

Repealing Article 370 and 35A: Economic & Social Opportunities and Challenges

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ABSTRACT

On 5th Aug 19, Shri Amit Shah Home Minister of Central Government announced the repeal of the Indian Constitution's Article 35A and Article 370 which allowed the Jammu & Kashmir state special status. The state is now divided into two union territories – Ladakh (with no legislature) and Jammu & Kashmir (with a legislature).

Jammu & Kashmir (JK) get Autonomous status by Article 370 to. Sheikh Abdullah has drafted the provision of article 370 in 1947, who appointed by Prime Minister J. L. Nehru and Hari Singh(Maharaja). Under Article 370 Jammu & Kashmir got "Transitional, Special provisions and Temporary" special status.

Article 35A granted authority to define who the 'permanent residents' of the state Jammu & Kashmir. It gives them property acquisition right in the state, privileges and special rights respect to state government employment, scholarships rights and other forms of aid that the state government provides, and settling in the state.

SOCIO-ECONOMIC PROFILE OF JAMMU AND KASHMIR

Jammu and Kashmir is like a crown on the head of the India also well-known as Heaven on the planet. J & K is located in India's extreme north of between 32° 15' to 37°05' latitude north and 72°35' to 80°20' longitude east. The languages used in the state like English, Kashmiri, Urdu, Hindi, Dogri, Shina and Ladakhi. J and K state consist of 22 districts and Srinagar the summer capital which is the biggest city in the J and K. It is home town to a lot of hills, glaciers and rivers like Indus, Jhelum, Tawi, Chenab and Ravi are the major rivers flowing through the J & K.

Major tourist attractiveness in the J & K is Pahalgam, Gulmarg, Sonmarg, Mughal Gardens, Dal Lake, Leh, Ladakh and Patnitop. Some of the main religious places of the India located in the J & K, the two most important being the Vaishnodevi Shrine and the Amarnath Caves. Houseboats are one of the important attractions of Kashmir functional in Dal Lake. Endowment of nature provides excellent shelter to the numerous rare species of birds and animals.

Demographic indicators and their comparison with India as follow:

	Indicators	Unit	Year	J&K	India
1	Geographical Area	Lakh Sq. Km	2011	2.23	32.87
2	Population	Crore	2011	1.26	121.02
3	Density of Population	Pop./Sq. Km.	2011	124	382
4	Decadal Growth Rate	In Percentage	2011	21.44	17.64
5	Sex Ratio	Females/1000 Males	2011	889	943
6	Urbanization	In Percentage	2011	27.21	31.16
7	Literacy Rate (LR)	In Percentage	2011	68.74	74.04
8	Death Rate	---	2011	5.5	7.1
9	Birth Rate	---	2011	17.80	21.80

GEOGRAPHICAL AREA

J&K is the sixth largest state of India comprising 6.76% of the total Indian Territory. The state is bounded by Pakistan in the west and China in the north and east. Himachal Pradesh and Punjab border it in the south. A major area of the J & K is hilly and its height from sea level. Morphologically, J & K is separable into three distinct regions i.e. Ladakh, Jammu and Kashmir.

Population

J & K occupies 19th rank in population; with 1.26 cr. which is 1.04 % of India's total population as per census 2011, whereas total population of J & K is 1.006 cr. as per the India's 2001 Census constitute only 0.98 % of the India's total population.

Population Density

Density of population in J & K is 124 as per 2011 census as against density of 382 persons per sq. Km in India. Density wise J & K rank eighth among states/ UTs of the country.

Sex Ratio

Sex ratio is 889 places J&K at 29th rank in the country. Sex ratio of the country is 943 according to 2011 census. The sex ratio of the state both in deference of rural and urban areas has shown decline during 1901-1931. Thereafter it started gradual improvement and during 1981 improvement in rural areas was noticed. Besides in rural areas much improvement was noticed in urban areas. According to Census report of 2001, the state has a sex ratio of 900 females per thousand of males as against the India's average of 933.

Literacy

Literacy has been described in the Census as the capability to write and read with understanding. Jammu and Kashmir has enhanced its literacy by 30.64% in 1981 to 68.74% in census 2011 with 78.26% literacy of male and 58.01% literacy of female. These figures show signs of improvement in the literacy when compared with the India's literate population its still lags behind the national average by 5.3%.

Urbanization

Population of urban area has improved from 21.05% in 1981 to 27.37% in 2011. These numbers indicates improvement in the urbanization when compared with India's urbanized population it's still behind the national average by 3.95%.

Article 370 and 35A.

Article 370 of the Indian Constitution gives unique status to the state of J and K. these contain a special Article of the Constitution of India. Which gives J and K some constitutional rights over other states in India. Article 370 of Part 21 relating to transition, temporary and special provisions in the Indian Constitution was prepared with the special involvement of Jawaharlal Nehru.

President Rajendra Prasad in 1954 under Article 370 issued the Constitution Order (Application to J and K) Article 35A. J & K state government under Article 35A had the complete unrestricted authority to make a decision about the 'permanent residents' of the state are. It offer them privileges and special rights concerning with acquirement of assets in the J & K, employment or service with the J & K government, settling in the J & K, and the right to scholarships and other forms of help that the J & K provides.

OPPORTUNITIES OF REPEALING ARTICLE 370 AND 35A

1. All the rules of India will apply in Jammu and Kashmir.

As per article 370 Parliament of India cannot create any law and regulation without the approval of J & K Assembly. Now all the regulations and rules of the Constitution of India will be applicable or compulsory for all the state including J and K. Article 360 (Financial Emergency) will now be applicable. Now Minorities (Hindus & Sikhs) will have 16% reservation as well Right to Information & Right to Education will be applicable. Article 35A will be nullified. A woman from J&K can still retain her rights and citizenship even if she marries someone out of the J&K state. As in other states The Panchayats have rights now J and K's Panchayats also will gate the same authorities or powers.

2. Help to Economic Development of Jammu Kashmir.

Manpower and human skills within J&K have not been effectively tapped as is apparent from its poor economic development. Restrictive legislations like Article 370 and 35A preventing ownership of property in J&K as also prohibiting employment to "outsiders" (referring to the rest of India) has for long hampered smooth economic movement and social development in the state. However, apart from tourism, its rich natural resources have not been efficiently and adequately used. Investment is now expected to flow in; the retail segment is also expected to grow. Now centre will be able to provide better medical facilities to citizens of J&K now. Appropriate measures to control corruption can be taken now by the central government. Authorities are in a better position to curb terrorism now.

3. With the removal of article 370, can take land in Jammu and Kashmir.

Private investors don't want to set up shop in J&K because they can't buy land or property. Restricting people from other States from receiving jobs or purchasing property or land within J&K is a violation of fundamental rights under 14, 21 and 19 Articles of the Constitution. Now the major pro of removing Section Article 370 is that any citizen of India can take land in J and K. It will give investment opportunity to private organizations or firms to invest in J&K. This will enhance the economic growth and development of the state.

4. Now the flag of India will remain in Jammu and Kashmir.

We would know that prior there used to be a separate flag of J and K, there was no Indian flag. Finally, it is One Nation One Constitution. This will ingrain the feeling of unity, feeling of one among each and every one of Indian.

CHALLENGES OF REPEALING ARTICLE 370 AND 35A

1. Constitutional challenges

Presidential order that sought out repeal of Jammu and Kashmir's special status according to Article 370. Now it would necessitate the recommendation of the constituent assembly of J and K to make such a modification and changes. Repealing of Article 35A will have different effects on other constitutional amendments enclosed in the Presidential Order 1954 and this can erode the autonomy of J&K.

2. Protests and Violence

Article 35A secures the exceptionality of the J&K. Even State Uttarakhand and State Himachal Pradesh have the laws which state no outsider can buy a land. Repealing of Article 35A would allow people from outside acquire land and property and settle in the J&K state, thus changing the demography of the J and K as well the right to vote. There is a possibility of general and widespread violence and protests as a response to the repeal of Article 370 and 35A. Kashmiris are worried that such a change and move would be dominated by the Hindu nationalist groups. The unrest can affect the democratic progress that has been made so far.

3. India's relations with Pakistan worsen.

Article 370 was repeal has stressed the already delicate relations with Pakistan of India. Relationship between Pakistan and India after freedom has not been good. Pakistan has always been breaching the rule of ceasefire. Repeal of article 370 may also result in a battle among Pakistan and India. Terror elements in Pakistan would find Kashmir to be the most fertile ground for breeding terrorism.

4. Dual citizenship of Jammu and Kashmir resident's end.

Kashmiri citizens will no longer have dual citizenship, which is not going down very well with many locals. When Article 370 then the citizens of Jammu and Kashmir had a special right. They could adopt dual citizenship, first of all, India and secondly Jammu and Kashmir's removal of Article 370 of its Constitution has eliminated dual citizenship.

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