



ORIGINAL RESEARCH PAPER

Political Science

ABROGATION OF ARTICLE 370: A CRITICAL ANALYSIS

KEY WORDS: Abrogation, Federalism, Accession, Autonomy, Political agenda, National security.

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ABSTRACT

The abrogation of Article 370 on August 5, 2019, represents a significant shift in the political landscape of India and its relationship with Jammu and Kashmir (J&K). This article critically examines the historical context, legal implications, political ramifications, social consequences, and international responses to the abrogation. It aims to provide a comprehensive understanding of how this move has transformed the governance structure of J&K and its implications for Indian federalism, national integration and regional stability. The decision to abrogate this article had profound political, social and legal ramifications. Hence, this research article explores the impact of the abrogation on Indian politics by addressing the some key issues.

INTRODUCTION:

Article 370 of the Indian Constitution, enacted in 1949 and granted special autonomy to the state of Jammu and Kashmir. This article provided J&K with its own constitution and considerable autonomy over internal matters, differentiating it from other Indian states. The abrogation of Article 370 has been viewed as a controversial decision that has far-reaching consequences for the region and the nation.

**Historical Context of Article 370
Accession Of Jammu And Kashmir:**

The unique status of J&K stems from its accession to India in 1947. Maharaja Hari Singh signed the Instrument of Accession under duress, following an invasion by tribal militias from Pakistan. This accession was contingent on the promise of autonomy, leading to the establishment of Article 370.

Evolution And Enactment:

Initially intended as a temporary provision, Article 370 was designed to preserve the distinct identity of J&K. It allowed the state to have its own constitution and considerable legislative powers. Over time, the provisions of Article 370 became entrenched in the political framework of the state.

Role of Article 35A:

Article 35A, introduced in 1954, empowered the J&K legislature to define "permanent residents" and confer special rights upon them, further entrenching the state's unique status. This article restricted land ownership and job opportunities for non-residents, intensifying local sentiments around identity and autonomy.

The Process of Abrogation:

Political Background: The Bharatiya Janata Party (BJP), which has long advocated for the abrogation of Article 370, won a decisive mandate in the 2019 general elections. The BJP framed the abrogation as a means to integrate J&K fully into India and promote national unity.

Mechanism of Abrogation:

Presidential Order:

The President of India issued a Presidential Order that effectively revoked Article 370, extending the Indian Constitution to J&K. This was seen as a legal maneuver to bypass the requirement for concurrence from the state assembly.

Parliamentary Resolution:

The Indian Parliament subsequently passed a resolution to endorse the abrogation, leading to the bifurcation of J&K into two Union Territories: Jammu & Kashmir and Ladakh.

Legal Implications

Constitutional Controversies:

The abrogation of Article 370 raised questions about its

legality. Critics argue that the procedure violated the constitutional framework by bypassing the requirement for the consent of the J&K Constituent Assembly, which had ceased to exist since 1957.

Impact on Federalism:

The abrogation challenges the principles of federalism and state autonomy enshrined in the Indian Constitution. The move is viewed as an assertion of central authority that undermines the rights of states, raising concerns about the implications for other states with distinct identities.

Political Ramifications

BJP's Political Agenda:

The abrogation is part of the BJP's larger ideological commitment to Hindutva and the vision of a unified India. By revoking the special status, the BJP aimed to consolidate its support among nationalist constituents and fulfill a long-standing electoral promise.

Impact On Regional Politics:

The abrogation has led to significant changes in the political landscape of J&K. Traditional political parties, such as the National Conference and the People's Democratic Party, have faced challenges in addressing local sentiments, leading to a rise in new political movements and heightened tensions.

Social Consequences

Public Sentiment in Kashmir:

The decision was met with widespread protests in the Kashmir Valley, where residents viewed it as an infringement on their rights and identity. The imposition of security measures, including curfews and communication blackouts, exacerbated feelings of alienation and distrust towards the Indian state.

Concerns Over Demographic Changes:

The removal of special provisions has raised fears about demographic changes in the region. Local residents expressed concerns that an influx of non-residents could undermine the cultural identity of Kashmir, leading to social and political tensions.

International Responses

Pakistan's Stance:

Pakistan condemned the abrogation, asserting that it was a violation of international law and UN resolutions concerning Kashmir. Islamabad sought to internationalize the issue, urging for diplomatic intervention and a plebiscite to ascertain the wishes of the Kashmiri people.

Global Reactions:

The international community has largely refrained from taking a strong stance on the abrogation. Most nations viewed

the issue as an internal matter for India, although concerns were raised about human rights violations in the region.

Political Impact on Indian Politics:

1. National Integration Narrative:

The abrogation was framed by the ruling BJP as an important step toward ensuring the "complete integration" of J&K with the rest of India. This nationalist narrative bolstered the BJP's position as the champion of national unity, helping to solidify its political base across the country. It reinforced the BJP's emphasis on Hindutva (Hindu nationalism) and its vision for a more centralized governance structure.

2. Shift in the Balance of Power in Jammu & Kashmir:

The abrogation drastically altered the political power dynamics in J&K. The erstwhile state's mainstream political parties, such as the National Conference (NC) and the People's Democratic Party (PDP), which had traditionally dominated J&K's political landscape, found themselves in a weakened position. The BJP's direct involvement in J&K's political affairs, after the bifurcation into Union Territories, has further marginalized local parties and led to a significant shift in the political discourse, with pro-India parties struggling to maintain relevance.

3. Impact on Federalism and Regional Politics:

The central government's move was seen by critics as a violation of federal principles. The decision to abrogate Article 370 was made unilaterally without consultation with the J&K assembly (which was dissolved). This has raised concerns about the erosion of federalism in India, setting a precedent where the central government may intervene in regional matters more assertively. The move also led to apprehensions among other regional parties, which feared a similar loss of autonomy. For example, states like Punjab, West Bengal, and Tamil Nadu, which have strong regional identities, expressed reservations about the central government's approach. These concerns are particularly significant given the federal structure of India, where regional parties often play crucial roles in coalition governments.

4. Strengthening of BJP's Political Base:

The abrogation of Article 370 was a major promise of the BJP in its election manifesto. The party's swift and decisive action on this issue has further consolidated its Hindu nationalist vote bank. The move has enhanced the party's appeal among its supporters, particularly in northern and central India, where the idea of national unity and security resonates strongly with the electorate.

5. Opposition's Response:

The abrogation divided India's political landscape. While the BJP and its allies largely supported the move, many opposition parties, including the Congress, Trinamool Congress, Communist Party of India (Marxist), and others, condemned it as unconstitutional. They raised concerns about the manner in which the decision was executed by revoking the special status without the consent of the people of J&K. However, given the widespread support for the abrogation among the Indian electorate, the opposition struggled to present a unified front against it, contributing to their political marginalization.

6. Geopolitical Ramifications:

The abrogation of Article 370 also had significant geopolitical consequences, particularly with respect to India-Pakistan relations. Pakistan strongly condemned the move and sought international support to reverse the decision. However, India maintained that it was an internal matter and that the international community should not intervene. This has led to increased tension between the two nuclear-armed neighbors and intensified militarization along the Line of Control (LoC) in Kashmir. Furthermore, the abrogation has complicated India's relations with China, given that Ladakh was separated as a Union Territory. China expressed concerns over the

change in Ladakh's status, particularly because of its territorial claims in the Aksai Chin region.

Social and Security Impacts:

The abrogation was followed by strict security measures, including the deployment of thousands of additional troops in J&K, communication blackouts, and the detention of political leaders. These measures, while aimed at preventing unrest, have been criticized for violating human rights and restricting freedom of expression in the region. The long-term security implications of this move are yet to be fully realized, but initial indications suggest that militancy in the region could escalate as groups opposing Indian rule gain ground. The alienation of the local population and lack of political representation could fuel resentment and lead to an increase in radicalization.

Legal And Constitutional Implications:

The constitutional legality of the abrogation of Article 370 is under scrutiny. Several petitions challenging the move are still pending before the Supreme Court of India. These cases argue that the abrogation was unconstitutional because it bypassed the J&K Constituent Assembly, which was dissolved in 1957, and violated the federal structure of the Indian Constitution.

CONCLUSION:

The abrogation of Article 370 represents a critical juncture in the history of Jammu and Kashmir and Indian politics. It has profound implications for the legal and constitutional framework, the dynamics of federalism, and the social fabric of the region. While the Indian government frames the abrogation as a step toward greater integration and development, it has led to increased tensions, protests, and a reevaluation of national identity. The future of Jammu and Kashmir will depend on the government's ability to address local concerns while ensuring peace and stability in the region. The abrogation underscores the complexities of governance in a diverse nation like India, where regional identities and aspirations must be balanced with national interests. The abrogation of Article 370 is a watershed moment in Indian politics. It has reshaped the political discourse around nationalism, federalism and regional autonomy. While it has consolidated the BJP's position on the national stage, it has also raised concerns about the future of India's federal structure and the rights of its regions. The political, legal, and social ramifications of this move are likely to continue shaping Indian politics for years to come.

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