

## Suspension of Article 370: Assessment of Modi's Kashmir Masterstroke under Hindutva Ideology

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### Abstract

The establishment of Rashtriya Swayamsevak Sangh (RSS) during 1940-1944 in the state of Jammu & Kashmir paved way for the execution of Hindutva ideology. With the rise of BJP in the center, Prime Minister Narendra Modi abolished 'article 370' stripping Kashmir from its special status on 5 August 2019. The so-called 'Modi's masterstroke' is aimed at converting Muslim majority into a minority. The move has provoked widespread public protests in the region, leading to the imposition of prolonged curfew and suspension of basic human rights in the state. This paper would highlight the effects of Hindutva ideology and the impact of the recent 'Modi's masterstroke' on the region. It would also scrutinize the role of RSS backed BJP in creating a 'life imprisonment' situation for the Muslim majority state.

**Key Words:** RSS, Jammu & Kashmir, Hindutva Ideology, BJP, Article 370.

### Introduction

The division of sub-continent based on the two-nation theory agitated the Hindu nationalists who denied to accept the creation of Pakistan. With the emergence of India and Pakistan, the Hindu nationalists' mindset remained on a hunt to hurt and humiliate Pakistan. Illegal and forceful annexation of the Muslim majority state of Jammu and Kashmir was also part of the agenda to weaken Pakistan at the time of partition. The geographical location of the state had significance to both India and Pakistan due to its proximity to Central Asia and China. The economic, demographic and geographical dependence of Kashmir over Pakistan had the feasibility to join Pakistan (Lamb, 1992).

However, Prime Minister Jawaharlal Nehru, associated with Kashmir, prepared environment for the Indian interference and forceful annexation (Snedden, 2013) (Snedden 2013). Immediately after the announcement of the partition plan, Mr. Gandhi, Nehru and other leaders started visiting Kashmir in this context. Even Lord Mountbatten was also involved in the plot of coercing Maharaja using Sheikh Abdullah (Lamb, 1992). The 'Red Cliff Award' was forced to give the Muslim majority district of Gurdaspur to India in violation to the mutual understanding of the partition terms. This created the feasibility of the state's accession with India by providing a jump off point for any military support from the Indian side. The Indian interference in the state through Rashtriya Swayamsevak Sangh (RSS) and Hindu nationalists had increased and Nehru came to the position of dictation to Maharaja where he was able to get Sheikh Abdullah released to play his interest in the state (Kumar, 2018).

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The Muslims of Kashmir always faced a discriminatory behavior in the state of Maharaja Hari Singh due to his Hindu tilt. The Hindus enjoyed preferred rights which were denied to the Muslim through legislation. Only Hindus were allowed to keep firearms in the state (Lamb, 1992). The ruler backed RSS would interfere with the Muslims religious norms including stopping from prayers and Khutba of Jumma and even demolishing masjid at some places. Similarly, cow slaughtering was prohibited in the state. The Muslims were not enrolled in the state's army whereas Hindus were given preferred posts and share in the education as well as government jobs (Kumar, 2018). The Hindu refugees were settled in Jammu where Hindu majority under the influence of their 'stories' targeted Muslims. The Muslims migrated to Muslim dominated areas and Pakistan which brought demographic changes in certain areas of the state.

This environment had already agitated Muslims of the state who were initiating armed struggle against the state's government. Maharaja and the RSS volunteers started a crackdown against the Muslims which caused the tribal Lashkar to move into the state to support their Muslim brethren. The public revolt and the tribal Lashkar forced the Maharaja and his Hindu army to take the support of the Indian military. PM Nehru asked the state to sign the instrument of accession to legalize Indian military support which was signed on 26 October 1947.

The Maharaja of Kashmir and Sheikh Abdullah Farooq wanted a 'Switzerland' type status for the state of Jammu and Kashmir where they would be sovereign less a few departments and would be neutral in case of any war with neighbourhood (Lamb, 1992). Sheikh Abdullah supported by Nehru wanted democratic government with the President as head of the state and abolishment of the monarchy to which Maharaja did not agree.

The Muslims of Kashmir agitated with the biased decision of the Maharaja of Kashmir and the Indian interference challenged the annexation through protests and armed struggle which led to the division of Kashmir in two parts, one each with India and Pakistan. To control the emotions of the public and earn temporary peace for the newly emerged Indian state, Mr. Nehru in consultation with Sheikh Abdullah agreed to formulate special rights and autonomy for the people of the state in the form of '[Article 370](#).' Since the dispute was registered with the United Nations (UNO), therefore, India agreed to hold a plebiscite to honour the will of the state's people according to the UN resolution. However, India resisted through delaying tactics to the UN resolutions foreseeing the expected result of the plebiscite in favour of Pakistan.

The Indian governments have been consistent in realizing to change the demography of the state to convert it into Hindu majority state. However, article 370 hindered any possibility of such a plan. The governments of Congress party have been interfering the state's affairs through President Ordinance and the autonomy given to the state under article 370 was modified from time to time.

With the rise of Hindu nationalists' Bharatiya Janata Party (BJP) to the forefront of the Indian political scene and winning the center government in 2019, the Hindutva ideology surfaced. The RSS backed BJP had the will and the majority support in the government to change the constitutional status of the state of Jammu & Kashmir. In this backdrop, Prime Minister Narendra Modi, a borne RSS member, revoked the 'Article 370' thus withdrawing the special status of the state. The action preceded with the employment of additional troops to already available Indian army in the state to deny any public agitation. Since 5 August, the Indian Occupied Kashmir is under curfew and deprived of the basic amenities however, the BJP government is not ready to lift curfew given the strong public resentment and armed response.

### **Genesis of the 'Article 370'**

The Maharaja of Kashmir wanted an independent status for his state though, it was not an option with him. Maharaja was not enjoying good terms with the Congress due to their support for Sheikh Abdullah and their consistent demands for an end to the monarchy. Whereas, in the case of accession to Pakistan, he was not hopeful to retain his sovereignty being Hindu (Kumar, 2018). Therefore, he was delaying the

annexation process for which he offered a 'standstill agreement' to India and Pakistan. Pakistan signed the agreement on 14 August but India was reluctant to sign on the plea that it will be valid only with a democratic elected assembly of the state. Mountbatten, Sheikh Abdullah and Congress leaders convinced Maharaja to announce accession to Indian union. Mehr Chand Mahajan – a pro-Indian Hindu was appointed as Prime Minister of Kashmir on the desire of Nehru who became a source of backchannel link between India and Maharaja for annexation. With the accession of Gurdaspur District to India, the Government of Kashmir agreed to construct a road link between Jammu and Pathankot along with a temporary boat bridge over River Ravi for maintaining traffic between India and Jammu, following Gandhi's visit. All these measures were taken to ensure the possibility of accession and availability of military support to the state (Korbel, 1954).

The Indian designs for the accession of the state were further clear when on 1 September 1947, before the signing of the instrument of accession, the Indian Postal Telegraph system issued a memorandum showing the state as part of India. Similarly, the military landing immediately after the signing of accession document, indicates that India had already prepared plans to occupy the state and the Maharaja had the surety of military support from the Indian government.

With the armed revolt of the Muslim majority population against the Maharaja of Kashmir for his delaying tactics to annex to Pakistan and his sole will to join India created law and order situation in the state. The Maharaja's forces could not control the situation compelling him to announce annexation to India on 26 October 1947, followed by Indian military intervention. The Pashtun forces started their armed struggle to support their Muslim Kashmiri brothers thus led to breaking out of the first Kashmir war between India and Pakistan which terminated with the interference of the United Nations. The ceasefire line was agreed between the two states, dividing Kashmir into two parts. The creation of Azad Kashmir with Pakistan provoked the already agitated Muslims of the Indian occupied Kashmir. The Indian government was facing a challenging and volatile situation in the state which is needed to control to convince the international community about its secular and democratic nature, resist the pressure for a plebiscite under UN, deny arising of yet another Muslim movement in India, mitigate the freedom struggle within the state and earn public support for making the accession legal.

Thus the environment in the IOK forced Nehru to announce a package to appease the public in the form of 'Article 370' in the Indian constitution. Maximum autonomy was offered under the constitution whereas the Indian Union would control Foreign affairs, finance and communication. The state permanent residents were given special rights under the constitution\_(Bhardwaj October 2019). In 1949, the draft constitutional terms for the article were prepared as decided in the 'instrument of accession' by Shiekh Abdullah and Indian Law Minister, Dr. Ambedkar – then called as Article 306-A. Dr. Ambedkar was replaced by Gopalswami Ayyenger due to Dr. Ambedkar's opposition to the terms of the article. The draft article was opposed by the members of the Indian government considering it would weaken Indian control over the state and would provoke other states to ask for similar special rights thus would be against the national interests. However, due to the public resentment in IOK, the article was approved with the Pandit Nehru's backing and was implemented.\_(Kulshrestha January 2016).

Article 370 of the constitution, which grants maximum autonomy to IOK being the only Muslim-majority state, would help preserve the state's religious, ethnic and demographic identity (Filkins, December 2, 2019). The article in its original form asked:

- a. The IOK legislative assembly – elected for 6 years, was given the right to make its own laws in all aspects except foreign affairs, defence and communication (Kashmir special status explained: What are Articles 370 and 35A?, August 5, 2019). Hence, the orders of the Union were not valid in Jammu and Kashmir. Moreover, the state had its own flag.
- b. The state's residents enjoy special property rights under Article 35A – also known as 'permanent Residents law' which was included in the Constitution through a Presidential Order, on 14<sup>th</sup> May

1954. The non-residents and the ladies of the region marrying outsiders were denied the right to settle, involve in the property sale purchase and seek government jobs or scholarships (Bhardwaj, October 2019).

- c. The state's citizens have the right to enjoy dual citizenship of Kashmir as well as India whereas citizens from other areas of India were denied citizenship of the state. (Ojha May 2018 ).
- d. Special citizenship rights were given to the residents however if a woman marries a man in other Indian states she loses her citizenship.
- e. Under the state's laws, citizens of other Indian states required special entry and passport to enter IOK.

### **Impact of Hindutva Ideology on IOK**

Hindu right-wing forces including RSS and its political wing BJP have always opposed article 370 considering it against the spirit of Indian secularism and democratic values and violation of the supremacy of the Indian constitution. BJP always categorized the article as 'temporary' thus keeping a door open for a permanent merger of the state into the Indian Union. Under the pressure of the Hindu nationalists, Pandit Nehru declared that the article would erode permanently with time (Kulshrestha, January 2016). The growing influence of the Hindutva ideology and its forces moved Nehru in 1963, to suspend the special status of Kashmir to bring it in line with other states and change the demography of the state which could not materialize due to public resentment and strong reaction (Kasuri, 2015).

With the rise of Hindu nationalism driven by Rashtriya Swayamsevak Sangh (RSS) and its political wing, Bharatiya Janata Party (BJP), the extreme position of Hindutva ideology surfaced. The Hindu nationalists are desperate to make India a Hindu state where the majority's will is dictated over the 'other' having no right to stay in the Hindu country unless they surrender to the Hindu culture and religious norms. The Hindutva ideology is based on the concept of the Hindu religion and its superiority while restricting religious and cultural liberty for the Muslims. The Hindutva ideology considers Muslims as invaders and propagates them as a threat to the Hindu religion. It comprises of Hindu land, religion, culture, customs and faith and emphasis that to become Indian, one has to become Hindu (Jinger, 2016). The Hindutva ideology criticizes the history considering it to be changed by the Muslims fading the 'golden era' of the Hindus. Under the ideology, the right-wing Hindu Nationalists are asking Muslims to convert back to Hinduism and compel the Muslims to consider Hindu religious places more sacred than Makkah and Madina (Nandrajog, 2010). The Hindutva ideology is driven by five myths causing anti-Muslim and minority violence by Hindu Nationalists (Arora, May 2017):

- a. Christians spread Christianity among Hindus through the use of force, money and fraud methods.
- b. Muslim Kings destroyed Hindu sacred temples including Ram Temple for construction of their holy places, thus ultimately hurting Hindus.
- c. Officially Islam came to the region in the 14<sup>th</sup> century which spread among Hindus through the sword (Kumar, 2018).
- d. Muslims follow the ideology of terror. They are dangerous to the peace of Indian peaceful democracy.
- e. Islam's teachings of having four wives accelerate their population growth faster than Hindus which would bring Hindus into a minority and the Muslims through their growing strength would again rule the Hindus.

Due to Maharaja's pro-Hindutva policies, the Hindu nationalists had rendered all support to him against the Muslims in the state of Jammu and Kashmir. Facilitated by the Maharaja, the Hindu right-wing extremist organization was established from 1940-1944, under the lead of Balraj Madhok (Kumar, 2018). RSS supported the government of Maharaja in its anti-Muslim policies by expanding itself through the enrolment of large Hindus and Sikh volunteers. To counter Muslims on the political front, Hindu nationalists formed a

political party 'Praja Parishad' to carry the agenda of RSS (Kumar, 2018). The RSS's anti-Muslim campaign further ignited communal violence in the state to force them to migrate from IOK.

The Hindu Nationalists such as Vishwa Hindu Parashad and BJP have always been criticizing the inclusion of the article in the Indian constitution. Called as 'integrationists' they asked for 'Ek Pradhan, Ek Vidhan, Ek Nishan' (One PM, one constitution and one flag) for India and desired full integration of the state of J & K (Noorani A. , 2011). They emphasized that the separatist movement has become possible due to the special status given to them through the constitution. Whereas the Kashmir political parties contested that the separatist wave started due to Indian acts of stripping autonomy.

Under the article 370, Indian citizens could enter the state through proper passport and legal permission which hindered the preaching's of Hindutva thus limiting the free movement of RSS. Being the only majority Muslim state, special rights were also contested by the Hindu nationalists. To violate the recognized rules of the state, a Hindu Nationalist leader and founding member of Bharatiya Jana Sangh Party (BJS), Mr. Syama Prasad Mookerjee entered the state in 1953 without any legal authority and approval of the state's government. He was arrested and detained where he died in prison agitating the right-wing Hindus to challenge the special status of Kashmir. Since then, the abolishment of 'Article 370' and bringing the state in line with other states, became the manifesto of the BJP and RSS (Tamim, 2017) S. The ruling BJP challenged the article in the court on the plea of being discriminatory and asked openly that it hinders the settlement of Hindus in the state (Kuchay, 8 April 2019). The BJP leadership has been following the Israeli roadmap of settlement in the Palestine territory and their objectives were:

- a. The suspension of the article would allow the settlement of Hindu nationalists and investors in the state which would increase the population of Hindus, make Muslims dependent on the Hindu businessmen which would relegate them to the status of second citizens. The Muslims would also be forced to drive out of the state due to the rigid and anti-Muslim policies of the Hindu nationalists. Ultimately, the demography of the state would be changed and so as the stance of the Indian government towards plebiscite.
- b. The action would earn BJP the support of the Hindu majority as it would appease the Hindus. BJP would take further lead from the main Congress Party. With the support of 84% Hindu majority, RSS backed BJP would drive the Hindutva ideology further ahead thus bring Hindus superior to Muslims in all aspects.
- c. Due to the suspension of Kashmir's constitution, the Indian constitution would emerge as the sole constitution which would protect the minority rights which are in this case Hindus. The equal status and same rules & laws would encourage economic drive and prosperity in the state (Bhardwaj, October 2019). Non-residents would be able to sell and purchase land and invest in the industrial and agricultural sectors of the state. It would enhance the democratic values in the region. [\(Golechha September 4, 2019\)](#).
- d. Improvement of law and order situation in the state as the freedom struggle would die down through denial of interference from Pakistan. With the backing of Hindu nationalists, pro-Indian political parties would rise to the center. Moreover, other separatists' movements would also feel discouraged.

On 5 August 2019, the BJP Hindu nationalist government under Narendra Modi abolished article 370 of the Indian constitution to fulfill the long-awaited Hindutva dream. Before the action and to prepare the grounds legally for it, the state's government under Mehbooba Mufti was dissolved in June 2018 when BJP withdrew from the coalition government of People's Democratic Party leaving the state without any legislative body (Singh August, 2019) y. Modi announced the division of the region into two 'Union Territories' which would be directly ruled by the federal government:

- a. The Jammu and Kashmir union territory – to include the Hindu majority Jammu region having a legislative assembly.

- b. Laddakh union territory – to include Buddhist majority areas with considerable Shia Muslim population without any legislative assembly.

### **Effects of Modi's Extreme position**

Though the suspension of the article was declared as 'Modi's masterstroke' by the Hindu nationalists, it did not accrue the perceived objectives of the Modi's government. Anticipating strong-armed response due to neglect of the Muslim majority pulse, the Hindu nationalist government suspended telecommunication and internet system, drove out tourists and journalists, deployed approximately 35000 additional troops (Sampathkumar, August 8, 2019). The significant leaders were kept under house arrest to deny any violent reaction from the public. The international observers and journalists were denied access to the region to deny reporting of suppressive policies of the RSS and BJP.

Kashmiri people consider article 370 as their constitutional security under which they manage their limited autonomy and religious liberty. The Kashmir's political parties have been demanding restoration of the pre-1953 article in its original form which provided maximum autonomy to the state (Kulshrestha, January 2016). On 9 June, Mehbooba Mufti said "Article 370 is our strength and honour. We enter this august House by swearing on the State Constitution and it is empowering for all irrespective of the party grouping" (Noorani, January 27, 2020). The Muslims of the state have always been assured by the Indian government that article 370 is a permanent feature of the Indian Constitution which has been confirmed by various rulings of the Indian Supreme Court and High Court of Jammu and Kashmir (Bhardwaj, October 2019). The abolishment of the article has deprived them of the special status.

Today, Muslims of the state are furious over the deceived behavior of the Hindu nationalists and even the pro-Indian Muslims regret their decision of inclination towards India at the time of partition (Singh, August 2019). The introduction of citizenship amendment act (CAA) by the BJP has strengthened the Muslims' stand that BJP under Hindutva ideology would never allow them religious liberty and basic rights (Noorani A. , Destroying Kashmir, 2020). The public response to the act can be judged through IED blasts and attacks on the Indian forces inside the state's territory (Wani, November 2019). The Muslim freedom movement would further speed up due to the desperation of permanent integration of the state by the Indian government against the wishes of the people (Singh, August 2019). Annoyed over the Babri Masjid biased decision by the BJP and Indian Supreme Court, the Kashmir struggle and protests against CAA would spread in the entire country which would become a debacle for the so-called peace and democracy of India. The Hindutva agenda has faced defeat in various states in the recent elections which shows that Hindu Nationalism is being opposed by the Hindu community as well due to disturbance in the complete country.

Pakistan has been pressing the international community to force India to abide by the UN resolutions on Kashmir (Nugali, December 2019). The imposition of curfew and later suspension of article 370 has been condemned by Pakistan, declaring its complete violation of the partition plan and the UN authority. Pakistan's PM has been successful in getting the International support against the Indian illegal designs of Kashmir. His efforts recognized in the form of an extension of mediation offer from the President of the US, Mr. Trump (Jamal, July 2019). China asked India to refrain from deciding unilaterally a dispute to avoid any future war (New18.Com, 2019).

### **Conclusions**

The changes in the constitution would definitely require constitutional amendments which are not difficult keeping in view the large majority of the BJP in the center. Moreover, the Indian government has been hesitant to lift curfew and restore the basic human rights in the state due to fear of strong resentment. The armed struggle might follow the Intifada movement of Palestine leading to a strong stir in the so-called peaceful democracy of India. Coupled with the Ayodiya Babri Masjid biased verdict of the Indian supreme court and the Citizenship amendment act recently introduced against the Muslims, has no doubt in the

minds of the Muslims of Kashmir that the BJP government-driven under the Hindutva ideology would never become credible for them. Today, the business and the schools are closed, the people are barricaded with inhumane present and uncertain future. The Hindutva ideology gets preference for the Hindu nationalists BJP over human rights.

Indian occupation of the state of Kashmir and later deprivation of its special rights has caused regional security at risk (Kasuri, 2015). BJP's Hindutva ideology with an RSS mindset might lead to yet another Indian diversionary act towards Pakistan according to its past precedence. This is a big concern for Pakistan and the international community as it will risk the South Asian peace due to the presence of nuclear weapons.

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