



The Paradigm of Dialect After Abrogation of Article 370

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Abstract

The paper briefly discusses the integration of the state of Jammu and Kashmir with the Indian union through the Instrument of Accession. This agreement was signed between Maharaja Hari Singh and Governor-general of India. After this agreement Article 370 was implemented to the state of Jammu and Kashmir. The special status was given to the state. Although it was mentioned that this particular article 370 is transient temporary. And it is temporary in nature. This article gave many privileges to the people of Jammu and Kashmir. But after so long this article was abrogated on 5 August 2019 by our current Prime Minister Narendra Nath Modi. So this paper clearly explains the political debate regarding the abrogation of article 370.

Keywords: Article 370, Abrogation, Jammu and Kashmir, Constitution, Political discourse, Legitimacy.

Introduction

Constitution of India is one of the fine legitimate documents of the country which encompasses all characteristics to govern the country and its nation peacefully for social resilience, human rights and protect people from severe crime. But when examining the international and national issue of protection concentrating north Indo-Pak border of Jammu and Kashmir, therefore, it can be recognized as the world's complex risky area have severe complex problems which can solely be settled by the enactment of new laws to protect the security and peace. The intervention from Pakistan in Jammu and Kashmir area and newly from "China after the coronavirus condition, attack in the region of Ladakh", "these serious problems are resuming which compel the matter complex to solve" (Neha, 2020). The expectation is to formulate a future connection in peace and prosperity.

The people of Jammu and Kashmir have encountered a vast number of terror and fear from decades successively and they have been combatting for their independence against disturbance and displeasure dealt by them. India and Pakistan were split up into two nations after the Liberation from the Britishers in 1947. "There were approximately 560 princely states situated in British India till that moment Kashmir was also the part of it" (Neha, 2020). The ruler Hari Singh of Jammu rather than his emperorship, has given rise to various disputes which were the most discussed justifications to settle the situations of Kashmir. Pakistan picked out India by rendering Kashmir as a weapon and attacked Kashmir by dispatching army troops. Maharaja of Jammu was incompetent to protect Kashmir and pursued assistance and broaden his hand towards India. Subsequently analysing the stance of the Kashmir and plea made by Hari Singh, the viceroy Mountbatten was willing to assist Kashmir but in trade, he recommended a commitment to the Maharaja signed the "Letter of Instrument of Accession to India", since that moment this commitment has to serve an unchangeable and unsettled problem for India.

After the commitment between India and Kashmir on 2nd November 1947, Pandit Nehru declared openly that "Kashmir's future will be decided by the means of the plebiscite", a plebiscite was never pertained on Kashmir since then and it has become an ambiguous vow created by the government of India (Neha, 2020). After such an occurrence, Kashmir people were safeguarded and ensured their voting rights in public and regional elections. Therefore, there was no desire for plebiscite in the district. While on the contrary, Pakistan was constantly in the approval of performing elections with the norms of a plebiscite. They have often incited Kashmiri Muslims to urge their liberties and Plebiscite in their Region. The viewpoint of the Kashmiri was that suffrage of Kashmiri species will barely make any distinction in the State because they merely compel to receive the fundamental conveniences and settled problems of Kashmir which they won't earn by the norms of elections.

According to base reality, finally, The Jammu and Kashmir Reorganisation Act, Registered No. ID (N) 04/0007/2003, Published by the authority as Ministry of Law and Justice (legislative department), 2019, New Delhi, India [1]. "The severe complex problems of Kashmir (as a state of India equalize with other states) and the abrogation of article 370: peace can be conceivable, or stalemate endures to hamper India and Pakistan relation in future" (Nisar, 2016). Examining on Kashmir with its background, current advancement and U.S. Policy as published by Congressional Research Services, the author underlines the problem with Indian government established on constitutional power to formulate modifications in J&K district where the Muslim bulk is prevailing. "The author underlines the Article 370 which provides the Jammu and Kashmir state as a "special status" and bifurcation of the state from the whole country" as a "union territories" with the "use of constitution came under "president rules" which in future makes serious issues as peace or war, religious stability, Indian military strong action, interference of Pakistan", "disturbing national and international relation between UN, India, Pakistan and other neighbouring countries" (Nisar, 2016). UNofficially announced that Jammu and Kashmir regarded as a controversial territory but India answered with the current constitutional surprising modifications an "internal matter". UN policy's the central purpose is to prevent disputes between India and Pakistan. He accentuates the problems for the three decades of

separatist confrontations and their innumerable casualty records as a consequence after 2013. The USA favours both sides of Indian and Pakistan cooperation to bring peace and development.

According to the old background of this article 370 the case chronology of Jammu and Kashmir were “Maharaja Hari Singh after Pakistani attack since the 26th of October 1947, on Jammu and Kashmir, after princely states merged with India Kashmir had its constitution since 17th of November 1956” “under the constitution of India came into force with provision article 370, Maharaja Hari Singh signed the accession papers on October 26, 1947, under which the state acceded to India” (Neha, 2020). Maharaja Hari Singh approved the official document (accession papers) on 26th of October 1947 in which the state agreed to India. “Most importantly they highlighted “THE LEGAL ANALYSIS” focusing Article 370 in detailed research as Article 370 Clause (1)(a), (1)(b), (1)(c), (1)(d), (2) & (3) with the further current legal framework of article 370, issues, challenges and suggestions for India’s future peaceful scenarios” (Neha, 2020). So this paper will discuss supporters and the defenders of abrogation of article 370.

The following explains how some leaders and ministers were in the favour of abrogation of article 370 and how some were extremely against this decision. Still are some of the ministers of Jammu and Kashmir who are against this abrogation and think to fight back to get their special status back. So this all will be discussed as follows:

Demand for Abrogation of Article 370

Bharatiya Janata Party demanded for Abrogation of Article 370 of the Constitution of India which has been an important component of the BJP's core agenda. It has constantly hit a subjective area with its position and file after its exponent Shyama Prasad Mukherjee who refused in Jammu and Kashmir jail in 1953 to revolt the state's special status and urge its thorough integration with the Centre. On the other hand Amit Shah the Union home minister said those who provoke the youngster of Kashmir, their own children are studying in London and the US. Allow them to nourish their children in the schools in the Kashmir region therefore they will realize what Article 370 is. They all are responsible that youth in the Kashmir region have not progressed. “The government of Modi wants to hug the youths of J&K” (“Article 370 Debate”, 2019). Article 370 distanced the youngster of Kashmir and propelled them towards terrorism. He further affirms that more than 41000 people have died due to Article 370 in Jammu and Kashmir. Whereas Bahujan Samaj Party (BSP) which is Mayawati-led Bahujan Samaj Party had given its full assistance to the BJP led government on the removing of Article 370 and separating of Jammu and Kashmir. Mayawati was in the favour of the decision of removal of article 370. She gave support to the BJP led government for the abrogation of article 370.

Furthermore in the opinion of Aam Aadmi Party chief minister Arvind Kejriwal also supported the central government decision of removing of Article 370 and expected that, it would generate “peace and development” in the state. As he was of the view that after the abrogation of article 370 it will bring growth and development in the state of Jammu and Kashmir. Then comes the Biju Janata Dal (BJD) who also confessed that it stood in favour of scrapping Article 370. On 5th August 2019, BJD said that “Today, Jammu and Kashmir has become an integral part of India” (Rather, Wani and Suhrawardy, 2020). Then comes the YSR Congress who provided support to the government, Vijaysai Reddy the minister of YSR Congress

expressed his opinion that this particular topic has affected the nation for several years. He expressed this as a courageous verdict by Home Minister Amit Shah evaluating that Jawaharlal Nehru had approved the task of handling Kashmir to Sardar Vallabh Bhai Patel. In the last comes the AIADMK A Navaneethkrishnan (AIADMK) said he approves the “statutory resolutions” and “the Bills” (“Article 370 Debate”, 2019). Whereas further said that there is no need to worry. And in last he said that their supreme leader Jayalalitha was in favour of the abolition of Article 370. This party gives support for the removal of article 370 and says that Jayalalitha was in favour of its removal. At last the Shiv Sena gave a big round of applause for the central government major decision on Article 370. They further celebrated in front of their own respective Headquarter of Shiv Sena in Dadar area where all the members of the party came together to cheer the government’s decision. Shiv sena was in demand of abrogation of article 370 because Shiv Sena President Uddhav Thackeray, who is the follower of ruling party BJP, asserted that the centre step on Article 370 is a dream come true of the late Bal Thackeray and former Prime Minister Atal Bihari Vajpayee.

Opposition

On the other hand comes the opponents of Abrogation of Article 370 the main party hostile to this decision is Indian National Congress (INC) which termed the removal of Article 370 a disastrous move and labelled it as the black day in the constitutional history of India. Whereas on the other side leader of Congress Ghulam Nabi Azad condemned the administration that head of the Kashmir is regarded as the crown of India and union government has cut off the head and it has just removed it. Then comes Congress another leader Kapil Sibal he said We the people of Congress have won the Kashmir and you all have lost it. Furthermore, the DMK forcefully criticized the Union’s move announcing it was a "murder of democracy" (Rather, Wani and Suhrawardy, 2020). Party chief MK Stalin accused the BJP-led Central government of being only anxious about implementing its ideological plan and not admiring the feelings of the residents of Jammu and Kashmir, who were in support of India. Besides Left Front leaders also gave their disagreement regarding abrogation of article 370. CPI general secretary D. Raja affirmed that the regressive move will distantly turn away the residents of Jammu and Kashmir, and Communist Party of India (Marxist) referred it as an “attack” on the Constitution (“Article 370 Debate”, 2019). Then comes the Rahul Gandhi (former Congress president) He confessed that Kashmir's major political leaders have put under the bars at confidential locations. This is not at all constitutional and democratic.

Rahul Gandhi further says that they (government) are thinking from a small perspective and are foolish because it will enable terrorist to fill the leadership space formulated by the government of India. The detained administrators must be discharged. National integration does not improve by unilaterally ripping apart J&K, detaining elected representatives and infringing our Constitution. This country is created by its society, not plots of land. This misuse of executive power has serious significances for our national security. From the Jammu and Kashmir side the major rival is Farooq Abdullah (former J&K Chief Minister and Union minister) he accused Union Home Minister Amit Shah of telling an untruth that he has not been detained. He further expresses that, Home minister is saying an untruth in Parliament that I am not house arrest and I am staying inside my respective house on my own will. Whereas further says that the government

of India wants to murder them. Furthermore says as early as possible the gate will open they will fight back and go to the supreme court. “He says we are not gun-runners, grenade-throwers, stone-throwers, we believe in peaceful resolutions”, “They want to murder us, My son (Omar Abdullah) is in jail” (“Article 370 debate”, 2019). Similarly Mamata Banerjee (West Bengal Chief Minister and chief of Trinamool Congress) She is just talking about the procedure which was used to resolve this issue. And further, she says that she does not support the bill and neither can vote for it. Whereas whatever the government of India have done is not at all democratic. She added, the government of India should have talked about the topic in an all-party meeting before putting up with such a move. Whereas Sitaram Yechury (General Secretary of CPI(M)) “The government of India has dealt a drastic hit to our constitutional order by unilaterally abolition Article 370 and other provisions of the Constitution and dividing the state of Jammu and Kashmir” (“Article 370 debate”, 2019). In the last MK Stalin (President DMK) “The decision by the Central government to revoke Article 370 and re-organise Jammu and Kashmir with many state leaders under house detention and through a flexible Governor goes against the grain of democracy and constitutionalism” (Article 370 Debate”, 2019). “This is a dark day in the history of Indian federalism” (“Article 370 Debate”, 2019).

Outside Responses

There are also some Ministers from different parts of the world who were in favour and against it the first comes the Imran Khan (Pakistan's prime minister) he conducted a joint session of Pakistan's Parliament and announced the Narendra Modi government's judgment to remove of J&K's special status “will result in another Pulwama-like terror attack” (“Article 370 debate”, 2019). He declared that the Bharatiya Janata Party (BJP) took the judgment behaving upon the ‘racist’ ideology of its founding fathers “who sought to designate Muslims as second class citizens” (“Article 370 debate”, 2019). Then comes the another minister of Pakistan Chaudhry Fawad Hussain he said that Modi led Government is attempting to make Kashmir another Palestine by altering the population demography and fetching immigrants into Kashmir, parliamentarians must stop battling on insignificant problems “let us respond India by blood, tears, toil and sweat, we must be ready to fight if war is imposed” (“Article 370 Debate”, 2019).

General Qamar Javed Bajwa (chief of Pakistan Army): He said he give full support to Government's refusal of Indian policies considering Kashmir. Pakistan never recognised the false Indian undertakings to legalise its “occupation of Jammu and Kashmir through article 370 or 35-A decades ago; efforts which have now been revoked by India itself” (“Article 370”, 2019). “Pakistan Army positively stands by the Kashmiris in their just fight to the very end” (“Article 370 Debate”, 2019). We are competent and shall go to any breadth to fulfil our commitments in this regard.

Responses of Political Parties

Now comes the parties who are in favour and against, what are their opinion regarding abolition of Article 370. People's Democratic Party (PDP) chief and retired Jammu and Kashmir Chief Minister Mehbooba Mufti said that India has failed in Kashmir in keeping its promises. Amidst the commotion in Parliament, "PDP members Nazir Ahmad Laway and Mir Mohammad Fayaz screamed slogans and tore posters" (Rather, Wani and Suhrawardy, 2020). Layaway even ripped off the 'Kurta' (shirt) which he wore that day. Afterwards, as the protests warmed up, the two tear apart the copies of the Constitution, stimulating their expulsion. Then the main party of Kashmir National Conference leader and former Chief Minister of Jammu and Kashmir Omar Abdullah termed the government's move on Article 370 "unilateral and shocking", it was a total "betrayal of trust" of the people of Jammu and Kashmir (Rather, Wani and Suhrawardy, 2020). Other parties which forcefully condemned the abolition of Article 370 were, like Janata Dal, Trinamool Congress, Nationalist Congress Party. On the other hand A.S.Dulat (former chief of the Research and Analysis Wing) said, "Unfortunate and unnecessary that the government has taken such drastic steps to repeal several clauses of Article 370 of the Constitution". Rather, Wani and Suhrawardy, 2020). "Also, more concerning is the way that the government chose to do away with the clauses of the provision". Rather, Wani and Suhrawardy, 2020).

"Article 370 and 35A were provisions which granted special provisions to the people who were deemed permanent residents of the state. Article 370 was anyway hollow, resembling a fig leaf and had been diluted from time to time" (Rather, Wani and Suhrawardy, 2020). "Everything was peaceful and over the years, successive governments were managing to fulfil the actual purpose of introducing Article 370 in the Constitution mainstreaming the Kashmiri's while preserving their identity." (Rather, Wani and Suhrawardy, 2020). Then comes the another rival which is Soli Sorabjee (Former Attorney General of India) illustrated his view considering the abrogation of Article 370," and said, "I don't think it was unconstitutional to repeal it" (Rather, Wani and Suhrawardy, 2020). It was not an essential feature of the Constitution and not part of the basic structure of the Constitution and hence was not beyond amendment" (Rather, Wani and Suhrawardy, 2020). "But, no law can successfully operate unless there is popular consensus and unless it is passed after wide consultation" (Rather, Wani and Suhrawardy, 2020). Then comes the Mehbooba Mufti she was extremely against this decision. According to India today news Mehbooba Mufti reaction after its revocation. In her declaration on 5 August it is the darkest day of Jammu province. When Parliament like a thief snatched everything from the people of Jammu and Kashmir which was earlier given by this parliament itself. From so many days there were security forces deployed and the reason was given that Amarnath Yatra and Tourists have danger from Pakistan as they are planning to attack. India is so big country and they got afraid of a small number of Muslim majority state and made Kashmir an open jail. So that no one can raise voice against this decision. We had an agreement with the Indian union and which has been revoked by the current government like Israel. Today the people of j&k are forced to say that why our leaders rejected to join with Pakistan and agreed with India was a wrong decision. Because of the promises we agreed with Indian union they broken those promises. So, because of this we Kashmiri have no choice rather than struggle for our respect.

According to her words, the decision taken by our government was completely wrong. This will lead to misery for the people of Jammu and Kashmir. As according to her they (our government) did all this without their consent. They did all this like a thief and took everything away from the people of Jammu and Kashmir. BJP government got scared of a small majority of Muslim people in Kashmir. The decision to join with India was wrong.

Then come Jamyang Tsering Namgyal the leader of Ladakh According to The Quint news Jamyang Tsering Namgyal reaction after its removal, he proclaimed I was listening to many leaders who were talking about Leh Ladakh Kargil but I want to know that exactly what they know about Ladakh. Till today seven decades they did not adopt Ladakh and threw it. That is only one land where one single grass was not grown. Will those leaders understand the condition of Ladakh and their prestige culture, language, eating habits, clothing, geographical condition and climate. Or they are just saying only after reading books. Ladakh has fought for the last 71 year to become union territory. We want to become an important part of India. In 1940 act 4 May president of Buddhist association of Ladakh asked the then prime minister Pt, Jawaharlal Nehru, to make Ladakh either like central administration or join with east Punjab but in any condition, we don't want to remain with Kashmir. But the government at that time did not listen to us and till now due to Kashmir our development, our political aspirations, our identity and our language has disappeared due to this article 370 and congress party.

The famous personalities like Shyama Prasad Mukherjee and so on gave us the way to join with India and to live with it. To praise India and do and die for India. Ladakh has taken part in wars such as 1965, 1971 and 1999 and shed their life in war. Always ready to die for India. But there is one nasty luck that as one of our honourable member of Kashmir was asking what will you lose after the abrogation of Article 370 but I would like to say that they will lose one thing that is the daily bread of only two families and future of Kashmir will be bright. With proud, I would say that people of Kargil voted for union territory. In the election of 2014 to make Ladakh, a union territory was in the first number in our manifesto and mostly Ladakhi voted for union territory. Again in the election of 2019 to make Ladakh a union territory came into our manifesto. In both the districts Leh and Kargil Buddhist and Muslim, we went door to door to tell them what is a union territory and people with bumping majority gave me the right to go the parliament. People of Ladakh had faith in the government of Narendra Modi. They welcomed this union territory. They are talking about Kargil do they know about Kargil? I don't have any problem in saying this in parliament that during that time when Home Minister of India Rajnath Singh came to Leh Jammu and Kashmir. From every party in Leh National Congress, Bhartiya Janta Party, People Democratic Party and Congress and every religious organisation such as Buddhist association etc he asked they all raised only one voice that they need only union territory. He again asked what else you need we said we only need union territory. But one thing I would like to bring in the forefront is that during that time in Leh PDP and NC district president who signed the memorandum of union territory to those people the people of NC and PDP of Kashmir did a press release and removed them from their parties. They are talking about democracy was that democracy to suppress the voice of the people. Many people talked about equality and said that if Article 370 will be removed then there will remain no equality. When Kashmir government takes funds from the government of India for Jammu Kashmir and

Ladakh. But when it comes for the development of Ladakh then Kashmir takes all the funds of Ladakh is that equality.

When there is job opportunity then Jammu province fights and takes the jobs but they did not give at least ten jobs to Ladakhi people. Talking about universities in 2011 they gave central university to Kashmir and Jammu people fought and they got one central university but during that, I was a student union leader and we all students gathered in Jammu and protest for central university in Ladakh. No higher education institutions were provided by them. Recently university was implemented but by Narendra Modi. In 2008 they gave four districts to Kashmir and Jammu fought and they gave four to them but they didn't give a single district to Ladakh. We speak Bhoti language but still, it's not recognised but Kashmir without having Lippi then also it is recognised. They have misused Article 370 and tried to finish Buddhist people. They divided the Buddhist majority in Leh district and Muslim majority in Kargil district and made them fight. 70% of Kargil people have welcomed this decision. The two people he is talking about are part of the reason for our problems. Today also they are thinking that Kashmir is their father's no it is not.

According to him To remove this article 370 was a great idea. After converting Jammu and Kashmir and Ladakh into union territory it was a great initiative. They were asking it for so many years. Due to this, they were not able to develop. They faced so many inequalities. They were not getting job opportunities. Their culture was suppressed. They were demanding to make them a union territory they don't want to remain under the clutches of Kashmir. He throughout his speech expressed how the people of Ladakh have dealt with so many hardships in their life.

Then comes Jitendra Singh's Standpoint from Jammu side According to Jitendra Singh 5 August, 2019 has already gone in the history of India. As a day redemption, as a day of resurrection and as a day of rejuvenation. Article 370 was a miscarriage of the Indian constitution. One of the greatest blunders of the post-independence of India. Today is the day of atonement and we are blessed that we are at that time of parliament when this atonement is happening. I think God must have approved honourable Prime Minister Narendra Modi and Home Minister so that's why we have to wait 70 years for this decision. Three decades have to go through this injustice and come forward. Why people of congress has a problem with it because we have just completed their incomplete work. Whereas Pt Jawaharlal Nehru himself said that this is the temporary provision and it should be removed slowly. After the removal of article 370, there is happiness in Jammu and Kashmir.

The common people in Kashmir are also happy and rejoicing but they can't speak because of terror. The people have already become a part of the development journey led by Modi. He said I conclude by saying we are a part of the global world. Jammu and Kashmir is part of the global world. And we don't have any right to deprive the rights of people in Jammu and Kashmir. If we have the same problem, same expectations, same aspirations then also other people can't buy lands in Jammu and Kashmir. We have no right to deprive the youth of Jammu and Kashmir to be beneficiaries of this tremendous amount of avenue to India by the Modi government. To be a part of the new India journey led by Modi. According to him this article 370 was a temporary provision and one day it has to be revoked and that day came on 5 August 2019. After its removal, there is development in some areas as there is a 36% reduction in terrorist

incidents in Jammu and Kashmir. New Domicile rules are also included. They have also promised for the development of health care, education system and agricultural sector in Kashmir.

Conclusion

In conclusion, we can say that after they abrogated Article 370 many ministers and parties were in favour and they supported this decision of abrogation of article 370. But they were also the ministers and the parties who were clearly against the decision. The people who on the support of abrogation was of the view that due to this article Jammu and Kashmir were not able to develop. Students were not able to get the opportunities which were availed by other students of India. They were also of the opinion that this Article was temporary and it was made to removed after some time and that's why it was abrogated. And it was removed for the good of the people of Jammu and Kashmir. Due to this article people of India other than people of Jammu and Kashmir were not able to buy land or property in Jammu and Kashmir. Terrorism activities are on the peak in Jammu and Kashmir and now centre had the liberty they are trying to handle it nicely rather than how it was handled earlier. Whereas on the other people who are against it abrogation says that it was the special status of the state and it was said that when this article will be decided to removed first plebiscite would take place and the opinion of the general public Jammu and Kashmir would be taken into consideration. But nothing happened like this and it is against the laws. Many people and monster had filed a petition in the Supreme Court. They also said that when this so important decision was taken then the ministers of Jammu and Kashmir we're detained. Still, the minister who is against it is till now against the decision. And they that they will fight back. After the abrogation people of Jammu and Kashmir, we're suffered a lot because the first curfew was imposed and then the mobile internet connection was debarred and for the people of Kashmir their mobile connection was disconnected. Internet was debarred for so many months and then after so many months, 2g connection was provided and still, we are using 2g after one year of its abrogation. It's is so tough to live with 2g internet when the whole world is connecting through the internet. Due to corona, we students have to attend classes virtually but due to 2g internet in Jammu and Kashmir, it is so difficult to attend the classes due to poor internet connection. In my suggestion, 4g internet should be restored and job opportunities should be provided as promised by the government. There should be no discrimination for the Jammu people. The people of Jammu and Kashmir should be protected from terrorist activities. The people of Jammu should also be given Jobs and they should not be dominated by Kashmiri people.

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