

Abrogation of Article 370 Impact on Jammu and Kashmir

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Abstract

This paper examines the impact of the abrogation of Article 370 on Jammu and Kashmir. On August 5, 2019, the region's special status was revoked, leading to its division into two union territories. This landmark decision sparked a substantial political and social transformation in an area that had enjoyed unique privileges since its independence. The primary focus of this study is to analyze the effects of Article 370's abrogation across various sectors, particularly in terms of investment, commerce, and overall development in Jammu and Kashmir.

Keywords: Abrogation of Article 370, Jammu and Kashmir, Regional impact, Economic impact.

Introduction

Article 370 of the Indian Constitution provided Jammu and Kashmir with a special autonomous status. Originally intended as a temporary measure, it allowed the state to have its own constitution and flag, as well as significant autonomy in most areas, except for defense, foreign affairs, finance, and communications. This provision was designed to support the state's accession to India in 1947.

Background of Article 370 of the Indian Constitution

Article 370 was incorporated into the Indian Constitution on October 17, 1949, as a temporary provision that granted special autonomy to the state of Jammu and Kashmir. This article allowed Jammu and Kashmir to have its own constitution and limited the Indian Parliament's legislative powers within the state.

The initial draft of the constitution for Jammu and Kashmir was introduced by N. Gopaldaswami Ayyangar under Article 306A. Article 370 empowered the state's Constituent Assembly to determine which provisions of the Indian Constitution would apply to Jammu and Kashmir. Once the state constitution was adopted, the Constituent Assembly was dissolved.

Under Clause 3 of Article 370, the President of India had the authority to modify the provisions and scope of the article. Article 35A, derived from Article 370, was introduced by a presidential order in 1954, allowing the Jammu and Kashmir Legislature to define the state's permanent residents and grant them specific rights and privileges.

Originally, Article 370 was included in Appendix 1 of the Indian Constitution. However, on August 5, 2019, the Constitution (Application to Jammu and Kashmir) Order, 2019 led to the abrogation of both Articles 370 and 35A, revoking the special status that Jammu and Kashmir had enjoyed.

Article 370 of the Indian Constitution initially granted special status to the state of Jammu and Kashmir,

allowing it to maintain its own constitution, state flag, and a significant degree of autonomy over internal governance.

The purpose of Article 370 was to create a temporary arrangement for Jammu and Kashmir, pending the decisions of the state's constituent assembly regarding the extent of the Indian Constitution's applicability. This arrangement was meant to acknowledge the unique circumstances surrounding the state's accession to India in 1947.

While the state assembly had the authority to recommend the abrogation of Article 370, it ultimately dissolved without making such a recommendation, leading to the article's de facto permanence in the constitutional framework.

Review of Literature

AS Chonker (2020) in his book stated that the resolution of the complex Jammu & Kashmir issue is crucial and cannot be overstated. However, a web of external and political, social, legal, and economic factors has contributed to a challenging situation that requires comprehensive, long-term strategizing and a coordinated government approach. This book draws from a wealth of knowledge and experience across different sectors of society, presenting a Net Assessment that analyzes the perceptions of various stakeholders. It proposes viable strategies for short, medium, and long-term solutions aimed at enhancing security and promoting peace and prosperity in the region.

Dr. Usha Upadhyay (2022) in her book stated that Prime Minister Modi's decision to revoke Articles 370 and 35A of the Indian Constitution has ignited significant controversy. Article 370 granted Jammu and Kashmir a degree of autonomy critical to its 1947 accession to India. In response to potential unrest, the region is under strict security measures, including a communication blackout and the deployment of paramilitary troops. The central government, anticipating backlash, has detained around 500 political leaders and activists, including former chief ministers, often without formal charges, reflecting concerns over rights violations and increased alienation among locals. This move represents a significant shift in Jammu and Kashmir's constitutional integration, raising questions about its political future and the aspirations of its people.

Dr. Mehdi Ali (2022) in his article stated that the tensions and challenges stemming from the revocation of Article 370 highlight the necessity for a thoughtful and balanced strategy to tackle the complex issues in the region. Ongoing developments and their implications underscore the importance of sustained research, dialogue, and proactive initiatives aimed at promoting stability, inclusivity, and progress in Jammu and Kashmir as well as Ladakh.

Ritika Kanwar (2022) in her article stated that asymmetrical federalism describes a system where different states within a federation have varying levels of political, economic, and administrative authority, despite having equal constitutional standing. This essay will critically analyze the potential impacts of repealing Article 370 on India's asymmetrical federalism. By examining the implications for political representation, resource distribution, and administrative control, we will explore how this significant constitutional change could reshape the dynamics of federal relationships in India.

Vijita Singh Aggarwal (2024) her book delves into the developments following the repeal of Article 370 in 2019, highlighting their profound impact on the growth and development of Jammu and Kashmir. Through meticulous research and first hand testimonies, *Beyond 370* charts the region's journey toward transformation, examining the multifaceted aspects of development. The narrative explores various government initiatives aimed at fostering employment, enhancing infrastructure, and stimulating

economic growth. It also addresses the socioeconomic changes that have emerged as a result of these policies, assessing their effects on the lives of local residents. This comprehensive analysis provides valuable insights into Jammu and Kashmir's evolving landscape and its ongoing pursuit of empowerment and progress.

Bilal Mir (2024) in his article explores the effects of the Article 370 withdrawal on tourism in Kashmir after more than four years. The findings suggest that, overall the removal of Article 370 has positively influenced the region's tourism industry, leading to improvements in infrastructure, security, and economic opportunities. However, challenges such as ongoing political unrest and environmental concerns remain significant. These issues underscore the need for ongoing efforts to address these underlying problems and fully realize the potential for increased tourism in the area.

Bharath Nanda (2024) in his article revealed that on August 5, 2019, India witnessed a pivotal moment in its history with the abrogation of Article 370 of the Constitution, which had conferred special autonomous status on the state of Jammu and Kashmir (J&K). This decision marked a significant political shift and aimed to fully integrate J&K with the rest of the country. As we reflect on the fifth anniversary of this landmark decision, it is evident that the abrogation has brought about substantial changes across various sectors, ushering in a new era for Jammu and Kashmir.

Objectives

1. To study the background of Article 370.
2. To analyse the impact of abrogation of Article 370 on Jammu & Kashmir

Features of Article 370 of Indian Constitution

1. Article 370 granted special autonomy to the state of Jammu and Kashmir (J&K), allowing it to maintain its own constitution, laws, and flag.
2. This provision limited the legislative powers of the Indian Parliament in J&K, restricting its authority to matters of defense, foreign affairs, finance, and communications, unless otherwise agreed upon by the state's Constituent Assembly.
3. Under Article 370, J&K had significant control over internal governance, permitting the state to legislate on most issues independently of the central government.
4. The state could reject any central laws that it deemed unsuitable for its context.
5. Furthermore, the President of India could impose a state of emergency in J&K only in situations of war, external aggression, or armed rebellion, rather than for internal disturbances or imminent threats.
6. Any modifications or abrogation of Article 370 required the consent of the state government.

Abrogation of Article 370 of Indian Constitution

On August 5, 2019, the Government of India revoked the special status of Jammu and Kashmir, previously granted under Article 370 of the Indian Constitution. This decision also involved the reorganization of the state into two Union Territories: Jammu and Kashmir, and Ladakh. The government implemented this change through a Presidential Order and the Jammu and Kashmir Reorganization Act, 2019, which was introduced in Parliament. This move was viewed as a significant step toward integrating Jammu and Kashmir more closely with the rest of India.

Reasons for Abrogation

The abrogation of Article 370 was primarily motivated by the desire to fully integrate Jammu and Kashmir into the Indian Union and to establish uniformity in governance and legal frameworks. The government contended that the special status had impeded development, contributed to separatism, and isolated the region from the rest of India.

Key arguments included:

1. **Temporary Provision:** The government maintained that the special status granted to Jammu and Kashmir was intended as a temporary measure and had obstructed the state's integration with the rest of the country.
2. **Separatism and Security:** It was argued that this provision fuelled separatist sentiments and terrorism, exacerbating security challenges in the region.
3. **Equal Treatment:** The government sought to align Jammu and Kashmir with other states and Union Territories, ensuring the consistent application of Central laws and policies.
4. **Economic Development:** By abrogating Article 370, the government aimed to facilitate greater economic growth and attract investment in Jammu and Kashmir, fostering development in the region.

IMPACT OF ABROGATION OF ARTICLE 370 ON JAMMU AND KASHMIR

Economic Impact :

1. **Alteration of Economic Framework:** The abrogation fundamentally changed Jammu and Kashmir's unique economic structure, which had special status allowing certain protections for residents.
2. **Increased Investment Opportunities:** Non-residents gained the ability to purchase land and invest, potentially catalyzing economic growth.
3. **Government Initiatives:** Various investment initiatives and projects were introduced to revitalize the economy, particularly in sectors like tourism, infrastructure, and agriculture.
4. **Disruption of Communication:** The immediate suspension of internet and communication services disrupted business operations and trade for several months.
5. **Tourism Sector Impact:** The tourism sector, a vital revenue source, experienced severe setbacks during the communication blackout.
6. **Economic Packages:** The Indian government announced economic packages aimed at stimulating activity and job creation in the region.
7. **Central Laws Implementation:** Introduction of central laws like the Goods and Services Tax (GST) and the Insolvency and Bankruptcy Code (IBC) aimed to create a uniform regulatory landscape, potentially attracting further investment.
8. **Concerns About Long-term Effects:** There are worries about the long-term implications of the economic transformation, including loss of protections against external competition.
9. **Local Population Displacement:** Concerns have been raised regarding potential displacement of local populations and demographic changes impacting the local economy.

While the abrogation of Article 370 has opened new avenues for investment and development, it also raises significant concerns about the long-term impact on the local economy and its residents.

Social Impact:

1. **Cultural and Religious Autonomy:** Article 370 provided a degree of autonomy, allowing for the preservation of cultural and religious practices, especially for the significant Muslim population.

2. **Concerns about Identity:** The revocation raised fears among the Muslim community regarding their cultural identity and the future of their traditions.
3. **Crackdown on Dissent:** Following the revocation, there were increased restrictions on civil liberties, including the detention of political leaders and activists.
4. **Communication Blackouts:** The suspension of communication and transportation services disrupted social ties, leaving many unable to connect with loved ones and separating families for extended periods.
5. **Impact on Vulnerable Groups:** Elderly individuals and those with disabilities were particularly affected by the breakdown of communication, exacerbating their vulnerability.
6. **Cultural Heritage Concerns:** The revocation raised worries about the erosion of the region's unique cultural heritage due to the potential influx of outside populations.
7. **Minority Rights and Security:** There are ongoing concerns regarding the rights and security of minority groups, especially the Muslim population, in the new political landscape.
8. **Human Rights Violations:** Reports of human rights abuses, including the detention and torture of political activists, have emerged, along with restrictions on freedom of speech and assembly.
9. **Gender Dynamics:** The special status had previously offered protections for women's rights, particularly in property ownership and inheritance. The revocation raised fears about potential regressions in these rights.
10. **Overall Social Implications:** While the revocation has opened avenues for development, it has also led to significant concerns about social ties, cultural identity, minority rights, and gender dynamics in the region of Jammu and Kashmir.

Education Impact:

1. **National Expansion:** While higher education has expanded nationally, Jammu and Kashmir (J&K) has not experienced similar growth.
2. **Lack of Private Universities:** J&K currently does not have a single private university.
3. **Student Displacement:** Approximately 20,000 students from J&K are forced to attend colleges in other regions of India.
4. **Potential for National Institutions:** The establishment of significant national institutions, such as IITs and IIMs, in the valley could address educational gaps.
5. **Attraction for Professors:** If reputable institutions open, professors who were previously hesitant to relocate due to educational concerns for their children may be more willing to move to J&K.

Security Impact:

1. **Enhanced Security:** The initiative aims to bolster security in the valley through timely and swift action.
2. **Strengthening National Intelligence:** National Intelligence efforts against terrorism will improve with a stronger presence in the valley.
3. **Timeframe for Improvement:** Although improvements are anticipated, it will take time to see significant results.
4. **Union Territory Status:** With the designation as a union territory, the state's police will no longer be accountable to Kashmir-based politicians.
5. **Centralized Police Control:** The police will be directly answerable to the central government, al-

wing for more consistent enforcement of security measures.

6. **Better Control of Violence:** This shift in oversight is expected to enable the central government to better manage and control violence in Kashmir.

Administrative Impact:

1. **Direct Central Governance:** Jammu and Kashmir will be managed directly by the central government, allowing for more centralized control over administration.
2. **Resemblance to Other Union Territories:** The new union territory of Jammu and Kashmir will be similar in structure to Puducherry and Delhi, while Ladakh will align more closely with territories like Andaman and Nicobar.
3. **Development Focus:** This change is expected to facilitate more focused development initiatives by the central government in the region.
4. **Local Governance Enhancement:** The 73rd and 74th amendments, which pertain to the elections of local bodies, will now apply, leading to increased local participation in governance.
5. **Empowerment of Local Bodies:** With the implementation of these amendments, local governance structures will be strengthened, promoting greater accountability and representation.

Impact on Corruption:

1. **Limited Applicability of Anti-Corruption Laws:** Many of India's anti-corruption laws were not applicable in Kashmir.
2. **Political Corruption:** It is widely recognized that political actors in the region have historically been influenced by various factions, leading to corruption.
3. **Wealth Accumulation:** This influence has allowed these political figures to amass significant wealth over time.
4. **Central Government Action:** The central government now has the authority to take effective action against corruption in the region.
5. **Potential for Development:** This newfound ability to combat corruption paves the way for the development of Kashmir.

Better Rights:

1. Denial of Rights:

Impact: Article 370 limited the application of many national laws in Jammu and Kashmir.

Change: With its abrogation, residents now benefit from the full spectrum of rights and protections available to all Indian citizens.

2. Right to Education:

Impact: The implementation of the Right to Education Act was obstructed, affecting educational access.

Change: Now, children in J&K have access to the Right to Education, promoting educational opportunities.

3. Reservation Benefits:

Impact: Residents were excluded from reservation policies that help disadvantaged caste communities.

Change: Abrogation allows J&K citizens to access reservation benefits, promoting social equity.

4. Political Representation:

Impact: Limited political representation and participation in national governance.

Change: Greater political integration allows J&K residents to participate fully in the democratic process.

5. Legal Protections:

Impact: Certain legal protections and rights were not extended to J&K.

Change: Citizens now benefit from the same legal framework and protections as the rest of India.

Terrorist activities:

While China may not pose a significant threat, Pakistan is likely to escalate its state-sponsored terrorism in the region, bolstering anti-Indian groups in the valley. This could result in increased violence and potentially create divisions between India and the local population. To address these challenges, the government and security agencies must take proactive measures to prevent such acts and maintain stability in the valley.

Regional Impact:

India's actions have primarily provoked responses from Pakistan and China. Pakistan's reaction is driven by its longstanding ambition to claim the entire region, while China's involvement through the China-Pakistan Economic Corridor (CPEC) and its control over Aksai Chin raises significant concerns. This situation allows India to manage its territorial disputes with Pakistan and China separately. China's focus will largely revolve around its claims to Aksai Chin, whereas Pakistan's concerns will be primarily centered on the Valley.

Conclusion

The unique status of Jammu and Kashmir was meant to last only with the support of its citizens. The sudden changes imposed by the central government have profoundly affected their lives and sentiments. As a result, the relocation will significantly impact the region's politics, culture, and demographics. It is essential for the government to engage with the people of Jammu and Kashmir to reassure them of better governance and enhanced security.

In conclusion, the BJP, guided by its philosophy of "one people, one nation," successfully achieved the full integration of Jammu & Kashmir into India. The party advocated for treating Jammu & Kashmir as one of the 28 states of the Union. The previous constitutional provisions were significant obstacles to the psychological integration of Muslims in the region with the rest of India. For nearly three generations, many Kashmir Muslims believed that while they lived in India, they were not entirely part of it and could choose to join Pakistan if they wished.

However, following the abrogation of Article 370 and 35A on August 5, 2019, this psychological barrier has been dismantled. The average Kashmiri now recognizes that they must engage with the existing system like other Indians. As a result, Jammu & Kashmir is moving toward a future of progress, peace, and prosperity, fostering good relations and a spirit of brotherhood among its diverse communities.

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