



FROM ASYMMETRIC AUTONOMY TO CENTRALISED GOVERNANCE: A LEGAL REVIEW OF ARTICLE 370'S ABROGATION AND ITS IMPACT ON CENTRE–STATE RELATIONS IN INDIA

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Abstract

This article analyzes how the Abrogation of Article 370 of India's Constitution affects Federalism, Constitutional Governance and Centre-State Relations. This study examines the effect of Jammu and Kashmir's unique constitutional status due to Jammu and Kashmir's asymmetric autonomy, which is part of a broader strategy in India to accommodate regional diversity within a singular Constitutional framework. Serious constitutional issues arise from Asymmetric Federal Arrangements, the Role of Judicial Review, Decrees of Executive and Legislative Authority and the Transformation of Jammu and Kashmir into Union Territories after the Abrogation of Article 370 in 2019. The research will be based entirely on secondary sources following a doctrinal and systematic review strategy, which utilises only Open Access academic literature and policy studies to investigate constitutions, Presidential decrees, Parliamentary bylaws, and key court precedents. The article has three main themes: 1) the ways in which Judicial Review has produced accountability for Federal Justice; 2) The process of moving from a Constitutional System to one of Centralisation in 2019, and; 3) The nature of the Federal Architecture of India in relation to Asymmetrical Autonomy. The research finds that while the Federal structure remains intact in the Constitution, it has shifted towards greater Concentration of Power within the Central Government. Permanent restructuring will occur through the implementation of extraordinary constitutional measures (in conjunction with constrained Judicial Review), limiting Democratic Representation and Federal Authority. The Research concludes that removing Article 370 produces a constitutional result that reflects the theoretical Federalism of India, but it will produce a fundamentally different model of Federalism in practice. As a result, the developments represented in this analysis will have significant doctrinal implications for future conflicts between the centre and the states regarding Asymmetrical Autonomy, restructuring led by the Executive, and Constitutional Accountability.

Keywords: Article 370, asymmetric federalism, centre–state relations, constitutional governance, judicial review

1. INTRODUCTION

Article 370 of India's Constitution (C), a federal document, provided distinct asymmetric autonomy to the erstwhile state of Jammu & Kashmir, due to the separate relationships between the state and India for historical political and security reasons. The relationship was exceptional and exemplified the Indian Constitution's ability to maintain a multitude of varieties through its flexible federal structure. In August 2019,

substantial modifications were made to Jammu & Kashmir's Constitution and Government Structure through the revocation of Article 370 and the adoption of the Union Territory status. The revocation created grave concerns about the Union's constitutional authority and represented a dramatic change in the centre-state relationship (Deb, 2019).

This decision from the Supreme Court of India will legally affect the Constitution of India and how Federalism operates in India. One of the common descriptions of Indian Federalism is that it's heavily centralised with large Union powers and Constitutionally guaranteed state sovereignty existing together. In Article 370 of the Constitution of India, the concept of negotiated autonomy and multiple methods of governing are expressed prominently; many view Article 370 as an exception to the uniform interpretation of the Constitution, as its removal has prompted much debate about the correct approach to defining the priorities of Federalism in India, whether they are Cooperative Federalism, Constitutional Accommodation or the ability to Centralise decisively in times of National Emergency. Many of the ongoing discussions regarding statehood, democratic representation and the administrative reorganisation in Jammu and Kashmir centre on these issues (Amico di Meane, 2021).

The dialogue surrounding governance, law, and the regulatory structures used to enforce law continues to grow, demonstrating the relevance of the issues at hand to many current societal developments. There are still significant discussions about how the former Union Territories can restore their standing as states, and if having representative democracy within a Union Territory qualifies them as a true democracy. Many citizens of India feel that the revocation of Jammu & Kashmir's statehood is indicative of future instances of asymmetric constitutional structures within India, which has led to dialogue regarding the centralization of power, and the debate between centralization and cooperative federalism in India. There are many factors influencing the creation of the asymmetric constitutional arrangements in advance of the revocation of statehood, including factors that support using national security as reason for creating asymmetrical constitutional structures; how the legislative process works during the change of status for the Union Territory of Jammu and Kashmir, the use of President's Orders frequently to create asymmetrical constitutional structures, and the establishment of President's Rule over the Union Territory of Jammu and Kashmir. Collectively, these factors highlight differences between the written Constitution of India and actual implementation; this is especially true regarding use of constitutional processes when the political situation is fragile (Muzafar, 2023).

The primary objective of this research paper is to examine whether the constitutional mechanisms employed in 2019 have created an enabling trend of unitary constitutional practices at the expense of the protection of the autonomous powers of the states, or whether those mechanisms represent a legitimate process of reorganising the federal structure under the constitution. Even while the Constitution does allow for federal involvement and state reorganization, questions regarding responsibility, consent, and the long-term balance of power are raised by the magnitude and style of the 2019 change. The question of how much weight judges should give to constitutional process vs the larger federal and democratic ramifications has been further complicated by judicial review of these activities.

Thus, this paper's goal is to examine the constitutional procedures that were used to reorganize Jammu and Kashmir after Article 370 was repealed. It will then determine whether or not these procedures were consistent with constitutional governance norms and doctrinal principles regarding federalism. Finally, it will draw doctrinal and governance implications for future Union-State restructuring. The study aims to contribute to a fuller understanding of how Indian federalism adjusts under situations of unprecedented constitutional change by locating the 2019 events within constitutional text, judicial reasoning, and academic research.

Using only secondary resources, this research conducted a systematic evaluation with a doctrinal focus. Articles 1, 3, 356 and 370 as well as pertinent schedules of the Constitution were methodically examined, together with other texts and laws pertaining to federal design and crises. It looked at presidential orders and legislation changes related to the 2019 transition, parliamentary debates and statements found in official archives, seminal decisions on federalism, the president's rule, and state reorganization, as well as open-access academic writings and reports on policy. Using issue-based doctrinal comparison and thematic coding, the study examined three main themes: center-state balance and asymmetric design, accountability results for democratic representation and federal trust, and executive-legislative sequencing under exceptional governance. The synthesis was presented as a legal analysis based on constitutional doctrine and governance logic, after sources were evaluated for reliability, authority, and relevance.

2. ASYMMETRIC AUTONOMY AND THE FEDERAL ARCHITECTURE OF INDIA

Concept and justification of asymmetric federalism in India

When the various branches of a federal government have differing levels of independence, authority, or institutional support, this type of government is called asymmetric federalism. In asymmetric federalism, each state has a unique constitutional position, while in symmetric federalism, all states have the same status. This allows for regional adaptations to meet special demands. States that have had distinct political paths or have negotiated integration conditions frequently have historical, cultural, linguistic, ethnic, or security reasons to justify such asymmetry. Particularly in plural societies with significant regional differences, asymmetric arrangements are seen by constitutional theorists as means of regulating variety without compromising national unity (Pal, 2018).

Instead than being an exception, asymmetric federalism has always been a feature of constitutional architecture in India. Differentiated provisions were intentionally included by the Constitution's writers to deal with the reality of post-colonial integration and governance. Articles 371A–371J, which acknowledge the distinct customary laws, property rights, and administrative procedures of the northeastern states, are more instances of asymmetry outside of Jammu and Kashmir. The Constitution's practical view of federalism is reflected in these structures, which strike a compromise between the need for uniformity and stability, inclusiveness, and the accommodation of regional characteristics. To integrate varied areas without demanding quick homogenization, asymmetric federalism served as a constitutional option in India (Muzafar, 2023).

Article 370 as a constitutional arrangement of negotiated autonomy

The Indian constitutional framework's most glaring instance of unequal autonomy was Article 370. The state government's approval was necessary to extend central laws and constitutional provisions to Jammu and Kashmir, as its legal framework prevented the automatic application of the Indian Constitution to the region. Through this process, a multi-tiered constitutional relationship was established, wherein the Union's power was exercised through mutual agreement rather than force. Also made possible by this clause was a unique system of government, which meant that the state could keep its own constitution and exercise a great deal of autonomy inside its borders.

There has been an ongoing legal dispute about whether Article 370 should be classified as a "temporary" clause or not. The fact that it remained operational for decades after the text said it was transitory hinted at a more permanent kind of autonomy in reality. Transitory terms illustrate the expectation that at some point in the future there will be a political resolution to the Kashmir dispute, as opposed to being an aspect of the Article that was purely intended as a mandatory sunset clause. The Article created a balance between the need for a unified nation and the need to respect the political realities of the region. As Deb (2019) has indicated, it is not intended

to create complete autonomy for Kashmir; however, what it does constitute is a way of promoting harmony between the different elements of society in respect to each other, rather than promoting disharmony or disharmony among them.

Federal principles at stake: statehood, representation, and constitutional equilibrium

The repeal of Article 370, among many established federal principles, created an environment in which issues with regard to statehood, democratic representation, and constitutional integrity rose to the forefront. In India, "State Autonomy" has been expressed through the Constitution as a constitutional Expectation of the Federal Allocation of Powers, rather than a Sovereign Entity.

The Ideal of Asymmetrical Autonomy has been developed by recognizing that a limited number of area have been, and will continue to be, protected through constitutional means in order to promote and sustain their political/cultural identity within the larger Indian Union.

Cooperative Federalism has its roots in Asymmetrical Autonomy by requiring the collaboration of the House and the Senate and the State Assemblies to execute Constitutional Powers. But if Asymmetrical Autonomy becomes merely a matter of Political Compromise, then it becomes possible for the integrity and stability of the Federal System to be diminished. Legal scholars have highlighted the danger of unilateral constitutional actions taken by states that undermine asymmetrical components of the federal system, thereby affecting other areas which have asymmetrical provisions and thus modify the balance of powers in the federal system (Amico di Meane, 2020). Therefore, how Article 370 has been treated raises larger concerns over the future of Indian Federalism and whether or not Indian Federalism can allow for difference and variety within the Constitution. Some scholars have expressed concern that Indian Federalism appears to be moving toward greater centralization and uniformity in governance.

3. CONSTITUTIONAL MECHANISMS AND THE 2019 TRANSITION TO CENTRALISED GOVERNANCE

Presidential Orders are instrumental

To the manner in which the Constitutionally defined relationship between the Indian Union and Jammu & Kashmir is exercised historically. The principal means by which the provisions of Indian Constitution and the Statutes of the Parliament, as provided under Article 370, were applied to the State was through Presidential Orders; these orders must have used either Consent or Consultation. This arrangement provided the Federal Government with the ability to implement the Constitution in an entirely unique manner through executive action along with reciprocal Federal Government approval.

In addition to incremental application, Presidential Orders were used also to gradually and completely reconfigure the Constitution in Jammu & Kashmir in 2019; thus, they evolved to serve a higher purpose than just incremental extension. Therefore, there was a major change in the nature of Presidential Orders' role. They became tools for substantial constitutional reform (Deb, 2019).

Theological considerations relating to the breadth of Delegated Power and the Constitutional limits of such power were raised in conjunction with the use of Presidential Orders. The President does have the power to act under Article 370 of the Constitution, although this power has more often been interpreted as conditional and facilitating than revolutionary. Nevertheless, the 2019 Orders had the effect of redefining the state's constitutional position, which led to discussions over the legitimacy of using executive powers to make such drastic changes. Scholars in the field of law have stressed that this method puts long-held assumptions about the constitutional hierarchy and delegation to the test by muddying the line between constitutional modification and constitutional application (Muzafar, 2023).

Executive–legislative sequencing under exceptional governance conditions

The president's rule's constitutional setting greatly influenced the 2019 transition's executive-legislative sequencing. After President's Rule disbanded the state legislature, a void in government was formed, and Parliament, acting as the state's representative, lawfully replaced the legislature. The use of this substitute in the context of permanent constitutional reform raises problems about the legitimacy of the federal government and the democratic content, even if it is sanctioned by the Constitution under Article 356. The decision-making process became less representative due to the lack of an elected state legislature, even though Parliament officially exercised its jurisdiction in line with constitutional restrictions (Supreme Court of India, 1994).

A prime example of the conflict between parliamentary dominance and federal consent was the order of presidential initiative followed by legislative approval. Under the Constitution, the power to legislate on behalf of the states lies with Parliament even when the president is in office. Consent and involvement, however, seem to be fundamental to lawful federal reconstruction, according to democratic theory and federal practice. According to scholars, there is a danger of normalizing unusual constitutional procedures when we depend on emergency-like governing rationale even when there is no official emergency. Concerns over constitutional permissibility vs federal distortion arise from this, especially when extreme measures are employed to achieve long-term changes to the constitution (Rai, 2024).

State reorganisation and the conversion into Union Territories

Another important step toward centralized government was the partitioning of the old Jammu and Kashmir State into two Union Territories. Parliament has the authority to change the borders and status of states according to Article 3 of the Constitution. However, this power is usually used in a way that takes into account federal expectations, such as consulting with the states that are impacted. A deviation from typical reorganization methods, the transformation of a fully functional state into Union Territories prompted inquiries concerning the boundaries of Article 3 power and whether or not it was consistent with federal ideals. When the goal is administrative efficiency or better governance, reorganization can be a valid strategy for redesigning government. Concerns about less autonomy and democratic representation arose in the Jammu and Kashmir setting, however, as a result of the statehood reduction and increasing central administrative authority. Many legal experts are worried that this reorganization might set a dangerous precedent, undermining the normative expectation of statehood and its role in maintaining federal balance. Beyond Jammu and Kashmir, this method might have far-reaching consequences for the future of reorganization ideas in India and their assessment under the country's constitution (Amico di Meane, 2021).

4. JUDICIAL SCRUTINY, FEDERAL JUSTICE, AND ACCOUNTABILITY OUTCOMES

Judicial review standards in federal restructuring disputes

In federal restructuring conflicts, the focus of judicial review has historically been on checking for compliance with constitutional procedures, competent authority jurisdiction, and declared purpose alignment with constitutional goals. Indian courts have always looked at federal conflicts through the lenses of competence in legislation or the executive branch, conformity with established procedures, and the overarching framework of the constitution. Courts have frequently taken a position of institutional restraint, especially in cases with considerable political content, rather than substituting their judgment for that of the political authorities. When constitutional activities pose a danger of upsetting the delicate balance between the Union and the States, however, federalism considerations enter judicial thinking.

Recognized as an integral component of the Constitution, federalism places substantial constraints on Parliament's authority to amend the Constitution. A doctrinal technique for preventing the use of constitutional processes to weaken core federal features in Union-State conflicts has been basic structural reasoning. However, courts have been careful not to apply this theory too broadly, which shows that there is a continuing conflict between the need for judicial action to safeguard federal justice and respect for legally authorized political procedures (Muzafar, 2023).

The Article 370 adjudication as doctrinal evidence of centralisation

Important doctrinal evidence about the practical attitude of courts to federal restructuring is provided by the Supreme Court's decision regarding the abrogation of Article 370. The Court's reasoning for sustaining the abrogation was that Article 370 was only in place for a limited time and would be subject to future constitutional amendments rather than long-standing federal assurances. Judgment placed more weight on constitutional language and structure than on political hopes for negotiated autonomy, with an eye toward the formal legitimacy of presidential orders and legislative action.

A desire for constitutional unity rather than distinct federal accommodation was evident in the Court's handling of consent and temporariness. In addition to considering the argument that the state should be allowed to grant permission, and the historical context of autonomy, the Court placed the Constitution's mandate for the Federal Government to follow procedures above all else; therefore, there is a strong commitment to process in American political discourse related to the Constitution. The Federal Government will continue to operate in a more centralised manner as a result of the leanings towards Centralisation supported by the current ruling of the Court. In the opinion of those who study American politics and the Federal Government, the ruling will further reinforce a Centralised view of Federal Authority, especially in cases where there is an unequal balance of power between states and the Federal Government, or within a state itself (Amico di Meane, 2021).

Accountability outcomes: democratic representation, rule of law, and federal trust

Not only do issues concerning the legitimacy of doctrines apply, but there are also serious implications for the Constitution based on the way that Parliament has taken over representative power through Article 370's removal from their control over representative authority. Because Article 370 created the ability for Parliament to make decisions on behalf of the citizens of Jammu & Kashmir (the state from which it was removed), if any future changes are to occur in a state whose government is no longer functioning under the Constitution due to President's Rule, then the way in which representative democracy is viewed as the primary form of government changes significantly.

Using this method of government to make permanent changes to the Constitution stands in direct contradiction to popular participation and agreement being at the heart of federalism. Even though such a method may technically be within the law, it places severe limitations on the way citizens perceive their government, which therefore reduces the validity of laws. From a rule of law perspective, there must be transparency, predictability, and clear limits on the amount of power given to change laws through interim means, such as extraordinary powers, to protect against the eventuality of extraordinary measures becoming the norm. While those procedures were followed in respect of the abrogation of Article 370, the process questions the extent to which extraordinary measures would become commonplace in future acts of governance. There may be consequences for constitutional stability in the long run if this reduces the moral limits on government authority (Deb, 2019).

Another aspect of federal trust is accountability, as how other states with specific constitutional structures are treated affects Jammu & Kashmir. People may lose faith in constitutional accommodation if they think asymmetric provisions may be changed unilaterally. Expectations of statehood and autonomy may be reshaped,

and the center-state balance may be affected over time. Judgment on the Article 370 abrogation therefore not only settled a particular constitutional issue but also shaped how Indians view federal justice and the reliability of the constitution as a whole.

5. CONCLUSION AND RECOMMENDATIONS

Conclusion

This paper has examined the ramifications for Indian federalism of the subsequent reorganization of Jammu and Kashmir and the abrogation of Article 370 from a constitutional, philosophical, and institutional perspective. In the past, Article 370 allowed for varied governance within a united constitutional framework, thanks to an examination of federal architecture and asymmetric authority. Consequently, the abolition of provisions of Article 370 representing that constitutional arrangement for ensuring negotiated autonomy was a fundamental change from the established law of negotiated autonomy, and raised questions about the future effectiveness of asymmetric federal arrangements in India's Constitution.

An analysis of the processes of constitutional implementation for 2019 demonstrates that there were other purposes outside of the normal federal modification; particularly the use of the mechanisms of state reorganization, legislative action, presidential order, and enforcement of president's rule together shifted the balance of power between the Union and State significantly toward the Union in comparison to their prior historical usage as separate entities and as means of achieving legal status.

For example, when extraordinary administrative circumstances allowed for radical constitutional outcomes such as the manner in which a presidential initiative was followed by parliamentary approval for the Union in a state that had no elected legislative assembly; and thus had no executive authority of its own.

The Court's analysis of the Constitution significantly affected the Union's constitutional legalities and confirmed the existence of channels through which the Union could lawfully seek to effectuate constitutional reunification. The Court's reasoning emphasized the language, abilities, and procedures set forth by the Constitution, but does not directly relate to the use of judicial review to determine a constitutional law. At the same time that it eliminated Article 370, the Supreme Court ruled that many of its provisions were unconstitutional. The Court's ruling failed to adequately deal with systemic important issues such as the representation of both states and individuals when it comes to negotiating autonomy and establishing their own constitutional relationship with the federal government. While it accurately described the emphasis placed by the Court on the federal government and its role in federalism, it did not adequately analyze the extent to which this was done in conjunction with democratic content and the forces involved in the establishment of federal justice within the United States of America. Rather, it provided an avenue for identifying a limited form of judicial review and a method of enhancing institutional stability and constitutional form.

This is important from a doctrinal perspective, as it may impact future center-state conflicts that involve asymmetric agreements, executive-led reorganisation, and determining how far the judiciary may intervene in the event of an asymmetrical agreement. From a broader perspective, this incident demonstrates the tension that exists between uniformity and individuality in constitutional governance, and continues to shape India's evolving constitutional identity.

Recommendations

In order to help prevent future constitutional challenges, as well as to clarify the meaning, extent, and modification of asymmetric federal legislation, it is important for there to be an authority that provides sufficient access to accurate and timely constitutional advice on this topic. In addition, improving procedural protections and requiring democratic justification when reorganizing state autonomy under President's Rule will prevent

instances of extraordinary governance that replace the representative role within the government. For instance, an examination of the timing of the executive and legislative authorities involved in the restructuring of the federal system should adhere to uniform legal principles, especially in unusual circumstances involving significant federal restructuring through permanent constitutional change, in order to encourage uniformity and consistency in the application of legal principles. To facilitate open dialogue on significant government-reorganization plans, promote well-informed discussion and reduce the divisiveness surrounding these plans, both legislative and public reviews of the laws must be conducted periodically. Furthermore, in order to enhance trust in the Constitution and strengthen public discourse on federalism, autonomy, and constitutional morality, it is essential that public access to all forms of legal discourse concerning the Constitution and federalism, autonomy, and constitutional morality be actively encouraged.

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