

CHAPTER I

INTRODUCTION

1.1. Background

This thesis will discuss and examine the reason behind the Indian Government's decision to revoke Article 370 and Article 35A on Jammu and Kashmir's special status.

Jammu and Kashmir is a union territory of India that is located in the northern part of the Indian subcontinent. Jammu and Kashmir, once one of India's largest princely states, is bordered to the south by the Indian states of Himachal Pradesh and Punjab, to the northeast by the People's Republic of China, and to the west and northwest by Pakistan (Encyclopedia, 2021). Jammu, the Kashmir Valley, and Ladakh are the three regions that make up the state.

Although Kashmir was said to be one of the most beautiful places in the world, it is sadly also the most militarized region in the world. Since British-independence India's and division in 1947, the contentious subject of Kashmir has remained a source of friction between India and Pakistan (Ahmad, 2019). Since the partition of the Indian subcontinent in 1947, Kashmir has been a hotly contested area between India and Pakistan (Hanif & Ullah, 2018). During the time of the independence, the Princes who were ruling Indian states at that time were asked to choose to join either India or Pakistan. Most of the princely states decided based on the religious majority and their geographic locations.

The Indian subcontinent was split into two separate national states when the British eventually left India: Hindu-majority India and Muslim-majority Under the Indian Independence Act's partition plan, Kashmir was free to join either India or Pakistan (Kashmir: Why India and Pakistan fight over it, 2020). Maharaja Hari Singh, the local ruler at that time originally wanted Kashmir to be an independent state. For two months

Kashmir remains “independent” because the maharaja was unable to decide. When a partition-related violence rampaged across Pakistan and Kashmir which lead to the invasion of the tribesmen from Pakistan’s North West Frontier, India informed Kashmir that in order to gain military support, Kashmir would have to join India. Because Kashmir lacked an army, Maharaja Hari Singh consented to join India and signed the Instrument of Accession in October 1947, uniting Kashmir with the Dominion of India (Blakemore, 2019).

The decision by Hari Singh, Kashmir’s maharaja, to sign the Instrument of Accession in October 1947, thus joining the Indian Union with Kashmir, precipitated hostilities between India and Pakistan, culminating in the 1949 establishment of the cease-fire line in the region. Thus, Jammu and the state of Kashmir became the territories that India controlled on its side of the line. However, the Pakistani argued that the accession was not final and confirmed as there has never been conducted a formal plebiscite that was earlier promised by the Congress. It was also backed by a large number of Kashmiris. Thus, the whole Kashmir zone has continued to be claimed by both India and Pakistan, and tensions have generally remained high along the line.

Kashmiri’s ambition to gain independence never disappeared from their consciousness even after they have joined India. For more than seventy years, Jammu and Kashmir has been a flash point between India and Pakistan, and it is one of the world’s most volatile disputes; it could even cause a nuclear war in the worst-case scenario. Whether external or internal, war is a costly activity. For the last 30 years, Kashmir has plunged into a state of near civil war. Regular street demonstrations, with tens of thousands marching, calling for independence, have become a usual activity in the days of Kashmir for a long time.

Between 1948 and 1949, the United Nations Commission for India and Pakistan (UNCIP) visited India three times, trying

to find a solution that can be accepted by both India and Pakistan. On January 11th, 1949, the United Nations brokered a cease-fire. Prior to the United Nations (UN)-sponsored plebiscite on the future of Jammu and Kashmir, the cease-fire agreement called for the withdrawal of all Pakistani forces and most Indian forces. A United Nations peacekeeping force has been stationed in the region where it remains today. The people of Jammu and Kashmir want the conflict between India and Pakistan over their land to be equally resolved by taking into account the wishes of the J&K people. (Ahmad, 2019)

The people of Jammu and Kashmir have been told that once there is harmony, there will be a plebiscite. But none took place. Article 370 was employed, and an independent state with their own constitution, flag, and prime minister were given to the citizens of Jammu and Kashmir. Article 370 of the Indian constitution was drafted by Gopaldaswami Ayyangar, trusted by Shri Pandit Nehru and Maharaja Hari Singh. (Thapliyal, 2019) The special status governing the state of Jammu and Kashmir was due to the special conditions of its accession to India, coupled with military conflict which Gopaldaswami Ayyangar immediately argued had overtaken it. The history of Jammu and Kashmir has revealed that the Constitution of Jammu and Kashmir cannot be amended by the State legislature in compliance with the provisions of Article 370 and that the Centre cannot repeal Article 370 without the recommendations of the Constituent Assembly of J&K.

The article, titled “Temporary, Transitional and Special Provisions” was drawn up in Part XXI of the Constitution. After its creation, the Constituent Assembly of Jammu and Kashmir was empowered to recommend the articles of the Indian Constitution to be applied to the state or to repeal Article 370 altogether. The 1954 Presidential Order was issued after consultation with the Constituent Assembly of the state, specifying the articles of the Indian constitution that applied to the state. Since the Constituent Assembly dissolved itself without recommending the repeal of Article 370, the article was

considered to have become a permanent feature of the Indian Constitution.

The Constituent Assembly of Jammu and Kashmir ceased to exist in 1957, and it is therefore impossible to repeal Article 370 without an amendment to the Constitution of India. Inside India and Kashmir, the veracity of a special status was heatedly debated. In fact, until its repeal on 5 August 2019, the gradual erosion of Article 370 by a series of Presidential orders had left only a shadow of the original article. Maharaja Hari Singh, Lord Mount Batin, Ali Muhammad Jinnah, Pandit J.L. Nehru and Sheikh Abdullah are the main political figures associated with the Kashmir dispute. Article 370 of the Indian Constitution gave special standing to Jammu and Kashmir, a region settled within the northern part of the Indian subcontinent that was administered by India as a state from 1954 to 31 October 2019 and a part of the larger region of Kashmir that has been the subject of dispute since 1947 between India, Pakistan and China, giving it the power to possess a separate constitution.

The article, coupled with Article 35A, stated that inhabitants of Jammu and Kashmir are subject to a different set of rules than residents of other Indian states, particularly those relating to citizenship, property ownership, and fundamental rights. This clause made it illegal for Indian nationals from other states to buy land or property in Jammu and Kashmir.

Since 1947, the pro-India Jammu and Kashmir National Conference (JKNC) has ruled the state for most of the time, with interludes mostly from 1964 to 1975 by the Indian National Congress (Congress Party). The state has also been governed for brief periods directly by the central Indian government, although one such case lasted for six years (1990-96). The JKNC's member, Sheikh Muhammad Abdullah, served as the first head of government (called prime minister until 1965 and then chief minister) until the national government removed him from office in 1953 and imprisoned him for 11 years on the

grounds that he attempted to separate Jammu and Kashmir from India (Akhtar, 2019)

In August 2019, the national government revoked the autonomy of Jammu and Kashmir and completely extended the constitution of India to the region. It also approved laws downgrading the state to a union territory at a later date, allowing the union government to fully oversee the state's governance and separating the Ladakh area into its own union territory (Akhtar, 2019). A constitutional order superseding the 1954 order was issued by the Government of India making all provisions of the Indian constitution applicable to Jammu and Kashmir on the basis of a resolution passed with 2/3 majority in both houses of India's parliament. On 6 August, following resolutions passed in both houses of Parliament, it released a further order rendering inoperative all the provision of Article 370, with the exception of clause 1. In addition, the Jammu and Kashmir Reorganisation Act 2019 was enacted by Parliament, which established the split of the state of Jammu and Kashmir into two union territories, the Jammu and Kashmir Union Territory and the Ladakh Union Territory.

Among the Indian government's actions accompanying the revocation was the cutting off of communication lines in the Kashmir Valley, a region gripped by a prolonged separatist insurgency. Several leading Kashmiri politicians was taken into custody, including the former chief minister. Government officials described these restrictions as designed for pre-empting violence and justified the revocation for enabling people of the state to access government programmes such as reservation, right to education and right to information.

1.2. Research Question

Based on the elaboration of the phenomena in the previous section, this paper comes up with the question "Why did the Indian government under Prime Minister Narendra Modi's administration revoke Article 370 and Article 35A on Jammu and Kashmir's special status?".

1.3. Theoretical Framework

To make it easier for the writer to explain the research analysis on the case that will be discussed and to make the writing consistent, the writer needs a theoretical framework. In this paper the writer uses:

David Easton's political system theory

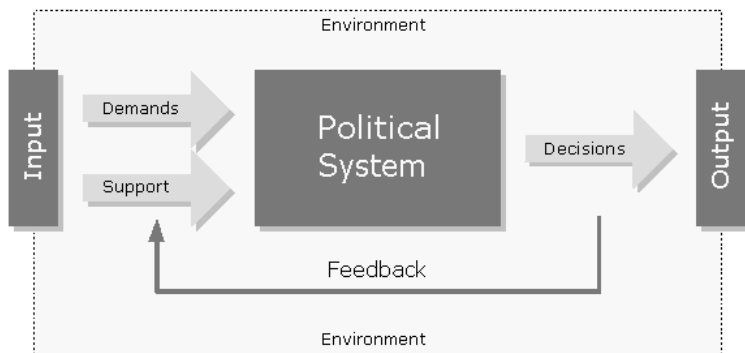
Every policy or decision taken or issued by a country is of course based on the national interest that the country wants to achieve. These decisions, clearly, come from inputs from various parties, assessed from various aspects, and have gone through great consideration by policy makers of the country. Therefore, it is certain that all forms of policies issued by a country are not arbitrary. Because over time, analysis and decision-making processes are always experiencing developments, many theories have also been created to study this. One of the theories that analyses the decision-making process is David Easton's Political System Theory.

David Easton poured his thoughts on political systems and policy-making processes into his works, namely *The Political System*, *A Framework for Political Analysis*, and *A System Analysis of Political Life*. The study of politics is attentive with getting the idea and picture how authoritative decisions are made and carried out for the people. Which is why David Easton attempts to perceive the political life by viewing every aspect of it with great detail. According to him, we are able to investigate the operation of such establishments as interest groups, political parties, government; we are able to examine the character and consequences of such political practices as manipulation, propaganda, and violence; and we are able to obtain to reveal the structure at intervals that these practices occur. By linking each of the outcome we obtain, we are able to acquire a rough image of what happens in any political unit. (Easton, 1957)

Every political aspect does not stand alone and is always related to each other and no one part can be fully understood without reference to the way in which the whole itself operates. (Easton, 1957) David Easton suggested in one of his books that it is important and valuable to view the political world as a system of activities that complimentary to one another. He also explains that politic is an allocation of values, and in the political concept those values are power. Power here meaning the power to allocate natural and human resources for the common good and public interest. And in Easton's view policy making can also be seen as a system consisting of input, conversion and output. (Subarsono, 2005) How politics should create balance, justice, equality and freedom, and aspects of humanity. These relationships can be seen as shown in the diagram below.

It is understood that in general political theories there are two elements in the political life which are State as the party/institution that has the authority in order to achieve common goals, and the society which entrust their rights to the state to take care of the common interests. As for the units in political system, they are actions that have to do with the making and implementation of policy.

Figure 1 David Easton's Political System Model



Source : David Easton in Ronald, Chilcote. (2003). Teori Perbandingan Politik:Penelusuran dan Paradigma. Jakarta: Raja Grafindo Perkasa.

- a. **Inputs** refers to community input into the political system. The community can provide input to the political system in the form of demands and support. Demands are essentially a collection of interests that are not dispersed fairly among a number of community units in the political system. Simply put, support is the community's attempt to maintain the political system's existence so that it may continue to function. These inputs will go through the process of conversion which will later become the output in the form of decision or policy. T
- b. **Output** is the result of the political system's work, which are fueled by both demands and community support. The output is split into two categories: decisions and actions, both of which are often carried out by the government. In response to incoming requests or support, a decision is the choosing of one or more action choices. In the meanwhile, action refers to the government's actual implementation of its decisions. The output that is produced after the process of conversion, the feedback that is received by the environment might generate a new input. (Pribadi & Muhyidin, 2011)
- c. Within the political system, demands and support are **converted** into outputs issued by the Authority. The term "authority" refers to an institution with the power to make choices and take acts in the shape of policies, not just any institution, but one that is positioned by the state, according to Easton. The output is subsequently re-perceived by the environment, restarting the cyclical process.

Easton mentioned that there is an explanation as to why a political system is formed in a society, why the people involve

themselves in political practices– is because there are demands from people or groups in a certain society that not all can be fulfilled satisfactorily. These demands are what later might affect the government in generating an output. However, it is not sufficient for the continuity of the work of a political system only with these demands. Thus, to maintain the continuity of its function, the system needs a kind of energy in the form of views that can help advance and provide obstacles towards the political system. This input is called support. If both inputs are present, the system will work according to the scheme and produce output. Outputs here are the decisions made by the government or also what we identify as policy.

The author in doing this research will use the Political System theory by David Easton. This is because this theory seems to be the most suitable to be used to analyse the decision-making process of a state. In the case of the revocation of Article 370 and 35A on Jammu and Kashmir's special status, it is undoubted that the making of this decision stems from various inputs and have also gone through multiple conversions to have finally made the decision final and implemented. Therefore, the author will also explain on how this theory is well-fitted to be used as a theoretical framework to address this matter.

Jammu and Kashmir have always been a region that is heavily disputed between India and Pakistan. Since 1947, even after they have already become a part of the Indian Union, they are still being claimed by both countries. India and Pakistan have fought wars which were in 1947, 1965, and engaged in an armed conflict in 1999. In April 2005, a crossline of Control (LoC) was launched between the Indian and Pakistani sides of Kashmir. (Bali & Akhtar, 2017) Despite having composed dialogues about building bilateral relations and agreed to a ceasefire, both nations still failed to break the impasse.

Being the only Muslim Majority state in India, Jammu and Kashmir seems to be a litmus test for Indian secularism.

(Sokefeld, 2013) Many Kashmiris, and not only the Muslims, felt neglected alienated by India. The existence of India's right-wing party, the Bharatiya Janata Party (BJP), have made the situation in Kashmir worse. BJP, that is against Jammu and Kashmir's autonomous status, has been known as a Hindu right-wing and an anti-Muslim party. Not only BJP, other Hindutva groups such as the Rashtriya Swayamsevak sangh (RSS), and the Vishwa Hindu Parishad (VHP) also have been accused of starting violence between Muslims and Hindus. The rise in nationalism in India, specifically the Hindu nationalism, however, also appears to play a big part in the revocation of J&K's special status.

Hindu Nationalism

Hindutva, also known as Hindu nationalism, is an extremist ideology that seeks to abolish India's secular foundation and turn the country into a Hindu Rashtra, a Hindu religious-nationalist majority state that relegates its 200 million Muslims and 20 million Christians to second-class people. (Rafiq, 2019) Hindu nationalism should be differentiated from the Indian National Congress or Congress Party nationalism, sometimes referred to as "Indian Nationalism." While the Congress Party's nationalism was primarily territorial and civic, Hindu nationalism attempted to identify Indian nation according to ethnic standards, defining all inhabitants of the British Indian Empire as Indians. For Hindu Nationalists, by stressing a common cultural heritage that also separated most Indians from non-Indians, emphasizing Hindu identity is a way of addressing India's linguistic and regional diversity (Swamy, 2003).

Led by the Congress Party, India's national movement never accepted the two-nation theory. Hindus and Muslims practiced different religions, yet they were not separate countries. Muslims and Hindus were both citizens of India. Muslims residing in India are not opposed by Hindu nationalists; rather, they argue that Muslims must demonstrate

their devotion to India and acknowledge that India is mainly a Hindu culture. A secular state is what they are against. However, with the very Western democratic ideal of majority rule, they justify their anti-secularism again here. They argue that India is basically a Hindu country where minorities (including Muslims and Christians) should simply be thankful that they are allowed to live there. (Van der Veer, 1994) Hindu nationalists have always lurked in the background, waiting for the opportunity to take control of the Indian state. The rise of the Bharatiya Janata Party (BJP), which the current president was once a member of, is one of the example of a deepening political trend, including the most widespread Hindu-Muslim rioting since 1947. (Varshney, 1991)

The danger of Hindutva forces achieving their target is very real, with the Hindu nationalist Bharatiya Janata Party (BJP) led by Prime Minister Narendra Modi in power for a second consecutive term. (Rafiq, 2019) When Prime Minister Narendra Modi won in the elections in May 2019, he ensured that he would set the country's agenda for the foreseeable future. One of those agendas was also the abrogation of Article 370 and 35A as his goals was to offer development, employment, and good governance to the Kashmiris. The Indian government declared their decision to transform Jammu, Kashmir and Ladakh with the proposition of transforming the states through growth and bringing them to a new era.

Since Modi's administration in 2014, bigotry has been glorified as a healthy form of self-assertion. Forcibly converting Muslims to Hinduism, assaulting, and murdering Muslim man as a result of their worry that Muslims are trying to increase their population by tricking Hindu women into converting and marrying them and pushing supporters to kill Muslims for eating beef because the cow is considered sacred in Hinduism. (Ramachandran, 2017)

With this in mind, the author gathers the reasons as to why the government abrogated Jammu and Kashmir's special

autonomy. Using David Easton's Political System theory, the government as the decision maker have taken into accounts the demands that they have received from the strong Hindu society and believe that with the abrogation, J&K may develop better, and India would face less destruction. Analysing the conflict through this framework, the author is able to identify the reason behind the revocation of Article 370 and Article 35A which has existed for 70 years.

Based on the description above, the writer was able to conclude that:

- a) Input (demand and support): Indian society that adheres to a strong Hindu nationalism and discrimination towards Muslims, specifically Kashmiri Muslims. The people's support towards the right-wing political parties also encourages the idea of a fully Hindu nation.
- b) System: India's right-wing political parties, and policy makers/government that are led and influenced by the Bharatiya Janata Party (BJP)
- c) Output (decision): The revocation of Article 370 and Article 35A on J&K's special status

1.4. Hypothesis

Based on the background and the theoretical framework used by the author in responding to the revocation of Jammu & Kashmir's special status, the author was able to draw a hypothesis that the Indian government under Narendra Modi's administration abrogate the special status because:

1. During Narendra Modi's administration, India's society strong adherent towards Hindu nationalism has escalated and demanded that the government of India revoke Article 370 and Article 35A on Jammu and Kashmir's special status.

2. The fact that the system itself is led by a member of the Hindu nationalist party, the Bharatiya Janata Party (BJP), supports and strengthens this decision as it has long been an ambition of Bharatiya Janata Party itself to change the demography of the country from majority-Muslim to majority-Hindu as Jammu & Kashmir is a majority Muslim occupied state.
3. The actions of the government of India were an output and implementation to their idea that was planted by the society and the BJP that “the non-Hindu people must either learn and respect the Hindu religion, glorify the Hindu race and culture; or stay in the country wholly subordinated to the Hindu nation, claiming nothing, and deserving no privileges or preferential treatment”.

In this sense, the change is completely in line with the specified objective of the BJP and Narendra Modi which is strongly supported by the Indian citizens to turn India into a powerful centralized, unitary Hindu Rashtra or Empire.

1.5. Research Objective

The author in conducting this research has the aim of analysing the reasons behind the action of the Indian government under Prime Minister Narendra Modi which revokes Article 370 and Article 35 A of Jammu and Kashmir’s special status.

1.6. Research Boundaries

The author provides a time limit in this thesis research, namely from 2014 to 2019. This is based on the period of Narendra Modi’s administration as Prime Minister of India where the Hindutva agenda starts to rise and the revocation of Article 370 and Article 35A of Jammu and Kashmir’s special status.

1.7. Research Methodology

The method used to describe the subject of this research was qualitative method. Qualitative method is a method of writing that describes the circumstances that occur in a matter that is discussed. Thus, to collect various data needed, the researcher used the method of literacy study. Data and information used in this thesis were obtained from books, textbooks, articles, journals, papers, and electronic publications.

1.8. Thesis Outline

In order to get a scientific paper that is coherent, orderly and systematic in each explanation, the author will divide the systematic writing in this scientific paper into 3 chapters, namely:

1. Chapter 1, in this chapter the writer will provide an explanation starting from the background of the problem, the formulation of the problem, the framework that will be used, the hypothesis, the research objectives, the research boundaries, the research methodology and ends with the thesis outline.
2. Chapter 2, in this chapter, the writer will provide an explanation about:
 - a) The special provisions of Jammu and Kashmir and their insurgency,
 - b) Political embodiment of the Hindutva ideology,
 - c) The Revocation of the special status of Jammu & Kashmir under Narendra Modi Administration
3. Chapter 3, the explanation that has been conveyed by the author in the previous chapters will end with a summary or conclusion described in this chapter.