



JAMMU & KASHMIR LOSES SPECIAL STATUS, STATE TO BE UNION TERRITORY

History, in one stroke



Prime Minister Narendra Modi greets Union Home Minister Amit Shah after Rajya Sabha clears the Bill to bifurcate J&K and does away with the statutory provision granting special status. *Rajya Sabha TV*

J&K UNION TERRITORY TO HAVE LEGISLATURE, LADAKH TO BE SEPARATE UT MINUS ASSEMBLY

J&K will truly be integral part of India... I want to tell Valley nothing negative will happen: Shah

Two-thirds of those present in Rajya Sabha pass Bill to bury Article 370 and redraw map of J&K

SHUBHAJIT ROY & MANOJ CG
NEW DELHI, AUGUST 5

IN A momentous decision to confine Article 370 of the Constitution to the dustbin of history and rewrite the political landscape of the country, the BJP-led NDA government Monday revoked the special status granted to Jammu and Kashmir and secured Rajya Sabha's approval for a Bill to bifurcate the state into two

Union Territories — Jammu and Kashmir with a legislature similar to Puducherry, and Ladakh without one like Chandigarh. The Bill was passed with a two-thirds majority of the members present in Rajya Sabha. In Lok Sabha, the statutory resolution scrapping the special status was passed by a voice vote in the evening. The bifurcation Bill will be taken up in Lok Sabha Tuesday. With special provisions gone, Indian laws will now apply to the newly created Union Territories.

Union Home Minister Amit Shah, who tabled the Jammu and Kashmir Reorganisation Bill, 2019 and the statutory resolution in Rajya Sabha around 11 am after the Union Cabinet met at Prime Minister Narendra Modi's residence at 9.30 am to give the go-ahead, said: "Article 370 was a temporary provision... how long can a temporary provision be allowed to continue... After abrogation of Article 370, Jammu and Kashmir will truly become an integral part of India." Saying Article 370 was at the

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root of terrorism, Shah told the House that full state status will be restored to Jammu and Kashmir at an appropriate time when normalcy returns.

In a bid to assuage fears of violence, Shah told the House: "Kuchh nahin hoga (nothing will happen)" and the region will not be allowed to turn into another Kosovo. "It was heaven on earth and will remain so... Give us five years, and we will make Jammu and Kashmir the most developed state in the country... I want to tell the youth of Kashmir Valley that

have faith in Narendra Modi government. Nothing negative will happen. All these (Opposition) people are telling you lies for their own politics. Don't listen to them," he said.

The decision of the government to do away with the special status to J&K and bifurcate the state into two UTs took the nation by surprise, and came after the state was placed under a lockdown with security forces imposing prohibitory orders, and communication lines being downed.

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PDP MPs Nazir Ahmad Laway and Mir Mohammad Fayaz protest outside Parliament on Monday. *Anil Sharma*

Betrayal, say NC and PDP; powder keg lit, warns Opp, will have disastrous fallout

MANOJ CG
NEW DELHI, AUGUST 5

FROM BETRAYAL to lighting the powder keg and from reducing states to vassals and colonies to catastrophic consequences for the subcontinent. These were among the repercussions that Opposition parties red-flagged Monday after the Centre moved to scrap Article 370 and bifurcate Jammu and Kashmir into two Union Territories.

Targeting the BJP-led central government in both Houses of Parliament and outside, a stunned Opposition led by the Congress said the Centre had committed a "cardinal blunder" and a "fatal legal error".

Former J&K chief minister Omar Abdullah, who was placed under arrest according to PTI,

called the two decisions "unilateral and shocking" and said the state was prepared for the long and tough battle ahead and that the government's proposal would be challenged.

Echoing him, another former CM, Mehbooba Mufti, also arrested Monday, termed the move illegal and unconstitutional and said "India has failed Kashmir in keeping its promises" and that the move will "have catastrophic consequences for the subcontinent".

But in Delhi, the Opposition stood badly divided with the AIADMK, BJD, AAP, BSP and YSRCP backing the government, as the Congress was hit by more desertions when party chief whip Bhubaneswar Kalita resigned from Rajya Sabha. Another Congress Rajya Sabha MP,

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Using Art 370 to scrap Art 370? The legal debate ahead

APURVA VISHWANATH
NEW DELHI, AUGUST 5

WHILE POLITICAL disagreement on the Centre's decision to strip the preferential status of Jammu and Kashmir and bifurcate the state has taken centre stage, experts have raised questions on the legality of the move.

The government sought to dilute the special status to Jammu and Kashmir guaranteed under Article 370 of the Constitution without scrapping the provision. It did so without bringing a Constitutional amendment that would require two-thirds majority in the Parliament.

By changing the interpretation of certain terms that find mention in Article 370, Monday's Presidential order, through Article 367, alters the interpretation of the special provision. However, the President draws the power to issue such a notification from Article 370 itself. Article 370 sub clause 1(d) empowers the President to extend provisions of the Indian Constitution to Jammu and Kashmir.

"Using Article 370 to virtually scrap Article 370 is a bit like using the Constitution to wipe itself out. The provision cannot be

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From right: Narendra Modi, Murli Manohar Joshi, Satpal Jain during the 'Ekta Yatra' in 1992. *Express Archive*

Stripping J&K of its special status: Ideological project began with SP Mookerjee

RAVISH TIWARI
NEW DELHI, AUGUST 5

FOR THE BJP, Article 370, Uniform Civil Code and Ram Temple have been the three planks at the core of its cultural nationalist idea of India. It fulfilled one of them Monday by watering down Article 370 to remove special privileges for Jammu and Kashmir.

"Ek desh mein do Vidhan, do Pradhan aur do Nishan nahi

challenge," was the slogan with which Shyama Prasad Mookerjee, founder of Bharatiya Jan Sangh (BJS), precursor of the BJP, marched to Jammu & Kashmir where he died in jail in 1953. The issue was, subsequently, a rallying cry for the BJS and, subsequently, for BJP: "Jahan hue balidaan Mookerjee woh Kashmir hamara hai, Jo Kashmir hamara hai woh saare ka saara hai".

The issue, however,

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All laws will now apply: from property purchase to entire Indian Penal Code

KAUNAIN SHERIFF M & APURVA VISHWANATH
NEW DELHI, AUGUST 5

AS JAMMU & Kashmir loses its special status with Monday's Presidential order, the region will witness a tectonic shift in laws governing the state. From property-related laws, criminal laws to crucial central laws like Right

to Information & Education — these will be among the many that will be applicable to the proposed Union Territories (UTs), Jammu and Kashmir and Ladakh.

Permanent citizens of Jammu and Kashmir recognised as state subjects will cease to have special privileges. The key provision of Article 35A, that bars anyone except permanent

residents of the state from buying land, holding government jobs in the state would be hit as it could be held to be discriminatory against other Indian citizens. The Supreme Court is already seized with a batch of petitions that challenged Article 35A on the grounds that it discriminated against women of Kashmiri origin who have

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DEEPTIMANT TIWARY

NEW DELHI, AUGUST 5

WITH MOBILE communication and Internet services suspended and public movement restricted, all of the Kashmir Valley was in a state of lockdown from midnight Sunday, well before the Cabinet met in New Delhi Monday morning and Union Home Minister Amit Shah announced the decision to do away with Article 370 in Rajya Sabha. PTI, quoting officials,

reported that former chief ministers Mehbooba Mufti and Omar Abdullah have been arrested along with People's Conference leader Sajad Lone. The only voices of dissent from the Valley came from two PDP MPs in Rajya Sabha Mir Fayaz and Nazir Ahmed Laway.

The PDP MPs trooped into the Well along with Opposition parties shouting slogans against the Modi government's move to scrap Article 370 and bring a Bill to bifurcate the state into two Union Territories.



A police officer briefs his men in Srinagar, Monday. *AP*

The PDP members also took a copy of the Constitution from the table officers and started to tear its pages, when they were marshalled out of the House.

While the Opposition criticised the BJP's decision, the Valley did not witness violence, the government said, largely since more than 300 companies (30,000 personnel) of paramilitary forces have been pushed into the region over the last two weeks. Union I&B Minister Prakash Javadekar said in the

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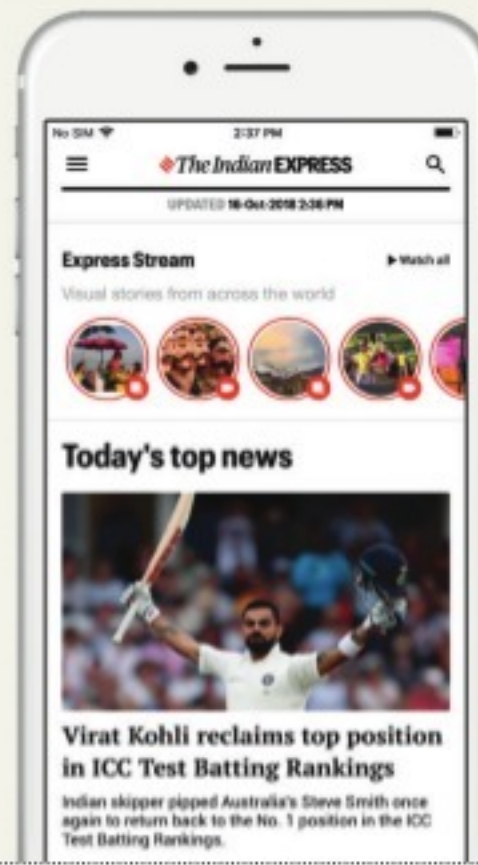


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BSP, AAP, BJD SPRING SURPRISE BY BACKING GOVT ON ART 370, JD(U) WALKS OUT
In an embarrassment for the BJP, BJP's Bihar ally JD(U), which had also opposed the Triple Talaq Bill, staged a walkout as soon as Home Minister Amit Shah moved the J&K reorganisation bill.

VIDEO OF THE DAY



**GOVT SCRAPS ART 370,
BIFURCATES J&K**

**Amit Shah says govt has
scrapped the special
status granted to J&K**

FULL COVERAGE



**ART 370 'SCRAPPED';
TROOPS DEPLOYED**

**Arvind Kejriwal says
AAP supports Centre's
decisions on J&K**

EXPRESS AUDIO

Was the move to scrap
J&K's special status
unconstitutional?

Dissecting the circumstances under which
Article 370 was introduced in the Indian
Constitution, whether the move to scrap
special provisions is unconstitutional and
what the fallout may be.

FROM PAGE ONE

Betrayal, says NC

Abhishek Manu Singhvi, also national spokesperson, said that in "personal capacity" it was hard to oppose the Centre's move while expressing concern over the security situation in Kashmir.

"Government of India (GOI)'s unilateral and shocking decisions today are a total betrayal of the trust that the people of Jammu & Kashmir had reposed in India when the state acceded to it in 1947. The decisions will have far-reaching and dangerous consequences. This is an aggression against people of the State as had been warned by an all-parties meeting in Srinagar yesterday," said Abdullah.

Soon after, PDP chief Mehbooba Mufti said the government's unilateral decision is illegal and unconstitutional. "Today marks the darkest day in Indian democracy. The decision of J&K leadership to reject the two-nation theory in 1947 and align with India has backfired...It will have catastrophic consequences for the subcontinent. GOI's intentions are clear. They want the territory of J&K by terrorising its people. India has failed Kashmir in keeping its promises," she said on Twitter.

A little after 12.30 pm, soon after the Bill to bifurcate J&K and the statutory resolution revoking Article 370 was introduced in Rajya Sabha by Home Minister Amit Shah, top Opposition leaders addressed a press conference outside Parliament. The Congress was supported by TMC, CPM, CPI, DMK, RJD and Samajwadi Party.

Leader of the Opposition in Rajya Sabha Ghulam Nabi Azad said the BJP government, drunk with power and with an eye on votes, had in one stroke abolished Article 370 and Article 35 A. He called it a "black law" and argued that the BJP government has gone to the extent of ending the existence of J&K.

"I never thought that one day will come when my state which is India's head...that head will be chopped off...It is not merely a head or a crown...It borders with Pakistan, China and PoK. We had to fight a war with China and three-four wars with Pakistan. While our Army protected our borders, the people of Jammu and Kashmir...J&K's mainstream political parties stood with the Army and fought Pakistan and China," said Azad.

"Our sources there, I have been a Chief Minister...in such bor-

der states...that too a state which shares a border with two countries...till the time the people are not with you...till the time the people don't give you information, tell you about hideouts...you may keep fighting for 1,000 years...you will not reach anywhere," he said.

Former Home Minister P Chidambaram said the revocation of Article 370 was the "worst day" in the country's Constitutional history. "We anticipated they will embark upon a misadventure. But even in our wildest dreams, we did not think they will take such a catastrophic step. What have they done? They have not simply got rid of Article 370. They have dismembered the state of Jammu and Kashmir," he told reporters.

"If this can be done to J&K, let me caution you, it can be done to every other state in India. All they have to do is dismiss the elected government, impose President's Rule, dissolve the elected Assembly, Parliament takes the power of the state Assembly, the Government moves a resolution, the Parliament approves it and the state can be dismembered," he said.

He accused the government of reducing states to "vassal" and "colonies". "An overwhelming majority in J&K do not want secession; do not want to leave the Union of India...I believe that they want more autonomy...What are you doing by repealing Article 370? I fear...that you are pushing thousands and thousands of young men from this column to join the other column of a few hundreds," he said.

MDMK leader Vaiko underscored in the RS that the Bill should be rejected lock stock and barrel, saying he feared that the scrapping of Article 370 would lead to Kashmir becoming like "Kosovo, South Sudan and East Timor".

"Now J&K has been made a powder keg. I am really worried about the future. Today, on this particular Bill, I shed my tears of blood. I am not going to live for more than ten or fifteen years. But even after my demise, my grandchildren will not forget this day. This Bill should be thrown out. This Bill should be rejected lock, stock and barrel. But the main culprit is the Congress Party. I am opposing this Bill," he said.

"...there are lakhs and lakhs of Muslim youths of Kashmir. Will you throw them out? Will you

J&K now truly integral part of India: Shah

Rajya Sabha saw uproarious scenes in the morning with the Opposition protesting the announcement by Shah but many in the Opposition ranks backed the government decision.

By evening, the Bill had cleared Rajya Sabha — 125 votes in favour, 61 opposed and one abstention. Opposition BSP, BJD, AIADMK and YSR-Congress voted in favour of the Bill. NDA partner JD(U) staged a walkout as did the TMC which, earlier in the day, opposed abrogation of Article 370. The TMC walked out before Shah began his reply to the debate.

Two PDP members were evicted after one of them tore a copy of the Constitution, and the other his shirt.

While the resolution was passed by voice vote, the Opposition BSP, BJD, AIADMK, TDP, AAP and YSRCP voted in favour of the Bill and the NCP said it abstained.

At 6.51 pm, as the Bill was passed, Prime Minister Modi turned towards Shah and patted him on the back. He then moved towards the Opposition benches, and shook hands with BSP's Satish Chandra Mishra, DMK's Tiruchi Siva, and walked up to Congress's Anand Sharma.

The first statutory resolution to knock down J&K's special privileges stated: "That this House recommends the following public notification to be issued by the President of India under Article 370 (3): 'In exercise of the powers conferred by Clause (3) of Article 370 read with clause (1) of Article 370 of

the Constitution of India, the President, on the recommendation of the Parliament, is pleased to declare that, as from 5th of August, 2019, all clauses of the said Article 370 shall cease to be operative except clause (1)."

Article 370 will survive on paper but will now read "All provisions of this Constitution, as amended from time to time, without any modifications or exceptions, shall apply to the State of Jammu and Kashmir notwithstanding anything contrary contained in Article 152 or Article 308 or any other article of this Constitution or any other provision of the Constitution of Jammu and Kashmir or any law, document, judgement, ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law in the territory of India, or any other instrument, treaty or agreement as envisaged under Article 363 or otherwise."

The second resolution regarding the Bill said the President has referred the Jammu and Kashmir Reorganisation Bill, 2019 to the House "under the proviso to Article 3 of the Constitution of India for its views as this House is vested with the powers of the State Legislature of Jammu and Kashmir, as per proclamation of the President of India dated 19th December, 2018."

Shah tabled the Bill and the statutory resolutions after President Ram Nath Kovind signed the official notification, The Constitution (Application

to Jammu and Kashmir) Order 2019, superseding the Constitution (Application to Jammu and Kashmir) Order 1954 under which the Constitution was applied only selectively to the state.

"All the provisions of the Constitution, as amended from time to time, shall apply in relation to the state of Jammu and Kashmir..." the notification said. The government has added in Article 367 of the Constitution a clause 4 which makes four changes. The order said references to Sadar-i-Riyasat of Jammu and Kashmir shall be construed as references to the Governor of J&K. Similarly, references to the Government of J&K shall be construed as references to the Governor of J&K acting on the advice of the Council of Ministers.

With Opposition members arguing that the Bill to bifurcate J&K was not even circulated, Shah had to introduce the Bill and statutory resolutions again. Shah also introduced the Jammu and Kashmir Reservation (Second Amendment) Bill, 2019 providing for 10 per cent reservation for SC, ST and OBCs in J&K.

Leader of Opposition Ghulam Nabi Azad said lakhs of civilians and scores of security personnel had made supreme sacrifices to keep J&K with India. He condemned the tearing of the Constitution, but said the BJP has "murdered the same Constitution and democracy...The Article 370 through

which we had given Jammu and Kashmir to India... today the Modi government has torn it to pieces."

Hitting back, Shah said the Bill he has tabled is historic. "Because of Article 370, people of Kashmir are living in poverty. They don't get the benefit of reservation... Corruption is rampant. Three families have looted Jammu and Kashmir all these years. The Leader of the Opposition has said Article 370 attached J&K to India. That is not true. Maharaja Hari Singh signed the Instrument of Accession on October 27, 1947. And Article 370 came into existence in 1949, two years later. It is not true that Article 370 attached J&K to India."

He said Article 370 was always considered temporary because it had to go one day. "But no one had the political will... then there was vote bank politics... they wanted to make a vote bank out of it. We don't want to make a vote bank and neither do we lack political will," he said.

Reading out provisions of Article 370 (3), the Home Minister said there are provisions within that state that Article 370 shall cease to be operative or can be amended and the President has the right to issue such a notification or constitutional order. "We are adopting the same path as adopted by the Congress in 1952 and 1962 by amending the provisions of Article 370 the same way through a notification," he told the House.

throw them out? No. No. Fire is burning. Fire is burning in the hearts and minds of the Kashmiri people. For powder keg, one spark is enough. That spark is the Bill. I oppose the Bill. This is a day of shame, murder of democracy. Today, democracy has been murdered," said Vaiko.

The legal debate

used to dilute the provision," said Alok Prasanna Kumar, senior Resident Fellow and Team Lead, Vidhi Karnataka. The Presidential order adds a sub clause to Article 376, replacing the terms "Constituent assembly of Jammu and Kashmir" to mean "legislative Assembly of Jammu and Kashmir" and "government of Jammu and Kashmir" to mean "governor of Jammu and Kashmir acting on the aid and advice of the council of ministers".

The Presidential order also requires the concurrence of the government of the state. However, since Jammu and Kashmir is currently under Governor's rule, Governor Satya Pal Malik's concurrence is deemed to be the government's concurrence.

Advocate Aman Hingorani, an expert in Kashmir constitutionalism, said that since the Governor is appointed by the President, this concurrence could be held invalid. "In my understanding, Parliament cannot replace the state legislature with the Governor or the Constituent assembly with the state legislature. In a roundabout way, this is the Centre seeking its own concurrence," Hingorani said.

The change in interpretation is significant because Article 370(3), the provision that talks about abrogation of Jammu and Kashmir's special status, says that the President would require the recommendation of the constituent assembly of Jammu and Kashmir to make such a change.

"Even if the words can be replaced, it breaches the spirit of the provision. The Constituent assembly's recommendation is essentially to include the key stakeholder's voice while making

substantial changes to Article 370. The Centre cannot do so unilaterally," said senior advocate Raju Ramachandran.

However, former Additional Solicitor General Mohan Parasaran and Harish Salve defended the government's move. "The President exercising the power under Article 370 itself to remove special privileges to Jammu and Kashmir and clarify the terms of abrogation in fact strengthens the provision," Parasaran said. "The special privileges are not permanent and were always meant to be temporary. Privileges do not confer rights," he added.

Salve argued that Article 370 was always deemed a temporary provision and the President did not need the consent of the Jammu and Kashmir constituent assembly to change the provision. "The Constituent Assembly is gone. So how can you consult them?" he said.

All laws to apply

married outside the state and refugees of West Pakistan who are not recognised as permanent residents.

The move also allows other citizens of India to settle in the two proposed UTs — in exercise of the fundamental right to move freely throughout the India and to reside and settle in any part of India guaranteed under Article 19.

All laws passed by Parliament will be extended to the proposed UTs without exception. Earlier, every legislation, except on defence, external affairs and communications began with an exception clause stating that the law will apply to the whole of India except Jammu and Kashmir. The state that is now governed through its own constitution is set to lose legal status; the state flag would also lack recognition. The red flag with a plough and three stripes — representing the regions of Jammu, Kashmir and Ladakh — was hoisted along with the tricolour.

One of the most important amendments proposed will be

related to The Transfer of Property Act. The Jammu and Kashmir Reorganisation Bill, 2019, passed in the Rajya Sabha, proposes to omit Sections 139 and 140 of the Act which would allow the transfer of immovable property in favour of non-permanent residents of the state.

Similarly, the Bill proposes to amend the Jammu and Kashmir Land Grants Act — allowing promoters to be non-residents who can get the land on lease. The Wakf Act, that deals with regulation of movable or immovable properties for religious and charitable purposes as recognized by Muslim law, is also proposed to be applicable to the region.

The other significant change will be regarding criminal law. The Bill proposes to apply at least half a dozen laws related to the criminal justice system. The Indian Penal Code, the Criminal Procedure Code and the Indian Evidence Act — the most important statutes governing criminal trials will now apply. The other important criminal laws applicable to the region would be: National Security Act, Prevention of Corruption Act, Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, The Protection of Children From Sexual Offences Act and The Juvenile Justice (Care & Protection of Children) Act.

Three pieces of legislation related to protection of women and children that were not enacted by the Jammu & Kashmir Assembly and are now proposed under the bill are: The Dowry Prohibition Act, 1961; The Prohibition of Child Marriage Act and Indecent Representation of Women (Prohibition) Act, 1986. The Bill also proposes that Whistle Blowers Protection Act, 2014 applicable to the region.

Two important, rights-based central legislation The Right to Information Act, 2005 and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are also proposed to be applicable. Among personal laws,

the Muslim Women (Protection of Rights on Divorce) Act, 1986 and the Special Marriage Act enacted by Parliament and currently not applicable to the region are also proposed to be applicable. Other personal laws enacted by the Centre, The Hindu Succession Act, 1956; and The Muslim Personal Law (Shariat) Application Act, 1937; are proposed to be applicable to the region.

The High Court of Jammu and Kashmir shall continue to be the common constitutional court for both the proposed UTs. The Bill also states that the power to make laws relating to All India Services and Anti-Corruption Bureau will lie solely with the Lieutenant Governor. These two issues along were major points of disagreement between the Delhi government and the Centre. The issue was finally decided by the Supreme Court in February 2019 in a landmark verdict where the court upheld the powers of the Centre on anti-corruption bureau while on services, the court delivered a split verdict and referred the issue to a larger bench.

Under Section 73 of the Bill, the President can suspend any or all provisions of the law if a situation arises where it is necessary or expedient to do so in the light of failure of constitutional machinery. This move can be made by the President, acting on a report from the Lieutenant Governor or otherwise.

Unlike a state which is governed by its elected government, a UT is an administrative unit governed directly by the Central government. In UTs that have a legislature, the L-G governs in consultation with the elected government. If the Bill becomes law, J&K and Ladakh will be added to the First Schedule of the Constitution along with seven existing UTs.

The Presidential Order, 2019 also extended the application of Article 376 of the Constitution, a provision that deals with interpretation of the Constitution to Jammu and Kashmir.

The notification clarified that the legislature of Jammu and Kashmir shall be deemed to be the erstwhile constituent assembly of Jammu and Kashmir, the government of Jammu and Kashmir to mean the Governor of the state acting on the aid and advice of the Council of Ministers.

These changes, in effect pave the way to potentially abrogate Article 370 since the provision can only be declared inoperable with the consent of the constituent assembly of Jammu and Kashmir.

Incidentally, the Presidential Order, 2019 notified in the official gazette is issued, exercising the President's powers under Article 370 sub section 1(d) that empowers him to extend Indian laws to Jammu and Kashmir.

Valley lockdown

House that he had learnt that there were no protests in the Valley.

On Monday, the Home Ministry dispatched another eight companies of central armed police forces (CAPFs) to Kashmir to maintain law and order and CRPF DG R R Bhatnagar is expected to stay in Kashmir for the next few days as forces brace for prolonged unrest.

This takes the total number of personnel engaged in law and order duties in Kashmir to close to 1 lakh, as 60 battalions of the CRPF are stationed in the Valley around the year.

The Home Ministry also issued an advisory to all states and Union Territories to keep security forces on "maximum alert" to "pre-empt" any attempt to disrupt "peace and public harmony", and to take "special care" to "ensure safety and security of residents of Jammu and Kashmir, specially students", living in other parts of the country.

"As you would be aware, the Union Cabinet has taken some important decisions today concerning Jammu and Kashmir, in the overall national interest and to strengthen national security. It is essential that this occasion is not allowed to be misused by inimical and anti-social elements to cause breach of security, peace and public harmony in any part of the country," said the advisory, issued by the MHA's Internal Security Division.

"It is further requested that all requisite measures may be taken to ensure that peace and communal harmony is maintained in all parts of the country and special attention may be paid to communally sensitive and fragile areas," it said.

According to inputs received by the Home Ministry, the Valley is likely to see a spike in stone-pelting incidents in the coming days and more local youth are expected to join militant ranks. The input also mentioned that as many as 76 local youth have already picked up the gun this year.

The inputs, sources said, also mentioned that Pakistan is likely to exploit the situation and push more terrorists into the Valley. It said 34 infiltrations have already happened this year and is likely to increase in the wake of the move to scrap Article 370.

"There will be a massive law and order fall out of this decision and we are prepared for the long haul. There may not be much violence in the next few days as too much security has been put in place. But in a week's time, we are expecting both stones and bullets as forces behind them get their act together and organise protests," said a Home Ministry official.

The All India Council for Technical Education (AICTE) also wrote to all institutes covered under the Prime Minister's Special Scholarship Scheme (PMSSS) Monday advising them to take "special care" of all students from Jammu and Kashmir studying with them.

Another letter was written to all J&K students admitted through PMSSS asking them to approach the institute administration in

case they need any help. PMSSS is a merit-based programme that offers admission to J&K students in colleges, institutes and universities across the country and pays for their tuition and board.

Key project

remained a mere war cry for the Jan Sangh given the party's strength at the national level.

Even when it got substantial heft in national politics — during Janata Party government after the Emergency — the issue had to be kept aside for the sake of anti-Congress unity. But the expulsion of Sangh members from the Janata Party that led to formation of BJP in 1980 forced the BJP to bring this issue to the front burner.

Trying to find its feet in the changed political situation, the newly formed BJP latched on what it called the "pseudo-secularism" of the incumbent Congress which gave in to the Muslim clergy on the issue of Muslim personal laws after the Shah Bano case in 1986. It revived BJP's memory of Uniform Civil Code (UCC) which had featured first in the BJS manifesto during 1967 Lok Sabha elections.

Dubbing it "appeasement politics" by the Congress, the BJP took a decisive turn towards Hindutva when it announced its commitment to a Ram Temple at the national convention at Palampur (Himachal Pradesh) in 1989. It was merged with BJP's nationalistic agenda when the then BJP president Mukti Manohar Joshi went on an Ekta Yatra, coordinated by younger Narendra Modi, that culminated in the hoisting of the Tricolour at Lal Chowk in Srinagar on January 26, 1992.

The then president of BJP's youth wing, Anurag Thakur, too, took out Tiranga Yatra in 2011 despite clampdown from Omar Abdullah government in the state to re-affirm party's commitment against Article 370.

Clearly, of the three, Article 370 is the oldest commitment by the BJP (BJS). In an attempt to create an alternative to the Congress and the socialist politics of the time, Mookerjee had sought to create a new lexicon of cultural nationalist politics. That's why he had gone to Jammu and Kashmir to register his protest against Article 370 and back the agitation launched by Jammu Praja Parishad.

Over the years, Article 370 became the stick for the BJP to run down Jawaharlal Nehru, alleging that his Western Constitutional idea of India sat at odds with that of the RSS which was banned by the Nehru government after the assassination of Mahatma Gandhi.

For the BJP, Article 370 has been a lightning rod. But political compulsions forced it to keep it on the back burner when it had to run coalition governments during 1998-2004. The RSS, on its part, tried to push the Ram Temple during that period but could not make much headway beyond hobbling the Vajpayee government.

A full majority government in 2014 offered hope to the BJP cadres. However, the party's numerical challenge in Rajya Sabha — the party had less than 50 members in 245-strong Rajya Sabha in 2014 — restrained it from pushing its agenda on Article 370. In fact, it experimented with a coalition government in J&K before it fell midway during its term in June last year.

The enhanced LS majority in 2019 buoyed cadres' expectations and offered more elbow-room to the BJP. Though the Common Civil Code remains a contentious issue, the BJP used the re-jigged numerical strength in both Houses to push through its Triple Talaq legislation. The failure of mediation attempts at the behest of SC has got the Ayodhya case back to centre stage — a verdict on the title suits is expected later this year.

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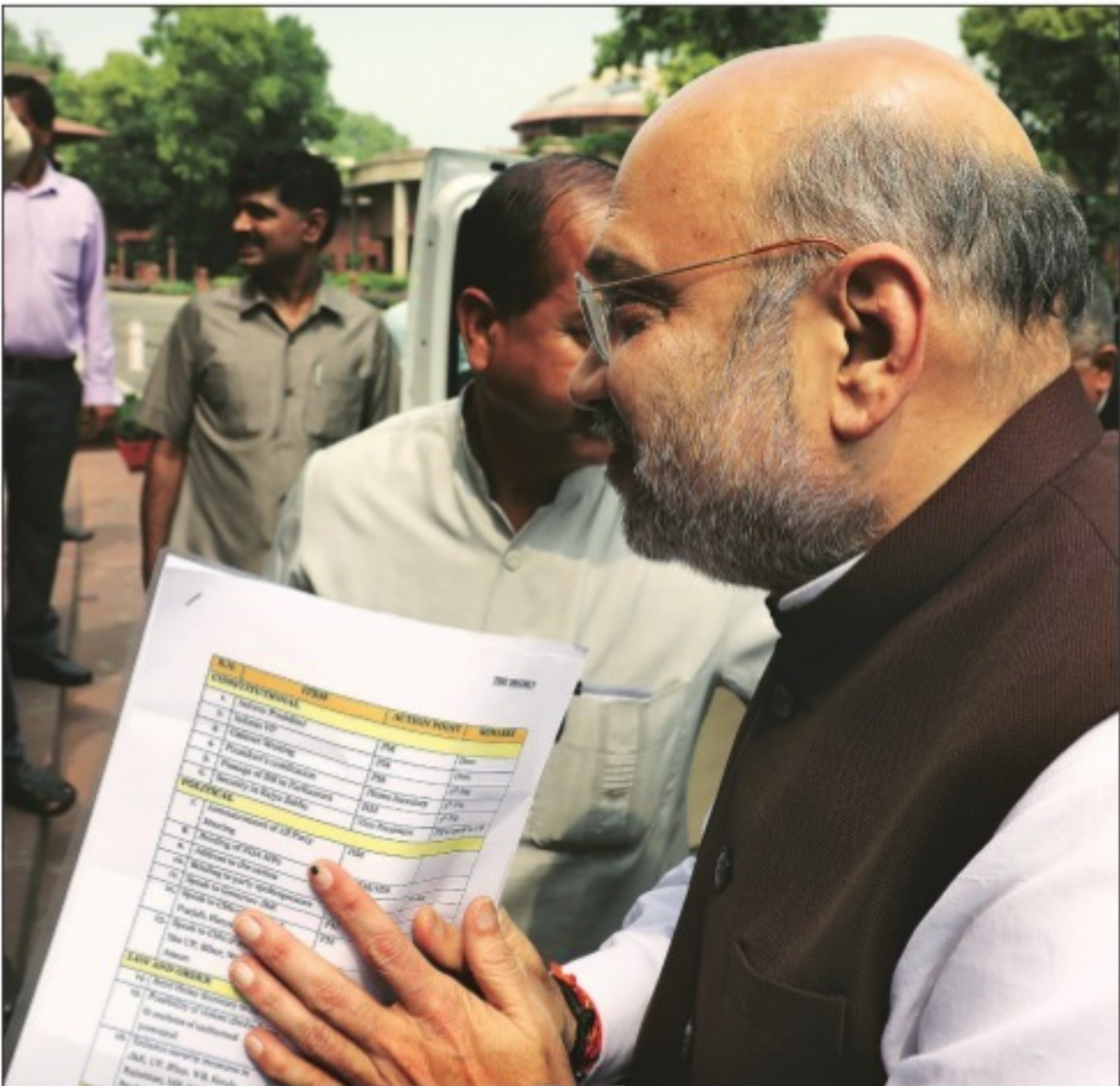
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Anil Sharma



AP

Opposition leaders P Chidambaram, Ghulam Nabi Azad (Congress), TMC's Derek O'Brien and SP's Ram Gopal Yadav; Home Minister Amit Shah arrives with document that lists out procedure behind government's move.

History will prove you wrong: Cong to govt

Voices of dissent: Dwivedi says mistake rectified, Singhvi says astute move

MANOJ CGG
NEW DELHI, AUGUST 5

WHILE THE Congress targeted the BJP government in Rajya Sabha for scrapping special status to J&K and bifurcating the state into two Union territories, there were differing voices within the party outside Parliament.

Speaking in Rajya Sabha, Leader of Opposition Ghulam Nabi Azad said: "I never thought that a day would come when my state, which is India's head... that head will be chopped off... It is not merely a head or a crown... It borders with Pakistan, China and PoK. We had to fight a war with China and three-four wars with Pakistan. While our Army protected our borders, the people of J&K... J&K's mainstream political parties stood with the Army and fought Pakistan and China."

"In such border states... till the time the people are not with you... you may keep fighting for 1,000 years... you will not reach anywhere. You are seeing that in Afghanistan... But here, why are we successful in every war? Because our people who are nationalists, who wanted to live in India and chose India... they always gave information to our security forces," he said.

"Maharaja Hari Singh entered into the accession treaty to be with India... Despite being of the same religion, the people of Kashmir too did not demand to be with Pakistan... they made India their home...they were ready to live with India's Hindu brothers and not Pakistan's Muslims... That was their trust. You have betrayed that trust," he said.

"We have been seeing the plight of the Chief Minister of Puducherry... a Lt Governor is not allowing him to work..." he said.

Party leader P Chidambaram called it a "black day". "Momentarily, you think you have scored a victory. The drum beats that you will hear on the streets will certainly encourage you to believe that you have scored a signal victory, or, as one of the members said, you have corrected, a so-called injustice of history. You are wrong, and history will prove you to be wrong and future generations will realise what a grave mistake this House is making today," he said.

"Article 370 enables you to modify such other provisions in the Constitution. It is beyond my comprehension how Article 370 order can be used to modify Article 370," he said, adding, "you are unleashing forces which you cannot control."

"...an overwhelming majority in J&K don't want secession, don't want to leave the Union of India... I fear... that you are pushing thousands and thousands of young men from this column to join the other column of a few hundreds," he said.

"What you are doing to J&K can be done to any other state... All you have to do is dismiss an elected government, dissolve the state legislature, promulgate President's Rule, declare Parliament to be the state legislature for the time being and divide the state... But, I think, in doing it for J&K, you have made a fatal legal error," he said.

However, outside Parliament, veteran party leader Janardan Dwivedi said a "mistake" had been "rectified". "It is not a new issue... Ever since Independence, many of the freedom fighters had been demanding that Article 370 should be removed... An Independence-era mistake has been rectified and it is a matter of national satisfaction," he said.

"Many freedom fighters, including Ram Manohar Lohia under whom my political training began, talked of abrogation of Article 370 from the very beginning. During our student and youth movement days, we used to speak against this. So, I naturally felt it is correct. There are issues about which many people held opposite views, but when the time for reckoning came they kept quiet. I feel in this issue also, people will slowly get silent," he said.

Asked why the previous governments had not done it, he said "I am not going to blame anyone."

Congress spokesperson Abhishek Singhvi called it a "legally flawed but politically astute decision." He tweeted that in his "personal capacity", it was hard to oppose the move, although it was indefensible legally. Asked about his tweets, Singhvi said the move is "legally, totally flawed", done with "zero consultation and sleight of hand."

"But I do concede that politically, it may get Modi lots of votes outside of J&K, because there is an emotive feeling he has created. But whether that should be the underlying policy decision is a question mark," he said.

Former Lok Sabha MP Deepender Hooda tweeted that Article 370 has no relevance in the 21st century and hoped the government would implement its decision in an atmosphere of peace and trust, but he later deleted his tweet. He then rephrased the tweet, with more emphasis on his advice to the government.

Jaiveer Shergill, another Congress national spokesperson, tweeted: "My personal point of view: I support abrogation of Art 370... but only in accordance with provisions & methodology provided by the Constitution of India which mandates consent of J&K state assembly..."

the government, Acharya drew attention to the plight of Kashmiri Pandits. "The integrity, safety and security of India is first... We are a regional party. We have our regional aspiration. But for us, our motherland, Bharat Mata, is the utmost... I would once again reiterate my point that



the freedom, integrity, sovereignty and honour of Bharat Mata is utmost for us. Therefore, my only submission is that so far as Kashmir is concerned, let us all rise above petty politics," he said.

K RAVINDRA KUMAR (TDP): Stating that since 1949, scores of people have been killed in J&K, terrorism has been on the rise, and development hit, Kumar said Article 370 deprived people living in areas along J&K's international border of the benefits of jobs and education. "There was no national security for the last seven decades. The governments in power, irrespective of whoever was in power, could not provide sufficient security to them for leading a peaceful life... After the introduction of this Jammu and Kashmir Reorganisation Bill, at least, this time... people of J&K must be feeling relieved from all these tensions... J&K has now become a part of our country," said Kumar.

VAIKO (MDMK): "You played with the sentiments of the people of Kashmir... For the last few days, Army personnel in large numbers are being deployed there... Kashmir should not become a Kosovo. Kashmir should not become an East Timor. Kashmir should not become a South Sudan. This may happen...



KRISHN KAUSHIK
NEW DELHI, AUGUST 5

OPENING THE argument for the government, senior BJP leader Bhupender Yadav called it a "historic day". "What you could not do in 70 years, our Home Minister has brought that topic to this House," he said.

He said in the past too, "significant" Constitutional amendments were brought in without being taken to the Business Advisory Committee of the House. "Today, when we have brought a resolution for the progress of J&K," to take the state forward, for the integrity and unity of India, "the work of opposing it is being done by only the Congress," he said.

"Now that the expectations of the people of J&K have been raised, it is our responsibility to fulfill those expectations," he said. He said the development of Kashmir is the "duty of every Indian", and development requires a "necessary administrative structure".

Jitendra Singh, Minister of State in the Prime Minister's Office called it a day of "redemption, rejuvenation and resurgence". Article 370, he said, "was a miscarriage of history and one of the gravest blunders of post-independent India". He said it was time for "repentance".

Union Minister for Information and

Now, J&K has been made a powder keg. I am worried... Today, on this particular Bill, I shed my tears of blood," he said.

VANDANA CHAVAN (NCP): "It would have been so much better if this step was taken after discussion with leaders of the state and by building a consensus... if there was a democratic process... we hope that the government takes care that there is no backlash and there is no bloodshed. NCP decides to abstain from voting," said Chavan.



K K RAGESH (CPI-M): "We are witnessing assassination of the Constitution, the democratic ethos and secular fabric of our country is being questioned... Our Constitution is under threat... They are killing democracy. They are destroying it. There is a kind of alienation that is taking place in J&K. I request the government not to do it because we do not want a Palestine state of India," said Ragesh.

SANJAY RAUT (SHIV SENA): "When you were talking about scrapping Article 370... not only in the entire country, but I think in the entire world, wherever there are Indians, there was a festive and happy atmosphere," said Raut, adding that it was akin to "killing an evil, destroying a blot that this country, this Constitution, had been carrying for 70 years". "Those who oppose, they are the same people who exploited the population of J&K for 70 years," he said.

ENS

JD(U) walks own way on Art 370

EXPRESS NEWS SERVICE
NEW DELHI, PATNA, AUGUST 5

AFTER WALKING out of Rajya Sabha during the debate on triple talaq Bill, NDA ally JD(U) on Monday opposed the Narendra Modi government's decision to scrap the special status given to Jammu and Kashmir.

In Patna, JD(U) national spokesperson K C Tyagi said: "We completely differ with the Central government's move on Jammu and Kashmir. There was a need for wider consultations on it, but no consultation was done even within the NDA.... We own the legacy of socialist leaders Ram Manohar Lohia and Jai Prakash Narayan, who had opposed attempts to tamper with Article 370 during Congress (government in the past)."

He said, "We are not surprised but shocked with the move."

Earlier, JD(U)'s walkout during the triple talaq Bill had helped the government get the Bill passed in the Upper House, where it was short of a majority. The JD(U) has six members in Rajya Sabha.

On Sunday, JD(U)'s Jharkhand unit chief Salkhan Murmu had announced that the party will contest the next Assembly polls on its own.

These developments come on the heels of failed talks between the BJP and JD(U) over the latter's representation in the Modi government. Nitish was hopeful of getting two ministerial berths — one Cabinet rank and another Minister of State rank — for his party.

BSP backs move, SP questions it

EXPRESS NEWS SERVICE
NEW DELHI, AUGUST 5

WHILE THE BSP declared its support, the SP opposed the government's decision. "You could have just scrapped Article 370, why was it necessary to make it a Union Territory... why did you abolish statehood," SP leader Ram Gopal Yadav said.

"I know that you do not care if people live or die in Kashmir, you only care about boasting in the rest of the country that you have removed Article 370," he said. He mentioned the problems faced by the Delhi government and the Puducherry government with their respective Lieutenant Governors.

"Article 370 is part of the Constitution," he said, adding that "a Constitutional amendment is needed" to amend it. He said it cannot be removed by a resolution.

He accused the government of creating an atmosphere of fear in the state. Had the government taken "Kashmir's political parties and political representatives into confidence", it would not have led to doubts in people's minds, he said.

Explaining the BSP's decision to back the government's move, BSP leader Satish Chandra Mishra said the "minority Muslim community does not only live in J&K". There are more Muslims in the rest of India than in J&K, he said, and added that their right to buy property in the state had been "snatched till now".

INTERVIEW: PDP MP NAZIR AHMED LAWAY

‘What we have torn is just a book, BJP has torn the Constitution’

PDP MP NAZIR AHMED LAWAY tells **LIZ MATHEW** that the government's move to scrap special status would further alienate the people of Jammu and Kashmir.

What would be the immediate implication for the state?

People are really angry, naturally. They (the central government) had not discussed this with anyone. They have done it on their own will. We are also disturbed. But the BJP says it has been a demand of the people for years. So, they say people are happy. Which part of Kashmir are they talking about? People are angry. But to express it, no one is allowed to get out. They have kept everyone locked inside their homes. This BJP government wielded a sharp-edged sword because they have power. What can people do? Today it is Kashmir, tomorrow it could be some other state. I feel that they would indulge in this kind of bulldozing wherever they feel like.

How do you react to the argument that those who have allegiance to India would be happy?

See, we are also part of this country. We are Indians. We should also be heard. There were troubles in other parts of the country, like in Punjab? Did they handle it like this? There were many states in the Northeast. It did not happen there too. I don't know why only Jammu and Kashmir gets this deal. This is a breach of trust with the people of Kashmir.

Are you planning to challenge it?

Yes, certainly. We will challenge it politically and with the other ways available to us. I think we should go back to Kashmir and organise people to protest against this. All political leaders in Kashmir should get together



Anil Sharma

and discuss. We should go to court together. We have to defend Kashmir otherwise the situation in Kashmir will be worse....

You tore the Constitution.

What we have torn is just a book, but what the BJP government has torn is the Constitution. You can imagine, if people like MPs, who are conscious of the decorum of the House and Parliament, have become agitated after seeing what this government is doing, what would be the common man's reaction in Kashmir?

Now that the Centre will directly control law and order, how would it affect the people in Kashmir?

That will happen according to the laws. Law of the land should prevail. But difficulties will increase when you don't have a government of people from there.

Do you think delimitation will also happen soon?

Not immediately. But I must say that they are capable of doing anything... People of Jammu and Kashmir will be further alienated...

FULL INTERVIEW ON
www.indianexpress.com



DEREK O'BRIEN (TMC): Calling it a "dark day" for parliamentary democracy, federalism, the Constitution, Rajya Sabha and idea of India, O'Brien said: "The Constitution has been sadly, either forgotten conveniently, or, thrown into the dustbin... I would like to sincerely appeal... to

my colleagues in the parties with strong regional presence, be they in Odisha, Telangana, Tamil Nadu, Andhra Pradesh, Bihar, or anywhere else. What this basically means is that apply President's Rule on a state, then dissolve the House, then you bring a Presidential proclamation, then, in the morning, you do this..." He said the speed at which the business of the House was changed was a "mockery of Parliament". "We will fight this everyday in Parliament and outside. Let us talk about federalism. Don't believe what TMC or any other party says. Believe what Dr Ambedkar said, and Dr Ambedkar said more than once, that the heart of our Constitution is federal, and only in times of extremity, do we look at it through the lens of unitary". "Beyond the tamed television channels and the tamed media owners, I also have to see what is happening on social media today morning. It is being called by the right wing — and this is all over — 'the final solution'. Sir, the final solution! What does that mean? That means 1942. This was the Nazi plan for genocide; the code name to murder the Jews was called 'the final solution'."

TIRUCHI SIVA (DMK): Terming the government's decision as "unconstitutional and unwarranted", Siva questioned the power under which the Centre made the move. He said Article 370(3) states that the recommendation of the Constituent Assembly of the State is necessary before the President issues such



"The architects of the Constitution, members of the Constituent Assembly were all elected, were all people who were from various quarters, from various areas; and they were all experts. After deep deliberations, this Article 370 was provided, giving special status to the people of Kashmir for various other reasons," he said, and asked whether the Centre had taken the views of the people of J&K or of the State Legislature. "Tomorrow, the same powers will be vested with you and you can convert any State into a Union Territory. It may be Tamil Nadu, it may be Bihar, it may be Bengal, it may be Maharashtra," he said.

APPASAMY NAVANEETHAKRISHNAN (AIADMK): Expressing support, AIADMK MP



Navaneetha Krishnan said that under sub-clause (3) of Article 370, the President can declare that the Article ceases to be operative or stays operative with certain exceptions and

hence Article 370 is temporary in nature. "Now, the central government has rightly brought forward these two Resolutions and also two enactments. Hon. Amma was well known for upholding sovereignty and integrity. So, we, the AIADMK government, Amma's government, the AIADMK party, support the two resolutions and also support the Reorganisation Bill and the Reservation Bill," he said.

PRASANNA ACHARYA (BJD): Supporting

9 THE NEW J&K ORDER

JAMMU & SRINAGAR



A deserted road in Srinagar on Monday. Restrictions were in force across Kashmir and in several parts of Jammu. *Reuters*

Governor reviews security, curfew clamped in parts of Jammu too

ARUN SHARMA
JAMMU, AUGUST 5

JAMMU AND Kashmir Governor Satya Pal Malik on Monday met Northern Army commander Lt General Ranbir Singh and reviewed the security situation in the state and along the border with Pakistan.

An official spokesperson said the Northern Army Commander and General Officer Commanding of 15 Corps, Lt General KJS Dhillon, met the Governor at Raj Bhavan in Srinagar and briefed him about the internal and external security management in the state in the aftermath of the Parliament passing the resolution to scrap the special status of Jammu and Kashmir. They also apprised him of the preparation to meet any unforeseen situation, the spokesperson said.

The Governor stressed on real-time co-ordination between security forces and agencies.

In the evening, he reviewed the situation during a meeting with his advisors K Vijay Kumar, K K Sharma, K Skandan and Farooq Khan, and Chief Secretary B V R Subrahmanyam. The Governor's advisors, who returned from Jammu, briefed him about the adequacy of essential supplies and delivery of public services to the people, including electricity, water supply and health-care in both Kashmir and Jammu regions.

The Governor stressed the need to ensure safety of the public and advised the administration to give due consideration to the genuine needs of people. He also appealed to people and leaders of various social, religious and political organisations to cooperate with the state machinery to maintain law and order in the state.

Meanwhile, curfew was clamped and cellular services suspended in various parts of



J&K Governor Satya Pal Malik

Jammu on Monday.

The Central Armed Police Forces were put on high alert and all educational institutions closed to prevent any untoward incident.

Curfew was imposed in areas of Pir Panjal and Chenab Valley which are adjacent to Kashmir. These included Kishtwar, Doda and parts of Ramban districts, and Rajouri and Poonch districts.

Elsewhere in Jammu, mobile internet services were suspended and prohibitory orders imposed under Section 144 of the CrPC. There were no reports of any untoward incident from any part of the region.

Normal life was not hit in areas where the curfew was not in force. Shops and other business establishments opened and traffic plied as usual in areas like Kathua, Samba and Udhampur. In Jammu city, business establishments remained closed and there was minimal traffic movement.

Sources said educational institutions will remain closed on Tuesday. Jammu University has postponed its undergraduate and post-graduate exams in view of the restrictions.

Internet services, landline, mobile network are down

PRANAV MUKUL
NEW DELHI, AUGUST 5

WHILE MOBILE Internet services were suspended on Sunday, cellular network, landline and broadband connectivity were also shut down in the early hours of Monday in what was described as the "worst ever" blackout of communication services in Jammu and Kashmir (J&K) in at least the last decade. In the past, the restrictions were limited to Internet services.

According to the latest subscription data provided by the Telecom Regulatory Authority of India (TRAI), as of May 2019, there were 1,01,465 wireline subscribers and 1,13,39,647 wireless subscribers in J&K circle.

According to internetshutdowns.in, a portal tracking government-imposed Internet blackouts, there have been a total of 178 Internet shutdowns in the area since 2012 — of which 118 have been in 2018 and 2019 (so far).

As per the portal, the longest shutdown was in 2016, when mobile Internet services in Kashmir were snapped for 133 days following the protests triggered by the killing of Burhan Wani in July 2016. Last year, ahead of Independence Day celebrations, cellular as well as Internet services were shut down in Kashmir region.

In order to regulate the temporary suspension of telecom services on account of public emergencies, the Centre, in August 2017, had notified rules, according to which an order from at least a joint secretary-level official was made

necessary for temporarily stopping telecom services. And an order from an officer not below the rank of a joint secretary, who has been duly authorised by the Union home secretary or the state home secretary, must be obtained in case of "unavoidable circumstances, where obtaining of prior direction is not feasible".

Otherwise, such directions will have to be issued by the Union home secretary, or a state secretary in-charge of home department.

These bans, generally issued by the local authorities to control tense situations, will be reviewed by high-level committees, as per the new rules. The Indian Telegraph Act states that the Centre or a state may direct that "any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the government..." in the interest of "sovereignty and integrity of India, security of State, friendly relations with foreign states" or to prevent "incitement to the commission of an offence".

Meanwhile, even as airline operations to and from Srinagar functioned normally, with 29 scheduled flights departing from the airport on Monday, passengers in the city could not be contacted to provide flight information due to the communication blackout. Fares on the Srinagar-Delhi sector, which had initially skyrocketed, remained subdued as private airlines implemented a cap of Rs 10,000 on the sector. Air India said it would hold maximum fare on the route at Rs 6,715 till August 15.

India briefs UNSC members, Islamabad summons Delhi envoy

SHUBHAJIT ROY
NEW DELHI, AUGUST 5

AS FOREIGN ambassadors reached out to the government for clarity on the move to scrap the special status granted to Jammu and Kashmir under Article 370 and bifurcate the state into two Union Territories, New Delhi moved quickly to brief foreign envoys, especially the members of the United Nations Security Council (UNSC).

Sources said that the briefing was led by Foreign Secretary Vijay Gokhale and other secretaries, who briefed the ambassadors of the US, UK, France, China and Russia, among others. Some other major countries, including Germany, Canada, Japan and ASEAN countries, were also briefed.

The UNSC members were chosen for the first batch of briefing since Pakistan is expected to take up the issue there. Pakistan summoned Indian High Commissioner Ajay Bisaria to the Foreign Office on Monday and conveyed a "strong demarche on the announcements made and actions taken" by the government over Jammu and Kashmir.

Incidentally, none of the Organisation of Islamic Cooperation (OIC) countries have been briefed by the government so far, according to sources. Delhi also wants to minimise the briefing on what it considers an "internal" matter, and not allow "external players" to intervene or make statements. More countries may be briefed in the next few days.

A source explained, "This is not a Balakot-type situation. We were briefing the envoys since we wanted to explain the developments in the correct perspective." Sources explained that ambassadors have been briefed earlier by the government on various issues, including issues like Kumbh mela etc.

In the briefings, it was conveyed that the "decisions were internal to India" and they are aimed at "providing good governance, pro-

UN urges India, Pak to exercise restraint

United Nations: UN Secretary General Antonio Guterres is following with concern the tense situation in the India-Pakistan region and urges all parties to exercise restraint, his spokesperson Stéphane Dujarric said here on Monday.

"We are following with concern the tense situation in the region... We urge all parties to exercise restraint," Dujarric said at the daily press briefing, adding that the UN is also aware of reports of restrictions in Kashmir.

moting social justice and ensuring economic development in Jammu and Kashmir", sources said.

In the light of interest expressed by members of the diplomatic community, senior MEA officials briefed the envoys of several countries, the sources said.

Pakistan's Foreign ministry said in a statement that Bisaria was summoned by Foreign Secretary Sohail Mahmood.

"The Foreign Secretary conveyed Pakistan's unequivocal rejection of these illegal actions as they are in breach of international law and several UN Security Council resolutions," the statement said.

Pakistan's "resolute condemnation of the unlawful actions aimed at further consolidating the illegal occupation" of Jammu and Kashmir was underscored, it added.

Meanwhile, a PTI report from Islamabad said Pakistan President Arif Alvi has summoned a joint session of the Parliament on Tuesday to discuss the matter.

The joint sitting will review the tense situation in Jammu and Kashmir and along the Line of Control.

FROM THE STATES

PUNJAB: The state government prohibited any kind of celebrations or protests that could vitiate the atmosphere. Chief Minister Amarinder Singh directed the police to be prepared to thwart any attempts by Pakistan to create disturbance. He flayed the manner in which the Centre "imposed" the decision, saying the democratic fabric of the nation has been "ripped apart" with this "unprecedented violation of the Constitutional norms".

UTTAR PRADESH: Deputy CM Dinesh Sharma on Monday termed the government's move as "historic" and said it is a bold step to strengthen the unity and integrity of the country. "While introducing the Bill, Home Minister Amit Shah was looking like Sardar Vallabhbhai Patel," said Sharma. Strict directives were issued to police to maintain vigil.

HARYANA: The Haryana Assembly passed a resolution by voice vote thanking the Narendra Modi government's decision to scrap special status for J&K. Congress leader Bhupinder Singh Hooda supported the move but asked if the BJP would fulfil promises made to Haryana in its manifesto. INLD leader Abhay Chautala also supported the Centre's decision, but said that similar provisions in states such

as Himachal Pradesh should also be scrapped. Speaker Kanwarpal said that "buying land in Himachal" cannot be compared with Article 370.

GUJARAT: Chief Minister Vijay Rupani welcomed the Centre's move, saying it was a "historic and brave" decision. Terming Kashmir as the "crown" of India, Rupani said the government's decision was a befitting tribute to Jan Sangh founder Syama Prasad Mookerjee.

TELANGANA: The ruling TRS supported the move and its Rajya Sabha MPs voted in favour of the government but the party did not make any announcement publicly. DGP M Mahender Reddy said a ban has been imposed on meetings in areas under Hyderabad, Cyberabad and Rachakonda Police after the MHA issued an advisory to all the states to put the police and security forces on high alert.

MAHARASHTRA: Chief Minister Devendra Fadnis said the Centre's decision had foiled the attempts of "Pakistan and the then Congress government" to "separate" the state from India. Speaking in Chandrapur during his Mahajanadesh Yatra, he said Prime Minister Modi and Home Minister Amit Shah must be congratulated. **ENS**

‘When you’re far away, don’t know what’s happening, it’s horrifying’

J&K residents living in other states — to study or work — were concerned about the situation back home. *The Indian Express* spoke to some of them:

"We feel safe in our institute, but are not aware about our parents' safety. My mother's last words to me last night were 'zinda rahenge to phir baat karenge' (If we are alive, then we will speak again)."

SAAQIB,
STUDENT AT CT INSTITUTE IN JALANDHAR,
HAILS FROM ANANTNAG DISTRICT OF KASHMIR

"The internet is down but I have been able to stay in touch with my parents. They have assured me they are safe. There are pros and cons to scrapping the special status and people will celebrate and protest according to their choice. I don't want to comment on it."

ROHIT GANJOO,
ELECTRONICS DEPARTMENT STUDENT OF
FACULTY OF TECHNOLOGY AT MSU VADODARA,
HAILING FROM BANTALAB IN JAMMU

"Yesterday he (his brother, a J&K policeman) gave me an indication and asked me not to call him until the situation is under control. I was told by my family that central forces have taken over and there is no clarity on the



Sajid Khatai runs a business in Kochi

future. If the Valley remains normal for 30 days, it should show the way the future looks. For now, everything is confusing."

SHAHID AHMED YATOO,
18-YEAR-OLD SELLING SILK SAREES IN GOA,
HAILING FROM SRINAGAR

"In 30 years of conflict in Kashmir, landline phones have never been blocked. Last night, even that happened. When you're sitting so far away from Kashmir and you don't know what's happening to your families, it's a horrifying feeling. It's like

sitting on a time bomb and waiting for it to burst."

SAJID KHATAI,
WHO ARRIVED IN KOCHI AFTER HIS UNCLE
BEGAN A BUSINESS, HAILING FROM SRINAGAR

"I last spoke to my parents on Saturday. There is no internet, calls are not going through. Nevertheless, I am not scared. I hope they are doing fine. Also, I am safe here and my parents know that."

YAWAR ALI GANAIEE,
STUDENT AT MSU VADODARA, HAILING FROM
GANDERBAL DISTRICT IN KASHMIR

"Is this (scrapping of special status) how it should be done? Shouldn't it be done through debates and discussion? There is no way to communicate with our families. We don't know what's happening, so we follow the media."

NASAR HUSSAIN, RUNS A BUSINESS IN
KOCHI, HAILING FROM SRINAGAR

ANJU AGNIHOTRI CHABA in Jalandhar,
AISHWARYA MOHANTY in Vadodara,
VISHNU VARMA in Kochi,
SMITANAI in Panaji

In Jammu, mixed reaction among Kashmiri Pandits

ARUN SHARMA
JAMMU, AUGUST 5

THE CENTRE'S move to scrap the special status of Jammu and Kashmir has left many dissatisfied among Kashmiri Pandits and refugees from Pakistan-occupied Kashmir (PoK) — from the Hindu community — in Jammu.

Although they welcomed the government's decision, many leaders of organisations representing migrant Kashmiri Pandits said the move has not opened the road for their return to the Valley — an apparent reference to their demand for a separate homeland there. Refugees from PoK called it a retrograde move that has converted a full-fledged state into a Union Territory.

Many refugees from Pakistan's Punjab - or "West Pakistan" — however expressed satisfaction at having been "liberated from 70 years of continuous discrimination".

"It is an unprecedented and historic decision and should have been done back in 1947. We hope this provision has something for us also," Dr Agnishekhar, chairman of Panun Kashmir, one of the main organisations of displaced Kashmiri Pandits, said, referring to geopolitical aspirations of the displaced community. "For us, the road for our return to home has not yet opened since our demand for a separate homeland within Kashmir Valley remains," he said. "However, it is the biggest victory for the Indian State, as a Muslim state within a secular India stands demolished today".



A group of Kashmiri Pandits celebrate in Lucknow on Monday. *Vishal Srivastav*

TK Dhar of Tripura Sundari Sanstha Devsar, Kulgam, said that although the decision is aimed at ensuring J&K's total integration with India, it has nothing for Kashmiri Pandits and it does not open the doors for return of Pandits to the Valley.

J&K National Panthers Party's chairman Harsh Dev Singh called the government's decision "half-hearted and retrograde", which has not only led to bifurcation of a full-fledged state but also converted it into a Union Territory. "They have retained Part-I of Article 370, which talks of concurrence of State Legislature in respect to making of laws by Indian Parliament in respect to J&K," he said.

Singh said the government should have scrapped all provisions of Article 370.

Leh celebrates Centre move, Kargil resentful

PRESS TRUST OF INDIA
JAMMU, AUGUST 5

THE CENTRE'S decision to bifurcate Ladakh from Jammu and Kashmir and turn the two regions into separate Union territories on Monday prompted jubilation in Leh and resentment in Kargil.

"Today is a historic day for the people of Ladakh which always faced discrimination and step-motherly treatment from successive governments in the past in funding shares and employment," BJP Lok Sabha member from Leh Jamyang Tsering Namgyal said.

Ladakh Buddhist Association president P T Kunzang, former MP Thupstan Chhewang, Congress leader and former MLA Tsering Samphel, MLC Chering Dorjay, Congress district president Tsering Namgyal and BJP president Dorjay Angchuk hailed the decision, terming it "historic".

In the neighbouring Kargil, politicians expressed resentment against the move. "It is a black day not only for Jammu and Kashmir but for the whole country. We are against the division of Jammu and Kashmir on the basis of religion, language and region," Congress rebel leader and former MLA Asgar Ali Karbalai said. He said the people of Kargil are against the decision and will launch an agitation. Sajad Hussain, who fought the Lok Sabha polls unsuccessfully with the support of National Conference and Peoples Democratic Party, said the people of Kargil want to be a part of Kashmir region.

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Prime Minister Manmohan Singh during a visit to Kashmir in 2013, seen with CM Omar Abdullah and UPA chairperson Sonia Gandhi

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Has Article 370 been scrapped?

The Constitution (Application to Jammu and Kashmir) Order, 2019, issued by President Ram Nath Kovind "in exercise of the powers conferred by Clause (1) of Article 370 of the Constitution", has not abrogated Article 370. While this provision remains in the statute book, it has been used to withdraw the special status of Jammu and Kashmir. The Presidential Order has extended all provisions of the Indian Constitution to Jammu and Kashmir. It has also ordered that references to the Sadr-i-Riyasat of Jammu and Kashmir shall be construed as references to the Governor of the state, and "references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers". This is the first time that Article 370 has been used to amend Article 367 (which deals with Interpretation) in respect of Jammu and Kashmir, and this amendment has then been used to amend Article 370 itself.

What is the status of Article 35A now?

Article 35A stems from Article 370, and was introduced through a Presidential Order in 1954. Article 35A does not appear in the main body of the Constitution — Article 35 is followed by Article 36 — but appears in Appendix I. Article 35A empowers the Jammu and Kashmir legislature to define the permanent residents of the state, and their special rights and privileges.

Monday's Presidential Order has extended all provisions of the Constitution to Jammu and Kashmir, including the chapter on Fundamental Rights. Therefore, the discriminatory provisions under Article 35A are now unconstitutional. The President may also withdraw Article 35A. This provision is currently under challenge in the Supreme Court on the ground that it could have been introduced in the Indian Constitution only through a constitutional amendment under Article 368, and not through a Presidential Order under Article 370. However, Monday's Presidential Order, too has amended Article 367 without following the amending process.

So, what has changed in Jammu and Kashmir?

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Article 3 of the Constitution gives Parliament the power to amend the Constitution by a simple majority to change the boundaries of a state, and to form a new state. But this change requires that such a Bill be first referred to the concerned state Assembly by the President for ascertaining its views. Explanation II of Article 3 says Parliament's power extends to forming Union Territories.

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accepted the presence of this compact for Kashmir. Article 370 was an essential facet of India's federalism because, like the compact in the United States, it governed the relationship of the Union with Jammu and Kashmir. The Supreme Court has held federalism to be part of the basic structure of India's Constitution.

The original draft of Article 370 was drawn up by the Government of Jammu and Kashmir. A modified version of the draft was passed in the Constituent Assembly of India on May 27, 1949. Moving the motion, N Gopalaswami Ayyangar said that if the accession was not ratified by a plebiscite, "we shall not stand in the way of Kashmir separating herself away from India".

On October 17, 1949, Article 370 was included in India's Constitution by the Constituent Assembly. Some critics of Article 370 have argued earlier that Kashmir joined India in 1947 without any conditions, and Article 370 unnecessarily gave it special status. However, the drafting of the Constitution ended on November 26, 1949 — Article 370 had been included before the Constitution was adopted.

What did the Instrument of Accession say?

The Indian Independence Act, 1947, divided British India, i.e., the territories under the direct administration of the British, into India and Pakistan. The 580-odd princely states that had signed subsidiary alliances with the British had their sovereignty restored to them, and were given the options of remaining independent, joining the Dominion of India, or joining the Dominion of Pakistan. Section 6(a) of the Act said joining either India or Pakistan would have to be

through an Instrument of Accession. States could specify the terms on which they were joining one of the new dominions. Technically, therefore, the Instrument of Accession was like a treaty between two sovereign countries that had decided to work together. The maxim of *pacta sunt servanda* in international law, which governs contracts or treaties between states, asks that promises must be honoured. Monday's Presidential Order under Article 370 is a negation of the constitutional pact that India signed with Maharaja Hari Singh.

The Maharaja, the Hindu king of a Muslim-majority state, had initially wanted to stay independent. He signed the Instrument of Accession on October 26, 1947, after Afridi tribesmen and Pakistan Army regulars invaded the state, and India agreed to help only after he acceded. The Schedule appended to the Instrument of Accession gave the Indian Parliament power to legislate for Jammu and Kashmir on only defence, external affairs and communications.

In Clause 5 of the Instrument of Accession, Hari Singh said that the terms of "my Instrument of Accession cannot be varied by any amendment of the Act or of The Indian Independence Act unless such amendment is accepted by me by an Instrument supplementary to this Instrument". In Clause 7, he said: "Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future Constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future Constitution."

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■ The Supreme Court in *SBI v Zaffar Ullah Nehru* (2016) observed that the federal structure of the Constitution is reflected in Part XXI. The court also said that J&K has a special status, and that Article 370 was not temporary. The court referred to Article 369 of Part XXI that specifically mentions the period of five years; no time limit is mentioned in Article 370. The court observed that Article 370 cannot be repealed without the concurrence of the Constituent Assembly of Jammu and Kashmir.

■ In *Prem Nath Kaul* (1959), a five-judge Bench of the Supreme Court observed that Article 370(2) shows that the continuance of the exercise of powers conferred on Parliament and the President by the relevant temporary provisions of Article 370(1) is made conditional on the final approval of the Constituent Assembly of Jammu and Kashmir.

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