

Why the BJP Could Change the Status of Jammu and Kashmir in One Stroke

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Summary

The Indian government's decision to revoke the special status of Jammu and Kashmir (J&K) grew out of the Bharatiya Janata party (BJP)'s deep commitment to abrogate Article 370, which gave special privileges to J&K. It was able to do so due to the changed make-up of the Indian parliament and a more receptive political environment.

Introduction

The Indian government's decision to revoke the special status of Jammu and Kashmir (J&K), or Indian-administered Kashmir, on 5 August 2018 and the way it was done has evoked a range of responses. One of the questions being asked is why the Narendra Modi government chose to take the momentous step and how it could do so with such speed? The reasons can be found in the Bharatiya Janata Party (BJP)'s election commitments and the changed make-up of the Indian parliament.

One of the permanent features of the BJP's election manifestoes over the last few decades has been its commitment to scrap Article 370 of the Indian Constitution, which gave J&K autonomy in all areas except defence, communication and foreign policy. The party's manifesto for the 2019 Indian general elections, in its very first section titled 'Nation First', stated that it was committed to the abrogation of Article 370. The [manifesto](#) further said that the party was committed to annulling Article 35-A,¹ which it believed was "discriminatory against non-permanent residents and women of Jammu and Kashmir" and an "obstacle" to the development of the state. Similarly, the 2014 manifesto reiterated the party's commitment to the abrogation of Article 370 although with the caveat that it would discuss it with all "stakeholders".

Indeed, the issue of Kashmir has always been an emotive one for the BJP and its predecessor, the Bharatiya Jan Sangh. The connection began with the founder of the Jan Sangh, Shyamaprasad Mookerjee, who wanted full integration of Kashmir with India after the 1947 partition. He had raised the slogan, "*Ek desh mein do vidhaan, do pradhaan, do nishaan, nahin chalega, nahin chalega* (In one country, two constitutions, two chiefs, two symbols, won't do)". In May 1953, Mookerjee had started out for Jammu, with the intention of heading to Srinagar. The J&K government, headed by Sheikh Abdullah, arrested Mookerjee and put him in a Srinagar jail. Just over a month later, he suffered a heart attack in prison and passed away. The BJP has since pointed to Mookerjee's 'balidaan' or sacrifice as one of the inspirations for integrating J&K with the Indian Union.

The BJP, until now, did not have the numbers in parliament to abrogate Article 370. While the BJP had a slim majority in the Lok Sabha (lower house of parliament) in 2014, it was well short of a majority in the Rajya Sabha (upper house). This had been a major hindrance for the Modi government in its first term. Though the BJP on its own has 78 MPs in the Rajya Sabha, along with its

¹ Article 35A gave only "permanent residents" of Kashmir the right to own property.

allies in the National Democratic Alliance (NDA) the number goes up to 113, which is close to the majority mark of 123 in the 245-member house. Among the regional parties, the Telangana Rashtra Samiti with six members and the YSR Congress Party with two, have supported the government at key junctures, as has the Biju Janata Dal (BJD) with seven MPs. This, along with abstentions, has helped the government push through key legislative changes in the just-concluded budget session of parliament.

For instance, the Muslim Women (Protection of Rights on Marriage) Bill, which criminalised triple talaq, was passed in the Rajya Sabha on 30 July 2019 despite the NDA being short of numbers. The government secured passage of the Bill in the Rajya Sabha with support from the BJD, a walkout by its allies, the Janata Dal (United) [JD(U)] and the AIADMK, and abstentions by as many as 23 opposition members, including those from the Congress, the Samajwadi Party and the Bahujan Samaj Party (BSP). This ensured that the upper house passed the bill by 99 votes in favour and 84 against.

A similar dynamic worked in favour of the government regarding the statutory resolution removing the special status for J&K and the Bill to bifurcate the state. In the Rajya Sabha, the bifurcation Bill was passed with 125 votes in favour and 61 against. Opposition parties like the BSP and the YSR Congress voted in favour of the Bill, while the JD(U) and the Trinamul Congress walked out. In the Lok Sabha, the BJP's overwhelming majority ensured an easy passage for the legislations.

Interestingly, a rift has developed within the Congress, which opposed the government's decision in parliament. After a Congress Working Committee (CWC) meeting on 6 August, where younger party leaders expressed the view that public sentiment was in favour of the abrogation of Article 370, the CWC released a more nuanced statement. The CWC statement questioned the way in which Article 370 was abrogated rather than the very act itself. The statement said that Article 370 "deserved to be honoured until it was amended, after consultation with all sections of the people, and strictly in accordance with the Constitution of India". Thus, there was greater bipartisan support than expected for the government's move.

Another strategy that worked in favour of the government was that it did not abrogate Article 370, which would have required a time-consuming constitutional amendment, but chose to use clause (3) of Article 370, which allows a presidential order to modify the article. The latter was a less complicated process, which required ratification by a simple majority in both Houses.

There are at least two challenges ahead for the government. One, the dilution of Article 370 is likely to be challenged in the Supreme Court. The Court has on multiple occasions affirmed the legality of Jammu and Kashmir having a special status and it remains to be seen how it responds to the latest legislation. The second and more daunting challenge is how to sell the revoking of special status to the people of J&K, who have had no say in the dramatic changes over the past few days, and to ensure peace in the Kashmir valley. Prime Minister Narendra Modi began the process of reaching out in an address to the nation on 8 August 2019. It will, however, require more than words to win over a people scarred by years of violence, uncertainty and a heavy military presence.

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