

LOK SABHA

SYNOPSIS OF DEBATES* (Proceedings other than Questions & Answers)

Tuesday, August 6, 2019 / Shravana 15, 1941 (Saka)

REFERENCE BY THE SPEAKER

HON. SPEAKER: Hon. Members, you may recall that 74 years ago atom bombs were dropped on Hiroshima and Nagasaki on 6th and 9th August, 1945 respectively in which both the cities were completely destroyed. In this catastrophe 3,55,000 persons were killed and millions were injured and crippled for life. Let us on this occasion, reaffirm our resolve to strive for elimination of weapons of mass destruction and to work together for the propagation of peace and brotherhood all over the world.

The House may now observe silence for a short while to pay their respects to the victims of atom bombs in Japan.

The Members then stood in silence for a short while.

* Hon. Members may kindly let us know immediately the choice of language (Hindi or English) for obtaining Synopsis of Lok Sabha Debates.

STATUTORY RESOLUTION

THE JAMMU AND KASHMIR REORGANISATION BILL, 2019

(As passed by Rajya Sabha)

AND

THE JAMMU AND KASHMIR RESERVATION

(SECOND AMENDMENT) BILL, 2019

(As passed by Rajya Sabha)

THE MINISTER OF HOME AFFAIRS (SHRI AMIT SHAH) *moving the motion for consideration of the Resolution and the Bills, said:* Yesterday, I moved a Resolution before this House which was passed. I have brought this Bill before this House after the Rajya Sabha has passed it. This is not only a political issue but a legal issue as well. I would like to make it clear that Jammu and Kashmir is an integral part of India. There is no any legal or constitutional dispute in this regard. The Constitution of India and the Constitution of Jammu and Kashmir, wherein it is clearly stated and Jammu and Kashmir also accepts this fact that it is an integral part of India. It has been already stated in the Article 1 of the Constitution that India shall be the Union of States. This makes it amply clear that Jammu and Kashmir is an integral part of India and this Parliament is fully competent to frame laws for the State. Therefore, no one can stop us to frame laws

for Jammu and Kashmir. When I say the state of Jammu and Kashmir in the House, it also includes Pak Occupied Kashmir and Aksai Chin. Yesterday, the President of India signed a Constitutional Order, 2019 in exercise of powers conferred under Article 370(1) (D) and issued an Order by which all the provisions of Constitution of India will be applicable to the Constitution of Jammu and Kashmir. Now, wherever Constituent Assembly of Jammu and Kashmir has been mentioned in the Constitution of India that will be read as Legislative Assembly of Jammu and Kashmir. Hon. President can fully cease Article 370 by using Article 370(3). Now, there is President's Rule in Jammu and Kashmir. As per Article 356(1)(B), the full authority of Assembly is now vested in both the Houses of Parliament. In this scenario, the mandate of both the Houses is the same as that of the Assembly. I hope that this House will support scrapping of Article 370. As far as the question of bifurcation is concerned, there was a long pending demand to make Laddakh region as a Union Territory. Keeping in view this demand, there is a proposal to bifurcate Jammu and Kashmir into two Union Territories- the first one will be of Union Territory of Laddakh in which Aksai Chin will also be included. The second one will be Union Territory of Jammu-Kashmir which will have a Legislative Assembly and the Chief Minister will be elected by the people. I would like the House to consider and pass these Bills.

SHRI MANISH TEWARI *initiating said:* Today, we have gathered here to discuss a very sensitive Bill. By bifurcating Jammu and Kashmir, the Government has formed two Union Territories i.e. one is Union Territory of Jammu and Kashmir and the second one is Union Territory of Laddakh. We must keep in mind the manner in which the modern state of Jammu and Kashmir came into existence. The Treaty of Amritsar was signed between the Britishers and Maharaja Dilip Singh on 16 March, 1846. There were 562 Princely States in India before independence. All of them were given the option to merge themselves with India. Jammu and Kashmir decided to merge itself with India instead of merging with Pakistan on certain terms and conditions. The Bill brought in by the Government provides that the State of Jammu and Kashmir will be bifurcated into two Union Territories. Article 3 of the Constitution of India provides that the legislative assembly and the legislative council of the State are required to be consulted before its bifurcation or bringing any changes into its boundaries but this Parliament is being directed to decide the future of Jammu and Kashmir by consulting themselves. I would humbly like to submit that whatever is being transacted in this House is nothing but a constitutional tragedy. I would like to state categorically that the erstwhile UPA Government had not done any unconstitutional work. Andhra Pradesh and Telangana States were formed after due consultation with the Legislative Assembly and the Legislative Council of

Andhra Pradesh in accordance with the provisions enumerated in the Article 3 of the Constitution. The proviso to Article 370 provides 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. So, this Government cannot scrap the Article 370 without having the consent of the Constituent Assembly of Jammu and Kashmir, which at present, does not exist. This is a wrong interpretation of the Constitution. The Constitution of India does not contain only Article 370. It also contains Articles from 371A to I which are intended to provide special rights to Nagaland, Assam, Manipur and Andhra Pradesh. What message does this Government want to send to those States by scrapping the Article 370 today? The Government can scrap even the Article 371 in the manner it is scrapping now the Article 370. Jammu and Kashmir has a separate Constitution which came into force on 26 January 1957. The Government has bifurcated the State but what about its Constitution? Whether the Government is contemplating to bring in a Bill to scrap the Constitution of the State? I would like to state with a profound sense of responsibility that this Government has not taken into account separate constitutional aspects related to this bifurcation before bringing this Bill. At the same time, I would also like to state that we have had a number of occasions during the last 70 years when we have seen transformation of a Union Territory into a State but it is perhaps for the first time that a State is being converted into a

Union Territory. This is the severest blow to the federal structure of the Constitution.

SHRI JUGAL KISHORE SHARMA: I would like to thank the hon. Prime Minister and the Minister of Home Affairs for bringing in the Jammu and Kashmir Reorganization Bill and a Statutory Resolution. Sardar Ballabh Bhai Patel, Bhim Rao Ambedkar and Shayama Prasad Mukherjee had opposed the inclusion of the Article 370 in the Constitution at the time of its inclusion. But the politics of vested interests got it included in the Constitution. What has the Article 370 so far brought to Jammu and Kashmir? Article 370 has only widened the gap between India and Jammu and Kashmir. It has provided nothing else but unemployment, corruption and terrorism to the people of Jammu and Kashmir. No one is ready to set up a big factory in Jammu and Kashmir as no one can purchase land over there. I would like to tell you that the people from all over the country are availing of the benefits of 'Ayushman Bharat Scheme' but the people of Jammu and Kashmir are deprived of the benefits of this scheme. This is only because there is no big hospital nor anyone is ready to set up big hospital there. The entire country was celebrating the passing of the Bill which was intended to provide 10 per cent reservation to the poor of general category but the people of Jammu were disappointed because this legislation could not be enforced in Jammu and Kashmir. Hence, the people want that Article 370 and 35A associated with Jammu and

Kashmir should be scrapped. If the daughters of Jammu and Kashmir are got married in other States, she has to lose her identity. All her relations come to an end. I would also like to state that the entire country is aware of what happened to Kashmiri Pandits. So, Kashmiri Pandits will not be in a position to live with peace unless and until they are properly rehabilitated. In fact, Jammu and Kashmir has been relegated to the category of a backward State only because of the Article 370 and 35A. The States where Article 370 is not enforced, people are happy and prosperous. The condition of the refugees of West Pakistan is still quite pitiable though they have been living in Jammu and Kashmir for the last 70 years. Today, history will be created here in the House.

SHRI T.R. BAALU: This Bill should have been brought by invoking Article 368. That is what I have said previously. My point is that the Government is bringing a legislation. But the Government is not consulting the State Legislature. The Government says the State Legislature is not in existence. Why the Government has not conducted the elections? The will of the people is not reflected here. The Government may say that constitutionally it is correct. The Bill can be passed because the Government has got a brute majority. By passing this Bill, the Government is going to change a mighty State Government with a municipality. Two municipalities are being created. The end result is that the States will be headed by the Lieutenant Governors. They cannot manage the day

to day administration. The security problems have not yet been solved. Our people in border areas are not safe. That is a more important thing. In your party manifesto, you have said that Article 370 will be erased. This is just to see that the wishes of your party and not the public are fulfilled.

SHRI SUDIP BANDYOPADHYAY: After the abolition of Article 370, a war like situation has arisen. This situation has been created by the Government. The fact is when Article 370 was incorporated, maybe at that time it was the most important and an effective step. Maharaja Hari Singh had decided to merge Jammu and Kashmir with India. At that time, some concessions were given to them. So, it should not always be criticised saying that at that time Article 370 was incorporated in a wrong way. I feel that it could have been better if the matter had been discussed with the leaders of all the political parties of the country before going to take such a very crucial step which has shaken the country. This step will throw Jammu and Kashmir in a direction of more uncertainty. We feel that Dr. Farooq Abdullah, Shri Omar Abdullah, Madam Mehbooba Mufti, former Chief Minister should be released immediately. We feel that this Bill is against the constitutional morality and a procedural hara-kiri has been committed. Whether we vote in favour or against the Bill-we will become the partner of this Bill. This we do not want to become. Hence, as the ultimate conclusion, we have decided to

walkout instead of opposing this Bill with a request that no atrocities should happen in Jammu and Kashmir.

THE MINISTER OF STATE OF THE MINISTRY OF DEVELOPMENT OF NORTH EASTERN REGION; MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE; MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS; MINISTER OF STATE IN THE DEPARTMENT OF ATOMIC ENERGY AND MINISTER OF STATE IN THE DEPARTMENT OF SPACE (DR. JITENDRA SINGH) *intervening said:* In the year 1953, Shri Shyama Prasad Mukherjee was arrested in the State of Jammu and Kashmir. At the time of his arrest, he had said to his young associate Shri Atal Bihari Vajpayee that go and tell the word that Shyama Prasad Mukherjee has entered Jammu and Kashmir without permit. Had he been alive today, he would have said that go and tell the word that Modi has abrogated Article 370. This day will be remembered in the history of India as a day of redemption. Article 370 was the gravest blunder in the post-independence India. 70 years ago, had the then Prime Minister Pandit Jawahar Lal Nehru allowed the Home Minister Sardar Patel to handle the matter of Jammu and Kashmir in the same way he had handled other princely States including Junagarh and Hyderabad, the history of Jammu and Kashmir along with the history of Indian sub-continent would have been different.

When the Indian Forces were pushing back the Army of Pakistan, the then Prime Minister, without taking into confidence his Cabinet, took a unilateral decision and announced the cease-fire. When the Instrument of Accession was signed, there was no need to go to the United Nations Organisation. I would also like to add that Pandit Jawaharlal Nehru had himself said that the Article 370 is a temporary provision. In the year 1964, the then Home Minister Shri Guljarilal Nanda had said that the time has come for the abrogation of the Article 370, but the Government should be given some more time. The then Chief Minister of Jammu and Kashmir, Shri Sheikh Abdullah had himself said in the State Assembly on 2nd March, 1981 that Article 370 can be a stumbling block for progress. All this make it amply clear that a consensus had developed by the decade of 1970's that the Article 370 should be abrogated. But later on, some western countries started taking interest in this issue. Further, the new generation of politician came up and they found this Article a very convenient tool to further their political career. They could be able to become the Members of Parliament and State Assembly with just 8 to 10 per cent voter turnout. As far as the National Conference is concerned, its commitment to the Article 370 and Article 35A is just sham. They have misused Article 370 for their own political benefits and they have been disloyal to their own people. A question has been raised that the Government did not hold consultation with the stakeholders in the State. I would

like to say that each one of the 130 crore citizens of India is a stakeholder and we, sitting in this House, represent them. It has also been said that no consultation was held with the State Assembly. I feel that the hon. Home Minister has very much clarified that this is the practice which is followed in those States where President Rule is imposed. It has also been said that the abrogation of Article 370 will fuel alienation among the people of the State. I would like to counter this view with full responsibility that this very Article has generated the feeling of alienation among the people. As soon as the news of the abrogation of Article 370 spread, the people in entire India as well as in Jammu and Kashmir came out on roads in jubilation. The youths and the common man in Kashmir is rejoicing the abrogation of this Article . The youth of Kashmir has moved on in the development journey of new India. I would conclude by saying that Kashmir is not an issue at all. If at all there is an issue, it is Pak Occupied Kashmir. I have firm belief that our next step should be directed towards the efforts to make the Pak Occupied Kashmir a territory of the Indian Union.

SHRI KANUMURU RAGHURAMA KRISHNARAJU: It is very clearly mentioned that Article 370 is a temporary provision. When it is being abrogated, there is no need to make such an issue out of it. We have seen that in the passage of every Bill we find that the provisions of the Bills are applicable to the entire country except to the State of Jammu and Kashmir. After the passage of this Bill,

we will not have this anomaly. We believe that we will have the best governance after the bifurcated status of the State of Jammu and Kashmir and Ladakh. The country is going to be very safe and the real dreams of people will come true in the coming days. The Government now should take all initiatives to bring Kashmiri Pandits back. With abolition of 35A, I am sure, wonderful developments are going to take place in fields of tourism, IT and in every other sphere. Many other anomalies would be removed and corrected after the passage of this Bill and we are going to see a beautiful Kashmir hereafter.

THE MINISTER OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES (SHRI ARVIND SAWANT): This is a very fortunate moment for me because I was party to that Cabinet meeting which was called yesterday to abrogate Article 370 and 35A and I was also a witness to this historical moment. Our party was constituted in the year 1966. Since then our party has been continuously raising the Kashmir issue. In this regard, I would like to say we did not even bring a separate manifesto when our party was contesting election in coalition with Bhartiya Janta Party. We said that the manifesto of Bhartiya Janta Party would be our manifesto because it includes abrogation of Article 370 and 35A. Due to this Article 370, Kashmiri Pandits were thrown away from Kashmir. It has also aggravated the problem of terrorism. I fail to understand why they are opposing this corrective measure being taken in this regard. One can imagine how

much loss that Kashmiri citizens have suffered due to Article 370. There are various such laws which have been not applicable to Jammu and Kashmir due to which the people of this country have suffered a lot. They have suffered on all accounts be it education or health sector. Our Government has felt their pain. So, this Government has taken a good step and it should be commended.

SHRI RAJIV RANJAN SINGH ' LALAN': There used to be a time in our country when terrorism was at its peak. Various major terrorist incidents had occurred in this country during those times. There used to be discussion on terrorism in this House every two or three months. But fortunately, after 2014, when this Government took charge, no major terrorist incident has taken place in this country. This shows the resoluteness of the Government in combating terrorism. It is an established fact that roots of terrorism lies in Kashmir which get their support from other nation. Right from the first Session, this Government has brought many stringent laws to combat terrorism. I wish to say that if this Government had brought any other stringent law to combat terrorism than we would have definitely supported it. It has also been written in the National Agenda of Governance of NDA that we will not tinker it. So keeping in view the prevailing situation, this Government should not have touched this contentious issue. So our party do not support it and we will not be a party to it.

SHRI PINAKI MISRA: I unequivocally stand to support the Government's measure by way of the Jammu and Kashmir Reorganization Bill, 2019. On earlier occasions also, our party had supported the only 'Article of Faith' which India proclaims that the entire State of J&K shall be an integral part of India and that any attempt to interfere in the internal affairs of India will be met resolutely. It was always known that Article 370 is going to be temporary, transitional and special provision. That is in part 21 of the Constitution. Generations upon generations have been taught that Kashmir is not an integral part of India. This is impermissible in the Constitution. Again, the fact of the matter is that the manner in which the Government has gone about it is not the first time this has happened. Under Article 370(1)(d), 45 Presidential Orders from 1950 with regard to Jammu and Kashmir have been passed. So the Order of 2019 of a similar nature that supersedes all previous Orders. This House has always been recognized as the supreme sovereign body under the Constitution. Therefore, this House always has the power to deal with these exigencies and these situations. So, I do not believe that there should be any talk about any breach of faith. I am of the opinion that this august House should come together and send a message to our brothers and sisters of Kashmir that they are integral to our Indian family. There must be unanimity within India because if we appear divided, we give a lot of power to forces outside

India to criticize us on this. At the same time, there are certain historical issues which need to be ironed out.

THE MINISTER OF PARLIAMENTARY AFFAIRS; MINISTER OF COAL AND MINISTER OF MINES (SHRI PRALHAD JOSHI) : The entire nation is in agreement with the fact that Kashmir is an integral part of India. I would like to assert that Kashmir and even India for that matter is not mere a territory for us but we look upon it as our motherland. Today, the whole nation is speaking in one voice. But it is most unfortunate that the dissenting voices are coming from the Congress Party. In regard to Article 370 of the Constitution it is to be noted that there is no special provision for Kashmir. It is a temporary provision. Even Dr. Babasaheb Bhimrao Ambedkar had opposed it tooth and nail. Sadly, in spite of his opposition, this Article was inserted because of Pandit Nehru's insistence. Moving further, it merits attention that subsequently Nehru himself said in one of his speeches and I quote "This Article 370 is a temporary phenomenon, it will be corroded and eroded as the time comes." We must understand what the entire India needs today. On December 5, 1961, a year before the Sino-Indian War, Mahavir Tyagi famously criticized the Nehru's statement in the Indian Parliament. As far as Hyderabad and Junagadh are concerned, let me bring a historic thing on record that the decision to this effect was taken solely by Sardar Patel. I support the Resolution and the Bill brought by the power that be.

SHRI GIRISH CHANDRA: My Party and I myself are in support of the resolution to accord J&K and Laddakh the status of Union Territories. It has been a long pending demand. This move has sent a wave of immense pleasure among the masses particularly among the Buddhist followers of Dr. Bhim Rao Ambedkar. In fact, Dr. Ambedkar happened to make a statement disapproving of the draft of Article 370 wherein he said on record that the residents of Kashmir have equal rights to grow in India as is available to the other citizens of the country. Contrary to his wishes the citizens of India have been barred from settling down, or acquiring land or entering into trade and profession in Kashmir. This is totally unacceptable. I support this Bill.

SHRI NAMA NAGESWARA RAO: This is a historic Bill brought in by the Government. I rise to support this Bill on behalf of our Party. This apart, I would like to urge upon the hon. Minister to have plan B in place to convert POK into IOK somewhere down the line. Part 2 of the Jammu Reorganization Bill consists of two main issues. One of these pertains to the formation of Union Territory of Laddakh without an assembly Legislature and the other one is concerning formation of Union Territory of Jammu and Kashmir with an assembly Legislature. This is welcome move and has been hailed by the masses concerned. Earlier, I happened to be part of a delegation to Kashmir and received firsthand accounts of the pathetic condition people of J&K, who have been reeling under for

years together. We learnt from the masses that there is no development in J&K even tourism is in rough patch. So is the case with employment and industrial development. So finding the happy medium seemed to be the best way forward. Yesterday, many people were saying that it is a dark day. How can it be a dark day if development will reach all the people, employment will be provided, industries will be set up in Kashmir? Therefore, it is not a dark day rather it is a revolutionary day, a day of development. Yesterday, hon. Home Minister has told that he will make it number one state in the matter of development in the next five years. Jobs will be provided to the Muslims, Hindus, Sikhs, youths of Kashmir. Till now, there was no development in Kashmir, therefore, we are supporting this Bill due to these promises. Kashmir is a paradise on earth. It is sad that we could not protect beautiful Kashmir for so long. The people of Kashmir are lovely people. Injustice has been done to them for so long. We are supporting this Bill to bring justice to them.

SHRIMATI SUPRIYA SADANAND SULE: I do not believe that removal of Article 370 would improve the level of education in any way. The insurgency in Jammu and Kashmir is related to economics. Unemployment is one of the biggest challenges there. The hon. Prime Minister two years ago worked out the framework with NSCN and they said that the State is unique and it has a different history. So, what is really the Government's line? What would it be for Naga

framework? My only humble question to you is when will you have elections which are fair and transparent in Jammu and Kashmir. As far as Ladakh is concerned, it should also have an assembly. We have supported dividing States several times, but there has to be a way. The Constitution is there to follow it. The Government must make sure that people in the valley feel safe.

SHRI AKHILESH YADAV: The Government must assure us that the Pak Occupied Kashmir is a part of India and the 24 vacant seats also belong to India. I feel that there is a feeling of fear prevailing in Kashmir. I doubt whether Kashmir will witness any development.

SHRI HASNAIN MASOODI: I rise to oppose this Bill. This is a black day for the relationship between Jammu and Kashmir and the Union of India. Only the time will decide whether this step is one worth celebrating or otherwise. Article 370 does not give you the right to amend it. The route which has been adopted is an assault on Constitution. With regard to the proposal regarding bifurcation or the change in boundary, the people of the State must have an opportunity to give their opinion. Only after that, the Parliament could take a decision in this regard. Object of the Government should be to connect the people. This process had started but you have pushed it back. You claim that you have abrogated Article 370 but Mukherji Ji was part of the process of its coming into being. Though, I have never said that he had moved the resolution. This is an assault on the

Constitution. Your other claim is that it will facilitate development. To this, I want to say that Jammu and Kashmir is already a well-off state.

SHRI P. K. KUNHALIKUTTY: There is a criticism that you have not followed any democratic process in bringing this Resolution before the Parliament. This is a country which respects democratic approaches. Saying something in your manifesto is very easy but it is not easy to rule this country with your Manifesto. Today, you may be jubilant, but tomorrow you will feel sorry about this step. There are many problems in the Kashmir Valley. The people living in the Valley are Indian citizens. This will have serious implications. I oppose this Resolution.

SHRI JAMYANG TSERING NAMGYAL: It is a historic day when historical mistakes have been rectified. Ladakh has been neglected for the last 71 years with vehement demand for U.T. status ever since but this never seized the deserved attention of the powers that be in the past. Ladakh has its unique culture. Abrogation of Article 370 will certainly make the future of Jammu and Kashmir bright. Every religious organization has demanded U.T. status for Ladakh. Some people say that there will be no equality in Jammu and Kashmir in the absence of Article 370 whereas they themselves meted out step-motherly treatment to Ladakh. Article 370 has been misused against the minorities in Jammu and Kashmir. I thank the Government of India and all the hon. Members who supported this Bill.

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SNEHLATA SHRIVASTAVA

Secretary General

**Supplement covering rest of the proceedings is being issued separately.

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NOTE: It is the verbatim Debate of the Lok Sabha and not the Synopsis that should be considered authoritative.

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