

Abrogation of Article 370 upheld: Better days lie ahead for Kashmiris

The end of special constitutional status dramatically improves the prospects of peace and prosperity in J&K

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Articles 370 and 35A pursued what is described in Kashmiri as *Moolan droth ta patran sag* (watering the leaves while cutting the roots). A bifocal lens of history – the past as past and the past as present – suggests both articles were arguably either mistakes or poisonous. However, both laws were unarguably temporary. The [Supreme Court judgment upholding their abrogation](#) along with India’s new terrorism playbook and Pakistan’s weaknesses improve the prospects of peace and prosperity in J&K.

Disclosure: [Article 370 and Article 35A were personal](#); one of us spent three decades in uniform in J&K, and the other was born there. But we couldn’t retire or live there because these laws prohibited “outsiders” like us from buying land in our adopted Madre Watan (motherland). We both relate to Bahadur Shah Zafar’s lament *kitnā hai bad-nasīb zafar dafn ke liye do gaz zamīn bhī na milī kū-e-yār meñ* (how unfortunate was I not even to get two yards of land in my beloved homeland). Cynics suggest our recently arrived J&K domicile certificates are merely pieces of paper. But then, so is our Constitution. Both are sacred and invaluable to us.

Article 370’s birth in 1949 was hardly uncontroversial. The constitutional *sutradhar* B R Ambedkar withheld inputs “because it will create sovereignty within sovereign India,” and former J&K Prime Minister N Gopalaswami Ayyangar undertook to draft it because “it will be removed when the time is ripe”. We speculate that Pakistan’s brutal 1947 invasion of Kashmir, Sheikh Abdullah’s credibility after helping the Indian army repel this attack, and India’s mistaken United Nations reference fuelled Article 370. Sheikh Abdullah’s warm relationship with Jawaharlal Nehru — nourished by a shared dislike of Jinnah, contempt for Maharajas, and affinity for leftist economics — may have helped. But this window was small: Nehru approved Abdullah’s arrest in 1953.

This abrogation answers Syama Prasad Mookerjee’s 1952 call of “*Ek desh mein do vidhan, do pradhan, do nishan nahin challenge*” (one nation cannot accept two constitutions, two heads of state and two flags). But this 70-year delay helped selfish J&K politicians use special status, religion and Pakistan to grow fear, wealth and dynasty and ignore the Mahabharata’s advice of *Dharmo Rakshati Rakshitah* (the system protects those that protect the system). The Gupkar People’s Alliance’s delusion of representing Kashmiri people echoes former Jaipur Maharani Gayatri Devi saying, “We are the real India”, three decades after India adopted a constitution. India has created the world’s largest democracy on the infertile soil of the world’s most hierarchical society because our fierce politics breed ideas, competition and compromise. This abrogation will midwife the emergence of new politicians and parties in Naya Kashmir who convert conflicts into trade-offs using the “civilised civil war” of democracy.

Pakistan's historic geopolitical importance — 1960s Cold War defence treaties, 1970s brokering of US-China reconciliation, 1980s Afghan Mujahideen support, 1990s nuclear weapons, 2000s Taliban takedown — has been dramatically diminished by 9/11 terrorist attacks, hospitality to Osama Bin Laden, and the US-China rivalry. Simultaneously, citizen anger is rising with the economically incompetent garrison state: Its per capita GDP is lower than Bangladesh, total GDP is less than Maharashtra, and 23 IMF bailouts have been needed since 1947. The military is not the saviour of Pakistan — it is an existential threat to it.

Kashmiris began recognising Pakistan in their proverb “*Bayee sindhi athi seet punnini kangri wokhool karoon*” (stirring your kangri with somebody else's hands) long ago. Terrorist Maqbool Butt wrote a thoughtful letter to his niece after the Pakistan Army's Operation Searchlight 1971 genocide in Bangladesh, suggesting, “rulers who declare war against their own people cannot offer anything to anyone else but injustice.” Pakistan inspires its terrorist proxies with tales of America's defeat in Vietnam, Russia's defeat in Afghanistan, and the fall of the Berlin Wall. But those comparisons are faulty. Western superpowers ventured far from home while India fights terrorism on its territory with its institutions intact. We paraphrase the mediaeval warrior Salahad-Din Ayyub to remind Pakistan's military: You have the watches; we have the time.

India's 1948 letter to the UN about Kashmir was a mistake questioned by Mahatma Gandhi and Sardar Patel. Nehru regretted his decision within a month, writing to his sister Vijaylakshmi Pandit, “I couldn't imagine the Security Council could behave in such a partisan manner,” and “the UK and USA played dirty”. Western Cold War calculations ensured 13 UN resolutions on Kashmir supported Pakistan, and J&K Deputy PM Bakshi wrote to Nehru in 1951 that “the UN Observers don't confine themselves to their legitimate function of watching the ceasefire line but in greater part act as agents of Pakistan.”

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Constitutional integration completed, India must now shut down the UN office in Srinagar with 100 people and \$10 million annual costs. After the Simla Agreement of 1972, this office is, at best, a reminder of Pakistan's *Qual-o-fel* (Kashmiri for duplicity between word and deed) and, at worst, a militant mischief magnet. We must instead initiate UN action against Pakistan under Resolution 1373 under Chapter VII of their Charter, which obliges countries to prevent terrorists from using their soil to organise, recruit, train, and raise funds while authorising a forceful multinational response for violations. Additionally, we must advocate replicating the UNSC 1267 Committee (the al-Qaeda sanctions committee) to target individuals in Pakistan operating their terror factory. These sanctions will also help Pakistan's gasping democracy.

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Many people in J&K will be understandably unnerved by the finality of the Supreme Court judgment. But decades of blood, pain and tears demanded shaking the status quo. Philosophers remind us that embracing uncertainty is “being more like a plant than like a jewel, something rather fragile, but whose very particular beauty is inseparable from its fragility.” Beautiful and fragile J&K has better prospects of peace and prosperity with constitutional integration, redrawn statehood and competitive politics. *Antah asti prarambh* (the end is the beginning). Better days lie ahead.

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