

# BACKGROUND GUIDE

REDEFINING THE NARRATIVE:  
VOICING THE SILENCED



# PRIME MINISTER'S COMMISSION ON KASHMIR

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# **LETTER FROM THE** **EXECUTIVE BOARD**

Dear Delegates,

It is an absolute pleasure to welcome you all as members of the Prime Minister's Commission on Kashmir (PMCK) Committee at The Shriram Millennium School Model United Nations, 2024. This year, the committee aims to challenge the delegates' persuasiveness, efficacy, and ability to present cogent arguments.

This year, we have selected the agenda of "Removal of Article 370 in the State of J&K". We expect each delegate to have accurately researched their position and role in the committee ahead of time. Background research is crucial for a fruitful debate and a successful committee. We will guide you throughout the conference, so feel free to contact us with any questions or queries.

All the best!

**CHAIRPERSON: SHIVANSH SRIVASTAVA**  
[shivanshsrivastava212@gmail.com](mailto:shivanshsrivastava212@gmail.com)

**VICE-CHAIRPERSON: ANANYA SANYAL**  
[sanyal.ananya@gmail.com](mailto:sanyal.ananya@gmail.com)

**RAPPORTEUR: VIVAAN BERRY**  
[berryvivaan@gmail.com](mailto:berryvivaan@gmail.com)

# **INTRODUCTION**

## **SECURITY SITUATION PRIOR TO THE 370**

The security situation in the State witnessed an improvement in the first half of this year over the corresponding period of 2018. Net infiltration reduced by 43% and local recruitment declined by 40%. Terrorist initiated incidents declined by 28%. Actions initiated by the security forces witnessed an increase of 59% and resulted in 22% increase in neutralization of terrorists.

The security forces started to take proactive action against terrorists. Due to concerted and synergized efforts of security forces, 126 terrorists were neutralized in the state of Jammu and Kashmir since January, 2019 till 14th July, 2019. However, during these operations, 75 security forces personnel have been martyred that includes 40 security forces personnel martyred in Pulwama Attack.

Government took various measures, such as strengthening of security apparatus, strict enforcement of law against anti-national elements, intensified cordon and search operations to effectively deal with the challenges posed by the terrorist organizations. Forces keep a close watch on persons who attempt to provide support to terrorists and initiate action against them.

For a peaceful resolution of the Kashmir issue the Government is always open to talks within the framework of the Constitution of India.

In order to bring about overall development for the benefit of people of Jammu and Kashmir and to bring the Kashmiri youth in the mainstream the Prime Minister announced a package of Rs.80,068 crores. This package consisted of 63 major development projects in Road sector, Power generation and transmission, health infrastructure, establishment of 2 AIIMS, IITs, IIMs and tourism related projects etc. Training and employment opportunities for the youth of Jammu and Kashmir are also provided under many schemes such as HIMAYAT and PMKVY. In order to mainstream the youth, special emphasis is being given to Watan Ko Jano program, student exchange program, sports as well as civic action program of CAPFs

# **CONTENT**

## **THE ABROGATION OF ARTICLE 370**

Article 370 has been revoked in Jammu and Kashmir. In preparation for this move, the state witnessed increased security deployment over the course of time while top political leaders were placed under house arrest that night and curfew was imposed on subsequent morning.

Modi government's decision will have a big impact on the lives of Kashmir residents. Here's a look at the special privileges hitherto enjoyed by J&K that now stand to be revoked.

## **SPECIAL STATUS FOR J&K**

Article 370, which came into force in 1952, empowered J&K to be a near autonomous state since it limited the Centre's authority to just external affairs, defence, finance and communication. This provision allowed J&K to have a Sadar-e-Riyasat for governor and prime minister in place of a chief minister till 1965 as well as its own flag and constitution.

Furthermore, revoking Article 370 will allow the Centre to declare emergency in the state except in case of a war. Currently, the Union Government needs the concurrence of the state government to even declare a financial emergency in the state under Article 360.

As per the Constitution (Application to Jammu and Kashmir) Order, 2019, in place of this special status, all the provisions of the Constitution will henceforth be applicable.

## **UNIQUE PRIVILEGES UNDER ARTICLE 35A**

Article 35A, which comes under Article 370, proscribes non-permanent residents of J&K from permanently settling in the state, buying immovable property, acquiring land, applying for government jobs or any kind of scholarships, aids as well as other public welfare projects. The people of J&K will now lose these benefits associated with the permanent resident certificate.

## **LEGISLATIVE POWERS**

J&K Assembly will no longer be in a position to clear any significant bills within the state - the balance of power will shift in favour of the Union government. Significantly, in the absence of an elected government in the state the presidential order reportedly states that the state's governor shall exercise the powers of the elected government.

## **ARTICLE 370 PROTECTED THE STATE'S DEMOGRAPHIC CHARACTER**

Kashmir is India's only Muslim majority state. "GOIs intention is clear & sinister. They want to change demography of the only Muslim majority state in India, disempower Muslims to the extent where they become second class citizens in their own state," Mufti tweeted earlier on Monday. She went as far as to call the abrogation "another partition along communal lines". But that is a sentiment echoed by many in the state - the abrogation of Article 370, and by extension Article 35A, is seen to open the floodgates so as to speak, enabling Hindus from other parts of India to migrate to the state and thus engineer a demographic transformation.

## **PREFERENTIAL EMPLOYMENT OPPORTUNITIES**

Under Article 35A no outsider could bag a government job. Companies in the state were even forced to hire only locals. The revoking of this rule intends to level the playing field. In a blog post in March, BJP stalwart and former Finance Minister Arun Jaitley had claimed that Article 35A crippled J&K's ability to raise financial resources - despite not having enough of it - and denied its people a booming economy, economic activity and jobs. "No investor is willing to set up an industry, hotel, private educational institutions or private hospitals since he can neither buy land or property nor can his executives do so. Their ward cannot get government jobs or admission to colleges. Today, there are no major national or international chains which have set up hotel in a tourism-centric State. This prevents enrichment, resource generation and job creation," he penned.

## **RIGHT TO PROTECT ITS STATE BORDERS**

J&K's special status had thus far shielded it from the applicability of Article 3, which provides for re-drawing state boundaries or the creation of a new state. The bifurcation of the state of Jammu and Kashmir into two Union Territories (UTs) - Ladakh and J&K - is hence pinned to the abrogation of Article 370. "Keeping in view the prevailing internal security situation, fuelled by cross border terrorism in the existing state of Jammu and Kashmir, a separate Union Territory for Jammu and Kashmir is being created. The Union Territory of Jammu and Kashmir will be with legislature," Shah announced in Rajya Sabha. He added that this has been a long pending demand of people of Ladakh.

Of course, there are some Kashmiris who are celebrating the government's decision. The Article, also referred to as the Permanent Residents Law, had thus far barred a woman

(belonging to the state) from any property rights if she marries a person from outside the state. The provision also extended to the children of such women as they do not have any succession rights over the property. The revoking of Article 370 ends the age-old discrimination against women of J&K who chose to marry outsiders.

The volatile Valley in south Kashmir, after the abrogation of Article 370 of the Constitution, has seen complete peace barring a few incidents of minor stone-pelting. Many people in the state are happy that there was no knee-jerk reaction against the abrogation of the special status of Jammu and Kashmir.

Such decisions (abrogation of special status) have long-term consequences and that if people are quiet this time and are not protesting against it, it in no way means that the common people (Kashmir) are happy with the decision.

The reaction to Sheikh Abdullah-Indira Gandhi's Accord of 1975 came in 1988 in the form of an armed struggle. These types of decisions have long-term consequences. It is to be seen how things unfold now in Kashmir.

## **THE SHOCK FACTOR**

The sudden announcement of the abrogation of the special status of the state by Home Minister Amit Shah has come as a shock and source of despair to many in and outside Kashmir. From the common masses to the high official in government machinery, everyone seems to have been surprised by the sudden announcement.

People are still in a state of mourning. It was quite visible that the anti-India sentiment has reached every nook and cranny of south Kashmir.

## **POSSIBLE DEMOGRAPHIC CHANGE**

Fears about a possible demographic change loom large with people believing that their district will be the last to be affected by the demographic change in the new Union Territory.

The apprehensions about a demographic change persist, but people there cannot predict the future and have to wait what unfolds next. Jammu will be most affected and its identity is under threat.

## **DRAMA OF MAINSTREAM PARTIES**

'If there is anger among people, it is against the mainstream politicians they now perceive as their foes, rather than friends.

People in south Kashmir also feel ashamed that their representatives could not defend their special status in front of Shah.

"MP Hasnain Masoodi couldn't defend it in the Lok Sabha. He was laughing when Shah asked him to defend the landmark judgment passed about Article 370. He (Masoodi) simply kept laughing at him and did not present any valid argument to defend the special status. Congressman Manish Tewari defended it better than our 'own' people in the Parliament," Salim said, adding that the least these politicians could have done was to resign from the Rajya Sabha and Lok Sabha.

"There is news about slapping the Public Safety Act (PSA) on mainstream politicians. It is drama by these politicians to gain sympathy. They will come out and say that they were put behind bars under the PSA. They will now come back and say vote for us we will give you back statehood. Did they get us autonomy or self-rule in the past 70 years? They will now milk new perks, money and other lavish things for next 70 years by telling people they will give them statehood," the lawyer said. He said that local politicians and political parties here have been rendered irrelevant now; the main organ is the Jammu and Kashmir Police department and that is what matters for the Centre.

"It was better not to keep a legislative Assembly here either. We don't need these greedy mainstream politicians here. It is good that this has happened to them. New Delhi is not with the mainstream here — politicians the National Capital considered its own. How can they be with the people here?" Iqbal\*, a businessman asked.

He said that whatever weapon (abrogation of special status) New Delhi had in its arsenal, has been used on Kashmiris. "They have nothing left to scare us now. This was the last nail in the coffin," he said.

On 28 July, Muhammad Lateef Shah, a Peoples Democratic Party (PDP) worker, was shot at and injured by unidentified gunmen outside his residence in Mitrogam area of Pulwama district.



Shah, who is still recovering at his residence, said that the Centre should have consulted the people of Jammu and Kashmir first before abrogating the Article, and that Kashmiris will never accept this unilateral decision by the Centre. "Kashmiris will never accept this decision. People will take to the streets. It is a problem faced by the entire state and not any particular party. We have to be united this time. Even the Hurriyat has to come forward," Shah said.

## **IN COMES PAKISTAN**

Many locals also say that it is to be seen how the neighbouring country (Pakistan) will react to all these developments. They also believe that the middle ground is gone and the fight between the Kashmiris and New Delhi is direct now.

Many here believe that the United Jihad Council Chairman Syed Sallahuddin (a Kashmiri militant based in Pakistan) might get on the radio and give a shutdown call, and that people will definitely comply with that direction. Kashmiris have been rendered leaderless. Anything is possible now. It is only because the government has been so brazen with shutting and cornering Kashmiris from all sides that anyone can emerge as a leader now.

# INTERNAL SECURITY

Prime Minister Modi's decision to scrap Articles 370 and 35A of the Indian Constitution, which gave Jammu and Kashmir special status, has stirred controversy across the political spectrum. While supporters of the initiative emphasise that the move fulfils a campaign promise of the Bharatiya Janata Party, which was returned with an increased vote share of six per cent, critics see it as the prelude to a shift to majoritarianism. On the external front, the move is being commended for taking advantage of Pakistan's focus on its western flank and the end game in Afghanistan, and for changing the issue of Kashmir from being a dispute with Pakistan to an internal matter. To critics, however, the reduction of the state of Jammu and Kashmir to the status of a union territory – truncated by the slicing off of Ladakh – does not end the issue of Kashmir being the source of an international dispute and that it is only a matter of time before Pakistan makes its presence felt, possibly through renewed conflict, either directly or through proxies.



Pakistan which has underplayed the changes effected by India, will, over time, reactivate the proxy war and upset India's calculation that its move will end the problem of Kashmir. Since this is a somewhat obvious conclusion, the sources of India's action are not to be found in strategic calculus as much as in the current administration's ideological underpinnings. The BJP's strategy, informed as it is by Hindutva ideology, is not about restoring stability to Kashmir as it claims, but to heighten the instability inherent in the situation, thereby inducing Pakistan into a proxy war. If that were to happen, it could pay an internal political dividend by allowing the BJP to reshape secular India into its aspirational Hindutva-based form and, externally, place Pakistan in a corner, forcing it, once again, to prosecute a war.

### INDIA'S STRATEGIC CALCULUS

India's surprising action, it may be inferred, was its response to regional developments, principally the emerging agreement between the Taliban, with Pakistan's tacit support, and the Americans, which would enable the United States to withdraw from Afghanistan. In that event, India anticipated a strengthened Pakistan. Pakistan had been out of favour for most of the Trump presidency, with Mr Trump periodically belabouring Pakistan for its delay in implementing his Afghanistan policy. Islamabad's influence over the Taliban and its positive response to US concerns more recently has resulted in the US opening up to Pakistan yet again. This turn of events has worried India all the more, since it was not part of the decision-making process on Afghanistan. Its action appears to have been stamped, furthermore, by President Trump offering to mediate on the Kashmir issue during Pakistani Prime Minister Imran Khan's end-July visit to the White House.

### INDIA'S STRATEGIC CALCULUS (CONT.)

In Kashmir, India has been proactively engaged in countering the insurgency since its latest outbreak, which dates to the killing of Hizbul Mujahedeen commander, Burhan Wani, in July 2016. It has killed over seven hundred militants since then, with the proportion of Pakistani proxy fighters registering a decline lately, from a full third of those killed to less than a quarter. This indicates that Pakistan has been withholding its usual military support for the insurgency, hard pressed as it is on its alleged support of terrorism. It figures on the radar of the financial action task force, with a review from that body due in October. With heightened counter insurgency operations ongoing and with Pakistan on the back-foot temporarily, India perceived a window of political opportunity. The question is whether the window is wide enough for it to tide over the backlash from Pakistan and from within Kashmir.

## **THE INDIA-PAK STRATEGIC TRYST**

Pakistan has initiated diplomatic moves to counter India's actions. It has written to the UN Secretary- General and drawn the attention of the Security Council to the events in Kashmir. It has downgraded its diplomatic ties to India, reduced bilateral trade and terminated train and bus services between the two countries. However, stowing\_away it's tried and tested proxy war option now would be untimely.

Its Foreign Minister, returning from his trip to China, visited Pakistan-administered Kashmir, where he dampened expectations of any more vigorous Pakistani action, thereby hinting that the international environment was averse to harsher steps by Pakistan. Since Pakistan is compelled to be restrained in its reaction, it needs to divert the energy of anti-India proxy groups towards Kashmir. Pakistan cannot risk inaction, since the anger of the jihadi proxies, who are otherwise "good terrorists", being anti-India, would likely be turned inwards. Pakistan would not like to reprise its operations against the "bad terrorists" since 2014. It would prefer to direct such energy outwards. While Indian troops are on the alert for now, how this situation will play out will be known by the onset of the northern winter.

Since the insurgency has been waning lately owing to India's suppressive template, Pakistan would have to infuse it with both fighters and matériel soon if it is to be kept going. That may entail the creation of a crisis along the LoC, under cover of which Pakistan could infiltrate reinforcements. That manner of infiltration will likely prove expensive, if not altogether disastrous, since Indian counter-infiltration measures have been strengthened. The paramilitary forces that have been re-located to Kashmir have likely removed the protective tasks that were imposed on the Indian military, enabling its own redeployment forward.

Therefore, an attempt to cast a lifeline to the insurgency may be in the offing. Such a crisis could likely be created after the annual face-off between the two countries at the UN General Assembly meeting, that this year is being addressed by India's Prime Minister. By then the financial action task force meeting would be behind it. Pakistan would also by then have the alibi of having tried the diplomatic route and found it wanting. In case the prospects of a return to peace in Afghanistan brighten, some of the jihadists released in anticipation of the return to peace could be redirected towards the worsening situation in Kashmir.

## **INTERNAL SECURITY CHALLENGE IN KASHMIR**

The intervening period could well see outbreaks of unrest in Kashmir rival the period at the onset of the insurgency in the early 1990s. Such levels of disaffection were witnessed most recently in late 2016, when close to 100 rioters were killed. That figure was just short of the lower estimate reached in 2010, when Kashmiris agitated over the killings of three of their people by security forces at Machhil on the LoC. This time round the angst may be higher. The firmer the clamp-down by the state, the more anger would likely be visible on the street. The current curfews will have to be partially lifted some day and those held in preventive detention will have to be progressively released, whereupon it would be clearer as to whether India has bargained sensibly.

India has incentivised stability by promising a reversion to statehood in the future. The levels of distrust its action has generated will unlikely be placated by its promises of development and security. Although the Modi Administration was expected to trifurcate the state if it did anything at all in that regard, Kashmir has been yoked yet again with Jammu region, but without the autonomy it previously enjoyed. This has enabled the government to use the Jammu region and its Hindu majority to offset the political clout of the majority Kashmiris. The government is also looking to progress a delimitation of constituencies in order to rejig the assembly of the union territory in such a manner as to whittle the political power of the Kashmiris that derives from their numerical majority.

Anticipating the political fallout brought about by the setback to their political clout, Kashmiris are unlikely to acquiesce to New Delhi's moves and would use agitation and insurgency against it. India would be hard put to organise elections, as announced by the Prime Minister. The resulting assembly would be dominated by Hindus from Jammu, with Kashmiris likely boycotting the vote. It is difficult to visualise how such an outcome could be described as a 'political solution'. In other words, the 'permanent solution' – as the Defence Minister described it – foisted by the Indian Government on the Kashmiri people will hardly gain traction, and any new local government would lack legitimacy. The assumption that, as a union territory, better governance could replace the will of the people is questionable.

## **INDIA'S INTERNAL SECURITY CHALLENGE IN KASHMIR (CONT.)**

Even so, the attractiveness of the move would depend on development being successful. An investor summit has been announced for October. India's largest corporate house has stepped up, offering to invest in Kashmir. An increase in investment in Kashmir is envisaged now that the land ownership, previously restricted to state subjects, has been thrown open. This is yet again wishful thinking, since no investment is likely in an insecure setting. Besides, India's economic climate is deteriorating. The unrest and insurgency would need to be tackled first. Absent meaningful political action, development is no substitute. What has transpired so far in Kashmir cannot constitute a political solution since it serves more to aggravate than assuage.

## **SEARCHING FOR THE WELLSPRINGS OF THE INDIAN SURPRISE**

From the foregoing analysis, it is clear that instability will persist. On the other hand, the government is not self-delusional. It has surely arrived at its conclusions rationally. That, if correct, begs the question, what was the government's intent? It would be naive to unquestioningly accept its word that a speedy end to insurgency in the union territory prompted its action. Its motives are, thus, open to conjecture. Since analysis does not vindicate the government's decision as advertised, its ideology, Hindutva, must be its motive.

Hindutva is religious majoritarianism with "Hindi, Hindu, Hindustan" as its motif. Its ascent has seen an Othering of India's Muslims and conflating them, along with Kashmiris, with Pakistan. A continuing insurgency – as the analysis indicates – is in the interest of Hindutva in order to turn secular India saffron. The action in Kashmir, lacking the strategic rationale put forward by the Modi Administration, instead has ideological underpinnings. Therefore, it cannot be rationally approached through a strategic lens alone, but requires factoring in the ideological project underway in India.

## **SEARCHING FOR THE WELLSPRINGS OF THE INDIAN SURPRISE (CONT.)**

By that reasoning, the government would be well-prepared to countenance a renewed, if temporary, bout of insurgency for its internal political purposes and engage in a faceoff with Pakistan. It believes it has deterred Pakistan through its surgical strikes of late 2016 and its aerial strike of February 2019.

With Pakistan suitably deterred, the insurgency levels in Kashmir appear to India's security planners to be eminently manageable. The military engagement to India's north will continue to provide domestic political dividend over the second term of this government, in which its Kashmir project is set to culminate.

Externally, unrest in Kashmir will force Pakistan's hand, with attendant multiple benefits for India. It would enable New Delhi to corner Islamabad once again on its support for terror, provide India with a legitimate reason to involve itself in Afghanistan and strain Pakistan economically and make it weak. A continuing proxy war would give India an excuse not to address the Kashmir issue bilaterally with Pakistan, as it is committed to do.

Prime Minister Imran Khan had tweeted his suspicions that India's motives are rooted in revivalism. He is apprehensive of the impact that a successful makeover of India in the Hindutva image could have for Pakistan, in particular, the implication of the doctrine of Akhand Bharat, which visualises a unified Indian subcontinent under a Hindu aegis.

Consequently, Pakistan would be wary of India's game-changing play in Kashmir. This may impel a preventive Pakistani counter, leading to a more energetic response. Even though Pakistan has settled for now on seeing the change as irrelevant to the disputed status of Kashmir, as the situation unfolds more nuance will manifest, potentially transforming the situation rapidly and comprehensively.

# **CONCLUSION**

## **CONCLUSION AND WAY FORWARD**

The interviews conducted by this author amongst 180 individuals in Kashmir gave a glimpse of how the annulment of Article 370 has made common Kashmiris lose their trust on the pro-establishment political class of Kashmir. The respondents feel that, with this move, New Delhi has labelled all common Kashmiris as separatists. Without exception, all the participants in the various discussions initiated by this author thought that they are now living in a 'colony' and are being denied of their basic rights. They accuse New Delhi of abusing the Constitution of India and its democratic ethos, and neglecting Kashmiri sentiments.

The following paragraphs outline this report's recommendations.

1. The foremost challenge for New Delhi is rebuilding trust. The way New Delhi annulled Article 370 has created an impact on Kashmiris of all persuasions, including the pro-India voices who have always remained neutral in this conflict. The decision not only delegitimised the pro-establishment political class in Kashmir, but also resulted in common Kashmiris having more sympathy for separatists. To rebuild the trust deficit and to win over the confidence of the Kashmiris, the government must immediately repeal the PSA – which should have become ultra vires, in the first place. This will create a sense of oneness among the Kashmiris and will help change their perception towards New Delhi.

2. Due attention must be given to address rural economic distress created after the unprecedented, unseasonal snowfall in November. While the farmers were not able to sell their produce to outside markets because of the communications blackout by the government, and because of militant threats, the snowfall caused widespread damage to the crops. To make matters worse, even the government's alternative to rope in NAFED to buy the produce was marred by alleged corruption. The government should compensate all the farmers with a loan waiver if it is serious about regaining the trust of the people.



## **CONCLUSION AND WAY FORWARD (CONT.)**

3. After changing the contours of conflict over Kashmir and the region's political geography, New Delhi has to think beyond its hard policy approach. It will have to come out of the mindset that "he who rides a tiger is afraid to dismount". The Centre should – at least now – work more on perception management through soft measures instead of adopting a hard-line approach. It should not waste any more time to make certain special arrangements for the people of J&K under Article 371 of the constitution. That will soothe nerves and address the rising ethno-cultural and economic issues of both Jammu as well as Kashmir. New Delhi should ensure that the land's pluralism is defended by assiduously handling the identity, cultural and religious issues.

4. Other policy measures like the overhaul of the local administration should be taken as soon as possible as corruption, appeasement and nepotism have remained the biggest hurdles in the peace-building process in Kashmir.

5. New Delhi should learn from the mistakes of past governments and not selectively pander to the whims of a handful of local political leaders. In the present state of affairs, the political process is being hijacked and political leaders are under detention. The release of the political class, that has lost its dignity as well as their identity in the eyes of the people of Kashmir, will send a positive signal. However, New Delhi must ensure that in the new political process, it has to nurture subdued voices from within the Valley that will stress on an integrational approach and establishment of a clean and corruption-free administration.