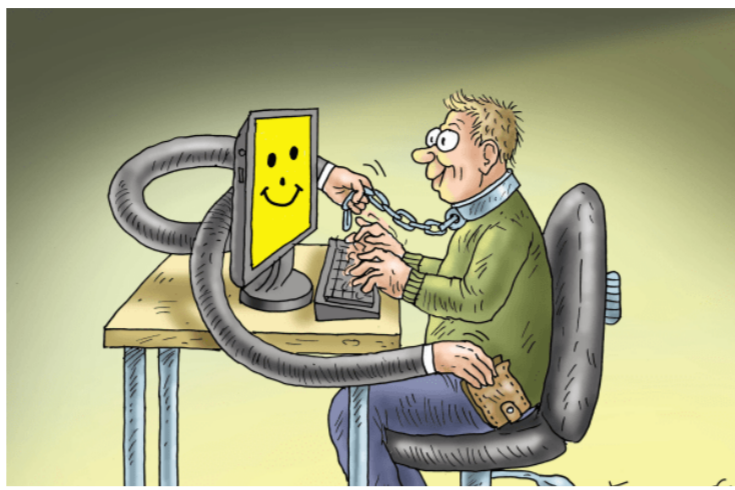


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NO HOLDS BARRED



The majority of its (J&K) residents are yet to reconcile with this decision, (revocation of Article 370) the memorandum reads. "Fact of the matter is that a majority of people in Jammu and Kashmir feel hurt and there are vocal concerns wherein they feel their decades-long privileges were unceremoniously curtailed"

Moving On In Kashmir

Statehood, domicile rights, protection of jobs emerge central planks of new J&K politics tentatively taking shape in the wake of repeal of Article 370



RIYAZ WANI

The objective seems an ambitious one: to supplant the mainstream politics that nods to the long running political conflict in the Valley and seeks its resolution in its internal and external dimensions. Now centre wants a local politics that is unapologetically pro-India. And to this end, it is enlisting leaders who are ready to move on from Article 370.

By continuing to hold three former J&K Chief Ministers - Dr Farooq Abdullah, Omar Abdullah and Mehbooba Mufti - under detention even six months after withdrawal of J&K autonomy, Centre has effectively decapitated the two dominant Kashmir based parties, National Conference and the PDP. And with other major leaders of these parties also in jail, their political activities have come to a complete halt. Neither of the two parties has since held a rally or a press conference, something that has created a deep political vacuum in Kashmir Valley.

But the recent past has witnessed emergence of some tentative political activity led by a group of defectors from the PDP. And their leader is the former top PDP leader Altaf Bukhari. Also a prominent industrialist of the Valley, Bukhari was a finance minister in the PDP-BJP coalition that ruled J&K until June 2018 when the BJP withdrew its support. Ever since J&K has been ruled from centre, first through a Governor and after downgrading of the state into a union territory through a Lieutenant Governor.

Bukhari was expelled from the PDP in January 2019 for his "anti-party activities". And now he is at the forefront of a politics that is designed to replace the one practiced by the likes of the NC and the PDP. And this new politics apparently enjoys the blessings of New Delhi.

The objective seems an ambitious one: to supplant the mainstream politics that nods to the long running political conflict in the Valley and seeks its resolution in its internal and external dimensions. Now centre wants a local politics that is unapologetically pro-India. And to this end, it is enlisting leaders who are ready to move on from Article 370.

It is here that Bukhari seems to have come in handy. Going by his statements so far, Bukhari has made none that challenges centre on repeal of Article 370 -

albeit, he has tried to perform a tough balancing act by playing to the grievances in Kashmir and at the same time not opposing New Delhi's August 5 move.

In a memorandum to the Lieutenant Governor Girish Chander Murmu last month, Bukhari addressed both the constituencies: New Delhi and people of Kashmir.

"The majority of its (J&K) residents are yet to reconcile with this decision, (revocation of Article 370) the memorandum reads. "Fact of the matter is that a majority of people in Jammu and Kashmir feel hurt and there are vocal concerns wherein they feel their decades-long privileges were unceremoniously curtailed".

However, the memorandum stays short of demanding restoration of Article 370, only seeking protection of domicile rights for the people of J&K. It says the main cause for discontent among people of the erstwhile state is the nullification of Article 35A, a feature of Article 370, which barred outsiders from buying land and become J&K citizens.

The memorandum seeks restoration of statehood to J&K, exclusive rights for locals over land and government jobs and economic packages for different sectors among other demands.

The memorandum thus crystallizes the contours of new politics around three issues: domicile rights, protection of local jobs and the demand for statehood.

By taking up these issues and steering clear of a demand for reversal of the withdrawal of Article 370, Bukhari has agreed to play the ball. And the others who have joined him are Mohammad Dilawar Mir, Ghulam Hassan Mir, Zaffar Iqbal, Javed Hassan Beig, Noor Mohammad Shiekh, Choudhary Qamar Hussain and Raja Manzoor Ahmad, all of them the PDP leaders and former legislators except Iqbal.

There's one more leader: the PDP patron and its founding member Muzaffar Hussain Beigh. Though

still a member of the PDP, Beigh in recent past has moved his political outlook closer to New Delhi. He has even gone against the president of his party, the former J&K Chief Minister Mehbooba Mufti, criticising her for her old statement that nobody would raise Indian flag in Kashmir if Article 370 were to be withdrawn.

Now situation has come to a point where Bukhari led group of leaders is due to meet Prime Minister Narendra Modi and home minister Amit Shah with a petition to restore statehood to J&K and domicile rights to its people. Bukhari is also expected to launch a new political party.

And as Bukhari and Beigh emerge key figures in the evolving post-Article 370 political landscape of J&K, the Valley's established political players including three former chief ministers remain imprisoned. They have been slapped with Public Safety Act which will keep them detained for another three months. The centre has shown no indication of releasing them till they are seen no threat to the peace in J&K. Nor has it set free People's Conference chairman Sajad Gani Lone who was shifted to his house from the MLA hostel on Wednesday.

This leaves the field open for Bukhari and Beigh. Will the duo be able to re-start political activity in the Valley and also forge a credible political identity for themselves? The answer remains moot. But one thing is sure. Their politics is unlikely to resonate with people who are still in no mood to let go of the Article 370. There's still no space for a pro-India politics which doesn't acknowledge or seeks to address the political conflict in Kashmir.

Does this mean Bukhari and Beigh's efforts are doomed to fail? They may well come to nought. But as long as centre protects their politics from any opposition by keeping the established political leaders under detention, they are certain to remain relevant.

VICKY KAPUR | KHALEEJ TIMES

US President Donald Trump is apparently trampling over dozens of federal contracting laws to expedite the construction of his promised border wall with Mexico to keep out undocumented immigrants. No less than 10 federal laws had to be side-stepped this week via some 16 waivers, sacrificing silly requirements like open competition and giving losing bidders a chance to protest decisions, in order to fast-track 283km of the wall in California, Arizona, New Mexico and Texas.

Simultaneously, some 15,000km away, India is hastily erecting a 1,640-ft wall to keep a slum housing 2,000 residents away from the Potus' prying eyes when he visits Indian Prime Minister Narendra Modi's home state Gujarat early next week. You see, the US President's motorcade is scheduled to drive past the road next to the slum, and the 4ft-

high wall, part of the 'beautification and cleanliness drive' according to Ahmedabad mayor Bijal Patel, will offer security during the Emergency. Habeas corpus is well established as a foundational right against state coercion in India. It dates back to 1775, when Sir Elijah Impey, chief justice of the Supreme Court in Calcutta, issued the writ to governor general Warren Hastings.

In the six months since the abrogation of Article 370, the Indian judiciary has not managed to hear all the habeas corpus cases emerging from Kashmir. When Rajya Sabha member Vaiko filed a habeas corpus petition on the detention of Farooq Abdullah on 11 September 2019, the court did not hear the matter immediately. A notice was issued to the government after six days, a very long delay for a habeas corpus case, during which the government charged Abdullah under PSA. The court's delay in hearing the matter made it moot. This happened to a three-time chief minister and sitting parliamentarian, while the cases of most others detained in Kashmir were not even assigned to a bench.

After weeks of delay in hearing these petitions, the court sent them back to the high court in Srinagar. The high court was swamped with an impossible load, with only two judges available to hear urgent habeas corpus matters. It was so constrained because 9 of its

17 judgeships were vacant. The Supreme Court collegium did not appoint new judges to this high court. The Chief Justice of India leads the collegiums that handle appointments to the Supreme Court and various high courts. The collegium also handles transfers, but did not transfer qualified judges from other high courts to Srinagar, though the high workload and unexpected circumstances of the former state justified it.

Constitutional lawyer Gautam Bhatia has dubbed it an "absentee constitutional court" that has "dodged, ducked, evaded, and adjourned" the problem. More charitable explanations point to the Supreme Court's caseload and pendency, which is a weak excuse—the onus of prioritizing cases rests on the leadership of the court. The Supreme Court decides what cases to hear and which ones to dismiss. According to a recent paper by Aparna Chandra, William H.J. Hubbard, and Sital Kalantry, from 2010 to 2015, 11.2% of the court's cases were service matters (where government employees had disputes over salary, pensions, and transfers). Comparatively, constitutional matters comprised only 5.3% of all matters heard by the apex court. The Indian bureaucracy has captured more than one-tenth of the Supreme Court's valuable time. The same paper reports that from 2010 to 2015, only 0.2% of cases were habeas corpus cases. Over the same period, the court heard more cases related to admissions and transfers to engineering and medical colleges (0.8%

Trump wall may be incomplete but India has built one for him



He confirmed yesterday that he won't be signing the limited trade deal under negotiations between the two countries during his upcoming two-day visit. The other items on his itinerary include ceremonial welcomes, bilateral meetings, private and presidential banquets, and a visit to the Rajghat (a memorial dedicated to Mahatma Gandhi).

Oh yes, there's a token business event where he's supposed to meet the captains of India Inc. a few hours before he leaves, but there's no trade deal, remember? If you still think there's more than optics at play, consider this. The mega event at the Motera Cricket Stadium in Ahmedabad was to be called 'Kem Chho Trump' (How are you, Trump on the lines of last year's 'Howdy Modi' in Texas). The Kem Chho has now been dropped in the favour of Namaste (Hello) to maintain a national theme instead of a regional one. It's all about optics, walls and façades.

It's the optics. In fact, optics is what Trump's India visit is all about. Even before his arrival, Trump dashed hopes of there being any substance to his visit:

Matters Of Personal Liberty

The SC ought to rethink its caseload and prioritize urgent habeas corpus writ petitions

SHRUTI RAJAGOPALAN

Last week, in his 2020 Justice PD Desai Memorial Lecture, Justice D.Y. Chandrachud gave a thoughtful speech, titled "The Hues of India: From Plurality to Pluralism", about protecting India's pluralism by protecting individual rights and liberty. He invoked the word "liberty" 16 times and "freedom" 14 times. Last week, after six months of detention, Omar Abdullah and Mehbooba Mufti, two former chief ministers of Jammu and Kashmir, were charged under its Public Safety Act (PSA), a law that allows detention without trial for up to two years. Worse still, hundreds of others are waiting for their day in court for the ruling on their detention. Justice D.Y. Chandrachud, who expressed enlightened ideas on liberty in his lecture, belongs to a court (with 32 other learned justices) that has not set aside the time to hear habeas corpus cases of hundreds of Indians detained in Kashmir. This apparent contradiction requires further examination.

Unlike other complicated questions faced by the court, habeas corpus is a simple matter. Its literal translation is "produce the body". In issuing a writ of habeas corpus, the court directs the state to produce a detained person and justify his or her arrest. Even those on different ends of the ideological spectrum

agree that there should be limits to arbitrary state power when it comes to detention. After all, India's present government has had student protesters of yesteryears who demanded habeas corpus protection during the Emergency. Habeas corpus is well established as a foundational right against state coercion in India. It dates back to 1775, when Sir Elijah Impey, chief justice of the Supreme Court in Calcutta, issued the writ to governor general Warren Hastings.

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of cases) than habeas corpus matters. So, sending habeas corpus cases back to high courts, even with the current deluge, will not free up much of the court's caseload.

The Supreme Court of India has had a poor record on habeas corpus. The 1976 ADM Jabalpur case, when it held that personal liberties were not guaranteed in a state of Emergency, is invoked and mourned as its lowest point. In 2017, the Supreme Court reversed itself on ADM Jabalpur. In a poignant moment, Justice D.Y. Chandrachud, while writing a minority opinion for the Puttaswamy case, parted judicial ways from his father Y.V. Chandrachud, who was part of the majority ruling that failed to check the power of the executive in ADM Jabalpur.

At the time, it felt, at least symbolically, that the Supreme Court had come of age on the issue of personal liberties and habeas corpus. However, structurally and procedurally, the court has not created the relevant judicial capacity to hear and dispose these cases speedily, nor prioritized them with what one might identify as urgency. In the process, thousands of Indians remain detained. It is unclear whether they are rightly or wrongfully detained, because the only institution that can tell us seems too busy with service matters and medical college admissions to hear cases or appoint a sufficient number of judges who could ask the state to "produce the body".

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