**Hearing of Petitions on Article 370 and Our Duty**

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After a prolonged and arduous wait, the Supreme Court of India’s five-member constitutional bench finally convened on July 11, 2023, to address a cluster of twenty-four petitions filed in September 2019 by public-spirited citizens of Jammu and Kashmir. The core focus of these petitions is to challenge the abrogation of Article 370 and the issuance of the Jammu and Kashmir Reorganisation Act 2019. The action of 5 August 2019 by the Government of India has stripped the State of its special status and has deprived the State Subjects of their special rights guaranteed since 20 April 1927. These rights pre-date the emergence of the two dominions of India and Pakistan in August 1947.

The government of India could not take these actions under the terms of accession. The Accession was surrendered at the UN Security Council on 15 January 1948, for a UN-supervised vote. There is a UN template on Kashmir. It is based on the UNCIP Resolution of 13 August 1948 and the two UN Security Resolutions, 91 of 30 March 1951 and 122 of 24 January 1957.

Notably, Muzaffar Shah of Jammu and Kashmir Awami National Conference (ANC) and M Y Tarigami of the Communist Party of India (Marxist) has been at the forefront of this legal battle, advocating for the declaration of the Presidential order of 5 August 2019, Declaration of 6 August 2019, and the Jammu and Kashmir Reorganization Act 2019 as unconstitutional and violative of the fundamental rights protected under Article 41 and 21 of the Constitution of India.

The significance of this case revolves around crucial matters concerning the constitutional rights and autonomy of the state. The contentious abrogation of Article 370 in August 2019 has sparked widespread debates and differing opinions across India, Pakistan, three administrations of the State, Kashmiri Diaspora and many capitals of the world. The petitions brought forward by these public-spirited individuals seek to ensure that the decisions made by the Parliament on August 5, 2019, are subjected to rigorous constitutional scrutiny.

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We must closely watch the developments in this landmark case. The outcome of this case will carry far-reaching implications for the people of Jammu and Kashmir and the larger fabric of the Indian democracy. Citizens across the nation, and even beyond its borders, eagerly await the final verdict, which could potentially redefine the contours of constitutional law in India.

During the proceedings, Shah Faesal and Shehla Rashid Shora, two prominent individuals among the petitioners, sought to withdraw their names from the list of petitioners. The court granted their request. The withdrawal of names by the two petitioners might have been intended to cause confusion in the case’s title and potentially delay the proceedings. However, the five-judge bench remained vigilant and aptly titled the case as ‘In Re: Article 370 of the Constitution,’ avoiding any unnecessary complications.

The bench made it clear that the Centre’s 19-page affidavit, which provided information about the conditions in Jammu and Kashmir post the August 5, 2019 notification, will not influence the constitutional issue under adjudication. This decision ensures that the core constitutional aspects of the case will be the primary focus, which is indeed reassuring news.

The Constitution Bench, led by Chief Justice DY Chandrachud, has issued several significant procedural directions to streamline the proceedings:

1.The deadline for filing written submissions and convenience compilations by different parties has been set for July 27.

2.The hearings on the petitions will take place on a day-to-day basis, except on Mondays and Fridays, reserved for hearing miscellaneous matters.

3.The court has appointed two lawyers, one from the petitioner’s side and the other from the government’s side, to prepare a convenience compilation, which will provide the court with a quick snapshot of the entire case to aid in understanding the facts effectively.

4.The court will not accept any documents beyond the deadline of July 27, thereby ensuring a fair and efficient process.

It is essential to recognize that this legal battle holds the potential to restore “internal self-determination” to the people of the state and inspire further progress. While the local leadership may be content with this outcome, efforts must continue to pursue full self-determination, as mandated by an UN-supervised vote. The Hurriyat constitution draws on the jurisprudence of the UN template, underlining the significance of this case in broader international contexts.

The government on the Pakistani side of Jammu and Kashmir has a higher burden of responsibility. The leadership in AJK does not seem to be bothered at all. On 11 July, the former Prime Minister of Azad Kashmir, Raja Farooq Haider Khan, posted two tweets-one on the Cricket World Cup and the other on Food Policy. It does not show the necessary sense of responsibility on such an important day. There should have been a dignified effort to express solidarity with the petitioners who were challenging the abrogation of Article 370 and the Jammu and Kashmir Reorganisation Act, 2019.

Unfortunately, the AJK leadership has continued to use the Kashmir case and the sufferings of the people in the Valley as leverage to blackmail the governments in Pakistan and demand a quid pro quo. They seem to have little genuine interest in the Kashmiri people’s plight and the larger issue of Kashmir.

Hurriyat in Islamabad and friends of Kashmir in Pakistan have failed to express a genuine concern on this crucial day. Distancing themselves from the efforts made by Kashmiris to regain “internal self-determination” is a grave mistake. The 39 constituents represented in the Hurriyat in Pakistan chapter need to understand the legal arguments challenging Indian actions of 5 August 2019 and the Jammu and Kashmir Reorganisation Act, 2019, based on the jurisprudence of the UN template on Kashmir.

The actions of political and militant leaderships and, the impact of the much talked-about Bajwa Doctrine, which have remained at variance with a public endorsement and the UN template carry serious consequences. Friends of Kashmir also bear a higher responsibility for our overall failures and India’s undeserved gains. It is high time that these issues are addressed through serious discussions, The Government of AJK, and the Government of Pakistan need to re-evaluate the approach and find ways to advance the UN template on Kashmir. It shall have merit and shall convince, only if it is inclusive. All actions and approaches have to be inclusive and Kashmir-specific.

Kashmir case has been commercialized by Kashmiris and non-Kashmiris. This practice must stop, and a sacred duty lies with the concerned parties (and the public) to ensure that Kashmir is not exploited as a tool for personal gain. All stakeholders need to reflect on their roles and actions related to the Kashmir case. They need to re-evaluate their strategies and work collectively to bring a meaningful resolution to the long-standing issue. Genuine concern, transparency, and sincerity in efforts are crucial to advance the cause of Kashmir and support the aspirations of its people.

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