

# **The Resurgent India**

**A Monthly National Review**

August 2019



***“Let us all work for the Greatness of India.”***  
*- The Mother*

Year 10

Issue 5

The Resurgent India English monthly published and printed by Smt. Suman Sharma on behalf of The Resurgent India Trust Published at C/o J. N. Socketed Cement Pipes Pvt. Ltd., Village Bhamraula Post Bagwara, Kichha Road, Rudrapur (U.S Nagar)  
**email:** sadlecjnn@gmail.com, info@resurgentindia.org, URL :  
www.resurgentindia.org

**Printed at :** Priyanka Printing Press, Hotel Krish Building, Janta Inter College Road, Udham Nagar, Rudrapur, Uttarakhand

**Editor : Ms. Garima Sharma,** B-45, Batra Colony, Village Bharatpur, P.O. Kaushal Ganj, Bilaspur Distt. Rampur (U.P)

# THE RESURGENT INDIA

A Monthly National Review

August 2019



## SUCCESSFUL FUTURE

(Full of Promise and Joyful Surprises)

*Botanical name: Gaillardia Pulchella*

*Common name: Indian blanket, Blanket flower, Fire-wheels*

Year 10

Issue 5

# CONTENTS

<b>Kashmir: Removal of Artificial Barriers in India's Unity .....</b>	<b>6</b>
<b>Introduction .....</b>	<b>7</b>
<b>Correcting a Historical Wrong.....</b>	<b>8</b>
<b>The Entry of Article 370: Inspired     Solely by Personal and Fanatic     Ambitions of Sheikh Abdullah .....</b>	<b>17</b>
<b>New Equations in Kashmir After 1971 .....</b>	<b>24</b>
<b>Post-1987 Phase: A Turning     Point in Kashmir Terrorism.....</b>	<b>25</b>
<b>How Article 370 was Abolished: 2014-2019.....</b>	<b>29</b>
<b>Legality and Process of the Move .....</b>	<b>36</b>
<b>The Present Political Scenario and     International Law: Congress-Pak     Alliance Exposed .....</b>	<b>40</b>
<b>The Regional and Geopolitical     Implications .....</b>	<b>44</b>
<b>Conclusion .....</b>	<b>47</b>

## **A Declaration**

We do not fight against any creed, any religion.

We do not fight against any form of government.

We do not fight against any social class.

We do not fight against any nation or civilisation.

We are fighting division, unconsciousness, ignorance, inertia and falsehood.

We are endeavouring to establish upon earth union, knowledge, consciousness, Truth, and we fight whatever opposes the advent of this new creation of Light, Peace, Truth and Love.

— The Mother

(Collected works of the Mother, Vol. 13, pp. 124-25)

## KASHMIR: REMOVAL OF ARTIFICIAL BARRIERS IN INDIA'S UNITY

"I walked on the high-wayed Seat of Solomon  
Where Shankaracharya's tiny temple stands  
Facing Infinity from Time's edge, alone  
On the bare ridge ending earth's vain romance.

Around me was a formless solitude:  
All had become one strange Unnameable,  
An unborn sole Reality world-nude,  
Topless and fathomless, for ever still.

A Silence that was Being's only word,  
The unknown beginning and the voiceless end  
Abolishing all things moment-seen or heard,  
On an incommunicable summit reigned,

A lonely Calm and void unchanging Peace  
On the dumb crest of Nature's mysteries."

– *In 'Adwaita' by Sri Aurobindo* (CWSA 2, 2009, p. 751)

In the poem quoted above, Sri Aurobindo describes His experience in the famed Shiva temple built by Shankaracharya in Kashmir, which, in ancient times was a seat of Shiva worship, traditions and tapasya. The marauding Muslim invaders came only as late as the 13<sup>th</sup> century to further their conquests which led to centuries of Islamic conversion in Kashmir.

It is of Kashmir that Sri Aurobindo once wrote in one of his letters, in 1934, that, "***Kashmir is a magnificent place, its rivers unforgettable and on one of its mountains with a shrine of Shankaracharya on it I got my second realisation of the Infinite (long before I started Yoga).***" (CWSA 35, 2011, p. 235).

## INTRODUCTION

In one stroke the Kashmir conundrum has been put on the path towards final resolution. The abolition of the special status given to Jammu and Kashmir under the arbitrary and contested Article 370 was revoked on August 5<sup>th</sup>, 2019 – a date that will be remembered in India's political history. Immediately after notifying the resolution to abolish the special status, the Presidential assent was obtained, followed by the passage of the resolution in Rajya Sabha and Lok Sabha with overwhelming majorities.

The entire process – including the troop deployment in the run-up to August 5<sup>th</sup> – was achieved in the most efficient and legally sound manner, even as Pakistan and its sympathizers in India viz. Congress party, intellectuals and sections of 'secular' media' shouted themselves hoarse against the government decisions.

The abolition of the special status of Jammu and Kashmir and the resultant creation of two Union Territories of Jammu & Kashmir and Ladakh, is key to striking right at the heart of terrorism and at the heart of Pakistani and increasingly global jihadi interventions in Kashmir. Certainly, the government's internal security management has been fool-proof over the last five years and the success in breaking the back of terror in Kashmir has been immense.

But with this step of taking complete and unconditional control of Kashmir, the government has ensured that the country successfully steers itself through the regional geopolitical dynamics as well, especially in thwarting the devious Pakistani attempts to link Afghanistan developments to Kashmir. With the September deadline for the conclusion of Afghan peace talks fast approaching and the inevitable US withdrawal it signaled, this step has been of utmost importance in insulating Kashmir from the inevitable jihadi onslaught from Pakistan.

Internally, and from a deeper perspective, it has meant the rise of a strong India, slaying its enemies.

## CORRECTING A HISTORICAL WRONG

That the 'Kashmir problem' could be set on a permanent path towards resolution with such ease and efficiency as was done by the government recently is at odds with the chequered history of this state. In retrospect and especially under the present circumstances where India has firmly dealt with Pakistan and its terrorists in Kashmir, it now seems clear that our failure to stand for our national cause and claim our own territory was the crux of the Kashmir problem all these decades. At the end of the day, it was Indian leadership of the past that allowed the Kashmir problem to be created and take a monstrous turn and now it is India herself which has, in one stroke, resolved the issue.

Neither Pakistan nor terrorists/separatists should have ever had any say in how India governs its own territory, yet the ample leeway provided by successive Indian governments allowed these hostile elements to meddle in Kashmir, while Indian leadership pleaded helplessness. ***Indeed, it is being rightly noticed nowadays that while, for the last 72 years, successive Indian***



***governments constantly felt bothered and tormented by Pakistani antics, this is for the first time in the subcontinent's history that Pakistan is feeling backed into a corner and helpless and tormented by the persistent actions of India.***

The recent statements issued by our Defence Minister, Rajnath Singh, that India's 'no first use' nuclear policy may be revised in the future depending on circumstances, and, that if at all there will be any India-Pakistan talks they will be on Pakistan-Occupied-Kashmir (PoK), has further driven the Pakistani establishment into hysteria. Historically, whenever India and Pakistan used to have a dialogue, the bone of contention was 'Kashmir', with India backed into a corner and refusing to discuss it.

India never raised a hue and cry when Pakistan systematically changed the structure and demography of Gilgit-Baltistan and India hardly insisted with any force that the bone of contention was not Kashmir, but PoK. Except for the resolution passed by the Narsimha Rao government in 1992 on taking back the PoK, there was nothing.

India allowed 'Kashmir' to become a bone of contention with Pakistan and with Kashmir separatists, taking pains to hold dialogues and talks, even as these elements never desisted from launching unmitigated terror attacks on Indian soil. ***For this past approach to have been thrown out is indeed a massive shock for the intellectual, media-persons and militant elements who have driven and thrived in the anti-India ecosystem for decades.*** This is indeed a 'new' India for them, which they do not know how to handle, since the previous Indian governments have always treated them with kid gloves.

India, for the first time, is on an offensive, while Pakistan is on the defensive. While the Pakistani PM, Imran Khan, is cursing

Modi/RSS/Hindutva every single day, including in his Independence Day speech, PM Modi has not even once responded directly to Pakistan. One would never have imagined that we will witness a time when Pakistan will lament that Modi has ‘buried Nehru’s and Gandhi’s India’ or that Taliban will preach the virtues of peace. Yet, the entire terrorist ecosystem has been so deeply unhinged by the recent events, starting from the Balakot air strikes, that this is exactly what is happening.

Contrast this with the past events of Kashmir’s history and the history of our engagement with Pakistan since 1947. In the early decades following Independence, India faced numerous setbacks regarding the Kashmir issue, internationally, with the West completely allied with Pakistan, while we scraped through with Russia’s support. Notably, China has, indeed, till date, always maintained a neutral stance on Kashmir since 1947, regardless of the later growth in China-Pakistan relations. This stand refused to endorse either India or Pakistan and signaled that China will not get involved in the issue at all. Other countries like US and UK consistently stood by Pakistan through the Cold War years.

It was because of Nehru’s yielding to Lord Mountbatten – the first Governor General of Independent India – and his idealism about the newly formed United Nations Organization that India ended up first referring the Kashmir issue to the UN. The dispute began when the Hindu Dogra ruler of the then princely state of Jammu and Kashmir realized that his state would soon be overtaken by the incoming Pashtun hordes and Muslim tribesmen from Pakistan. India refused to come to his aid unless he signed the Instrument of Accession and acceded to India. The Instrument of Accession was finally signed on 26 October 1947, but not without travails.

The state had acceded defence, foreign affairs and communications to India, with Lord Mountbatten diabolically attempting to make this accession provisional and insisting that the final decision on accession should be taken by the Constituent Assembly of J&K. Had Mountbatten not prevailed upon Nehru to give in to this idealism by making the accession contingent upon plebiscite and wishes of the Kashmir assembly, the accession of the state would have been no different from any other state, with the Pakistani hordes completely ejected.

Nehru was given to an idealized confusion right from the outset. As Col. Sam Manekshaw, the first field marshal in the Indian Army who supervised the attack to repel Pakistani hordes after the Instrument of Accession was signed, recalls,

“Since I was in the Directorate of Military Operations, and was responsible for current operations all over India, West Frontier, the Punjab, and elsewhere, I knew what the situation in Kashmir was. I knew that the tribesmen had come in -initially only the tribesmen - supported by the Pakistanis.

Fortunately for us, and for Kashmir, they were busy raiding, raping all along...The Maharaja’s forces were 50 per cent Muslim and 50 per cent Dogra.

The Muslim elements had revolted and joined the Pakistani forces. This was the broad military situation. The tribesmen were believed to be about 7 to 9 kilometers from Srinagar...The army knew that if we had to send soldiers, we would have to fly them in...From the political side, Sardar Patel and V P Menon had been dealing with Mahajan and the Maharaja, and the idea was that V.P Menon would get the Accession, I would bring back the military appreciation and report to the government. The troops were already at the airport, ready to be flown in...(At the cabinet

meeting in Delhi) Mountbatten turned around and said, ‘come on Manekji (He called me Manekji instead of Manekshaw), what is the military situation?’ I gave him the military situation, and told him that unless we flew in troops immediately, we would have lost Srinagar, because going by road would take days, and once the tribesmen got to the airport and Srinagar, we couldn’t fly troops in. Everything was ready at the airport.

As usual Nehru talked about the United Nations, Russia, Africa, God almighty, everybody, until Sardar Patel lost his temper. He said, ‘Jawaharlal, do you want Kashmir, or do you want to give it away’. He (Nehru) said, ‘Of course, I want Kashmir (emphasis in original). Then he (Patel) said ‘Please give your orders’. And before he could say anything Sardar Patel turned to me and said, ‘You have got your orders.’” (Jha, 1996, pp. 197-200).

Nehru was, thus, prone to dithering and late in political action. As Col Manekshaw’s account shows, the Pakistan-sponsored butchering tribesmen were just 7-8 km from Srinagar when all these decisions were taken, and, Indian Army successfully managed to defeat the intruders as well as regular Pakistani soldiers dressed as intruders and would have repelled them from the entire territory of Kashmir had the political orders not been withdrawn.

The political machinations by Lord Mountbatten who manipulated the Indian leaders – while being in touch and sympathy with the British establishment allied to Pakistan – ensured that Indians committed some early missteps that put us on a weak wicket, such as,

a. Withdrawal of Indian troops when they were driving out the Pakistani hordes in 1947 from Kashmir. The Indian forces were in a commanding position to capture the entire state of

Jammu and Kashmir, including what is now PoK, had Nehru not chosen to halt the operations and approach the UN Security Council (UNSC), resulting in a ceasefire. Mountbatten wanted the war to end as he was worried that Indian forces may manage to capture crucial nerve centers and bases to weaken Pakistan.

**b. Agreement to hold a plebiscite to ascertain the wishes of the people of the state as to whether they wanted to accede to India or Pakistan.** Here again, Mountbatten was the one who first floated this idea and prevailed upon Indian leaders, including Maharaja Hari Singh, to commit to it. He also prevailed upon Nehru to accept UN intervention in Kashmir, including in administering the plebiscite. Thus, India referred the issue to the UNSC in January 1948.

The British government representatives cemented these missteps at the UN by playing a devious pro-Pakistani role. They tried their level best – including hoodwinking the US, which was initially disinterested in this matter – to come up with ridiculous proposals that would involve a withdrawal by India to Hindu-majority Jammu, giving Pakistan the northern and western areas and a ‘neutral’ monitoring of the Kashmir Valley by UN, ostensibly with the help of Pakistani troops, since they were Muslims and so better suited to the region. Thus, Britain began to secure support for Pakistan at the UN since 1948, arguing that since J&K had majority Muslim population, it should go to Pakistan.

This was in direct contrast to the two key resolutions of the United Nations Commission for India and Pakistan (UNCIP) set-up in January 1948 after India’s approach to the UNSC. The UNCIP procured evidence – from Pakistani leaders themselves – that Pakistani Army was guiding the raiding intruders in Kashmir. Therefore, in its resolution dated 13 August 1948, it set 3 conditions viz.,

a. Declaration of ceasefire by both sides.

b. Withdrawal of Pakistani troops and tribals from Kashmir, followed by withdrawal of troops by India.

c. Holding of a plebiscite.

While the ceasefire was finally achieved by January 1949, Pakistani refusal to withdraw its troops and terrorists from Kashmir prevented the plebiscite from taking place there and then. Over time, as we know, Pakistan's occupation of PoK hardened and the resolutions to which India was party viz. of 1948 and 1949, were, for all practical purposes, confined to the dustbin of history, giving way to completely manipulated unjust, anti-India politics at the UNSC.

India did not help matters. The Indian leadership – except for Sardar Patel – was confused. Nehru had appointed Gopaldaswamy Ayyangar in charge of Kashmir affairs. In an effort to look sophisticated and statesman-like, Ayyangar refused to directly condemn Pakistan for intruding into Kashmir, taking pains to distinguish between Pakistani raiders and Pakistani Army, even though he knew well that the raiders were under direct control of Pakistan. It appeared as if India was willing to bend backward to accommodate Pakistan. India's weak approach, in contrast to Pakistan's aggressive lobbying, ensured that India found itself backed into a corner time and again.

Yet, despite these diplomatic setbacks, in terms of concrete outcomes, as the initial UNSC resolutions of 1948-49 show, they were drafted in India's favour, with India's terms for plebiscite being taken into account.

It was on these early developments that Sri Aurobindo had commented, at length, in one of his letters in September 1949, saying that, "I am not enamoured of your idea of an

understanding between Pakistan and India, it is not likely that the Pakistan Government will consent to any understanding except one which will help to perpetuate the partition and be to their advantage. It would be most dangerous to forget Jinnah's motive and policy in establishing Pakistan which is still the motive and policy of the Pakistan leaders, — although it would not be politic to say anything about it just now...There is a passage in your article containing a trenchant suggestion which has puzzled me. You seem to say that India has been beaten on the military ground in Kashmir and there is no hope of her keeping it or clearing out the invaders; her last chance is the plebiscite and that is the reason why she is insisting on the plebiscite.

Is that at all true? It would mean that Indian military strength is unable to cope with that of Pakistan and then, if she cannot cope with it in Kashmir in spite of her initial advantage, can she do it anywhere? If she gives up Kashmir because of her military weakness that encourages Pakistan to carry through Jinnah's plan with regard to the establishment of Muslim rule in Northern India and they will try it out.

I don't think this is really the case. It was for political motives, I take it, and not from a consciousness of military weakness that India did not push her initial advantage, and she insisted on the plebiscite, not because it was her last or only chance but because it gave her the best chance. In a plebiscite on the single and straight issue of joining either Pakistan or India she was and is quite confident of an overwhelming majority in her favour.

Moreover, she does not cling to the plebiscite from motives of ideological purity and will even refuse it if it is to be held on any conditions other than those she has herself clearly and insistently laid down. She is quite prepared to withdraw the case

from the cognizance of the U.N.O and retain Kashmir by her own means and even, if necessary, by fight to the finish, if that is unavoidable. That Patel has made quite clear and uncompromisingly positive and Nehru has not been less positive. Both of them are determined to resist to the bitter end any attempt to force a solution which is not consistent with the democratic will of the Kashmir people and their right of self-determination of their own destiny. At the same time they are trying to avoid a clash if it is at all possible.

One thing which both Abdullah and the India Government want to avoid and have decided to resist by all possible means is a partition of Kashmir, especially with Gilgit and Northern Kashmir going to Pakistan. This is the greatest danger but the details and the reasons for the possibility of its materialising, though they are plain enough, have to be kept confidential or, at any rate, not to be discussed in public. But if you take account of it, it will be easier to understand the situation and the whole policy of the India Government. That at least is the stand taken by them and the spirit of the terms they have laid down for the conditions of the plebiscite.

These conditions have been just at this moment published in the newspapers and the whole course of negotiations with the U.N.O. Kashmir Commission has been laid bare in a public statement. Practically, the Commission representative has conceded on its part almost all the essential demands and conditions laid down by Nehru. All, however, remains fluid until and unless the Security Council acquiesces in the arrangements proposed by their own Commission or else take a different decision and until the plebiscite Administrator is appointed and makes the final arrangements...In any case, it seems to me that our only course is to support the India Government in the stand



they are taking in regard to Kashmir and the terms and conditions they have made, so long as they do not weaken and deviate from their position.

Nothing should be said which would discourage the public mind or call away the support which the Government needs in maintaining the right course. What I have written on Kashmir is only my personal view at present based on the information I have and must be kept quite private. But it may perhaps be of some help to you in determining what you may say or not say about Kashmir...Pakistan in this matter is showing a mentality that makes one wonder whether it is worth while your suggesting the possibility of an amicable rapprochement between the two parts of partitioned India such as you have gone out of your way to elaborate in your article." (CWSA 36, 2006, pp. 517-520).

### **THE ENTRY OF ARTICLE 370: INSPIRED SOLELY BY PERSONAL AND FANATIC AMBITIONS OF SHEIKH ABDULLAH**

At a time when Pakistan was consolidating its hold irrevocably over PoK, on the ground and by ensuring international support, India could have at least attempted to further consolidate its position in J&K. Yet, completely another level of internal politics was being played out by Nehru-Abdullah nexus within Kashmir. Sheikh Abdullah was the founder of what is today known as National Conference (NC), one of the major political parties of Kashmir.

Abdullah's role as a highly popular Muslim separatist leader is well-known. He is famous for founding an exclusively Muslim party in the 1930s, appealing to the Muslims to rise up against the Dogra rule of Maharaja Hari Singh. It was only later after he

smelled an opportunity in Kashmir, post-Independence, that he decided to broaden his base, albeit it was only cosmetic.

Abdullah had no problem with political secularism, since it has always been compatible with the minority Muslim religion in India. Since Abdullah also wanted to expand his own political sphere of influence independent of both India and Pakistan, he painstakingly burnished his secular credentials until 1950. He never wanted Kashmir to go to Pakistan, since that would dent Kashmir's future as well as his own prospects of independence, yet, he wanted Kashmir to remain with India, but in an autonomous position, so that only politicians of his ilk could rule, while India had no say and only ensured defence and money.

Nehru unabashedly promoted Abdullah as the leader of Kashmir and was adamant that Abdullah should lead the administration in the state.

Abdullah, in turn, returned the favour by stabbing India in the back. Unbeknownst to Nehru, Abdullah's prime desire was to see a Kashmir independent of both India and Pakistan, which could be developed with the aid of the western powers or India, and in which Abdullah himself would obviously run the affairs of the state. He had expressed these ideas to the British in London when the Kashmir imbroglio was going on during 1948-49.

Power and promotion of Islam being his mainstay, Abdullah was thus never averse to acting as an agent of either India or Pakistan, depending on what circumstances suited his and Kashmiri Muslim interests. Just like the present day Abdullahs and Muftis. Nehru realized this much later. But by then Abdullah extracted his booty in the form of Article 370 and the damage was done. In the interim, in 1952, when Abdullah was administering the state, Bhartiya Jana Sangha founder, Shyama

Prasad Mookherjee, also died while in custody of Kashmiri police.

***Thus, it was during this time when things at the UNSC increasingly assumed unfavourable shape for India that yet another anti-India coup was pulled off within India, due to Nehru's alliance with Abdullah. Sheikh Abdullah persuaded Nehru to introduce constitutional provisions that would guarantee a 'special status' to the state. Article 370 was incorporated during this transitional period sometime after the date of signing of the Instrument of Accession and till the drafting of the final Constitution of J&K by the Constituent Assembly of the state.***

***In reality, the Sheikh was ensuring that Kashmir was converted into his fiefdom through which he could, at leisure, corner India or Pakistan when he saw fit. At the same time, Islamic radicalization could always be used as a foolproof strategy for maintaining popularity among majority Kashmiri Muslims.***

The Article was included in Part XXI of the Indian Constitution under 'Temporary, Transitional and Special Provisions'. The Article was included in October 1949 and became operational in 1952 once the Constitution of J&K was drafted.

Under the Article, all matters other than defence, foreign affairs and communications could be legislated in the context of J&K only, with the concurrence of the state government. Article 370 effectively ensured that none of the Indian laws would apply to the state of J&K and Indians will not be treated equally in the state, even as Kashmiris get all rights anywhere in India. ***Worse, as was its main intention, by according the state 'special status', it gave permanent space to the free play of Muslim separatism and terrorism in Kashmir, by ensuring that the Indian state would never be able to change the Muslim***

***demography of the state and would never be allowed to settle or give political rights to non-Kashmiris.***

It is no wonder that Dr. B.R Ambedkar refused to draft Article 370, and is cited as saying that:

***Mr. Abdullah, you want that India should defend Kashmir. You wish India should protect your borders, she should build roads in your area, she should supply you food grains, and Kashmir should get equal status as India, but you don't want India and any citizen of India to have any rights in Kashmir and Government of India should have only limited powers. To give consent to this proposal would be a treacherous thing against the interests of India, and I, as the Law Minister of India, will never do. I cannot betray the interests of my country.*** (Naidu, 2019).

Ambedkar was in direct conflict with Sheikh Abdullah over this issue, refusing to even attend the session when this Article was finally passed. His refusal to draft the Article resulted in Gopaldaswamy Ayyangar drafting it instead. Ayyangar faced heat and extremely stormy protests from other Congress leaders. Finally, as Nehru was abroad, Sardar Patel, despite his opposition to the process and despite being kept out of loop and manipulated by Mountbatten and Nehru, was forced to help Ayyangar in getting the resolution to insert Article 370 passed.

Article 370, by granting 'special status' to J&K, ensured that none of the laws of India could be made applicable to the state except by obtaining a prior consent of the constituent assembly of J&K. Indians from other parts of the country could not buy land or settle in the state, even though Kashmiris would be treated as equal citizens in the rest of the country. As per Article 35A, introduced through a Presidential Order in 1956, Indians could not buy immovable property in the state and Kashmiri

women who married non-Kashmiris had their permanent residency certificate revoked.

Indian citizens could not vote in elections in J&K or get jobs in the state, and neither were any of the laws of the Indian Constitution applicable to the state except through Presidential Orders promulgated after obtaining the consent of the J&K government.

The extent of injustice perpetrated by this special status ensured the creation of an Islamist ghetto. The majority community viz. Hindus were deprived of basic rights in a state that was touted as being an integral part of India by successive governments, in what was little more than lip service. The Hindu migrants driven out of West Pakistan in the early years after Partition and resettled in J&K have lived like refugees without rights in their own country, deprived of employment, right to vote, property and financial and other services.

Sheikh Abdullah left no stone unturned between 1949 and 1952, as the shape of the state constitution was being decided, to pass adverse proposals that soon put him at odds with Nehru and the Indian government. He continued to make inflammatory speeches, nursing Muslim chauvinism, which openly threatened Kashmir's accession to India. In fact, all his proposals – special permit to enter the state, post of Prime Minister for the state etc. – were aimed at nullifying the accession and ensuring more independence for J&K.

The partial saving grace came when there was a sharp power split within the NC between factions of hardliner, separatist Sheikh Abdullah and more moderate, pro-India Bakshi Ghulam Mohammad. This led to ***the turning point in Kashmir politics in 1953, when Nehru, through the Sadar-i-Riyasat (later, the post of Governor), Karan Singh, got Sheikh Abdullah detained and***

***dismissed in 1953, in a covert, well-planned overnight operation. This evoked a hysterical reaction in Pakistan, which felt that India had now started taking hold of Kashmir and bringing internal changes – a true guess since, after 1954, the Indian government has passed various laws, over the decades, to dilute Article 370. The final constitution of the state was drafted and signed in 1956 even as Sheikh Abdullah continued to be in detention, and came into force in 1957.***

Thereafter, the government led by Bakshi Ghulam Mohammad took a series of steps to dilute the previous policies of Abdullah, such as, revoking the system which required Indian citizens to be issued a permit to enter the state, in 1959, and, extending the jurisdiction of the Indian Election Commission to the state, among other steps. In 1963, the Bakshi government also revoked the terms ‘Sadar-i-Riyasat’ and ‘Prime Minister’ to the Governor and Chief Minister respectively, and, also brought a change ensuring direct elections to the Parliament from the state instead of nominations.

Each and every one of these measures were assiduously decried by Pakistan. Therefore, the Pakistani hue-and-cry over what India does in J&K is nothing new.

In the midst of these changes, ***there was a setback when Sheikh Abdullah was finally released from detention in 1958. Immediately, he, along with other hardliners, utilized the platform of the rabidly anti-India organization, ‘Plebiscite Front’ to whip up communal sentiments and question Kashmir’s accession to ‘Hindu’ India. Such was the separatist poison spewed by him that he was immediately detained after 3 months and remained in detention till 1967, except for being briefly released again in 1964, much to the delight of Pakistan, and re-arrested for the third time in 1965 for anti-India activities.***

He and his cohorts were even charged with receiving illegal aid from Pakistan, both individually and through the Plebiscite Front. ***Abdullah was never able to come to terms with the sweeping changes brought in since 1954 which made the accession permanent and brought Kashmir irrevocably closer to India by the Bakshi government. He was also unwilling to subtract Pakistan from the Kashmir equation, always insisting on a trilateral solution.*** In 1964, when he was released, he even persuaded Nehru to allow him to go to Pakistan to defuse the tension between the two countries and talk about Kashmir.

***It was only after the creation of Bangladesh and the spectacular defeat of Pakistan at the hands of Indian Army that Sheikh Abdullah finally accepted the new reality of Kashmir's permanent accession to India. Prior to that, the Indian government by its accommodative approach, ambivalence and desire to have good relations with Pakistan, had given Abdullah the misimpression that India was weak and could be defeated on Kashmir issue.***

Abdullah thought he could clearly outsmart both India and Pakistan, work with Pakistan to betray India's interests and yet manage to retain his own fiefdom in Kashmir in such a way that Pakistan would have to accommodate him. All of these daring calculations arose in him simply because of India's weak political stand with regard to Kashmir.

This attitude – as also the ambivalence of Indian leadership with regard to Pro-Pakistan separatists – has clearly continued unabated till 2014. In fact, contemporary political leaders like Manmohan Singh and Atal Bihari Vajpayee, as was evident from their actions, could be said to be even much more inclined to accommodate the separatists and the former terrorists in the Valley than Nehru at the time.

***While Nehru dealt with one Abdullah and that too in a manner that soon put Abdullah in his place in jail for 15 years, subsequent Indian governments – especially of Manmohan Singh and Vajpayee – had lovingly nurtured a whole generation of Muftis, Abdullahs, Geelanis etc.*** They allowed them to become intermediaries in Kashmir and willingly gave in to their nuisance, demands and blackmails.

## **NEW EQUATIONS IN KASHMIR AFTER 1971**

After the 1971 war, the Shimla Agreement was signed between India and Pakistan in 1972. This agreement, by reiterating that India and Pakistan would resolve their issues bilaterally, firmly removed the UNSC from the picture once and for all. While this was one headache less for India, there were other developments.

Internally, Kashmir politics were undergoing changes. Congress had firmly decided to launch itself in Kashmir and there were negotiations and power politics between NC and Congress and ***the signing of the 1975 ‘Kashmir Accord’ between Sheikh Abdullah and Indira Gandhi – a delusional accord that changed nothing, only brought Abdullah back into politics and additionally re-affirmed the inviolability of Article 370.*** It was just a façade to re-launch Abdullah and launch Congress politically in Kashmir.

***In fact, the process that had started in 1953 by Nehru – with Abdullah under detention – of gradually extending the provisions of Indian Constitution to Kashmir and bringing it closer to India, stopped entirely after this Accord and after Abdullah became strong in Kashmir again. Things were back in reverse gear and seeds of separatism strengthened, thanks to Abdullah’s unabated communalism and open scorn for ‘Hindu India’.***



With Abdullah back at helm, NC strengthened further, as did the anti-national elements, with cases withdrawn against certain hardcore terrorists and with Abdullah firmly launching his son, Farooq Abdullah, to take over the reins of the party and Kashmir politics. ***After Sheikh Abdullah's death in 1982, his son continued unabated his policy of encouraging separatism and hardline Muslim elements and fostering alienation from India. He even outstripped his father in his ardour for terrorists, but faced setbacks due to his own foolishness. During Farooq Abdullah's initial years, camps of Muslim and Khalistani terrorists, given refuge by him, were run in the Valley openly.***

***This is the same Farooq Abdullah who is now acting like a victim under detention and whose rights the Congress is so assiduously and vulgarly defending against Modi, completely overlooking Nehru's own treatment of Sheikh Abdullah once his treachery came to the fore. The Congress of today has made democracy a dirty and unreliable word, applying it with so much ardour to defend people who are bent on the of breaking India. It seems, presently, democracy and freedom have become the slogans of terrorists more than anyone else.***

***After 1986 and with Jagmohan as the governor of the state, Farooq Abdullah allied openly with pro-Pakistan elements and communalized the situation to a dangerous extent.*** He was forced to ally with Congress in the infamous and rigged 1987 elections.

## **POST-1987 PHASE: A TURNING POINT IN KASHMIR TERRORISM**

The phase after 1987 changed Kashmir completely. On the one hand, thanks to the antics of the Abdullah family, separatism, anti-India sentiments and Muslim radicalization had become

firmly established since 1975. Between 1975 and 1989, Kashmiri youth used to go to jihadi training camps based in PoK to come back and attack India. Not only this, but once Farooq Abdullah took over after 1982, Khalistani and jihadi terrorists were welcomed by Farooq, since he never hid his soft corner for the terrorists, and mainly associated with the anti-India Islamic hardliners.

The Afghan war which raged from 1979 to 1989 also marked a new phase of power for Pakistan. The US and Pakistan had together created the Taliban and nurtured jihad to oust the Soviet Union from Afghanistan. This not only brought Pakistan closer to US, ensured a lot of flow of money and gave it immense new power, but also made it possible for it to divert the freed jihadis from Afghanistan, in 1989, to Kashmir – with success.

Congress, drunk with its own power, was unable to act in national interest. ***Unlike Nehru, who had since 1953, systematically started efforts to integrate Kashmir with India, under Mrs. Gandhi and especially after the 1975 Accord, this was no longer on agenda. The only concern was playing power politics to establish Congress electorally in the Valley, turning a blind eye to the gross bargains that gave a setback to the integration attempts of the Bakshi-Nehru era, resulting in Article 370 becoming a tool for terrorism and separatism.***

The already worsened and selfish political conditions in the Valley – where even for Indian politicians, India came last and politics came first – combined with the jihadi influx of Pakistani terrorists earlier deployed in Afghanistan, to give rise to an explosive situation. It officially marked the beginning of insurgency in Kashmir and the demand for a separate Ladakh due to Buddhist-Muslim tensions in Ladakh.

As we know, after 1989, Jammu and Kashmir Liberation

Front (JKLF) and other separatist organizations, in the name of ‘azadi’, went onto commit a massive genocide against Kashmiri Pandits, leading to their mass exodus from the Valley. Mufti Mohammad Sayeed, as India’s Home Minister in 1989, released dreaded terrorists in exchange for his daughter who was abducted by JKLF.

Kashmir remained under Governor’s rule for the large part of the 1990s decade, thankfully insulating it somewhat from the vagaries of India’s coalition politics that marked a tumultuous churning in Indian politics from 1989 onwards.

Governor’s rule and imposition of Armed Forces Special Powers Act (AFSPA) ensured that militancy was crushed with a heavy hand, under Jagmohan, resulting in unconditional surrender of terrorists like Yasin Malik of JKLF and a split in JKLF’s Pakistan and India factions in 1995. Jagmohan was in his second stint as the Governor when militancy was dealt with a heavy hand. ***Rajiv Gandhi and Congress despised Governor Jagmohan – with Farooq Abdullah accusing him of ‘hating the guts of Muslims’ – and India’s government was advised by the secular brigade to rein in Jagmohan and the Indian Army.***

***Thus, whatever suppression of Kashmir terrorism and jihad that occurred during 1990s – as a saving grace for the country – happened not because of Indian politicians, but in spite of their stanch obstruction of this process.***

India was under siege from all sides. Politics was unstable due to the rise of the coalition era, while economy after being in dumps was in a period of transition. Terrorism in Kashmir and Punjab and in North-east was at its peak. Relations with Bangladesh, China and Myanmar were not good, while Pakistan was basking in the strength of its relationship with the US and the West, being at an all-time high.

***India's politics of appeasement and secularism could not have come at a worst time. Despite the nuclear tests of 1998 and the Kargil War of 1999, India continued to ignore its claim to be a power in its own right. Our government continued to unabatedly indulge Kashmiri terrorists and Pakistan, by seeking dialogue with them.***

As we know, Pakistan has subsequently gone on to launch deadly terror attacks on the Indian soil, taking advantage of India's weak approach, both during Vajpayee and Manmohan Singh governments. The 2001 Parliament attacks and J&K assembly attacks, the massive terror attacks within India's heartland i.e. Varanasi, Delhi and Mumbai between 2006 to 2008, were just some of the consequences of secular and appeasement-prone governments at the Centre.

***The UPA, in fact, went a step ahead, with Sonia Gandhi's blessings, launching an official witch-hunt and state-led propaganda to coin the term 'Hindu terrorism'. During 26/11 attacks, with Pakistani terrorists wearing Hindu 'kalavaas' and attacking Mumbai, Pakistan gleefully used the same term and certain UPA ministers supported it. Thanks to the inept and "secular" government of the day, Pakistan had succeeded in shifting the locus of terror attacks from Kashmir to the Indian mainland. After all, they saw in Sonia Gandhi an ally who had shed tears for the Indian Mujahideen terrorists killed in an encounter by Delhi Police in 2008, vilifying India's police force for 'fake encounter'.***

The massive 2010 agitation in Kashmir against the transfer of land to the Amarnath Shrine Board was one of the manifestations of the pathological disease that the separatist Article 370 had become. ***Let there be no doubt that in the run up to 2010, the years between 2006 to 2009 were the worst in***

***Kashmir – because terror attacks had shifted their focus from Kashmir to the heartland of India, so much confidence had the terrorists got, and, also because these were the years when the sham of ‘peace’ was enacted by the Indian government in Kashmir. Separatists and terrorists received full indulgence from the then Indian government, as did Pakistan. This sham was appreciated as a peaceful time by secularists, intellectuals and media.***

It was only in 2014, with a change of government at the Centre, that this appeasement and the entrenchment of a temporary provision like Article 370 was challenged. The Modi government raised debate over this Article and meticulously went about engineering the events leading up to its abrogation.

### **HOW ARTICLE 370 WAS ABOLISHED: 2014-2019**

Politically, diplomatically and legally, the manner of abolition of this Article was brilliant. Putting in perspective the brief history of Modi government’s Kashmir policy since 2014 now makes it clear that all along, all their efforts and actions were tending towards breaking the back of separatism and terrorism in Kashmir and ultimately abrogating this Article.

***Where successive Indian governments have always been on a backfoot and finding themselves caught by surprise by separatist antics, the Modi government engineered such a political sleight of hand that it effectively hoodwinked the separatist and mainstream political leadership in Kashmir, catching them all, along with Pakistan, by surprise.*** By the time they realized what was happening, it was too late.

In 2014, when BJP and PDP decided to form a coalition government in J&K after winning 25 and 28 seats respectively, the decision gave the impression of a BJP trying to simply make

electoral inroads into the Valley – cynical people assumed that the BJP was doing another Congress, arm-twisting Kashmiri politicians for electoral benefits. In particular, initially, the separatists misled themselves into thinking that the Modi government would turn out to be like another Vajpayee government and would focus on typical outreach/dialogue with separatists and former terrorists in the Valley.

Till 2015, this impression remained and these separatists played hard to get, even as there was a marked increase in the stone-pelting industry, an opportunity to blackmail and corner the government. The game changer came in the summer of 2016 after the encounter of terrorist Burhan Wani, which led to massive protests in south Kashmir. By this time, two things had become evident,

First, Modi government was unlike any other previous administration at the centre and was not at all interested in any dialogue with the separatists or with Pakistan. They were clear since day one that Kashmir was an internal matter of India and was not subject to negotiation with anyone. They refused to weaken their position by reaching out to separatists and making it look as if Kashmir was a problem that needed resolution by a dialogue with them. If anything, they were clear that separatists and Pakistan were themselves obstructions that needed to be dealt with a heavy hand.

***A recent interview has surfaced of former Pakistani High Commissioner, Abdul Basit, where he is seen saying on Pakistani television that in his meeting with BJP's Ram Madhav as early as 2014, Mr. Madhav had told him that Pakistan must forget about Kashmir entirely and if anything, should start worrying about PoK. This shows that the BJP government had a Kashmir plan in place right from the beginning. This explains the clear***

**and decisive approach of the government since 2014, which did not waver despite extremely negative Indian media coverage on Kashmir during 2016-2018.**

**Second, it was also gradually becoming clear that BJP had a larger political plan in place, besides taking a full-fledged military approach and giving a free hand to the security forces in the region. This political plan involved fundamentally altering the way politics has been played in the Valley so far.** When the BJP allied with Mehbooba Mufti not only did the PDP's hardcore separatist vote bank suffer a setback, but also, by 2018, had disappeared completely. **By the time the alliance broke in 2018, the PDP and Mufti had been discredited and completely wiped out of the state, with their obituary written clearly,** as was evident in the Lok Sabha results of 2019, where the PDP stood a poor third.

With PDP sidelined and with the government's unmitigated security onslaught in the Valley, the NC and Congress began to fast lose relevance. By redefining the Kashmir issue completely, the BJP had ended all façade of political dialogue with separatists and terrorists and refused to give them even a toehold.

Simultaneously, between 2016 to 2018, the National Investigation Agency (NIA) was unleashed into the Valley to thoroughly uncover the minute details of money trails and connections in the Valley, involving terror funding as well as separatist and mainstream political leadership. This work by the NIA was the most critical in dealing a blow to further terror activities, especially funds coming from Pakistan. In 2019 itself, this was intensified, as J&K bank was also thoroughly investigated – a haven for dicey transactions.

Meanwhile, internationally, all the backgroundwork was being done. India's relentless pressure had finally backed Pakistan

into a corner and, in a major victory for India, managed to put Pakistan on the grey list of Financial Action Task Force (FATF), denting any prospect of investments into Pakistan's already drubbed economy and tying its hands in fueling terror in Kashmir, and discrediting the country as an official haven for terror groups.

From this continuing and thorough work of the Centre it soon became evident that BJP was systematically executing a game plan in Kashmir, leaving not even a single front untouched. In 2017, leaving no facet unexplored, the Centre even appointed former Intelligence Bureau chief, Dineshwar Sharma, as an 'interlocuter' in the state, similar to the step taken by the UPA-II government in 2010, which had appointed a 3-member team of interlocutors for the state, in the wake of Amarnath land controversy.

However, UPA-II's interlocutors were intellectuals, journalists and activists of the human rights brigade viz. Radha Kumar, Dilileep Padgaonkar and MA Ansari, with Kumar known for her open sympathy for terrorists. On the other hand, Dineshwar Sharma was very selective in his dialogue and made sure that it was clear that terms would be laid by the Centre, if at all any talks had to happen. Nothing happened and the Centre did not lose sleep over it.

***Come 2018, in yet another masterstroke, BJP finally broke its alliance with PDP, after four years of ensuring that PDP's political career was completely destroyed for good, and imposed Governor's rule. BJP's political interventions in the Valley also meant that NC and Congress had also been put on life support systems.*** Now the BJP began to cultivate alternate political leadership in the Valley in the form of leaders like Sajjad Lone and some other disgruntled PDP members who had left Mufti.



Under Governor's rule, local Panchayat level and urban local body elections were conducted in the state, with boycott from NC and PDP. ***While NC and PDP thought they were being smart by boycotting the local elections and regaining their separatist vote banks, in reality they had walked right into the trap laid out by the BJP, which secured a victory as well as new local leaders who had no connection with NC and PDP, resulting in a complete marginalization of these parties' from local administrative affairs.***

Subsequently, in December 2018, just when NC and Congress were on the verge of staking claim to forming a government and when Lone was confidently thinking that he would become the Chief Minister with the support of BJP and other detractors from PDP, the Centre swept aside all this political activity and imposed President's Rule. This ended all political activity and clipped the ambitions of Valley's politicians, including new ones like Shah Faesal, but not before ensuring that local democracy was given a shot in the arm with the BJP coming out as its champion and changing the political face of the Valley.

President's Rule under Satya Pal Malik portended accelerated activities on many fronts. Record number of terrorists were killed, including major terrorist commanders. By giving a free hand to the forces, the results were incredible. The entire Hizbul Mujahideen leadership had been wiped out, while top leaders of other terror networks were dead, including an encounter of nephews of Masood Azhar, which was avenged by Azhar's JeM through the Pulwama attack on CRPF in February 2019.

After Pulwama, India's airstrikes deep inside Pakistan in Balakot changed the Indo-Pak equation for good. At the same

time, its direct fall-out was dealing a blow to the separatist mentality of Kashmiri Muslim leaders and their followers, as their guiding light in the form of Pakistan had had its role in the Valley annihilated for good.

Post-Balakot, all those ‘veteran’, globetrotting, self-styled Gandhian separatists – who were ex-terrorists of JKLF responsible for genocide during 1990s – such as Yasin Malik, Jamaat-i-Islami etc. were arrested and thrown into Delhi’s Tihar jail. Unlike the UPA-II which had venerated them and invited them to major events in Delhi, Modi government dished out to them exactly the treatment their terrorist status merited.

While the security forces had been successful in eliminating terrorists over the previous years, post-Balakot saw a massive crackdown on the yet untouched separatist leadership. Mirwaiz Umar Farooq – leader of Hurriyat and chief priest of Jama Masjid – was thoroughly investigated, despite a hue and cry from intellectuals and media in Delhi, as were other ‘veteran’ ex-terrorists of his ilk like Shabbir Shah and Syed Geelani and his family, starting with a complete withdrawal of personal security that these separatist had been enjoying and going up to uncovering their elaborate funding coming via Pakistan and detaining them for questioning.

Now their cries for wanting a ‘dialogue’ with the government were spurned by the government. In fact, later also, after 2019 election results, when Amit Shah was announced as the Home Minister, Mirwaiz Umar Farooq started hankering for dialogue, as did other ‘venerated’ separatists, who developed cold feet. All their requests were rejected and the NIA was further unleashed on their financial trails.

***It was during this time, in early March 2019, that,***

***unbeknownst to most observers, the government first tested the waters for abrogating Article 370.*** This was done using Article 370 (1) and the Presidential Order of 1954<sup>1</sup>, wherein the central government could make applicable any of the laws or constitutional provisions of the Indian Constitution to the state of J&K with the consent of the state government. Since the state was under President's Rule, the Governor was recognized as the 'state government', without any legal hurdle. Thus, in a landmark move, in March 2019, SC/ST reservation in promotion was introduced in the state, as was the recent quota for Economically Weaker Sections (EWS).

***The 'landmark' was not so much the introduction of the quotas, but of legislatively validating the role of the Governor as the state assembly, if, under any circumstances, the state did not have an active functioning assembly. This move was passed without any legal hurdle, thereby validating future government actions in terms of Article 370.***

At the time, it could never have been imagined that this step was just a tester for the larger aim of abrogating the special provisions given under Article 370. NC's Omar Abdullah probably realized what was happening and vehemently protested the move, but to no avail.

This became a forerunner to finally abolishing the special status of the state under Article 370. In the run-up to this historic step taken on 5<sup>th</sup> August 2019, complete secrecy had to be maintained. It was later revealed that only the PM, the Home Minister and NSA Ajit Doval were fully in the loop. Not even other ministers of the government knew what would happen.

---

<sup>1</sup>It was via the 1954 order that the controversial Article 35 A was imposed on the state, which prevented outsiders from permanently settling in or buying property in the state.

The move was announced on Monday morning and it was on Sunday evening that the Law Minister, Mr. Prasad, was asked to work on drafting the J&K Reorganization Bill, 2019.

***Such a level of secrecy was necessary, as any leakage of information would have certainly led to a Pakistani or a separatist-inspired disturbance in Kashmir. It is, therefore, most foolhardy of parties like Congress and TMC to question the 'manner' in which this was done – there was, indeed, no other manner available, least of all taking anyone into confidence, let alone a bloodthirsty opposition.*** The question involved an issue of serious domestic and global ramifications for India's security and integrity and was not some drawing room talk that should have been debated with the opposition.

## LEGALITY AND PROCESS OF THE MOVE

The government finally abrogated the special status of the state under Article 370 and made J&K a Union Territory by passing a Reorganization Bill. Accurately, Article 370 (1) (d) was used to abrogate the special provisions under Article 370 (3). Therefore, Article 370 was used to amend Article 370 itself and abrogate the special status.

It is well-known and in 1953, Nehru had also clearly stated that this was a temporary provision that would be repealed. ***Unlike provisions and clauses under Article 371, which apply to north-east states and fall under a 'special provision', Article 370 of J&K was completely different viz. it fell under a 'temporary provision', therefore, the conspiratorial bogey on the fate of north-east raised by the opposition to discredit the government is totally bogus.***

As per Article 370 (1) (d), other provisions of the Constitution can be made applicable to J&K with such

“modifications as the President may by order specify”. For this, the consent of the state government had to be obtained. Therefore, under this the government mainly abrogated the special status and made applicable all the laws and constitutional provisions of India to J&K.

However, there was a legal catch in the form of Article 370 (3), which states that the President can issue a notification making the whole of Article 370 inoperative if such a recommendation is made to the President by the Constituent Assembly of J&K. Now, while there is an inbuilt provision for abrogating Article 370 within the Article itself, the problem was that the J&K Constituent Assembly ceased to function after 1957 without making any recommendation for abrogating this Article.

Article 370 was supposed to be temporary till the J&K Constitution was drafted, after which the Constituent Assembly should have secured its abrogation, as per the original intention. This was never done and the assembly was dissolved in 1957. So, how does one abrogate the state’s special status? ***The unfinished work of constituent assembly till 1957 and inability of the President to amend Article 370 (3) has had the diabolical effect of giving a ‘temporary provision’ of Article 370 permanent practical effects for the last few decades.***

***Under Article 370 (3), the special privileges cannot be abrogated by the President without securing approval of the state constituent assembly. This was the main hurdle that the government overcame by amending the interpretation clause of the Constitution viz. Article 367. The government added sub clause (4) (d) to Article 367, which now states that the term ‘Constituent Assembly’ in Article 370 (3) must be read as ‘Legislative Assembly’.***

***Therefore, even though the President could not directly***

**amend Article 370 (3), he did so indirectly by amending Article 367, which is used for interpreting how Article 370 can be read.**

The consent of the constituent assembly was, therefore, no longer needed, and due to President's Rule, the work of the legislative assembly was taken over by the Parliament.

***The entire process was legally fool-proof. There is nothing that stops the Union government from amending Article 367 which automatically alters how Article 370 is read.*** There is nothing in the Constitution that prevents the President from doing this.

Yet, as we can now see, there are numerous petitions challenging the government's actions in the Supreme Court. A closer look at their contentions makes it clear that they are pinning their hopes simply on how the Court now interprets the Constitution in the light of past judgements and precedents.

***Many of these petitions challenging the government on flimsy grounds like violation of federalism and press freedom or not following judicial conventions are grounds unrelated to Kashmir and unmindful of the fact that 'normal' judicial precedents/conventions and idealisms cannot be made legally valid in a conflict zone like Kashmir, where Pakistan and its terrorists have been waging a relentless war against India since the last 70 years, both officially and through jihadi proxies. No judiciary can interpret in a vacuum without taking account of the factor of an enemy state threatening the country. In fact, judiciary has no role at all in this region and in matters of foreign and security policy.***

Some are hoping that the Court will rule out the government by saying that, as per past judgements, the President cannot amend those constitutional provisions indirectly which he is

unable to amend directly. Some are hoping that the government's action will be challenged for violating the basic structure of the Constitution based on a 1973 Kesavananda Bharati judgement – a useless argument since ***a temporary provision like Article 370 cannot constitute a part of 'basic structure' of the Constitution, which includes elements like rule of law, Fundamental Rights etc. Only permanent features can be argued as being a part of basic structure, and as we know from past precedents, even they are subject to debate – how could a temporary provision like Article 370 withstand scrutiny, especially since it has been amended perfectly legally using Article 367.***

***What the government has done is so much within the limitations of the Constitution that any legal challenge would be weak, more so given the temporary nature of the Article and the special foreign policy and national security context of Kashmir where the judiciary has no role.*** The Court itself would have to do a lot of machinations and extrapolation of statutory interpretations and previous judgements to question the validity of the government's moves. Any question can only be raised on purely speculative and interpretive grounds and not on a direct legal basis.

Such interpretive debates become redundant in the face of the temporary status of the Article as well as in the face of the fact that the Reorganization Bill and the resolution recommending abrogation of special status was passed by record Parliamentary majorities of two-thirds members in Rajya Sabha and five-sixths of the voting members in Lok Sabha.

The solid legal changes have resulting in the abrogation of special status under Article 370 has, therefore, overpassed anything done before and surmounted all obstacles.

## THE PRESENT POLITICAL SCENARIO AND INTERNATIONAL LAW: CONGRESS-PAK ALLIANCE EXPOSED

Obstacles presented by the main opposition party, however, reflect the deep anti-India mindset that has pervaded it. ***Congress has even promised to revoke the abrogation of Article 370 if voted to power.*** We never expected a Congress government – based on the current Gandhi leadership – to undertake positive measures to curb jihad. But that the Congress would oppose national integrity so thoroughly and would end up parroting Pakistan’s position word-for-word also came as a mild surprise.

Despite the party’s anti-national credentials since 1999 when Sonia Gandhi became the party president, the inimical security steps taken by it between 2004 to 2013 and the indulgent space it provided for activation of multiple terror modules in India during this period, it was yet a surprise to see the rabid anti-nationalism of the Congress on full display in the Parliament and outside.

No Indian political party worth its salt could have afforded to oppose this move to kill the forces of separatism that hinder India’s unity. It is no wonder that major regional parties – BSP, BJD, AIADMK, TDP, TRS, YSRCP, AAP and others – were completely on board in supporting the government.

Yet, the Congress lost no chance in invoking the dead-letter UN provisions to oppose the government’s move, in a direct contravention of India’s decades-old position. The Congress leadership also invoked the dead-letter Indo-Pak Shimla Agreement of 1972 to make a case that India cannot change Kashmir’s status unilaterally. That such rubbish could be



parroted and heard is itself a surprise, since India alone uselessly insisted on honouring the 1972 agreement, even as Pakistan had discarded it long ago.

***Diabolically, Pakistan and Congress were hoping that India's steps would lead to international legal complications, in terms of UNSC resolutions and 1972 agreement – a completely ignorant thinking, since these provisions were redundant long ago. As much as Indian government was on fool-proof footing in Indian law, we were on an even stronger footing in international law.*** For, as we have already seen, original UNSC resolutions of 1948-49 laid out the condition of holding a plebiscite in entire J&K (including PoK) subject to prior withdrawal of Pakistani forces from PoK. Since this could never be achieved, UNSC became redundant decades ago.

As far as the 1972 agreement goes, well, Pakistan had done a good job of making that ineffective long ago, just like it violated the UNSC resolutions. Since 1960s, Pakistan unilaterally gifted Shaksgam valley in Northern Areas (Gilgit Baltistan) to China, and since 1970s, it has changed the Shia-majority demography of Gilgit Baltistan by violating the state subject rule and cancelling the 1927 law which denied property rights to outsiders and formed the basis of Article 35-A in J&K till recently. In 1982, General Zia extended martial law to northern areas and declared that they were not a part of J&K, and, in 1994, Mrs. Bhutto passed a Northern Areas Legal Framework Order empowering Pakistani government further in the region. In 2009, by an order the region was renamed from Northern Areas to Gilgit Baltistan. In 2018, it passed a law to integrate it as the 'fifth province' of Pakistan, just like Sindh and Punjab.

***These steps were taken in PoK and Northern Areas without any hue and cry from India, despite the fact that PoK and Gilgit***

***Baltistan are annexed Indian territories as per the India Independence Act and the Instrument of Accession and are not recognized as belonging to Pakistan even under Pakistani Constitution.*** In 2017, even the British Parliament passed a resolution saying that Gilgit Baltistan belonged to India by the virtue of accession of princely state of J&K to India.

***But, Pakistan cleverly, over the decades, showed that PoK and Gilgit Baltistan were settled issues and kept up the pressure on J&K, backing a weak India into a corner by seeking negotiation on Kashmir. Worse, India used to allow this to happen. Therefore, Rajnath Singh's recent statement that J&K is settled and now the negotiation will be on PoK has come as a rude game changer for Pakistan and the Congress faction led by the Gandhis.***

By undertaking all these steps portending structural changes in PoK and northern areas, Pakistan junked the Shimla Agreement long ago and is no longer in a position to protest India's steps in J&K. If it protests too much, spotlight will first fall on its own illegal actions.

No wonder the informal UNSC meeting to discuss Indo-Pak tensions (note: the wording of the UNSC agenda was careful not to use the word 'Kashmir', so that no one can allege that the UNSC met to discuss Kashmir) was a damp squib. Not a single country has openly supported Pakistan, including China, which has desisted from talking about Kashmir and has only spoken about impact on Aksai Chin. Even Pakistan's friends Turkey and Malaysia have merely expressed 'concern' but have not questioned what India did. Muslim countries like UAE and Bahrain have openly supported India, with Bahrain even arresting Pakistanis protesting in the country against India.

***The only staunch ally that Pakistan can definitively count***

***on is the Leftist, secularist media and the Congress party in India. In fact, in recent days, some Pakistani officials, in their broadcasts on Pakistani TV, have even quoted some Indian politicians and media personalities sympathetic to their cause.***

The list includes journalist Shobha De, the Congress party, Mamata Bannerjee, Left groups and ostensibly unnamed 'Dalit' outfits. Former Pakistani High Commissioner, Mr. Basit, even explained how he had requested Shobha De to write an article supporting Kashmiri struggle in 2016 in the wake of Burhan Wani's encounter. That article is still very much available.

***This exposure of the Indian secular brigade is unprecedented, establishing without any doubt and with solid proofs the identity of all those who have a soft corner for Pakistan's jihad against India. Indeed, it is reminiscent of those dark days when a rabid anti-India media and Pakistan was at its strongest and when Arun Shourie had in one of his 2001 articles written that, "When he was the Pakistani Ambassador in Delhi, Riaz Khokhar was in effect editing three of Delhi's dailies without using newsprint – so easily was he able to get the Pakistani slant into reports and editorial comments on Kashmir and the rest." (Shourie, 2001).***

The present exposures that have come for Indian media and political parties validate their historical role as forces that seek to subvert nationalism under the fake garb of secularism and peace. They have always been keen to show India in a weak light by twisting the facts, as they had done so boldly during operations like Surgical Strikes and Balakot strikes.

***More recently, before Pakistan went into panic after August 5<sup>th</sup> and completely lost balance, these elements have been found parroting the myth that Pakistan has become the most important regional power due to its sway over the Afghan***

***peace talks, while India has been excluded and put on a backfoot. The myth was not supported by a single fact, other than wild speculations and analyses.*** However, with the August 5<sup>th</sup> move, even these speculations have been laid to rest, as Pakistan's imaginary and mythical regional status has come crumbling down rapidly.

## THE REGIONAL AND GEOPOLITICAL IMPLICATIONS

The regional implications are the final and amongst the most important part of the Kashmir question. As we have seen, international diplomacy and international law no longer hold importance in this question, as it is all about a game of power and perception which India has already managed perfectly. But regional implications are a little more concrete. Afghanistan is key to this equation. There are two parts to the Afghan question in its immediate relevance to Kashmir.

First, India has shattered the myth that Pakistan has any importance at all in the Afghan talks. Negative publicity in India over the last few months has persistently tried to show, through over-active imagination, that India has been excluded from the Afghan peace talks by US, Russia and China, while Pakistan is once more important. The reality is opposite. ***Never once did it occur to the naysayers that India – as a solid global power – cannot be excluded and has instead chosen to exclude itself, despite initial efforts and invitations by Russia and US in 2017 and 2018, since it refuses to talk to Taliban.***

However, ***as far as Pakistan is concerned, its only importance lay in it being a former sponsor of Taliban and a playground for competing terrorist outfits, although it soon became evident that it has lost control over Taliban. Over the last one year, Pakistan – a global pariah – has been feebly trying***

***to re-assert its erstwhile importance in the regional nexus by projecting itself as a key facilitator of Afghan peace talks between US and Taliban. Of course, as we have pointed out previously in our articles on Afghanistan, this position was misleading. Pakistan barely has any control over Taliban. This was made evident by the royal snub it received from all major stakeholders in Afghan talks when it went complaining to them about India's actions in Kashmir. It was snubbed by Russia, China, US and even Taliban.***

Ironically, Taliban released a statement urging India and Pakistan to maintain “peace” and look for “rational pathways” to resolve their issues, while clearly warning Pakistan to not link the Kashmir issue to Afghan peace talks. Here are the days when Taliban is preaching peace and rationality! In any case, with these developments, India has not only firmly taken unconditional charge of Kashmir but has also forcefully shattered the myth of Pakistani importance in the Afghan talks.

Second, what does directly concern India in the Kashmir-Afghanistan question is the serious threat of a repeat of post-1989 years, when the end of the Afghan war and the triumph of US and Pakistan-sponsored Taliban over the Soviet Union, resulted in unmitigated barrage and infiltration of Pakistani terrorists into Kashmir. The terrorists, as well as Pakistani soldiers, were freed from Afghanistan and Kashmir saw the rise of the worst phase of jihad. However, even during this period, the number of Afghan Taliban terrorists operating in Kashmir was less than 2000, as most were Pakistanis.

A similar repeat of history may have happened after the conclusion of the Afghan talks and Pakistan has been planning this all along. But the Indian move to abolish the special status for J&K has been such an efficient and timely intervention that

has poured cold water on Pakistan's plans. Kashmir has, thus, been secured and insulated effectively from any potential repercussions of US withdrawal from Afghanistan.

Pakistan has tried and failed to tap into any 'diplomatic' international channels to condemn India, from United Nations to various other countries. ***Now Pakistan is threatening merely what it was planning all along and what was already well-known – that it will deploy its troops from the Afghan border to the Indian border. Left unsaid but obvious in it was the strategy of deploying terrorists in India. However, such is the predicament of Pakistan that it cannot also do that fully. This is not 1989. This is 2019. Pakistan and Taliban are no longer close friends. In fact, prior to the start of Afghan peace talks, Pakistan had to release Taliban leader, Mullah Baradar, from ISI custody.***

***As is evident, there is no longer trust between Pakistan and Afghan Taliban, and, neither is ISI in a position to fund Taliban like it used to do in 1990s. This obviously means that even if the Taliban do end up playing a key role in Afghan politics after the US withdrawal, yet, Pakistan will have to keep its troops and terrorists stationed in Afghanistan in large numbers – to ensure that it does not completely lose foothold in the country or with Taliban. Its compulsive entanglement and distrust with Taliban and Afghans will never allow it to send terrorists to India wholesale. The little that it could have done has also now been taken care of by the Indian government by abolishing the special status of J&K.***

While the abolition of special status under Article 370 means that India has strengthened and asserted herself like never before, Pakistan finds itself in an unenviable position on all fronts. It has lost favour with various world powers and it

finds itself sandwiched between countries that it does not have good relations with viz. India, Afghanistan and Iran. Things with China did not turn out as Pakistan had calculated, including the positive turn taken by India-China relations. Besides, it has to deal with a serious rebellion in Gilgit-Baltistan, Pashtun areas and Balochistan. Its resources are flagging and it knows well that under the current Indian government, any attack will be met with a strong response. Therefore, it can only endanger itself at its own peril.

## CONCLUSION

The abrogation of Article 370 was a landmark step in strengthening India's national unity. For decades, India's own territory was put under a doubtful status by Indian politicians themselves in order to advance a corrupt economy based on political calculations and gross misuse of money. The step not only advances India's power, but also portends resolution to problems facing the rest of the country, most prominently the Hindu-Muslim question that has bedeviled us since the times of freedom struggle.

The myth parroted by intellectuals and secularists that India was an unsafe place for Muslims has been laid to rest, as the Muslim community realizes that there is no option other than national integration. Recently, a Muslim outfit was found protesting against Pakistan near Jantar Mantar in New Delhi. This along with other steps like Triple Talaq Law, crackdown on illegal immigration and terrorism and a likely population control bill, will further solidify what previously used to be only a vague sentiment of nationalism.

All these steps, along with the setting of the Kashmir problem on a path towards resolution, tend towards the

irrevocable unity of India, which is necessary for India to lead the world spiritually. In 1950, Sri Aurobindo had told K.M. Munshi the following, as quoted in an excerpt:

“Then the Mahayogi [Sri Aurobindo] sprang a surprise on me: “When do you expect India to be united?” he asked. I was taken aback. I explained to him how our leaders had agreed to partition. I then said: “So long as the present generation of politicians is concerned, I cannot think of any time when the two countries — India and Pakistan — can be united.” Sri Aurobindo smiled and answered: “India will be reunited. I see it clearly.” Was it an opinion? Was it a clear perception? I shook my head in doubt and asked how India could be reunited. In two short sentences the god-man described what Pakistan stood for, and indicated how the two countries could come together. Pakistan has been created by falsehood, fraud and force. It must be brought under India’s military ambit.” (Reddy, 2014, pp. 167-68).

The statement, ‘Pakistan has been created by falsehood, fraud and force. It must be brought under India’s military ambit’ sums up the current developments. The resolution of the Pakistan problem is integral to India’s future role in the world. India cannot remain constrained to grappling with these problems. The resolution of Kashmir was one of the first important steps in this regard. Other rapid domestic development tending towards the fulfillment of the national spirit are already occurring at a rapid pace, and the subsequent larger resolution of the Pakistan problem will likely be a part of that.



## Bibliography

CWSA 2. (2009). *Collected Poems*. Pondicherry: Sri Aurobindo Ashram.

CWSA 35. (2011). *Letters on Himself and the Ashram*. Pondicherry: Sri Aurobindo Ashram Trust.

CWSA 36. (2006). *Autobiographical Notes and Other Writings of Historical Interest*. Pondicherry: Sri Aurobindo Ashram Trust.

Jha, P. S. (1996). *Kashmir 1947: Rival Versions of History*. New Delhi: Oxford University Press.

Naidu, V. M. (2019, August 17). A considered step that opens up new vistas. *The Hindu*.

Reddy, K. (2014). *A Vision of United India: Problems and Solutions*. New Delhi: Savitri Foundation.

Shourie, A. (2001). *South Asia Terrorism Portal*. Retrieved from

<http://old.satp.org/satporgtp/publication/faultlines/volume11/Article2.htm>





## Indian Spiritual Culture

*“Your feeling that there should be reintegration of Indian Culture under modern conditions is quite right. It is the work that has to be done. And as far as Sri Aurobindo can see at present Indian Spiritual Culture has a great and bright future before it. It is the future power that might dominate the world.”*

– Sri Aurobindo

(Complete Works of Sri Aurobindo, Vol. 36: p. 513)