

AN IMPACT OF ABROGATION OF ARTICLE 370 IN JAMMU AND KASHMIR ON WOMEN EMPOWERMENT: A STUDY

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Abstract

Jammu and Kashmir (J&K) popularly referred to as 'Paradise on Earth', was historically ruled by the Dogra dynasty. It enjoyed a Special Status under Article 370 of the Constitution of India. However, this Article was abolished in 2019 with the Act of Parliament under the J&K Reorganization Act of 2019. The act re-constituted the former state of Jammu and Kashmir into two union territories, one being Jammu and Kashmir and the other being Ladakh, with effect from 31 October 2019. Jammu & Kashmir known for its scenic beauty and snowcapped mountains have always been a bone of contention between India and Pakistan besides claims from China. Being a military & terrorist disrupted state, women had to face severe atrocities like domestic violence, physical torture & kidnapping and living under constant threat to their life & dignity. In order to integrate Jammu and Kashmir with the Indian Union in all respects, Article 370 which accorded special status to the state was abolished. Hitherto, women marrying outside the state had no rights to ownership of land. There was no protection of women from domestic violence. Right to Education which makes education a fundamental right for children in the age group of 8- 14 years was not applicable to the state of J&K. Prohibition of Child Marriage Act, Juvenile Justice Act etc were also not applicable. Article 370 and Article 35A of the Constitution, which gave J&K special status, did not allow all laws of India to be applicable to the state. Article 370 became responsible for poverty, lack of development in education and health, among other sectors. Anti-corruption agencies were denied entry in J&K due to Article 370. The abrogation of Article 370 in J & K is a new constitutional development in Indian history. As a result of the abrogation of Article 370, all the rights enshrined in the Constitution of India and benefits of all the Central Laws that are enjoyed by other citizens of the country are now available to the people of Jammu-Kashmir and Ladakh. The present study is intended to analyze the impact of the abrogation on the status of women and their empowerment. The study tries to ascertain if the abrogation of Article 370 has improved the status of women, provided them with their legal rights and helped to empower them. The study is based on empirical and secondary data. A structured questionnaire was circulated among 110 women from Jammu and Kashmir and the survey method was used based on snowball sampling. The study revealed that all Central Acts and Laws protecting the rights of women and children are slowly yet surely reaching the citizens of the states.

Keywords: Abrogation, Article 370, Article 35A, Women Empowerment.

1. INTRODUCTION

Jammu & Kashmir (J&K) popularly referred as 'Paradise on Earth' historically was ruled by the Dogra dynasty. Constitutionally speaking, the state of J & K enjoyed special status under Article 370. Since the time of partition during India's freedom struggle & also after independence J & K remained a terrorist disrupted state where the people constantly faced threats, atrocities & underwent a lot of trauma, all of which resulted in the economic-socio backwardness. Apart from Article 370, Article 35 A prevented the J & K women from claiming certain rights & privileges which otherwise was enjoyed by men. This Article was primarily responsible for according lower status to women, with no scope for their development & women had to face a lot of atrocities like physical & mental harassment, domestic violence & a lot of humiliation & their voices were not heard.

The abrogation of Articles 370 & 35A in 2019 has ushered in a new hopes with respect to the overall progress of the state in general & women in particular. The scrapping of Article 370 which was deeply responsible for corruption & militancy, the objective was to attain better administration, good governance, socio-economic development & empowering women through proper education. The present paper is an attempt to analyse the impact of abrogation of Article 370 on the status of women & their empowerment.

2. HISTORICAL TIMELINE OF J&K AND ARTICLE 370

In 1846, Maharaja Gulab Singh, the ruler of Dogra dynasty bought J & K from the East India Company (EIC) after the Treaty of Amritsar. In 1930, the first political party J & K National Conference was formed. In 1947 when India gained independence, Pakistan became another country and three princely states namely Junagadh, Hyderabad, J & K were yet to integrate with India. The Government of India Act, 1935, introduced the concept of the Instrument of Accession, wherein a ruler of a Princely State could accede his kingdom into the 'Federation of India'.

There were 565 princely states, amongst them were Hyderabad and Kashmir, which declared that they intended to remain independent. After "Operation Polo," an Indian military action to restore order in the state, Hyderabad acceded to India. But J & K did not join. But in October 1947 when J&K was attacked by the armed tribesmen from Pakistan, the king Maharaja Hari Singh approached the Prime Minister of India, Jawaharlal Nehru to send the troops to fight against the infiltrators.

He signed an Instrument of Accession (IoA) in favour of India to hand over the portfolios of defence, foreign affairs and communication to the Indian Government. In 1949, Maharaja Hari Singh renounced his throne & was replaced by his son Karan Singh. It was during this time that there were discussions about the provisions of Article 370, when drafting of Indian constitution was in process. In 1950 when the Constitution of India came into force, Article 1 defined J&K as a state of India with special status granted to it under Article 370.

3. REVIEW OF LITERATURE

A document on Kashmir-True Story by the Government of India (2004), elaborates the history of Kashmir and the issues faced during its accession to India. Since the time of independence till the abolition of article 370 the state of Jammu & Kashmir has witnessed lots of changes in terms of violence, terrorist activities and constant infiltration by the neighbouring country Pakistan. Constitutionally, the state of Jammu & Kashmir enjoyed special status under Article 370 until it was abrogated in 2019 by the parliament. This document provides historical facts about the state of Jammu & Kashmir and wars fought with the involvement of Pakistan. It also states how this internal issue of India became an internationalized issue when the first Prime Minister of India Pandit Jawaharlal Nehru approached the United Nations for help against Pakistan. Nelofar Khurshid (2015) analysed how

the formation of self-help groups (SHGs) will help in empowering women & capacity building. Apparently, women have been suffering for long & to help them come out of this distress, the author states that SHGs can train women for various skill development programmes & also discussed about Swarnjayanti Gram Swarozgar Yojana scheme introduced by women to help them.

Showkat Ahmad Bhat, Aashaq Hussain Bhat & Dr. P. Chinnathurai (2016), in their article on educational status of women in J & K opined that access to education in rural areas does not exist. According to them female literacy is barely 53.36%. They discussed challenges in promoting education among rural women like poor school infrastructure, gender inequality, and high cost of education, lack of awareness of literacy programmes & lack of encouragement to girl education. These challenges are hurdles in empowering women particularly in rural areas of J & K. Ghulam Sarwer (2017), in her article on women empowerment discussed about the measures to help women in the disputed state of Jammu & Kashmir. Women in this state are constantly victims of domestic violence, physical torture & harassment which makes them suffer both physically & mentally. The situations in J&K did not support much on education, freedom & inheritance of family property. There is illiteracy, lack of awareness, lack of participation in decision making. The author has used secondary data to depict how women are victims of domestic violence, kidnapping, harassment, violence by militants, physical & mental torture where the crime rate against women is high & has discussed the role of the Government & NGOs to help these women facing atrocities & overcome the issues in helping them to provide jobs to make financially independent. Amitabh Hoskote & Vishakha A Hoskote (2017) examine the Article 370 and the validity attached to it and said that it has aggravated inequality and fuelled growth of conflicts in J & K.

Dr. Yash Paul (2018), discussed the economic developments in the state of J & K with emphasis on entrepreneurial developments. He opined that agriculture which is the main occupation, though it remains backward but highlights on the efforts and schemes of the Government like the banking sector to develop the agricultural sector. He discussed the administrative problems & other challenges that hinder progress of the state. Atman Mehta (2019), in his article on Jammu & Kashmir discussed the atrocities faced by the people due to militancy and also explained the reasons for Jammu & Kashmir to be the most militarized region in the world. Ishfaq Majid and Varinder Singh (2019), provided historical information and discussed the atrocities faced by the people in the state. He opined that with the abrogation of Article 370, how the Government could improve the economy and also ensure safety to its people.

A report by the United Nations (2019), discussed the situation of human rights that prevail in the administered regions of the state of Jammu & Kashmir by India and Pakistan. It stated that the people live under constant fear due to militant activities by the neighbouring country causing a threat to their lives. Children cannot go to schools, as schools are shut down most of the times due to violations of cease fire by Pakistan along the Line of Control that includes shelling and firing resulting in the destruction of peace and hope of leading normal lives in the state. People do not have proper access to the internet facilities and mobile connectivity.

This report provides an update between May 2018 and April 2019. A Surya Prakash (2020), in his article on 'Abrogation of Articles 370 and 35A has created possibilities of development' has analysed the changes and impact of abolition of Article 370 as it's been one year of completion. He opines that there have been positive changes and economic developments which may include education, employment and equal rights, reservations etc. that have taken place and how the Union Government was successful and responsible in bringing out these changes in the two union territories namely Jammu & Kashmir and Ladakh.

3.1 Research Gap

The state of J& K has always been in the limelight because of infiltration of terrorism, militant attacks, Pakistan & China conflicts, life under curfew & the special status it enjoyed under Article 370 until it was abrogated in 2019. A lot of studies have been conducted about the special status of J & K under Article 370 & Article 35A & how the provisions in the Articles restricted the scope of socio economic development in the region, particularly women who were deprived of their basic legal rights & had to face a lot of atrocities of various kinds. The abrogation of Article 370 by the Government of India in 2019 has resulted in a lot of changes in view of protection to its people, better employment opportunities, invite investment proposals, encourage entrepreneurship. With the abolition of Article 35A, which has brought a relief to the women of J&K in enforcing their legal rights & also the various measures to educate & empower them. In this context, the present study is undertaken to evaluate the impact of abrogation of Article 370 in ensuring protection, education & empowerment of women in J&K.

3.2 Objectives of the Study

- a) To ascertain the implications of Article 370 & Article 35A in J & K that led to its abrogation /abolition.
- b) To analyse the impact of abrogation of Articles 370 & 35A on the status of women & their empowerment in J& K

Implications of Article 370 & Article 35A in J & K

Under Article 370 J&K enjoyed an autonomous status, while Article 35A, incorporated into the Constitution in 1954, provided special rights and privileges to the citizens of the state. Article 370 and Article 35A of the Constitution, which gave J&K a special status, did not allow all laws of India to be applicable to the state. Article 35A of the Indian Constitution is an Article that empowers the J&K state's legislature to define "permanent residents" of the state and provided special rights and privileges to those permanent residents.

Citizens from other states could not buy property in J&K. Article 370 became responsible for poverty, lack of development, education and health, among other sectors. Anti-corruption agencies were denied entry in Jammu and Kashmir due to Article 370. Article 370 was drafted in Part XXI of the Constitution, which relates to "Temporary, Transitional and Special Provisions". Clause 3 of the Article empowers the President of India on the recommendation of the J&K Constituent Assembly to issue a notification for the abrogation of Article 370. Article 35A, was incorporated in the Constitution of India in 1954, its treatment of non-permanent residents of J&K treating its own people as second rate citizens. This hampered the corporate sector from making investments in the state.

The Jammu and Kashmir Reorganisation Act, 2019

This Act of Parliament received the assent of the President on the 9th August 2019. It is enacted by the Parliament in the Seventieth Year of the Republic of India. Union territory of Ladakh comprising the territories namely Kargil and Leh districts. Union territory of Jammu and Kashmir comprising the territories of the existing state of J&K. Lieutenant Governor will administer both the Union Territories.

4. RESEARCH METHODOLOGY

The study is based on both primary & secondary data. The primary data was collected through a questionnaire with 13 questions. Convenience sampling method was used to collect data from 110 women of J& K. Chi Square statistical tool was used to analyse the collected primary data.

Scope of Study: The scope is limited to analysing the impact of abrogation of Article 370 on the lives of women & their empowerment. The research study is confined only to the women of J&K.

4.1 Hypothesis of the Study

Hypothesis 1: Awareness about the abrogation of Article 370 has a positive impact on the changes brought in by the Government.

Hypothesis 2: The increased presence of the army has made women feel safer in the state and hashad an impact on improved opportunities for women entrepreneurs.

4.2 Testing of the hypothesis

Hypothesis 1: Awareness about the abrogation of Article 370 has a positive impact on the changes brought in by the Government.

Null hypothesis (H0): There is no significant difference between awareness about the abrogation of Article 370 and satisfaction with the changes brought in by the Government.

Alternate hypothesis (H1): There is a significant difference between awareness about the abrogation of Article 370 and satisfaction with the changes brought in by the Government.

		Count		
		Are you satisfied with the change in the Government?		Total
		Yes	No	
Are you aware of abrogation of article 370?	Yes	70	24	94
	No	12	4	16
Total		82	28	110

Chi-Square Tests^c

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)	Point Probability
Pearson Chi-Square	.002 ^a	1	.964	1.000	.617	.243
Continuity Correction	.000	1	1.000			
Likelihood Ratio	.002	1	.964	1.000	.617	
Fisher's Exact Test				1.000	.617	
Linear-by-Linear Association	.002 ^d	1	.964	1.000	.617	
N of Valid Cases	110					

- a. 1 cells (25.0%) have expected count less than 5. The minimum expected count is 4.07.
- b. Computed only for a 2x2 table
- c. For 2x2 cross tabulation, exact results are provided instead of Monte Carlo results.
- d. The standardized statistic is -.045.

From the above table, it is clear that relationship is not significant. Therefore, null hypothesis is accepted that there is no significant difference between awareness about the abrogation of Article 370 & satisfaction with the changes brought in by the Government.

Hypothesis 2: The increased presence of the army has made women feel safer in the state and hashad an impact on improved opportunities for women entrepreneurs.

Null hypothesis (H0): There is no significant impact of increased presence of the army and safety of women in the state and better opportunities for women entrepreneurs.

Alternate hypothesis (H1): There is a significant impact of increased presence of the army on women’s safety and better opportunities for women entrepreneurs.

		Count		
		Has an improvement in tourism resulted in better opportunities for women entrepreneurs?		Total
		Yes	No	
Has the increased presence of the army made women feel safer in the state?	Yes	82	1	83
	No	0	27	27
Total		82	28	110

Chi-Square Tests

- a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 6.87.
- b. Computed only for a 2x2 table
- c. For 2x2 cross tabulation, exact results are provided instead of Monte Carlo results.
- d. The standardized statistic is 10.190.

From the above table, it is clear that relationship is significant.

Therefore, null hypothesis is rejected & alternate hypothesis is accepted that there is a significant impact of increased presence of the army on women’s safety and better opportunities for women entrepreneurs.

5. FINDINGS OF THE STUDY

According to the Government of India report (2022), the women labour force participation increased across all age groups from 26.5 percent in 2018-19 to 32.8 percent in 2021. Since 2021, the number of Micro Small Medium Enterprise (MSME) units owned by women have increased in J&K. Two schemes or programmes were introduced by the Government of J & K namely ‘Hausla’ & ‘Tejaswini’ to encourage women entrepreneurship with the provisions of financial support & skill development & training programmes. The main objectives of these programmes were to make women financially independent & also to support their families.

One more important thing worth to note that the abrogation of Article 370 has paved the way for the National Commission for Women (NCW) to act on complaints filed before them by women from J&K. Women can now buy real estate and transfer property to children, even if they get married to a non-resident as Article 35A a provision of article 370 had automatically become void with the scrapping of Article 370. During Covid-19 pandemic, women played a lead role in sustaining J&K's economy. Self-Help Groups (SHGs) for women helped them to start entrepreneurial activities which led to them becoming self-dependent.

New bank accounts were opened & they availed financial services which resulted towards inclusive development. After J&K was reorganized, separate women police stations were set up in Udhampur, Rajouri, Kathua Doda, Anantnag, Baramulla, Pulwama and Kupwara districts.

6. LIMITATIONS & SCOPE FOR FURTHER RESEARCH

The study does not consider about the women empowerment programmes & developments in Ladak as it was a new union territory under the Reorganisation Act 2019 by the Government of India. The scope of further study may include the role of private sector investment in promoting women entrepreneurship & start-ups for the socio-economic betterment of the state & nation.

7. CONCLUSIONS

Abolition of Article 370 is indeed a landmark in the constitutional history of India. Changes made in J&K will enable the people to access and enjoy the same rights, same privileges as their fellow citizens in the country. The women of J&K have fought against all the odds, their empowerment & betterment can be enhanced with educational, health, legal & economic reforms that can be properly executed.

References

- 1) Akanksha Khullar (2019), Women's Rights and the Jammu and Kashmir Reorganisation Act, 2019, Institute of peace & conflict studies <http://www.ipcs.org/index.php>
- 2) Ali, N. (2021). Women in Kashmir: Caught Between Patriarchy and Conflict. Kashmir Reader. <https://kashmirreader.com/2021/01/16/women-in-kashmir-caught-between-patriarchyand-conflict/>
- 3) Ahmed.Ali (2019), Kashmir and the Abrogation of Article 370: an India's Perspective. Editorial Board, 97. <https://apo.org.au/node/254391>
- 4) Ayjaz Wani (2020), 'Life in Kashmir After Article 370', *ORF Special Report No. 99*, Observer Research Foundation. <https://www.orfonline.org/research/life-in-kashmir-after-article-370-60785/>
- 5) Biswas, D. (2020). Women bear the brunt of violence. The New Indian Express. <https://www.newindianexpress.com/magazine/voices/2020/mar/08/women-bear-thebrunt-of-violence-2112832.html>
- 6) Embassy of India (2020), 'Abrogation of Article 370 of Indian Constitution, India's Historic Decision to Transform Jammu Kashmir & Ladakh: A New Era Unfolds.' <https://www.eoimadrid.gov.in/pdf/20.9%20How%20will%20Jammu,%20Kashmir%20%20Ladakh%20benefit.pdf>
- 7) Fazili, G (2016). Familial Grief, Resistance and the Political Imaginary in Kashmir: *Indian Anthropologist*, Vol. 46, No. 2, Special Issue on Everyday State and Politics (July – December 2016), pp. 53-74.
- 8) Ghulam Sarwer (2017), Women empowerment: Issues and challenges in Jammu and Kashmir, *IJournals: International Journal of Social Relevance & Concern* ISSN-2347-9698 Volume 5 Issue Page 7, www.ijournals.com
- 9) Lalwani, S. P., & Gayner, G. (2020). India's Kashmir Conundrum: Before and After the Abrogation of Article 370. <https://www.usip.org/publications/2020/08/indias-kashmirconundrum-and-after-abrogation-article-370>
- 10) Mintu Pathak & Jhanin Mushahary (2022), The Revocation of Article 370 in Indian Constitution: An Analysis of the Socio-Political and Economic Effects after Withdrawal of the Article in Jammu and Kashmir, *Journal of Positive School Psychology* <http://journalppw.com> 2022, Vol. 6, No. 4, 3012 – 3018
- 11) Nelofar Khurshid (2015), Women and Self-Help Groups in Kashmir, *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)* Volume 20, Issue 2, Ver. 1 (Feb. 2015), PP30-33 e-ISSN: 2279-0837, p-ISSN: 2279-0845. www.iosrjournals.org DOI: 10.9790/0837-20213033 www.iosrjournals.org
- 12) Neogi, Devina (2022). Women's Struggles in the Kashmir Militancy War. *Journal of International Women's Studies*, 23(6). Available at: <https://vc.bridgew.edu/jiws/vol23/iss6/4>
- 13) PM Narendra Modi speech Updates: 'Article 370 was a hurdle for development of Jammu & Kashmir' *Business today*, 8 August 2019 <https://www.businesstoday.in/latest/economy-politics/story/pm-narendra-modi-speech-live-updates-prime-minister-to-address-nation-8-pm-219371-2019-08-08>
- 14) Polgreen, L. (2009). Women's Deaths, and Inquiry's Findings, Enrage Kashmir. Retrieved June 10th, 2020.
- 15) Rakesh Mohan Chaturvedi, "Article 370 cause of Corruption and Terrorism", *The Economic Times*, 6 August, 2019.

- 16) Ruhee Rashid & Santosh Kumar Maharashi (2015), Status of Female Education in Jammu and Kashmir since 1950. *American Journal of Educational Research*. Vol. 3, No.6, pp 731-735. <http://pubs.sciepub.com/education/3/6/10>
- 17) Sadiq,R.(2016), Historical Perspective of Violence in Kashmir Valley: Its Impact on Society and Economy. <https://ijsr.net/archive/v2i5/IJSROFF2013 220.pdf>
- 18) Showkat Ahmad Bhat, Aashaq Hussain Bhat & Dr. P. Chinnathurai (2016), Educational Status of Women in Jammu and Kashmir with Special Reference to Rural Areas, *The International Journal of Indian Psychology* ISSN 2348-5396 (e) | ISSN: 2349-3429 (p) Volume 3, Issue 4, No. 65, DIP: 18.01.150/20160304 ISBN: 978-1-365-34680-4 <http://www.ijip.in>
- 19) T.K. Rajalakshmi(2016), Human Development Index of Kashmir, Kashmir's Developmentstatistics: Nailing a lie, <https://frontline.thehindu.com/profile/author/T-K--Rajalakshmi--/?page=21>
- 20) Wani, Anusha; Pillai, Vedika; and Azaad, Yana (2020) "Gendering of Leisure Forms and its Impact on Women in Areas of Conflict: A Case Study of Jammu & Kashmir," *The Macksey Journal*: Vol.1 Article 136. <https://www.mackseyjournal.org/publications/vol1/iss1/136>