

Article 370 is a Red Herring

The Statesman, 28th August, 2014 uuuu

The brouhaha over special status for Jammu & Kashmir is aimed at deflecting attention from failures of governance, argues Govind Bhattacharjee

The shrill voices of Mr Omar Abdullah and others on Article 370 are but a vain attempt to deflect public attention from the failure of his Government on the real issues which are governance and economy. The circumstances of accession of Jammu and Kashmir to India are well known. While accepting the Instrument of Accession on 27 October 1947, Lord Mountbatten had promised that the question of state's accession should be settled by a reference to the people.

The United Nations Security Council Resolution 47, adopted on 21 April 1948, recommended that "in order to ensure the impartiality of the plebiscite, Pakistan withdraw all tribesmen and nationals who entered the region for the purpose of fighting and that India leave only the minimum number of troops needed to keep civil order." Till the end of 1953 India was not unwilling to conduct the plebiscite, which could not be held because Pakistan did not withdraw its forces from POK as implied in the Resolution. Meanwhile, in 1956 the Constituent Assembly of J&K ratified the accession of the State to India.

The strained Indo-Pak relations and geopolitical considerations forced the Indian Government to take the stand that Kashmir's accession to India had become a settled fact and that plebiscite was no longer an option. The Indian public stand has since remained unchanged that the entire Kashmir, including the POK, is an integral part of India. India today controls about 48 per cent of the former Princely state of J&K, with Pakistan controlling 33 per cent in Gilgit-Baltistan and Azad Kashmir. China controls the rest 19 per cent in Aksai Chin since 1962.

Article 370 of the Constitution was adopted by the Indian Constitution Assembly in 1949. It guaranteed a special status and internal autonomy for J&K, with Indian Parliament's jurisdiction being limited only to three areas - defence, foreign affairs and communication, the state retaining its autonomy in all other matters. The state was authorised to have its own flag, Constitution and Constituent Assembly. It could elect its Head of State called Sadr-e-Riyasat and to designate its Chief Minister the Prime Minister. The fundamental rights guaranteed in the Indian Constitution did not extend to the State, and neither did the emergency provisions under Articles 352 or 356 of the Indian Constitution. The Supreme Court of India, Comptroller and Auditor General of India or the Election Commission of India did not have any jurisdiction over the State. The Union could not make laws with respect to the State without its concurrence. But "Article 370 - Temporary provisions with respect to the State of Jammu and Kashmir" - was meant to serve only as a temporary measure as the name implies.

Over the years, the State's special status under Article 370 has significantly been undermined. In July 1952, an agreement, known as the Delhi Agreement, was signed between the Indian Government and Sheikh Abdullah, by which the provisions of Indian Constitution on fundamental rights, jurisdiction of the Supreme Court of India, Comptroller and Auditor General of India, Indian Parliament's authority to make laws for the State and emergency provisions under Article 356 were extended to the State. Hereditary rule was abolished, a separate flag for the State along with the national tricolour was allowed and the 'State subjects' were allowed to continue with special citizenship rights of the Indian Union. Nomenclature of the 'Sadr-e-Riyasat' was also changed to Governor and that of the Prime Minister of Jammu and Kashmir to Chief Minister. The state civil services have also since been integrated with the Indian civil services.

While the origin of the present imbroglio in Kashmir can be traced to events following from the partition, later events only added to the mess. Repeatedly rigged elections leading to loss of faith in the legitimacy of the electoral processes within the State, frequent Central interventions and dismissals of governments on flimsy

grounds, political manipulations and replacement of one set of corrupt administrators and legislators by another equally corrupt and incompetent - all these have exacted their tolls and made the Kashmir problem rather intractable.

Besides Pakistan has maintained elaborate terrorism architecture in POK. Thankfully, militancy has been on the wane in the beautiful Valley in recent times and life is slowly returning to normalcy. Kashmir today needs a competent and honest administration like never before, with reinforcement of sound democratic practices and transfer of power to the people at grassroots which Mr Abdullah's Government has miserably failed to do.

As regards Kashmir's economy, issues are, however, more complex, but we should not lose sight of the fact that J&K not only enjoys a special status under Article 370, it also belongs to the privileged group of eleven states collectively called "special category" since 1969 - in consideration of its low resource base, geographical remoteness, difficult hilly terrain and strategic location along the border. A special category state has easy access to Central assistance in the form of liberal plan grants. Actually, the special category status of Jammu and Kashmir carries much more significance for the state than the much diluted Article 370. Abrogation of Article 370 is unlikely to make much difference to the State's development, but denying its special category status will surely jeopardise its economy and growth prospects seriously. The high-pitched rhetoric of Mr Abdullah asserting that either Article 370 will remain or J&K will cease to be a part of India thus lacks substance.

In fact, the state was accorded the special category status precisely because, like all other special category states, it lacked the resources for development. The same structural weaknesses continue to plague its economy even now, making it heavily dependent on the Indian state for its survival and growth. The state income (Net State Domestic Product) grew at an average annual rate of 4.2 per cent during Mr Abdullah's rule, compared to 5.5 per cent during the previous five years or 5.4 per cent during the peak of militancy (1987-88 to 1993-94). However, there are many factors responsible for economic growth and it would be unfair to attribute the tardy growth to Mr Abdullah's rule alone, especially in the aftermath of economic meltdown of 2008-09. In fact, the level of economic activities in J&K has been stagnating for a long time, and the economy was increasingly being sustained by Government spending largely financed by Central grants, share of which in the gross state income (Gross State Domestic product or GSDP) had increased from 9 per cent in 1980-81 to 26 per cent in 2010-11. Central funding certainly played a positive role in bringing down the state's poverty ratio from 41 per cent in 1973-74 to only 3.48 per cent in 1999-2000.

However, poverty ratio had indeed increased to 10 per cent in 2011-12, when Mr Abdullah was at the helm of affairs, after becoming Chief Minister in January 2009. But the decline in poverty earlier was not due to generation of new employment or industrialisation, but due to more tertiarisation of the economy as a result of higher Government spending in a state without any industrial infrastructure. Government's total expenditure constituted more than half of State GSDP in 2010-11. The underlying fact is that there has been very little real development. Mr Abdullah and his predecessors are responsible for this, despite the fabulous Central grants flowing into the state every year, paid for by taxpayers in the rest of the country.

In 1969-70, when it had become a special category state, the state's own tax and non-tax revenues together amounted to 40 per cent of its total receipts; Central transfers accounted for the rest. Like all other special category states, economically J&K was overwhelmingly dependent on the Centre. Successive decades had, however, seen a progressive worsening of this dependence. Of the total revenue receipts of Rs 22234 crore in 2010-11, about 80 per cent came from the Centre - 66 per cent came by way of Central grants, and 14 per cent from state's share of central taxes.

J&K also remains one of the most heavily indebted states in India. Even in 1969-70, its debt constituted 93 per cent of its GSDP - the highest in India. After enacting the Fiscal Responsibility and Budget Management Act (FRBMA) in 2005-06, things improved and the Debt:GSDP ratio was brought down to 47 per cent in 2010-11, still among the highest in India. Even though the state now generates a substantial revenue surplus, it is not enough to contain its gross fiscal deficit within 3 per cent of GSDP as mandated by the FRBMA - it was 5.1 per cent in

2010-11.

In 2010-11, J&K raised only Rs 3483 crore from its own revenues, which was far short of meeting its debt servicing charges of Rs 6215 crore, not to talk any other Government expenditure. Without Central grants amounting to almost Rs 15000 crore a year, there would be no money left for the State to pay salaries to its staff and then to spend on education, health, roads or power. During the 11th Plan period, the State had spent Rs 25833 crore on various plan projects - almost entirely from the Central plan grants, but people's life has not changed. Before threatening secession, Mr Abdullah should take a hard look at the ground realities and not stoke up the old hatred and angers afresh.