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Kashmir/India

# Radical Socialist (India) statement on the Scrapping of Articles 370 and 35A

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**Radical Socialist resolutely and unequivocally oppose and condemn the effective abrogation of the fundamental meaning and purpose of Article 370 and the overturning of Article 35A. This was carried out through anti-democratic, unconstitutional legal manoeuvrings and accompanied by the deliberate armed intimidation of the people of Kashmir. What has taken place is dishonest and a fraud on both the letter and spirit of the relevant Constitutional provisions.**

Abrogation of Article 370 could only have been done with the assent of a reconstituted J&K Constituent Assembly which was dissolved in 1957. So first a Presidential Order impermissibly (without a Constitutional amendment) changes Article 367 so as to shamefully equate the J&K state assembly which has representative authority to the Constituent Assembly which has a superior sovereign authority. Since there is President's Rule in J&K, on the recommendation of the Governor, the President then acts to scrap Articles 370 and 35A.

Furthermore, for the first time in the history of independent India, a Reorganisation Bill was presented and passed in the two houses of Parliament to downgrade a region having the status of a state into two bifurcated Union Territories of J&K, which like New Delhi and Puducherry will be allowed to have a legislature, while Ladakh will join the five other Union Territories that have no legislature. This Reorganisation Bill at least would not have gone through if it was not for the pusillanimity of the opposition parties which went along with the BJP.

The Congress (most responsible historically for systematically eroding J&K autonomy) formally opposed these actions by the current government but with some of its leaders (e.g., Abishek Singhvi and Jyotirmoy Scindia) and members voicing objection to the manner in which this was done but not to the outcome. Only the mainstream left parties immediately organised street protests and called for an all-India day of protest.

Let us be very clear, the main motivation for this sanctioning of a brazen political and military occupation by the BJP government and Sangh is

- a) first, hatred of Muslims and the fact that this was the only Muslim majority state in the country.
- b) Second, it expresses the determination to humiliate the Valley population hence the prior sending of 35,000 more troops beyond the more than 650,000 armed personnel already there, along with house arrests of leaders of the mainstream Kashmiri parties, curfew orders and a complete communications lockdown on the whole of the Valley population.
- c) Third, it is to further advance the project of establishing a Hindu Rashtra.
- d) Fourth, it is a way of sending a geo-political message to Pakistan, the US and the rest of the world that there is no longer any 'regional dispute' that must be settled bilaterally with Pakistan, let alone that it should feature in any way on the UN or international agenda, humanitarian considerations be damned!

## **What now to expect in the shorter and longer run**

The issue will be taken to the Supreme Court (SC) and a Constitution bench will be set up. This bench, given how

suborned the SC has now become to the will and power of the Executive, will never have the courage or integrity to even give a stay order temporarily halting and reversing what has been done till a final judgement is reached, let alone be honest and faithful to the precise constitutional provisions regarding these Articles. This bench can be fully expected to endorse by a majority, if not by consensus, the abrogation of 370 and 35A. It is possible, but still unlikely, that there will even be a ruling against the downgrading of status from state to Union Territory in either or both of the cases.

A Delimitation Commission is very likely to be set up probably before forthcoming elections to the J&K legislature to gerrymander more assembly and LS seats for the Jammu region so as to enable a majority for the BJP and allies via future elections.

Scrapping of 35A was necessary to begin the process of changing the demography of J&K, including of the Valley, so as to eventually render Muslims living there a minority.

In the Valley there will be growing anger and deeper and wider public alienation from the rest of India especially among the youth. There will very likely be greater recruitment and support for, as well as collaboration with, cross-border insurgent forces themselves abetted by the Pakistan government. This, and even non-violent mass actions will be taken as an excuse by the Indian government and armed forces for the exercise of greater brutality and repression including use of the newly amended legislations on 'terrorism' and the Unlawful Activities (Prevention) Act or UAPA to arbitrarily and pre-emptively arrest, harass and even torture those deemed as 'suspects'.

For all the talk about how development in the region was stalled and can now proceed, in actual fact the Sangh's Hindutva project in the Valley is to 'integrate' it by trying to completely finish off all popular resistance through brutal force and enduring military occupation.

The likelihood of cross-border military skirmishes with Pakistan rises significantly as also the possibility of these turning into a conventional war of some scale and degree thereby also raising the chances of a miscalculated or inadvertent nuclear exchange breaking out.

The fact that this move by the current government will generate throughout the rest of the country far more public support than opposition, reflects how deep and widespread are the tentacles today of a hubristic, aggressively muscular Hindu nationalism. None of the opposition parties, including the mainstream electoral Left, have consistently or seriously opposed this anti-secular and anti-democratic way of trying to build a 'strong' India. This way of thinking has become largely hegemonic and requires a long term fight by a new intransigent Left.

## Our Position

We warn that the erosion of federalism and state powers more generally, is very much part of the Hindutva project and carries a danger even for those regional forces who think they can grow and expand through their despicable alliances and tacit agreements with the BJP at the Centre.

We call on all progressive-minded people who recognise the Hindutva project for what it is and oppose it, to stand in solidarity with the people of Kashmir. Justice and respect for Kashmiris demands the immediate de-militarisation of the Valley and the complete freedom for them to move around, to voice their legitimate anger at how they have been treated and to democratically protest in whatever way they see fit.

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We strongly oppose the kind of exclusivist, culturally racist and militaristic nationalism that is being generated and of course reaffirm the right to full political self-determination by the oppressed people of Kashmir.

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