

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

BUSINESS AS USUAL

By UNNY



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.

CONTINUED ON PAGE 2



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 Bhuvaneshwar Kalita resigned from Rajya Sabha. Another Congress Rajya Sabha MP, **CONTINUED ON PAGE 2**

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 **CONTINUED ON PAGE 2**

FULL REPORT INSIDE

THE NEW J&K ORDER

- PAGES 8, 9 GOVERNOR REVIEWS SECURITY, STRESSES ON NEED TO ENSURE PUBLIC SERVICES
- INDIA BRIEFS UNSC, PAK SUMMONS DELHI ENVOY AND CALLS SPECIAL SESSION TODAY

THE EXPLAINED PAGE

WHAT HAS CHANGED IN JAMMU & KASHMIR... AND WHAT IT MEANS FOR INDIA
PAGE 10, 11

THE EDITORIAL PAGE

BLOOD & BETRAYAL
BY PRATAP BHANU MEHTA
PAGE 12

THE IDEAS PAGE

CORRECTING A HISTORIC BLUNDER
BY RAM MADHAV
PAGE 13



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 **CONTINUED ON PAGE 2**

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, **CONTINUED ON PAGE 2**

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 **CONTINUED ON PAGE 2**

Valley locked down; Omar, Mehbooba, Lone locked up

DEEPTIMANTIWARY

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 **CONTINUED ON PAGE 2**

AUGUST 15, 1947

The Indian Independence Act, 1947, divided British India into India and Pakistan. The princely states were given three options - to remain independent, or join Dominion of India or Dominion of Pakistan. Jammu & Kashmir's Maharaja Hari Singh opted to remain independent.

Maharaja Hari Singh initially opted for an independent J&K, later acceded the state to India



OCTOBER 26, 1947

Hari Singh eventually signed Instrument of Accession with India. The decision was forced on him by the invasion of tribesmen from the Northwest Frontier Province, supported by Pakistan. The Maharaja sought military help from India, which sought accession in return.

2014-2018

Poles apart in ideology, PDP and BJP allied to form a government, first with Mufti Mohd Sayeed as CM, who was succeeded by his daughter Mehbooba following his death. The killing of militant Burhan Wani led to unrest in the Valley, the alliance strained, and Mehbooba eventually resigned in 2018.



Mehbooba Mufti took over as CM following her father's death. The uncharacteristic alliance between PDP and BJP eventually snapped.

2004-2014

The Manmohan Singh years, marked by the appointment of interlocutors for J&K in 2010 (Dilip Padgaonkar, M M Ansari, Radha Kumar); a meeting between the PM and Pakistan President Pervez Musharraf in New York in 2006; and unrest in 2008 over transfer of land to the Amarnath Shrine Board.



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

APRIL 2003

PM Atal Bihari Vajpayee made his frequently quoted speech in Lok Sabha, after a visit to J&K. "I stressed that the gun can solve no problem; brotherhood can. Issues can be resolved if we move forward guided by the three principles of *Insaniyat, Jamhooriyat* and *Kashmiriyat*."



FAIZAN MUSTAFA

THE BJP on Monday fulfilled its election promise of removing the special status for Jammu and Kashmir in India's Constitution. Special status was withdrawn by invoking the same Article 370 which had been seen as fire-walling the autonomy of Jammu and Kashmir. What are the constitutional issues in - and arising out of - this development? What will change in the state and the country? What can be the basis of a possible legal challenge to the decision of the government?

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?

Rajya Sabha on Monday approved The Jammu and Kashmir Reorganisation Bill, 2019. The Bill will come up in Lok Sabha on Tuesday, and is expected to pass easily. In effect, the state of Jammu and Kashmir will now cease to exist; it will be replaced by two new Union Territories: Jammu and Kashmir,



With Nehru by his side, Sheikh Abdullah announces in Srinagar that Jammu and Kashmir and India would be one. Express Archive

and Ladakh. UTs have become states earlier; this is the first time that a state has been converted into a UT. The UT of Jammu and Kashmir will have an Assembly, like in Delhi and Puducherry.

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.

Not only has Jammu and Kashmir lost its special status, it has been given a status lower than that of other states. Instead of 29, India will now have 28 states. Kashmir will no longer have a Governor, rather a Lieutenant Governor like in Delhi or Puducherry.

It is also likely that corporates and individuals will be able to buy land in Jammu and Kashmir. Non-Kashmiris might now get jobs in Kashmir. A process of demographic change might begin, and progress over the coming decades.

What is the significance of Article 370?

The most important feature of federalism in the United States was the "compact" between the 13 erstwhile British colonies that constituted themselves first into a confederation and then into a federal polity under the country's 1791 constitution. India's Supreme Court in *State of West Bengal v. Union of India* (1962) attached the highest importance to an "agreement or compact between states" as an essential characteristic of federalism. In *SBI* (2016), the apex court

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."

Article 370 was a constitutional recognition of the conditions mentioned in the Instrument of Accession, and reflected the

contractual rights and obligations of the two parties.

But wasn't Article 370 just a temporary provision?

Article 370 is the second Article of Part XXI of India's Constitution, which is titled "Temporary, Transitional and Special Provisions". Article 370 was temporary in the sense that the Constituent Assembly of Jammu and Kashmir was given the right to modify/delete/retain it. The Constituent Assembly of Kashmir decided in its wisdom to retain it.

The other view was that it was "temporary" until a plebiscite had been held to ascertain the wishes of the people of Jammu and Kashmir. In a written reply to Parliament last year, the government had said there was no proposal to remove Article 370.

In *Kumari Vijayalakshmi Jha vs Union of India* (2017), Delhi High Court rejected a petition that argued that Article 370 was temporary, and that its continuation was a fraud on the Constitution.

In April 2018, the Supreme Court said that the word "temporary" in the headnote notwithstanding, Article 370 was not temporary.

In *Santosh Kumar* (2017), the apex court said that due to historical reasons, Jammu and Kashmir had a special status.

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.

In *Sampat Prakash* (1968), the apex court decided that Article 370 could be invoked even after the dissolution of the Constituent Assembly of Jammu and Kashmir. "Article 370 has never ceased to be operative," the five-judge Bench said.

The Resolution moved in Rajya Sabha by the Home Minister (and passed by the House) states that Monday's Presidential Order will be notwithstanding any treaty, agreement, Instrument of Accession, court decisions, law, rules, custom or usage, etc.

What is the reason for the secrecy, lockdown in Kashmir?

The unprecedented security deployment, detention of political leaders in their homes, and the snapping of communication links suggest the government anticipates mass protests. A decision to overturn the very basis of the accession of Jammu and Kashmir has been taken without consultation or negotiation, at a time when the state does not have a popularly elected government. The Presidential Order states that state government's concurrence has been taken; it probably means the concurrence of the Governor, who is a nominee of the central government.

CONTINUED ON PAGE 11

1999

Kargil War, May to July. Pakistani troops and militants had infiltrated through the Line of Control, before India recaptured its positions. It followed the wars of 1947, 1965 and 1971 between the two countries, of which only 1971 was not over Kashmir.

Prime Minister Atal Bihari Vajpayee with soldiers during the Kargil War in 1999. Express Archive



1990

A J&K 2008 police report states that 1989 onwards, militants killed 209 Kashmiri Pandits, 109 in 1990 alone. This was the year leading to the exodus of Kashmiri Pandits. Schofield's book puts the number of Hindus who left the Valley at 1.4 lakh in the beginning of March.

AUGUST 15, 1947

The Indian Independence Act, 1947, divided British India into India and Pakistan. The princely states were given three options - to remain independent, or join Dominion of India or Dominion of Pakistan. Jammu & Kashmir's Maharaja Hari Singh opted to remain independent.

Maharaja Hari Singh initially opted for an independent J&K, later acceded the state to India



OCTOBER 26, 1947

Hari Singh eventually signed Instrument of Accession with India. The decision was forced on him by the invasion of tribesmen from the Northwest Frontier Province, supported by Pakistan. The Maharaja sought military help from India, which sought accession in return.

2014-2018

Poles apart in ideology, PDP and BJP allied to form a government, first with Mufti Mohd Sayeed as CM, who was succeeded by his daughter Mehbooba following his death. The killing of militant Burhan Wani led to unrest in the Valley, the alliance strained, and Mehbooba eventually resigned in 2018.



Mehbooba Mufti took over as CM following her father's death. The uncharacteristic alliance between PDP and BJP eventually snapped.

2004-2014

The Manmohan Singh years, marked by the appointment of interlocutors for J&K in 2010 (Dilip Padgaonkar, M M Ansari, Radha Kumar); a meeting between the PM and Pakistan President Pervez Musharraf in New York in 2006; and unrest in 2008 over transfer of land to the Amarnath Shrine Board.



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

APRIL 2003

PM Atal Bihari Vajpayee made his frequently quoted speech in Lok Sabha, after a visit to J&K. "I stressed that the gun can solve no problem; brotherhood can. Issues can be resolved if we move forward guided by the three principles of *Insaniyat, Jamhooriyat* and *Kashmiriyat*."



FAIZAN MUSTAFA

THE BJP on Monday fulfilled its election promise of removing the special status for Jammu and Kashmir in India's Constitution. Special status was withdrawn by invoking the same Article 370 which had been seen as fire-walling the autonomy of Jammu and Kashmir. What are the constitutional issues in - and arising out of - this development? What will change in the state and the country? What can be the basis of a possible legal challenge to the decision of the government?

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?

Rajya Sabha on Monday approved The Jammu and Kashmir Reorganisation Bill, 2019. The Bill will come up in Lok Sabha on Tuesday, and is expected to pass easily. In effect, the state of Jammu and Kashmir will now cease to exist; it will be replaced by two new Union Territories: Jammu and Kashmir,



With Nehru by his side, Sheikh Abdullah announces in Srinagar that Jammu and Kashmir and India would be one. Express Archive

and Ladakh. UTs have become states earlier; this is the first time that a state has been converted into a UT. The UT of Jammu and Kashmir will have an Assembly, like in Delhi and Puducherry.

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.

Not only has Jammu and Kashmir lost its special status, it has been given a status lower than that of other states. Instead of 29, India will now have 28 states. Kashmir will no longer have a Governor, rather a Lieutenant Governor like in Delhi or Puducherry.

It is also likely that corporates and individuals will be able to buy land in Jammu and Kashmir. Non-Kashmiris might now get jobs in Kashmir. A process of demographic change might begin, and progress over the coming decades.

What is the significance of Article 370?

The most important feature of federalism in the United States was the "compact" between the 13 erstwhile British colonies that constituted themselves first into a confederation and then into a federal polity under the country's 1791 constitution. India's Supreme Court in *State of West Bengal v. Union of India* (1962) attached the highest importance to an "agreement or compact between states" as an essential characteristic of federalism. In *SBI* (2016), the apex court

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."

Article 370 was a constitutional recognition of the conditions mentioned in the Instrument of Accession, and reflected the

contractual rights and obligations of the two parties.

But wasn't Article 370 just a temporary provision?

Article 370 is the second Article of Part XXI of India's Constitution, which is titled "Temporary, Transitional and Special Provisions". Article 370 was temporary in the sense that the Constituent Assembly of Jammu and Kashmir was given the right to modify/delete/retain it. The Constituent Assembly of Kashmir decided in its wisdom to retain it.

The other view was that it was "temporary" until a plebiscite had been held to ascertain the wishes of the people of Jammu and Kashmir. In a written reply to Parliament last year, the government had said there was no proposal to remove Article 370.

In *Kumari Vijayalakshmi Jha vs Union of India* (2017), Delhi High Court rejected a petition that argued that Article 370 was temporary, and that its continuation was a fraud on the Constitution.

In April 2018, the Supreme Court said that the word "temporary" in the headnote notwithstanding, Article 370 was not temporary.

In *Santosh Kumar* (2017), the apex court said that due to historical reasons, Jammu and Kashmir had a special status.

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.

In *Sampat Prakash* (1968), the apex court decided that Article 370 could be invoked even after the dissolution of the Constituent Assembly of Jammu and Kashmir. "Article 370 has never ceased to be operative," the five-judge Bench said.

The Resolution moved in Rajya Sabha by the Home Minister (and passed by the House) states that Monday's Presidential Order will be notwithstanding any treaty, agreement, Instrument of Accession, court decisions, law, rules, custom or usage, etc.

What is the reason for the secrecy, lockdown in Kashmir?

The unprecedented security deployment, detention of political leaders in their homes, and the snapping of communication links suggest the government anticipates mass protests. A decision to overturn the very basis of the accession of Jammu and Kashmir has been taken without consultation or negotiation, at a time when the state does not have a popularly elected government. The Presidential Order states that state government's concurrence has been taken; it probably means the concurrence of the Governor, who is a nominee of the central government.

CONTINUED ON PAGE 11

1999

Kargil War, May to July. Pakistani troops and militants had infiltrated through the Line of Control, before India recaptured its positions. It followed the wars of 1947, 1965 and 1971 between the two countries, of which only 1971 was not over Kashmir.

Prime Minister Atal Bihari Vajpayee with soldiers during the Kargil War in 1999. Express Archive



1990

A J&K 2008 police report states that 1989 onwards, militants killed 209 Kashmiri Pandits, 109 in 1990 alone. This was the year leading to the exodus of Kashmiri Pandits. Schofield's book puts the number of Hindus who left the Valley at 1.4 lakh in the beginning of March.



@ieExplained #ExpressExplained

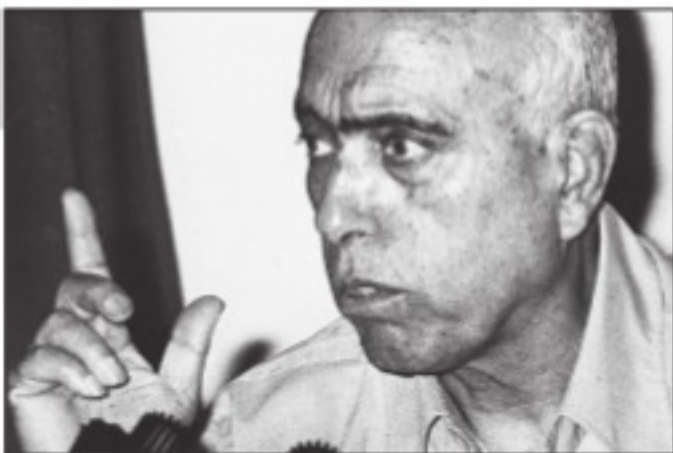
If there are questions of current or contemporary relevance that you would like explained, please write to explained@indianexpress.com

JANUARY 26, 1950

Indian Constitution comes into effect. Provisions (other than Article 1 and Article 370) could apply to J&K "subject to such exceptions and modifications as the President may by order specify", with concurrence of the state government and endorsement of the J&K Constituent Assembly.

AUGUST 9, 1953

Sheikh Abdullah, Prime Minister of J&K, arrested, his government dismissed. The arrest was ordered by PM Jawaharlal Nehru and the charge slapped on him was that he had lost the confidence of the cabinet. He was jailed for 11 years; the Congress later patched up with him.



AUGUST 9, 1953

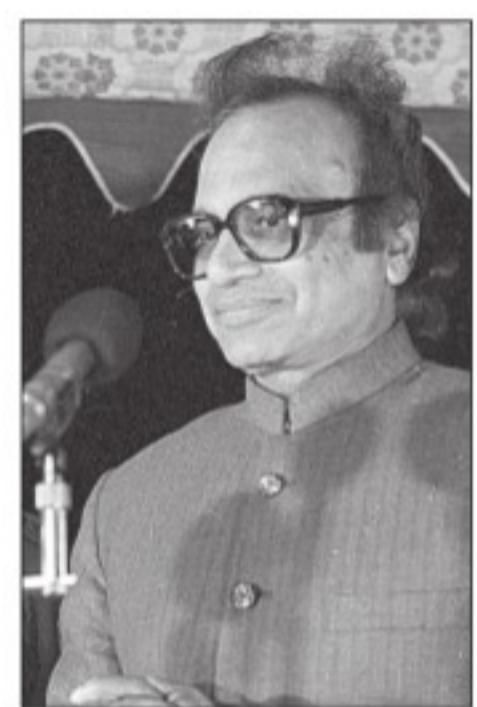
Sheikh Abdullah, Prime Minister of J&K, arrested, his government dismissed. The arrest was ordered by PM Jawaharlal Nehru and the charge slapped on him was that he had lost the confidence of the cabinet. He was jailed for 11 years; the Congress later patched up with him.

MAY 14, 1954

Presidential Order introduced Article 35A, which protected laws passed by the state legislature regarding Permanent Residents from any challenge on the ground that they were in violation of the Fundamental Rights. The PM of J&K became Chief Minister.

FEBRUARY 24, 1975

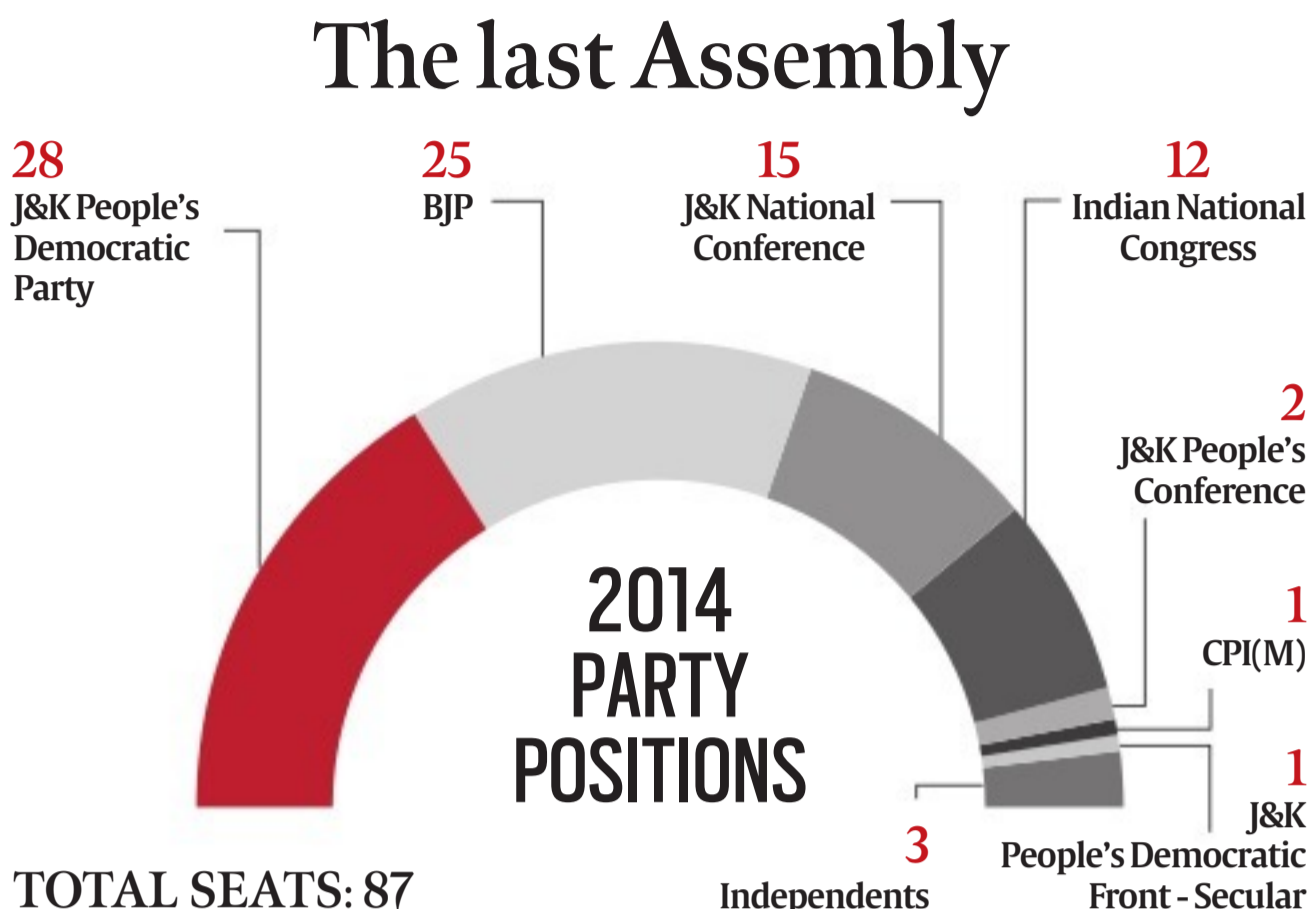
Indira Gandhi-Sheikh Abdullah Accord. "The State of Jammu and Kashmir which is a constituent unit of the Union of India, shall, in its relation with the Union, continue to be governed by Article 370 of the Constitution of India," it stated.



Governor Jagmohan served during key periods, coinciding with Farooq Abdullah's tenure as CM and the beginning of militancy in the Valley. The 1987 election, which returned Farooq to power with Congress support, is seen as rigged and as a turning point leading to militancy.

MARCH 23, 1987

An election widely seen as rigged, and seen as a turning point leading to militancy. Dismissed as CM in 1984 and replaced with his brother-in-law (with Congress support), Farooq Abdullah was reinstated after the 1987 polls, again with Congress support.



- DEC 23, 2014:** National Conference government of Omar Abdullah lost power
- MAR 1, 2015:** Mufti Mohammad Sayeed sworn in as Chief Minister of PDP- BJP government
- JAN 7, 2016:** Mufti Mohammad Sayeed passed away
- APR 4, 2016:** Mehbooba Mufti sworn in as Chief Minister of PDP- BJP government
- JUN 19, 2018:** PDP-BJP ruling coalition fell apart
- NOV 21, 2018:** J&K Assembly was dissolved

...and what the govt's move could lead to

CONTINUED FROM PAGE 10

Didn't Congress governments too misuse Article 370?

Yes, they did. A number of Presidential Orders were issued against the letter and spirit of the Instrument of Accession. By the Presidential Order of 1954, almost the entire Constitution (including most constitutional amendments) was extended to Jammu and Kashmir. Ninety-four out of the 97 entries in the Union List are today applicable to Jammu and Kashmir as to any other state. Two hundred and sixty out of the 395 Articles of the Constitution have been extended to the state. Seven out of the 12 Schedules of the Constitution of India too, have been extended to Jammu and Kashmir.

Over the years, the central government has used Article 370 to amend a number of provisions of the Jammu and Kashmir constitution, even though that was not the power given to it under this Article of the Constitution of India. Article 370 had a limited mandate to extend the applicability of the Constitution of India to Jammu and Kashmir.

Thus, Article 356 (on the imposition of President's Rule in the states) was extended to Jammu and Kashmir, even though a similar provision was already there in Article 92 of Jammu and Kashmir's constitution. To change the provision in the Jammu and Kashmir constitution regarding the Governor being elected by the state Assembly, Article 370 was used to convert the position into a nominee of the President.

Governors have proved to be the Centre's agents in the state. Monday's Order has now extended the remaining Articles of the Constitution after withdrawing all the earlier Orders.

Why didn't governments before this take such a step?

Nehru probably lacked the political will, and wanted to honour the constitutional pact with Maharaja Hari Singh. He also had a sentimental connection with Kashmir. Atal Bihari Vajpayee's idea was that of the healing touch — in the form of *Kashmiriyat*,

Insaniyat and Jamhooriyat. The first Modi government was in an alliance with the PDP in Jammu and Kashmir till 2018. The Home Minister has said that once peace returns and the situation improves, the government will restore statehood to Jammu and Kashmir.

Can the Presidential Order be challenged in the Supreme Court? On what grounds?

It will most likely be challenged. However, the Supreme Court will consider that Article 370 does, indeed, give sweeping powers to the President. It might also take two to three years for a Constitution Bench of the court to decide such a challenge.

The possible grounds of challenge could include the argument that the conversion of Jammu and Kashmir into a Union Territory is in violation of Article 3, as the Bill was not referred by the President to the state Assembly. Also, can the Constituent Assembly mean Legislative Assembly? Are the Governor and the state government one and same? The constitutional relevance of Instrument of Accession will also be examined by the court. Whether Article 370 was part of the basic structure will likely be considered. The use of Article 367 in amending Article 370 will also be examined.

So, is Kashmir now fully integrated with India?

Article 3 of the Jammu and Kashmir constitution itself declares the state to be an integral part of India. In the preamble of the Jammu and Kashmir constitution, not only is there no claim to sovereignty like in the Constitution of India, there is, rather, a categorical acknowledgment that the object of the Jammu and Kashmir constitution is "to further define the existing relationship of the state with the Union of India as its integral part thereof".

Integration thus, was already complete. Article 370 merely gave some autonomy to Jammu and Kashmir, which has now been withdrawn.

(Prof Faizan Mustafa is an expert of constitutional law. These are his personal views)

Article of faith: History of the RSS and BJP opposition to 370

SHYAMLAL YADAV
NEW DELHI, AUGUST 5

THE UNION government's move to strip the special status of Jammu & Kashmir was one of the three core issues of the Rashtriya Swayamsevak Sangh. The other two issues were the Common Civil Code and the Ram Temple.

On Monday, RSS Sarsangchalak Mohan Bhagwat "congratulated the courageous step taken by the government" and said that it "was very necessary not just for Jammu and Kashmir but (also) for the whole nation. Everyone should rise above political interest and difference and support the initiative".

The RSS has always held that "Article 370 is a provision to break Kashmir from Bharat", and it has always demanded the removal of Article 370 of the Indian Constitution. A total of 51 resolutions on Kashmir have been passed in the annual meetings of the Akhil Bhartiya Karyakari Mandal (ABKM), Akhil Bhartiya Pratidinhi Sabha (ABPS) and the Kendriya Karyakari Mandal (KKM) since the early fifties, and a majority of them have demanded the scrapping of Article 370. Even though Article 370 has not been scrapped, the end result — the removal of special treatment for J&K — has been achieved by the government on Monday.

As far as the division of the state is concerned, the RSS supported the idea in 1995 when it demanded in its resolution that the Jammu region "be granted an autonomous council". Later, in 2002, the RSS passed a resolution to divide the state.

1952: The first resolution on J&K was passed in a meeting of the RSS's KKM in which it condemned the "Pak-American Pact" and said that the "open aggression in Kashmir" was still on.

1953: J&K Praja Parishad, an organisation formed by the late Bharatiya Jana Sangh leader Balraj Madhok, started a movement for "complete integration" through a resolution at the ABPS. Later, Syama Prasad Mookerjee, the founder president of the Bharatiya Jana Sangh, who was protesting the special status of J&K, died in mysterious circumstances in a Srinagar jail on June 23, 1953. During his last agitation against Article 370, the BJS's main slogan was: "*Ek desh me do vidhan, do pradhan, do nishan, nahi chalega, nahi chalega* (One country cannot have two



Prime Minister Narendra Modi pays tributes to Dr Syama Prasad Mookerjee on his birth anniversary in Parliament House last year.

constitutions, two Prime Ministers, and two flags)".

1964: A resolution of the ABPS, titled "Bharat's Kashmir Policy," stated that "Article 370, which was incorporated in our Constitution as a temporary provision on Kashmir, must be immediately repealed and the state brought in line with the other states".

1982: The J&K government passed a Resettlement Bill, which sought to enable all Kashmiri Muslims who had migrated to Pakistan to return to Kashmir and acquire Indian citizenship. After that, the ABKM of the RSS passed a resolution that reiterated that the J&K Assembly is using Article 370 to achieve separatist and communal ends, and that the Article should be scrapped.

1984: The ABKM passed a resolution stating Article 370 was "being used to fan

Sheikh Abdullah, Ayyangar, Sardar Patel: How Article 370 was negotiated, debated

SEEMA CHISHTI
NEW DELHI, AUGUST 5

IN JULY 1949, Sheikh Abdullah and three others were nominated by the ruler of Jammu & Kashmir to the Constituent Assembly in Delhi. They negotiated the special status of J&K, leading to the adoption of Article 370. (It was Article 306A while being debated in the Constituent Assembly.) The negotiations were carried out over several months between N Gopalaswami Ayyangar (cabinet minister without portfolio and former Dewan of Kashmir) and Sheikh Abdullah and others.

The first meetings were held during May 15-16, 1949 at Sardar Vallabhbhai Patel's residence with PM Jawaharlal Nehru present. When Ayyangar prepared a draft letter from Nehru to Abdullah summarising the broad understanding reached, he sent it to Patel with a note: "Will you kindly let Jawaharlalji know direct as to your approval of it? He will issue the letter to Sheikh Abdullah only after receiving your approval."

Ayyangar, who eventually drafted Article 370, spoke in the Constituent

Assembly on October 17, 1949: "We have also agreed that the will of the people, through the instrument of the Constituent Assembly, will determine the Constitution of the State as well as the sphere of the Union's jurisdiction of the state... You will remember that several of these clauses provide for the concurrence of the Jammu & Kashmir state. Now these relate particularly to the matters not mentioned in the Instrument of Accession and it is one of our commitments to the people and the Government of Kashmir that no such additions should be made except with the consent of the Constituent Assembly which may be called in the state for framing its Constitution."

Later, Abdullah insisted that the Article should not extend the Fundamental Rights and Directive Principles to Jammu and Kashmir, but leave it to the state's Constituent Assembly to decide whether or not to adopt them. Patel was unhappy but allowed Ayyangar to proceed. Nehru was abroad then; Patel wrote to him on November 3, 1949: "After a great deal of discussion, I could persuade the [Congress] party to accept". When Sheikh Abdullah threatened to resign from the Constituent

Assembly, Patel asked Nehru to get him back on board.

In November 1963, in a debate in Parliament, when Hari Vishnu Kamath argued that Kashmir was "not fully" integrated, Nehru asserted that it was, indeed, "fully integrated" with India. He said: "The House will remember that we have some such restrictions with respect to NEFA and other places; outsiders cannot buy land. This is also in some other districts, the hill districts of Assam. This is to protect them."

Former MP Karan Singh, son of Maharaja Hari Singh, wrote in *An Examined Life*: "The right wing seems to resent that J&K carries a special status. That has always surprised me. We are a great country, we should be large-hearted. J&K came to India under complex and difficult circumstances. Now after all these years to ask why it holds a special position is baffling. It will always be special because it was born out of a special historical event and subsequent political developments. In England they have all sorts of governing systems... we should feel so lucky that J&K, a Muslim-majority state became a part of India despite the religion-led Partition. Cherish that; relish that; honour that."

JANUARY 1990

New Delhi reappointed former Governor Jagmohan. Following raids on people's houses, a crowd protested at Srinagar's Gawakadal Bridge. CRPF troops fired on unarmed protesters. Over 100 died, Schofield writes. The state came under Governor's Rule in February.



Mufti Mohammad Sayeed (centre) was made Union Home Minister by PM V P Singh (left)

1989

That year marked the real beginning of insurgency, writes historian Victoria Schofield (*Kashmir in Conflict*). Strikes were frequent, many militant groups emerged. Days after Mufti Mohd Sayeed had been appointed Union Home Minister, his daughter Rubaiya was kidnapped.



NO-DEAL PLANNING

Boris's game of chicken

Preparing for no deal is a paradoxical process



British Prime Minister Boris Johnson, with farmer Ingrid Shervington, holds a chicken at Shervington Farms near Newport, South Wales, on July 30. AP

THE RULES OF chicken are simple: two parties hurtle towards each other at speed and the first to move out of the way—the chicken—loses. After posing with feathered friends at a poultry farm in Wales, Boris Johnson, the new prime minister, made it clear that he would not be the first to swerve.

Mr Johnson demands that the EU bin the Irish backstop agreed on as part of the deal reached with Theresa May, his predecessor. The EU has repeatedly ruled this out. If they can't compromise, he squawked, "if they really can't do it, then clearly we have to get ready for a no-deal exit." The game may play itself out in many different ways before October 31st, the date on which Mr Johnson is committed to leaving the EU.

Crucial to winning the game is to appear determined not to chicken out. Brexiteers say that the EU never really believed Mrs May's "no deal is better than a bad deal" line, which weakened Britain's negotiating hand. Mr Johnson has gone all-out to show that he means it.

Sajid Javid, the new chancellor, has pledged an extra £2bn (\$2.5bn) for no-deal preparations, on top of the £4bn-odd that Philip Hammond, his predecessor, set aside. Some £100m will be spent on adverts warning the public and businesses to prepare for the worst. Michael Gove, who led the Vote Leave campaign with Mr Johnson in 2016, meets top officials daily to orchestrate "no-deal" preparations. Add the magic words "no deal" to any spending request and it will find its way to the chancellor's desk almost immediately, says an aide.

Yet when it comes to no-deal preparations, separating theatre from reality is tricky. Beneath the fresh bluster, in most departments preparations involve blowing the dust off old plans. Britain has been here before. In March and April, the last time a no-deal exit loomed, departments were running 24-hour response units. According to the Institute for Government (IFG), 16,000 civil servants were beavering away on Brexit plans.

Some progress has been made since.

Earlier this month the Bank of England noted that "UK-based firms have made further preparations to be able to serve EU clients" in the event that Britain leaves without a deal. It does not expect lending to firms and households to seize up. An upgraded customs system, needed to handle the large number of customs declarations that will have to be made once tariffs are in place, was not ready for March or April, but will now be partly in place by October.

A lot more still needs to be done. By dint of its EU membership Britain has around 40 free-trade deals with non-EU countries. The government has said that it wants to reach bilateral agreements with these countries, so that the agreements roll over even if Britain leaves the EU without a deal. So far it has managed to roll over less than half. Britain has made even less progress on other international agreements to which it is party through its EU membership, including on nuclear research and competition.

Yet there is only so much the government

can do. Most of the issues thrown up by a no-deal Brexit are inherently bilateral, requiring the EU to play nice, points out Anand Menon of UK in a Changing Europe, a think-tank. Britain may throw open the port at Dover, for instance, but it would be for naught if officials in Calais enforce checks. The Confederation of British Industry says that the EU's preparations lag behind Britain's. And while the government will determine the route Britain takes out of the EU, it is businesses that will feel the effects, and that must take action to mitigate them. But "businesses do not want to," says Sam Lowe, a researcher at the Centre for European Reform, another think-tank. "They want government to bear this cost."

Kicking business into action is harder than it looks. The first problem is Duke of York syndrome. Some firms put in place contingency measures the last time a no-deal exit loomed. Many felt that their money was wasted. "Marching them back up the hill again will be a challenge," said Martin McTague, from the Federation of Small Businesses, a lobby group,

especially when Mr Johnson himself said during his campaign to become prime minister that no-deal has a "million to one" chance of happening. "The million-to-one line will resonate more than a technical notice or a bill-board from government saying 'get ready,'" says Joe Owen of the IFG.

Second, scaring business into action sits uneasily with Mr Johnson's pathological optimism. A description of the threat of no-deal alarming enough to get business to prepare energetically would frighten the horses; too rosy an account of the future and people will not prepare.

The markets, at least, are taking seriously the government's apparent determination to leave with or without a deal. In Mr Johnson's first week as prime minister the pound fell by 3% on a trade-weighted basis. It is nearing \$1.20 against the dollar, its lowest level since the referendum.

The government hopes that talk of a big fiscal boost will counterbalance the gloom. It is said to be planning an autumn budget that

would get the economy "going gangbusters" by exit day. Mr Johnson has floated various giveaways, including raising the thresholds at which people start to pay the higher rate of income tax and more money for the NHS and police. At the poultry farm he promised to compensate farmers who lose out from any no-deal disruption.

Yet Britain will not be able to spend its way out of no-deal chaos. In such an event, annual borrowing would anyway rise by some £30bn (1.4% of GDP) as the economy slowed, official estimates suggest. A government which promised lots of extra spending and tax cuts on top of that would test the confidence of investors. And a no-deal Brexit is likely to be primarily a shock to the supply side of the economy. Fiscal stimulus aimed at supporting demand would do nothing to help bottlenecks at Dover or firms that were no longer legally allowed to sell into the eumarket. Not all types of chicken come cheap.

©The Economist Newspaper Limited 2019

DIGITAL PAYMENTS

The dash from cash

Rich countries must start planning for a cashless future

FOR THE past 3,000 years, when people thought of money they thought of cash. From buying food to settling bar tabs, day-to-day dealings involved creased paper or clinking bits of metal. Over the past decade, however, digital payments have taken off—tapping your plastic on a terminal or swiping a smartphone has become normal. Now this revolution is about to turn cash into an endangered species in some rich economies. That will make the economy more efficient—but it also poses new problems that could hold the transition hostage.

Countries are eliminating cash at varying speeds. But the direction of travel is clear, and in some cases the journey is nearly complete. In Sweden the number of retail cash transactions per person has fallen by 80% in the past ten years. Cash accounts for just 6% of purchases by value in Norway. Britain is probably four or six years behind the Nordic countries. America is perhaps a decade behind. Outside the rich world, cash is still king. But even there its dominance is being eroded. In China digital payments rose from 4% of all payments in 2012 to 34% in 2017.

Cash is dying out because of two forces. One is demand—younger consumers want payment systems that plug seamlessly into their digital lives. But equally important is

that suppliers such as banks and tech firms (in developed markets) and telecoms companies (in emerging ones) are developing fast, easy-to-use payment technologies from which they can pull data and pocket fees. There is a high cost to running the infrastructure behind the cash economy—ATMs, vans carrying notes, tellers who accept coins. Most financial firms are keen to abandon it, or deter old-fashioned customers with hefty fees.

In the main the prospect of a cashless economy is excellent news. Cash is inefficient. In rich countries, minting, sorting, storing and distributing it is estimated to cost about 0.5% of GDP. But that does not begin to capture the gains. When payments dematerialise, people and shops are less vulnerable to theft. Governments can keep closer tabs on fraud or tax evasion. Digitalisation vastly expands the playground of small businesses and sole traders by enabling them to sell beyond their borders. It also creates a credit history, helping consumers borrow.

Yet set against these benefits are a bundle of worries. Electronic payment systems may be vulnerable to technical failures, power blackouts and cyber-attacks—this week Capital One, an American bank, became the latest firm to be hacked. In a cashless economy the poor, the elderly and

country folk may be left behind. And eradicating cash, an anonymous payment method, for a digital system could let governments snoop on people's shopping habits and private titans exploit their personal data.

These problems have three remedies. First, governments need to ensure that central banks' monopoly over coins and notes is not replaced by private monopolies over digital money. Rather than letting a few credit-card firms have a stranglehold on the electronic pipes for digital payments, as America may yet allow, governments must ensure the payments plumbing is open to a range of digital firms which can build services on top of it. They should urge banks to offer cheap, instant, bank-to-bank digital transfers between deposit accounts, as in Sweden and the Netherlands. Competition should keep prices low so that the poor can afford most services, and it should also mean that if one firm stumbles others can step in, making the system resilient.

Second, governments should maintain banks' obligation to keep customer information private, so that the plumbing remains anonymous. Digital firms that use this plumbing to offer services should be free to monetise transaction data, through, for example, advertising, so long as their business



A shopkeeper swipes a customer's debit card at an electronics goods store in Kolkata. Reuters

model is made explicit to users. Some customers will favour free services that track their purchases; others will want to pay to be left alone.

Last, the phase-out of cash should be gradual. For a period of ten years, banks

should be obliged to accept and distribute cash in populated areas. This will buy governments time to help the poor open bank accounts, educate the elderly and beef up internet access in rural areas. The rush towards digital money is the result of spontaneous

demand and innovation. To pocket all the rewards, governments need to prepare for the day when crumpled bank notes change hands for the last time.

©The Economist Newspaper Limited 2019

India name full-strength squad for 'not a regular tie'

SHAHID JUDGE
MUMBAI, AUGUST 5

THE ALL INDIA Tennis Association (AITA) has announced a virtually full-strength squad for the historic Davis Cup tie in Pakistan, their first in 55 years. For the four singles rubbers, they have named India's highest-ranked players - Prajnesh Gunneswaran (90) and Ramkumar Ramanathan (184).

Saketh Myneni (271) has also been included as the third-highest ranked singles player Sumit Nagal (196) is unavailable for selection due to an ankle injury. Meanwhile, the doubles rubber will be played by the country's top two specialists Rohan Bopanna (46) and Divij Sharan (47). World no. 292 Sasikumaran Mukund has been named as a reserve player. "Straightforward" and "full-strength" is how team coach and selection committee member Zeeshan Ali described the squad named for the tie.

"The good news for us is that all our top players have come forward to play in this tie despite the security concerns they had initially," Ali says. "The fact that all the players have agreed to go means that they're satisfied with all the security arrangements the hosts and the ITF (International Tennis Federation) have assured."

At stake in the upcoming September 14-15 tie is a spot in the World Group playoffs next year. India has reached that stage six consecutive times starting from the 2014 season. For a seventh shot at making it to the World Group, India, the clear favourites, will need to get the better of 39-year-olds Aisam-Ul-Haq Qureshi and Aqeel Khan. Ali, however, asserts that the tie can get



Prajnesh Gunneswaran, India's highest-ranked singles player, has been named in the squad.

tough for the visitors.

"They (Qureshi and Khan) will be playing at home, and they've done well at home to pull off wins in their last few ties," Ali says. "Yes, they are 39, but in best-of-three matches, as opposed to best-of-five, it's a bit more level. We're to play on grass courts, which are quick and it takes just one break of serve to dictate the result of a set. So we definitely cannot take this lightly, which makes it important that we have a full squad."

Ever since the ITF lifted the ban, that disallowed Pakistan hosting Davis Cup ties, in 2017, the Pakistan team has played five ties at home, winning four - including a walkover against Hong Kong.

In preparation for the trip to Pakistan, India's non-playing captain Mahesh Bhupathi and Ali are yet to devise a plan for a possible training camp. Ever since Bhupathi took charge of the team in 2017, the team has held training camps ahead of each away tie to help the players acclimatise.

This time around, though, a camp isn't a certainty.

"The problem is that the tie will be close to the US Open which will end a week before the tie. So a lot depends on how far the players reach at the major, and then how quickly they can get back to New Delhi where we will assemble," Ali explains. "Unfortunately, there are no direct flights to Pakistan, which means we will probably have to go to Dubai and then fly into Islamabad. It's unfortunate, because it could have been maybe a one-hour flight, but now it becomes around 11 hours."

Having the best Indian players available for the tie, though, does give the Indians an upper hand. Compared to the five Indians, Pakistan's highest-ranked singles player is Ahmed Choudhary at 1,378, and the second-highest doubles player (Qureshi is the highest at 55) is M. Abid Ali Khan Akbar, ranked 1,588.

But this is no 'regular tie' for the Indians, as Ali describes it. "We

needed to have the best team available because there will be other elements involved, given the nature of this draw."

Iyer named manager

For the upcoming tie in Pakistan, the AITA has appointed a separate manager to accompany the team.

The role has been given to Sunder Iyer, executive committee member of the association, and secretary general of the Maharashtra State Lawn Tennis Association (MSLTA) - the body that organises the Pune Challenger and India's only ATP event, the Tata Open Maharashtra.

Iyer's tasks will include dealing with the local authorities, handling logistics and the media.

"Earlier, I used to handle these things along with the coaching," says Ali. "But this is not a regular tie. So it's good that at least we will have someone to specialise in this."

Vol LXXXVII No. 229 Regd.No. DL-21046/03-05

R.N.I. No.506/57. Printed and Published by R.C. Malhotra on behalf of The Indian Express (P) Limited and Printed at The Indian Express (P) Limited Press, A-8, Sector-7, Noida - 201301 and Published at The Indian Express (P) Limited, Mezzanine Floor, Express Building, 9 & 10, Bahadur Shah Zafar Marg, New Delhi-110002. Editorial office: The Indian Express (P) Limited, Mezzanine Floor, Express Building, 9 & 10, Bahadur Shah Zafar Marg, New Delhi-110002. Phone: 0120-6651500. Advertising office: The Indian Express (P) Limited, B1/B, Sector - 10, Noida - 201301. Phone: 0120-6651291. Chairman of the Board: Viveck Goenka, Chief Editor: Raj Kamal Jha, Editor: Unni Rajen Shanker, Editor (Delhi): Rakesh Sinha ** Responsible for selection of News under the PRB Act. Copyright: The Indian Express (P) Limited. All rights reserved. Reproduction in any manner, electronic or otherwise, in whole or in part, without prior written permission is prohibited. The Indian Express®

WEAVING A NEW INDIA

PRESENTS

 |

FASHION CONCLAVE

POWERED BY

 |

TODAY FROM 10 AM ONWARDS

देस की दइकन

SPEAKERS

♦ RINA DHAKA ♦ SHANTANU MEHRA ♦ ANJU MODI ♦ MADHU JAIN ♦ RAHUL MISHRA
 ♦ SUKET DHIR ♦ HARMEET BAJAJ ♦ REYNU TAANDAN ♦ ASMA HUSSAIN

PRESENTING SPONSOR

POWERED BY

ASSOCIATE PARTNERS

TECHNOLOGY PARTNER

BE-SPOKE PARTNER

ORGANIC CLOTHING PARTNER

REALTY PARTNER

PARTNER

Disclaimer: India News Ka India TV Se Koi Sambandh Nahi Hai.



TOREX

don't bother for scars any more.

To get blemish free skin use **NO SCARS**. It helps to reduce and remove, scars and marks.

TORQUE

Get dazzling Glamour with...

Long Lasting Premium Quality Soap



NO SCARS®

PREMIUM QUALITY SOAP

For more information, please contact:
+91 97792 14455
care@torquepharma.com