

Choppy waters lie ahead

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This article is related to General Studies- Paper II (Governance) & 3 (Internal Security)

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"Anger in Kashmir and adverse global opinion are but expected; policymakers must learn from similar world events."

In a series of swift moves, New Delhi has effectively altered the character of Jammu, Kashmir and Ladakh, setting certain new terms for engagement. Between August 5 and 7, Parliament passed several resolutions; emasculating the special status of Jammu and Kashmir (J&K); making Article 35A a dead letter; abolishing J&K as a State of the Indian Union and replacing it with two separate Union Territories — the Union Territory of J&K and the Union Territory of Ladakh. These provisions were endorsed by both Houses of Parliament with huge majorities. The dramatic turn of events, and the swiftness with which they were carried out, stunned the nation. Preceding this, Kashmir had come under a blanket of secrecy. The Amarnath yatra as well as other yatras and similar activities were prematurely called off. All non-J&K personnel were asked to leave the State. Communications with the outside world, including the Internet, were disrupted. An unprecedented number of paramilitary personnel were inducted into the Kashmir Valley and still remain. All combined, it gave the impression of a total lockdown of a kind and on a scale not previously attempted.

A decline and fall

The change in status of J&K from a princely State (under the tutelage of the British from 1846 to 1947) to a Union Territory now with few legislative powers, mirrors the State's decline and fall. No special circumstances were mentioned for removing the special status accorded to J&K, enshrined in Article 370 of the Constitution. Article 35A was a casualty of this step. The decision was merely presented as a "fait accompli". Not explained again was the need to take the step under such a cloak of secrecy. The Prime Minister has since characterised the decision as 'historic' and as providing a new beginning for J&K and Ladakh. Further steps have been initiated to complete J&K's integration with India so as to transform Kashmir from a 'civilisational backyard' to a modern State.

It would be an error of judgment, however, to believe that "all is well" in J&K. The nation does confront a situation which could have many, and unintended, consequences. Many '-isms' have, no doubt, collapsed during the past half century and more. Today, communism is a pale shadow of what it was in the 20th Century. Humanism is under threat. Liberal ideas face attacks from all sides. Nationalism is the dominant imperative, and comes in many shades and sizes. India had been slow to adopt nationalism as a creed but is now tilting towards majoritarian nationalism. Whether it would dilute India's "diversity", which had always been regarded as the country's greatest

virtue remains to be seen.

Federal imperative

The immediate concern in many quarters, even though it is not being publicly articulated at this time, is whether other “Guarantees” enshrined in the Constitution would wilt under the juggernaut of “majoritarian nationalism”, with the ruling dispensation having an overwhelming majority in Parliament. Whatever might be the demerits of constitutional guarantees such as Article 370 (which aimed to protect J&K’s autonomous status), it cannot be ignored that it was intended to accommodate not only Kashmir’s diversity but also to meet prevailing circumstances at the time of accession. Over time, it helped India put at rest speculation, as far as the world was concerned, about the status of J&K within the Indian Union.

It is imperative to recognise that preservation of the asymmetric character of India’s federal structure necessitates effecting several compromises. It also needs to be recognised that the manner in which India had dealt with such asymmetry in the past is what has made India and the Indian Constitution the envy of the rest of world. Every Article in the Indian Constitution has an appropriate role in sustaining India’s diverse and asymmetric federalism. The least of our concerns in the coming days, however, may not be the “dumbing-down” of Article 370 and Article 35A. Equally inconsequential may be the sledge-hammer tactics employed to swat remnants of Kashmir’s autonomy. There are far weightier issues that India may have to contend with.

For the present, criticism may be muted regarding the manner in which the changeover in Kashmir was effected. Within Kashmir itself, reeling under a veil of secrecy, it is difficult to gauge the depth of anger and the extent of animosity towards New Delhi. When the current measures are relaxed, a recrudescence of violence in the State can be expected.

Global reactions and lessons

International opinion is unlikely — whatever gloss we may apply — to accept at face value our reasons as to why the steps taken in Kashmir were necessary. Already, voices critical of India’s actions are beginning to be heard. China made its views clear to India’s External Affairs Minister S. Jaishankar on August 12, implicitly rejecting his argument that a bifurcation of J&K and the voiding of Article 370 were India’s internal matters. China also did not heed Mr. Jaishankar’s caution that “the future of India-China relationship will depend on mutual sensitivity”.

Most nations across the world may adopt a similar line, with a few even pontificating that when push comes to shove, India is no different from most other Second and Third World countries, which make and break rules of their own choosing. India could, hence, once again find itself isolated, having to defend its actions in Kashmir in the international fora.

At a time like this, policymakers in India would do well to heed the lessons of history and take suitable prophylactic measures. Without drawing any parallel, one situation that immediately comes to mind is the crisis that ravaged Bosnia in the 1990s, following the break-up of Yugoslavia and the collapse of the post-1945 Communist order. Before the break-up, Muslims, Serbs and Croats lived reasonably amicably in mixed communities. As the war intensified, clashes between different communities increased. Support for, including a supply of arms to, different communities, were forthcoming from nations supporting each group. Pakistan, for instance, was one of the countries that at the time defied the existing United Nations ban on a supply of arms, and airlifted missiles

to Bosnian Muslims. What followed was one of the worst carnages in history. We must ensure that nothing of this kind happens here.

Regional concerns

We must also realise that the geo-political situation in our region at this juncture is not entirely in our favour. The power play in Afghanistan, together with the fact that India has been excluded from the talks to deal with Afghanistan's problems, and that Pakistan and China are playing key roles, has put India on notice. Pakistan is already using its leverage in Afghanistan to regain greater acceptance internationally, specially with the U.S. The nexus between China and Pakistan has, if anything, become stronger.

We can, hence, anticipate a joint effort by Pakistan and China to muddy the waters as far as Kashmir is concerned. Pakistan will almost certainly intensify terror attacks and whip-up local sentiments inside Kashmir. China, which is already concerned about a "rising nationalist India", is likely to adopt more insidious tactics, aimed at weakening India's influence across the region. Buoyed by the fact that it possesses one of the most powerful militaries in the world and with growing acceptance of the Belt and Road Initiative, China can be expected to raise the ante on both the border and in the Indian Ocean region.

Given the complex nature of the international situation, India also needs to be on its guard on how the situation in Kashmir might encourage radicalist Islam to exploit the situation. Across both Europe and Asia, widespread concerns exist that radicalised Islamist ideas and concepts thrive in conflict situations. Experts warn of the inherent dangers in such situations, and their recipe is that apart from utmost vigilance devising more inclusive and diversified policies is important to achieve positive results. Policy makers in India would do well to heed these concerns. One final word. The removal of Article 35A should not result in demographic "aggression" in Kashmir, with outsiders seeking to "colonise" Kashmir. This could be highly counter-productive. It could also induce fears across the entire Northeast, even though Article 371 still holds sway there. In short, authorities must avoid any kind of 'colourable exercise of power' in many other areas as well, including on the language issue.

GS World Team...

The Jammu and Kashmir Reorganisation Bill, 2019

Why in the News?

- The Jammu and Kashmir Reorganisation Bill, 2019 was introduced in Rajya Sabha on August 5, 2019 by the Minister of Home Affairs, Mr. Amit Shah.
- The Bill provides for reorganisation of the state of Jammu and Kashmir into the Union Territory of Jammu and Kashmir and Union Territory of Ladakh.

Provisions

- **Reorganisation of Jammu and Kashmir:** The Bill reorganises the state of Jammu and Kashmir into: (i) the Union Territory of Jammu and Kashmir with a legislature, and (ii) the Union Territory of Ladakh without a legislature.
- The Union Territory of Ladakh will comprise Kargil and Leh districts, and the Union Territory of Jammu and Kashmir will comprise the remaining territories of the existing state of Jammu and Kashmir.

- **Lieutenant Governor:** The Union Territory of Jammu and Kashmir will be administered by the President, through an administrator appointed by him known as the Lieutenant Governor. The Union Territory of Ladakh will be administered by the President, through a Lieutenant Governor appointed by him.
- **Legislative Assembly of Jammu and Kashmir:** The Bill provides for a Legislative Assembly for the Union Territory of Jammu and Kashmir. The total number of seats in the Assembly will be 107. Of these, 24 seats will remain vacant on account of certain areas of Jammu and Kashmir being under the occupation of Pakistan.
- Further, seats will be reserved in the Assembly for Scheduled Castes and Scheduled Tribes in proportion to their population in the Union Territory of Jammu and Kashmir. In addition, the Lieutenant Governor may nominate two members to the Legislative Assembly to give representation to women, if they are not adequately represented.
- The Assembly will have a term of five years, and the Lieutenant Governor must summon the Assembly at least once in six months. The Legislative Assembly may make laws for any part of the Union Territory of Jammu and Kashmir related to: (i) any matters specified in the State List of the Constitution, except “Police” and “Public Order”, and (ii) any matter in the Concurrent List applicable to Union Territories. Further, Parliament will have the power to make laws in relation to any matter for the Union Territory of Jammu and Kashmir.
- **Council of Ministers:** The Union Territory of Jammu and Kashmir will have a Council of Ministers of not more than ten percent of the total number of members in the Assembly. The Council will aide and advise the Lieutenant Governor on matters that the Assembly has powers to make laws. The Chief Minister will communicate all decisions of the Council to the Lieutenant Governor.
- **High Court:** The High Court of Jammu and Kashmir will be the common High Court for the Union Territories of Ladakh, and Jammu and Kashmir. Further, the Union Territory of Jammu and Kashmir will have an Advocate General to provide legal advice to the government of the Union Territory.
- **Legislative Council:** The Legislative Council of the state of Jammu and Kashmir will be abolished. Upon dissolution, all Bills pending in the Council will lapse.
- **Advisory Committees:** The central government will appoint Advisory Committees, for various **purposes, including:** (i) distribution of assets and liabilities of corporations of the state of Jammu and Kashmir between the two Union Territories, (ii) issues related to the generation and supply of electricity and water, and (iii) issues related to the Jammu and Kashmir State Financial Corporation. These Committees must submit their reports within six months to the Lieutenant Governor of Jammu and Kashmir, who must act on these recommendations within 30 days.
- **Extent of laws:** The Schedule lists 106 central laws that will be made applicable to Union Territories of Jammu and Kashmir and Ladakh on a date notified by the central government. These include the Aadhaar Act, 2016, the Indian Penal Code, 1860, and the Right to Education Act, 2009. Further, it repeals 153 state laws of Jammu and Kashmir.
- In addition, 166 state laws will remain in force, and seven laws will be applicable with amendments. These amendments include lifting of prohibitions on lease of land to persons who are not permanent residents of Jammu and Kashmir.

Expected Questions (Prelims Exams)

1. Consider the following statements -

1. After the abolishment of article- 370, Jammu & Kashmir has become a full state of India under article-1 of the Indian Consitution.
2. After the abolishment of article- 370, India now have 28 states and 9 Union Territories

Which of the above statements is/are incorrect?

- (a) Only 1
- (b) Only 2
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Expected Questions (Mains Exams)

- Q. Does the abolishment of article-370 and article-35A by India indicate the increasing nationalist ideology? What challenges can originate in the future regarding the security of the country from this decision of India? Discuss. (250Words)**

Note: Answer of Prelims Expected Question given on 20 Aug. is 1 (c)

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