

Preface

On the fine morning of August 05, 2019 Kashmiri people woke up to the thuds of military and paramilitary boots. Phone and internet services had, by the time, been suspended. They were confined to their houses. They were kept out of all kinds of information. They could sense what was going to befall them as it had happened many times in their lives. But this time it turned out to be a forceful dismissal of the special rights that Kashmir had enjoyed so far. They are the people who have been sandwiched between the fights of two nuclear powers – India and Pakistan since 1947.

For long 70 years, the right to self-determination of Kashmiri people—be it in Gilgit-Baltistan, Azad Kashmir or in Jammu-Kashmir Valley—has been denied by all the governments formed so far in India as well as in Pakistan. Being deprived Kashmiri people, particularly in Valley under the control of the Indian Government, have resorted to mighty resistance. The uneasy peace and calm in the valley burst forth with rage and a sense of denial towards the end of 1988. Since then the people of the beautiful and bountiful Kashmir that has captured the imagination of people from around the world has turned into a valley of death and destruction. People’s wish in the valley has been shattered and the last trace of autonomy has been taken away from the people of Kashmir by the abrogation of Article 370 and 35A.

We condemn the Indian hegemony on Kashmir, accession of which to India was provisional and subject to acceptance of certain conditions. Under a special circumstance, Kashmir

acceded to India and was supposed to be finally determined in accordance with the wishes of people by the plebiscite. But India since the accession has all along betrayed Kashmiri people. The Socialist Party of Bangladesh (SPB) believes that a population cannot be integrated into a country by force. We call upon India to stop atrocities on Kashmir. If India continues its atrocities upon the innocent freedom and peace-loving people of Kashmir it will only spell regional conflict that might in future involve the other nuclear powers along with India. Geographically Jammu and Kashmir is a nodal point through which central Asia can be connected. As a result, the imperialist superpowers like the US and Britain and emerging superpower China, already having considerable expansionist interest in Gilgit-Baltistan with its Belt and Road Initiative, and Russia may get involved in the conflict leading to a devastating situation in the region.

We are appealing to all the people of the globe, who sympathize with the freedom of the people, to unite with the call 'let Kashmir be Kashmiris'. Let Kashmiris decide upon their own fate as it was acknowledged by all the countries at the time of accession to India.

As general people have very little idea about what is going on in Kashmir we have published this booklet to have a glimpse of the history of Kashmir in brief. We hope this booklet will help commoners to have some in-depth knowledge about the crisis prevailing in Kashmir and, at the same time, would be helpful to mobilize peoples' opinion in favour of the fight for self-determination of Kashmiri people.

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Dated: 20th Sept. 2019

Abrogation of Article 370 & Kashmir's self-determination

The BJP government of India on August 05, through a presidential decree, abrogated Article 370 of Indian Constitution that guaranteed the special status of Jammu and Kashmir, including article 35-A which gave permanent residents sole rights to own property within J&K and employment with local government. At the time of independence of India in 1947, Jammu and Kashmir's accession to India was conditional and this article was incorporated in the Indian constitution to give effect to those conditions during the debate of Constituent Assembly. According to this article, the autonomy of the state of Jammu and Kashmir on certain aspects were reserved. After the repeal of Article by the presidential ordinance, the people of the state were held prisoners in their homes, all political leaders were put under house-arrest, additional military and paramilitary forces to the extent of 43,000 were deployed, the right to hold public meetings and rallies were prohibited under Section 144 of the Criminal Procedure Code. Then the Home Minister Amit Shah introduced 'the State Restructuring Bill of Jammu and Kashmir' in Lok Sabha - the lower house of parliament, and on the next day in Rajya Sabha -the upper house of the parliament and both

the houses approved the bill. The bill proposed, instead of the existing constitutional status of one of the provincial states under the federal government, to bifurcate the state into two union territories: one Jammu and Kashmir, another Ladakh.

The bill proposed to have an elected legislative assembly of Jammu and Kashmir while Ladakh won't have any legislative assembly. Ladakh will be directly ruled by a governor appointed by the central government in Delhi. The bill, after being enacted into an Act after the assent of the President, converted the administrative status of Jammu and Kashmir to that of the status of Delhi. It will stand to lose all special privileges including the rights to control over law enforcing agencies, which normally remains under the jurisdiction of state home ministry.

The BJP government came to power with a single majority and so normally it had no problem to pass the bill at least in the lower house. Moreover, when a number of other opposition parties also supported the bill it was passed without any opposition both in upper and lower houses of the parliament. Through the passing of the bill, the last vestige of whatever autonomy was left was taken away from the people of Kashmir guaranteed as a condition of accession to India in 1947.

We need to have cursory look at the map of Kashmir before going into a detailed discussion on the issue.

The map and land of Jammu and Kashmir where Sheikh Abdullah led the movement for independence during the reign of Maharaja Hari Singh is now under the control of three powerful countries: Pakistan, India and China. A big chunk of the erstwhile Jammu and Kashmir is now under the control of Pakistan that was again split into two parts. The small part is known to be Azad-Kashmir

while the large one is identified as Gilgit-Baltistan. Gilgit-Baltistan had been separated from Jammu and Kashmir much earlier without any consent of the people of Gilgit-Baltistan that accounts for 19 lakh people stretching 72,496 square kilometres. According to the leader and spokesperson of Balawaristan National Movement: "In the twentieth century, the land was called Gilgit-Baltistan and Gilgit Agency. During the 1970s, the Pakistani occupants in a clever move deliberately distorted the facts and with mala fide intentions renamed it as the 'Northern Areas'." (Shafakat, P-185)

"The region is rich in mineral resources and produces a number of precious metals and important radioactive material. ... According to a joint report prepared by the Australian Agency for International Development (AUAID) and Pakistan Mineral Development Corporation (PMDC) in 1995, there are 1480 gold mines in this area, out of which 123 have ore where the gold content is many times higher than the world-famous mines of South Africa. The gold content at South African gold mines is 20 to 31 parts per million (ppm), whereas 123 gold mines of Balawaristan have a gold content of 112 to 238 ppm. During the study as many as 2380 stream sediment samples were analyzed and they were discovered to have significant contents of silver, copper, lead, cobalt, zinc, nickel and bismuth besides gold." (Shafakat, P-187)

The UNPO (Unrepresented Nations and Peoples Organization), a world organization based in Brussels, in its report wrote that "In 2009, the so-called Gilgit-Baltistan Empowerment and Self-Governance Order, 2009 was passed by the Pakistani cabinet. An attempt to deceive the international community, the order created a fraudulent body called Gilgit-Baltistan Legislative Assembly (GBLA)

which not only has not granted self-rule to the people of Gilgit-Baltistan, as Islamabad claims, but also consolidated the dominance of Pakistan over the region. The Gilgit-Baltistan Legislative Assembly has no legislative power and its resolutions need to be submitted to the Ministry of Gilgit-Baltistan and J&K affairs in Islamabad. The other body that has been established as per Article 33 of Gilgit-Baltistan (Empowerment & Self Governance) Order, Gilgit-Baltistan Council is comprised of 12 members, of which 6 are elected by the GBLA and other 6 nominated by the Prime Minister of Pakistan, who is also the Chairman of the Council. Under the absence of a representative political system as well as an independent judicial system in the region, the real powers remain in Islamabad and the people of Gilgit-Baltistan continue to live without basic rights and representation.” (UNPO, 2017, p-2)

Another part of erstwhile J & K, relatively smaller (13,297 square kilometres), is also under the control of Pakistan known as Azad Kashmir. For the political reason, Pakistan named it Azad Kashmir but its administrations and judiciary are such that everything is controlled by Islamabad. Pakistan’s newspaper Dawn said: “Constitutionally Azad Kashmir is not the part of Pakistan. It is not an independent country either. Over the past 62 years, its political and economic existences have been dependent on Pakistan... but in reality, Muzaffarabad exists under the shadow of Islamabad”. (15 February 2010). An independent researcher of Pakistan published an article in the Dawn and said “Recent reforms in Azad Jammu & Kashmir, which have reduced the Kashmir Council to an advisory body, do promise autonomy, but some worry that the old mechanisms of control may be replaced with new ones under the pretext of ‘empowerment.’” (Zakaria, 2019) Sardar Karamdad Khan, a Muzaffarabad-based

lawyer, summed up for Human Rights Watch (HRW) the dispensation of power in the territory: “The Pakistani bureaucracy is the real administrative power, the ISI and the Pakistan army exercise coercive power. And under the constitution, the elected representatives are subservient to the Kashmir Council controlled by Pakistan. High Court and Supreme Court Judges can only be appointed by approval of the Ministry of Kashmir Affairs in Islamabad. The Minister of Kashmir Affairs can dismiss the PM, as can the Chief Secretary-another Islamabad appointee. Under Article 56, the President of Pakistan can dissolve the Legislative Assembly. Surely, this is a truly unique form of self-rule.” (Report, p-31) Thus, the ‘Azad’ of Kashmiri people of this so-called ‘Azad’ Kashmir is a misnomer.

Two segments of Jammu and Kashmir are now under the control of China. One stretching 37,244 square kilometres of area (16.9 per cent of total) is known as Aksai Chin while the other part, Shaksgam of Gilgit-Baltistan 5180 sq. km (2.33 per cent), was ceded by Pakistan to China. As Gilgit is not lawfully the part of Pakistan it can not be ceded to another country without the consent of people of this region. The freedom of the people of this area is beyond any question.

Now comes the issue of India-controlled erstwhile Jammu and Kashmir. This part of Kashmir has always been in the news since the independence of India, though it has come again to the fore after India abrogated Article 370 from its constitution. Though India is saying it is their internal affairs it would undoubtedly inflame the political atmosphere of Asia. The part of Kashmir under the control of India is divided into three parts: i) Kashmir valley where 97 per cent of the population are Muslims by religion and remaining 3 per cent constitute communities of other

religious beliefs. Kashmir valley accounts for only 15.7 per cent of the total land area of Jammu and Kashmir but 55 per cent of the total population of the state resides in this part. ii) The second part called Jammu is a plain land which is adjacent to Delhi and Himachal. As many as 43 per cent people of Jammu and Kashmir live in this area which constitutes 26 per cent of the total land of J&K. 36 per cent people of Jammu are Muslims while the rest belong mostly to the Hindu community along with different other religious groups. iii) The third part is known as Ladakh. It is the largest part, occupying 58.3 per cent of the total land having 2.2 per cent of people of the total population. Majority of the people are Buddhist.

Setting in of India-Pakistan conflict over Kashmir

King Gulab Singh bought the Jammu and Kashmir region from the British East-India Company in 1846 through the Amritsar Treaty to establish the Dogra dynasty. Hari Singh, the fourth descendant of this dynasty, was the king when India became independent in 1947. The British Government passed the 'Indian Independence Act – 1947' in parliament and Indian Sub-continent partitioned into two Dominions – India and Pakistan on 15th August 1947. At that time, the state of J&K was one of the 562 Indian princely states under the suzerainty of the British Crown. This territory was not part of British India.

The Cabinet Mission's memorandum of May 12, 1946, defined the status of the princely states. There it was said that the lapse of paramountcy consequent on the transfer of power, like any other princely state, J&K would also become independent and would be free to accede to either of the two Dominions or to remain independent. It implies that the fate of the people under the territory of a princely state was to be determined by the ruler of the state.

At the time of the partition of India, Sheikh Abdullah - the nationalist leader of J&K-was in prison. He was released from jail on September 1947. Soon after his release, he said: "If the forty lakhs of people living in J&K are bypassed and the state declares accession to India or Pakistan, I shall raise the banner of revolt and we face a struggle". (Noorani, 2017, p-5) Just before independence, Mahatma Gandhi visited the state of Kashmir and the following is an excerpt of his speech in the Indian Government document: "British paramountcy would terminate on the 15th. The real paramountcy would then commence. He (Mahatma) referred to the paramountcy of Kashmiris. They had one language, one culture and, so far, he could see, they were one people. He added that without going into the intricacies of Law which he had no right to dilate upon, common sense dictated that the will of the Kashmiris should decide the fate of Jammu and Kashmir." (Tendulkar, 1962, p-78) Mahatma's observation of 'one language, one culture and one people' is worthy to be noted.

Maharaja Hari Singh was undecided about which country he should accede to or Kashmir should remain independent. At that time, he wrote to Mountbatten: "Geographically, my state is contiguous to both the Dominions. It has vital economic and cultural links with both of them. Besides, my state has a common boundary with the Soviet Republics and China. ... I wanted to take time to decide to which Dominion I should accede, whether it is not in the best interests of the both the Dominions and my State to stand independent, of-course, with friendly and cordial relations with both". (Noorani, 2017, p-7) But the political situation was becoming more and more complicated due to local revolt against the ruler in Poonch, communal trouble, attack, loot and carnage of armed tribesmen with the connivance and support of the Pakistani authorities. Compelled by this

situation, Maharaja sought the help from India and wrote a letter to Mountbatten, the then Governor of India: “With the conditions obtaining at present in my State and the great emergency of the situation as it exists, I have no option but to ask for help from Indian Dominion. Naturally, they cannot send the help asked for by me without my State acceding to the Dominion of India. I have, accordingly, decided to do so and I attach the Instrument of Accession for acceptance by your Government.” (Noorani, 2017, p-7)

The then Governor of India replied to Maharaja Hari Singh and clearly stated that the nature of accession was provisional. He said: “In the special circumstances mentioned by Your Highness, my Government have decided to accept the accession of Kashmir State to the Dominion of India. Consistently with their policy that, in the case of any state where the issue of the accession has been the subject of dispute, the question of accession should be decided in accordance with the wishes of the people of the state, it is my Government’s wish that as soon as law and order have been restored in Kashmir and her soil cleared of the invader, the question of the state’s accession should be settled by a reference to the people.” (Noorani, 2017, p-7) Kashmir was an exceptional case where the Instrument of Accession was not the only document but the letters exchanged between Maharaja and Mountbatten accompanied as collateral documents that ascertained the nature of accession to India.

The same was explained in the White Paper published by the Government of India in 1948. Where it was mentioned that “in accepting the accession of the Government of India made it clear that they would regard it as purely provisional until such time as the will of the people could be ascertained.” (White Paper, 1948, p-3) On 30th October 1947, the Government of India issued a public statement

in explaining the conditions on which the government had accepted the accession and mentioned clearly that ‘people of the state should decide the question of accession’.

It implies that the accession of Kashmir to India was not final but provisional and conditional. Almost all national leaders of India have many times said they, in exchange for helping Kashmir at its crisis moment, never wanted Kashmir to accede to India going against the opinion of Kashmiri people. For example, Jawaharlal Nehru categorically said in a telegram sent to British Prime Minister on 25th October 1947 and subsequently on 26th October to Pakistan Prime Minister Liaquat Ali Khan: “I should like to make it clear that the question of aiding Kashmir in this emergency is not designed in any way to influence the state to accede to India. Our view which we have repeatedly made public is that the question of accession in any disputed territory or state must be decided in accordance with the wishes of people and we adhere to this view.” (White paper, p-45) In a telegram on 28th October 1947, Nehru again said to Pakistan Prime Minister that “In regard to accession also it has been made clear that this is subject to reference to people of the state and their decision. Government of India have no desire to impose any decision and will abide by people’s wishes” (White Paper, p-48) On 31st October 1947, Nehru again sent a telegram to Liaquat Ali Khan and mentioned that “... the people of Kashmir would decide the question of accession. It is open to them to accede to either Dominion then”. He also assured him that leaving “the decision about the future of the State to the people of the State is not merely a pledge to your Government but also to the people of Kashmir and to the world”. (White paper, p-51)

Most importantly, Nehru on 02 November 1947 in a radio broadcast to the nation admitted that accession to

either Dominion or remaining independent in accordance to people's wish of the state was in-fact an 'added proviso to the Instrument of Accession of Kashmir'. Nehru also accepted that the Instrument of Accession along with the collateral exchange of letters between the Maharaja of the state and Mountbatten constituted the terms and conditions of accession. He said "We have declared that the fate of Kashmir has ultimately to be decided by the people. That pledge we have given and the Maharaja had supported it, not only to the people of Kashmir but to the world. We will not, and cannot, back out of it". (White Paper, p-55)

It is also erroneous to view that the proposal of a plebiscite was imposed by the UN to resolve the issue. On the contrary, much before going to the UN, all leaders of India including Gandhi, Nehru and Patel agreed with the suggestion of plebiscite under the supervision of UN and Mr Liaquat Ali Khan also welcomed the proposal. (Noorani, p-10) Even the complaint of 31st December 1947 to the UN by India itself bears testimony to it. It is said "In order to avoid any possible suggestion that India had taken advantage of the State's immediate peril for her own political advantage, the Dominion Government made it clear that once the soil of the State had been cleared of the invader and normal conditions were restored, the people would be free to decide their future by the recognized democratic method of plebiscite or referendum, which, in order to ensure complete impartiality, may be held under international auspices." (White Paper, p-77)

It is therefore not surprising that a meeting of Joint Defense Council of India on 11 December 1947 decided upon the solution to the Kashmir problem through a plebiscite under the supervision of the United Nation. Accordingly, India applied to the United Nation. Mr N. G.

Ayyangar, who presented the Indian case to the Security Council, on 15th January 1948 made the right of Kashmiris self-determination absolutely clear by saying "The question of the future status of Kashmir vis-à-vis her neighbours and the world at large, and a further question, namely, whether she should withdraw from her accession to India and either accede to Pakistan or remain independent, with a right to claim admission as a member of the United Nations - all this we have recognized to be a matter for unfettered decision by the people of Kashmir after normal life is restored to them." (Noorani, 2017, p-11) Mr M. C. Setalvad, one of the members of Indian delegation, said while addressing the Security Council; "The Indian Government was careful, even though the request came from both (the Maharaja and Sheikh Abdullah) to stipulate that it was accepting the accession only on the condition that later, when peace had been restored, the expression of popular will should be ascertained in a proper manner. It was on that condition and that condition alone, that the Indian Government accepted the accession." (Noorani, 2017, p-11)

A resolution agreed by both India and Pakistan was adopted by the United Nation Commission on 13 August 1948. Subsequent resolution of 5th January 1949 made it a binding agreement between India and Pakistan. The resolution of 13th August has three parts. Part-1 said that both the sides would establish a ceasefire and the commission would appoint a military observer to supervise the ceasefire order. Part-II has two segments – A and B. In the segment A it was said that 'the Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting. Pending a final

solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission'. Segment B said after the withdrawal of Pakistani soldiers 'the Indian Government will maintain within the lines existing at the moment of cease-fire the minimum strength of its forces which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary'.

Along with this, it was also added:

“When the Commission shall have notified the Government of India that the tribesmen and Pakistani nationals referred to in Part II, A (2) hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistani forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission.”

“The Government of India will undertake to ensure that the government of the State of Jammu and Kashmir will take all measures within its power to make it publicly known that peace, law and order will be safeguarded and that all human and political rights will be guaranteed.”

Part-III was the most important component of the resolution which stated: “The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and

to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.”

That plebiscite has never been held as per the decision of the United Nation Commission and even the talks that both sides were supposed to have with the commission have never happened. Neither India nor Pakistan has ever shown any eagerness to hold any plebiscite possibly because of Kashmiri people's wishes to remain independent. Apparently, it seems puzzling that why India shouldn't raise its demand for plebiscite when the UN resolution asked Pakistan to withdraw its tribesmen and Pakistan nationals from Jammu and Kashmir. India certainly would raise the demand if it was sure that Kashmiri people's verdict would go their way in the plebiscite. But Nehru and his ministers knew it well that if there had been a voting Kashmir would have given its verdict in favour of Sheikh Abdullah i.e. independent Kashmir.

The proof of this notion is clearly stated in a letter of Indira Gandhi to her father. When she went to Kashmir to observe the situation, she wrote to her father from Srinagar on 14 May 1948 that “They say that only Sheikh Saheb is confident of winning the plebiscite ...”. (Noorani, 2017, p-400) Independent researchers also found the same. “From 1953, it was highly unlikely that India would ‘win’ any plebiscite conducted either in J&K or if voting was restricted to Kashmir, in that region. Noticeably, India had become unpopular in Kashmir after Sheikh Abdulla was sacked from office and jailed in 1953. Thereafter, New Delhi deviously sought to suggest that the government in Indian J&K represented all of the people of disputed J&K and that, therefore, the United Nations-supervised

plebiscite was no longer valid or necessary”. (Snedden, 2017, p-226) In a letter written to the Chief Minister of West Bengal Nehru also expressed his apprehension that “The position now is that if there was a plebiscite, a great majority of Muslims in Kashmir would go against us. In fact, there has been some petty violence also”.

Pakistan did not pull out its soldiers and nationals from Kashmir region and India too never raised the demand (If they are withdrawn the plebiscite becomes inevitable). Thus, the plebiscite has never been held and the people of Jammu and Kashmir have never had any chance of determining their own fate through a peaceful means which was solemnized by both the Dominions repeatedly at the time of accession to India and thereafter.

How Article 370 emerged

To get into the details of Article 370 and to figure out its significance we need to look back at the pre-1947 history of Jammu and Kashmir. There has been no history of people of any princely state initiating any movement to free themselves from the subjugation of their feudal lords. Only people of Kashmir at the beginning of the twentieth century began their movement for freedom initially under the initiation of socio-religious bodies. In 1930 a political party named National Muslim Conference was formed. In 1939, recognizing the necessity of making the movement secular, the Muslim Conference had renamed itself the National Conference to allow non-Muslims to join the party. (Snedden, 2017, p-133) In 1931, Kashmiris mounted a serious uprising in the Kashmir valley against autocratic Dogra rule. “A young Kashmir leader called Sheikh Muhammad Abdullah came to prominence during the uprising. He became known as the Lion of Kashmir” (‘Sher-e-Kashmir’). After the 1931 uprising, the aloof Maharaja

Hari Singh reluctantly instituted a constitutionally-based democracy in J&K.” (Snedden, 2017, p-131) Seventy-five seat assembly called Praja-Sabha, though with limited power but with tremendous political significance under feudal rule, came into existence. Two more significant anti-Maharaja, pro-reform movements happened in 1938 and in 1946. In 1944, National Conference released their ‘comprehensive socialist Naya Kashmir’ (New Kashmir) manifesto that sought major changes in political and economic issues including, most significantly, land reforms. Following this, National Conference gradually developed a mass movement against the feudal King Hari Singh and the prevailing social system of the territory. They began ‘Quit Kashmir Movement’ in 1946 and demanded the end of Dogra rule. They even contested the sale of Jammu and Kashmir to Gulab Singh by British East India Company in 1846 as ‘immoral and invalid commercial transaction’. Maharaja arrested ‘communist agitator’ Abdullah and other members of his secular National Conference.

The nationalist movement of Kashmir against feudal dynasty was quite distinct from that of the Indian national movement against the British Raj. Through this movement, Kashmiri people began to steadily form their nationhood ‘Kashmirite’. They demanded the abolition of the feudal system and pledged to establish a democratic secular state with a legislative assembly of people’s representatives. Therefore, this unique history of Kashmiri people made their self-identity quite distinctly different from the self-identities of the people of other regions of India. The movement for freedom in Kashmir in 1947 was so intense that it was impossible for anyone not to take their hope and aspiration into consideration. Sheikh Abdullah was a popular nationalist leader. He emerged as the representative of the hope, aspiration and the demand for

self-determination of Kashmiri people.

Although Jammu and Kashmir signed the Instrument of Accession in 1947, Article 370 was incorporated into the constitution in 1949. Those who are now demanding for annulment of Article they are lying and doing so to confuse people. They say Article 370 was not mentioned in the 'Instrument of Accession'. In reality, when the independence of India was declared in 1947 the constitution of India was yet to be introduced. This is why the 'Indian Independence Act – 1947' said until and unless there was no constituent assembly and a constitution, India would be ruled as per the 'Government of India Act – 1935'. The Indian constitution was finalized in the constituent assembly in 1949 and it came into effect on 26 January 1950. As a result, how could Article 370 be incorporated into the 'instrument of accession' which was signed in 1947?

After the signing of 'Instrument of Accession', Sheikh Abdullah was released from jail and declared as the Prime Minister of Kashmir. Sheikh Abdullah, Mirza Mohammad Afzal Beg, Maulana Mohammad Syeed Masoodi and Pandit Moti Ram Bogra joined the Indian Constituent Assembly to take part in the debate on the formulation of the constitution. A discussion between Indian Prime Minister Nehru along with Patel and the representatives of Jammu-Kashmir led by Sheikh Abdullah about the special status of Kashmiri people with the objective of giving effect to conditions of accession to India continued for five months (from May to October). Gopalaswamy Ayyangar played a pioneering role as a mediator between two groups to converge to a unanimous decision. Both sides reached an agreement and a draft was prepared on 16 October. It was placed before the constituent assembly on October 17

and it was passed as Article 370 in the Indian Constitution.

There have been few unfortunate historical events which would explain why Sheikh Abdullah from the very beginning lost his trust on Indian leaders. For example, without the knowledge of Sheikh Abdulla, some changes were made in the unanimously accepted version of the draft which was placed before the Constituent Assembly for approval. This modified version of the draft was approved by the Constituent Assembly before being noticed by Sheikh Abdullah and his associates who were in the lobby for tea. As he was informed about the amendments he rushed into the room and came to know about it. On October 18 Ayyangar in a letter to Sheikh Abdullah mentioned these changes as 'trivial' implying those were not of much importance. Sheikh Abdullah brought it to the notice of Nehru who was outside the country at that time. Patel subsequently acknowledged the fact in a letter to Nehru in November. Although it was termed as 'trivial', according to a lawyer and constitutional expert AG Noorani, if this change had not been made, the Indian government would not have ousted Sheikh Abdullah in 1953 from the power. However, even after all this, the rights of autonomy and freedom that Article 370 ensured were obviously noteworthy compared to other states. Article 370 records a solemn compact. Neither side can amend or abrogate it unilaterally, except in accordance with the terms of that provision.

Why were no princely states of India except Kashmir granted such special status constitutionally? The first reason is the people of Kashmir had been involved in the movement for a secular and independent state much before India won its independence. The other princely states had no such history of the national movement. It signifies that the hopes and aspiration for the independence of Kashmiri

people had been the history even before India came into being as an independent country. Secondly, Maharaja Hari Singh taking into consideration the aspiration of independence of the people of the state mentioned in the Instrument of Accession: “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.”

This explains why the consent of Sheikh Abdullah to the constituent assembly, as a representative of Kashmiri people, was so important. Because only Maharaja’s signature to the Instrument of Accession does not commit Kashmiris to comply with any articles incorporated into the Indian constitution. This Article 370 empowered Kashmir to adopt its own constitution. The reason was that, as we have discussed above, much before the Indian constitution was made there was a Kashmiri constitution since 1931 and an elected Assembly called Praja Sabha. To protect those rights the demand for Kashmir’s own constitution was preserved in Article 370. Indian lawyer and constitutional expert AG Noorani explained: “In the case of Kashmir, the letters exchanged between the Maharaja and the Viceroy, itself a unique instance of the instrument of accession being accompanied by collateral documents, and the pronouncements made then would suggest that the accession was provisional and conditional.” (Noorani, 2017, p-8)

Accordingly, Article 370 guaranteed six special rights for Jammu and Kashmir: (1) Jammu and Kashmir was allowed to have its own constitution within the Indian Union, (2) Indian parliament’s legislative power over the state was restricted to three subjects – defence, external

affairs and communications, (3) if any other decisions of the parliament were to be extended to Kashmir, the prior ‘concurrence’ of the state government was required, (4) any other ‘concurrence’ of the state given before the constituent assembly of Kashmir is provisional and subject to ratification of the constituent assembly, (5) State Government’s authority to give ‘concurrence’ lasts only till the state’s Constituent Assembly is convened and the President cannot exercise his power to extend the Indian Constitution to Jammu and Kashmir indefinitely. Once the state’s Constituent Assembly had finalized the scheme and dispersed, the President’s extending powers ended completely, (6) Subsection-3 of Article 370 empowers the President to make an order abrogating or amending it, but for this also ‘the recommendation’ of the state’s Constituent Assembly shall be necessary. (Noorani, 2013, p-560) Thus, Kashmir had autonomy in all spheres except the areas of external affairs, communications and defence under Article-370.

The most important point is that Article 370 was incorporated in the constitution in recognition of the fact that Kashmir had a special status with respect to its history of independent nationhood and, at the same time, to fulfil the conditions of accession. If now this article is abrogated, logically, the instrument of accession also loses its validity. The BJP government of India has no right to rescind this article without the endorsement of the elected representatives of Kashmir. Because Kashmir is now under the rule of the president and the elected legislative assembly is dissolved. Thus, even after this bill was passed in both the houses of parliament and the president assented to enact it into a law, without the approval of Kashmir’s assembly it will be absolutely unconstitutional. It will be a ruthless betrayal of the promises of autonomy guaranteed

during accession to India.

However, we should keep in our mind that Article 370 was not intended to and did not rule out a plebiscite.

Did only BJP disregard Article 370?

This question is of paramount importance. Despite Kashmir a Muslim-majority state it did not intend to accede to Pakistan. Then, why has the anti-Indian sentiment gripped Kashmir now? The religious fanatic BJP has been in power for only six years. What happened before that? Betrayal of trust began to set in much before that - during the time of Nehru. This is evident in a speech of Sheikh Abdullah in the State's Constituent Assembly on 11th August 1952: "I would like to make it clear that any suggestions of altering arbitrarily the basis of our relationship with India would not only constitute a breach of the spirit and letter of the Constitution, but it may invite serious consequences for a harmonious association of our state with India." (Noorani, 2014) By issuing presidential ordinances one after the other, Article 370 has eventually been made ineffective. This is not the allegation made by the oppositions, this was said by the then Indian Minister of Home Affairs in 1964 and that too he said in Lok Sabha. He said: "What happens is that only the shell is there. Article 370, whether you keep it or not, has been completely emptied of its contents. Nothing has been left in it." (Noorani 2014)

Thus, not only BJP but Nehru and his cabinet colleagues were no exception. The same expansionist policy had been followed by both BJP and Nehru - known as liberal democrat and as having belief in secular philosophy - and his Congress party. The only difference is in modus operandi they followed. Nehru told in the Lok Sabha on 27th November 1963 that "Article 370 has been eroded, if I may use the word, and many things have been done

in the last few years which have made the relationship of Kashmir with the Union of India very close. There is no doubt that Kashmir is fully integrated... We feel that this process of a gradual erosion of Article 370 is going on. Some fresh steps are being taken and in the next month or two, they will be completed. We should allow it to go." (Noorani, 2014) How an Article in the constitution could be eroded over time? In reality, the contents of Article were stripped off one after another by conscious order of the President on the advice of Prime Minister Nehru starting from 1952, though Nehru himself had doubt 'how far the President can issue notifications under Article 370 several times'. President also said that 'the conclusion, therefore, seemed to me to be irresistible that Clause (3) of Article 370 was not intended to be used from time to time as occasion required. Nor was it intended to be used without any limit as to time. The correct view appears to be that recourse is to be had to this clause only when the constitution of the state has been fully framed". (Noorani, 2014) But, subsequently, Nehru found the explanation, though unlawful, given by Nanda useful and used whenever required to strip off any particular provision from the content of Article 370.

Mr Gulzarilal Nanda, the then minister of Home Affairs, on 04 December 1964 said in the Lok Sabha: "The only way of taking the Constitution (of India) into J&K is through the application of Article 370... It is a tunnel. It is through this tunnel that a good deal of traffic has already passed and more will." (Noorani, 2014) It is, therefore, not surprising that the present Government of BJP would follow the same standard practice that has been following by the Indian Government since Nehru's period. BJP too has used the Presidential Ordinance under sub-section-3 of Article 370 which Congress had been doing against the spirit of the accession and, in Nehru's word, 'commitment

made not only to the people of Kashmir but to the whole world’.

Although Article 370 stipulated that it could not be changed or amended unilaterally by any of the two sides, the Indian government under the suitable pretext began to encroach upon Kashmir’s autonomous power. The conflict between Sheikh Abdullah and Nehru too started from the very beginning on the question of autonomy. The state Constituent Assembly first met on 31st October 1951. Even before its first meeting, on 18th September 1951, Nehru expressed his opinion in a note that “the Constituent Assembly cannot decide finally about the accession of the state, though it may express its opinion upon that or any other subject”. Subsequently, in a press conference in New Delhi on 21st June 1952, he disclosed his intention without any doubt: “When the Constituent Assembly met in Kashmir for the first time, I might inform you that it was its intention to pass a resolution forthwith confirming the state’s accession to India.”. On the other hand, Sheikh Abdullah was becoming more and more apprehensive about the permanency of the autonomy given by Article 370. In reply to a letter from Nehru, he wrote: “But I would point out to you the discrepancies that we came to notice from time to time in the attitude of the government of India in regard to this position. When article 370 was devised, we felt assured by Sardar Patel that the Instrument of Accession would be the final basis of the Indo-Kashmir relationship. Subsequently, when the Delhi Agreement came up before the Council of states on 5th August 1952, Sri Gopalaswamy Ayyangar stated that article 370 was not a permanent feature of the Indian Constitution and ‘when the time was ripe’ the provision could be wiped off the Constitution. This clearly shows that even though assurances were given to us ... such assurances came with

a good deal of mental reservation”. (Noorani, 2017, p-405)

It is important to note that the famous Delhi Agreement was signed on 24th July 1952 between Nehru and Sheikh Abdullah on Kashmir’s closer integration with the union of India. But even this agreement failed to resolve the issue because of two opposite views on the problem. Nehru was interested to integrate Kashmir fully with India, while Sheikh Abdullah was interested to protect the autonomy. Since It was clear that the result of the plebiscite would definitely not go in favour of full integration with India, Nehru’s desire was to make the accession permanent through the declaration in the state’s constitution which was under discussion in the Constituent Assembly. “In this situation came Nehru’s definitive statement of policy of 25th August 1952, given confidentially to the Sheikh, dispelling all doubt in the recipient’s mind. Nehru wanted to finalize the accession. The next step would be the end of Jammu and Kashmir’s autonomy. Amazingly, in public he (Nehru) always sang a different tune – he would hold a plebiscite.” (Noorani, 2017, p-422). Nehru’s own confession revealed that as far back as in late 1948, he ‘ruled out the plebiscite for all practical purposes’. (Noorani, 2017, p-398)

As a result of Sheikh Abdullah’s persistent position on the autonomy of Kashmiri people, the conflict with Nehru was inevitable and on 8th August 1953, Sheikh Abdullah was sacked from the office of the prime minister of Jammu and Kashmir and was confined in Jail with the false charges of conspiracy. His dismissal made a permanent scar in the mind of Kashmiri people and in the relationship with the union of India. He remained behind the bar for eleven years and was subjected to harsh treatment. His request to Nehru for allowing him to participate in the Constituent Assembly debate was turned down. After his dismissal, there was no

hindrance to incorporate various provisions that satisfied Nehru and others in the constitution of Kashmir. Finally, in 1957, when the constitution of Kashmir was adopted, the state was declared to be an integral part of India. Today's BJP has used it as an argument and said: "It is Kashmir's constitution that acknowledges that Kashmir is an integral part of India."

The history is being distorted in various ways in a bid to abrogate Article 370. Article 370 in the Indian constitution begins with: "Temporary provisions with respect to the state of Jammu and Kashmir." Referring to this line, the present ruling party is arguing that how long a 'temporary' provision should remain in the constitution. The Indian Supreme Court in its verdict had already made it clear that Article 370 was no longer provisional, it would be considered to be permanent. Yet the significance of the supreme court was as much as it could be expected within the legal jurisdiction. But the logic from the viewpoint of history, tradition and society is much more powerful and significant than that. When the Indian Constitution was framed, the Constituent Assembly of Kashmir was yet to be formed to finalize its Constitution. As Kashmir would have its separate constitution, where it would define its relationship with India until then Article 370 would remain in force as a temporary arrangement. It is categorically written in the sub-clause – 3 of Article 370 that "Provided that the recommendation of the Constituent Assembly of the state referred to in clause (2) shall be necessary before the President issues such a notification." State Constituent Assembly does not exist, Article 370 becomes permanent as it can not be abrogated only by the Presidential order.

We should keep in mind that Nehru and Sheikh Abdullah represented two different and opposing classes

and, therefore, they held two different views of interest. Nehru as the representative of the newly emerging national bourgeoisie class of India wanted to serve the expansionist policy of that class while Sheikh Abdullah was desperately trying to protect Kashmiri people's right to self-determination.

Does Article stand in the way of development of Kashmir?

Amit Shah while reasoning in favour of abrogation of Article 370 said because of this article Jammu and Kashmir had not seen any economic development. No industry developed in Jammu and Kashmir. The tourist industry too, having a huge prospect, had not flourished. But the government statistics said otherwise. For example, the percentage of people living below the poverty level in India is 21.92 while it is only 10.35 per cent in Jammu and Kashmir. The infant mortality rate in entire India is 34 while it is 24 in Jammu and Kashmir. Even in the state of Modi, who has trumpeted the drum of development, this rate is 30, much higher than Jammu and Kashmir.

One point here deserves attention. Land reforms have been most successfully implemented in Jammu and Kashmir after the abolition of the feudal rule of the Dogra family. This is why the number of poor people is less in Jammu and Kashmir than that of the other states of India. Its progress with respect to social and economic parameters is not at all bad rather better in certain areas than that of the other states. The Indian bourgeoisie class in the interest of its expansionist policy wants to rescind Article 370 with the objective of grabbing lands and other natural resources of the state. All such false information is to confuse people.

Is the Kashmir movement for self-determination?

It is evident from the history of Kashmir before and after its accession to Indian Union that it was not like other states. India bowed down to the demand of Kashmir for its own constitution, premiership and own flag due to Kashmir's distinct national identity. If Kashmir with the passage of time gradually turned into a state of India then nobody has anything to say. But the expansionist moves and betrayals by the Indian national bourgeoisie class have injured the self-dignity of Kashmiri people so much that the demand for self-determination began to surge up from the 1950s-60s. If the political parties of Kashmir had not failed to lead the movement of Kashmiri people it might have reached its culmination by the time and the just rights of Kashmiri people could have been established. Instead of developing an effective movement all those political parties of Kashmir were more interested to share power with the Indian Union by manipulating the emotion of Kashmiri people. One of the best examples is the coalition government of Mehbooba Mufti who, after the last election, did not even hesitate to form the government with the religious fanatic, anti-Muslim communal party BJP.

Lenin while discussing the rights of nations to self-determination categorically stood against the mistaken notion of Rosa Luxemburg. Lenin said: "If we want to grasp the meaning of self-determination of nations, not by juggling with legal definitions, or "inventing" abstract definitions, but by examining the historical-economic conditions of the national movements, we must inevitably reach the conclusion that the self-determination of nations means the political separation of these nations from alien national bodies and the formation of an independent national state." (Lenin, 1914, p- 397) We have also to examine the historical-economic perspective of Kashmir to grasp the character of Kashmir movement. Only then we

will understand how the history of independent self-identity of Kashmir based upon its language, culture and ancient history is completely different from other nationalities of India. Once their national leaders thought they could live with their distinct self-identity within the greater Indian state. They could not comprehend that bourgeoisie are not so liberal.

Indian bourgeoisie class has always said Kashmir is an inalienable part of India (It is, though unfortunate but true, that a section of Indian leftists too without any explanation disseminate this inalienable theory). Why it is inalienable? It is true that Kashmir in course of time might have become an integral part of India if Indian bourgeoisie parties had kept Article 370 intact by recognizing the distinct character of Kashmir. But the abrogation of Article 370 proved that the expansionist Indian bourgeois class could not even accept whatever symbolic dignity of distinction the Kashmiri people have. If anyone wants to deny and destroy the basic foundation of the relationship that has been evolved in the process of history, then separation becomes inevitable. At the present time, in the era of acute crisis of moribund capitalism and imperialism, liberal behaviour can no longer be expected from the bourgeois class, but they are interested to infringe land and resources. Indian bourgeoisie wants to tie the knot in the name of integrating Kashmir into India (meaning subjugation) which, in Lenin's words, "asiatically despotic ties".

The disturbance that we have heard about for a long time in Kashmir is in the part of the land under the control of Indian administration. Often different regions of the valley remain cut-off from the rest of the country. People's daily activities are interrupted by the sound of military jeeps and heavy boots. With the introduction of the 'Armed Forces

Special Powers Act' (AFSPA), any act of the military in Kashmir has been excluded from judicial intervention, and there is no limit of atrocities of armed forces on common people on the pretext of curbing terrorism. The armed forces inflict excruciating excesses upon people by using this act as their safeguard. Under this situation, there is no doubt that the move to repeal Article 370 will worsen the situation not only with respect to human rights violation, sufferings of common people and unrest in the Kashmir valley, but it would undoubtedly inflame the political atmosphere and make things more complicated there. No political problem had ever been solved by the armed forces in the world. People's quest for self-determination and freedom can not be suppressed for a long time by the military. History says that unarmed and unfed people would thwart all such attempts - Vietnam and Bangladesh are the best examples.

We believe that India's move to occupy Kashmir will stir up Kashmiri people's emotion with more intensity, their movement for freedom will be strengthened and it will give birth to revolutionary leadership to take the struggle to its culmination. Land of Jammu and Kashmir are occupied by three powerful states – India, Pakistan and China, and therefore anything happening there becomes an international affair. All these militarily powerful countries with atomic arsenals in their possession will get involved with every political development there. This is why the movement of self-determination is not an easy task. Relationship of the three countries between stress and strain has always made it difficult for Kashmiri people to decide upon their own political strategy and it is still doing so. Yet we believe that people's aspiration for freedom cannot die a premature death.

Sheikh Abdullah's Letter to the United Nations Security Council

[In a detailed letter to the UN Security Council written during his imprisonment, Sheikh Abdullah clearly outlined the steps leading up to the coup d'état of 1953. The opinion expressed by Sheikh Abdullah in this letter answers the argument of those who try to justify that he accepted Kashmir as an inalienable part of India. He in this letter, written sometimes in the later part of 1956, categorically mentioned that 'sovereignty of the people' had always been the ultimate goal of the movement led by him. From the very beginning, he was in favour of people's wish to determine accession and incorporation of Article 370 in the Indian Constitution does not preclude plebiscite. Since plebiscite did not take place in Kashmir, the question of accession and the right of self-determination of Kashmiri people remained unresolved and hence Kashmir can not be termed as an inalienable part of India.

A section of the left political circle also tries to argue that the geopolitical situation of Kashmir along with Pakistan's involvement does not justify the demand of self-determination of Kashmiri people now, because it may be a free field of imperialist powers to play in the region. Here, in this letter, Sheikh Abdullah himself gave a befitting reply to that logic of chauvinistic nationalism by saying "Whatever Pakistan may do or might have done, that can be no valid reason for denying the Kashmiris the exercise of their right of self-determination in order to shape their own future."

This historical letter being worth referring for many other reasons, we prefer to annexe this with the booklet. This document is from the edited book "Sheikh Mohammad Abdullah's Reflections on Kashmir" by Nyla Ali Khan, Palgrave, Macmillan, Switzerland, 2018.]

To
The Hon'ble Members
Security Council,
United Nations' Organisation,
New York.
Your Excellencies,

1. Fast developing events indicate that the nine-year old Kashmir question is very likely to come up for your consideration very soon, and in all probability you will give your most earnest attention to it with a view to affect a final settlement of the Dispute. Quite naturally, on such an important occasion I would have very much liked to be able to personally present before your Excellencies some outstanding aspects of the question and explain the urgent and immediate need for a final settlement and early termination of the protracted agony of my people. But that is not to be! Your Excellencies are perhaps aware that I am completing my third year of incarceration in a detention camp in the State where I have been whisked off as a result of coup-d'etat of 9th Aug. 1953. Accordingly, the only course available to me is to send out this letter and pray for Your Excellencies indulgence in the hope that facts stated here will receive Your Excellencies' earnest consideration.
2. As a spear-head of people's struggle against autocracy and economic exploitation I led a powerful mass-movement in Kashmir for over two decades. This movement which passed through various troubles and travails had always 'sovereignty of the people' as its bed-rock. Many of our comrades-in-arms laid their lives for this cherished goal and many others went through great sufferings in the pursuit thereof. With the tragic partition of the sub-continent of India, though the flames of communal orgy engulfed the sub-continent, taking a heavy toll of human life, the State of Jammu and Kashmir kept its head cool and considerably succeeded in maintaining communal harmony in Kashmir. Unfortunately, however, the partition of India did not

wholly spare Kashmir from its after effects and a tribal invasion on the State from the North-West followed in 1947. Under the stress of this invasion the then Maharaja of Kashmir appealed to India for armed intervention.

3. In order to make military intervention from India legally possible the Maharaja had to sign an instrument of Accession with India. This accession was, however, declared by India only a provisional and the disposal of the State was finally to be made in accordance with the free will of the people. On 27th Oct. 1947 Lord Mountbatten the then Governor General of India wrote to Maharaja in reply to his letter offering accession of the State with India that '... as soon as law and order have been restored in Kashmir and its soil cleared of the invader, the question of State's accession should be settled by a reference to the people'.
4. On 2nd Nov. 1947 Pt. Jawaharlal Nehru, Prime Minister of India in his broadcast speech declared 'We are anxious not to finalize anything in a moment of crisis and without the fullest opportunity to be given to the people of Kashmir to have their say. ...The accession must be made by the people of that State. ...We will not and cannot back out of it.' (See Appendix No. 2).
5. On behalf of India there are innumerable commitments made to the United Nations Organisation as well as to the people of Kashmir that the latter alone can decide their fate through an impartial plebiscite. Thus, India came to Kashmir as the champion and protector of our right of self-determination and under that slogan fought back the invaders with our support.
6. On 13th Aug. 1948 and later on 5th Jan. 1949 the U.N. Commission on India and Pakistan passed two historic resolutions incorporating the solemn agreements of the two countries that accession shall be decided through a free and impartial plebiscite under the aegis of U.N. organisation. These international commitments to the people of Kashmir are categorical and unambiguous.

7. In 1951 a Constituent Assembly was convened in the Indian-occupied part of the State with a view to give constitutional shape to the Govt. Pakistan, suspecting backdoor decision on accession through this Constituent Assembly, took strong exception in the Security Council to the convening of this Assembly and its competence to decide the question of accession. Sir B. N. Rau, leader of the Indian Delegation in the United Nations, in his speeches before the Security Council delivered on 12th and 29th March 1951, made the object of the Assembly abundantly clear and declared unequivocally that in reference to accession the Constituent Assembly can take no decision and his Government will be bound by her commitments made to the United Nations in this regard. The Security Council on the basis of this international commitment registered its verdict on these terms ‘... and any action that Assembly might attempt to take to determine the future shape and affiliation of the entire State, or any part thereof would not constitute a disposition of the State in accordance with the above principle’ (Resolution of Security Council of March 1951). Pt. Jawaharlal Nehru while answering questions in the Indian parliament in Feb. 1955 characterised the Kashmir Assembly’s pronouncement on accession as ‘unilateral and therefore of no consequence’.
8. Meanwhile the Security Council had suggested that the two countries should try to effect a peaceful settlement of this dispute through direct negotiations.
9. As leader of the National Conference prompted by the sole desire of facilitating a settlement with due regard to the wishes of the people I, in consultation with the Executive of my organisation and with the full approval of a top-level committee nominated by the Executive of the National Conference for the purpose, drew up a list of possible alternative means of settlement of this dispute. Accordingly, I communicated these alternatives to the Prime Minister of India early in July 1953, so that in the forthcoming talks between the two Prime Ministers of India and Pakistan our approach to the peaceful settlement of the dispute would not be lost sight of. Unfortunately India did not seem to like this and turned hostile.
10. A deep and carefully screened conspiracy against me and my followers was the result. Kashmir, unfortunately, is the root cause which deeply embitters the relations between India and Pakistan and in any conflict this State is bound to be the first casualty. No peaceful progress is possible within the State unless this dispute is finally and amicably settled. These are weighty considerations and no one who has the real good of the State at heart can lose sight of these factors. For some time past I had therefore been pressing for an early settlement of this dispute with Pakistan. ... Indian reaction was averse to this approach and her resentment towards me gradually culminated in positive hostility.
11. Disruption and factionalism in our ranks and corruption of our people was therefore resorted to by India for breaking our unity and thus achieving its nefarious end. The plot culminated in the coup-d’etat on 9th Aug. 1953. In the early hours of that night I and my cabinet were dismissed without a confidence motion of the Assembly by the legally and constitutionally questionable fiat of the Head of the State. I was put under arrest along with another Minister of my cabinet and am now under continued detention nearly for the last three years without trial and without even a charge.
12. Simultaneously with my arrest thousands of my followers and co-workers, including Deputy Ministers, high ranking Gazetted Officers, respectable businessmen, lawyers, Members of the Assembly and public men of high position in life were clapped into prison. All manner of repressive measures were let loose in order to crush the spontaneous uprising of the people throughout the valley. Indian Central Reserve Police and army as well as the militia, and the special police were given a free licence to shoot at sight and commit all other possible atrocities on the defenceless people—thousands were beaten or starved in the jails in order to break them into submission—the number of those killed was officially reported to be 36 although the public version puts it very much higher. No judicial enquiry was

held to investigate into these atrocities which include among their victims even pregnant women and children. More than a score of Assembly members was detained without charge and many others kept under house arrest.

13. It was under these bloodcurdling circumstances that a session of the Assembly was called to record its approval of the coup and a vote of confidence in the new government. From prison I sent telegraphic requests to the President of the Union of India, to its Prime Minister and to the Speaker of the Assembly to allow me to appear before the House and face a motion of no-confidence in a democratic manner but no heed was paid to it. Thus almost with a pistol on the necks of the Assembly Members and with massacre and terrorism all over the Valley, a vote of confidence for the Govt. pitchforked into office with the help of Indian bayonets was secured. No greater fraud on democracy can be conceived! What moral, legal or constitutional value this fraudulent act has need hardly be explained.
14. Thus India manoeuvred to remove those elements from the Kashmir scene which she thought stood in the way of her anti-Kashmiri designs and subsequently sought ratification of accession through the Assembly. To say the least, it is a fraud upon the people, betrayal of their right of self-determination and gross breach of international commitments and promises.
15. In March 1956, the Prime Minister of India made a public declaration ruling out plebiscite in Kashmir. It has shocked the world conscience and stunned the people of Kashmir to whom innumerable assurances had been held out that they will shape their own destiny through a fair and impartial plebiscite. Reasons advanced for this face volte are that Pakistan has Joined SEATO, received Arms Aid from America and signed the Baghdad Pact. The absurdity of the argument is patent. Whatever Pakistan may do or might have done, that can be no valid reason for denying the Kashmiris the exercise of their right of self-determination in order to shape their own future. Secondly India's Prime Minister has hinted that a vote in favour of Pakistan will

rouse communal passions in India and endanger the security of its Muslim minority. This argument is also untenable. Is India's secularism so skin deep that it will collapse like a pack of cards as soon as Kashmiris exercise their right of self-determination. One may as well ask: Are Kashmiris to be held as hostages for fair treatment of Muslim minority under the so-called Secular Democracy of India. Were India's oft repeated promises to the people of Kashmir that they alone shall have the right to decide their own future through an impartial and fair plebiscite intended to be implemented only in case a vote in her favour was certain? India has repeatedly claimed that Kashmir is fast progressing and that the political uncertainty has ended. Nothing can be farther from truth. Kashmir is at present ruled by monstrous laws which have crippled all political and social life in the State and paralysed all progress. A lawless law of Preventive Detention has been promulgated in the State with the sanction of the President of the Republic of India which has stifled all civil liberties. This law authorizes arrests and detention for a period of five years without trial or even without disclosing the grounds of detention. Free and frequent use is made of this law of the jungle. Respectable citizens and political workers have been arrested under this law on the excuse of having publicized the speeches of opposition members delivered in the legislature or even legitimately organising support for the opposition in the House. Members of the Assembly who expressed their intention of crossing the floor in the House were put under arrest. In certain cases resignations were extorted under the pressure of this monstrous law and instances are not wanting where the members were publicly threatened of getting them involved in fabricated criminal cases if they failed to support the Govt. party. Indian money is being lavishly used for organising gangsters for looting, insulting and publicly flogging respectable citizens who do not see eye to eye with the ruling party. Colossal amounts borrowed on interest from India are used in corrupting public life and thereby purchasing the public conscience. It is however, gratifying to note that all these dirty methods have so far failed to corrupt the

people into submission, and with one voice they demand the fulfillment of the promise made to them by India, Pakistan and United Nations to exercise their right of self-determination in a free and democratic manner. The Indian press almost without exception is positively hostile to all tendencies in favor of the plebiscite. Any Indian newspaper writing in favor of the fulfillment of the promise held out by India to the people of Kashmir or criticizing the present administration in Kashmir is immediately bribed or blacklisted and its entry into the State banned. Foreign correspondents are seldom allowed in and if and when such a journalist finds his way to the Valley every precaution is taken that he does not get a peep into the realities of the situation. There is a virtual Iron Curtain over the Valley. No citizen dare to approach a visitor to acquaint him with the tale of his misery for fear of gestapo and subsequent torture. I challenge anyone to refute it. Under an impartial agency the scathing sea of resentment of Kashmiris will be unleashed and a real picture will come to light in those circumstances alone. Recent civic elections held in Srinagar and in Jammu afford a proof positive of oppressive and fraudulent practices of the ruling party in Kashmir. Muslim organizations and political bodies with overwhelming Muslim membership completely boycotted these elections. Some Hindu opposition organizations however contested these elections against the ruling party. The Hindu press both in and outside the State has published a surprising account of corruption, malpractices, impersonation and fraudulent methods used in these elections by the ruling party. It was through these shady means that the ruling party has secured all the seats in the Srinagar Municipal Corporation and majority in the Jammu Corporation.

16. Kashmiris are facing untold miseries during the present phase of their history. No progress—economic or political—is possible under such circumstances. Kashmir has become an oozing sore in the body politic of the sub-continent. It has embittered beyond measure relations between the two countries. The two armies facing each other across the cease-fire line constitute a potential powder

magazine which may flare up any time into a devastating war. Its consequences are too grim to imagine. In such an eventuality Kashmir will be wiped out completely—and far worse may happen. Is the world conscience so dead as not to wake up in time? If a member of the world organization is so easily to denounce international commitments and trample over without qualms the human rights of millions it will, I am afraid, deal a death blow on the effectiveness of the Security Council, will shock the confidence of small nations in the world organization and endanger world peace.

17. On behalf of the millions of Kashmiris and in the name of peace and progress of hundreds of millions of the sub-continent I appeal to your Excellencies to firmly stand by the pledges of the Security Council and execute its decision. I also appeal to the freedom loving countries of the world, to those who have signed the United Nations Charter and pledged themselves to honor it in word and deed as well as to those nations whose leaders have fought and given their lives to establish people's right of self-determination, to rise above international differences and disputes and lend a firm and unanimous support to the right of four million down-trodden Kashmiris and allow them to decide their own future in a free and democratic atmosphere. That alone will end the agony of the people of Kashmir and eliminate a grave danger to peace.

Yours sincerely,

(Signed)

S. M. ABDULLAH

References:

- Lenin V. I. (1914), 'The Right of Nations to Self-Determination', CW, Vol-20
- Noorani A. G. (2014), "Article 370: A Constitutional History of Jammu and Kashmir", Oxford University Press, paperback edition, India
- Noorani A. G. (2017), 'The Kashmir Dispute: 1947-2012', Third Paperback Edition, Tulika Books, New Delhi, India
- Report Human Rights Watch (2006), "With Friends Like These...": Human Rights Violations in Azad Kashmir, Vol-18, No- 12 (C), September
- Shafqat Inqalabi (2016), 'Economic Exploitation of Gilgit-Baltistan' in Gupta-Bansal (Ed.) 'Pakistan Occupied Kashmir: The Untold Story', Manas Publications, New Delhi, India
- Snedden Christopher (2013), "Kashmir: The Unwritten Story", Harper-Collins, UK
- Snedden Christopher (2017), "Understanding Kashmir and Kashmiris", Speaking Tiger, New Delhi, India
- Tendulkar D. G. (1962), 'Mahatma: Life of Mohandas Karamchand Gandhi, Vol-8, 1947-48, Publications Divisions, GOI, p-78
- UNPO (2017), 'Member Profile: Gilgit -Baltistan', Unrepresented Nations and Peoples Organizations, Brussels, Belgium
- White Paper (1948), White Paper on Jammu and Kashmir, GOI
- Zakaria Anam (2019), 'The UN Kashmir report is an opportunity for Pakistan to take the higher moral ground over India', The Dawn, Apr 15, 2019