

Repealing of Article – 370

Paper Submission: 08/05/2020, Date of Acceptance: 26/05/2020, Date of Publication: 28/05/2020

Abstract

There has always a reference drawn to controversial Article 370 whenever the Kashmir issue rises. In fact, there was always a need to amend Article 370. Indian government has removed the disputed Article 370 from Jammu and Kashmir because it was a hurdle between the people of Jammu and Kashmir and rest of India. On 5th August 2019, the union Home Minister of India Shri Amit Shah announced the abolition of Article 370 and Article 35 A of the Indian constitution which gives Jammu and Kashmir a special status.

Keywords: Article 370, Jammu & Kashmir, Article 35A, Indian Constitution, Amendment.

Introduction

Jammu and Kashmir also got independence from the British rule but then king of Jammu and Kashmir Raja Hari Singh decided not to join the Indian union and wanted to be an independent state on October 20, Azad Kashmir Army attacked on Kashmir and occupied a part which is known as Pakistan Occupied Kashmir (POK). In order to defend his state Maharaja Hari Singh decided to join the India Union and that how the Article 370 is included in Indian constitution Jammu and Kashmir is divided with 2/3 going to India and 1/3 going to Pakistan. Article 370 is of a temporary nature Which grants special status to Jammu & Kashmir. All the provisions of the Constitution which are applicable to other States of India are not applicable to Jammu and Kashmir. This Article is under Part of the Indian constitution, come into force from 17 November 1952.

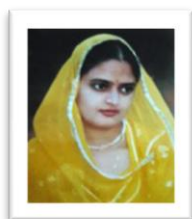
Consequence of Article 370

Article 370 gives the following rights and facilities to the people of Jammu and Kashmir,

1. According to this Article the Parliament, except the matter related to defence, foreign affairs, finance and communications needs the state & government consent for application of any legislation.
2. Jammu and Kashmir's area, name and boundary can't be changed without the approval of the state assembly.
3. Jammu and Kashmir's administration is run accordingly to the article 370.
4. Jammu and Kashmir has 2 flag's, one of Kashmir and another Indian flag.
5. The people of Jammu and Kashmir enjoy dual citizenship – Indian and Kashmiri.
6. The President of India does not have power to declare financial emergency - National "Emergency can be impose only in war and external envision. Internal disturbance emergency is not applicable until it is & approved by the state government
7. Insulting of national symbols of India in Jammu and Kashmir does not regard as crime.
8. Any amendment in the Constitution of India is not apply to J & K unless a special order of President is not passed.
9. The Directive Principle of State Policy and fund Duties do not apply to the state of J&K
10. If a Kashmiri woman marries an Indian then her Kashmiri citizenship terminates but if she marries a Pakistani, it does not affect her citizenship status.
11. If a Pakistani boy marries a Kashmiri girl she gets Indian citizenship too while Indian don't have this privilege.

Article 35 A

Article 35 A was inserted through the Constitution (Application to Jammu and Kashmir) order 1954 at was issued By President Rajendra Prasad under Article 370. According to this article, no outsider can con a property in J & K and, he can't get a state job in J&K.



Poonam Kanwar Rathore

Research Scholar,
Dept. of Public Administration,
Jai Narain Vyas University,
Jodhpur, Rajasthan, India

Repealing of Article 370

The Modi government believes to have corrected the historical blunder 2t demands that it was necessary to abolish Article 370 to unite the Kashmir with the rest of the country. The government aims to maintain peace, curb corruption, and enable growth in the Valley. The Modi government announced on August 5, 2019 the removal of some provisions of Article 370 to take away Jammu and Kashmir's special status. The state is now divided into two union territories - Jammu and Kashmir and Ladakh.

Implications of Removal of Article 370

1. The Indian Constitution is now applicable in Jammu and Kashmir and it will no longer enjoy special status now.
2. Directive principal of state Policy and fundamental Duties, Article 360 Right to Information and Right to Education will be applicable now.
3. There will be no separate flag for J & K now.
4. Minorities (Hindus & Sikhs) will have 16% reservation now.
5. The duration of the legislative assembly will now be five years instead of 6.
6. Article 35 A will be nullified.
7. The Panchayats will enjoy the same powers as in other states.

Benefits of repealing Article 370

There are lots of benefits of abolishing Article 370. Now the central government given can made several attempts to unite Kashmir with other states of India. It promotes the idea - One Nation one constitution. Now in Jammu and Kashmir there will be an opportunity for Private sector for investment. It will led to the growth and development of the Kashmir people valley. Also it will boost the economy of the state. Another advantage is that better medical and education factors can be provided to the residents of the valley. The sector will boom through PPP model no compulsion for students to go outside for education. J&K can become a medical tourism hub for the Middle East and East Asia. Large private investment in health and education is expected. Besides this more job and earning opportunities in tourism is expected. There will be scope of growth of rural tourism, film shootings, adventure tourism and religious tourism. Investment in tourist infrastructure such as hotels and other facilities will increase tourist arrivals.

Next advantage is that property and rights of women marrying outside the state will now be fully protected. Sts will now get political representation through reservation in Regional Parliament seats like in the rest of the country.

All sanitation workers will now get full citizenship and other rights and benefits. Manual scavenging will stop. The other project of article 370 is for landowners. Any landowners who wishes to sell his land would benefit from increased prices. Also, anyone who does not want to sell his lands will have the full liberty not to part with his land. There will be no change in ownership due to removal of article 370.

Before Article 370 lack of strong laws led to corruption and poor accountability. As a result, much of the funding failed to reach the poor. But now all anti

corruption central laws including whistle Blower Act will be applicable. Oversight by call central agencies and watch dogs. It will increase transparency and accountability. The application of progressive laws will help the weaker section of the population. The most important benefits that the authorities are in a better position to curb terrorism and instill peace is the valley. The central forces will help in it. The next crucial point is that Jammu and Kashmir including Ladakh will be divided into union Territories. This will help administration to control the situations in the most volatile Border States. Seeing all these benefits, we can say that abolition of Article 370 and 35 A is an incredibly significant step when and appease the Hindu population in the valleys, implants the seeds of insecurity. This situation gives birth to the political vulnerability and instability in the valley. Kashmiri Muslims feel it threatens the state's unity and integrity.

Adverse Effect of Repealing Article 370

It is to be seen now that after this abolition of Article 370, the opposition has will created a threatened atmosphere. Even some countries have played the terrorist haste crime techniques. It opens an international door for the big players like China. USA and Russia who will try exercising a third-party role in the region. Unfortunately, our neighbors country is making hue and cries against Article 370 and the pretext of being Kashmiri Muslims. Some people listen to the jihadi leaders and get on to wrong practices to oppose the central government and get involved in terrorism activities. Some sections of the Jammu and Kashmir society feels that something has been taken away from them which was the birthright for them. It leads the feeling of insecurity among the people who loses the dual citizenship. The Muslims section of the society feels the implementation of the abrogation of Article 370 is a threat to the democracy.

Aim of the Study

Aim or objectives of this article is addressing the overview of article 370 with the withdrawn impact on policies and strategies of the Jammu & Kashmir. The article is also incorporating the background and misleading the implement of article 370.

Conclusion

Jammu and Kashmir known as paradise on earth is now become a Shelter of terrorism. Article 370 was a barrier for the development of Jammu and Kashmir, abolished by Central government for the welfare of people of Jammu and Kashmir. Every coin has two sides. Similarly, the step taken by government of repealing of Article 370 and 35 A, have both positive and negative effect. Which will have more effect, at present we can't say that. As Dr B.R. Ambedkar said, the good or bad lies in the hands of the implementing authority. So, now we hope to see a prosperous and peaceful Jammu and Kashmir. it comes to managing things in the valley and it will have a great effect for future generation as well.

References

1. Menon (1956): *The story of Integration of the Indian states.*
2. Bhattachariya, A (1994), *Kashmir: The Wounded Valley, Delhi, South Asia.*

3. *The importance of Article 370, The Hindu, 15 Oct, 2015.*
4. *Article 370 and 35(A) revoked, How it would change the face of Kashmir, The Economic Times, 5 Aug, 2019.*
5. *Article 370: 10 facts that you need to know: Highlights New- India Today, 18 Aug, 2014.*
6. *Article 370: Rewriting both the history and geography of J&K. The Times of India.*