

Abrogation of Article 370 will Reshape Kashmir Insurgency and Politics of South Asia

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Abstract

The acrimonious relationship between Pakistan and India grew over Kashmir conundrum which has created impediments in way of peace and prosperity in the region. Both the states coveted Kashmir, declaring it an indispensable part of partition plan. Pakistan considers Kashmir as jugular vein of it and has been providing political and moral support for the freedom of latter against Indian occupied forces. The differences over the issue resulted into five armed debacles between the giant nuclear powers along with far-reaching consequence in the guise of arms race, insecurity, political discrepancies and economic backlashes. The native and indigenous Kashmiris are also mired in freedom struggle to get rid of occupied Indian forces. Since the abrogation of Article 370 and 35 (A) has reshaped the political dimension of South Asia. It has not only averted the special status of Indian Occupied Kashmir (IoK) but also jeopardized the demographic status of the Eden valley as a majority Muslim state. This illegal and unconstitutional act taken by Modi's administration will transform Kashmir struggle, bilateral relations between Pakistan and India and political regional contour. Over and above, the article will also demonstrate the legal and constitutional status of articles abrogated and the chances of possible nuclear conflict of nuclear neighbors over the vexing Kashmir issue.

Keywords: *Kashmir Uprising, Abrogation of Article 370, Nuclear Menace.*

Introduction:

Since the rise of Industrial Revolution in 18th century, the natural resources rich countries became vulnerable to major powers in order that to occupy, invade, control and annex the formers. But when the colonialism vacillated in 20th century, most of the nations demanded the right to independence, sovereignty and self-determination, and the people apparently assumed that the new epoch would put an end to the enduring cycle of colonial control of the territories. Contrary to this, the post-colonial period went on with the similar orthodox design of dominating fragile states (Behnam, Azimi, Alizera, 2017). The new era and the colonial mindsets were reluctant to purvey the right to self-determination, rather intended to sustain the status quo. Gradually, with the passage of time, the world experienced to cold war, confronted by the two superpowers to influence the nations ideologically. The Soviet Union aggression in Afghanistan in 1979 and subsequent retreat of the forces within a decade – without culminating peace process for Afghans – maliciously brought about a catastrophic predicament, affected the whole South Asian region.

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Following the next decade, the world was evident to the biggest and catastrophic genocide, racism and ethnic schism in former Yugoslavia – the flash point of Europe. The revisit of political maps in the region alongside the fall of the Soviet Union resurrected genocides, cultural conflicts and eruption of civil wars.

As time passed by, the world rapidly morphed into global village and speculations circulated optimistically that the American led capitalist system based on laissez – faire and free market would ensure lasting peace without confronting any other super power. The era of free trade, economic interdependency, globalization and absence of ideological challenges would break the back of direct occupation. Similarly, physical dominance of the other territories would be the chapter of history and soft power to be taken place under neo – liberalism to throw civil wars, ethnic perils and direct occupation away from the globe. But, unfortunately, at the woo period of the 21st century, all these expectations of the peace were put on the line by the treacherous incident of 9/11 – precipitated the American and NATO (North Atlantic Treaty Organization) forces occupation of Afghanistan. Meanwhile, Israel made it faster to perpetrate illegal control of Palestinian lands – Gaza, West Bank and West Jerusalem aimed at turning Palestinian majority into minority.

India's revocation of article 370 and 35 A in the Indian occupied Kashmir (IoK) is also part of this enduring series of illicit control of the fragile states. Kashmir valley, sharing close proximity with Pakistan and India, has been apple of discord between the two acrimonious neighbors since the bifurcation of the sub-continent into two parts on the basis of ethnic majority – India, with the Hindu majority and Pakistan, with the Muslim majority. Both sides vended Kashmir, rich in natural resources and dominated by Muslim majority, to be annexed into their state. Since then, the two states bitterly turned into animosity, fought wars, and blamed each other for cross border terrorism that brought them at the brink of nuclear debacle. Worst of the worst, the brainless move of the 5th August 2019, when the Indian government illegally designated incorporation of the disputed territory of Jammu and Kashmir (J&K) permanently into mainland India and transgressed the agreed principles of accession and Indian constitution, arrested the Kashmiri political leaders, imposed lock down and launched combing operation in the valley.

BJP (Baratiya Janata Party) government led by Prime Minister (PM) Narendra Modi abrogated the special status of Kashmir, enacted for 70 years that had led to the internal autonomy of Jammu and Kashmir – comprises Jammu – a Hindu majority area and Kashmir – a Muslim majority area. Furthermore, the Modi administration also drew up a bill to split the state into two parts under direct administration of the central Indian government irrespective of reluctance of occupied state citizens. To change the status of the Kashmir-a powder keg of South Asia, was the political motive of the nationalist and Hindutva agenda of PM Modi who had pledged the public to take this historical move if he was to be reelected as prime minister of India. However, Islamabad quickly responded, condemned the detrimental action of New Delhi and called on the

international community to settle the issue and warned India about the dire consequences of the move.

How Abrogation of Special Status Shapes the Kashmir Uprising Historical Perspective of the Insurgency

1. Struggle of Freedom Fighters in 1980s

In the late 1980s struggle of Kashmiri had deeply influenced and overlapped by three prominent elements: first, the Soviet Union capitulation before Mujahedeen in Afghanistan and disintegration of former into various parts prompted the later to head to Kashmir in large number to help the freedom fighter get rid of Indian clutches; second, the Indian administration clumsy political endeavors to deal the affairs and holding rigged election in 1987 that had given rise to political discrepancies and pushed many members (who lost in election courtesy rigging) of vanguard political party Muslim Conference to join armed struggle against India (Behera, 2007), third, incessant political, moral support and cross border sustenance from Pakistan to the people of J&K (Haqqani, 2004). With respect to first and third, many Indian writers including J. Blank deemed the premier secret agency of Pakistan-Inter Services Intelligence (ISI) being the root factor in surge of violence by shifting afghan mujahedeen for the holy cause of Jihad without any funding after the Soviet defeat to rip into the Indian forces (Blank, 2014) in the valley. This phase of the armed struggle also witnessed a considerable deal of the indigenous participation as many youngsters frequently remained part of it.

The Indian political misdeeds and fractured control of the valley not only aggravated the overall political predicament but also dragged the peaceful political workers of different reputed parties into violent struggle against the occupied forces. Instead of mollifying the restive condition, the Indian government triggered a rash of atrocities by targeting civilians, massacre of Kashmiri clerics, pundits, abduction of political leaderships, destruction of markets, rapping chaste women and a mass genocide of the citizens.

In the following decade, the struggle of the Kashmiri came into full swing, put the Indian writ at stake in the valley, however slightly melted down in the mid-1990s not that the underlying existential political standoffs were resolved but because but Kashmiri Mujahedeen lost proper internal political leverage and also Indian could probably garner military and political gains in this regard in the valley. It vividly meant that armed struggle didn't go away nor resolve but militarily crushed by India for time being.

2. The Kashmir Struggle in the Mid – 1990s and Early 2000s

The Kashmir struggle had greatly dominated by the crises between acrimonious Pakistan and India in the mid-1990s and early 2000s. Since the two rivals incessantly bogged down in border skirmishes across the International Border (IB) in Jammu and the Line of Control (LoC) in Kashmir. Worst of the worst, the ties between them locked to an all-

time low position, when they tested nuclear nukes and officially declared themselves as nuclear powers in May 1998. Bringing about military balance and sustaining deterrence from Pakistan made the then leader of India Atal Bihari Vajpayee (belonged to the right wing BJP) visit Lahore in February 1999 in order that to give peace a chance. In this historic trip he had signed a number of pacts with his counterpart, Prime Minister Nawaz Sharif.

However, the Kargil adventure launched by Pakistan army under General Pervez Musharraf turned into a war between the two countries that immensely sabotaged all potential opportunities leading to peace process, as the New Delhi also indicted Islamabad of backstabbing. This military move was unwelcomed by the PM Sharif himself and the major powers of the world that downgraded the advancement of Pakistani army.

At the end of the Kargil conflict, the two giant opponents, instead of fire-fighting the crises, continued animosity and cross border firing became routine at borders. Afterwards, the two states strived again for a move to propel the message of peace when Gen. Musharraf the then President met PM Vajpayee at Agra, India, during a summit meeting which didn't accomplish the expected result (Parthasarathy, 2004). In December 2001, the terrorists perpetrated a brutal attack on the Indian Parliament, whilst the routine session of it was going on and took the lives of seven security personnel (Reddy, 2004). This disastrous event brought them into a tenuous position resulted in mass mobilization of army from both sides without any clash broke out. What's more, another assailment on the Indian forces in J&K in 2002 further downgraded their bilateral relations (Puri, 2002). Furthermore, the tension heightened to highest decree when New Delhi worked on building fence along the border with Pakistan during 2001-03.

3. The Period of Stability and Peace Process between 2003-08

In 2003, Pakistan and India, once again, offered olive branch to invigorate bilateral nexus and resolve the vexing Kashmir standoff. Both sides exchanged the messages of peace flagrantly via media, as PM of India Mr. Vajpayee urged for the dialogue with Pakistan during a rally in J&K. Whereas, later in the same year, Pakistan also expressed good gesture by taking cumulative efforts to cease border skirmishes along the border which India welcomed. Albeit, it's worth mentioning here that the American government had also called both allies for throwing crises away and engaging in bilateral dialogue (CNN, 2003). Any how these peace gestures brought the arch rivals into convergence to desist routine border clashes. Likewise, the Colombo meeting in 2004 became watershed when Musharraf and his counterpart Vajpayee sorted out all main existential issues into 8 in number, determined to uproot them all and agreed to commence composite dialogue as

well. Later in the same year, despite of changing regime in Delhi, the peace dialogue kept advancement under Congressional leader Dr. Man Mohan Singh.

The phase between 2004 and 2007 sighted productive political and diplomatic progress let to one of the best periods of the Indo-Pak relationship. In 2005, President Musharraf headed to India to watch a cricket match, wherein both sides claimed that the underway peace process was now not reversible (Freil, Zaheer, 2005). The secret backdoor channels almost settled the hobbled crises backdrop without undermining the core object of either side. Likewise, the Kashmiri political leaderships were also taken on board, sought out an agreed modus operandi for lasting peace in Kashmir under Musharraf formula and Dr. Man Mohan's proposal of 'making borders irrelevant,' (BBC, 2005; The Guardian, 2006).

4. The Deal to be Signed on Kashmir

The backchannel and quiet diplomacy between the two countries during the period of 2004 and 2007 brought them very close to deal on Kashmir. Ex-Foreign minister of Pakistan, Khurshid Kasuri who was part of the peace process, stated in 2010 that Musharraf had settled 90% of the challenging task on prolonged Kashmir issue by 2007 as the entire exercise merely required the formal signature of the three stake holders to the conundrum – India, Pakistan and Kashmir (Dogar, Roy, 2017). He also mentioned that the near deal on this half-century old dispute was the result of government secret efforts that introduced peace formula and could provide Kashmiri complete independence and autonomy on both sides of the frontier (Dogar, Roy, 2017).

Kasuri further added that the near-deal was to be finalized in March 2007 at the expected arrival of Dr. Man Mohan Singh to Pakistan. However, all the good omens reluctantly turned over when by early 2007, General Musharraf marked down his legitimacy and administrative power in Pakistan and Dr. Singh deemed it a risky task anymore that could damage his party incalculably in election (Dulat, Sinha, 2015). That is how this opportunity didn't achieve what all three parties expected and this missed move yielded space for terrorists to execute their agenda, as a series of terrorist attacks had been carried out in both sides. For instance, in July 2008 car bomb explosion near Indian embassy in Kabul killed 57 people including Indian officials; and then, in the same year, a major blow of the attack was witnessed by India when militants ripped into luxurious hotel in Mumbai. After this, foreign secretary of India Shankar Menon admitted that the peace roadmap was "under stress" (BBC, 2018), and further stated that the bilateral relations were at much higher level in four years (Indian Ministry of External Affairs (IMEA), 2008). These terrorist blows yet again, augmented the tension between the two sides, blamed each other for cross border terrorism and strengthened the trust deficit.

Abrogation of Article 370 – A Time Bomb

Article 370 and 35 A were embedded in the constitution of India shortly after the inception to lead the former princely state of J&K to internal autonomy. It stipulated the power distribution between the princely state and Central Indian regime. Article 370 provided special status to occupied territory – authorized it to formulate its own constitution, policies, enjoy internal sovereignty and flag of its own.

On 5th August, 2019, through a presidential order and ratification from parliament, Indian government relinquished the special status of the subdued state and subsequently incorporated it into mainland. As per illustration of the article 370 and 35 A, the Kashmiri would dwell under laws framed by them including property ownership, right to citizenship and fundamental rights vis-à-vis the other Indians enjoy in their country. What is more, para 03 of the Article 370 states that no one from other parts of India shall have right to own property in J&K. More important is the clause 07 of the article that vividly explains the conditional accession signed by Hari Singh that avoided India from implementing any modification or future's constitution forcibly in protectorate territory. In fact, the Article 370 had drafted by the two sides to protect the all due rights of Kashmiris, but its abjuration is not only illegal but also transgression of para-13 of the Article 370 that makes any unilateral move from India unlawful. Nevertheless, the Article 370 also articulates that it can be revoked with the unanimous consent of the legislative body of Kashmir that also formed the constitution of state but that body had abolished sharply in 1957. On this, the Supreme Court of India had also issued a verdict that “the Article 370 is, therefore, a permanent part of the constitution” (The New York Times, 2019). Additionally, Article 370 ensured following special provisions;

- i. Amendment in power from central government could be executed only with the consent of the state government.
- ii. The state government's power to provide 'concurrence' lasted per se, until the constituent assembly assembled. If the state assembly drafted the framework of work, no anymore extension of power was possible.
- iii. Indian central government had limited authority over foreign affairs, defense and communication.
- iv. Without the concurrence of constituent assembly of state, no change of power could ratified.
- v. Article 370 could be revoked or modified only upon the concurrence the state's constitute assembly (para 14, Article 370).
- vi. The state would have its own constitution, and restricted central government to impose unilateral decision over the dominated territory.

Why India Decided the Period of 5th August, 2019 for Revocation of Article 370?

New Delhi took the move of abrogating Article 370 with the aim at stabilizing J&K and integrated it more fully with Hindu dominated Bharat. The annexation of the state into India has long been an agenda of implacable Modi's electoral slogan and the overwhelming majority in the

parliament helped him approving the decision – with 351 votes for and only 72 against. Yet, the question arises, why now?

Baking up his own agenda, Modi said, it's watershed in the history of India and urged the citizens of Kashmir to play their part in development of the country. Similarly, he saw it as a silver-lining to suffocate the freedom fighters struggle and an influx of foreign supporters joining the cause.

In addition, the root cause, having seen behind the drive is the treaty of peace signed by US and Taliban, although it's still underway to reach to its final destiny because Afghan government has yet to initiate the dialogue with Taliban. Like other countries, New Delhi is also keen and heeding on the ongoing development in this regard. Since, Islamabad remained an affective actor in building interplay between Washington and Taliban and also Trump administration intended to withdraw American Forces and let the peace a chance in Afghanistan that could also flourish peace and prosperity in South Asian region. However, India agitates that the development in Kabul could reverse the gear of history repeating itself. When Soviet Union defeated and left Afghan soil some 32 years ago, a sharp rash had seen in the activities of Kashmiri Mujahedeen in Kashmir and many foreigners who fought against Soviet Union, headed to the valley to join them. To avoid repeating history, Intransigent India, violating all legal aspects including United Nations Resolution, renounced the special status of the valley.

Another important factor that led India chose the period of 2019 was the fragile economic condition of Pakistan as the later has deeply succumbed by foreign loans, trade and budget deficit, burgeoning poverty and unemployment vacillated her position at international political stage. Also, the political vendetta, and hanging sword of FATF (Financial Action Task Force) over the head of Pakistan undoubtedly encouraged New Delhi to carry out the move.

Conclusion:

Kashmir crises requires a sustainable solution which is the duty of international community for ensuring world peace as well as conflict resolution in the entire world. Hence, United Nations need to become a big gun in fire-fighting the issues related to Kashmir. The abrogation of article 370 and 35-A will not only transform the political arena but also lead the nuclear powers Pakistan and India to a war as the last resort to do away with the issue. Kashmir, known as heaven on the earth, is quite vital by dint of its geo-political and geographical significance for both the states to get annexed into themselves. In face of all the issues, the two states still have options to resolve the Kashmir issue either by acting upon four points formula drew up by Musharraf; giving rise to trade and financial activities; cope with challenges of terrorism; bilateral solution; confidence building measures between the two states or creating space for third party to mediate. The resolution of the issue will be in the optimal interest of the entire region with regard to ensure a sustainable peace and prosperity. However, waging war is another option, particularly for Pakistan but that will be very devastating for the survival of the people and states because the poverty-hit region cannot afford a nuclear stalemate. Napoleon once said, "Military crawls on their bellies." Ostensibly, for a strong defense and for a moderated army, a

state needs financial strength and in case of war, emerging economic power India and Pakistan will be putting their economy at stake.

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