

Contemporary Jammu and Kashmir and the Ways Ahead

Nithya N.R.

Assistant Professor, Department of Political Science, University of Kerala, Kerala

Email - nithyatpm@gmail.com

Abstract: *The Kashmir issue is deeply rooted in the colonial history of the subcontinent. Kashmir issue is the basic factor of contention between Pakistan and India. The atmosphere of tension and insecurity between Pakistan and India has stimulated instability and insecurity in South Asia. There have been numerous, though unsuccessful, accords between India and Pakistan to resolve the Kashmir issue. Despite a large number of summits and resolutions, there has been no progress on the ground. The deadlock continues. We, Indians treat Kashmir dispute as to our emotional issue and national pride. But in practice, the Kashmir issue is much more complicated than just this. Kashmir is an INTEGRAL PART OF INDIA that is for sure and no one in the world can challenge this fact. The successive state as well as the central governments has failed to solve the unending Kashmir dispute. The abrogation of Article 370 without the consent of the Kashmiris has raised several discomforts among opposition parties, common people and the people of Kashmir Valley. It is in this context, the present paper seeks to examine the current status of Jammu and Kashmir.*

Key Words: *Kashmir, Violations, Partition, Abrogation of Article 370, India and Pakistan.*

1. HISTORY OF JAMMU AND KASHMIR :

Kashmir is one of the most beautiful places on earth. The splendour and salutory of the Kashmir valley is mythical! According to Kalidas, (Sanskrit poet) Kashmir is "more beautiful than the heaven and is the benefactor of supreme paradise and happiness.". In the ancient period, this land was called "Kashyapamar" (after Kashyapa) which later became Kashmir. The ancient Greeks called this land "Kasperia," and the Chinese traveller Hyun-Tsang called it "Kashimilo." Hence, Kashmir was one of the major centres of Sanskrit scholars. As per Epic Mahabharata, the Kambojas ruled Kashmir during the epic period with a Republican system of governance. The great Mauryan emperor Ashoka is often credited with having founded the city of Srinagar (Varun, 2014). Several Hindu rulers governed this beautiful land until 1346. During this period, several Hindu shrines were destroyed, and Hindus were forced to embrace Islam. The great Mughals ruled the Kashmir kingdom from 1587 to 1752. This period was followed by a dark age (1752-1819) when Afghan despots ruled Kashmir. The Muslim era, which lasted for about 500 years, officially came to an end with the capture of Kashmir to the Sikh kingdom of Punjab in 1819 (Bamzai, 1994). The Kashmir valley, in its present-day form, became a part of the Hindu kingdom named Dogra at the end of the First Sikh War in 1846, when, by the treaties of Lahore and Amritsar, Maharaja Gulab Singh, the Dogra ruler of Jammu, was made the ruler of Kashmir "to the eastward of the River Indus and westward of the River Ravi." The Dogra kings - Maharaja Gulab Singh (1846 to 1857), Maharaja Ranbir Singh (1857 to 1885), Maharaja Pratap Singh (1885 to 1925), and Maharaja Hari Singh (1925 to 1950) - laid the foundations of the modern Jammu & Kashmir state. This princely state of Kashmir lacked a definite boundary until the 1880s when the British delimited boundaries in negotiations with Afghanistan and Russia (Subhamoy, 2014). In a sense, the crisis in Kashmir began immediately after the British rule ended.

The British rule in India came to an end in 1947 with the creation of two newly independent nations, India and Pakistan. Each of the 562 princely states had an option to join one of the two independent nations: the Union of India or the Dominion of Pakistan. At that time, Jammu and Kashmir had a primarily Muslim population but a Hindu ruler and was the largest of these autonomous states. Hari Singh, the then Dogra King preferred to remain independent and sought to avoid the tension placed on him by either India or Pakistan by playing each against the other (Rajendra, 2012). But Muhammad Ali Jinnah ordered an invasion of the state and irregular troops and tribals led by regular Pakistan Army Officers invaded the valley. Gilgit and eastern Kashmir were soon lost as the raiders converged on Srinagar. At this stage, Hari Singh get flustered and signed the instrument of accession to India.

Kashmir remains badly divided on the ground; two-thirds of it (known as the Indian state of Jammu and Kashmir) comprising Jammu, the Valley of Kashmir and the sparsely populated Buddhist area of Ladakh are controlled

by India; one-third is administered by Pakistan. This area includes a narrow strip of land (Azad Kashmir and the Northern Areas) comprising the Gilgit Agency, and Baltistan and the former kingdoms of Hunza and Nagar (Anna, 2000). Attempts to resolve the matter through political and bilateral discussions were ineffective. Hence, India administers 43 per cent of the Kashmir region including most of Jammu, the Kashmir Valley, Ladakh and the Siachen Glacier. Pakistan controls 37 per cent of Kashmir, namely Azad Kashmir and the northern areas of Gilgit and Baltistan. In addition, China occupies 20 per cent of Kashmir following the Sino-Indian War of 1962. The Shaksam Valley, which China claims, is part of Tibet (The Indian Express, February 2, 2016).

2. MAJOR FACTOR IN PARTITION: RELIGION VS SECULARISM:

The state of Pakistan was formed based on "religion", a separate nation for Muslims of the Indian sub-continent whereas India is built on the "secular" basis where religion is not the basis of statehood. Hence Pakistani's logically feel that since Kashmir was a Muslim majority at the time of partition it should be with Pakistan, while Indians feel that religion is not the basis of statehood in India. We have more Muslims in India than in Pakistan and similarly, we are a multi-cultural, multi-religious multi-ethnic society with many states or regions in India where religions other than Hindus are in the majority like Muslims, Sikhs, Christians, Buddhists etc but it does not matter from the Indian thinking. Therefore the question of Kashmir strikes right at the core of "religion" vs "secular" ideology which are the central ideas of both India and Pakistan. Most of the scholars argued that Kashmiri's wants freedom (Bakshi, 1997).

3. PERCEPTION OF INDIA AND PAKISTAN ON KASHMIR:

Both India and Pakistan believe that Kashmir belongs to them. Since August 2019, Kashmir did execute an instrument of accession in favour of India, India considers all questions relating to Kashmir, including New Delhi's commitment to hold a referendum or plebiscite in the state to decide its future, as falling within its domestic jurisdiction. It also emphasises India's claim of secular society, an ideology that is not meant to factor religion into the governance of major policy and thus considers it irrelevant in a boundary dispute (Harjeet, 2010). India holds that: For the UN Resolution mandating a plebiscite to be valid, Pakistan should first vacate its part of Kashmir. The Constituent Assembly of Jammu and Kashmir had unanimously approved Maharaja's Instrument of Accession to India and had adopted a constitution for the state that called for a permanent merger of the state with the Indian Union. India claims that this body was a representative one and that its views were those of the Kashmiri people at the time.

With the growth of Muslim nationalism in the Hindu dominated area, the "Two Nations Theory" had evolved and continued throughout the period; both the communities lived together under the same ruler. Their integration was unimaginable and, even, the Mughal emperor Akbar's efforts to unify both the Hindus and Muslims into a single nation had sadly failed (Sethi, 1958). Muhammad Ali Jinnah was against Nehru's notion that there are only two forces in India, British imperialism and Indian nationalism as represented by the Congress. Muhammad Ali Jinnah reminded Nehru that: "There was another party, the 'Muslim League' which alone had the right to represent the Muslims of India. In an interview in 1944, Muhammad Ali Jinnah opined: "There is only one practical way of resolving Hindu-Muslim differences. This is to divide India into two autonomous states of Pakistan and Hindustan and for each of us to trust the other to give equitable treatment to Hindu minorities in Pakistan and Muslim minorities in India".

India does not accept the Two-Nation Theory that forms the basis of Pakistan. United Nations Security Council Resolution 47 passed in 1948 was never able to be implemented as Pakistan failed to withdraw its forces from Kashmir which was the first step in implementing the resolution. Now the resolution is outmoded since the geography and demographics have been permanently altered. India is a secular state and the many ethnic minorities in Kashmir would be treated as second class citizens in the Islamic Republic of Pakistan. United Nations Security Council Resolution 1172 implicitly accepts India's stand that all unresolved issues between India and Pakistan need to be resolved by joint dialogue (and does not call for a plebiscite) The state of Jammu and Kashmir was made autonomous by Article 370 of the Constitution of India (Harjeet, 2010).

Pakistan felt the Muslim majority Kashmir, which is contiguous to Pakistan, as rightfully belonging to it. Pakistan argues that the basis of the partition of the British Empire in the Indian subcontinent was "that Pakistan would be constituted by the contiguous Muslim-majority areas in the northwest and the northeast of the subcontinent, and India would comprise contiguous non-Muslim-majority areas," and it "was thus universally assumed that, following the basis adopted for Partition," states with "a Muslim majority in population contiguous to Pakistan would accede to Pakistan." Pakistan has refused to recognize the accession by Kashmir in favour of India. In short, Pakistan holds that: According to the two-nation theory, Kashmir should have been with Pakistan, because it has a Muslim majority. India has shown disregard to the resolutions of the UN by not holding a plebiscite. But the governments of both countries have failed miserably to provide a solution.

4. THE STRATEGIC IMPORTANCE OF JAMMU AND KASHMIR :

The total area of Jammu and Kashmir is more than 84,000 square miles, and it has great strategic importance. Kashmir is a strategic location in South Asia. The nation holds Kashmir would have the upper hand in this region. Kashmir is the biggest source of natural water in the region (Naseer and Shaheen, 2013). This is where South, Central and East Asia converge. It is at the crossroads of three great civilizations and was traditionally a gateway for both India and China to Central Asia and beyond, into the heart of Europe. This is an old trading route known as the Silk Route which contributed enormously to the wealth of so many countries and brought different civilizations closer to each other. With time strategic importance of these areas has increased. Apart from India and Pakistan, other countries like China, Afghanistan, Central Asian states, Iran, Russia and America also have a keen interest in these areas (Shabir, 2010). China is involved in dozens of mega projects in the region. According to reports and evidence of those who have visited the region, China is constructing many roads and bridges and dozens of tunnels. Pakistani governments have a history of providing their services to foreign powers for the sake of economic and military help. It looks that now they are ready to provide certain services to the Chinese for the sake of economic and military assistance. Pakistani and the American secret agencies are already at a war with each other. More we close our eyes to them, the closer we get to our destruction (Shabir, 2010).'

The Americans feel, despite billions of dollars in economic help and military hardware to Pakistan, they have been let down by the Pakistani government and their agencies in the war on terrorism. Pakistan and China might have certain common interests, for example, economic and military cooperation and enmity with India, but what the Pakistani government needs to understand is that China has its interest to have a foothold in this region that they can have access to warm waters and new markets via Gawadar Sea Port? It must be understood that the Pakistani interest is not China's top priority. They have long term agenda and want to emerge as a global economic and military power and could use an unstable country like Pakistan as a stepping stone to advance the Chinese national agenda. United States interests in the Kashmir conflict are manifold. Avoiding nuclear and missile proliferation is foremost.

5. CONTEMPORARY KASHMIR :

Kashmir has its individuality. Relations between India and Pakistan do have an impact on the Kashmir situation, but it's not the only thing. Kashmir is growing in itself. It's like a mini-state in a country. Kashmir remains one of the most dangerous places in the world today. Kashmir today is home to trained militants who are financed by the Pakistani Government. It is like a mini-state. From the human rights point of view What about the condition of the people of Kashmir? What do they feel? What is their problem? Has anybody ever thought of them?, The outbreak of militant violence that became commonplace in the valley was a purely contemporary concept for Kashmiris. Kashmir has no history of resisting hordes of foreign rulers, and in fact, was shaped by principles of non-violence and pacifism as dictated by Kashmir's cultural heritage in the Rishi Order. Thus, it was easy for the Islamic fundamentalist influence to take hold of the submissive Kashmiri people. By using Islam to justify their violence the insurgents were able to refer to their struggle as 'justice' (Behera, 2000). Pakistan claims Kashmir as her jugular vein while India maintains that Kashmir is an integral part of the country. Meanwhile, neither one of them pay attention to the suffering and misery of the people living in the state. Because of this conflict and the so-called claims of India and Pakistan, people living in both countries are suffering a great deal. People are fed up with terrorism, insurgency, frustration, poverty, unemployment. The people of Kashmir valley desire employment, food, peace, education and security. It is very clear that Indian and Pakistan Governments only have political interests in the state. No 'significant changes' were likely in the Indian government's stand on the Kashmir issue till now.

The Srinagar-based Jammu and Kashmir Coalition of Civil Society reported that conflict-related casualties were the highest in 2018 since 2008, with 586 people killed, including 267 members of armed groups, 159 security forces personnel, and 160 civilians. The report of the Office of the UN High Commissioner for Human Rights (OHCHR, 2019), raises serious concerns about abuses by state security forces and armed groups in both Indian and Pakistan-held parts of Kashmir. The Indian government dismissed the report as a "false and motivated narrative" that ignored "the core issue of cross-border terrorism." The annual report of the Crime Branch of police shows that the incidents of rape and molestation have gone up in Jammu and Kashmir. In the past five years over 7000 cases of molestation and 1600 cases of rape have been reported. In 2018, there was an addition of 178 more cases as compared to last year. The report further states that 322 cases of rape were reported by police in 2017 and 359 in 2018. Kashmiri women are among the worst sufferers of sexual violence in the world, they had been victims of sexual abuse both from militant groups and from soldiers (Abdul, 2011). For a long time, they are in the shades of two armies under fear. The abuse is manifested in "disappearances," torture, and the rape and molestation of Muslim women. Most of these violations routinely go unchecked and unpunished, "justified" as unavoidable in a proxy war managed by Pakistan; only a handful

of cases have been brought to justice by due process. In the last two years, 681 cases have been reported – 414 in Jammu and 267 in Kashmir (Crime Branch Report, 2019).

The findings of Forum for Human Rights in the J&K, Report are; most violations continued even after 18 months” of abrogation of the special status, Unemployment in J&K is 16.6 per cent, almost twice that in the rest of India; healthcare is still restricted, and the local and regional media have not regained what little independence they had (The Hindu, 14-February-2021). According to Armed Conflict Location and Event Data (ACLED) report, there could be a surge in the activity of domestic and foreign militants in Kashmir because of “policy shifts” after Aug. 5, 2019, when India stripped Jammu and Kashmir of its autonomous status and divided it into two centrally ruled territories. UN experts raised concern on ALLEGATIONS of arbitrary detentions, extrajudicial killings and enforced disappearances are part of what appears to be an ongoing pattern of serious violations of human rights by Indian government forces in the Jammu and Kashmir region, according to UN experts (UN, 2021).

6. KASHMIR AND THE ABROGATION OF ARTICLE 370 :

The present NDA government had long opposed Article 370 and revoking it was in the party's 2019 election manifesto. They argued it needed to be scrapped to integrate Kashmir and put it on the same footing as the rest of India. Article 370 of the Indian Constitution is the most debatable provision incorporated by the constituent assembly which has attracted the intention of politicians, jurists, academicians and other right-thinking members of the society since 1950. Article 370 was the constitutional provision through which the special status that Kashmir has historically held under the Indian Constitution was guaranteed. The article, which came into effect in 1949, exempts Jammu and Kashmir state from the Indian constitution. It is under the provisions of this Article that the State of Jammu and Kashmir holds a peculiar position under the Constitution of India. Article 370 was drafted in amendment of the constitution in part XXI under temporary and transitional provisions. It allows the Indian-administered region jurisdiction to make its laws in all matters except finance, defence, foreign affairs and communications. It established a separate constitution and a separate flag and denied property rights in the region to outsiders. The residents of the state live under different laws from the rest of the country in matters such as property ownership and citizenship. Article 35A was introduced through a presidential order in 1954 to continue the old provisions of the territory regulations under Article 370 of the Indian constitution. The article permits the local legislature in Indian-administered Kashmir to define permanent residents of the region. It prohibits outsiders from permanently settling, buying land, holding local government jobs or winning education scholarships in the region. As a result of this, the citizen of J&k are governed by state-specific laws which come under the constitution of J&k, instead of those for the rest of India.

Recently the government of India abolished Article 370 of the constitution by a presidential decree, stripping the significant autonomy Kashmir had enjoyed for seven decades. The Jammu and Kashmir Reorganisation Bill, 2019 was introduced in the Rajya Sabha on August 05, 2019, and passed on the same day while it was passed by the Lok Sabha on August 06, 2019. The Jammu and Kashmir Reorganisation Bill was passed with 125 members voting in favour of it and 65 voting against it. Both RSS and BJP are in favour of repealing Article 35A. The Congress, the Left parties, the DMK, the MDMK, the SP and the RJD voted against the Bill, while the Trinamool Congress walked out. One of the main reasons cited by the BJP for the revocation of Article 370 on August 5, 2019, was that the law impeded the development of Jammu and Kashmir. The abrogation of autonomy without the consent of the Kashmiris has raised the threat perception among the people of the Valley. India celebrated the second anniversary of the abrogation of Article 370. It is believed that the abrogation of Article 370, marked a decline in the number of terror-related incidents in the newly carved union territories. For economic growth and development, the Jammu and Kashmir administration has so far signed more than 168 MoUs worth Rs 13,600 crores for investments. Additionally, 6,000 acres of government land has been acquired for setting up industries in the state. Two years since the decision had things changed? Though the Centre has announced an ambitious development plan in Jammu and Kashmir, little progress has been witnessed due to the COVID-19 pandemic and some inexplicable reasons. On the employment front, not much has been achieved except recruitments in J&K Bank (The Week, August 5, 2021).

7. CONCLUSION :

The Jammu and Kashmir issue has been one of the most baffling issues confronting the Government of India since independence. There are several politico-legal and socio-economic factors responsible for the worst. The principal challenge for the Indian government is rebuilding trust. From the side of India, politicians rather than considering this as a mere political game they should involve the people. They should provide all kinds of developments. If India is successful in this regard definitely we will be able to strive and the people of Kashmir will remain with India. It is only because of the fact that rather than any factor like religious factor, terrorism or anything the people need development, the middle class educated youth prefer to get good quality life, employment, food etc. So Indian

government should give importance to this factor. IF we succeed in this respect definitely the attitude of the people of Kashmir towards India will change. But at the same time, we should also not neglect that America and Pakistan also have got a significant role in promoting terrorism in this place.

REFERENCES:

1. Retrieved from <https://www.jagranjosh.com/general-knowledge/jammu-and-kashmir-reorganisation-bill-2019-1566908022-1>
2. Retrieved from <https://thewire.in/government/explainer-the-major-changes-to-jammu-and-kashmir-as-it-becomes-a-union-territory>
3. Retrieved from <https://www.orfonline.org/expert-speak/scrapping-of-article-370-a-political-misadventure-or-long-neglected-necessity-54131/>
4. Retrieved from <https://www.indiatoday.in/news-analysis/story/article-370-has-not-been-scrapped-what-does-modi-govt-move-on-kashmir-mean-1577411-2019-08-05>
5. Kumar, Ashwani (2019), *The Constitutional Legitimacy of Abrogating Article 370*, September 21, 2019 Vol-IV no 38, Economic & Political Weekly, pp14-16.
6. Prasad, Malvika (2019), *Downgraded at the Stroke of a Pen*, Hindu, 8 August
7. Nabi, Tawheeda, Nazir, Subaiya & Wani, Shahid, Hussain, (2018), *Article 370 and its implementations*, International Journal of Creative Research Thoughts, Volume 6, Issue 2, pp- 743-748.
8. The Hindu, September 18, 2019
9. Khan, Yasmin (2007), *The Great Partition: The Making of India and Pakistan*. New Haven, CN, USA: Yale University Press.
10. Gupta, Jyoti and Das, Bhusan (1969), *Jammu and Kashmir. The Hague*, Netherlands: Martinus Nijhoff
11. The Times of India, October 06, 2019-10-07
12. Retrieved from <http://www.yespakistan.com/kashmir/humanrightsviolationsinkashmir.asp>
13. Retrieved from: http://www.bukisa.com/articles/462404_india-pakistan-and-kashmir-brief-history-of-kashmir-issue#ixzz1GjnmKobX
14. Retrieved from <https://www.indiatoday.in/india/story/thousands-of-jlkg-marchers-head-towards-loc-to-protest-abrogation-of-article-370-1606662-2019-10-06>
15. Retrieved from <https://www.greaterkashmir.com/news/editorial/rape-molestation-incidents-go-up-in-jk/>
https://www.ohchr.org/Documents/Countries/IN/KashmirUpdateReport_8July2019.pdf
16. Retrieved from <https://www.indiatoday.in/world/story/abrogation-article370-will-help-curb-terrorism-says-european-parliament-1594303-2019-09-02>
17. Retrieved from <https://economictimes.indiatimes.com/news/politics-and-nation/article-370-was-a-mistake-says-harish-salve/articleshow/71414047.cms>
18. Removing Article 370 will cause earthquakes separating Kashmir from India: Omar, Faking News, May28,2014, Retrieved from <http://www.fakingnews.firstpost.com/2014/>
19. Rai, O.P., *The Constitution of India*, New Delhi, Orient Publishing Company
20. Retrieved from http://www.bukisa.com/articles/462404_india-pakistan-and-kashmir-brief-history-of-kashmir-issue#ixzz1GjnmKobX
21. Retrieved from <http://im.rediff.com/news/2010/oct/31sd1.jpg>
22. 'Stephen P. Cohen in his lecture come discussion on "The United States and India: Divergent and Convergent Interest" (Chennai), 27 October 2003.
23. Retrieved from The Indian Express, February 2, 2016
24. Retrieved from <http://www.yespakistan.com/kashmir/humanrightsviolationsinkashmir.asp>
25. Retrieved from <https://www.firstpost.com/india/nearly-two-months-after-abrogation-of-article-370-kashmir-remains-under-heavy-security-cover-forces-wary-of-possible-militant-attacks-7448471.html>
26. Retrieved from <https://www.un.org › press › sgsm19747.doc.htm>
27. Puri, Luv (2009), *Militancy in Jammu and Kashmir, The Uncovered Face*, Promilla @ co.,Publishers, New Delhi.
28. Arthur, Gould, and Rubinoff G. (Ed.) (2002), *India and the United States in a Changing World*, New Delhi, Sage Publications.

29. Palit, Sinha, Parama (2001), "The Kashmir Policy of the United States: A Study of Perceptions, Conflicts and Dilemmas", Strategic Analysis (New Delhi), Vol.25, N0.6, September.
30. Jha, Kant, Nalini (1994), "Reviving US-India Friendship in a Changing International Order", Asian Survey (Berkeley), vo1.34, no.12. December.
31. Orton, Anna (2010), *India's Borderland Disputes: China, Pakistan, Bangladesh, and Nepal*, Epitome Books.
32. Bakshi, S.R. (1997), *Kashmir and U.N.O.*, Sarup & Sons
33. Bamzai (1994) *Culture and Political History of Kashmir, Volume 3: Modern Kashmir*, P.N.K. Bamzai, M D Publications Pvt. Ltd, New Delhi.
34. Khan, Yasmin (2007), *The Great Partition: The Making of India and Pakistan*. New Haven, CN, USA: Yale University Press.
35. Jinnah, Muhammad Ali (1978). "Presidential Address by Mr. M. A. Jinnah." In *The Communal Award*:
36. Zaidi Moin (2009), *Evolution of Muslim Political Thought in India (Vol. 4)*, (Eds.). New Delhi, India: S. Chand & Company.
37. Gupta, Jyoti and Das, Bhusan (1969), *Jammu and Kashmir*. The Hague, Netherlands: Martinus Nijhoff
38. Retrieved from <https://www.orfonline.org/research/life-in-kashmir-after-article-370-60785/>