



Vivekananda International Foundation

Kashmir

A New Chapter Begins

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Kashmir - A New Chapter Begins

A New Chapter

In a momentous decision that should mark the beginning of a new chapter in Kashmir's history, the President of India issued the following notification this morning (August 5, 2019) which was placed in both houses of the Parliament:

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

NOTIFICATION

New Delhi, the 5th August, 2019

G.S.R .551(E).— the following Order made by the President is published for general information:-

THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 2019

C.O. 272

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of State of Jammu and Kashmir, is pleased to make the following Order:—

1. (1) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 2019.

(2) It shall come into force at once, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended from time to time.

2. All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—

To article 367, there shall be added the following clause, namely:—

“(4) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(a) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(b) references to the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(c) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers; and

(d) in proviso to clause (3) of article 370 of this Constitution, the expression “Constituent Assembly of the State referred to in clause (2)” shall read “Legislative Assembly of the State”.”

RAM NATH KOVIND,
President.

This would have the effect of scrapping Article 370 of the Constitution granting the special status to the State. Along with this, Article 35A too stands abrogated. Another very significant decision announced the bifurcation of the State of Jammu and Kashmir into two Union Territories, namely Ladakh (without a legislative assembly) and Jammu and Kashmir, with a Legislative Assembly.

Understandably, these developments took the members of parliament in both houses by surprise. Their reactions were along predictable lines with members belonging to the State, the Indian National Congress (INC), DMK, the Communist parties and a few others bitterly criticising government action. Yet at the end of the day the proposals were passed in the Rajya Sabha, where the ruling NDA does not command majority, by 125 votes to 61. Just as had happened recently in the voting on what is popularly known as the Triple Talaq bill, INC and a number of others preferred to walk out or abstain. In the Lok Sabha of course, the National Democratic Alliance (NDA) has the numbers for the bill to sail through comfortably.

Political Prenomination

There had been speculations for some time that the Government might take some major steps in relation to Kashmir but its exact contours, perhaps took time to evolve. It was certainly kept a fairly well-guarded secret. To prevent adverse political and security fall out in the Valley, the Government had taken a number of precautionary measures over the preceding week. While a detailed analysis of how the situation evolves will follow shortly, it could be said that, in a way, the stage was being set right from the time Governor's Rule was imposed in the State in last year, followed by the first stint of President's Rule in December 2018, followed yet again by its recent extension till December 3, 2019. It is therefore, important to recount some of the major initiatives taken by the state administration over the last 12 months.

Following the end of Governor's Rule in December 2018, President's Rule was imposed in Kashmir for six months. As this too was due to lapse, the Central Government introduced another bill in the Parliament to extend the President's Rule in the State by another six months. After intense debate in the Parliament, this was approved by both the houses last month. Replying to the debate, the new Union Home Minister Amit Shah,¹ clearly stated that elections to the state assembly could not be held due to the prevailing security situation warranting massive deployment of security forces to conduct the national parliamentary elections and the state assembly elections simultaneously. The Home Minister added that extension of the President's Rule for another six months had to be done because of the Ramzan and the Amarnath Yatra.

In his first major speech as Union Home Minister, Shri Amit Shah dealt with a wide range of issues concerning the State. The speech² deserves a serious appraisal as it more or less outlines the Government's future policy for Kashmir. His candid admission of the 'blunders' committed on Kashmir issue by the past governments and leaders, was in line with what even Prime Minister Vajpayee had said in his famous Independence Day speech from the rampart of the Red Fort on August 15, 2003 that '*Kashmir main galatiyan hui hain...*;(mistakes have been made in Kashmir...)³ He had then called upon the people of the State to strengthen his hands by turning out in large numbers to cast their votes in the then upcoming elections to the state assembly. And the people did precisely that.⁴

But there was a difference between the two assertions. While Mr. Vajpayee did not explicitly detail the 'mistakes' nor did he name those responsible, Shri Shah was not that forgiving in his speech. Chapter and verse, starting from the detention of Sheikh Abdulla in 1953 till the present, the Home Minister named all individuals and events. India's honesty and sincerity about Kashmir issue and the local grievances could not have found a better expression than the Home Minister admitting in the Parliament, country's highest representative body, that the arrest of Sheikh Abdullah was unjustified and that it sowed seeds of mistrust and dissatisfaction among the Kashmiris. Similarly, He did not let any allegation from the Opposition benches, go past without a rebuttal. Interestingly, one Kashmir analyst, who didn't wish to be named, commented that the debates and arguments did help New Delhi, 'get over any the sense of guilt' arising out of those 'blunders' of the past'.⁵

Zero Tolerance of Terrorism

Of particular significance was Home Minister's categorical assertion that the Government will follow the policy of 'zero tolerance to terror'. This was important in terms of dispelling all doubts about the rules of engagement in Kashmir under the new dispensation. For long-term stability and peace, any expectation of appeasement of or engagement with any extremist organization-violent or otherwise, thus got ruled out, unless it was on New Delhi's terms. While laying down the ground rules, the Home Minister did not fail the moderate elements in the Valley by an equally assertive affirmation of abiding faith in Vajpayee's idea of "*Kashmiriyat, Jamhuriyat and Insaniyat*". By so doing, the Minister has equally clearly brought forth Delhi's desire to win the hearts and minds of the people of Kashmir.

His strong defense of the counter-terrorism measures taken during the Governor Rule - such as ban on Jamaat-i-Islami and Jammu & Kashmir Liberation Front (JKLF), actions against Hurriyat and withdrawal of security, ridiculously extended all these years to the anti-national and separatist elements - showed that there will be no space for or special treatment to any separatists and extremist voice

working as Pakistan's proxy – that was forthright, and in a way, set the tone for the future. The Government apparently wants to usher in true democracy by marginalizing the 'dynasts', providing good governance and nurture the true democratic leadership. Of particular import in the Valley was Home Minister's assertion that Article 370 was temporary in nature. This was not only very timely but equally essential as in several policy quarters, it was being felt that the special status of Kashmir was not only the biggest hindrance in the way of its development and integration with the mainstream, but also pushing the State into the morass of extremism and terrorist violence. To an extent, this could also be now interpreted as an indication of what has now happened.

Coming to the need for extension of the President's Rule for another six months, the Minister bluntly reminded the opposition that President's Rule was not imposed nor is being extended for political gains but only to improve the security situation in the State. He pointed out that in the last 11 months of the Governor and President's Rule, the security forces have achieved tremendous successes against terrorism and separatism. Focus has also been on expediting development efforts, initiate serious crackdown on corruption and generally improve governance. Some of the specific steps taken in this regard, were detailed in Home Minister's reply to the debate.

The Security Scene

However, it becomes essential to have an objective and detailed review of these achievements and short-comings in the last 11 months. Kashmir is going through a critical phase and transformation. A comprehensive review will enable us to help chart out an appropriate future course of action in Kashmir which will enable the Government to achieve the desired ends.

A look at the security scenario reveals that the Security Forces (SF) have achieved some significant successes in anti-militancy operations. In purely statistical terms, last year (2018), the SFs neutralized a record number of militants i.e., 270 in 2018 and this year till June, 124 militants have been neutralized.⁶ This has to an extent rendered the main militant groups leaderless, weaponless and cash-strapped. All the prominent militant commanders like Zeenat-ul Islam, Naveed Jatt and Ansar Ghazwat's Zakir Musa have been eliminated with only Riaz Naikoo remaining in the field. The SFs deserve due credit for neutralizing record number of militants and putting up a very robust force posture which has dealt a sharp psychological blow to the morale of militants who are also experiencing a strong sense of fatigue. There has also been a sharp decline in local recruitments of militants as also in the number of incidents of stone-pelting and hartals. Informed sources confirm that stone-pelting has come down from around 2900 cases in the year 2016 to just around 800 in 2018

and further down to 335 in the first six months of the current year. Similarly, bandh calls have come down from 160 in the year 2016 to 60 in 2018 and 28 till June 2019.

Success is very palpable if we only look at these numbers. However, such a myopic vision may not let us know the real impact of the successes of the SFs in countering militancy. In a hybrid war situation, the game of numbers and statistics are only of intermediate value. At the maximum, these can be one of the several indicators of success against militancy, but perhaps not the most important one in a situation like Kashmir. The most authentic index should possibly emerge from answers to the following questions - Has the 'sentiment' of alienation declined; is separatism losing its relevance; is support for militancy going down and most importantly; is religious radicalization fading away, losing its sheen with the youth? These questions are critical since as long as these sentiments thrive and local recruitment continues, the path to attaining normalcy would be long and arduous.

Political Sensitivities

Unfortunately, the situation on the alienation front is still stated to be at an 'alarmingly dangerous' level. It has always been there. One recalls having been repeatedly warned about this, in as many words, right from 1993 when militancy was reaching its peak. It is still being described in the same way. Of course, there is no index of empirical measurement for this, but it is generally agreed that the circle of alienation remains unbroken. The alienated section of the people seems to have lost faith in the mainstream political parties, institutions of the state and the administration. In the recent parliamentary elections in Kashmir, the voting percentage was embarrassing low, even below 20 percent at some places in South Kashmir. Even in Anantnag,⁷ the seat of the prominent PDP leader and former Chief Minister (CM) Mahbooba Mufti, the voting was less than 20 percent. It may, however, be noted here that in this home constituency of the Muftis, not so long back, very few people had turned up even for the cremation of Mufti saheb! Can one then conclude that the people of that constituency are alienated from the Muftis?

And if electoral participation was to be taken as an index of alienation, one of the major successes of the state administration during the last 11 months has been the holding of Municipal and Panchayat Elections. Under the circumstances, these were generally well organised and participated in. In the Municipal Elections held in October 2018, out of the 1145 wards, 244 went uncontested while, in the rest, the average voter turn-out was recorded at 35%, ranging from a low of 1.8% in Srinagar to 82.6% in Ramgarh. This was despite the fact that the two major parties, National Conference (NC) and People's Democratic Party (PDP), had boycotted the polls. The Panchayat Elections followed (Nov 17 to December 11, 2018). At stake were 4483 seats of Sarpanchas, 35029 Panchas spread over 316 Blocks, the highest ever in the

history of Panchayat Elections in the State. NC and PDP once again boycotted the elections. Held in nine phases for security reasons, the overall polling percentage of 74% was very encouraging. Even region-wise participation was not too disappointing as Jammu Region recorded 83.5 % votes (high of 85.2 and low of 79.4), Kashmir Division 44.4% (High 64.5, low 17.3) and in Ladakh Division voting was 67.8%. A more intense analysis would reveal the stark reality of the strength and spread of 'alienation'. It largely remains confined to a few districts in South Kashmir.

Measure of Militancy

Two important indices of militancy in Kashmir have always been (a) local recruitment to the militant ranks and (b) trans-border infiltration. According to current estimates, local recruitment in the first half of 2019 was around 65-67. This is assessed as low. In South Kashmir, the trend noticed is for the new recruits joining Ansar Ghazwat-ul Hind (AGuH) rather than Hizb-ul Mujahideen (HM), Lashkar-e Taiba (LeT) or Jaish-e Mohammad (JeM). AGuH believes in 'Islamist' Kashmir governed by Sharia and is the ideological face of transnational terrorist organizations like Al Qaeda and Islamic State (IS) in Kashmir. AGuH marks an ideological shift from the idea of political struggle for 'Azadi' to establishment of 'Islamic' Kashmir. This is seen as the early onset of a phase of radicalization that is likely to precipitate in Kashmir, in the near and distant future. The process has already started and is progressing. IS-styled caliphate mindset has started taking roots in parts of Srinagar and Central Kashmir. The recent incidents of violence indicate this entrenchment in Shopian and Pulwama.

As regards the other indicator, according to official figures, nearly 400 terrorists infiltrated in the last three years, of which, 126 have been killed by SFs.⁸ There were 143 incidents of infiltration in 2018, 136 in 2017 and 119 in 2016. Net infiltration in Jammu and Kashmir had reduced by 43% in first half of the year over the corresponding period of 2018.

In an interesting and significant trend, it is mentioned by local Kashmiris that earlier, the police were arresting stone-pelters and Over Ground Workers (OGW), but lately, the people are being arrested for making IEDs. This leads to a suspicion that militancy could be drifting towards West-Asia styled suicide bombing. IED attacks are becoming more and more frequent. Further, the so-called idea of 'fatigue' having set in, also needs to be examined critically. Strategic analysis reveals that Pakistan's policy has been to maintain an optimum number of 250- 300 militants in the valley. The idea is to use militants as strategic assets to keep the State on the simmer, and India under pressure. Also, through this strategy, Pakistan is able to keep the militancy under better control.

Today, after three years of 'kinetic' approach against militancy since 2016, Kashmir still has around the same number of militants, i.e., around 250-300, and majority of them are homegrown cadres - indeed a sign of grave concern. No doubt, there is an element of fatigue in South Kashmir. It is natural and expected in the face of sustained crackdown on militants. However, whether this is a sign of success is a debatable proposition. At best, it appears to be a temporary phenomenon. Closer analysis reveals that cross-border actors have been very strategic in their approach and have a robust mechanism to counter the fatigue and sustain the level of militancy. When the HM takes the hit, Jaish is activated, and likewise other organizations are activated whenever needed. Similarly, if there is a fatigue in South Kashmir, North and Central Kashmir will be activated, as part of this strategy.

Informed sources and recent recruitment trends suggest chances of revival of militancy in North Kashmir and Central Kashmir. Some of the current recruitments have taken place in North Kashmir. Similarly, the Doda-Kishtwar region is also showing signs of revival of militancy. In informal interactions, local leaders and old counter-insurgency stalwarts express pessimism over what they perceive as neglectful attitude of the state administration towards the alarming indications of revival of militancy in the region. The situation had become so embarrassing that the BJP workers burnt the effigies⁹ of the Governor demanding a serious action against the murderers of the RSS leader Mr. Chandra Kant Sharma.

Stagnated Political Process

The kinetic approach in dealing with militancy was not matched by a robust and meaningful outreach program and corruption-free efficient governance by the civil administration. With a strong-arm approach against militancy, such outreach initiatives combined with good governance, to engage young minds sincerely and constructively, and to build bridges with the community elders and the parents who lost their children in militancy, stone-pelting, drugs and other socio-human tragedies, are a must. Further, the high trust-deficit has majorly harmed the goodwill of the local officers with the community. The condition in South Kashmir is said to be so bad that anyone associated with the Government cannot walk freely even in broad daylight. Officials run the perpetual risk of being kidnapped, shot at or be attacked by grenades etc.

Community outreach and personal relations always act as an informal intelligence network. Besides, the rapport with influential community leaders, college students, and the business community provided platform which could be used for counter-radicalization, to compel or motivate militants to shun violence and diffuse the situations of social unrest, stone-pelting, and hartals. In the absence of robust outreach and youth-engagement programmes, the state authorities are hardly

in the know of the dangerous trends of radicalization and militancy-related innovations that are emerging at the grassroots levels. The failure was quite evident in the recent incidents such as the Pulwama suicide bombing in which a local boy volunteered to be the IED attacker in Anantnag. Had there been a robust outreach and rapport with the community members, there could have been a possibility of the local police and administration getting some lead on the ghastly incident that brought two nations on the verge of a full-fledged war. Also, even if the intelligence agencies get to know of the broader trends, the civil administration and police cannot do much to address them without the goodwill of the local populace. For developing such network-centric goodwill, a team of dynamic and passionate officers with rich experience in handling the state's militancy and well acquainted with the local culture, religion and other social traits is needed. Such a team seems to be missing in the worst-affected areas of South Kashmir. Also, unfortunately, in the top echelons of state administration vision, clarity and understanding of the state's culture, politics, and society needed to address the challenges of alienation seem to be missing.

However, the most important, essential and successful operation conducted during the period under review was the crackdown on Jamaat-i-Islami (JI), the Jihadi extremist organization notorious for propagating anti-India sentiments at Pakistan's behest, supporting and sustaining terrorist activities with finances, logistics, coordination in execution of terrorist acts. JI formed the core ecosystem of radicalization, terrorism, and separatism. It played the most crucial role in the post-Burhan Wani unrest across the Valley. It acted as the powerhouse of the militancy in South Kashmir. Action against Jamaat was long overdue. Over the last 19 years, Jamaat has made strong inroads into the state administration, finance and banking, school education, civil society, media, higher education, and even the police.

There is, however, a feeling that the action could have been more nuanced to impact the various segments mentioned above. Apparently, the action needed much more preparation. It ended up majorly in focusing on arrest of key Jamaat cadres and seizing their assets. The action should have penetrated deeper to eliminate the Jamaati elements, particularly from the school and university/college education network, after studying their modus operandi. These could be incorporated into any future action-plan. Also, if such cadres are released without any concrete action, they will come back with restored credibility in the eyes of the people. That said, the action has undoubtedly dealt a strong psychological blow to the morale of Jamaat and instilled confidence among the ordinary people since the Jamaat always used terror tactics, and had created an image of invincibility because of its political, social and administrative clout.

Clamping on Terror Finance

Another major success against terrorism has been in the field of containing terror financing. Some of the decisions such as banning the LC trade on Salamabad border and action against J&K bank, have broken the backbone of terror financing. The role of the J&K bank in terror-financing nexus needs detailed exploration, but it is not the focus of the current piece. However, suffice it to say that many informed interlocutors privately acknowledge that the bank had an immensely crucial role in terror financing nexus. OGWs acknowledge that due to the actions against terror financing networks and individuals, militant outfits and the separatists are facing serious financial crisis. It is also informally learnt that in some of the recent encounters with AGuH terrorists in Anantnag, the militants were found using pistols and not proper assault rifles, indicating shortage of weapons.

Similarly, resolute action against Hurriyat leadership has severely jolted the edifice of the militancy in the state. Hurriyat leadership has been fully and embarrassingly exposed as self-seeking and opportunist. Recent exposures about the accumulations of huge properties by the separatists and their children studying abroad, have shaken the trust of the ordinary people in their leadership. They believe that while their children are being sacrificed for an elusive 'Azadi' and a false notion of Islamic Kashmir, the children of their leaders are living luxurious lives with a safe future.

Governance Imperatives

On the development front, the performance has been rather less spectacular. While one does not have access to actual financial details, it is generally believed that not even 30 % of the Rs. 80,000 Crores allocated by the Central Government in 2014 have been utilized. No doubt the PDP-BJP coalition government would have to bear a larger share of the blame, but the achievement over the last eleven months, has also been less than satisfactory. The condition of roads continues to be pathetic. Srinagar and Jammu witness worst traffic jams. Srinagar also has become a center of illegal constructions. The city administration has come under disrepute because of the constant frictions within the Municipal Corporation, dismal performance, and corruption. Its silence over the illegal constructions has also eroded its credibility. Recently, a metro rail project for Jammu and Srinagar was announced.¹⁰ Such lofty announcements are hard to believe given the shoddy and pitiable conditions of the existing roads and traffic management.

Similarly, governance also needs a big push in other crucial sectors such as power. In winters, power cuts and transformer failures, roads blockages due to snow are a routine. One frequently comes across instances of patients not able to reach

hospitals as the district administration fails to expeditiously clear snow. It takes weeks and fortnights to do so. Delays in the seeking permission and implementation of development projects, sanctioning of documents, certificates, and other procedural official work be it the civil secretariat or Universities and colleges or the district administration, presents a pitiable picture. There are gross delays even in payment of compensations to families of victims of terrorism!

These issues merit attention because, in a state like Jammu and Kashmir, good governance and polite and compassionate bureaucracy can play the most critical role in addressing the alienation issue. Ashraf Wani, a young scholar from Kashmir, has aptly summarized in his latest work, 'What happened to Governance in Kashmir?' (Oxford University), that in Kashmir, governance-deficit has fueled the conflict and the conflict has fueled the governance-deficit.¹¹ A mere informal conversation with the public in a compassionate manner will win the hearts and minds in unbelievable ways. Hence, it is one area where the Raj Bhawan needs to tighten its grip over the officials working at the grassroots and make sure that there is no corruption and implementation delays.

Concurrent Initiatives

Declaration of Ladakh, earlier as a separate division and now as a Union Territory (UT), with separate directorates for many departments and an independent university deserves unqualified admiration. Ladakh is not only strategically important area, its residents have always suffered from a sense of discrimination. The new UT status will be immensely helpful in empowering the Ladakhi's and mitigating that sense of discrimination.

Likewise, the recent announcement of reservation for the people living in the border areas of Jammu region and the Gujjar-Bakarwal community can be listed as a prominent achievements of the Governor/President's Rule. Lately, the administration has displayed interest in reviewing the implementation-status of development projects in the interior areas, through the 'Back to Village' programme. The project entails visits by senior civil servants to the rural areas and for on the spot assessment of development projects and effectiveness of governance. As claimed by the state authorities, the project has met with huge success. However, the real success of the project will be indicated by the follow-up action on the reports submitted by the officials after their visits.

Successful holding of Panchayat and Municipal Elections has already been referred to as significant achievement of the Government. In a way, it is a promising development as it has opened a vent for the new leadership to rise above from the

grassroots, against the elitist nature of the current mainstream political parties which have so far misguided the people and even fomented separatism in a very subtle and indirect manner.

The Panchayats as an institution need to be further strengthened as they can be instrumental in engaging and empowering youth in the interior areas. The state administration needs to substantially change its outlook towards Panchayat leaders. The newly elected members and Sarpanches have complained of humiliation and harassment by local civil servants. Recently, the State Government appointed 'administrators' for Panchayats to facilitate their work. Panchayats need to be strengthened with funds and decision-making power. They need to be empowered in the real sense if Kashmir is to be fully integrated and assimilated. The Panchayats are the face of the new political leadership. From among them, new leaders may emerge who do not carry the mental baggage of 1947 and do not owe their loyalties to Pakistan. However, utilization of funds sanctioned to Panchayats will have to be strictly monitored to make sure that they are used in the local interest. The Panchayat leaders ultimately work in interiors in a milieu where they represent small islands of hope and loyalty amidst the ocean of a largely alienated population and also terrified by the militants.

Situational Sum-up

To sum up, we have achieved significant successes on the security front and effectively dismantled the infrastructure of militancy in the state. However, alienation levels are still a matter of concern. High alienation levels may strengthen the process of radicalization which is already underway and with drug-menace among the youth; this may set the stage for the next phase of conflict i.e., IS-styled militancy massively dominated by religious extremism. On the development front, the Government seems to have well-meaning intentions and will to follow through the commitments. However, the current situation leaves much to be desired. Monumental effort is needed to make the development story a success and to deliver good governance. The entire work culture of the state will require a sea change.

Viewed in the above frame work, the recent decisions of abrogation of Article 370 along with Article 35A and bifurcation of the State as mentioned in the opening paragraphs, are indeed historic and will help the State and its people, chart out for itself/themselves a new future of peace, progress and integration with the rest of the country, breaking away from the shackles of terrorism. The next six months are going to be crucial and should be utilized to create a vibrant political process in the state. For this it would be important to continue targeted action against militants and OGWs, containing induction of terrorist from across the borders, giving a boost to

developmental activities, neutralizing the separatists, further squeezing flow of funds and most importantly, reviving the political processes. Finally, all said and done, Kashmir needs a healing touch to win the hearts and minds and the people. The process should begin here and now.

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About the VIVEKANANDA INTERNATIONAL FOUNDATION

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The defining feature of VIF lies in its provision of core institutional support which enables the organisation to be flexible in its approach and proactive in changing circumstances, with a long-term focus on India's strategic, developmental and civilisational interests. The VIF aims to channelise fresh insights and decades of experience harnessed from its faculty into fostering actionable ideas for the nation's stakeholders.

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