



Beyond Article 370: Examining The Social and Political Changes in Jammu and Kashmir

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Abstract: The abrogation of Article 370 in August 2019 marked an important event in the history of Jammu and Kashmir, eliminating the region's distinct constitutional position. This article delves into the profound socio-political transformations that have since unfolded in the region. It examines the immediate and long-term implications of this decision on the political landscape, governance, security, and socio-cultural dynamics of the state. The study also explores the responses of various political stakeholders, local communities, and the broader Indian populace, highlighting the challenges and opportunities created by this transition. Additionally, the article addresses the human rights concerns, demographic shifts, and economic changes that have emerged post-abrogation. This research aims to clarify the region's changing socio-political landscape following the abrogation of Article 370 by evaluating its multifaceted implications.

Keywords: Article 370, Abrogation, Security Implications, Human Rights, Autonomy, Kashmir Conflict

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Introduction

The abrogation of Article 370 on August 5, 2019, signified an essential shift in the constitutional relationship between Jammu and Kashmir (J&K) and the Indian Union. This significant event annulled the special status conferred upon the region, modifying its autonomy and integrating its legal system with that of the remainder of India. Article 370, along with Article 35A, had conferred a unique political and legal identity to J&K, allowing it to maintain its constitution, flag, and laws, particularly concerning land ownership and residency rights. Its removal signified a decisive shift in the Indian government's approach to the region, sparking widespread debate and scrutiny both

domestically and internationally. This article explores the social and political changes that have unfolded in Jammu and Kashmir since this abrogation. While the government hailed it as a move towards greater integration and development, the move also brought significant challenges, including heightened security measures, political reorganization, and human rights concerns. The effects on local administration, political engagement, and civil rights, together with the reactions of the general population in Jammu and Kashmir, have been varied and complex. This study aims to provide an in-depth examination of the socio-political transformations following Article 370's revocation. It delves into the changing political dynamics, shifts in governance structures, the implications on regional identity, and the broader national security concerns. Moreover, it seeks to contextualize these changes within the historical, cultural, and geopolitical significance of Jammu and Kashmir, offering insights into the ongoing evolution of the region in the post-Article 370 era.

Historical Context

Kashmir is known as paradise on earth due to its breathtaking beauty, snow-capped mountains, lush valleys, natural lakes, and gardens. Kashmir's geopolitical and strategic location between India, Pakistan, and China, as well as its border with Afghanistan, located at the crossroads of South and Central Asia, serve as a geographic bridge between Europe and the rest of Asia (Imcirovic, 2021). After India gained its independence and split into several religiously-based states, the British Crown retained suzerainty over 562 states, including J&K (Jammu and Kashmir). These states' future was left up to the individual governments (Bhasin, 2023). Every single one of these states was immediately reinstated to their full sovereign and independent status, and they were given the choice to either join either of the two dominions or to continue to reside independently. Although the princely states were not bound by the will of the people or physical location, these factors formed the fundamental basis of their decision-making process (Bhasin, 2023).

Lord Mountbatten, the final Viceroy of the British Empire, provided the rulers with the Instrument of Accession and a Standstill Agreement, which delineated the provisional maintenance of arrangements and agreements in areas of mutual interest between the states and the dominion of India. On July 25, 1947, Mountbatten informed the princes that the Indian Independence Act gave the States complete legal and procedural freedom and released them from all responsibilities. (Bhasin, 2023). When Sheikh Abdullah requested a special status in the Indian Constituent Assembly, Dr. B.R. Ambedkar cautioned the nation over this matter. "You want India to protect Kashmir

and grant it equal rights over India, but you deny India and Indians all rights in Kashmir,” he had stated. As India’s Law Minister, I am unable to support such an unfaithfulness of national interests (Tikoo, 2018). India granted Kashmir the right to keep its own constitution, flag, and criminal code under the Instrument of Accession. Up until 1953, Kashmir had its own president and prime minister. However, New Delhi removed Sheikh Abdullah from office and imprisoned him, alleging efforts to incorporate the Muslim-majority region into India. (Jazeera, 2023). Initially, the Hindu Maharaja of the Muslim-majority of the monarchy sought to preserve his autonomy. On October 26, 1947, he executed the Instrument of Accession subsequent to the incursion of Pashtun tribals, supported by Pakistan, into J&K, for which India had proposed assistance only conditional upon accession. The Indian Parliament was granted the authority to enact laws for J&K on just 3 topics: communications, defence, and external affairs, as stated in the Schedule that was attached to the Instrument of Accession. The parameters specified in the Instrument of Accession were recognized by the constitution in Article 370, which defined the contractual rights and obligations of both parties. The accession was hence neither definite nor irreversible.

Objectives of the Study

- (i) To analyze the political changes in Jammu and Kashmir following the abrogation of Article 370
- (ii) To explore the social impact of Article 370’s revocation on the region’s population
- (iii) To assess the human rights and security implications
- (iv) To evaluate the economic changes in Jammu and Kashmir post-abrogation
- (v) To understand the national and international political response
- (vi) To provide a historical perspective on the special status of Jammu and Kashmir
- (vii) To examine the long-term socio-political trajectory of Jammu and Kashmir post-Article 370

Literature Review

The abrogation of Article 370 has been a subject of extensive academic, political, and media discourse, both before and after its removal in August 2019. This literature review synthesizes key works that examine the historical, legal, socio-political, and economic implications of Article 370, as well as the transformations in Jammu and Kashmir following its abrogation.

Kashmir: A Tragedy of Errors” by Tavleen Singh presents an insider’s perspective on the political mismanagement that has fueled the Kashmir conflict over the decades. Singh’s narrative weaves together personal experiences, political developments, and the rise of militancy in Kashmir. The book critiques successive Indian government’s failure to address Kashmir’s underlying issues and offers a detailed analysis of political missteps that have exacerbated the crisis. Singh’s candid style makes it a compelling read for anyone interested in the complex history of Kashmir.

Kashmir: The Vajpayee Years” by A.S. Dulat provides a nuanced account of Kashmir during Prime Minister Atal Bihari Vajpayee’s tenure. Dulat draws from his firsthand experience working in the region and offers insights into behind-the-scenes diplomacy, the challenges of dealing with separatist leaders, and India’s evolving security strategy in Kashmir. The book is rich in anecdotes and provides rare insights into how political decisions were made during the Vajpayee era.

Article 370: A Constitutional History of Jammu and Kashmir” by A.G. Nooran provides an in-depth analysis of the constitutional status of J&K, focusing on Article 370. A.G. Noorani, a prominent constitutional expert and lawyer, examines the historical context, legal framework, and implications of the abrogation. He argues that the revocation of Article 370 undermines the principles of federalism and autonomy in India, and offers a comprehensive critique of the Indian government’s approach to Kashmir.

Kashmir: The Abrogation of Article 370 and Its Aftermath” by Jawed Naqvi provides a detailed account of the events leading up to the abrogation of Article 370 and its immediate consequences. Naqvi covers the political maneuvering, public reactions, and security measures implemented following the abrogation. He also delves into the socio-economic impacts on the people of J&K and discusses the broader geopolitical implications of Indian government’s decision.

The existing literature provides a comprehensive understanding of the diverse implications of Article 370’s abrogation. The historical and legal debates frame the complexity of the decision, while socio-political, human rights and economic analyses highlight the multifaceted impact on Jammu and Kashmir. Although the literature presents divergent perspectives, it underscores the significance of Article 370’s revocation as a transformative moment in the region’s history. This study builds on these foundational works to further explore the ongoing changes in Jammu and Kashmir, offering new insights into the region’s evolving socio-political landscape.

Methodology

The study primarily examines the socio-political transformations occurring in the immediate aftermath of the abrogation (from 2019 onwards), while also taking into consideration historical variables. While quantitative data is limited by the availability of official reports and records, qualitative insights are drawn from firsthand accounts and existing research. This study employs a multidisciplinary approach to assess the socio-political changes in J&K following the abrogation of Article 370. The research is based on both qualitative and quantitative methods, encompassing a comprehensive review of existing academic literature, government reports, and legal documents on the historical context and significance of Article 370, as well as its impact on Jammu and Kashmir. This includes analyzing books, journal articles, policy briefs, and media reports to gain insight into the discourse around the region before and after August 2019. A critical analysis of media coverage, both domestic and international, is conducted to evaluate how the narrative around Article 370's abrogation has been framed. This includes examining editorials, news reports, and social media content to understand the public discourse and the portrayal of J&K in the post-Article 370 era.

Article 370

Article 370 of the Constitution of India establishes certain regulations for the administration of the State of J&K. Following the implementation of Article 370 in October 1949, Kashmir acquired internal administrative autonomy and was authorized to legislate on all matters except finance, defence, communications, and foreign affairs. Under Indian rule, the region had a unique flag and constitution that forbade outsiders from asserting ownership of land there. Article 35A granted state legislators the power to provide permanent residents with state-specific rights and advantages. Additionally, it limits any outside visitor or non-right residents to ownership or citizenship, which means that state residents must abide by different rules than those of the rest of the nation when it comes to issues like citizenship and property ownership. Dr BR Ambedkar had refused to draft Article 370, which was eventually drafted by Gopalaswami Ayyangar. He reasoned that the state was “not ripe for full integration” and that the Indian Union's constitution needed to grant the state a considerable amount of autonomy. (Bhasin, 2023).

As per the constitution, Article 370 served as a provision that was transitory and regulated the state's association with the other parts of the Union until the J&K Constituent Assembly convened to specify the precise nature of the relationship. In the

end, the J&K Constituent Assembly adopted the J&K Constitution, which preserved the state's special identity granted by Article 370 and acknowledged the state's status as an essential component of India. It also forbade any future Legislative Assembly from meddling with the state's union with the Union as stipulated in its constitution. Article 370 was stamped with its final and complete seal, rendering it irreversible. (Bhasin, 2023).

J & K RE-Organisation Act (2019)

In a historic move, the Narendra Modi government at the Centre has revoked the state's special status. The J & K Reorganisation Act, enacted by India's Parliament in August 2019, is a significant piece of legislation that has provoked massive criticism and protest across the country. The Act not only repealed Articles 370 and 35A, which conferred special status to J&K, but also divided the state into 2 Union Territories, J&K and Ladakh (Tiwary, 2023). Following constitutional reforms and reorganization, the Union territories of J&K and Ladakh have been fully integrated into the national fabric. Consequently, the inhabitants of J&K and Ladakh now possess equal access to all rights conferred by the Indian Constitution, as well as the advantages of all central laws available to the rest of the country.

Amit Shah, the Union home minister, put forth four motions in the Rajya Sabha, including the proposal to repeal Article 370 (Malik, 2022). Parliament can adopt the motion to lift Article 370 from Jammu and Kashmir by a simple majority. In addition, Jammu and Kashmir has been split into two states. The politics and geography of Jammu and Kashmir have altered as a result of this historic decision. Following the repeal of Article 370, the following modifications were made in Jammu & Kashmir. Since Ladakh has become a separate union territory, anyone living in the nation who is not a state resident is now able to buy property in Jammu & Kashmir. Jammu and Kashmir had its flag before the repeal of Article 370. Government offices displayed both the Indian flag and the flag of J&K. However after this, Jammu and Kashmir would not have a flag. As with the rest of the nation, all laws will be applicable in Jammu & Kashmir. Article 370 said that the Parliament of the country could not adopt laws for Jammu and Kashmir on any subject save communication, foreign affairs, and defence. The power of J&K to draft its own constitution was also granted. However, everything has changed. The Governor's position is no longer in existence. The state police will also remain under the Center's supervision in addition to this.

The state of J & K was not covered by Article 356 of the Constitution. Because of this, the President lacks the authority to remove the state administration. To rephrase,

the governor's rule prevailed instead of the President's rule. However, with Jammu and Kashmir being a Union Territory, the situation has changed (Malik,2022). Dual citizenship will no longer exist in Jammu and Kashmir. Article 370 limited the ability to vote in Jammu and Kashmir to permanent citizens. People from other states are not permitted to vote or run for office in this jurisdiction. Following the government's historic move, any Indian citizen is now eligible to vote and run for office. Ladakh, which was previously part of Jammu and Kashmir State, would become an independent union territory. The special rights granted to Jammu and Kashmir came to an end when Article 370 was abolished. Following this decision by the Central Government, the Indian Constitution would be completely enforced in Jammu & Kashmir. Similarly, laws such as RTI and CAG will be applicable here. Individuals from other states will also be able to discover employment opportunities in this area. Article 360 of the Constitution of India, which establishes the imposition of a financial emergency in the nation, did not apply to J&K because of Article 370. However, this will not happen presently. Jammu and Kashmir will also fall under its scope. Previously, when a woman married a temporary resident, she was granted property rights, but her children were denied the same privileges. All of these restrictions have been lifted as a result of the decision to remove Article 370. Even if a Kashmiri woman marries a temporary resident, she will now be entitled to property rights.

Criticisms

A group of intellectuals and distinguished jurists stated that repealing Article 370 is undemocratic and violates the actual spirit of the Constitution. The move goes against the wishes of the Kashmiris. The removal of Article 370 & Article 35A, which allows non-Kashmiris to buy property in the territory, has raised concerns that the country is attempting for creating a 'demographic shift' in the Muslim-majority region. (Sabharwal and Sabharwal, 2023) To prevent any protests over the relocation, the authorities imposed harsh, months-long restrictions. All modes of communication were cut off, and a year later, the region remained without high-speed internet, causing several obstacles for regular Kashmiris. Around 7,000 people were jailed, including almost the entire mainstream political leadership. The Kashmiri political leadership and opposition described this as an injustice and a betrayal of confidence by the Indian administration (Tiwary, 2023). Senior opposition leader P. Chidambaram characterized the decision as a "catastrophic step" and warned in parliament that it would have significant implications. (BBC News, 2019) Revocation is criticized by many who feel

that it goes against the terms of the 1947 contract that the Maharaja of Kashmir signed in order to join India.

Justifications for Article 370's Revocation

The denial of fundamental democratic as well as citizenship rights to about 600,000 Pakistani refugees who arrived in the nation following partition or as a consequence of subsequent wars between India and Pakistan is among the saddest human tragedies the state has to deal with. Article 370's application prevents both them and their offspring from obtaining citizenship privileges there. They are not allowed to vote, participate in elections, apply for state loans, or try to get admitted to any of the state's professional colleges. (Tikoo Tej Kumar ,2018). Many agree that with the introduction of Article 370, J & K's political autonomy has been significantly undermined in reality. The repeal of Article 370 is presented to the unsuspecting citizens of Kashmir as a disastrous development that will mean the end of Kashmiri Muslim culture; however, this is really a ploy to prevent Kashmiris from assimilation into the mainstream of the country. Thus, these consolidators of power maintain their sphere of influence, hang onto their political and economic dominance, and cultivate a communal and obscurantist mentality that eventually provides a fertile foundation for the emergence of a separatist mindset. (Tikoo Tej Kumar ,2018).

Constitutional scholar Subhash Kashyap stated that the order was 'constitutionally sound' and that "no legal or constitutional fault can be identified in it." In an official statement, the central government asserted that repealing Article 370 would help to remove secessionist activities in the Kashmir valley. Article 370 has also served to create power elites and local Sultans, who wield great power and utilize it to trample on ordinary people's legitimate demands for public welfare. The political elite stands to benefit greatly because outsiders are not allowed to dwell in the state or own any property there. Due to the full elimination of any outside competition, these powerful individuals set the guidelines, determine the asking price, and choose the buyer. (Tikoo Tej Kumar ,2018).

Stand of the Government

According to Union Home Minister Amit Shah, Article 370 was the root of secessionist sentiment in the former state of J&K, and its repeal paved the way for the end of terrorism in the Valley. Shah reported a 70% reduction in terrorism incidents, a 72% decline in civilian fatalities, and a 59% decrease in security force personnel deaths in

J&K under the UPA (2004 to 2014) and NDA (2014 to 2023) administrations. (Tiwary, 2023) The most significant decline in civilian casualties was observed as a result of pellet guns and baton charges. From January to July 2019, 339 persons were injured in such situations. This was reduced to just 25 in 2021. (Tiwary, 2023).

According to government data, terrorist activities have decreased by 32% since August 5, 2019, as compared to the same period before the decisions to scrap Article 370. Similarly, the number of deaths among security forces has decreased by 52%, while civilian deaths have decreased by 14%. There has also been a 14% decrease in the entry of youths into terrorist activities. According to the statistics, infiltration has drastically decreased from 141 in 2019 to 48 in 2023. This revocation satisfies Syama Prasad Mookerjee's 1952 appeal, "Ek desh mein do Vidhan, do pradhan, do nishannahin challenge" (one nation cannot tolerate two flags, two heads of state, and two constitutions). The false belief held by the Gupkar People's Alliance that it speaks for Kashmiris reminds one of the former Jaipur Maharani Gayatri Devi's declarations that "We are the real India," made thirty years after the country's constitution was created. On the bare foundation of the most hierarchical society on earth, India has constructed the greatest democracy in history because of our dynamic politics, which encourage innovation, rivalry, and compromise. This revocation will open the door for new political parties and leaders to emerge in Naya Kashmir, who will exploit democracy's 'civilized civil war' to transform disputes into compromises. (Sabharwal, 2023).

The BJP-led government in India is celebrating the correction of a 'historical blunder' by depriving J&K of autonomy after 7 decades. The Hindu nationalist BJP, which is led by PM Narendra Modi, has been opposed to Article 370 for a long time, and the party's election campaign for 2019 included the goal of eliminating it. They maintained that to integrate Kashmir and establish it on level ground with the nation, it should be abandoned. The government devoted minimal effort to implementing its commitments following its decisive victory in the general elections conducted in April and May. Parliamentary candidate Diwan Chand Sharma referred to Article 370 as a 'mountain that stands between India and J&K'. Former J&K minister Sham Lal Saraf, who also serves on the state's Constituent Assembly, held the opinion that the people would greatly benefit if the barrier imposed by Article 370 were to be lifted and the state was allowed to operate like any other region of the nation. The Centre claimed that the abrogation of Article 370 would facilitate new investment opportunities in Kashmir. Following the enactment of the New Industrial Policy in January 2021, the Union Territory has garnered proposals amounting to Rs84,544 crore across 42 industrial sectors. The implementation of these

recommendations has been incremental. A combined total of 414 units—266 in Jammu and 148 in Kashmir—have been registered to date, with over Rs 2,518 crore in actual investment received locally. The administration has acquired Rs 13,777 crore in land premiums for anticipated units (Das, 2023). Following the revocation of Article 370, two local body elections were conducted for the DDC (“District Development Council”) and BDC (“Block Development Council”) in October 2020 and December 2020, respectively. Although Independents won the most seats, the BJP emerged as the largest party when 307 block development officers were elected (Das, 2023).

Supreme Court Decision

In 2016, the Supreme Court (SC) recognized J&K’s special status and confirmed that Article 370 was not a temporary measure. The court has stated that Article 370 cannot be abrogated without prior approval from the Constituent Assembly of J&K. In 2017, the Delhi High Court rejected an appeal arguing that Article 370 was just provisional and that its continuation violated the Constitution. The Supreme Court determined that J&K had a special status due to historical reasons in the same year. Despite the word ‘temporary’ appearing in the head note, the Supreme Court decided in April 2018 that Article 370 was not temporary. However, the SC of India’s ruling supported the NDA government’s intention to repeal Article 370 in 2023. Political organizations in Kashmir suffered a severe setback when the SC of India backed the Modi government’s plan to revoke Kashmir’s special status (Jazeera, 2023). The SC ruled that the ruler’s proclamation made it very evident that the Constitution of India would regulate the State of J&K’s constitutional relationship with the Union of India. The Supreme Court’s 5-judge constitutional bench determined that the region’s unique status, considered a ‘temporary provision,’ might be constitutionally abolished in 2019 (Jazeera, 2023). The SC’s decision required the immediate restoration of statehood to Jammu and Kashmir. The directive instructed the Election Commission of India to execute Legislative Assembly elections by September 30, 2024. While the court did not rule on the legitimacy of the J&K Reorganisation Act or the state’s conversion to a Union Territory, it did order the restoration of statehood as soon as possible. The Court underlined the significance of examining the impact of such conversions on federalism, representative democracy, and the historical foundation of forming federating institutions. Chief Justice D.Y. Chandrachud stated that Article 35A ultimately denied persons in other regions of India 3 fundamental rights: (i) the right to acquire permanent property, (ii) the right to residency, and (iii) the right to work.

Conclusion

The abrogation of Article 370 was a significant turning point in the political framework of J&K, significantly transforming its position within the Indian Union. This study has explored the multifaceted social and political changes that have unfolded in the region since August 2019, highlighting both the immediate and long-term implications of this significant decision. The revocation of Article 370 was not merely a constitutional maneuver; it was a moment of profound transformation that reshaped the relationship between the people of J&K and the Indian state. The centralization of authority and the change of the state into 2 union territories have resulted in a considerable diminishment of local autonomy, provoking discussions over federalism and democratic values in India. The shift has resulted in a palpable sense of disenfranchisement among the local population, particularly in the wake of detentions of political leaders and the curtailment of civil liberties.

Moreover, the socio-political dynamics within Jammu and Kashmir have been profoundly affected. The abrogation has given rise to new forms of political resistance and mobilization, as local communities grapple with issues of identity, autonomy, and representation. The impact on governance has also been significant, with challenges related to the delivery of public services, development initiatives, and economic opportunities becoming increasingly pronounced. On the socio-economic front, while the government has argued that the abrogation could lead to increased investment and development in the region, the reality has often contradicted this optimism. The region has faced challenges related to unemployment, youth disillusionment, and infrastructural deficits, exacerbated by the security environment and a lack of genuine political engagement.

The human rights situation in J&K remains a critical concern. Reports of violence, detentions, and restrictions on freedom of expression and assembly have raised alarms among human rights organizations, highlighting the need for accountability and transparency in governance. As this study illustrates, the abrogation of Article 370 has not resolved the complexities of the Kashmir issue; rather, it has introduced new challenges that require nuanced understanding and dialogue. Moving forward, it is imperative for policymakers to engage with the aspirations and grievances of the people of J&K. Genuine dialogue, respect for human rights, and a commitment to democratic governance are essential to foster peace as well as stability in the region. The future of Jammu and Kashmir hinges on the ability to reconcile local aspirations with national interests. By comprehending and responding to the socio-political transformations resulting from the abrogation of Article 370, there exists an opportunity for creating a

more inclusive and equitable framework that recognizes the distinct identity as well as rights of the people of J&K within the Indian Union.

Pathways Towards Democratic Governance

Despite these challenges, there are potential pathways for moving towards a more democratic government in Jammu and Kashmir:

1. **Restoration of Political Rights:** The Indian government must prioritize restoring the political rights of local leaders and facilitating the re-establishment of democratic institutions. Conducting free and fair elections at local and regional levels is crucial for reviving political engagement.
2. **Dialogue and Engagement:** Initiating an open dialogue between the Indian government and local stakeholders, including political leaders, civil society organizations, and community representatives, can help build trust and foster an inclusive political process. Engaging with diverse voices within Kashmir is essential to address grievances and aspirations.
3. **Human Rights Protections:** Strengthening human rights protections and accountability mechanisms is vital for fostering a democratic environment. Ensuring that civil liberties are respected and that violations are addressed can help rebuild public trust in governance.
4. **Economic Development Initiatives:** Investing in infrastructure, job creation, and education can improve the socio-economic landscape of Jammu and Kashmir. Economic development can help address grievances and empower local communities, fostering a sense of ownership and participation in governance.
5. **Decentralization of Power:** A move towards greater decentralization and local governance can enhance democratic practices. Empowering local bodies and ensuring their autonomy can promote responsiveness to community needs and increase citizen participation in decision-making.

Conflict of Interest

None.

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