



Section 370-Consequences of Before & After its Removal

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ABSTRACT :-

Following the abrogation of Article 370, a lot has changed in Jammu and Kashmir. The book is an extensive comparative study on socio-political and economic aspects of the region. This study attempts to critically inform for the implications of this landmark development by highlighting the intricate unfolding that emerged after the amendment. The comparative overview encompasses a detailed analysis of before and after the abrogation of article 370. This is a multi-disciplinary study drawing on data from multiple sources including government documents and the academic literature. The study seeks to create a polycentric understanding of transformation in Jammu and Kashmir through various research methodologies.

Introduction :-

Jammu and Kashmir are situated in northern India. Relations between the two countries India and Pakistan were limited only till the partition of the two countries in 1947 but their dispute over the Union Territory of Jammu and Kashmir never ended. Jammu and Kashmir is India's former largest princely state, shared with Union Territory of Ladakh in east, Indian states of Himachal Pradesh and Punjab in south, Pakistan in southwest and PAK (Pakistan Administered Kashmir) more southwest.

The overall region covered by J&K is 101,387 sq km. The population is 12,367,013. The protracted territorial tussle for Kashmir is tied to India and Pakistan's contest over supremacy in the region and India's struggle with Jammu & Kashmiri Proviso: Until 05 August 2019 Jammu and Kashmir was a state of India and now it is officially Union territory of India. Almost three months after Ghulam Nabi Azad-led UPA government of the year 2008 imposed Governor rule in Jammu and Kashmir, the latter was declared Union Territory of India on 05 August 2019.

The Supreme Court of India has abolished the special status to the people of Jammu and Kashmir, I.e Article 370 and 35A. A few days after the abrogation of Article 370 in addition to Jammu and Kashmir, The court ruling was followed by protests, leading to curfew and strikes across the UT. Communication and internet services were suspended throughout the entire region of Jammu and Kashmir.

A large number of businesses and educational institutes were closed for many months which adversely affected the economy of Jammu and Kashmir (Nadaf, 2023; Imtiaz, Sumera, 2021). Article 370 of the Indian Constitution granted temporary special autonomy to the state of Jammu and Kashmir. When it was incorporated into the Constitution in 1949, it granted Jammu and Kashmir a special status within the Indian Union.

Article 370 history:

The bowing of the princely state of Jammu and Kashmir in 1947 is the base Maharaja Hari Singh, the ruler of the princely state of Jammu and Kashmir, signed the Instrument of Accession in October 1947 that made them part of India. That allowed the Indian government to back these Pakistan-backed tribal forces in their attempt to repel the invasion. Under the Instrument of Accession (cited as Schofield, 2021; Noorani, 2014), the state would only be subject to Indian authority in matters of defence, foreign affairs, finance and communications.

Article 370 giving special status to Jammu and Kashmir was part of the Constitution of India when it came into effect in 1949. The state enjoyed far greater self-rule and to develop its own constitution. In 1957 when Jammu and Kashmir ratified its own constitution, its separate identity was solidly established. The state exercised monopolistic ownership of land and property, its own flag, and full sovereign albeit on a limited number of issues. It could also state who was a resident of a permanent home. Over the years, several presidential orders have been issued to extend parts of Indian law to Jammu and Kashmir. Yet, the state persisted in its unique position and multiple laws were applied on its citizens (Schofield, 2021; Noorani, 2014).

However, applicable within the framework of this special status there were ad hoc changes and amendments to article 370 (over the decades). Jammu and Kashmir had gradually its autonomy removed, and the relationship of the state with the Indian Union become ambiguous. The Indian government of Prime Minister Narendra Modi abrogated Article 370 and stripped Jammu and Kashmir of its special status on August 5, 2019. The State of Jammu and Kashmir is well-known for its tourist spots. And now, it has tourist attractions like summer and winter. Jammu and Kashmir is heavily reliant on tourism as a source of income.

Tourists from around the world arrive in Jammu and Kashmir for snow skiing and winter sports. Sadly, the curfews and strikes made it impossible for visitors to come, and the tourist numbers were at an all-time low. After the abolition of Article 370 in Kashmir, the number of tourists who come to Kashmir for tourism fell at a very rapid rate, but after two years this rate of tourists came to a very high rate which was the highest in seventy years. It was then that the income received by Jammu and Kashmir rose considerably.

This comparative analysis studies the historical transformation in Jammu and Kashmir after abrogation of Article 370 of Indian Constitution. The abrogation of the special status in accordance with the Article itself, had multiplier effects on the political landscape, socio-economic structures and governance of this erstwhile state. This research study probed the impacts of the amended law, the change of region in to union territories and these changes on quality of life of local population.

By comparing circumstances before and after the amendment, the study seeks to illuminate what these effects have been — intended or otherwise — and what consequences may be seen as realignment under guise of this critical constitutional change.

Before the repeal of Article 370 :-

Jammu & Kashmir UT is occupied by number of tourists spot. Thus, it is in North India, encompassed by immense Mountains which charms its beauty and zest. Tourists from across India and other countries visit to enjoy its serene natural beauty with the potential for winter sports. Other than its pyramids and natural scenery. From 2012 to 2019, Jammu and Kashmir experienced hundreds of shutdowns. This rising militancy in Jammu and Kashmir became the main cause for these shutdowns and strikes to rise. Abstract Burhan Wani, the poster boy of militancy in Jammu and Kashmir actively uses the cyberspace to propagate militancy at large. He was posting photographs and videos of militants carrying guns in the Kashmir valley on social media. In Jammu and Kashmir, people began agitating against the Indian Army for letting these terrorists flee when the Indian Army killed them in encounters; resulting in violent clashes (Qadir & Dar, 2021). Such strikes and ambushes were a regular feature for a number of years until the government wiped out most terrorists operating in Kashmir. As soon as the encounter starts, curfew is imposed by the Jammu and Kashmir government so that the people do not come out to protest against the army. It was like this till the year of 2019. The Kashmir Valley saw stone pelting, encounters, curfews and internet shutdowns from 2012 to 2019. This was followed by massive protests where the internet was shutdown hundreds of time, over 100 deaths of young people happened in stone pelting and encounters.

Everything about Jammu and Kashmir prior to article 370 repeal

1. Lockdown and Curfew
2. Internet Suspension
3. Stone-pelting and Encounters
4. Economic Losses

1. Lockdown & Curfew

India imposes curfew and lockdown most frequently on Jammu and Kashmir. These lockdowns and curfews were due to political impropriety. Calendars of curfew to be imposed in Jammu and Kashmir was released by local political parties of J&K. While on the other side the then Hurriyat Party (banned) was publishing calendars of lockdowns for public protests against government. But this is causing problems in the daily lives of general public from both cut sides. Due to these curfew / lock down markets, transport, business establishments, educational institutions are closed which directly hampers the life of common man in Jammu and Kashmir both socially and economically.

2. Internet Suspension:-

Internet is one of the most effective and efficient technology in modern technologies. The internet is used in every domain these days. The Internet Thousands of millions of people in the world connect with each other there. Internet suspension today is equivalent to exile from the world. However, what an irony that at a present where internet is required for each and every field of life such as; business, education, communication etc., on one side the J&K has experienced internet shutdown uplenty number of times during last 10 years. Jammu and Kashmir Lay Down & Internet Shutdown -- From the year 2012 to 2023 (Total no of internet shutdown is 297435), The Longest internet shutdown was of 552 days immediately after removal of Article 370 on 5August;2019. Notably, the restoration of 2G was implemented six months later in some areas and it took a total of 552 days for all services to be restored after this prolonged internet suspension. The year by year shutdown numbers for Jammu & Kashmir is 2012-03, 2013-05, 2014-05, 2015-05, 2016-10, 2017-32, 2018-65, 2019-55 into the previous covid stricken restrictions in the value of years (2020 (116),2021-(79)), and latest instances continuing (43) until just nine days left of this exiting third year. The shutdown of the internet affects business and education badly. Back in COVID19 when all the schools, colleges and business started closed for months long, only a source of learning was internet to help students and different company started work from home (WFH). But the internet was suspended in Jammu and Kashmir at that time which is very bad for the students' study also these internet shutdowns by the government leave log thousands of people jobless (Qadir & Jaggarwal, 2021)

3. Stone pelting and Encounters :-

For the last thirty years, Jammu and Kashmir has continuously remained in news for encounters. The latest genocide was not between civilians or hapless people hunted like the ducks in the pond, it was the encounter of Terrorists and armed forces (of both Pakistan and India) with common goal to separate

Jammu Kashmir from rest of India. Such encounters have been a regular feature following the increase in terrorism in Jammu and Kashmir between 2012–2019. At times, when news regarding these encounters comes on social media, people from other places gather around the encounter site and start pelting stones at the army so that the encounter can be halted and terrorists can escape. This was also a period that witnessed hundreds of youth killed in encounters and stone pelting, thousands others injured. These incidents had led to arresting hundreds of youth which are still behind the bars in Jammu & Kashmir. 2016: Poster boy Burhan Wani killed along with two militants on July 08, leading to stone pelting and strikes across Kashmir for next six months killing 90 youth This was the ugliest phase of this century that broke the life and career of thousands of youth in Jammu and Kashmir.

4. Economic losses :-

Jammu & Kashmir is the most underdeveloped union territory of India. This low development is primarily due to local political instability and low industrial development. The economy of Jammu and Kashmir is based primarily on tourism and agriculture. Ongoing strikes and continuous lockdown for more than 10 years has made it difficult, unsafe and discouraged tourist to pay visit there which is adversely affecting the economy of Jammu and Kashmir. However, the ongoing strikes and curfews create difficulties for farmers to send their produce like apples, saffron, almonds etc. out of the union territory Based on different estimates used in the study, shutdowns lasting for a total of 16,315 hours (680 days) over the period from 2012 to 2017 affected India and monetary loss due to these was approximately \$3.04 million dollars (Rydzak, 2019).

After the repeal of Article 370 :-

To account for going on as these changes also be charged multiple responses and perspectives in India and globally. Although many see these developments as encouraging strides toward integration and progress, critics warn of the threat this could pose to regional self-determination, identity and rights. Developments are still taking place and the fate of these changes in Jammu & Kashmir is a burning question now as it will keep on being heard 10 years hence, however long into our future the world can see.

The various changes in Jammu and Kashmir after the repeal of Article 370 are as follows:

1. Economic development
2. No more curfews and lockdowns
3. No internet shutdowns
4. Infrastructure development
5. Promotion of tourism in Jammu and Kashmir

1. Economic Development :-

Economic development is one such process of transforming simple national economics of low income into sophisticated, industrial economics. Though this term is used interchangeably with economic development it mostly implies a transformation of the nation economy, both quantitative and qualitative. The abrogation of Article 370 has brought many changes in Jammu and Kashmir, where economic development is the top priority for its people. The government is going to provide a lot of employment opportunities in the next five years, as the main focus area of the government is industrial development" said Arun Kumar Mehta Chief Secretary Jammu and Kashmir. "Jammu and Kashmir intends to attain long-term industrial development and economic success, the government is committed to assist business owners who want to invest in line of progress and development for the UT, as many leading companies across country and foreign also calls every day which are very much interested in investing in J&K which is turning out to be one of the dynamic, rapidly growing and booming investment destination." Burj Khalifa builders formally launched the first foreign direct investment in the UT in March this year, a shopping centre and multipurpose tower on the outskirts of Srinagar, marking their official arrival in Jammu and Kashmir.

2. No more curfews and Lockdowns :-

For several decades, Jammu and Kashmir was associated with curfew and lock down like situations. In India, the single most high number of lockdowns have been imposed in Jammu and Kashmir. After the repeal of Article 370 in the year 2019, these lockdowns and curfews came to an end. The market got closed several times in a month before the repeal of Article 370, which had been impacting the common people residing in this region. There have been near 0% lockdowns recorded in Jammu and Kashmir for the previous two years. But the abrogation of Article 370 has changed this — completely.

3. No internet Shutdowns :-

We grow up in Jammu and Kashmir, shutting down the internet services was matter of everyone day. An Internet blackout hundreds of times each year. Jammu and Kashmir had the longest internet shutdown in world history due to the deafening silence of days with a near total blackout lasted for 552 days. In the past two years, internet services in Jammu and Kashmir have changed a lot. For the past several years, large internet shutdown characteristics have not been carried out there. In a few incidents, there is a minimal internet shutdown there; however, not as much as earlier.

4. Infrastructure development :-

Infrastructure The basic physical systems of the nation, which enable the social and economic changes needed in production operations of the economy. These include the following components:

- 1.Highways
- 2.Railways
3. Educational institutes which are colleges and schools
4. Hospitals and health system
5. Water sanitation system with clean drinking water
6. The financial system — that is banks and insurers and businesses

Important Infrastructure Development in Jammu and Kashmir After Abrogation of Article 370 Srinagar Smart City project is one of the big changes in Lal Chowk located in the middle of Srinagar at least on tourism and foreign investors front.

5. Promotion of tourism in Jammu and Kashmir :-

Tourist destinations of Jammu and Kashmir Tourism is one of the most important sectors in economy of UT. So major transformation has been observed in the tourism of Jammu and Kashmir, after abrogation of article 370 & so on. The tourism department had once been seen as suffering because of ongoing strikes and lockdown in the UT. The good signs of improvement with tourism in Jammu and Kashmir Have started Soon after the Normalcy post article 370 Until 5 August 2019, Jammu and Kashmir was a state of India then it reorganised into union territory. Last year, Articles 370 and 35A, which provided for special status to Jammu and Kashmir residents, were abolished by the Supreme Court of India. What followed was mass protests against the courts ruling — which triggered curfews and strikes across the newly created union territory. But then, one year later everything got better in the valley, and tourists came again

Case law:-

1. Kashmir Reorganisation Case (2020 - ongoing)

- Case title: Petitions challenging the Presidential Order of August 5, 2019 and the Jammu and Kashmir Reorganisation Act, 2019.
- backdrop: On August 5, 2019 the Government of India issued a Presidential Order (Constitutional Order 272) repealing Article 370 and thereby abrogating special status to Jammu and Kashmir. Subsequent to this action, the Jammu and Kashmir Reorganisation Act, 2019 was enacted by Parliament which resulted in the division of the erstwhile state-into two Union Territories namely–Jammu and Kashmir and Ladakh.

Petitions: A few petitions had been filed in the Supreme Court questioning the constitutional validity of both the Presidential Order and also that of the said Reorganisation Act. A bunch of political leaders, citizens and organisations had earlier gone to the Supreme Court challenging scrapping of Article 370 that granted special status to Jammu and Kashmir, stating it violated basic structure of the Constitution.

- Key issues: The primary legal issues raised were:
 - Whether the President has the authority to unilaterally repeal or amend Article 370.
 - Whether the repeal violated constitutional process and the special provisions under Article 370.
 - Whether the Jammu and Kashmir Reorganisation Act, 2019 is constitutional.
- Supreme Court proceedings: The case is currently pending before the Supreme Court. In 2020, the Court referred the case to a larger bench. The hearings are ongoing, but so far, there has been no final verdict on the validity of the repeal.

2. Case:- Ghulam Mohammed Sadiq vs Union of India (1967)

Related Post: • Ghulam Mohammed Sadiq vs Union of India, AIR 1967 SC 123

- Significance: The case was concerned with construction of the provisions of Article 370. The Supreme Court held that the Article can be amended/modified by the President but some changes need the agreement of state. This decision further strengthened the notion of the permeability of Article 370 subject to popular will in Jammu and Kashmir.

Key points to note:

- Background on Article 370: Article 370 is a provision of the Constitution of India that accorded special status to the region of Jammu and Kashmir, allowing it autonomy in all matters except foreign affairs, defense, finance and communications.
- Abrogation of Article 370: The special status of Jammu and Kashmir was taken away by the central government on August 5, 2019 via a Presidential Order (Constitutional Order 272) and a Reorganisation Act. Such step was backed by an exercise of the Union Cabinet.
- Ongoing legal challenge | In the case of Kashmir Reorganisation, for example, the legality of these actions is undermined legally. This case has far-reaching implications for the constitutional relationship between Jammu and Kashmir and the Union of India.

Presently the legal tussle over the abrogation of Article 370 has not been settled, and the apex court ruling — whichever way it is delivered — would go down in history for laying down how ignored or recognised political positions resonate in Indian constitutionalism particularly when it comes to federalism and so-called state[or] regional rights.

Conclusion :-

Jammu and Kashmir used to be a northern state of India until 04 August 2019 then it was announced as UT (Union Territory) She found that before the state joined India, it had suffered hundreds of lockdowns, curfews and internet shutdowns and encounters as a result of locally generated political instability. The government of India on 04 August 2019, declared Jammu and Kashmir as a UT and abrogated Article 370 which was providing special status to the people of Jammu & Kashmir. The government imposed a stringent curfew shortly after the abrogation of Article 370 to stop people from taking to the streets against this monumental decision of the government. For couple of months every educational institution, transport and industries, market was also closed. There communications and Internet services too were snapped. Eventually, after a long while, they managed to get things under control and so the government lifted the curfew and lockdown there. The tourism industry has received a major booster in Jammu and Kashmir, the tourists are coming from all over India and abroad to see the natural beauty here, which is proving to be helpful in economic development of Jammu and Kashmir. The administration is experiencing each conceivable thought regarding whatever else having the potential for advancement and development which will be of extraordinary advantage to standard individuals. In Jammu and Kashmir, normalcy was witnessed after decades.

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