

CHOPPY WATERS LIE AHEAD

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to The Preamble, Union & its Territories and The Citizenship

In a series of swift moves, New Delhi has effectively altered the character of Jammu, Kashmir and Ladakh, setting certain new terms for engagement. Between August 5 and 7, Parliament passed several resolutions; emasculating the special status of Jammu and Kashmir (J&K); making Article 35A a dead letter; abolishing J&K as a State of the Indian Union and replacing it with two separate Union Territories — the Union Territory of J&K and the Union Territory of Ladakh. These provisions were endorsed by both Houses of Parliament with huge majorities.

The dramatic turn of events, and the swiftness with which they were carried out, stunned the nation. Preceding this, Kashmir had come under a blanket of secrecy. The Amarnath yatra as well as other yatras and similar activities were prematurely called off. All non-J&K personnel were asked to leave the State. Communications with the outside world, including the Internet, were disrupted. An unprecedented number of paramilitary personnel were inducted into the Kashmir Valley and still remain. All combined, it gave the impression of a total lockdown of a kind and on a scale not previously attempted.

The change in status of J&K from a princely State (under the tutelage of the British from 1846 to 1947) to a Union Territory now with few legislative powers, mirrors the State's decline and fall. No special circumstances were mentioned for removing the special status accorded to J&K, enshrined in Article 370 of the Constitution. Article 35A was a casualty of this step. The decision was merely presented as a "fait accompli". Not explained again was the need to take the step under such a cloak of secrecy. The Prime Minister has since characterised the decision as 'historic' and as providing a new beginning for J&K and Ladakh. Further steps have been initiated to complete J&K's integration with India so as to transform Kashmir from a 'civilisational backyard' to a modern State.

It would be an error of judgment, however, to believe that "all is well" in J&K. The nation does confront a situation which could have many, and unintended, consequences. Many '-isms' have, no doubt, collapsed during the past half century and more. Today, communism is a pale shadow of what it was in the 20th Century. Humanism is under threat. Liberal ideas face attacks from all sides. Nationalism is the dominant imperative, and comes in many shades and sizes. India had been slow to adopt nationalism as a creed but is now tilting towards majoritarian nationalism. Whether it would dilute India's "diversity", which had always been regarded as the country's greatest virtue remains to be seen.

The immediate concern in many quarters, even though it is not being publicly articulated at this time, is whether other "Guarantees" enshrined in the Constitution would wilt under the juggernaut of "majoritarian nationalism", with the ruling dispensation having an overwhelming majority in Parliament. Whatever might be the demerits of constitutional guarantees such as Article 370 (which aimed to protect J&K's autonomous status), it cannot be ignored that it was intended to accommodate not only Kashmir's diversity but also to meet prevailing circumstances at the time of accession. Over time, it helped India put at rest speculation, as far as the world was concerned, about the status of J&K within the Indian Union.

It is imperative to recognise that preservation of the asymmetric character of India's federal structure necessitates effecting several compromises. It also needs to be recognised that the manner in which India had dealt with such asymmetry in the past is what has made India and the Indian Constitution the envy of the rest of world. Every Article in the Indian Constitution has

an appropriate role in sustaining India's diverse and asymmetric federalism.

The least of our concerns in the coming days, however, may not be the "dumbing-down" of Article 370 and Article 35A. Equally inconsequential may be the sledge-hammer tactics employed to swat remnants of Kashmir's autonomy. There are far weightier issues that India may have to contend with.

For the present, criticism may be muted regarding the manner in which the changeover in Kashmir was effected. Within Kashmir itself, reeling under a veil of secrecy, it is difficult to gauge the depth of anger and the extent of animosity towards New Delhi. When the current measures are relaxed, a recrudescence of violence in the State can be expected.

International opinion is unlikely — whatever gloss we may apply — to accept at face value our reasons as to why the steps taken in Kashmir were necessary. Already, voices critical of India's actions are beginning to be heard. China made its views clear to India's External Affairs Minister S. Jaishankar on August 12, implicitly rejecting his argument that a bifurcation of J&K and the voiding of Article 370 were India's internal matters. China also did not heed Mr. Jaishankar's caution that "the future of India-China relationship will depend on mutual sensitivity".

Most nations across the world may adopt a similar line, with a few even pontificating that when push comes to shove, India is no different from most other Second and Third World countries, which make and break rules of their own choosing. India could, hence, once again find itself isolated, having to defend its actions in Kashmir in the international fora.

At a time like this, policymakers in India would do well to heed the lessons of history and take suitable prophylactic measures. Without drawing any parallel, one situation that immediately comes to mind is the crisis that ravaged Bosnia in the 1990s, following the break-up of Yugoslavia and the collapse of the post-1945 Communist order. Before the break-up, Muslims, Serbs and Croats lived reasonably amicably in mixed communities. As the war intensified, clashes between different communities increased. Support for, including a supply of arms to, different communities, were forthcoming from nations supporting each group. Pakistan, for instance, was one of the countries that at the time defied the existing United Nations ban on a supply of arms, and airlifted missiles to Bosnian Muslims. What followed was one of the worst carnages in history. We must ensure that nothing of this kind happens here.

We must also realise that the geo-political situation in our region at this juncture is not entirely in our favour. The power play in Afghanistan, together with the fact that India has been excluded from the talks to deal with Afghanistan's problems, and that Pakistan and China are playing key roles, has put India on notice. Pakistan is already using its leverage in Afghanistan to regain greater acceptance internationally, specially with the U.S. The nexus between China and Pakistan has, if anything, become stronger.

We can, hence, anticipate a joint effort by Pakistan and China to muddy the waters as far as Kashmir is concerned. Pakistan will almost certainly intensify terror attacks and whip-up local sentiments inside Kashmir. China, which is already concerned about a "rising nationalist India", is likely to adopt more insidious tactics, aimed at weakening India's influence across the region. Buoyed by the fact that it possesses one of the most powerful militaries in the world and with growing acceptance of the Belt and Road Initiative, China can be expected to raise the ante on both the border and in the Indian Ocean region.

Given the complex nature of the international situation, India also needs to be on its guard on how the situation in Kashmir might encourage radicalist Islam to exploit the situation. Across both Europe and Asia, widespread concerns exist that radicalised Islamist ideas and concepts

thrive in conflict situations. Experts warn of the inherent dangers in such situations, and their recipe is that apart from utmost vigilance devising more inclusive and diversified policies is important to achieve positive results. Policy makers in India would do well to heed these concerns.

One final word. The removal of Article 35A should not result in demographic “aggression” in Kashmir, with outsiders seeking to “colonise” Kashmir. This could be highly counter-productive. It could also induce fears across the entire Northeast, even though Article 371 still holds sway there. In short, authorities must avoid any kind of ‘colourable exercise of power’ in many other areas as well, including on the language issue.

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