

POLITICAL IMPACTS OF ARTICLE 370 OF JAMMU AND KASHMIR

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ABSTRACT

The international world responded strongly to the repeal of Article 370 and the division of the state of Jammu and Kashmir in August 2019. For the most part, India's choice was met with overwhelming approval. The state of Jammu and Kashmir is granted autonomy under Article 370 of the Indian Constitution (J&K). The terms of the Article have remained contentious due to their uneven application within the framework of free India. This study analyses Article 370 and the legitimacy of the politics around it, based on how the arguments surrounding Article 370 only seek limited influence. These arguments have been investigated using primary and secondary sources, as well as opinions from other traditions. This article also contends that India's move to abrogate Article 370 has resulted in substantial international opposition, impacting the country's narrative on the Valley.

Keywords: Jammu & Kashmir, Politics, Article 370, diplomatic response

INTRODUCTION

Jammu and Kashmir, renowned as the "heaven on earth," was the greatest of India's princely states until its partition. Until 1947, India was under to British colonial control. British India was partitioned into two dominions in August 1947: India and Pakistan. This division, however, did not apply to the vast regions held by India's 565 princely states, such as Jammu and Kashmir, which had enjoyed semi-autonomous status throughout the British colonial era. Although officially regaining independence with Britain's "lapse of paramountcy" on August 15, 1947, these princely kingdoms were under pressure from Britain's final viceroy in India, Lord Louis Mountbatten, to accede to India or Pakistan by that date. As the process of uniting these princely realms began, Jammu and Kashmir acceded to India on October 26, 1947, by signing an Instrument of Accession. [1]

Under this, Jammu and Kashmir ceded just three subjects (Defense, External Affairs, and Communication) to India. At the time, the government of India committed that the people of Jammu and Kashmir State, through their own constituent assembly, would frame their state constitution and determine the Union of India's jurisdiction over the state, and that the constitution of India could only provide an interim arrangement regarding the state until the decision of the constituent assembly of the state.[2]

Article 370 was inserted into India's constitution as a result of this agreement. Article 370 granted the state of Jammu and Kashmir Special Status in India's quasi-federal politics, as intended in its constitution. This article clearly states that the only articles of the Indian constitution that were made applicable to Jammu and Kashmir on their own were Article 1 and Article 370.

On August 5, 2019, the Indian government announced the repeal of Article 370 of the Constitution and the division of the state of Jammu and Kashmir into two union territories. This elicited an extraordinary worldwide response, particularly in light of the limits placed in the region as a result of the ruling. To be sure, most nations believed that the developments in Jammu and Kashmir were a "internal concern" for India, and that disputes between India and Pakistan should be handled via negotiation. However, several of India's key allies and long-standing friends have raised worry and criticised the communication restrictions, incarceration of political leaders, and restrictions on civil freedoms. It has now perhaps become India's most difficult diplomatic problem to rebut the notion that the Indian state is oppressing Kashmiris' rights.

The Jammu and Kashmir Reorganization Act of 2019 proposes dividing J&K into two Union territories (UTs): Jammu and Kashmir and Ladakh. The decision to suggest rearrangement shortly after J&K's special status was likely made in anticipation of deadly civilian unrest in the Kashmir Valley. The transition to Union Territory status will very certainly give New Delhi additional influence over local administrative and legislative authorities in J&K, as well as direct responsibility over the police and the preservation and maintenance of public order. However, Indian Home Minister Amit Shah told the parliament that when the situation returns to normality and "the proper moment arrives," the federal government will award the union territory of J&K full "state" status once more.

The ruling BJP's plan to repeal Article 370 may have two consequences. First, the BJP may gain political mileage from the action, both in J&K and throughout India. Second, in reaction to third-party mediation efforts, New Delhi may now be able to stress the Kashmir problem as a "internal" concern of India. However, the administration is aware of the hazards, which include potential civilian unrest and terror attacks in the Valley, communal tensions in J&K, and the internationalisation of the Kashmir problem.

Soon after the declaration, India launched a tremendous diplomatic effort to allay the world's anxieties. Some commentators feel that the Government of India's decision

in 2019 has set in motion a diplomatic problem as significant as the one produced by the Pokhran-II nuclear tests in 1998—the only difference being that India is now in stronger international standing as a result of its expanding global image. [3]

Others believe that India's diplomatic effort has "failed miserably," with Kashmir receiving unfavourable international attention and undermining India's global image. [4]

"It now becomes evident that, far from transforming Kashmir into a local problem, the Government of India's actions... have internationalised it as never before," historian Ramachandra Guha said. [5]

According to writer Shekhar Gupta, "[T]he Kashmir conflict has become internationalised after nearly half a century," thanks to India. After Article 370, India will be the diplomatic challenger, not Pakistan. [6]

Indeed, this is the most international attention that Kashmir has had since the 1990s. Prior to August 2019, India had persuaded much of the world that the main point of dispute in Kashmir was Pakistan-perpetrated cross-border terrorism. However, the new storyline creates further concerns among both domestic and foreign audiences.

DOMESTIC POLITICAL ANGLE

Even though New Delhi may face challenges in stabilising the law and order situation in the Kashmir Valley as a result of this revocation decision, the BJP's decision to repeal Article 370 may provide it with long-term political mileage across India and a genuine opportunity to reshape the political landscape in J&K. Furthermore, the timing of the choice is essential. Following the unprecedented mandate it gained in the recently finished parliamentary elections, the ruling BJP was likely empowered to make key internal political decisions. It was also likely aided by the fact that the political opposition remained fragmented and divided, as seen by certain parties supporting the government's move to abolish J&K's special status while others, like the Indian National Congress (INC) and Communist parties, opposed it. Finally, until the 2024 Lok Sabha elections, the BJP administration will have about five years to provide political stability to J&K and complete the reform process.

OBJECTIVES

- To investigate the inclusion and execution of Article 370 in the Indian Constitution,
- To investigate how politics around Article 370 only seeks limited influence from its claims.
- To investigate the worldwide reactions provoked by the constitutional amendments in Kashmir since their announcement.

REVIEW OF LITERATURE

The updated Jammu and Kashmir Reorganisation Act (2019) is the most important copy of Indian constitution the updated Jammu and Kashmir Reorganisation Act, 2019 where article 370 is mentioned in detail with Article 370 Clauses (1)(a), Article 370 Clause (1)(b), Article 370 Clause (1)(c), Article 370 Clause (1)(d) Article 370 Clause (2), Article 370 Clause (3). Which is very useful to understand the present ground reality scenarios in Jammu and Kashmir and including Ladakh?[7]

As published by Congressional Research Services, K.Alan Kronstadt (2019) focuses on Kashmir, including its history, contemporary developments, and US policy. The author emphasises the subject of Indian government action based on constitutional authority to make changes in J&K state, which has a Muslim majority. The author emphasises Article 370, which designates Jammu and Kashmir as a "special status" state and divides the state from the rest of the country as "union territories" through the use of the constitution, which in the future raises serious issues such as peace or war, religious stability, Indian military strong action, Pakistani interference, and disruption of national and international relations between the UN, the United States, India, Pakistan, and other countries. [8]

Dr. Sona Shukla etal (2019) emphasise the case history of Jammu and Kashmir, when Maharaja Hari Singh was attacked by Pakistan on October 26, 1947, after princely states united with India. Kashmir has had its own constitution since November 17, 1956, when the Indian constitution entered into force with provision article 370. On October 26, 1947, Maharaja Hari Singh signed the accession papers, bringing the state into India. Finally, on October 26, 1947, Maharaja Hari Singh signed the official document (accession papers) under which the kingdom agreed to join India. [9]

Balu G. Nair (2019) addresses the concerns as reflect from his research title as "the abrogation of article 370 may the president act without the official recommendation under constitutional powers of the constitute assembly?". With in-depth framework he focusing on the provision and its background history, the legal cases against article 370, characterization of the article 370 in judicial decision with proper details, basic structural doctrine and the parliament's power to change article 370, article 370 under Indian constitution and unequal federalism, bureaucratic limitation on amending power , lawfulness of CO 272 and CO 272, ARTICLE 370 and provisional constitutionalism and at the end with conclusion show that the article 370 can the president act without the official recommendation under constitutional rights of the constitute assembly is constitutionally doubtful and full of carelessness towards the country's future peace.[10]

According to Dr. Akashdeep Singh (2019), Article 370 was included to the Indian constitution as a transitory measure. They said that Dr. B.R. Ambedkar refused to design Article 370 because it was unfair and excluded from the constitution of an autonomous India. Respected Babasaheb Ambedkar, the father of the Indian constitution, strongly opposes Article 370. Petitioners request that the Supreme Court of India alter the article or further entrench it in order to keep the country stable and peaceful. [11]

According to Moonis Ahmar (2019), the degradation of Article 370 in the mid-1950s by diminishing the unique status of Jammu and Kashmir called into question New Delhi's assertion that secularism remained a fundamental principle of India's state. He delves into the essence of Article 370 in India's constitution, its continuous deterioration, and its negative ramifications for Jammu and Kashmir. He claimed that the misuse of government authority and the implementation of Indian military and B.S.F. in a highly planned stick approach on the valley of Kashmir transformed it from a refuge on earth to a large-scale prison camp. As a result, the author fully supports Article 370 and the government's efforts to develop it and apply it in Jammu and Kashmir. [12]

Mahaveer Golechha (2019) emphasises the need of Kashmir unification for current and future peace and development. The author raised the serious issue that the current Indian government has revoked the provisions of Articles 370 and 35A, using constitutional power to deprive Jammu and Kashmir of its special status and dividing the two states into two centrally administered union territories, Jammu and Kashmir and Ladakh. Author said that the present case scenario of article 370 with the matter of

Muslim majority state did not mansion the world minorities therefore the old rights of minorities are avoided in a strategic way including other serious matter as the majority of the population had the no tribal constitutional rights, no right to information (RTI), many of the constitutional rights as in the other state citizen follows but in Jammu and Kashmir and Ladakh Indians now restricted to Indian constitution.[13]

Rinashree Khound (2019) emphasises the irresponsibility in granting "temporary provisions" and "special status" to the state of Jammu and Kashmir. After thoroughly discussing the historical point of view, the focus shifts to the current ground reality scenarios of complex issues concerning the significance of article 370 under the use of political power to make strategic disastrous changes that no one tries to change, abrogation of article 370 under the Indian constitution, and bifurcation of Jammu and Kashmir into Union Territories. [14]

Asthma Mehta (2019) opposes the special status granted by the current constitution as Article 370. The genesis and nature of this article under Indian constitution should be understood in detail in order to recognise why the tenacious complex problems of communism, dynamics of separationist activates and moments which make the Indian government in serious trouble (in the current ground reality scenario and in the future).

Aditya Jain (2019) focuses on the critical examination of Indian Constitution Article 370. The author emphasises the current legal work frame, important constitutional bodies, concerns and challenges of article 370, the relevance and responsibility of the judiciary, and finally identifies gaps in Indian constitution legislation as the article 370.

Dr. Preet sharma and Dr. Sheila rai (2019) address the historical approach of article 35A, the condition before independence, throughout independence period, conserving with issue of special status, presidential order which affects Jammu and Kashmir and Ladakh. The authors do an excellent job of explaining the relevance of Article 35A.

B.G. Varghese (2019) makes an attempt to promote Pakistan-India relations. with the research framework author including the case history of conflicts between Pakistan and India based on the valley of Kashmir as the princes Hyderabad, Kalat, Bahawalpur, Junagadh, J&K, Chitral), Pakistan's invasion and Jammu and Kashmir concurrence, Jammu and Kashmir Indian and further details reflect the relationship between Pak-Indo and concerning serious matter.

Tawheeda Nabi et al (2018) demonstrates the complexities and specifics of Article 370 of the Indian Constitution. The background of this article and its subsequent specifics of article 370 are very thoroughly discussed. The authors highlight the special features of article 370 such as separate constitution, emergency provisions, discussing basic duties, direct principles, and basic rights concerning article 370, highlighting the matter of Jammu and Kashmir's high court, matter of official language, autonomy in certain matters, and other serious issues. [15]

Ira Singhal (2018) underlines the significant issue as research title reflect "article 370 and article 35A - the approaching challenge of their legal validity". The author of this study paper underlines the difficult problem against these two articles, the highpoint of petitions in the Supreme Court of India based on legal analysis, and additional modifications that have a favourable influence on Jammu and Kashmir. The author emphasises the historical perspective of points related the article 370, the discussed topics around the article 370 of the Indian constitution, and article 35A with its constitutional legality of the provisions.[16]

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POLITICS OF ARTICLE 370

Article 370 is mentioned in numerous fora due to the highly sensitive context. These may generally be considered as attempts by parties seeking media attention to gain political territory or create political space. Alternatively, political parties use the mention of Article 370 to popularise their own agendas and polarise their respective constituencies. Typically, such political remarks ignore the reality that J&K is not a homogeneous entity; Jammu has a predominantly Hindu population, while Ladakh is made up of Buddhists and Shia Muslims.

Political hyperbole frequently overlooks the fact that Article 370 is fundamentally incompatible with complete integration of J&K with the rest of India. The fact that the state government must agree to every decision made by the Centre essentially functions as a veto. Other realities, such as Article 352 and 360 (statement of national and financial emergency) not applying to J&K, citizens holding dual citizenship, and so on, are lost in the political clamour. Article 356 for imposing President's rule cannot be applied in J&K without the Governor's assent.

A landmark decision by the National Human Rights Commission (NHRC) in the case of the custodial death of a rickshaw puller, Mohan Lal, in police custody due to torture, exemplifies the extent to which Article 370 is misinterpreted to suit the interests of the state government (rather than the people). The NHRC instructed the State Government to pay an amount of Rupees Five Lacs (500,000) to the next of kin of the dead rickshaw puller Mohan Lal in an order dated August 19, 2009. The state administration, however, declined to comply with this judgement. On October 28, 2010, the state government responded, questioning the NHRC's jurisdiction to issue such orders under Section (2) of the Protection of Human Rights Act, 1993, which expressly excludes the application of the Act in J&K because it relates to entries enumerated in List II of the VII Schedule to the Indian Constitution. The NHRC dismissed the state government's case on December 27, 2010, with a comprehensive reasoning of its ruling. [21]

The facts listed above demonstrate the extent to which Article 370 is purposefully misconstrued. However, this is obscured by the political hyperbole that surrounds every

discussion of the piece. As stated in Argument 3, the mere mention of Article 370 by the BJP's Prime Ministerial candidate Narendra Modi sparked a chorus of voices from across the political spectrum. [22] Immediately following the Parliamentary elections, with the BJP now in power, remarks in both print and digital media sparked controversy.

The BJP finds itself answering these claims after promising to repeal Article 370 in its pre-election pledges. The official views of numerous parties have now been cemented in light of the approaching state elections in J&K. The ruling NC, which was on the receiving end of an anti-incumbency tsunami, attempted to remedy some of the wrongs observed during its six-year mandate by emphasising its position on Article 370 as a matter of faith to its party ethos. The NC's Omar Abdullah (then Chief Minister of J&K and grandson of Sheikh Abdullah) engaged in a verbal brawl, including on social media, with Minister of State Dr Jitender Singh as well as Ram Madhav, senior leader of the Rashtriya Swayamsevak Sangh (RSS), a right-wing organisation widely regarded as the driving force behind the BJP's success with its right-wing Hindu agenda. [23]

Since July 2016, the state has been on fire, with large rallies and stone pelting turning violent. The major political parties, both at the state and national levels, are still busy paying lip service while the average citizen is left to fend for himself. Nobody is debating the specifics of what Article 370 has done to the state. There is no discussion of the situation of refugees, only political posturing on matters of people's rights, and a general sense of postponement in the air. As a result, the argument goes, politics developed from Article 370 are essentially gaining leverage from the debate-of-the-month, polarising constituents, and creating political space. Beyond that, it means nothing to any of them.

DIPLOMATIC RESPONSES OF OTHER COUNTRIES

1. PAKISTAN

A day after the Indian government announced its plan to withdraw Kashmir's special status, Pakistan's Prime Minister Imran Khan termed India's move "unconstitutional" and warned that it may lead to another Pulwama-style disaster. [24]

Criticizing the Modi administration, Khan stated that if India acts aggressively towards Pakistan, the latter will reply. A day later, Khan presided over a National Security Committee meeting in Islamabad to discuss bilateral agreements with India. In response to the developments in Kashmir, Islamabad suspended bilateral trade and

reduced diplomatic contacts with India. It dismissed India's High Commissioner to Pakistan and blocked the departure of Pakistan's newly appointed High Commissioner to India. According to Pakistan's official Twitter account, PM Khan has asked that all diplomatic channels be used in order to "expose the barbaric Indian racial government and human rights breaches." [25]

Since then, Pakistan has worked to build a narrative in which India is the aggressor in Kashmir by putting the territory under siege. The ambassador of Pakistan to the United States has gone so far as to link Kashmir to the US-led peace process in Afghanistan, implying that Islamabad may be obliged to divert soldiers from the Afghan border to the Kashmir border. [26]

2. CHINA

China's reaction to the reforms in Kashmir was centred on its anxiety that Ladakh might become a Union Territory. It described the measure as "unacceptable," alleging that it would directly "threaten China's sovereignty." [27]

According to China's declarations, its opposition to the repeal of Article 370 is motivated by a worry that it will complicate its border dispute with India, given the 740-km LoC in J&K. [28]

However, China quickly altered its stance, stressing that the Kashmir problem should be settled bilaterally and peacefully, and that both parties must avoid any action that may exacerbate regional tensions. [29]

For the time being, China appears to be taking a cautious approach to the Kashmir issue. This is due in part to the fact that the August 2019 ruling does not alter the status quo along the Line of Actual Control (LAC). [30]

3. SAARC COUNTRIES

Bhutan, Bangladesh, Maldives, Nepal, Sri Lanka, and Afghanistan have all backed India's approach on Article 370 and state division. Bhutan's foreign minister issued a statement in which he stated, "This is totally an internal concern of the Government of India, according to us. I'd also like to emphasise the need of border security." [31]

Maldives has taken a similar position: "The Maldives considers the decision taken by the Government of India on Article 370 of the Indian Constitution as a domestic affair. We think that every sovereign nation has the right to alter its laws as needed." [32]

Bangladesh's Ministry of Foreign Affairs, too, stated that "the Indian Government's abrogation of Article 370 is an internal problem of India." [33]

Sri Lankan Prime Minister Ranil Wickremasinghe, on his part, tweeted: "Ladakh will become an Indian State. With a Buddhist population of 70%, Ladakh will be the first Indian state with a Buddhist majority. The creation of Ladakh and its subsequent rearrangement is an internal matter for India; it is a lovely place well worth a visit." [34]

The modification in the Indian Constitution, according to Nepal's foreign minister, is "totally the province of the government of India," and Kathmandu has no reaction.[35]

Afghanistan, India's "steadfast ally," had to defend itself against Pakistani remarks attempting to link J&K with Kabul. In the days following the repeal of Article 370, Pakistan's ambassador to the US, Asad Majeed Khan, stated that due to the escalation of the situation on the eastern border, Pakistan may be forced to transfer soldiers from the western border with Afghanistan.

4. SAUDI ARABIA

After a meeting between Saudi Crown Prince Mohammad Bin Salman and India's National Security Adviser Ajit Doval, reports in the media stated that Saudi Arabia had conveyed to India that it understood the latter's "attitude and actions in Jammu and Kashmir." [36]

Despite Imran Khan's journey to Saudi Arabia to seek the Arab heavyweight's assistance, Riyadh's support came as a surprise. Saudi Arabia and India negotiated a \$15 billion contract just days after Article 370 was repealed and J&K was divided. [37]

Previously, Saudi Arabia has maintained a cautious stance, pushing for a peaceful resolution of the dispute. [38]

However, India's expanding economic might influenced Saudi Arabia's attitude on Kashmir. Not only is India a significant market for Saudi oil, but the two nations' economic ties are also growing. Mohammad Bin Salman indicated in 2019 that he expects more than \$100 billion in investment potential in India over the next two years. [39]

5. RUSSIA

Moscow has completely supported India's actions in J&K, claiming that the decision was made in accordance with the Indian Constitution.[40]

For a political settlement, the Russian foreign ministry resorted to terms of the Simla Agreement and the Lahore Declaration. "We conclude from the fact that the

modifications connected with the change in the status of the state of Jammu and Kashmir and its separation into two union territories are carried out within the framework of the Constitution of the Republic of India. We hope that the parties concerned will not allow the situation in the region to deteriorate further as a result of the choices." Russia released another statement two weeks later, maintaining its earlier position.

6. UNITED STATES

The US originally reacted calmly to the repeal of Article 370. However, the situation in the country has subsequently deteriorated. Washington affirmed that it was "closely studying" the developments in J&K and urged "all parties to maintain peace and stability along the Line of Control," while emphasising that the Indian government's actions were "strictly an internal concern" in the week after the declaration. [41]

The spokeswoman for the State Department underlined that the US was "concerned about allegations of detentions and encourage respect for individual rights and conversations with persons in impacted areas." [42]

While certain Indian media outlets claimed that the GoI briefed the US on its preparations for J&K months before the formal declaration, senior White House officials refuted the assertion. [43]

In a letter to President Trump in September 2019, numerous senators highlighted their worries about the situation in Kashmir. Following that, previous Democratic presidential hopefuls Bernie Sanders and Elizabeth Warren openly criticised India's actions on the campaign trail and demanded that the communication blockage in J&K be lifted. [44]

The US House of Representatives' Committee on Foreign Affairs held a hearing on human rights in South Asia, with an emphasis on J&K, in October 2019. Representatives of the US administration who appeared at the hearings, Alice Wells and Robert Destro, sought a middle ground in their statements, supporting the "rights of Kashmiris to peacefully demonstrate" but denouncing terrorists' conduct. They "urged the government to combine its security concerns with respect for human rights," citing the arrest of political leaders. [45]

In November, US lawmakers held another congressional hearing on J&K before a human rights commission, demanding the release of detainees, permission for journalists and lawyers to access the region, and the lifting of the communication blockade. [46]

7. THE UNITED KINGDOM

In the context of the Indian government's actions in J&K, the Foreign and Commonwealth Office stated that it was following the developments closely. On 15 August 2019, Independence Day celebrations by Indians in London were marred by protests outside the High Commission. [47]

This was followed by a violent incident outside India House in London in September. Action was done only after a diplomatic note and continuous pressure from the Indian government. As a result, the British government refused to authorise another 10,000-person rally to coincide with Diwali. [48]

The British parliament is divided on the subject, with many calling for a halt to the GoI's decision and others applauding it, thinking that it will pave the path for economic progress in J&K. [49]

While a number of Muslim parliamentarians of Pakistani ancestry termed the removal of the provision a "orchestrated coup," others issued highly supportive letters to the Indian government. [50]

In September, the UK's Labour Party passed a resolution that supported "international intervention in Kashmir" and calling for UN-led referendum for the "humanitarian crisis." [51]

The proposal sparked outrage among the British Indian community, prompting the political party to clarify that J&K remained a bilateral matter between India and Pakistan. [52]

CONCLUSIONS

So far, the diplomatic repercussions from the action has outperformed India's greatest fears. The Kashmir problem has clearly been internationalised, but not in the classic sense in which UN or other multilateral entities strive to change the status quo, but in a way that has kept Kashmir in the limelight. While such global interest in the area is unprecedented, it does not necessarily imply that India's friends and allies have changed their stance. Despite the decision's constitutional complexities, most nations have recognised the new reality of Kashmir, albeit with grave reservations about human rights and India's handling of the issue. Thus, India has managed to keep the narrative from spiralling out of hand, confining it to justifiable criticism from diverse countries. Except for Pakistan, no other country has sought a reversal of Article 370's repeal. To be true, the Kashmir judgement has had an adverse effect on India. Following the repeal of

J&K's special status, the BJP sees a chance to form administration in the newly constituted Union Territory of J&K. Once the law and order situation in the Kashmir Valley has stabilised, the administration plans to delimit the J&K legislative assembly seats in order to hold local elections. The planned delimitation will redraw the scope and size of constituencies, as well as the overall number of seats to be reserved in J&K for Scheduled Castes, those at the bottom of the Indian caste system. The new constituency plan in J&K may provide the ruling BJP an election edge, since its heartland Jammu may gain more seats if the delimitation process is completed. If this occurs, the BJP would have a reasonable chance of forming a new government in J&K and appointing its own chief minister (CM).

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