

Reorganisation of Jammu and Kashmir: Challenges and Development

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Abstract

A major decision to scrap Article 370 and Article 35A was passed in Indian Parliament on 2019. With this, Jammu and Kashmir Reorganization Bill 2019 was introduced on 5th August 2019 by the Minister of Home Affairs. The Bill assures the reorganization of the state of Jammu and Kashmir into Union Territory (UT) of Jammu and Kashmir and Union Territory of Ladakh. Splitting and carving new states has been common in India but changing the status of an erstwhile state to a Union Territory is something happened for the first time. The move is highly consequential in both symbolism and substance. In this paper, we will analyse the potential changes of the status of UT and challenges and developments of the process of reorganization.

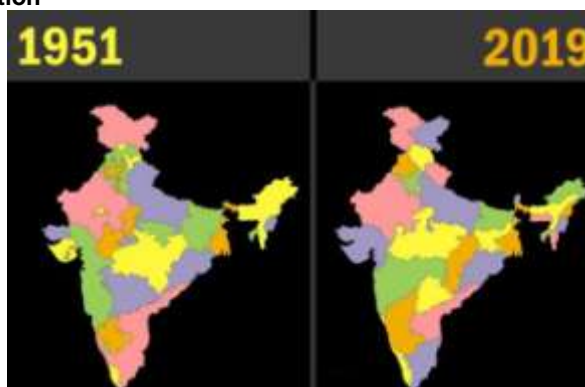
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Introduction



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Jammu and Kashmir map after the Abolition of Article 370

The Government of India, on 5th and 6th August 2019, took a path breaking decision to extend entire constitution of India to the State of Jammu and Kashmir. It is said that all provisions of Indian constitution as amended from time to time shall apply to Jammu and Kashmir (J&K). Further, it continued to reorganise the state into two Union Territories, the UT of J&K and the UT of Ladakh. The state of Jammu and Kashmir was captured under its valley centric politics which resulted into insecurity, subversion, corruption and low economic growth which was not on account of shortage of resources. By 2018, it became clear to the central government that to develop the situation of Jammu and Kashmir, serious attention and strong measures are required.

On 5th- 6th August 2019, the central government of India took momentous decision of rewording Article 370 (which provides special status to Kashmir) and passed the Jammu and Kashmir Reorganisation Bill 2019 which aimed at root transformation of the entire region by rebooting the total process of administration and governance. The central government has taken direct control and responsibility of the entire zone. Now the law and order of the area becomes the responsibility of the union government. As a result, improved cooperation between various groups and agencies has led to the elimination and arrest of a large number of terrorists. A section of government employees who would post separatists ideas without being charged under the civil service rules, have started now to deactivate their social media accounts and disown their posts. Since August 2019, the steps taken by the government have ensured that predicted terror did not take place and by October 2019, many of the security restrictions had been relaxed.

The addition of Jammu and Kashmir (J&K) state with India was absolute and had similar conditions that were to other 562 states that amalgamated with India in 1947. The constitution of J & K affirmed the accession of the state with India and people there accepted the existing relationship of the state as a part of the Union of India. In spite of the opposition by the father of Indian constitution Dr. B.R. Ambedkar, J & K was extended special status. Article 35A signifies the state was allowed to make laws of citizenship and ownership of property in J&K. According to article 370, citizens from other states could not buy properties in J&K¹. The laws, which passed by the Indian Parliament, did not apply to J&K. The state continued to have its own legislature which was elected for six years instead of five. Fundamental rights of the people of J&K were different from the rest part of the inhabitants of India. These provisions had created huge hindrance on the path of development and full integration of the J&K as a state into Indian Union. Proxies of Pakistan and weak political leadership paved the way for a separatist movement in the state. As a result, dissatisfaction and frustration of the people against Indian Union rose rampant in Kashmir Valley. It is important here to mention that Article 370 and 35A were not permanent provisions and could be rejected at any time especially when the State is under the grip of separatist movement and lack of delivery of governance. People were not enjoying any benefits from the laws passed by the Indian parliament since it was not mandatory for the state to implement these acts other than defence, foreign affairs, economic affairs and communication.

Once Article 370 had described as a channel through which the provisions of the constitution of India could be applied to J&K., but it became a valve with which the valley-centric polity kept a bay all Union government legislation that led to local empowerment and devolution of power like 73rd and 74th Amendments, the Forest Act 2006, right to education etc. The state government only accepted those which increased its resources like MNREGA, GST etc. One of the most shocking and evident abuse of Article 370 was the non acceptance of the status of permanent resident to the West Pakistani refugees, the Valmiki Community, the Gorkhas and women of the state who married "outsiders". This was accomplished by retrospective legislation and sometimes in blatant disregard for the law or the court judgements. While restating Article 370 of the Indian constitution, the central laws are now applicable to the state of J&K. Now new domicile laws were framed in the UTs and these communities became eligible to be a domicile of the new UT of J&K. This was a dramatic change and human element as well where calculated cruelty was come to an end.

Article 370 of the Indian constitution had given the state of J&K full autonomy which was used by the valley-centric polity to centralize its power. Like, panchayats had been constituted but the system was routinely starved of funds and power. During the Presidential Rule in the state, prior to reorganization, the state government had taken certain major steps towards community development

and empowerment. The most important of this was rural empowerment by holding panchayat election across the state followed by a "Back to villages" initiatives where civil servants were supposed to spend thirty six hours in 4483 panchayats of the erstwhile state with the objective of energizing panchayats, collecting feedback on delivery of governmental schemes and programmes, capturing economic potential and undertaking assessment of needs of villages at ground zero.² For the first time in J&K's history, the panchayats received considerable funds to carry out the functions entrusted by them. The extension of the 73rd amendment seals this status and constitutionalises their position. A similar story can be said to urban local bodies which have been constituted under 74th Amendment. The tribal communities of the UTs like the Gujjars, Bakrwals, Gaddis, Sippies etc who dwell in forests will now receive the benefits of the Forest Act 2006 to which they were as off denied.

The result of the reorganisation process will be deep-rooted. The so called power of the Valley-centric polity will be bypassed with the introduction of participatory democracy and governance at the various levels. The central government now has taken the full power and responsibility of the newly organised UTs due to the sustained failure of the State governments in delivering security of development. The main reason behind the slow economic growth in J&K was poor delivery of infrastructural services, when the central government took the charge; there has been renewed thrust to get stalled projects off the ground. If it comes to major projects like the Prime Minister's Reconstruction Plan in 2015, of the 54 of the 63 projects that remained in the UT of J&K, the number of projects shot up from 7 in July 2018 to 17 in July 2020.³ Road constructions have not only been started but also accelerated. The new Banihal tunnel which is about 86 per cent complete will be opened soon. With respect to road connectivity, under (PMGSY), the J&K will build 5,300 kilometres of roads in 2020-21 of which 4,600 kilometres are to be in Jammu province and 700 kilometres in Kashmir.⁴



The Government of India, on August 5th 2019, carried out reorganization of the state and amended the article 370 and abrogated 35A. Now the question here is what would be the impact of reorganization and amendment of the article 370 internally and externally? Both China and Pakistan, who have occupied major territories of J&K, (Pakistan occupied J&K (POJK), Gilgit-Baltistan, Aksai Chin and Shaksgam valley were illegally occupied by Pakistan

and China) challenged the Indian Reorganization Act of 2019 at various international forums including in UNSC. India should be firm and protective to deal with any such move globally.

The most important aspect of the recent changes is that now laws made by the Indian parliament will automatically apply to J&K. The constitution is ceased to exist. As per CAG, till 2016 J&K's debt has risen to Rs 55,358 crores.⁵ The state has received 10 per cent of all central grants given to states over the 200-2016 period, despite having only 1 per cent of the country's population. Irony is that J&K, with a population of 12.55 million according to 2011 census, received Rs 91,300 per person central grant over the last sixteen years while Uttar Pradesh only received Rs 4,300 per person over the same period⁶. In spite of lack of accountability and financial propriety, the Union government adopted a liberal approach to extend financial grants to ensure development and economic empowerment of the state of J&K. The regional imbalances had increased manifold due to complete negligence of the state government. But the situation is different, the central government will now be able to fix financial responsibility and bring in transparency, if required the government can use Prevention Corruption Act to clean corruption from the region. Regional imbalances would also be addressed now.

Presently centre will be able to directly deal with the proxy war and cross border terrorism. With the reorganization, the central Government will be able to coordinate intelligence, counter terrorist operations and public order in a far more efficient manner. Arbitrary withdrawal of cases against acts of violence, subversion of masses and stone pelting by habitual offenders is unlikely to take place. Enforcement Directorate, Central Bureau of Investigation, national Intelligence Agency will be able to deal firmly with terror funding, radicalization, subversion of masses and recruitment of cadres into terror groups.

Kashmir is scheduled to be connected with rail by December 2022. The last remaining section, the 111 km Katra-Banihal section is targeted for completion in December 2022. Taking into account the growing urbanisation in the UT, which has led to the rapid growth of its capital cities, the government has planned Light Rail Transit System for Jammu and Srinagar. The DPR for the project has been prepared for Rs. 10,599 crores. With respect to Hydal Power where the UT's potential is estimated at 20,000 MW and only 3500 MW generated, projects for about 3000 MW capacity have been revived and put on track. Work on 1000 MW Pakal Dul and 624 MW Kiru have commenced while the 800 MW Ratle and 540 MW Kwar have been put on fast track. If it comes to irrigation and flood management, there have been dramatic movements on this ground. The Ujh and Shahpur Kandi mega multipurpose projects delayed by over five decades have seen the elimination of bottlenecks. While work on Shahpur Kandi (which will irrigate 53,927 Ha land and generate 470 mill units of electricity) has commenced, the Ujh project has been

fast tracked and is now ready to take off. It will generate 196 MW and irrigate 76,929 Hactor of land⁷.

When it comes to infrastructure, the government had decided that this is not a bottleneck that the UT of J&K has to live with. But it is not just economic infrastructure has received a boost; social infrastructure has got a boost. As for example, when it comes to Health Infrastructure, of the 144 projects on existing worth Rs 881 crores, 60 have been finished while the rest are on the verge of completion. But most significantly, when it comes to new Health Infrastructure, an Rs 4000 crore plan has been anticipated with two new AIIMS in Awantipora and Vijaypur, seven medical colleges and five nursing colleges. A Healthcare Investment Policy, Medicities Policy have been approved. It has also been manifested to extend Universal Health Coverage free of cost to all residents of Jammu and Kashmir. All residents of J&K presently not covered under Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana (AB-PMJAY) shall be provided free and universal health care under this scheme on the lines of Ayushman Bharat. This decision will benefit approx fifteen lakh families (nearly 1 crore residents) currently not covered under PMJAY (Ayushman Bharat) and shall provide an annual health cover of five lakh per family.⁸

With the ultimate objective of providing all time power service for all and removing restrictions, Rs 3500 crore is being invested in transmission and distribution of infrastructure works across Jammu and Kashmir. While in 2018, very few works had got off the ground, 60 per cent of works have already been completed today (128 out of 213 projects have been completed) full completion is expected by 2021. With respect to provisioning for water, 43 per cent of J&K's rural households (7.86 lakh households) have a functional household tap water connection which is double the national average of 21 per cent. A road map has been prepared to ensure 100 per cent coverage of piped water supply to all 18.16 lakh rural households by December-2021.⁹

On the educational ground, higher education and skill development programmes are being nurtured with rapid speed. When it comes to governance, special attention is being given to ease of doing business and large parts of land are being developed to use for industrial purposes. The state has planned for a Global Investors' Summit to invite the industrialists from various parts of the country to invest for upcoming projects. The road of development has been started.

Challenges of Reorganization

After the process of reorganization of J&K, the government of India faces immense challenges to implement it. First, since 1965, on China and Pakistan's request the United Nations Security Council will hold a rare closed-door meeting on Kashmir. Dealing with the organization of Islamic Countries will also be a challenge if the violence erupts in Kashmir. Similarly, even political opponents within the country are required to be managed so that political parties of Kashmir that are terming it as a breach of constitutional provisions and principles of

federal governance do not act as a catalysts to foment instability. Moreover, the agitation if at all triggered should remain local and should not spill over to rest of the country including in Kargil area of Ladakh UT through disaffected section of population and political opportunists. Thus, engagement with the people within and outside the valley is utmost significance.

Reorganization of J&K state will also follow the inspection of law, however, the government has expressed that there is no violation of the Instrument of Accession and any constitutional provisions and has only revoked and amended the temporary provisions made through Article 370 and 35A. Since independence, this is the first time that India has altered the narrative and Pakistan and its proxies are forced to react to this move. Pakistan will always use all attempts to trigger a fresh wave of violent agitation in the Kashmir and Jammu divisions. Separatists and even political parties opposed to the reorganization and revocation of Article 35A and amendment of article 370 will try to divide population and subvert government employees. Separatists may be used to create fissures among the Jammu and Kashmir Police and Armed Forces personnel hailing from state. So, intelligence agencies and armed forces would have to be vigilant to defeat such moves.

One of the outcomes of the reorganization legislation is the renewed claims over the present Pakistan-controlled Jammu and Kashmir, which Pakistan refers to as "Azad Kashmir". In the Act, 114 seats of the reorganized Jammu and Kashmir, 24 have been kept aside for areas under "Pakistan occupied Kashmir (POK) or Pakistan administered Jammu and Kashmir (PAJK). During the debate in parliament on the resolution on the Union territories of J&K and Ladakh Home Minister Amit Shah mentioned that the region included "Pakistan occupied Kashmir and that "we would be willing to sacrifice our lives for it" (that is having it within the boundary of India). At a public event, a few days later Defence Minister Rajnath Singh said that "in future, if talks are held with Pakistan, they will be on the issue of Pakistan occupied Kashmir and no other issue".¹⁰

The present Line of Control forms a natural ethnic and linguistic divide between Muslim-majority Kashmir valley and full Muslim PAJK. The PAJK is an area inhabited by a population closer to the Rajouri and Poonch areas of the Jammu divisions of the former state. The area is entirely non-Kashmiri speaking. The PAJK, particularly Rawalakot inhabited by Sudhans, has a high representation in elite Pakistani institutions. For instance, Lieutenant General Shahid Aziz, who was involved in the Kargil war and colluded with General Pervez Musharraf's overthrow of the civilian government in 1999, hails from this area. Similarly, the present President of the PAJK and former Pakistani diplomat, Sardar Masood Khan, comes from this area. He was also Pakistan's Ambassador to China and a Permanent Representative to the United Nations.¹¹

Most of the protests on the Jammu and Kashmir issue in front of Indian diplomatic assets, particularly in the UK, are by the PAJK diaspora. During his telephonic conversation with British Prime

Minister Boris Johnson on August 21, 2019, Prime Minister Modi is said to have referred to the "violence" by the protesters against the High Commission in India in London during Independence celebration day there. Estimates by local people point out that 80 per cent of South Asian Muslims in the UK come from the Mirpur area of the PAJK. After the trouble in the Kashmir valley in 1989, the insurgents had relied on the Mirpuri diaspora for the material support. Some sections of the diaspora from Mirpur support the idea of independence owing to what they call "institutional and constitutional control" of Pakistan over the PAJK.¹²

Another dimension linked with the PAJK debate is the region of Gilgit and Baltistan controlled by Pakistan. Gilgit and Baltistan are closer ethnically to Kargil, which has a mosaic of distinct ethnic and religious groups from the rest of the undivided state. From 2009, Gilgit Baltistan was de facto made a state after remaining for many years on undefined entity administered by federal bureaucrats. Apart from recognizing the demand for Union Territory status by Buddhists living in Leh, the separation of Ladakh from the State mirrors what Pakistan did in 1949 by separating Gilgit Baltistan from the Pakistan controlled Jammu and Kashmir under Karachi agreement? Pakistan used the Karachi agreement signed with the PAJK leadership in March 1949 to give legal cover to the de facto separation that had already existed. In 1974, Pakistan also abolished State Subject Rule in the area, and thus the nationals could buy land in the region.

Pakistan will always be anxious to create vulnerability of fresh wave of violence in Kashmir valley and even South Pir Panjal. So, a strong anti-infiltration and CT grid is essential. Fidayeen and Pulwama type attacks cannot be eliminated. Intelligence agencies and security forces must keep a strict watch in J&K and even on POJK. There is a certain chance that some terror groups may even attempt to create staggering attacks in Jammu to create a communal backlash and even outside J&K. In such a situation, it is essential that students of Kashmiri diaspora in Jammu and outside the UT are kept safe. There is a need to quantify the benefits that Gujjar, Bakarwals and Paharis will get in the reorganized UTs. This will assure in preventing surplus effect of instability to South of Pir Panjal and some hilly districts of Kashmir Valley.

Aim of the Study

The aim of the paper is to inform the reader about the idea of Reorganization Act of J&K 2019. What are the challenges India is facing internally and internationally and probable developments of the Act.

Conclusion

As the reorganization process has been started, and government has started taking initiatives to develop the UTs, there are several measures which need to be adopted yet. There is a need to ensure that violence does not erupt, the government must, therefore adopt an approach of patience, persistence and perseverance to cool down the tempers and emotional outburst in Kashmir. This could be ensured by slowly restoring communication, lifting travel bans

and permitting peaceful demonstration. Suppression of anger by force will not be a good idea to pursue. Youth should be given the space to express their apprehensions with regard to identity issues and statehood. Political brinkmanship and rhetoric must be avoided at all cost.

After stabilization of the UTs (both J&K and Ladakh), the Government of India would convert the J&K affairs cell to a department of the UTs under the Ministry of Home Affairs to deal with the issues of the UTs. So, the Union government can monitor and oversee the law and jurisdiction, development, delimitation, asset distribution and issues of Kashmiri population staying outside the state. To bring cooperation in functions of various agencies, the representatives of Army, Ministry of external Affairs, Central Armed Police Forces and intelligence agencies should be part of this department. It could be wise to have a helpline for the students of Kashmir studying outside the state, so they are not subjected to harassment during any unforeseen eventualities.

The holding of UTs and fear of colonisation by outsiders must be taken care off. There is a need to script up the rules and broad guidelines to prevent careless sale of government and private lands to outsiders. Government must bring out broad policy guidelines to assure the public that, land will remain under state subject and there will be conditions which will be laid down for purchase of land in J&K and Ladakh. This is not only the anxiety of Kashmiri population, but also of sections of the people of Ladakh and Jammu division.

The government should declare the development projects, including metro, hydro power projects with timelines and tentative job creation through these projects. Projects such as Srinagar Metro must take off that has promised 1300 jobs to the engineers. Though, government should be careful that what schemes and promise of jobs is announced, these must be implemented in a time bound manner without any dilution.¹³

Intra-regional dialogue and constant engagement is essential to address the fault-lines that may slowly move with the reorganization of the state. The actual success and failure of this experiment lies in delivery of governance. The bureaucrats and police have functioned credibly under very challenging circumstances. Despite threats from the terrorist organizations, it is for them the administration is functioned. They should be supported and empowered to deliver governance. If this new arrangement can deliver proper governance, it will act as a model not only to many conflict ridden states of India but also to Gilgit Balitistan and PAJK. So, there should have no scope of any slippage on account of governance, control of corruption and implementation of development projects.

The main irritant for India internationally had been the recent informal discussions of the issue in a close-door format in Security Council (UNSC), which derived no presidential statement. The ground for any discussions on an issue is whether it is a threat to peace and security, maintenance of which is the mandate of the UNSC. In practice, the

intergovernmental multilateral entities such as the UN and its organ, Security Council, the position of each permanent member will be factored in by its own interests on the issue. At present, three permanent member states, namely China, the U.K. and the U.S seem to be following the situation in Jammu and Kashmir for different reasons.

India's permanent representation to the UN headquarters in New York, Sayed Akbaruddin stated that it was the "nature of the beast" that "anyone especially parties to the dispute, can try and throw in anything for the consideration of the members of the Security Council".¹⁴ Among the P-5, China has several infrastructural projects in Gilgit Baltistan bordering Ladakh and the PAJK. The U.S. position will also be factored in by the current Pakistan leverage in its progressive Afghanistan exit strategy and will depend on how much Pakistan is able to use that. The U.K. policy is influenced by domestic considerations as a large segment of its population has a Jammu and Kashmir (Pakistan controlled) connection.

Peace and normalcy in the new UTs, not legislative developments, will be a concern of the international community. Meanwhile, both within the State and internationally, in the face of developments, policymakers have to assess whether the move was worth politically and in security terms. At some stage, for relative peace to return, politicians will have to grapple with the immediate crisis in the new UTs as long pending challenges which the new piece of legislation has failed to address institutionally and substantially.

The developments of August 5-6, 2019 were aimed to combine the power to administer and responsibility of delivery and vest them with the Central Government. Thereafter, the UT administration even while dealing with COVID 19 Pandemic has let not its primary responsibilities suffer from negligence or inattention. Its emphasis on infrastructure and governance is to ensure that the UT becomes a place where doing business is profitable and therefore attracts investors. Its emphasis on connectivity, power, education and skilling is towards that end even while ensuring that it meets its welfare obligations.

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