



Abrogation of Article 370: The Symbol of National Integrity

Irshad Ahmad¹ and Dr. Seema Parihar²

¹Research scholar in history, School of Humanities and Physical Education, CT University, Ludhiana Punjab

²Assistant professor in history, School of Humanities and Physical Education, CT University, Ludhiana Punjab

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ABSTRACT

A few specific privileges provided to citizens of the Indian state of Jammu and Kashmir were recently abolished by the Indian government. Under Articles 370 and 35A of the Constitution, these rights were provisionally conferred. The Indian government placed some limitations on travel and communication in the Kashmir valley because it anticipates that this step may spark violent protests in the state. Pakistan has spearheaded a defamation campaign against India even though these prohibitions have increasingly been loosened. Over this action, it has even threatened a nuclear exchange. The prime minister of India Mr Narendra Modi said that more than 70,000 lives have been lost over the past thirty years as a result of the particular privileges that the people of Jammu and Kashmir have, which has led to a sense of difference that has been exploited by forces opposed to India's unity. The neighbourhood was not getting any closer to peace by maintaining the current quo. Hopefully, the elimination of these articles will result in a stronger sense of national integration. Therefore in view of the above statements this dissertation paper is being prepared to study and spread the truth to the all citizens of India that abrogation of article has ended all kinds of privileges and special treatments and has paved the way to the national integration of India

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Introduction

As a result of the British signing “Instruments of Accession” created in accordance with the Indian Independence Act of 1947, which was enacted by the British Parliament, Jammu and Kashmir became a part of India. It was only after Pakistan invaded the state in 1947—and Pakistan still refuses to leave that territory—that it became a bilateral issue. Because of what it did after Articles 370 and 35A were repealed, the Indian government has faced harsh criticism from the international media and certain ignorant politicians. To those on the outside, these actions could have seemed harsh. However, the Indian government was aware that its actions would be followed by violent demonstrations in the state. The 30-year history of protests in the state has demonstrated that all demonstrations soon turn violent, and efforts to contain them result in a significant loss of life. The government made the decision to handle the issue carefully in order to prevent any fatalities in light of this ever-present threat. Based on this past experience, the government made the decision to impose limits on people’s communications and mobility to prevent sudden, violent protests. The repeal of Article 370, as per Union Home Minister, has allowed Jammu and Kashmir to be fully incorporated into the Indian Union. Under the leadership of Prime Minister and Country’s most popular leaders, he also stated that the Parliament has made Jammu and Kashmir an integral part of India by repealing Article 370. He noted that the country faced numerous issues, including terrorism, narcotics, and cybercrime, and stated that the country could not become prosperous unless it was secure from the inside. He emphasised the importance of maintaining law and order in the country in order to help it achieve Prime Minister’s objective of becoming a five trillion economy. There are several parameters which has gained momentum and firmness due to the abrogation of special status of Jammu and Kashmir.

Democracy

In a republic’s history, there are illustrations when it becomes a jackboot. Nothing more or less is necessary. That situation is happening right now in Kashmir. However, this moment serves as a practise run for the

political violation that might occur later in other parts of India. By making Article 370 ineffective and dividing the state, the contemporary government has altered the status of Jammu and Kashmir, exposing its true nature. The argument in favour of a radical action in Kashmir is well known. Article 35(a) had to be removed because it was discriminatory. Article 370 was a weapon for separatism rather than an integrative mechanism.

Secularism

It is important to be aware that the central government significantly weakened Article 370 by exploiting the Article itself. By issuing a simple public declaration stating that the Article shall no longer be in effect, Sub-Article 3 of Article 370 gave the President of India (effectively the Union Government) the authority to repeal the entire Article. In terms of rules, the Union Territory of Jammu and Kashmir is entirely homogeneous and similar to the rest of the nation. The Indian Penal Code, the laws pertaining to property rights, inheritance laws, etc., as well as the fundamental rights established in Part III of the Indian Constitution are all applicable to the Union Territory of Jammu and Kashmir, which was formerly exempted from them. Jammu and Kashmir, which is now a union territory will likely be appreciative of the current administration, led by PM Narendra Modi, for fully re-establishing and strengthening its ties with secular India and dispersed any last-ditch attempts by theocratic Pakistan to seize power in Jammu and Kashmir.

Fundamental Rights

For all of its citizens, the Indian Constitution provides the rule of law, equal rights, and equal opportunity. India was a complicated Multi-Ethnic, Multi-Lingual, and Multi-Religious heterogeneous nation plagued by underdevelopment, mass poverty, and illiteracy at the time of the accession of over 550 princely States. In order to assist all the acceded States in addressing their inequalities and differences, the Indian Constitution included Chapter XXI, which addressed these issues of inequality through concessional treatments via 25 Articles for nearly 15 States of India, with Article 370

being one of these 25 Articles for J&K State. Following was a result of Article 35A:

- Discrimination against women in J&K State. Discrimination against the Gorkha people, West Pakistan refugees, and Border displaced people.
- Non-permanent residents have no rights to apply for admission to state universities for higher education. Under Article 19(1)(e) read together with 19(1)(f), non-permanent residents have no rights to purchase and hold even a small piece of real estate to construct a home for their personal shelter.
- Articles 14 and 16 do not grant non-permanent residents the right to be given consideration for employment in the State Services or State Instrumentalities.
- No right for temporary residents to buy and acquire restricted land to launch a small business.
- The guarantee of the right to life and liberty was breached by the denial of the judicial review remedy under Article 35A.
- As a result, the populace who had been wronged automatically benefited from the repeal of Article 35A in the following ways:
- All residents of Union Territory J&K have the right to equality and equal protection of the law under Article 14.
- All residents of Union Territory J&K have the legal right to the option to pursue higher education at state-funded institutions under Articles 14 and 15.
- All residents of Union Territory J&K have the right to employment in state services and public sector institutions under Article 16.
- Right to shelter under Article 19(1) (e) and the freedom to live and settle wherever in India
- Article 21's right to life.

The government of India was finally compelled to decommission Article 370 in August 2019 after 70 years of poor governance, corruption, terrorism, youth turning to drugs and the gun culture, the genocide of Kashmiri Hindus, the violation of Valmikis' Human Rights, Gender Discrimination, and security threats to the region and the rest of the country. This action was taken after due legal and constitutional procedure. Following the 2019 Constitutional Order, the Union Territories of J&K and Ladakh are now subject to all of the Indian Constitution's provisions as well as its modifications.

Gender Equality

A Kashmiri man is permitted to wed someone from outside Kashmir under Article 35A while still being entitled to his parents' land and possessions. A Kashmiri woman, however, forfeits her rights to land and property if she marries an Indian who does not reside in Kashmir, according to the same article. Therefore, a Kashmiri woman is forbidden from marrying anyone of her choosing if she wishes to keep her claim to ancestral property. This imbalance was rectified and gender equality was restored with Article 35A's removal.

Unity in Diversity

The repeal of Article 370 is becoming no doubt the symbol of National Integrity. Vice-President of India M. Venkaiah Naidu has stated that petty politics on matters of national importance should be avoided and that the repeal of Article 370 was carried out for the sake of preserving the unity and integrity of the nation. It is referred to be a transient, transitory provision in the Constitution (Article 370). He continued, "This is a matter involving the safety, security, unity, and integrity of the country as I travel the country and hear reports that everyone is celebrating the abrogation. All faiths are equivalent. We might speak different tongues. One is India! One country, one people, and one nation! That ought to be our strategy, he remarked, expressing his opinions on "Unity in Diversity" and pointing out that local governments bolstered democracy.

Uniform Civil Code (DPSP)

According to Article 44 of the Indian Constitution, the government of India is required to work toward establishing a Uniform Civil Code for its residents across the country's whole territory. One of the Indian state's guiding principles of policy is Article 44. To accomplish the objectives of the Directive Principles of the State Policy as embodied in the Indian Constitution, the members of the Constituent Assembly in 1948–1949 mandated that the future Indian government find an

acknowledgment between the individual liberty and the common good. The repeal of Articles 370 and 35A was the main topic of argument in every election held in the nation from the year 2013 to the year 2019. After the Centre's 2019 decision, the administration effectively carried out the plan and brought about a momentous transition that sparked a major shift in the political discourse. If the matter is not resolved logically by then, it appears that the national election schedule for 2024 will draw the nations

Attention to the necessity of bringing the UCC via the parliamentary and constitutional processes (as in the case of abrogating Article 370).

Conclusion

The first anniversary of the deactivation of Article 370 and the division of the state of Jammu & Kashmir into the Union Territory of Jammu & Kashmir and the Union Territory of Ladakh was on August 5, 2020. The two constitutional orders secured the rights and privileges denied to the regions economically and socially backward population and brought them on par with the rest of India's citizens by ending the northernmost State of India's constitutional isolation and putting an end to the region's shameful, discriminatory, and undemocratic policies and practises. With the assumption that the long-delayed peace and development will now take

Priority over terrorism and radicalization in the region, the Union Territories of Jammu & Kashmir and Ladakh completely come under the protection of the Indian Constitution with the revision of Article 370.

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