



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

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THE KASHMIRI PARADOX.

AUTHORED BY - AYUSH KUMAR

Abstract.

how carelessly imperial power vivisected ancient civilizations. Palestine and Kashmir are imperial Britain festering blood-drenched gifts of modern world, but fault line in ranging conflict today - Arundhati Roy, Indian author. Kashmir has always been more than mere place; it has quality of experience or state of mind or an ideal - Jan Morris, Welsh historian. These two beautiful quotes are poles apart even when they are talking about the same place that is Kashmir. This is a reason why I call it the Kashmiri paradox. When I started reading about Kashmir I found it very confusing because Kashmir is at both ends of the spectrum. At one end Kashmir is heaven on earth at other end it is place where genocide took place, not once not twice but seven times. At one end Kashmir is land of Shiva and saraswati, very peaceful at other end it is the witness of sheer terrorism by Samsuddin Iraqi terrorism whose commanders daily killed 1500 to 2000 Kashmiri pandits because those terrorists failed in converting those evolved soules, by raliiv, galiv, tsalive _exact description in the biography of Samsuddin Iraqi, written by his own son, how funny that we know about hitler but we don't know about Iraqi and now as I am discussing about a paradox how can I forget about article 370, one of the most controversial and debated and researched topic. I read much of the research around 370 and you know what is funny that all papers written by Hindus carry almost the same opinion that 370 is a progressive step and all papers written by Muslims carry the same opinion that this abrogation is unconstitutional, but I haven't found any neutral opinion. So I thought that as a law student I must research this topic and give all the possible perspectives about article 370.

● Introduction.

Let me introduce you to article 370. You will get many opinions on this issue but I will give you all the proofs about my every claim. So I will start with our constitution, that is Gita, Bible, Quran and Granth Sahib for everyone in India, basically the core of article 370 was that it was limiting the power of Indian constitution on Kashmir, things like article 238 part B mention states which signed instruments of accession and then for no reason on 1952 Kashmir got separated from

article 238 part B and on 1956 because of 7 th constitutional amendment, article 238 was removed, how complex. But really it is not let me tell you, we are fooled by so many years about Kashmir issue by our so called political leaders, lefty media and historians. So let me clean your eyeglasses, we heard for decades that King of Kashmir shree Maharaja Dhiraj Mahendra Rajendra Hari Singh ji signed conditional document with India and he haven't given whole Kashmir to India may be this can be his intention but truth is that instrument of accession was same for all the states so Kashmir is not special in this regard but actually Kashmir is special in different scenario the Kashmir was a "silicon valley of millenium" so I strongly support the abrogation of article 370. I have not seen the time when we got independent from foreign invasion but the happiness I felt in the eyes of people may be the same. Kashmir was a Hindu majority State before 13 the century but invasion after invasion changed the who demographic and it became Muslim majority and the conspiracy was going on to make Kashmir as Pakistani territory. Some intellectual terrorists like Nivedita Menon, JNU professor talks about "Plebiscite" this is not a word this is a mistake by our first honourable prime minister Shri Jawahar Lal Nehru In his very famous speech he said the once things will normalise he will conduct Plebiscite and people will decide that what the want I call it **Kashmir Trinity** either go with Pakistan or be with India and the third option is to keep Kashmir independent, but third option isn't feasible and it's not my this is something which lord Mountbatten opined and one more intellectual terrorists I will like to mention is one on my favorite writer Arundati Roy she always say that Kashmir is not an integral part of India this is absolutely wrong. Kashmir is, was and will be the integral part of India Kashmir has given everything which India is proud of today be it panchatantra, knowledge of Advaita, astronomy and much more, and all those who believe that Kashmir is not an integral part of India then all the states which signed instrument of accession is not an integral part of India and let me tell you all India state is part of India because they signed instrument of accession so if this is the case there is no such thing as India. Maybe there are thousands of Kashmiri paradoxes but there is no doubt that Kashmir belongs to India and every thing that belongs to India comes under the purview of the Constitution of India which is the law of land and all those who have disagreement with this issue our Constitution only gives them this right. Kashmir is said to be named after The Mystic Kashyap. Kashmir is not only a paradise because of scenery but really because of knowledge of Kashmir accumulated by great Mystics proud of India. I know people, this is a myth, but for me this is Indian history. I believe that absence of proof is not the proof for absence. So this abrogation of 370 is not a complete solution but it is a beginning of a solution

and we must appreciate this beginning there will always be the ignorant person and may be they are not ignorant they just do not want to see the truth and they also do not want others to discover the truth because it hampers their agenda but hiding the truth will hamper my agenda and the agenda of true Indians. So let us walk the path of truth and let people make ugly faces.

Contents.

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Anti- abrogation sentiments.

"Truth is not always a wonderful thing. Truth can lead a divorce. Truth instigates wars. Truth can divide countries. Truth can also kill. Truth indeed is a deadly thing." From the book **who killed shastri, by Vivek Agnihotri, writer, director and filmmaker known for Tashkent files and Kashmir files.** I agree with what he said but truth is sometimes wonderful, lies are always dangerous, truth can lead to divorce but lies surely will. So lies are always dangerous but we must listen to them to understand the truth in a better way. So there are people who are against the abrogation of 370 so let us examine their views. Let us look at the view of Abdul Gafoor Majeed Noorani, lawyers, writer and political commentator opined that he respects the Constitution but he also says that it does not matter what Constitution says about the issue. In his opinion Kashmiri people's opinions are more important than constitution and he thinks this abrogation happened by coercion and compulsion but I feel differently that real Kashmiris are ok with this abrogation and political motivated people and the supporters of Azad Kashmir jihadis are sad because their agenda has fallen apart, Mr Noorani as a lawyer knows that this decision is constitutional as I can infer by his opinion. So he is playing with popular opinion and human rights, but for me people whose opinion is against Constitutional values is not valid. Two congress spokesperson and prominent lawyers **Kapil Sibal and Abhishek Manu Singhvi** they are finding

it difficult to say that abrogation is illegal but I do not know why they have a problem with this but want imposition of 370 again and they are finding loopholes in process and I think when action and intention is process can be overlooked. I read many articles on it and I found most of the anti- abrogation people have no substance so they can only blame the process. So I can say that this abrogation is completely Constitutional.

Pro- abrogation sentiments.

There are two sides of every story,now see the pro- abrogation side of the story. First of all I would like to start from man of the moment himself our honorable home minister shri **Amit Shah** first of all I would like to salute him for dedication towards this wonderful country that is India and I would like to quote him that"when I say Jammu and Kashmir in this parliament it includes Aksai Chin and Pakistan occupied Kashmir" and then he says that Kashmir is integral part on India and this is undisputed fact and so why Kashmir will not follow Indian Constitution and this is very correct argument present by mister home minister.Former attorney general **Shri Soli Sorabji** opined that 370 was a temporary provision neither it was an essential feature of constitution nor it was present in a basic structure doctrine so it was not beyond amendment so there is nothing unconstitutional about it. 14 attorney general of India **Mr Mukul Rohatgi** also supported abrogation of article 370 he opined that it was a temporary provision it was inserted in 1954 for bringing peace and progress in Jammu and Kashmir but it only given tension and terrorism to Jammu and Kashmir so the article was inserted by presidential order by then President **Dr Rajendra Prasad** and removed by presidential order by now president **shri Ramnath Kovind** and many people with anti- abrogation sentiment questioned the process of abrogation and declared it wrong but **Mr Rohtagi** said that if there is no state assembly the governor is government,and this is a Constitutional scheme. Political scientist **Subhash Kashyap** and prominent lawyers **Harish Salve** believe this decision as Constitutionally sound. So Shown you both the sides so choose wisely and want my readers get opinionated by reading this I want them to subjectively and objectively analyze this topic and make there own opinions because I am also bias towards my Country, India that is Bharat so You need not to go by my opinion you can keep your own loyalties.

Why is Kashmir important?

When I was searching about Kashmir and 370 I got this question that why is Kashmir really important for India and then I found that is important because of History it contains which our intellectual terrorists lable as mythology. So as philosopher **George Santayana** says "those who do not learn from history are doomed to repeat it "so I do not want my readers to commit this mistake about which George Santayana mentioned. So everything in Kashmir started with **Rishi Kashyap** founder of Kashmir valley and Kashmir was a knowledge center people like Sankara charya, Abhinav Gupta etc came to Kashmir for research on different topic that will benefit the human civilization, and in the course of my research I also found that why Kashmir became center of research this happened because there is special quality in mountains that it takes away everything you are carrying in your mind and make you look beyond your limits and then you know the unknown, so the Kashmir was very conducive for research. Kashmir is a center for Shaivism and Buddhism and Kashmir was known for its temples that are not there now because Islamic invaders demolished them that was a cultural genocide and we must remember these things we can forgive but must not forget. We do not know about **king Lalit Aditya** who is given the title of world conqueror in the book of **Kalhana** named **Rajatarangini** no one told us about this history our education system filled our minds with history written by winners of wars and in Indian perspective they are dacoits. This history we do not know but then also these are historical facts and this is why Kashmir is important. Kashmir is our culture, it is our pride and there is no doubt that Kashmir belongs to India. Today we are very fond of watching Netflix. The art and science of drama is Natya Shastra. It is written in Kashmir by our own mystic Bharat Muni. So Kashmir is a paradise created by scholars of India and so this Kashmir belongs to our scholars and so it belongs to us as their heritage, because fighting for land is not our legacy but we can not disrespect our scholars by giving their heritage to someone else.

After effects of abrogation.

"Paradise is a promise no god bothers to keep. There is only now and tomorrow nothing will be the same, whether we like it or not " -Heidi Helig, the girl from everywhere. The quote I mentioned above is not just a quote, this is what I believed about Kashmir but I was wrong. It's late at God's house, it's not dark. It took time but things changed old terrorism buisness closed and new buisness, jobs, any many more things are spreading wings in Kashmir two years is not enough to judge Kasmir the infrastructure development is also with fast pace at time when

Kashmir was under 370 government was spending nine and half thousand crores on hooriyat leaders whose agenda was to make Kashmir the pakistani territory but what can we expect from that government who calls yaseen Malik in biggest office of India. Whose organization killed Not only Hindus, but Sikhs, gujare, dogras, buddhists and also moderate muslims basically everyone who is against terrorism. This is called **administrative genocide**, but now these things cannot take place in Kashmir now people in Kashmir will study, go for jobs, youth of kashmir, youth of India will no more become brainwashed nihilist. My India will change, my kashmir will change, when youth will change I am Student of law not an academician so urge youth to get entitlement and search for truth and demand Justice and this will be the biggest after effect of abrogation of article 370, this must happen to us. This will be the start of Indic renaissance 2.0. Our youth is Arjuna, who is confused because there confusion is someone's business so let us journey of becoming Krishna by knowing the truth which are hidden and ignored and abrogation gives us this chance so let us celebrate abrogation of article 370 and let people die with sorrow of losing there terrorism business.

Literature review.

We look outside the window and we think too much is happening and when we actually see too much happening in the real world we become unable to see those things.- Manav Kaul, actor and writer. I always thought I have too many problems in my life but when I started writing about Kashmir I found that my problems are nothing in comparison to their problems. So now let's look at Kashmir with the lens of literature. There is too much literature around Kashmir, some written about the Scenic beauty of Kashmir, some out feelings of Kashmiriyat, some about sorrow of Kashmir and others about azadi. So let's look at very diverse literature around Kashmir. First let's begin with the movie the Kashmir Files. This movie is a wonderful part of literature. It has the fine nuances of filmmaking and real literature. In making this movie **Vivek Ranjan Agnihotri** broken all the convention of film making this film has a path breaking impact on film industry this film is slow paced which may bore the audience, this film needed brainstorming which people do not like to do while watching a movie but then also this movie performed overwhelmingly well and if we will see it as income and expenses this movie is ten times or more bigger success than bahubali so as a movie this is a blockbuster. Now look at it with a literary aspect. In this movie every character's name is in the name of Hindu gods, this is a metaphor that Kashmir is a land of Hinduism. In almost every frame there is a fire and this signifies agnihotri culture which

is developed in Kashmir, this movie shown many different narrative I call it multi- narrative style of storytelling. In this movie the acting is so raw that you will feel that actors are just present there and they are not aware of a camera and this is real literature, this is a flow state which always creates great literature and art. The next peice of litrature I will be talking about is Azadi- freedom, facism and fiction by Arundhati Roy one of a greatest writer's of our time as Naomi Klein opined and actually it's correct she move people by her writing she make people believe in a lie more than even a truth now lets talk about a book the book talks about concept of freedom and it basically currated an essays based on it and basically it is about kashmir and about atrocities muslims suffered and yet suffering in a valley this is book is a gripping tale but for me it's nothing more than a fiction but yet it's must read. For all those who are thirsty for reading something good. Next book I will be talking about is blood clots on the moon about real story,pain and real atrocities pain of Kashmiri pandits this book is written by Rahul pandita in this book his tells his own story he narrates his story when milk man used to come and he he watches Rahul family renovating his house and milkman asks that you are renovating you have to leave kashmir one day. There are more such stories of people celebrating the win of Pakistan and burning the houses of Kashmiri pandits etc. The last but not the least the book I am going to discuss is written by Advocate Monica Arora name of the book is facts and law on 370 and 35a this is very brief book just about 106 pages and this is must read and book talks about history of kashmir starting from kashyap till present time I feel did such fabulous job of encapsulating such a complex topic in very less words and great details.literature is a lense which helps you to look at any topic with different approach.

Azadi- The song of terrorism.

Azadi is a song of terrorism or it is a chant for freedom. when bullet shots people do not shout, breathing stops and heart chokes and devils sing azadi and dance near the corpse. Heart-melting to imagine this scenario,but people who support azadi say that if India can take azadi from English why Kashmiri can not? If political parties can keep their flag, why can't Kashmir? If Bhagat singh is celebrated why Burhan Wani is not?whole world thinks that India illegally occupied Kashmir. Newsweek, Washington Post, New York Times never show Kashmir on the Indian map, any document of any powerful country in the world does not show Kashmir on the Indian map because the world believes that Kashmir is not an integral part of India. Abu Salem and Ajmal Kasab case was delayed for year but Afzal guru have not got a chance to meet his family and so

JNU leaders or I can say tukre- tukre gang shouted "Afzal ham sharminda hain, tere katil zinda hain" who is a killer I our court our Judges? In kashmir child grown without seeing the face of there father in hope that one day my father will arrive when that child questions,we label them as Islamic terrorist. So if he will not throw stones will he throw flowers and when you will speak about this facist you will be labeled as anti- national, they say things like go to pakistan. So for this issue the youth of kashmir have got up for "azadi" azadi from "manuvad" "azadi" from atrocities. We have to become the voice of suppressed. Those are labled as terrorists they are actually freedom fighters these are lables as presure cooker the same lable which Chandra Sekhar Azad, Bhagat Singh and Rajguru got labled. They want to eliminate "anaal haq" and there weapon is love and present Indian government labled it as jihad, because they want to establish fear in the heart of people and Indian army is one who is responsible for genocide in kashmir they killed, hindu, sikh, buddhisht, dogra and muslim and blamed it on freedom fighter for weaking the kashmiri freedom movement. This is a monologue used to brainwash stone peddler to fight against Indian army to hamper the peace in kashmir so decide yourself that what is true? and what is not? by your own subjective analysis I do not want to brainwash you I want you to think and identify the truth and I want you to prove for brainstorming and reaching to the conclusion and my conclusion can be different and your conclusion can be different, because I believe in Mahabharata what krishna Said to Arjuna after telling whole Bhagwat Geeta Krishna said to Arjuna that do what you wish. ``yatha ikchasi tatha kuru".

Conclusion.

"Janani Janmabhoomischa swargadapi gariyasi"

This means mother and motherland are superior to heaven - **lord rama, Ramayana**. Lakhs of our soldiers sacrificed their life for their motherland and thousands of them died for Kashmir. So In my research paper I tried to give you all the perspective about kashmir and you must decide yourself that what is right and what is wrong and now before ending let me give you my bias opinion and let me tell you my agenda and yes I am bias and I don't hide this fact that I strongly believe that Kashmir is an Integral part of India including Pakistan occupied Kashmir and Aksai Chin and all those liberal people who want Azad Kashmir let me remind them that when first time pakistan sent terrorists to attack on Kashmir, India is one who helped Kashmir and so how azad will will protect themselves from Pakistan so azad Kashmir is a bad idea and giving pakistan to Kashmir it will never happen our Indian army will never let it happen. Abrogation of article

370 is a great start in the progress of Kashmir. Kashmir is heaven on earth and that heaven belongs to India.

Bibliography.

The sources I used for the research are as follows:- **1.** Google scholar **2.** The Kashmir files **3** Newspaper editorials **4** Abp news docuseries pradhanmantri **5** drishti ias **6(1)** books- azadi-freedom, facism, fiction **6(2)** Facts and Laws **6(3)** blood clots on the moon. **7** from the speeches of professor **8** Times now documentary **9** Dr Surendra poonia podcast with the Ranveer Allahbadia **10** television news coverage

