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The Politics of Reorganization: The Case of Jammu & Kashmir and Nagaland

ABSTRACT

The erstwhile Indian state of Jammu & Kashmir and Nagaland are two, among others, granted special provisions by the Constitution of India under Articles 370 and 371 A, respectively. While the erstwhile state of Jammu & Kashmir enjoyed its own Constitution, a separate flag, and independence over all matters except foreign affairs, defence and communications, the state of Nagaland was granted special provisions to protect the rights of the tribal population. The Kashmir Reorganisation Act (KRA, 2019) which demoted the former state, hiving it off into two Union Territories, triggered questions about the future of Article 371 A that guarantees certain special provisions for Nagaland. This article puts forward two arguments: first, the KRA 2019 is like any territorial reorganization dictated by the political exigencies of the time. As such, at the right time and with political will, Article 371 A and the special provisions for Nagaland can be revoked. Second, Article 371 A will unlikely be diluted just yet. The Government of India may not risk

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diluting or revoking the special provisions for Nagaland as its history and the central government's relations with Nagaland is intricately linked to the Naga national movement. The ongoing negotiations between the Government of India (GoI) and the National Socialist Council of Nagalim-Isak Muivah (NSCN-IM) since 1997 are at an advanced stage and any drastic changes will prove detrimental to the interest of the GoI.

Keywords: Politics of reorganization, Article 370, Kashmir Reorganisation Act 2019, Naga movement, Article 371 A

The reorganization of states and their re-demarcation within the national boundary is often associated with debates on federalism centering on internal remapping. Such a measure is sometimes dictated by rising ethnic and religious nationalism fueled by “new forces of interdependence and globalization” that perceive a need to contain or obstruct the demand for autonomy.¹ India is no stranger to internal and territorial reorganization, the most recent being the Kashmir Reorganisation Act (KRA, 2019) which demoted the erstwhile state of Jammu & Kashmir, hiving it off into two Union Territories of Jammu & Kashmir and Ladakh.

The reorganization of states in India broadly falls under three categories: the linguistically-based states, special provision states, and states created for the purpose of administrative efficiency/convenience. Each of categories were implemented in waves. The linguistic reorganization of states was carried out in the mid-1950s. The special provision states were created in the 1970s except for Nagaland (which

¹ Maya Chadda, “Integration through Internal Reorganization: Containing Ethnic Conflict in India,” *The Global Review of Ethnopolitics* 2, no. 1 (2002): 44-61. DOI: 10.1080/14718800208405122



was created in 1963). The third category of states were established from 1999–2001 comprising the states of Uttarakhand, Chhattisgarh, and Jharkhand for reasons of administrative efficiency. The newest state of the Indian Union, Telangana, was carved out of Andhra Pradesh in 2014. There is a difference of opinion as to the reason for the creation of Telangana. While the central government maintains it was a step towards a more efficient administration, it was clearly a result of the Telangana movement for linguistic and cultural differentiation that sought a separate territory.²

The first wave of reorganization on linguistic lines supposedly strengthened democracy within the states. The second reorganization wave was essentially the division of the state of Assam into different states: Nagaland in 1963, the grant of statehood to the Union Territories of Manipur and Tripura in 1972, the establishment of Meghalaya, an autonomous state within Assam as a full-fledged state in 1972, and the creation of the state of Mizoram and Arunachal Pradesh in 1987 out of ‘undivided Assam’. Thus, the breakup of Assam was clearly an exercise in catering to the various demands for autonomy or separation along ethnic lines. This was no ordinary task as the region was “a patchwork of tribal and mixed linguistic communities.”³ As such, the reorganization of Assam in Northeast India was extremely sensitive in that it had the equal possibility of further integrating the region with the rest of India as much as becoming a cause to spur separatist movements in the region. The breakup of Assam and the grant of statehood were also motivated by “electoral and political considerations”⁴ and was instrumental in

² “The Story of India’s 29th State—Telangana,” *The Hindu*, June 1, 2016.

³ S.M. Dubey, *Socio-Cultural Plurality versus Multi-Nationality: The Relevant and the Absurd in the Indian Context* (Chandigarh: M&D Printing Press, 1984).

creating a support base for the Congress Party, the ruling party at the time, which led to a thumping majority for the party in both the Lok Sabha election in 1972 and State Assembly election in 1973.⁵ The third wave of the reorganization which constituted the states of Uttarakhand, Chhattisgarh, and Jharkhand took place during the tenure of the National Democratic Alliance government in 1998–2004.

The linguistic reorganization of states in the mid-1950s opened the floodgates, posing a challenge to the founding leaders' intention of a unitary and united India. Demands for more autonomy on linguistic lines and ethnicity continued into the eight decades of India's independence. The waves of states' reorganization and the debates triggered by it fashioned 'India's federal balance' and "uncover the ways in which ethnic plurality, federal arrangements, and democracy have taken shape in India."⁶ The debate on whether such reorganization of states have strengthened or weakened Indian federalism continues with no clear direction even today.⁷ Perhaps the only thing clear is that the reorganization of states is shaped and motivated by political exigencies of the time.

The Constitution "envisaged the creation of a layered territorial and administrative order but little was said about the kind of federal units the Indian Union was to have, or the basis on which they would be

⁴ Sanjib Baruah, *India Against Itself: Assam and the Politics of Nationality*, (Philadelphia, PA: University of Pennsylvania Press, 1999).

⁵ Chadda, "Integration through Internal Reorganization."

⁶ Ibid.

⁷ Selig Harrison, "An Overview, Region and Nation in India," in *Region and Nation in India*, edited by Paul Wallace (New Delhi: Oxford and IBH Publishing, 1985), 300–308.



created.”⁸ Article 3 of the Constitution states that the Parliament “may by law form a new state by separation of territory from any state or by uniting two or more states or parts of states.”⁹ The bill may be “referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.”¹⁰ The bill ‘may be referred by the President to the legislature’ but the ultimate decision lies with the Parliament as evident in the Andhra Pradesh Reorganisation Act of 2014, commonly referred to as the Telangana Act 2014. The bill for bifurcating Andhra Pradesh into Andhra Pradesh and Telangana was first presented in the State Legislative Assembly and rejected. The same proposal was presented and passed in the Lok Sabha and Rajya Sabha on 18 and 20 February respectively. The bill was then attested by the President on March 1, published in the Official Gazette on March 2, and Telangana and Andhra Pradesh became two separate states on June 2, 2014.¹¹ This shows that the reorganization by invoking the Constitution and insertion of clauses and articles was masonry born out of political exigency.

In short, it boils down to political will: how strong and determined the ruling party is to alter state boundaries and reorganize states. The fact that the Congress Party was in power in the state of

⁸ Chadda, “Integration through Internal Reorganization.”

⁹ “Formation of New States and Alteration of Areas and Boundaries or Names of Existing States,” Article 3, Part 1, Constitution of India, <https://www.constitutionofindia.net/articles/article-3-formation-of-new-states-and-alteration-of-areas-boundaries-or-names-of-existing-states/>

¹⁰ Ibid.

¹¹ “Gazette Notification of Commencement,” *The Telangana Gazette*. Notifications by Government. Government of India, June 2, 2014. <https://tsgazette.cgg.gov.in/viewDocument/1415339153452>

Andhra Pradesh and the Congress-led United Progressive Alliance (UPA) was in the power at the Center was an important political alignment enabling the successful passing and implementation of the bill.

J&K and Nagaland: A Tale of Two States

The state of Jammu & Kashmir (erstwhile) and Nagaland were both granted special provisions within the Union of India through Article 370 and Article 371 A, respectively. (There are special provisions for different states through Articles 370 and 371 (A-J) but for the purpose of this paper, only the case of Jammu & Kashmir and Nagaland will be taken into consideration). As such the two states share an unusually common trajectory. The erstwhile state of Jammu & Kashmir was granted special provisions through Article 370 as part of the deal leading upto the signing of the Instrument of Accession that integrated Jammu & Kashmir into the Indian Union. At the time of Independence in 1947, Jammu & Kashmir was ruled by Maharaja Hari Singh, the Hindu ruler of the state with a Muslim majority population. The ruler wanted Jammu & Kashmir to continue as an independent state without acceding to either India or Pakistan. However, facing threats and attacks from Pakistan, Singh appealed to India for military protection, thereby ceding Jammu & Kashmir to India with certain terms and conditions.¹² Thus Article 370 was created to allow the state to have its own Constitution, a separate flag and independence in all matters except foreign affairs, defence and communications. Clause 35A was later added to Article 370 in 1954 to give special privileges to permanent residents, including state

¹² R. Sai Spandana, "Understanding the Abrogation of Article 370: Origin and Impact," *Supreme Court Observer*, July 29, 2023. <https://www.scobserver.in/journal/understanding-the-abrogation-of-article-370-insights-into-its-origin-and-impact/>

government jobs and the exclusive right to own property in the state.¹³ The provisions of Article 370 were modified, diluted and weakened substantially over the years through forty-seven Presidential Orders between February 11, 1956 and February 19, 1994.¹⁴

The state of Nagaland was “a story of mutual understanding, adjustment and conciliation.”¹⁵ The British colonial rulers, in an attempt to avoid conflict with the Nagas and the disruption of traditional Naga society, maintained “as much as possible a policy of non-interference, thus committing the Nagas to isolation.”¹⁶ As early as 1918, Nagas apprehensive about their future began organizing themselves for self-determination or at least autonomy after the British exited the region as the Indian movement for independence gained momentum. Naturally the imminent exit of the British from the sub-continent made the Nagas anxious about their future. The formation of the Naga Club in 1918 and the Memorandum submitted to the Simon Commission in 1929 is tangible evidence to such demands for self-determination.

The British India Government maintained separation and isolation of the Northeast through various administrative mechanisms such as the ‘Excluded Areas,’ ‘Partially Excluded Areas,’ and ‘Line System’ through the Bengal Eastern Frontier Regulations (1873). Under the Government of India Act (1935), all the hill districts of Assam were

¹³ “Article 35A: Why a Special Law on Kashmir is Controversial,” BBC, August 5, 2019, <https://www.bbc.com/news/world-asia-india-40897522>

¹⁴ BBC, “Article 35A: Why a Special law on Kashmir is Controversial,” August 5, 2019, <https://www.bbc.com/news/world-asia-india-40897522>

¹⁵ Chandrika Singh, “Nagaland: From a District to a State, Culmination of Democratic Political Process,” *The Indian Journal of Political Science* 41, no. 4 (1980): 815-832.

¹⁶ Nari Rustomji, *Imperilled Frontiers: India’s North-eastern Borderlands* (Delhi: Oxford University Press, 1983).

designated Excluded and Partially Excluded Areas, including undivided Assam which now constitutes the north-eastern states of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura. The ‘most backward tribal areas’ were excluded totally from the purview of reforms and normal administration and categorized as ‘Excluded Areas’ while tribal areas with some developments were categorized as ‘Partially Excluded Areas’ and partial reform and administration were recommended for such areas.¹⁷ The ‘Line System’ or commonly known as the ‘Inner Line Permit’ under the Bengal Eastern Frontier Regulation (1873) was essentially a mechanism under the colonial British administration to isolate the tribal communities of the region from the outside world (the hills–plains divide). Under this system, outsiders could not enter the region without a pass/permission issued by a competent authority, and this continues till now in the form of the Inner Line Permit (ILP). Outsiders/tourists including Indian citizens need to obtain an ILP for entry into Arunachal Pradesh, Manipur, Mizoram, Nagaland and certain parts of Sikkim. The arrangement ‘supposedly’ appeased the hill communities as a form of protective layer “to check the free movement of ‘outsiders’ in the region,”¹⁸ perpetuating the isolation and marginalization of the hill tribes.

The British, after formally exiting the region, made unsuccessful attempts to maintain influence over the region by granting a separate political entity for the ethnic hill tribes, particularly the Nagas and

¹⁷ Jankhongam Doungel, “Colonial Administration in Excluded and Partially Excluded Areas of Undivided Assam with Special Reference to Lushai Hills,” in Maguni Charan Behera, ed., *Tribe–British Relations in India* (Singapore: Springer, 2021).

¹⁸ Ayangbam Shyamkishor, “Colonial Construction of an Imaginary Line: Revisiting the Inner Line Regulation in Mizoram, in Maguni Charan Behera, eds., *Tribe–British Relations in India* (Singapore: Springer, 2021).



Mizos, in the form of a “Crown Colony”¹⁹ under the Coupland Plan.²⁰ The British in their last few years in India tried to “carve out a crown colony covering the hill districts of Assam and its adjoining areas and Northwest Burma.”²¹ Robert N. Reid, the then Governor of Assam who crystallized the concept, argued that the hill tribes “are not Indians in any sense of the word, neither in origin, nor in language, nor in appearance, nor in habit, nor outlook and it is by historical accident that they have been tacked on to an Indian province”²² Thus, the British policy of isolation and exclusion was responsible for cementing the differences, and further emphasizing the incompatibility of integrating the region into the Indian Union after independence. As such, the integration or merger of the region with India “was not a foregone conclusion,”²³ and it is in this context that the movements for autonomy or secession in the region, including the movement of the Nagas, must be understood.

The Naga Club, a forerunner of Naga nationalism, changed its name to Naga National Council (NNC) even as India’s independence movement gained momentum. Along with the change in nomenclature, the ultimate objective of the NNC graduated to “home rule for all Naga tribes and the right to self-determination” from the “autonomous

¹⁹ Robert Reid, *Years of Change in Bengal and Assam* (London: Ernest Benn, 1966).

²⁰ Reginald Coupland, *Future of India* (Bombay: Oxford University Press, 1943).

²¹ David R. Syiemlie, “The Crown Colony Plants: The British and the Hill Areas of North-East India, 1945-46,” *Proceedings of the Indian History Congress*, 1998, vol. 59 (1998): 691-69.

²² Robert Reid, “Assam,” *Journal of the Royal Society of Arts*, vol XCII, 1944.

²³ Kyoko Inoue, “Integration of the North-East: The State Formation Process,” *Sub-Regional Relations in the Eastern South Asia—With special focus on India’s North Eastern Region* (Chiba, Japan: The Institute of Development Economics, 2005), 16-31.

status for the Nagas” as initiated by the Naga Club.²⁴ As Indian independence was on the horizon, the Naga leaders entered into an agreement with the Governor of Assam Sir Muhammad Saleh Akbar Hydari in June 1947 which came to be popularly known as the Nine-Points Agreement. The Nine-Points Agreement provided that the Nagas would be granted autonomy (legislative, executive, judicial and in matters relating to land) which would be reviewed after ten years. It was no surprise that the two parties had different perceptions and expectations from the interim ten years. The Nagas had hoped that the interim ten-year period would pave the way for self-determination while the Governor of Assam understood the agreement as the “continuation of the existing administrative set up.”²⁵

As nationalist fervor grew among the Nagas after India’s independence—99 percent of Nagas voted for self-determination in a 1951 referendum.²⁶ The government of Assam, however, rejected the verdict of the referendum leading to the Nagas boycotting the 1952 general election.²⁷ The Naga movement took a violent turn in 1956 when the Indian government declared the Naga Hills area a ‘Disturbed Area,’ placing the area under the Armed Forces Special Powers Act (AFSPA). As the military conflict continued, the Nagas declared a parallel government called the ‘Federal Government of Nagaland.’²⁸

²⁴ Udayon Misra, “The Periphery Strikes Back: Challenges to the Nation-State in Assam and Nagaland” (Shimla: Indian Institute of Advanced Study 2000).

²⁵ Kyoko Inoue, “Integration of the North-East.”

²⁶ B.B. Kumar, *Reorganization of Northeast: Facts and Documents* (New Delhi: Omsons Publications, 1996); and Sanjoy Hazarika, *Strangers of the Mist: Tales of War and Peace from India’s Northeast* (New Delhi: Penguin India, 1995).

²⁷ Amalendu Guha, *Planter Raj to Swaraj: Freedom Struggle & Electoral Politics in Assam* (New Delhi: People’s Pub, 1988).

To end the violent conflict, the Government of India began to court the moderates within Naga society, those who were willing to resolve the conflict within the Indian constitutional set up while isolating the 'extremists,' those who would not settle for anything short of self-determination. Towards this end, the state of Nagaland was established in 1963 and conferred with Special Provisions under Article 371 A.²⁹ The Special Provision for the state thus read:

[N]o Act of Parliament in respect of (i) religious or social practices of the Nagas, (ii) Naga customary law and procedure, (iii) administration of civil and criminal justice involving decisions according to Naga customary law, (iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.³⁰

The Naga movement for self-determination, however, did not end with the creation of Nagaland state. The movement continued with the Naga National Council (NNC) signing a peace treaty with the Government of India (GoI) in 1975 which came to be known as the Shillong Accord. Some leaders disapproved of the treaty and broke away from the NNC to form a new organization called the National Socialist Council of Nagaland (NSCN) which further divided into multiple factions.

²⁸ Shibani Kinkar Chaube, *Hill Politics in North-east India* (New Delhi: Orient Blackswan, 1999).

²⁹ Kyoko Inoue, "Integration of the North-East."

³⁰ Article 371 A, *Constitution of India*, Government of India, accessible version as of May 2022, <https://legislative.gov.in/constitution-of-india/>



The largest of these, the NSCN-IM (NSCN-Isak Muivah), named after the two prominent leaders of the faction, had disagreements with the GoI until 1997 when the two parties agreed to a ceasefire agreement. Since 1997, the GoI and NSCN-IM have been in negotiation about the future of the Nagas.

As such, the two states, erstwhile Jammu & Kashmir and Nagaland have an unusual similarity despite the stark difference in the circumstances under which they were created. Both erstwhile Jammu & Kashmir and Nagaland were created as a political necessity under special provisions. The special provisions for J&K were that the state would have autonomy in all areas except foreign affairs, defence and communications, at least in principle, as Maharaja Hari Singh would not have otherwise ceded to the Union of India. The creation of Nagaland was a policy of appeasement to integrate a section (the larger moderate section) of the Naga people into the Union of India as opposed to the more radical section fighting for independence or separation from India. The two states with special provisions were creations of completely different circumstances but nevertheless a result of political necessity and state-making.

The scrapping of article 370 and the passing of the Kashmir Reorganisation Act 2019 created shockwaves in Nagaland thousands of miles away from Jammu & Kashmir, as the following section demonstrates.

Article 370, 35 A and the Kashmir Reorganisation Act (KRA), 2019

The state of Jammu & Kashmir was exempted from the Indian Constitution by Article 370 which was added into Constitution in 1949, with the exception of Article 1 and Article 370 itself. Under the provisions



of Article 370, J&K was allowed to have a separate constitution while also restricting the legislative powers of the Central Parliament over J&K. In a nutshell, Article 370 provided autonomy to J&K in having its own constitution, judiciary, executive and legislature. The autonomy is further extended, at least in theory, by “the fact that residuary powers under Schedule VII of the Constitution of India vested with the State government and not with the Parliament.”³¹

Debates on the transitory or permanent nature of Article 370 continued unabated till the last moment before the final revocation of the article in 2019. Despite the assumed special provision, every aspect of the Indian Constitution had been applied to J&K through Article 370 and was often described as a ‘tunnel’ as most provisions can be overturned or nullified by a Presidential Order. Constitutional expert Faizan Mustafa argues that “Article 370 reduces J&K’s powers in comparison to other states. It is more useful for India today than J&K.”³² It limits rather than empowers. There is nothing that stands in the way of a Presidential order and the Center can, as and when required, use this provision to alter or undo any actions/policies in J&K. There have been forty-seven Presidential Orders from 1956 to 1994 to apply/implement the Indian Constitution in J&K. All these Orders are supposedly issued with the ‘concurrence of the State’ while many of these Orders were issued when Jammu and Kashmir was under Presidential Rule and, by extension, had no government of its own, and the state’s concurrence was given by the Governor, a nominee of the Union/Central government, on behalf of the

³¹ Gazala Farooq Peer, “Autonomy and Accommodation in India: A Case of Jammu and Kashmir,” *International Journal of Advanced Research and Development* 3, no. 2 (2018): 1449-1457.

³² “Explained: What are Articles 370 and 35,” *The Indian Express*, February 2, 2020, <https://indianexpress.com/article/explained/understanding-articles-370-35a-jammu-kashmir-indian-constitution-5610996/>

state.³³ There has been a continual “erosion of autonomy” because of the unilateral extension of the Indian Constitution to J&K.³⁴

Even as the autonomy and power-sharing between the Center and the State of J&K continued to be altered unilaterally over the years,³⁵ the Supreme Court has exhibited consistent “reluctance to adjudicate on the erosion of autonomy of Jammu and Kashmir carried through executive orders.”³⁶ The diminishing autonomy of J&K through executive orders was accompanied by a narrative that labeled the demand for restoration of autonomy as “particularistic deviations” or “alienation.”³⁷ People or groups demanding or supporting greater autonomy, some with secessionist tendencies, were all rolled into one blanket category and labeled anti-national or pro-Pakistan. This narrative building was necessary to assuage the public conscience. Against this background, the Kashmir Reorganisation Act 2019 (KRA 2019) was enacted by the National Democratic Alliance (NDA) Government in 2019. The sudden change in Kashmir’s status a result of the unilateral decision of the Center may be “one of the most consequential developments in the

³³ Jill Cottrell, “Kashmir: The Vanishing Autonomy,” in *Practising Self-Government: A Comparative Study of Autonomous Regions*, edited by Yash Ghai and Sophia Woodman (Cambridge: Cambridge University Press, 2013), 163-199.

³⁴ Mohan Krishen Teng, *Kashmir, Article 370* (New Delhi: Anmol Publications 1990).

³⁵ Sumantra Bose, *Kashmir: Roots of Conflict, Paths to Peace* (Cambridge, MA: Harvard University Press, 2003).

³⁶ Peer, “Autonomy and Accommodation in India: A Case of Jammu and Kashmir.”

³⁷ Ranabir Samaddar, ed, *The Politics of Autonomy: Indian Experiences* (New Delhi & Thousand Oaks, CA: Sage, 2005).



region since the 1989 outbreak of insurgency or the 1998 nuclear tests by India and Pakistan.”³⁸

There is no one party or government solely responsible for the erosion of autonomy in J& K. The erosion of autonomy was not a one-time act, it was a gradual process resorted to and used by all parties in power. However, the enactment of the KRA 2019 by the NDA government merits attention. The BJP had long “sought to revoke J&K’s special status, contending that it abetted separatism, militancy, corruption, and underdevelopment.”³⁹ The same position was taken by the party in the 2019 election agenda which stated that “we reiterate our position, since the time of the Jan Sangh, to the abrogation of Article 370.”⁴⁰ The NDA government was only responsible for pulling the last plug but was also shrewd enough to use the scrapping of Article 370 for political mileage. This can be attributed to the BJP and larger Sangh Parivar’s narrative on Akhand Bharat, to restore undivided India. Through the scrapping of Article 370 the BJP claimed that it delivered on its election promise to complete “the unfinished task of fully integrating India by scrapping Article 370 and 35A of the Indian Constitution.”⁴¹ This shows that the scrapping of Article 370 and the enactment of KRA 2019 was more than anything else a political act. It is also important to remember that at the

³⁸ Sameer P. Lalwani and Gillian Gayner, “India’s Kashmir Conundrum: Before and After the Abrogation of Article 370,” Special Report. No. 473, United States Institute of Peace, 2020, <https://www.usip.org/publications/2020/08/indias-kashmir-conundrum-and-after-abrogation-article-370>

³⁹ Ibid.

⁴⁰ BJP 2019 Election Manifesto, 2019, <https://www.documentcloud.org/documents/5798075-Bjp-Election-2019-Manifesto-English.html>

⁴¹ Faraz Ahmad, “Why is 371 a Solemn Commitment but not 370?” *National Herald*, November 4, 2019, <https://www.nationalheraldindia.com/opinion/why-is-371-a-solemn-commitment-but-not-370>

time when the KRA 2019 bill was passed and implemented, there was no state assembly—J&K was under President’s Rule and the state’s concurrence was given by the Governor, a nominee of the Center. Moreover, the abrogation of Article 370 (and 35A) was followed by “months of mass curfew, communications blackouts, and the detention of hundreds of state political figures.”⁴² To be fair, the government took these measures following growing terrorism and secessionist tendencies in the Kashmir Valley.

Nagaland Will Not Share the Same Fate as J&K, Just Yet

Naturally the revocation of Article 370 triggered a flurry of concerns in the faraway state of Nagaland in Northeast India—separated by thousands of miles, the states of Nagaland and erstwhile Jammu & Kashmir share unusual story. The two states are products of compromise unlike other Indian states, established with special provisions under the Constitution of India (Article 371 A and Article 370, respectively).

When the National Democratic Alliance came to power in 2014, there was an impression that the dormant negotiations between the NSCN-IM and the Government of India were moving in the right direction with renewed energy and consistency. The talks culminated in the signing of a “historic” Framework Agreement on August 3, 2015. The Framework Agreement was widely publicized and considered “historic” because it was achieved after negotiations between the NSCN-IM and the GoI had stretched over several years. As the name suggests, the “historic” Framework Agreement was seen as a guiding document to take the negotiations towards a meaningful settlement.

⁴² Lalwani and Gayner, “India’s Kashmir Conundrum: Before and After the Abrogation of Article 370.”

A few days before the central government revoked J&K's special status on August 5, 2019, Prime Minister Narendra Modi's chief interlocutor with the Nagas, R.N. Ravi, was appointed the Governor of Nagaland on July 20, 2019, and he assumed office on August 1, 2019 in the expectation that he would succeed in reviving the long-running talks since 1997 between the NSCN-IM, the main group among the Naga factions, and the Government of India.

During Ravi's term, first as the Chief Interlocutor and later as the Governor of Nagaland (since 2019), he roped in the other factional groups collectively known as the Naga National Political Groups (NNPGs). The outreach proved to be unpopular with the NSCN-IM, and resulted in stalling the negotiation process until Ravi's removal as the Governor of Nagaland and his resignation as the Chief Interlocutor in August 2021. Ravi's transfer from Nagaland appears to have been sparked by the NSCN-IM urging the central government in New Delhi to remove him.

In a nutshell, no substantial progress has been made since the signing of the Framework Agreement in 2015. The trail has gone cold.

R.N. Ravi had commented on the Nagas' ambivalence in 2015 that "the Nagas want to be with India, they don't want to be within India."⁴³ Ravi's comment shows that the GoI is aware of the intricacies when it comes to the Nagas. Just days after the scrapping of Article 370 in Jammu and Kashmir, the Naga negotiating team of the NSCN-IM "expressed legitimate apprehension" on the fate of Article 371 A.⁴⁴ The same concern

⁴³ Chaitanya Kalbag, "How do Naga Peace and Article 371A Belong Together?" *Economic Times*, September 11, 2019, <https://economictimes.indiatimes.com/blogs/the-needles-eye/how-do-naga-peace-and-article-371a-belong-together/>

⁴⁴ Ahmad, "Why is 371 a Solemn Commitment but not 370?"

was shared by most Naga civil society organizations. Chuba Ozuküm, the president of the Naga Hoho, the apex Naga civil organization, stated, “we have apprehension that if the Government of India can scrap 370 in Jammu and Kashmir, it can remove 371(A) in Nagaland.”⁴⁵

What is interesting is the fact that the Centre has a diametrically opposite stand on Article 370 and Article 371 A. The NDA government, while claiming that by removing Article 370 and 35 A in J&K “they completed the unfinished task of fully integrating India,” argued that Article 371A—identical to Article 370, which guarantees special status to the people of Nagaland—“will not be scrapped in the same manner as 370.”⁴⁶ Governor Ravi in his address to the Nagas after the scrapping of Article 370 categorically stated, “Article 371A is a solemn commitment to the People of Nagaland. It is a sacred commitment. We are trying hard to conclude the on-going political process at a very advanced stage.”⁴⁷ The Governor’s assurance may be difficult to honour. There is nothing extraordinary about Article 371A compared to the other special provisions that made it sacred. The governor’s assurance of “a sacred commitment” to the people of Nagaland is a measured calculation of the GoI which is attempting to conclude the on-going political process that is at an advanced stage.⁴⁸ Despite the claims and assurances from the government, there is nothing sacred or irrevocable about Article 371 A. There is no provision that guarantees that 371 A is protected from reorganization, it is just an article of faith.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ “J&K Move Won’t Hit Article 371A in Nagaland: RN Ravi,” *The Asian Age*, August 7, 2019, <https://www.asianage.com/india/politics/070819/jk-move-wont-hit-article-371a-in-nagaland-r-n-ravi.html>

⁴⁸ Ibid.



It is unlikely though, at least in the immediate future, that Article 371 A will meet with the same fate for the following reasons. The state of Nagaland is an offshoot of the Naga nationalist movement. The GoI is currently engaged in negotiations/peace talks with the NSCN-IM. As part of the bargaining/negotiating strategy, the GoI cannot afford to take any policy initiative/action that will even remotely spark insecurity among the Naga population. Many Nagas believe that the creation of the state of Nagaland was purely an appeasement policy to assuage the Naga public into believing that their interest and concerns had been addressed through the establishment of a Naga state. The special provisions under Article 371 A further protected their cultural rights and 'unique' identity and history. The Naga movement has, however, lost touch with a large section of the Naga public due to factionalism and inter-factional conflicts.

Abrogating or scrapping the special provisions under Article 371 A will create doubt among the Nagas about the presumed sense of security among the public who may lose faith in the GoI and its assurances on protecting the unique culture and history of the Nagas. The promise or guarantee on the preservation and protection of the cultural rights of the Nagas based on their unique history and culture was the basis of the state of Nagaland. The appeasement policy effectively kept a large section of the Nagas at bay and away from the Naga national movement, in effect weakening the Naga national movement, keeping the Nagas divided between those who want self-determination and those who are happy within the Indian Union. This line of reasoning is also clearly evident by the promises and assurances of R.N. Ravi, the interlocutor of the GoI-NSCN peace negotiations and the Governor of Nagaland.

The abrogation of Article 371 A may be a risky move that will breathe new energy into the highly factionalized and (un)popular Naga

movement. The Naga public, especially Nagas residing within the Nagaland state, have been assuaged with this presumed sense of security about their cultural and historical rights for the last six decades. In the event of the abrogation/removal of special provisions that guarantee their cultural and identity rights, the natural reaction of the Naga population would be to support the groups or movements that seek to achieve the same end— autonomy and the protection of their identity and cultural rights. As such the GoI is unlikely to weaken or abrogate the provisions under Article 371 A, at least for now.

Why at least for now? In the future, when the fundamental issues have been settled between the GoI and the NSCN-IM, or when the NSCN-IM no longer poses substantial concern to the Union of India, the GoI may weaken or remove the special provisions under 371 A altogether. It is safe to argue that Article 371 A does not face a similar fate as that of Article 370, just yet. It is a matter of time and political exigency.

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