

The Revocation of Article 370 in Indian Constitution: An Analysis of the Socio-Political and Economic Effects after Withdrawal of the Article in Jammu and Kashmir

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Abstract

The abolition of Article 370 and the division of the state of Jammu and Kashmir in August, 2019 triggered intense diplomatic response from the international community. For the most part, the Government of India received widespread support for its decision. On the other hand, there have been criticisms of the restrictions imposed in the region on communication and civil liberties. China and Pakistan, in particular, reacted with hostility and attempted to open a new chapter on Kashmir at the United Nations Security Council. This paper explores how the global conversations on the issue of the erstwhile Kashmir have shifted. It argues that the decision to revoke Article 370 has caused a significant degree of international reaction for India, affecting the country's narrative on the valley of Jammu and Kashmir.

Keywords: Indian Constitution, Jammu and Kashmir, Article 370, Hostility, Violence, Pakistan

I. INTRODUCTION

The state of Jammu and Kashmir (J&K) is situated on the top of the Indian sub-continent that surrounded by Gilgit-Baltistan in the north. The eastern offshoots of its Hindukush and the Karakorum mountains are surrounded by Turkistan of China while the eastern boundaries are enclosed by Chinese Tibet and western boundaries are covered with Pakistani contingent. J&K is known to attain the most strategic location in the Asian continent as it hosts different world powers such as Soviet Russia, India, China, Afghanistan, and Pakistan. Due to the distinguished features and strategic location of J&K, the socio-political environment in Jammu and Kashmir is entirely different from the rest of the other states. The political background of J& K is categorized into four periods. The first period depicts the significance of Hindu Kings in the region. It is followed by a second period in which Sultans rule the state. In the third period, the state was ruled by Kashmiri

Mushalmans, and later on, ruled by Pathans (Khazir & Amin, 2011).

However, presently the state is ruled by the governing body of India as per the guidelines mentioned under Article 239-A which are framed in the Jammu and Kashmir Act 2019. J&K is regarded as a union territory that is administered by Lieutenant Governor and the Chief Minister. The political and social constructs of J&K have been inflicted by several hartal, shutdowns, terrorist attacks, fires, and bands owing to disputes emerging in the local communities and with immediate neighborhoods (Navlakha, Manchanda & Bose, 1996). For example, the hartal was initiated in the valley by the shawl weavers in the year 1865. It was followed by the Silk Factory labor unrest, mobilization against Dogra ruler, and plebiscite demands in 1924, 1931, and 1950 respectively. J&K also witnessed the proxy war conditions which created communal riots and exodus of Kashmiri Pandits from the valley. In Jammu &

Kashmir, after its annexation to the Indian territory the sequence of violent clashes, riots, terrorist clashes, hartal, stone pelting, and other aggressive activities continued in a fluctuating manner that severely caused losses in the form of loss of human lives, destruction of public infrastructure, damage to private property, and economic losses.

Amidst all these, when Article 370 was abolished in J&K, it caused an uproar among the social and political groups (Chowdhary, 2019). The abolition of Article 370 will bring improvements in the state in the form of inclusive banking provisions, the right to education, the right to information, and other facilities that are received by individuals in other parts of the country. The present research focuses on analyzing the socio-political implication of abrogation of Article 370 from the Indian Constitution concerning Jammu and Kashmir. The facts related to introduction, implementation, and shift in the socio-political environment in Jammu and Kashmir after the removal of Article 370 are also discussed in the study.

2. Aim and Objectives:

Under this section, the authors attempt to accelerate on the main purpose of the study and simplify its aim and objectives. The objectives of the study are:

- To search the introduction and implementation of Article 370 in the Constitution of India,
- To investigate the implications of Article 370 on Social, Political and Economic aspects of Jammu and Kashmir,
- To explore the manner of Abrogation of Article 370 in Indian Constitution, and
- To learn about the Socio-Political environment in Jammu & Kashmir after removal of Article 370.

3. Review of Literature:

3.1 The Introduction and Implementation of Article 370 in the state of J&K:

The presence of Article 370 could be witnessed in the Part XXI of the Indian Constitution in which it is mentioned that provisions that are provided under this Article are temporary and transitional. As under Article 370, the state of Jammu and Kashmir had been given the special provision to reject all the directives that are provided by the Indian Constitution and implement independent regulations that apply to the state boundaries (Priyadarshi & Bhardwaj, 2019). According to Article 370, the rulings that are mentioned under Article 238 (this article was omitted from Indian Constitution in 1956 regarding reorganization of states, was not applicable to Jammu & Kashmir) would not apply to the J&K state. The authority of the Parliament to make laws would also be limited to the matters of the Union and Concurrent Lists. The political parties in the state are empowered to make rulings as per the Instrument of Accession received by the President of India.

Due to the introduction and implementation of Article 370 in J&K, the state is completely exempted from the application of any rulings that are mentioned in the Indian Constitution. It allows the state to practice the government policies that have been framed by the state independently. The Central governing agency could exercise limited powers on J&K that too in the segments of communications, defense, and external affairs. Article 370 specified that other provisions or rulings that are laid out by the Central government could only be implemented in concurrence with the independent State governing accord. The directives related to concurrence are to be considered provisional by the state government and could be ratified by the State Constituent Assembly. The concurrence privilege could be enjoyed by the State Government till the next State Constituent Assembly. If the ruling power admits to the prevailing concurrence rulings, the previous directives will continue to be executed, or else modifications would be introduced as per the new ruling power. Additionally, the provisions that are specified under Article 370 could be amended or abrogated based on the recommendations provided by the State Constituent Assembly (Tremblay, 1992).

The state of Jammu and Kashmir was given special privileges under Article 370 from 1950 to 2019 because of which the state had the power to make a separate constitution and act as an

autonomous body. The local administrators in J&K can make decisions or recommend the extent to which the provisions mentioned under the Constitution of India would be applicable in the state. J&K is currently led by the ruling party governance that came into force after the convening of the state constituent assembly. The Assembly suggested that the provisions that are mentioned under the Indian Constitution can be made applicable in J&K by issuing a 1954 Presidential order (Wagay & Singh, 2021). However, as the constituent assembly dissolved without making any recommendations, Article 370 became a permanent facet of the Constitution of India. As a result, due to the implementation of Article 370 in J&K, the residents in the state following a separate set of laws and regulations related to ownership of land, selling of property, fundamental rights, education rights, religions, and others that were different from the rest states of the country. For example, the citizens from the other states of India could not purchase land in J&K. To purchase land in J&K, the individual is required to be a resident of the state (Gupta, 2019).

However, on 5th August 2019, a Presidential Order was issued according to which the 1954 order was superseded and the rulings mentioned under the Indian Constitution were made applicable to the state of J&K. The suspension of Article 370 was confirmed after the same order was passed in the Parliament with a two-thirds majority. As a result, all the clauses, provisions, and regulations that were implemented under Article 370 in J&K would be considered undermined and inoperative as of 6th August 2019. Apart from this, Jammu and Kashmir Reorganization Act, 2019 was also passed according to which Jammu and Kashmir would be treated as two union territories namely Union Territory of Ladakh and Union Territory of J&K since 31st October 2019. Based on the above facts, it can be said that Article 370 was introduced to reduce the complexities of the state J&K but it did not prove to be fruitful, it was abolished on 6th August 2019 giving J&K, the normal state status like others in India (Golechha, 2020).

3.2 The Article 370 and its Implications on the Socio-Political and Economic Aspects of J&K:

Article 370 was implemented in Jammu and Kashmir to provide it a temporary provision after the immediate independence of India. The

law was supposed to exist in the state till the State Constituent Assembly. However, with the passage of time and vested interests of the political parties the temporary provision of Article 370 was retained in J&K for a longer duration. The long-term implementation of Article 370 created havoc in the state and weaken its unity and integrity status with the country by framing a separate constitution for itself.

The formation of separate constitutional laws and regulations impacted the social, political, and economic aspects of J&K by creating emotional, psychological, employment, and governance barriers. While focusing on social aspects, the implementation of Article 370 created separatism psychology among the residents of J&K. This separatism statute was well used by Pakistan to create unrest in J&K stating that though India is one from Kashmir to Kanyakumari, it maintains a diplomatic attitude with J&K by adopting the two-state policy. It led to the creation of an alienation mindset among the citizens of J&K by the separatist's lobby and encouraged them to think in separatist terms of dividing the country rather than uniting all the constituencies (Sadiq, 2016).

The political implications include increasing dominance of political parties that vested self-interests in place of the nation's interests. A majority of the politicians misused the guidelines and provisions laid down under Article 370, they vested self-interests in bureaucracy, businessmen, judiciary, and others. As a result, there was no introduction of any financial legislation in J&K which led to the exploitation of the unprivileged and poor citizens in the state at the hands of the bureaucrats and politicians. There were inappropriate dealings in terms of Gift Tax, Wealth Tax, and Urban Ceiling Act which led to the stealing of the state treasury. Thus, it caused the rich to become richer and the condition of the common masses degraded as they were not shared any economic benefits. Consequently, Article 370 led to the creation of power elites and empowering of local Sultans that had super economic power and used their strength to trample or subject the genuine demands of the common masses. It caused severe destruction to public wellbeing and welfare by creating differences in terms of the separate constitution,

separate flag, dual citizenship, inability to buy land in J&K, and others (Rather, 2020).

The incessant attitude of the politicians in the state under Article 370 created huge economic losses in terms of loss of business, employment, and growth in the state. In the absence of adequate business policies and supportive economic measures, it became highly difficult for the local individuals to execute commercial activities. For example, there was no structured tax scheme in J&K that allowed businesses to make proper tax payments. As a result, the state witnessed poor economic growth with 12% from 2004-2014 which is 2% lower than the average in India. Due to poor economic growth, the reduction in the poverty rate also slowed with only a 3% reduction in the year 2012. The poverty rate came down from 13% to 10% in the year 2014 as compared to the 15% poverty reduction rate in other states of India. The poverty rate in different parts of J&K such as Kishtwar, Poonch, Ramban, Kupwara, and others was recorded to be 17.4%, 17.1%, 15.2%, and 14.5% respectively. Due to self-invested political party interests, there was an increase in terrorist militancy activities that augmented the cost burden in the state in terms of poor infrastructure facilities such as lack of educational institutions, shortage of hospitals, poor road conditions, and inadequate transport facilities.

The literacy rate in the state was also low (43%) which the lowest in the whole country. There is also a huge (17%) literacy gap between males and females against the nation's average of 14%. The wasteland percentage was also found to be highest in J&K with 73% in the form of barren and rocky land. It provided less employable opportunities to the working population in the state as they cannot carry out agricultural activities which are the most common source of occupation in India (Hameed, Saboor, Khan, Ali & Wazir, 2017). Based on the above facts, it can be said that implementation of Article 370 did not benefit J&K as there was spread of separatism, self-interest political governance, and poor economic conditions of the residents of the state.

3.3 The Article 370 and its Abrogation from the Constitution of India:

Abrogation of Article 370 includes the removal of the special privileges of Article 370 from the

state of Jammu and Kashmir. It includes removing the special state status that is given to J&K under article 35-A (this article empowered J&K legislature to define "permanent residents" of the state and provide special rights and privileges to them). The special status feature of J&K was abolished on 5th August 2019 by the governing body of India by acquiring the support of other political parties such as the Bahujan Samajbadi Party (BSP), Aam Aadmi Party, and Biju Janata Dal (BJD) (Farooq, & Javaid, 2020). The Abrogation of Article 370 also led to the introduction of two bills in J&K in the form of the Jammu & Kashmir (Reorganization) Bill, 2019 as under Article 3 of the Constitution of India and Jammu and Kashmir Reorganization Act 2019. As per the Jammu & Kashmir (Reorganization) Bill, 2019, the governance authority of the state is changed from the directives that were applied under Article 370 to the normal state proceedings as executed in other states of India. On the other hand, as per Jammu and Kashmir Reorganization Act 2019, the union territory status of Jammu and Kashmir is changed from individual union territories to combined union territory and declaration of Ladakh as a separate union territory.

The revocation of Article 370 would lay social and economic implications on the state in terms of loss of health and revenue. As the state was under curfew under Section 144 of the Criminal Procedure Code with no internet connectivity from 5th August 2019 to December 2019, the social aspects of the state were impacted adversely. Movement restrictions were laid in several locations across the city through vehicular traffic. It laid a negative impact on human psychology and mindset as the individuals felt that they have been barred from the decade-long privileges unceremoniously. There was distress among the citizens of Jammu and Kashmir as the entire communication had a blackout in the form of non-access to mobile phones, landlines, the internet, and other communication tools. All these adversely impacted the daily living activities of J&K and they faced new healthcare issues related to mental stress and depression (Ahmed, 2019).

Political implications were observed in terms of opposition from leading political parties and the Chief Minister of J&K. The political parties regarded the Abrogation of Article 370 from

Jammu and Kashmir as the blackest day in history of Indian democracy. The removal was considered to be shocking and unilateral that subjected to the rights of the Kashmiri citizens.

Abrogation of Article 370 also laid economic implications adversely as because of curfew, the tourism sector experienced a loss of INR 1056 crores. The agriculture sector, industrial sector, and service sector were adversely impacted by INR 4591 corers, INR 45095 crores, and INR 19191 crores respectively. The economic loss was also recorded in terms of unemployment in different sectors such as tourism, agriculture sector, and handicraft sector with a loss of 74500, 12000, and 70000 jobs respectively. Based on the above facts, it can be said that the Abrogation of Article 370 was not welcomed by many politicians and governing agencies across the world and not considered a fruitful move to merge J&K with the rest of the states of India (Sharma, 2019).

3.4 Shift in Socio-Political Atmosphere in J&K after Removal of Article 370:

The revocation of Article 370 from Jammu and Kashmir led to a shift in the social and political environment in the state. While considering the social implications, the incidence of the curfew-like situation and cutting off all communication facilities increased mental health issues among the residents in the valley. About 37% of males and 50% females in Kashmir suffered from Probable Depression symptoms while 21% of men and 36% of women suffered from anxiety-oriented disorder issues. About 18% of males and 22% of females suffered from Post-Traumatic Stress Disorder (PTSD) symptoms. There was the creation of a subjected environment in which the individuals that they were impoverished of their freedom rights by adopting undemocratic rulings (Ganai and Bhavna, 2020).

The abrupt decision of the Government of India to abolish Article 370 received a mixed reaction from the political parties in the J&K and the rest of the Indian states. For example, the abolition was severely criticized by the Chief Minister of Jammu and Kashmir, Mehbooba Mufti, former chief minister Omar Abdullah, politician Shah Faesal, the Imam Khomeini Memorial Trust, and others. On the other hand, the abolition of Article 370 was supported by the Ladakh Buddhist Association, Representatives of the

Kashmiri Hindu community, Jamyang Tsering Namgyal, who is a member of the Ladakh constituency, and others. Reactions of the neighboring countries such as Pakistan, China, and SAARC countries were recorded with reactions. For example, Pakistan criticized the Government of India and commented that the removal of Article 370 was unconstitutional. This move will increase aggression between Indian and Pakistan leading to the suspension of bilateral trade activities and downgrading of diplomatic associations. On the other hand, China commented that the consideration of Ladakh as a Union Territory was unacceptable as it directly impacted the sovereignty of the Chinese community.

Amidst, all the claims and conclusions drawn by different political parties within India and abroad, the removal of Article 370 would bring new hopes to the people of Jammu and Kashmir that have been suffering at the hand of influential political parties in the state. The inclusion of Jammu and Kashmir as one of the states of India has provided its growth and development opportunities in terms of education, healthcare, infrastructure, banking, and others that are enjoyed by other states. As all the 890 central laws and Indian Constitution, guidelines will be applicable in J&K, it will also take the benefits of progressive laws such as the Whistle Blowers Protection Act, 2014, the Right of Children to Free and Compulsory Education Act, 2009, the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1954, and others (Kaushik, 2019).

The revocation of Article 370 would help in the rehabilitation of the Kashmiri Pundits that have been hounded by militants for years. About 4000 Kashmiri have been provided jobs in union territory and others are registered for employment opportunities. A massive recruitment drive has been initiated in J&K to hire the residents and fill 10000 posts in local government jobs. An additional 250000 vacancies are in the pipeline to employ the eligible candidates in the state. It includes providing employment opportunities to all the backward classes, economically weak sections, and Scheduled Tribes so that they could be financially assisted.

Apart from this, the refugees from West Pakistan that were treated as aliens were given domicile rights and monetary help of INR 5.50

lakh for each household by implementing simplified domicile certificates. Additionally, a vigilant team known as the Central Vigilance Commission has been established to mainstream the J&K regions with other regions of the country. Based on the above facts, it can be said that post-removal of Article 370, constructive work has been initiated in the J&K which will bring a positive socio-economic shift in the valley in subsequent years.

4. Conclusion:

The state of Jammu and Kashmir was given the privilege of Article 370 of the constitution of India to reduce the stress that the region has experienced at the time of bloodletting partition of British India. However, this led to adverse consequences in the state owing to the emergence of separatists and self-invested political parties. It caused severe damage to the state in terms of public welfare, growth, and development. The withdrawal of Article 370 from the state of Jammu and Kashmir on 5th August 2019, caused a spur in the Indian and overseas political arena with a mixed reaction from different political parties. Some countries like- Maldives and Bhutan maintained a diplomatic stand while Sri Lanka appreciated the move of institutionalizing Ladakh as a union territory. Other countries like- Pakistan and China highly criticized India on the removal of Article 370 along with 35-A from Jammu & Kashmir.

The removal of Article 370 is expected to bring positive changes in the state in terms of development in the sectors of infrastructure, education, healthcare, and public wellbeing. The Governing Body of India has established an 18th Bench of the Central Administrative Tribunal (CAT) in the state which will keep a vigilant watch on the progress of the state. There is much expectation that the removal of Article 370 along with the provision of 35-A would certainly help in strengthening public welfare activities and bring back prosperity, harmony and peace in the valley.

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