

Merits and Demerits of Abrogation of Article-370

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Abstract

Due to abrogation of Article-370 and also due to reorganisation of Jammu and Kashmir Ladakh will be a separate Union Territory with-out a legislature while Jammu and Kashmir will be a Union Territory with a legislature. It's a good move still many concerns do rise in intellectuals mind like, "Which will be the new capital for Ladakh? Will the people of Jammu and Kashmir get developed as a Union Territory? Will insurgency and terrorism get reduced or increased due to the decision?" This paper tries to analyse the consequences of abrogation of Article 370 and 35A in Jammu and Kashmir.

INTRODUCTION:

Jammu and Kashmir is known as Switzerland of India. Here the green plates, clean and fresh air and water makes this state really a paradise on earth. It is a place of beautiful simplicity and pristine natural beauty and also simplicity and pristine natural beauty and also top most tourist destination of India.

However Kashmir issues are always a hot potato in India either due to climate changes in the region or the cowardly tourist attacks on the Indian Army. But this time the issue is quite different, it is in news due to the sudden and surprising abrogation of Article 370 in India and also due to recognition of Jammu and Kashmir. According to this resolution Ladakh will be a separate Union Territory without a legislature while Jammu and Kashmir will be a Union Territory with a legislature. Before moving ahead let us take a look at the objectives of the study.

OBJECTIVES OF THE STUDY :

1. To discuss the merits and demerits of abrogation of Article 370 in Jammu and Kashmir.
2. To understand the historical background of Article-370
3. To know the condition of politics in Jammu and Kashmir.
4. To discuss whether the move of abrogation of Article 370 was right or wrong.
5. To understand the after effects of abrogation and also future plans.
6. To understand why few people were against this decision of abrogation
7. To spread knowledge and acquaint the citizens of India about the current issue.

METHODOLOGY :

Descriptive Observational Method (library Observation). The Present paper is based on Primary and Secondary Sources of data. This data has been collected from various books, journals, study materials and websites. Considering the objectives and the nature of collected data, the 'Description Observational Method' is adopted in the present study.

ANALYSIS :

Modi government's historic move of abrogating Article 370 is one of the most initiatives to change a provision in our constitution that was sacrosanct for a very long time. It has become a reason to rejoice for the majority of Jammu. Kashmir has been bone of contention between India, Pakistan and China for over seven decades now. Parts of this region are scattered over these three countries with the majority of it in India. Article 307 is a unique link that provides special status to Kashmir. Now to make us understand the topic in a better way, here is a detailed analysis of the issue.

WHAT IS ARTICLE 370 ?

The article is drafted in part XXI of the Constitution: Temporary, Transitional and Special Provisions under Article 370 of the Indian Constitution, Jammu and Kashmir is granted autonomy. It is a temporary provision that accords special status to the state. All the provisions of the Constitutions which are applicable to other states are not applicable to Jammu and Kashmir.

WHY DID THE CONFLICT HEAT UP THIS YEAR?

The immediate cause was the February 14 suicide bombing by a young Islamic militant, who blew up convoy of trucks carrying paramilitary forces in Pulwama in Southern Kashmir. Indian aircraft responded to that attack by firing into Pakistan and firing airstrikes near Balakot. It was the 1st aerial clash between the rivals in 5 decades.

HISTORICAL BACKGROUND OF ARTICLR 370 ?

At the time of India's Independence, Raja Hari Singh was the ruler of Jammu and Kashmir who wanted to keep his state Independent. But on October 1947 "Azad Kashmir Army" along with Pakistani Army invaded Kashmir and grabbed a lot of shares. In this situation Maharaja Hari Singh, with the consent of Sheikh Abdullah to protect Jammu and Kashmir, together with Jawaharlal Nehru, announced the temporary merger of Jammu and Kashmir with India on act 26, 1947, and sign on "Instruments of Accession of Jammu and Kashmir to India".

Under this new agreement Jammu and Kashmir had handed over only 4 subjects: Defence, Foreign Affairs, Finance and Communications with India. After signing the agreement, the Government of India promised that "the people of this state will construct the internal Constitution of the state through their own constituent assembly".

And as long as the Constitution of the state does not determine the boundary of the governing system and jurisdiction till then, the Constitution of India can leaders only provide an interim arrangement about the state. With this commitment, Article 370 was included in the Constitution of India. It clearly state that these provisions are temporary in relation to the state of India and Kashmir.

Article 370 embodied 6 special provisions for Jammu and Kashmir?

1. It exempted the State from the complete applicability of the constitution of India. The state was allowed to have its own Constitution.

2. Central legislative powers over the State were limited, at the time of the framing, to the three subjects of defence, to the three subjects of defence, foreign affairs, finance and communications.
3. Other constitutional powers of the Central Government could be extended to the State only with the concurrence of the State Government.
4. The 'concurrence' was only provisional. It had to be ratified by the State's Constituent Assembly.
5. The State Government's authority to give 'concurrence' lasted only until the State Constituent Assembly was convened. Once the State Constituent Assembly finalised the scheme of powers and dispersed, no further extension of powers was possible.
6. Article 370 could be abrogated or amended only upon the recommendation of the State's Constituent Assembly.

MERITS OF SCRAPPING ARTICLE 370 :

- Pakistan will be terribly upset that the big Jammu and Kashmir, they hoped to lay their hands on, is now united with India.
- Leaders like Mehbooba Mufti will not be able to preach separatism or involve Pakistan in internal matters of Kashmir and they are going to be very pissed off.
- The Abdullah family may find it more difficult to play politics the way they used to.

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