Abdullah is trying to pursue his ambition of the creation of a third domain. Now the truth is out in the open, the people of India have to decide whether they will confront this truth or close their eyes and refuse to see it.”
- Jana Sangh saw a big success in cementing the unity of the country in 1959. Two important Acts regarding the state of Jammu and Kashmir still held. These were the persistence of the permit system for anyone who wanted to visit the state and the state continuing to remain outside the jurisdiction of the Supreme Court. It was decided at the Bangalore session of Jana Sangh, in February 1959, that a massive public movement would be launched to make people aware of these continuing restrictions.
- It was decided to observe ‘Kashmir Day’ on 8 February 1959 across the country. As a result of this countrywide movement by the Jana Sangh, the permit system was abolished on 1 April 1959. On April 1, 1959, the State Legislature decided to extend the jurisdiction of the Supreme Court. However, all these provisions could not apply there due to Article 370.
- The morale of the Jana Sangh never diminished. Resolutions were passed on the removal of Article 370 in each of its Central Working Committee sessions, Pratinidhi Sabhas and its National Sessions. On January 15, 1966, the Jana Sangh Central Committee met in Kanpur. This committee decided, “The question of constitutional integration of that part of Jammu and Kashmir State (which is in our hands) with the rest of the country is a purely internal affair of India....Its [Article 370] abrogation is an essential pre-requisite for the normalization of the situation in with Jammu-Kashmir State...”
- Bharatiya Janata Party (BJP) emerged in 1980 on the ideological foundation of Deendayal Upadhyaya and Dr. Mookerjee. It continued with its perseverance and demand for the abrogation of Article 370 till achieving success in 2019.

PART (6)

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## **NEHRU CONSIDERED ARTICLE 370 AS AN INTERIM MEASURE**

“Nehru, too, considered Article 370 as an interim measure. Speaking in Parliament on 24 July 1952, he said: We all wanted to leave it in a fluid condition because of the various factors and gradually develop the relations – legal and constitutional relations. As a result of this, a rather unusual provision was made in our Constitution. The provision is now Article 370, in Part XXI, Temporary and Transitional Provisions.” On August 7 1952, Nehru once again made it clear that Article 370 was not final, and it merely prescribed the manner in which additions could be made to the subjects.”

[Source: Jagmohan, *My Frozen Turbulence in Kashmir*, New Delhi: Allied Publishers, 12th revised edition, 2017, Chapter: XXIV – Undoing the Negative Politics of Article 370]

## **HASRAT MOHANI’S INTERVENTION** **Hasrat Mohani was an Indian activist, freedom fighter, founder leader of the Indian Communist Party and a noted Urdu poet. He coined the slogan Inquilab Zindabad in 1921.**

On 17 October 1949, N. Gopalaswami Ayyangar introduced draft Article 306A (later renumbered as Article 370) in the Constituent Assembly. Maulana Hasrat Mohani, founder of the Communist Party of India, interrupted him and pointedly asked: ‘Why this discrimination please?’

### **SALIENT POINTS OF HIS INTERVENTION:**

- Why do you make this discrimination? Mr. Ayyangar has himself admitted here that the administration of Kashmir State is not on a very good basis.
- Well, I would not go into any detail. But I say that I object to this sort of thing. If you grant these concessions to the Maharaja of Kashmir you should also withdraw your decision about the merger of Baroda into Bombay and allow all these concessions and many more concessions to the Baroda ruler also.

Celebrating  
**073 370**  
years of true independence.

## The STINC is gone

Separatism

Corruption

Terrorism

Nepotism

Injustice

### WHY A370 HAD TO GO?

**93%**

Rise in the number of security personnel martyred

**96%**

Tribal Population in Ladakh disturbed by border tensions

  
1.5 Crore people deprived of 108+ progressive laws



  
Biased against 47% of the female population

### CONSTITUTION UPHELD



Article 370 supposed to be temporary as it was included under Part XXI of the Constitution titled "Temporary, Transitional and Special Provisions".



Article 356 (1) (b) allows the President to entrust to the Parliament the powers of the state legislature while President's Rule is in operation in a state.



Article 370(3) allows the President to issue a gazette notification and revoke the special status given under Article 370.



Article 35A was inserted through a Presidential Order and therefore, lacked Parliamentary sanction.

### THE WAY FORWARD

  
Private sector players announced their intent to invest

**10%**

Reservations for the EWS in educational institutions and public employment

**108**

Laws will now be applicable including, Prevention of Child Marriage Act, the RTE Act & LGBTQ Rights

**Youth**

Empowered to have a stake in the upcoming elections and grass-root development

**Ladakh**

To develop as a center for spiritual tourism, adventure tourism, eco-tourism & solar power



**Kashmir - A Crisis No More**



Together we are, together we shall rise and together we will fulfil the dreams of 130 crore Indians! A momentous occasion in our Parliamentary democracy, where landmark bills pertaining to Jammu and Kashmir have been passed with overwhelming support!



— Shri Narendra Modi, Prime Minister



Kashmir has always been an integral part of India but this decision will ensure that there will no more be दो निशान-दो सविधान in J&K. This decision is a tribute to all the patriots who made the supreme sacrifice for a united India. Congratulations to the

entire nation.

— Shri Amit Shah, BJP National President & Home Minister

Modi government at the Center under the leadership of Prime Minister Shri Narendra Modi and Home Minister Shri Amit Shah, removed Article 370 from Jammu and Kashmir and paid a true tribute to our beloved Dr. Shyama Prasad Mookerjee, the founder of the Jana Sangh.



— Shri J.P. Nadda, BJP National Working President



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