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A Primer on US and EU Response to India's Abrogation of Article 370

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ABSTRACT

This paper outlines the responses of the US Congress and European Union (EU) parliament to the Indian government's abrogation of Article 370 of the Constitution and the surrounding events, including the communications lockdown in Kashmir. It notes contrasting responses: the US Congress showed a binary reaction of moderate and extreme calls to action, and the EU parliament honed a more expansive approach to address India's apparent "democratic backsliding". The paper argues that even as the responses of the US Congress and EU parliament differed, they risk India's most consequential ties with the Western world. It offers recommendations for India to navigate the diplomatic fallout of its actions in Kashmir, as reflected in American and European apprehensions.

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INTRODUCTION

Narendra Modi's tenure as India's prime minister has seen a mix of policy continuity from the Congress-led United Progressive Alliance years, diplomacy showmanship in his courtship of the Indian diaspora, and increased assertiveness buoyed by the emphatic victory of the Bharatiya Janata Party (BJP) in the 2014 and 2019 general elections. Actions taken by the Modi government have manifested a change in India's diplomatic outlook—away from the focus on the principle of 'strategic autonomy', to positioning the country as an emerging global power through the pursuit of multiple issue-based strategic alignments.[1]

Since garnering a larger mandate in 2019, the Modi government has put greater emphasis on actualising the BJP's domestic agenda. Amidst this, unique challenges to the government's foreign-policymaking have emerged. In August 2019, the apprehensions of India's international partners heightened following the abrogation of Article 370 of the Indian Constitution and the passage of the Jammu and Kashmir Reorganisation Act 2019,[2] which effectively stripped Jammu and Kashmir's special status and bifurcated the state into two union territories. Coupled with the communications lockdown (including a total internet shutdown for 213 days[3]) and the detention of prominent Kashmiri politicians under the Public Safety Act,[4] the revocation of Article 370 provoked interest in many parts of the world. This 'internationalisation' of the issue stemmed not just from Kashmir already being a politically charged regional flashpoint, but also due to the lengthy communications lockdown.

Months later, in December 2019, the passage of the contentious Citizenship Amendment Act (CAA) also gained international

attention. Widespread protests broke out across the country, resulting in communal violence in New Delhi, and tensions manifested in vandalism, the detention of protesters and violent incidents in prominent universities.[5] Compounded by the events in Kashmir, the broader issue of India's supposed "democratic backsliding" was further internationalised as several anti-CAA protests and clashes occurred during US President Donald Trump's maiden visit to India in February 2020.[6]

This paper explores the responses by the legislative branches of two of India's key international partners—the United States (US) and the European Union (EU)—to the Modi government's abrogation of Article 370. The US is inarguably India's most important strategic partner,[7] while the EU has long been one of India's largest trading partners, with US$115.64 billion in bilateral trade in 2018[8] and a prospective free trade agreement (FTA) under negotation.[9]

THE US CONGRESS' BINARY PROPOSITION

The Trump era has witnessed a more conflictual relationship between the US's executive and legislative branches. Although the pulling and hauling over the distribution of powers between the legislature and the executive is by constitutional design, tensions have increased since the post-9/11 consolidation of foreign policy and war-making powers in the White House.[10] Moreover, given the threat posed by Trump's 'America First' worldview to the post-Cold War US bipartisan consensus on American internationalism, the US Congress has increasingly also played a balancing role. For instance, Republicans and Democrats on the Hill have often come together to introduce stop-gap provisions to prevent the Trump administration from withdrawing the country from critical alliances such as the North Atlantic Treaty Organization.[11]

The US Congress's balancing role has also been relevant to the bilateral dynamic with India. For instance, in recognising that some US partners have had a historical dependence on Russian weaponry, the US Congress amended the Countering America's Adversaries Through Sanctions Act (CAATSA) that mandates the Trump administration to ramp up secondary sanctions against countries doing business with the Vladimir Putin regime in Russia. On levying secondary sanctions on international customers of the Russian defence industry, a bipartisan effort encompassed the passage of waiver provisions under CAATSA for Indonesia, Vietnam and India.[12]

Although the Trump administration has yet to accord that waiver for India's purchase of Russian S-400 missile defence systems, the efficacy of the US Congress's 'in-principle waiver' for India is clear when contrasted with the Trump administration's hard-nosed approach to the purchase of the same Russian missile defence system by Turkey, which was not accorded a waiver provision under Section 231 of CAATSA. In Turkey's case, the Trump administration has raised pressure with actions such as suspending Ankara from the F-35 development programme, despite it being a critical NATO partner at the crossroads of Europe and the Middle East.[13]

Although the bipartisan effort to balance fallouts from Trump's foreign policy waned after the Democrats took control of the US House of Representatives following the 2018 midterm elections, bipartisanship did not disappear entirely, as seen in the recent push to constrain Trump's powers to initiate US military operations against Iran without Congressional approval.[14] Following a brief internal tussle between moderate legislators and the progressive faction of the Democratic Party over pursuing a progressive agenda,

the House, led by moderate Speaker Nancy Pelosi,[15] has sought to present a parallel foreign policy in contrast to Trump's conduct. With control of the House of Representatives according a vast array of oversight powers, the Democrats have stepped up scrutiny of the 'America First' worldview, which mandates the 'divorcing' of values from US foreign policy.[16]

Following the Trump administration's seemingly accepting response to India's abrogation of Article 370 and the communications lockdown in Kashmir, Democrats in the House of Representatives organised two Congressional hearings—one by the House Foreign Affairs Committee (HFAC) on 22 October 2019 and the other by the Tom Lantos Human Rights Commission on 14 November 2019. The latter is not a Congressional committee per se but is a caucus grouping of bipartisan legislators under its erstwhile mandate of the Congressional Human Rights Caucus. This makes the HFAC hearing more prominent in terms of being reflective of the Democrats' heightened push for moral imperatives in US foreign policy.

The second of three HFAC hearings by the 'Subcommittee on Asia, the Pacific, and Non-Proliferation,' which focused on human rights in South Asia, was dominated by the Trump administration's supposed ambivalence towards India's actions following the abrogation of Article 370.[17] Elliot Engel, the Democratic chair of the HFAC, termed the absence of any White House pushback against the communications blockade in Kashmir as an instance of Trump taking "US foreign policy away from a focus on human rights, away from a focus on democratic principles, away from a focus on American values."[18] Although Engel is an establishment Democrat with nearly four decades in Washington DC through 16 terms as a Congressman, his heightened advocacy for the role of values in

foreign policy could be attributed to the pressures of being in the middle of a primary with a progressive challenger at that time. Subsequently, ahead of the 2020 Congressional elections, Engel lost to a progressive insurgent candidate in the primaries.[19]

The HFAC hearing also saw US bipartisan support on India coming under strain. As polarisation has frayed the once ironclad bipartisan consensus on foreign policy by pushing Republicans and Democrats into their respective populist corners, the former's realpolitik pursuit of US interests has clashed with the latter's overt emphasis on American moral distinction.[20] This is most evident in the 'new Left', the Democratic party's progressive faction. At the hearing, in purporting a moral high ground vis-à-vis the Trump administration's ambivalence on India's actions in Kashmir, nuance was shortchanged by a simplistic, binary worldview.

While responding to a witness testimony that sought to explain India's rationale by underscoring the untoward role played by cross-border militants in Kashmir, Representative Ilhan Omar remarked, "In your version of the story, the only problems in Kashmir are caused by what you call "militants". The only people protesting to break away from India are all nefariously backed by Pakistan".[21]

Earlier that same day, witness testimony by Alice G. Wells, the then-Acting Assistant Secretary of State (Bureau of South and Central Asian Affairs), encompassed a nuanced view of the significant involvement of cross-border militants in Kashmir. Wells noted, "Pakistan's harbouring of terrorist groups like Lashkar-e-Taiba and Jaish-e-Muhammed, which seek to foment violence across the Line of Control, is destabilising, and Pakistani authorities remain accountable for their actions. We [the US State Dept.] believe the

foundation of any successful dialogue between India and Pakistan is based on Pakistan taking sustained and irreversible steps against militants and terrorists in its territory."[22]

At the time of these proceedings in the US in October 2019, India had already restored mobile services for over 40 lakh postpaid connections in Kashmir and continued with the phased restoration of landline connections. However, since the suspension of internet services persisted,[23] most Democrats' scope of criticism did not go beyond this issue to question the legality of New Delhi's decision to abrogate Article 370. In addition, barring Omar and a few others' comments, the Democrats' criticisms were primarily directed at the Trump administration and not the Modi dispensation per se.

Comparing tabled resolutions on India's abrogation of Article 370 in Kashmir		
House Resolution	H.Res.724	H.Res.745
Title	Condemning the human rights violations taking place in Jammu and Kashmir and supporting Kashmiri self-determination	Urging the Republic of India to end the restrictions on communications and mass detentions in Jammu and Kashmir as swiftly as possible and preserve religious freedom for all residents
Sponsor	Rep. Rashida Tlaib (D-MI-13)	Rep. Pramila Jayapal (D-WA-7)
Current state	21/11/2019 - Introduced in House 21/11/2019 - Referred to the House Committee on Foreign Affairs 06/12/2019 - Referred to the Subcommittee on Asia, the Pacific and Nonproliferation	06/12/2019 - Introduced in House 06/12/2019 - Referred to the House Committee on Foreign Affairs

Comparing tabled resolutions on India's abrogation of Article 370 in Kashmir		
Bipartisan support	-	Cosponsor: Rep. Steve Watkins (R-KS-2)
Stance on the legality of India's abrogation of Article 370	Deems the Government of India to have "unilaterally changed the status of Jammu and Kashmir without a direct consultation or the consent of the Kashmiri people"	-
Key call to action	Calls on Congress to support Kashmiri "self-determination" via affirming that "any changes to the status of Jammu and Kashmir must be made with the direct consultation of the Kashmiri people, who must play a central role in the determination of their future."	Urges the Government of India to "ensure that any actions taken in pursuit of legitimate security priorities respect the human rights of all people and adhere to international human rights law." *and* calls to "lift the remaining restrictions on communication and to restore internet access across all of Jammu and Kashmir as swiftly as possible."

Source: H. RES. 724 (Rashida Tlaib, "H. RES. 724 - Condemning the human rights violations taking place in Jammu and Kashmir and supporting Kashmiri self-determination", 116th Congress - 1st Session, November 21, 2019, https://www.congress.gov/116/bills/hres724/BILLS-116hres724ih.pdf *) and H. RES. 745 (Pramila Jayapal, "H. RES. 745 - Urging the Republic of India to end the restrictions on communications and mass detentions in Jammu and Kashmir as swiftly as possible and preserve religious freedom for all residents", 116th Congress - 1st Session, December 06, 2019,* https://www.congress.gov/116/bills/hres745/BILLS-116hres745ih.pdf*)*

There were other domestic political factors at play, especially with the HFAC hearing coming amidst the House-led impeachment effort against Trump. It also closely followed the 'Howdy, Modi!' event in Houston, Texas, which had a gathering of over 50,000 people and where the camaraderie between Trump and Modi was on full display. However, with the event being held in Texas, an emergent battleground state in the 2020 US presidential elections with a sizeable Indian American population, and Modi's seeming endorsement of Trump (with his "Abki Baar, Trump Sarkar"

cheer), a degree of unwarranted partisanship had emerged in US-India ties. This partisan fervour was further compounded after Republican Congressman George Holding, the co-chair of the Congressional Caucus on India and Indian Americans, submitted a statement to the Congressional record in support of the Modi government's actions in Kashmir,[24] which seemed to echo the BJP's line of argument of Article 370 being "temporary" and to have "have worked well for those with political connections, but "denied economic opportunities for the people". Holding even added that Article 370 had created a "polarising environment" and had been "exploited politically" in the past. In noting the crucial role played by cross-border terror outfits in accentuating security challenges in Kashmir, the statement called for the Modi government's actions to be "applauded".

However, towards the end of 2019 as the internet suspension was on its path to becoming "the longest ever imposed in a democracy,"[25] Democrats doubled down by tabling two House resolutions on Kashmir to mandate policy shifts not only from the Foggy Bottom but also South Block in New Delhi.

In November, Rashida Tlaib—another prominent face of the Democratic 'new Left'—introduced a House resolution on "condemning the human rights violations taking place in Jammu and Kashmir".[26] This went beyond the American precedent of adhering to India's position against internationalising the Kashmir issue to call on the US dispensation to support "Kashmiri self-determination".[27] The tabled version even deemed the Modi government to have "unilaterally changed the status of Jammu and Kashmir without a direct consultation or the consent of the Kashmiri people".[28] Apart from rightly pointing out the rising

strain on the "shared democratic norms and values" that is at the core of modern-day US-India ties, the resolution's extreme positions yielded no across-the-aisle cosponsors, and none from the Democratic side as well.

Perhaps recognising that the Tlaib resolution's unconventional positions could further strain US-India ties, a relatively moderate resolution was introduced in early December. Sponsored by Democrat Pramila Jayapal, the resolution notably stopped short of commenting on the legal/moral basis of the Modi government's decision to revoke Article 370. This was more in line with the Trump administration's stance on the move being India's "internal matter".[29] But much like the Tlaib resolution, the Jayapal draft criticised India for detentions, forbidding the travel of journalists and the resultant derailment of health services for the civilian population.[30] However, the resolution prefaced its call to lift the "remaining restrictions on communication and to restore internet access across all of Jammu and Kashmir as swiftly as possible" by recognising the "external state support for the insurgency" in Kashmir.[31] It referenced the February 2019 Pulwama attacks, deeming it to have been perpetrated by a "member of a Pakistan-based, United States-designated foreign terrorist organisation" and thus, recognised "the dire security challenges faced by the Government and India in Jammu and Kashmir and continuing threat of state-supported cross-border terrorism".[32]

Although even Jayapal identifies as a progressive and is often seen with the 'Squad',[33] an informal grouping of four of the most prominent voices of the 'new Left' (Alexandria Ocasio-Cortez, Ayanna Pressley, Omar and Tlaib), she is known to strike "a balance of how to navigate progressive priorities, but do so as a coalition".[34]

Thus, in a sign of the Democrats tempering their increasing tilt to the Left, the Jayapal resolution (unlike the Tlaib draft) received co-sponsorships not only from other moderate-leaning Democrats but also Republicans, with Congressman Steve Watkins as the original cosponsor.[35]

The move from an extreme to a relatively moderate position on the Kashmir matter may have also stemmed from electoral motivations. Although Indian Americans mostly align with the Democratic Party in US elections,[36] the 2020 presidential poll encompasses toss-up races where the electoral arithmetic associated with the community may be key to flipping traditional red states (Republican) like Texas to blue (Democrat). Moreover, with the personalisation of bilateral ties under Trump and Modi, the Kashmir matter could have added bearing. For instance, as per a September 2020 survey, Democrats' criticism of the Kashmir issue was attributed as a key factor behind Democratic presidential candidate Joe Biden seeing a 12 percent drop in support among Indian Americans as compared to 2016 voting patterns.[37]

The US Congress's moderate-to-extreme scale of criticism stands in contrast to the EU's response, which reflects a critique of Indian actions under a broad scope.

THE EUROPEAN PARLIAMENT'S EXPANSIVE SCOPE

The EU has long maintained a strong focus on human rights, a position best reflected in its tradition of passing parliamentary resolutions on international human rights violations. Human rights clauses and their applications also occupy a prominent place in EU bilateral negotiations.[38] The EU's commitment to human rights was further substantiated in April 2020 when the European

Commissioner for Justice Dider Reynders declared the year to be a "human rights year", and that new human rights legislation would be introduced in 2021.[39]

The EU has not shied from discussing its concerns over human rights as part of the bilateral framework with India.[40] Several previous EU-India developments have even featured specialised segments detailing human rights expectations and violations, as mandated under the 2017 European parliament resolution on EU Political Relations with India.[41] It is no surprise that the EU parliament has taken a similar approach to address India's abrogation of Article 370 and the communications blockade in Kashmir.

Federica Mogherini, the then EU High Representative for Foreign Affairs and Security Policy, met Indian foreign minister S. Jaishankar in August 2019 and issued a statement, stressing on "the importance of steps to restore the rights and freedoms of the population in Kashmir." [42] To assuage the EU's concerns, Jaishankar engaged in a series of proactive diplomatic efforts such as trips, conferences and meetings with diplomatic counterparts, such as EU trade commissioner Phil Hogan, the most recent of which was his trip to Brussels in February 2020.[43]

In September 2019, the European parliament raised concerns over the events in Jammu and Kashmir, citing apprehensions on "the well-being of the people in the valley under such an unprecedented lockdown."[44] The EU also raised the issue at the Human Rights Council meeting in Geneva on 10 September 2019,[45] seeking an apolitical platform to voice its concerns, although deviating from its adherence to India's long-standing position

against internationalising the Kashmir matter.

In response, certain members of the European parliament (MEPs) were invited by the Women's Economic and Social Think Tank, and funded by the International Institute for Non-Aligned Studies,[46] to visit the newly formed Jammu and Kashmir union territories in their personal capacity and not as representatives of the EU parliament. This move came as a surprise as earlier that month (October 2019), the Indian government had reportedly refused to permit US Senators from visiting the region.[47] Nevertheless, an official statement by the external affairs ministry clarified that "the MEA is not involved and is not coordinating the visit".[48]

The visiting MEPs issued positive statements describing their experience, but questions were raised over their objectivity since most of the delegation was made up of far-right, right and centre-right MEPs (22 out of 27).[49] Allegations of the roster being reflective of a particular partisan view were further substantiated by the last-minute disinvitation of former UK MEP Chris Davies, a Liberal Democrat.[50] The credibility of the MEPs' statements were further undercut following comments like those by former Foreign Secretary Kanwal Sibal ("It is wise to let the Europeans go first, as Europe is not in a position to wield the big power stick that the US can").[51] The overall impact of the visit was thus somewhat muddled—although it indicated increased transparency and good faith to ease tensions, the apparent political bent of the visiting MEPs undermined the credibility of their assessments.

From a domestic standpoint, however, the visit (albeit informal and not conducted by the MEPs in their official capacity[52]) appeared

as an EU endorsement of the Modi government's actions, primarily because of the manner in which they were addressed and described in the Indian media. With regards to the EU-India dynamic, the visit was construed as India acknowledging and respecting EU apprehensions and instituting transparency, thus rendering the situation resolved (although no joint EU-India formal declaration was issued). This placed the European parliament in a quandary, with its hands tied against further action. This irresolution meant that the matter was later brought up again, this time in conjunction with the EU's apprehensions over the CAA.

The European parliament's response to the introduction of the Citizenship Amendment Bill in December 2019 came in the form of six resolutions (B9-0077-2020 to B9-0082-2020) on 22 January 2020. Although non-binding, the resolutions can affect policy outcomes of the EU Council and EU Commission[53] as they were introduced by various groups that cumulatively represented 626 of the total 751 MEPs at the time.[54] Moreover, a majority of these resolutions were introduced on behalf of groups that represent the entire political spectrum, reflecting a broader, cross-aligned consensus, in contrast to the largely Democrat-led effort in the US Congress.[55]

The resolutions listed several different actions by the Indian government that allegedly violated international norms and India's commitments on human rights. These included alleged police firing on anti-CAA protesters, reports of "torture during detention" and the potential for creating what it called the "largest statelessness crisis in the world and cause [of] immense human suffering".[56] Notably, three of the six resolutions brought up EU apprehensions over India's actions in Kashmir during and after the abrogation of Article 370.

Although the primary focus of all the resolutions and their deliberations was human rights violations amidst the passage of the CAA and the protests, they also included calls to the Indian government to lift restrictions in Jammu and Kashmir, thereby adopting an expansive scope. This focus was mirrored by individual EU countries as well—German Chancellor Angela Merkel[57] and Swedish Foreign Minister Ann Linde[58] expressed concerns and called for the restoration of rights and freedoms to the Kashmiri people, but acknowledged that the matter was internal. France's Ambassador to India Emmanuel Leanin said, "The CAA is India's internal and domestic matter".[59] At the same time, Finnish Foreign Minister Pekka Haavisto called for UN observers to be allowed to visit the Kashmir area.[60] The most extreme EU response came from the UK (before Brexit), where the Labour Party leadership passed a resolution calling for international intervention in Kashmir and Pakistani-origin members of the UK parliament called the abrogation of Article 370 an "orchestrated coup,"[61] even as the Conservative majority held firm that the matter was internal.[62]

Despite the EU parliament extensively debating the six resolutions in January 2020, further decisions were postponed until after the annual India-EU Summit that was to be held on 13 March 2020.[63] However, the summit was postponed—as was any discussion on the tabled resolutions—due to the COVID-19 pandemic. From a conciliatory standpoint, this postponement also allowed the Europeans to adopt a 'wait-and-see' policy, to tailor their response based on actions or measures taken by the Indian government.

Comparing the six resolutions introduced in the European Parliament						
Resolution Number	**B9-0077/2020**	**B9-0078/2020**	**B9-0079/2020**	**B9-0080/2020**	**B9-0081/2020**	**B9-0082/2020**
Sponsored by	Progressive Alliance of Socialists and Democrats	European People's Party Group	European United Left/ Nordic Green Left Group	Greens/ European Free Alliance Group	European Conservatives and Reformists Group	Renew Group
Reference to the abrogation of Article 370 and subsequent actions	-	-	Calls for the EU and Member States to promote the implementation of the UN Security Council resolutions on Kashmir;	Condemns the decision of the Indian authorities to shut down internet access to global networks, preventing communication and the free flow of information for Indian residents;	-	Calls on the Indian authorities to end their violent repression of those who are critical of their policies;
Key call to action	Calls on the Indian Government to repeal the discriminatory amendments	Calls on the Government of India to assess the CAA and its consequences in the spirit of equality and non-discrimination	Calls on the Government to demonstrate their commitment to fully guaranteeing the protection of refugees, irrespective of their religion	Calls for the release of imprisoned protestors and an impartial investigation into human rights violations committed since the start of the protest.	Calls on the Indian Government to allay the concerns of all groups inside the country regarding the modalities of the CAA	Calls on the Government of India to engage in dialogue with various sections of the population and repeal the discriminatory amendments

Source: EU Parliament, "Joint Motion for a Resolution — Res. B9-0077-2020 to Res. B9-0082-2020", The EU Parliament, January 28, 2020, https://www.europarl.europa.eu/doceo/document/RC-9-2020-0077_EN.html

RECOMMENDATIONS

Despite India's long-standing insistence against internationalising the Kashmir issue, the Modi government's abrogation of Article 370 and the subsequent lockdown in Kashmir drew international attention, mostly due to individual countries' motivations to politicise the issue. For instance, Pakistan embarked on an extensive information campaign in the Western media on the Indian security establishment's alleged excesses,[64] and Kashmir became a rallying issue for some countries (such as Malaysia, Turkey, Iran) to challenge the Saudi Arabia-dominated Organisation of Islamic Cooperation platform[65] (which largely deemed the issue to be India's "internal matter"). However, regardless of the nuance behind the internationalisation of the issue, legislative actions taken by the US Congress and the EU parliament risk India's ties with the Western world.

India's divergent approaches with the EU and the US on the matter must be examined to better navigate the challenges posed to its ties with the two powers. Engagement with the EU, via the organisation of an informal visit by select MEPs, only accentuated doubts over India's "democratic backsliding" and encouraged the EU parliament to adopt an expansive approach to take a position on other Indian issues. As for the US, the push to keep engagement on the matter at a minimum put the core fundamentals of US-India ties at risk.

Safeguarding American bipartisanship on India

In December 2019, Jaishankar reportedly cancelled a meeting with HFAC legislators after its leadership declined Indian demands to exclude Jayapal from the meeting.[66] The Indian side expressed

their interest to only meet the HFAC leadership and protested the attendance of HFAC non-members like Jayapal. Furthermore, at a press conference, Jaishankar said, "I have an interest in meeting people who are objective and open to discussion but not the people who already made up their minds".[67] Although this may have been done in a bid to arrest the US's apprehensions on Indian actions in Kashmir and in view of the purpose of Jaishankar's visit being the second iteration of the US-India 2+2 dialogue, his comment fed untoward optics of India's foreign minister 'snubbing' Jayapal—the first Indian-American woman elected to the US House of Representatives.[68] This counterintuitively only furthered the issue as a sticking point. Additionally, Jayapal construed the meeting's cancellation to have only validated her concerns on India's "democratic backsliding". In a tweet, she said, "This only furthers the idea that the Indian government isn't willing to listen to any dissent at all."[69]

Following the incident, James McGovern, co-chair of the Tom Lantos Human Rights Commission, went on to deride Jaishankar's cancellation of the meeting, saying, "No foreign government should dictate who is or isn't allowed into meetings on Capitol Hill."[70] Some of the then-leading Democratic presidential candidates also weighed in. Elizabeth Warren, for instance, characterised the "efforts to silence" Jayapal as "deeply troubling," while Kamala Harris tweeted, "It's wrong for any foreign government to tell Congress what members are allowed in meetings on Capitol Hill".[71]

Before the Jaishankar incident, Jayapal's resolution had a little over a dozen cosponsors,[72] but the tally more than doubled to 29 by January 2020[73] and reached 66 cosponsors (as of August 2020),[74] including Congressional heavyweights like the chair of the

House Intelligence Committee Adam Schiff and chair of the House Financial Services Committee Maxine Waters.[75]

In addition, in times of strained American bipartisanship on foreign policy, the Kashmir issue has turned into a wedge between Republicans' and Democrats' support for India. Just as Trump's unequivocal, values-bereft support for the Benjamin Netanyahu dispensation in Israel has divided Republicans and Democrats on one of the US's most unwavering alliances,[76] India's refusal in October 2019 to permit Democrat Senator Chris Van Hollen to visit Kashmir to see the situation "first-hand"[77] was deemed to be indicative of how US-India ties have assumed a partisan tone.

Furthermore, and perhaps in a sign of things to come, some Republicans have also begun to join Democrats' criticisms over Kashmir. For instance, in August 2020, Engel and Michael McCaul, the Republican Ranking Member of HFAC, marked the one-year anniversary of India's abrogation of Article 370 by penning a joint letter. Addressed to Jaishankar, it said: "It is because of our support for the bilateral relationship that we note with concern that conditions in Jammu and Kashmir have not normalized one year after India's repeal of Article 370 and the establishment of Jammu and Kashmir as a Union Territory."[78]

Thus, in view of the centrality of US bipartisanship to US-India ties, New Delhi must recognise the growing role of the US Congress in American international relations and institute channels (under the announced Indian Parliament-US Congress exchanges[79]) to ramp up engagement with legislators from both parties, especially with progressives on the Left, given their rising currency in the Democratic Party. Moreover, given the relevance of populist voices

in both parties, going forward, India must expand its engagement on the Hill beyond members of India-specific caucuses[80] (like the Congressional Committee on India and Indian Americans and the Senate India Caucus), and even incumbent members of oversight committees (like the HFAC and the Senate Foreign Relations Committee).

Compartmentalising the EU-India bilateral relationship

The importance of the EU-India dynamic has grown alongside deeper avenues of partnership, including collaboration on matters of good governance and compatible views over the Indo-Pacific. The relationship has expanded, with India according the EU high importance when it initiated a Human Rights Dialogue in 2007—the only entity with which it has a dialogue exclusively on human rights—alongside the initiation of the negotiations for an FTA in the same year.[81] Moreover, the release of the 2018 Elements for an EU Strategy for India[82] to build on the importance attributed to India in the 2016 EU Global Strategy[83] reflects immense promise.

However, the Indian government's handling of the EU's response to the actions in Kashmir and the CAA has been inconsistent—high importance was accorded to the informal visit of EU MEPs to Kashmir while the formal introduction of six resolutions in the European parliament garnered relatively less attention. The Indian government pulled out all the stops for the visiting MEPs, whereas the introduction of the resolutions was denigrated in the Indian media and discussion on it were simply postponed until the EU-India summit.

The postponement of the summit left the EU's supplementary expansive concerns about India's "democratic backsliding"

unresolved, a worrying sentiment amongst which was the call to make the strategic partnership contingent upon human rights clauses.[84] These apprehensions were meant to be addressed at the India-EU Summit, which eventually took place virtually on 15 July. However, the summit's focus was on the need to have discussions on the next leg of the strategic partnership—the roadmap to 2025, pandemic-driven economic considerations, India's focus on development and capacity-building, and the role of both partners in multilateral organisations. The summit oversaw the adoption of the EU-India Strategic Partnership: A Roadmap to 2025, the signing of the Euratom-India Agreement on research and development cooperation in the peaceful uses of nuclear energy, and the Joint Declaration on Resource Efficiency and Circular Economy.[85] The virtual EU-India summit also saw the institution of a regular, ministerial-level High Level Dialogue to discuss bilateral trade and investment relations.[86] There was no mention of the parliamentary resolutions.

While the EU's concerns over Kashmir and the CAA were left unexpressed during the summit, these issues could still impede bilateral ties. Human rights and Kashmir have been sticking points in the India-EU bilateral for some time now. This has only been compounded by the inactivity of the Annual India-EU Ad-hoc Dialogue on Human Rights since 2013,[87] the year when negotiations on the India-EU Bilateral Trade and Investment Agreement (BTIA) stalled.

Focusing on and actively resolving issues that are impediments to further strategic cooperation is important, even as cooperation between India and the EU continues to deepen. The institution of the High Level Dialogue on bilateral trade and investment relations

could serve this purpose. Given that the Dialogue on Human Rights is an established mechanism, the Indian government must make concentrated efforts to revive the dormant forum or revamp it into a newer mechanism to further BTIA negotiations and as directed under the 2017 EU Resolution on Political Relations with India—which mandates the need for human rights clauses in any bilateral agreement between the two partners.

CONCLUSION

The US Congress and the EU parliament's responses to the Kashmir matter have a thin silver-lining for India. In recognising Indian sovereignty over Kashmir and its actions as an "internal matter," the US Congress and EU parliament have helped India establish this as a baseline for future conversations on the issue, especially with countries that seek to internationalise the Kashmir situation for their political ends.

The Jayapal resolution, a moderate critique in comparison to the controversial Tlaib resolution, stopped short of taking a stance on the moral/legal authority of the Modi government's actions. Despite the resolution's strong positions on the communications blockade in Kashmir, the bipartisan support it has received denotes, to some degree, Congressional acceptance of the legitimacy of New Delhi's actions in Kashmir.

The EU parliament's recognition of the issue as an internal matter first appeared in its initial decision to postpone debate on the resolutions and its willingness to hear the Indian government's reasoning at the EU-India summit. By not allowing the issue to impede the virtual EU-India summit, the EU's stance has been clarified. Further, its leaders have also shown a willingness to

adhere to the Indian Supreme Court's impending judgement on the matter by not making any further comments.[88]

However, as this paper's recommendations note, the responses of the US Congress and EU parliament cannot be dismissed altogether, given the former's rising relevance in US foreign policy decision-making and the latter's historical role in presenting a pan-European voice on human rights issues. Moreover, India's initial responses to the US and EU's apprehensions had counterintuitive results, with US Congressional bipartisanship on India coming under strain and the EU parliament adopting an expansive scope of critique to address both the situation in Kashmir and the passage of the CAA as manifestations of India's "democratic back-sliding".

India must arrest further apprehensions among its two most important partners. With the US, there is a need to secure US Congressional bipartisanship on India from the standpoint of the US presidential election in November. Given Harris' nomination as the Democrats' vice presidential nominee, and the expected rise in influence of the party's progressive faction, New Delhi must take cognisance of the possibility of a US administration that may not recognise the importance of mutual long-term strategic interests over shared values. Such concerns were apparent with the Biden campaign's Agenda for Muslim-American Communities, where the situation in Kashmir was invoked alongside references to atrocities against Uyghurs in China and Rohingyas in Myanmar as instances that "pain" Muslim-Americans.[89] With respect to the EU, India must make efforts to revive the Human Rights Dialogue, which has been inactive since 2013, to ensure the compartmentalisation of the EU-India dynamic.

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