



Unpacking the Article 370 Abrogation: Assessing Implications on Secularism and the Post-Revocation Landscape

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INTRODUCTION

The Indian Constitution is a remarkable document in India's history, distinguished by its unique features and objectives. The foundational law, often referred to as the Grundnorm, incorporates several exceptional provisions, each carefully considered before inclusion. Among these, Part XXI of the Constitution housed a provision of singular significance, which endured for 73 years since India's independence. Article 370, embedded in the Constitution, conferred special status upon the state of Jammu and Kashmir, granting it significant autonomy in formulating laws for its residents. This article restricted the Indian Government's authority to three specific areas: defense, foreign affairs, and communications. Notably, Jammu and Kashmir was the only state with its own constitution, rendering most other provisions of the Indian Constitution inapplicable. The father of the Constitution, Dr. B.R. Ambedkar opposed this very proposal. In his words, "You wish India should protect your border, she should built roads in your areas, she should supply you food, grains and Kashmir should get equal status as India. But government of India should have only limited powers and Indian people should have no right in Kashmir. To give consent in your proposal, would be treacherous thing against the interest of India and I, as a Law Minister of India, will never do." When Dr. B.R. Ambedkar refused to draft Article 370 as part of the Indian Constitution, Shaikh Abdullah approached Nehru, and then, Article 370 was drafted by Gopalswamy Ayyangar, who served as the prime minister of J&K for six years. Jammu and Kashmir, often referred to as the 'paradise on earth,' has long been at the center of the conflict between India and Pakistan, known as the 'Kashmir dispute.' This contentious issue emerged following India's partition, as both countries laid claim to the entire former princely state of Jammu and Kashmir, leading to three wars between them. The region has remained a source of tension since independence, marked by sporadic conflicts and ceasefire violations. However, on August 6, 2019, the Indian government took a historic, albeit contentious, step by revoking Article 370, fully integrating Jammu and Kashmir into the Indian union and reorganizing it into two union territories. This decision was accompanied by a complete suspension of telephone lines, internet shutdowns, and the house arrest of political leaders. The move evoked a mixed

response, with all countries except Pakistan and China accepting it, albeit with criticism regarding communication restrictions. In this turbulent period, some leaders in Jammu and Kashmir embraced the new reality, while others vehemently opposed it. In the words of Omar Abdullah, 'We, the people of Jammu and Kashmir, would like to categorically tell the BJP that it is not possible to revoke Article 370, and any attempt to do so will be over our dead bodies.'

Article 370 served as a political rallying point for various parties to advance their agendas. The ruling party, BJP, had promised to repeal Article 370 in its pre-election pledges. Nevertheless, critics of this move accused the Indian government of promoting Hindu extremism, raising questions about India's commitment to secularism. Many Muslim leaders also believed that the government's actions had negative consequences for their lives.

Beyond the state's borders, the revocation spurred a national debate on India's federal structure. Questions arose about the central government's authority in dealing with regions that had historically enjoyed special status and autonomy. The tension between regional autonomy and central governance found resonance in the words of Dr. B.R. Ambedkar, who had opposed the proposal of Article 370: "To give consent in your proposal would be a treacherous thing against the interest of India."

On the ground, the economic development initiatives launched by the Indian government in Jammu and Kashmir aimed to bring prosperity to the region. However, concerns emerged regarding potential demographic changes. As policies encouraged non-residents to settle in the region, fears surfaced about the dilution of the cultural and political identity of the Kashmiri people, echoing worries expressed by many.

Article 370, with its special provisions for Jammu and Kashmir, had long been seen as a symbol of India's commitment to secularism by respecting the autonomy of a region with a diverse religious and cultural landscape. However, the revocation of Article 370 raised concerns among critics who viewed it as a departure from the principles of secularism. They argued that the move, which was closely associated with the Hindu nationalist agenda of the ruling party, BJP, could be interpreted as a threat to the secular fabric of the country. This action led to questions about whether the Indian government was prioritizing religious and political considerations over the principle of equal treatment of all religious communities. While proponents of the revocation argued that it aimed to promote national unity, the impact on India's secular identity remained a subject of debate and concern among various segments of society.

While the government had hoped for a reduction in terrorism following the revocation, the desired outcome did not materialize. Security challenges persisted in the region despite hopes for a reduction in militancy following the revocation. This complex situation highlighted the difficulties faced by security forces in maintaining stability while upholding human rights standards. It reinforced the view that peace in Jammu and Kashmir remained elusive, as indicated by sporadic violence and militant activities. Numerous scholars argued that human rights violations increased. The government, on multiple occasions, curtailed the civil liberties of the people of Jammu and Kashmir.

The revocation further strained India-Pakistan relations, with Pakistan vehemently condemning the move. The issue continued to be a major point of contention between the two neighboring countries, with implications for regional stability. It underscored the complexity of international relations in South Asia, as reflected in Pakistan's strong denouncement of India's actions as unconstitutional.

The revocation of Article 370 was a pivotal moment in India's history, carrying multifaceted implications for Jammu and Kashmir, Indian federalism, regional politics, and diplomatic relations. Its long-term consequences continue to unfold, and it remains a subject of intense scrutiny and debate. The resolution of this issue will profoundly shape the region's future and influence India's approach to diversity, governance, and national unity.

The abrogation of Article 370 was immediately challenged in the Honorable Supreme Court. The apex court subsequently took up the matter in the case of 'Re: Article 370.' A constitution bench, presided over by Chief Justice D.Y. Chandrachud, heard the case on a day-to-day basis for 16 days. Following extensive deliberations, the court has reserved its judgment. Currently, the fate of Article 370 rests in the hands of the highest court in the land.

REVIEW OF LITERATURE

Books

D.D Basu¹ in his book explores the ambit, provisions and scope of article 370 of the constitution of India. He meticulously examines the historical and legal aspects of this Article, all the while shedding light on its unique status. Furthermore, the author's work include a comprehensive list of significant legislations that have been selectively applied from time to time in the concerned state.

Mridu Rai²'s book provides a comprehensive work on Article 370, which is examined within the broader context of Indian federalism. The book delves into the intricate relationship between the constitutional provision and the federal structure of India, and thus provide a scholarly analysis of the relationship that he attempts to accomplish.

Rekha Chowdhary³'s book focuses on the political dimensions of Article 370, exploring its impact particularly in the region of J&K. It sheds light on the complex interplay between politics and constitutional provisions in this context, and how the politics was there at the very time the provision was incepted and how it grew around the controversial Article.

A.G Noorani⁴ in his book provides fresh insights on the negotiations preceding the enactment of Article 370, between the political leaders. The book focuses primarily on the historical significance of the article, and its role in shaping the constitutional evolution of the state and its relationship with the Union of India over the decades. The author also discusses the Supreme Court Judgments related to Article 370. The book is thus, basically, a collection of documents.

In **Daya Sagar**⁵'s book, the author talks about how the face of Indian state J&K, was allowed to be painted by some to the benefit of external and internal disruptive elements. Sagar contends that the commitments

¹ *Introduction to the constitution of India*, (S.C.Sarkar, 5th Edition, 1971).

² *Article 370 and Indian Federalism: A Study of the Making and Working of the Article 370 of the Indian Constitution*' (New Delhi: Manohar Publishers, 2009).

³ *The Politics of Article 370* (Oxford University Press, 2011).

⁴ *A constitutional history of J&K* (New Delhi: Oxford University Press, 2014).

⁵ *Jammu & Kashmir-A victim* (New Delhi: Ocean Book Pvt Ltd, 2015).

made with Kashmiris have not been adequately addressed by the Government of India. The book delves into the controversies around Article 370, and its impact on the state of Jammu & Kashmir. The book also provides a detailed exploration of the contentious issue of state's accession to India, shedding light on its unique constitutional position among Indian states and other critical factors not covered by anyone else.

A.S Anand⁶ in his book deals with the circumstances which led to the creation of the state of J&K, what was the effects of its creation. The author also explores the influences of other factors, historical as well as legal, on the development of its constitution. Additionally, the author provides an in depth explanation of the state's accession to India, which has been a subject of politically controversy and has been challenged time and again by the neighboring country of Pakistan.

Usha Rani⁷ in her book delves into the history and implications of Article 35A, which was closely linked to Article 370. The book offers valuable insights into both the legal and social aspects of this provision.

Iqbal Chand Malhotra⁸ in his book provides insightful and valuable answers to the gripping questions revolving around Article 370, Through his consistent and compelling arguments, Malhotra in his work join the dots and provide a comprehensive view of India's policy towards the state since 1889. The authors also explain the History of Jammu and Kashmir from the time of its political and geographic consolidation under Maharaja Gulab Singh while tracing its history to contemporary India.

Mohini Raina Qasba⁹'s book provides a historical and political perspective on Article 370 and 35A while diving deeply into the historical context and the political dynamics surrounding these constitutional provisions. The author thus covers a wide scope of Article 370 and article 35A and their relation, and significance.

Sumit Dutt Majumder¹⁰ in his book aims to clarify the issues surrounding article 370 and 35A of Indian constitution. This book gave important information on constitutional, political and legal aspects about the article 370. The author also highlights the role of B.J.P government reconstituted the erstwhile state of J&K into two union territories. The author also talks about the factors which led the state to have its own constitution, thus providing a new insight to its history. These are some questions which have been answered in this book.

Sanjay Dixit¹¹ in his book, states that Article 370 quagmire was the result of the inability in the national leadership to understand the Muslim mind. To have initially denied the principle of two nations and then to have accepted a separate identity for the only Muslim majority state of India, was a betrayal of principles and

⁶ The Constitution of J&K, its developments and comments (Universal Law Publishing an Imprint of Lexis Nexis, 2016).

⁷ *Article 35A and Constitutional History of Jammu and Kashmir* (New Delhi: Lancers Books, 2018).

⁸ *Kashmir an untold story: Declassified* (Bloomsbury India, 1st Edition, 2019).

⁹ 'Kashmir's Article 370 and 35A: A Historical and Political Perspective' (New Delhi: Pentagon Press, 2019).

¹⁰ *Article 370 explained for the common man* (Niyogi Books Pvt.Ltd, 2020).

¹¹ *Unbreaking India* (Gurugram: Garuda Parkashan Private Ltd, 2020).

an acceptance of expediency, but the Ulama class welcomed it, for any separate identity was a victory for Ummat. Though the leadership has finally nullified the Article, still the danger has not ended, and the issue still prevails. If they are not careful, they may trip up again on the quicksand of 'political correctness' and appeasement of the religious leadership.

Articles

Abhinav Chandrachud¹² in his paper discusses the constitutional validity of the government decision to alter the status of Jammu and Kashmir. The author's work argues that the government attempts to abrogate the article 370 and convert J&K into Union territory are unconstitutional. Chandrachud points out that by not even considering the perspectives if the leaders of Kashmir let alone obtaining their 'concurrence', the President of India has violated the spirit of the Article 370 of the constitution. Further by failing to obtain even the view of legislative assembly of the state in order to convert J&K into a union territory parliament has violated the essence of article 3 of the constitution. Thus, the author touches many important issues in his paper and presents his honest views to the readers.

Aditya Jain¹³, in his article, highlight the critical analysis of Indian constitution article 370. The author makes efforts on detailed legal analysis on the article 370 is mentioned in detail with Article 370 Clause (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). Moreover, highlights the Present legal work frame, relevant constitutional bodies, issues and challenges of article 370, the importance and role of the judiciary at the end identifying lacunas in laws of Indian constitution as the article 370.

In his paper, **Akashdeep Singh**¹⁴ while highlighting that article 370 is a 'permanently temporary provision since the date of its inception to the Indian constitution. It has been in controversy among the political thinkers since day one. Notably, Dr BR Ambedkar had refused to sketch the article due to its perceived bias and exception within the constitution of the free India. Thus, according to the author, revocation could be made.

Amitabh Hoskote and Vishakha A Hoskote¹⁵ in their paper examine article 370 and the validity of the politics attached to it based on four specific arguments. First, the genesis of article 370 spawn inequality in India. Second, its retention implies festering of the contentious issue. Third, its consequences forge inequality within J&K. Fourth, how politics over article 370 only seek limited advantage from it. Article 370 was conceived as an instrument for a vulnerable populace unsure of protection of their identity and culture, while in the same instance it was meant to assure autonomy to create space in governance and empower people to decide their future. In the end, the author focus on the present case scenarios has serious issues after Article

¹² 'The Abrogation of Article 370', Festschrift in Honour of Nani Palkhiwala (January 2020).

¹³ "Article 370- A critical analysis", *Journal of legal study and research*, Volume -2, Issue -1, (2019).

¹⁴ Article 370-a permanently temporary provision', *International Journal of Research and Analytical Reviews*, Volume 6, (2021).

¹⁵ 'Jammu & Kashmir and the politics of article-370-Seeking legality for the illegitimate', *International Journal of social sciences*, Special issue volume 3 (2017).

370 was implemented and talks about the further peace in the country. Thus, the paper covers a wide ambit of implications of Article 370.

Anusha Mohapatra¹⁶ in her paper, while discussing merits and demerits of the abrogation of Article 370, sheds light on the brief history of issue, the importance of the issue, its introduction, the lacuna in the decision, while also making significant recommendations in the execution of the decision to make it more effective, beneficial and inclusive.

Ayjaz wani¹⁷ writes an article on life in Kashmir after article 370. The author throws light on the lives of the people after Abrogation of Article 370. He also highlights the living standard of the people of Kashmir, how they slowly and steadily limping towards normalcy amidst the chaos. The abrogation of autonomy without the consent of the Kashmiri's has heightened the threat among the people of the valley. After 5 Aug, people are feeling an increased sense of fear and suspicion regarding their identity and culture issue such as religion, customer and language. The author does a remarkable job in bringing the true picture to the readers.

A.Z. Hilali¹⁸ in his article, discusses that the abrogation of Article 370 has invited strong condemnation from Pakistan. The decision has caused backlash for the Indian government when they imposed restrictions on communications and curbed their civil liberties. People are left disillusioned with the prospect of peace and large scale violence flows out from this decision leaving the communities insecure.

B.G. Varghese¹⁹ makes an attempt to promote Pakistan-India relations. With the research framework, the author includes the case history of conflicts between Pakistan and India based on the valley of Kashmir, Pakistan's invasion and Jammu and Kashmir concurrence, Jammu and Kashmir and India's relationship and further details reflect the relationship between Pak-Indo and concerning serious matter, which revolves around the disputed Article.

In her research paper, **Deepti Sen**²⁰ says that Abrogation has been a highly criticized step of the Indian government. In a democratic country, the strength lies within the people and not the Governor who is the head of the state. The author highlights that the special status was taken in a rushed manner and cannot be equated with the presumption of constitutionality. The rights and privileges of the people have been taken away. The author also sheds light on how the move is in nature of coercive federalism as opposed to cooperative federalism as the centre has bypassed the provisions of the constitution as it brought constitutional amendment without amending the constitution, without involvement of people there.

¹⁶ 'ABROGATION OF ARTICLE 370-A CRITICAL ANALYSIS' *Law Audience Journal* Vol 2 Issue 2 (June, 2020).

¹⁷ ORF Special Report-*Life in Kasmir after article 370*

¹⁸ 'Kashmir Combustible Region: Abrogation of Article 370& 35A and its Grave Implications', *Journal of Indian Studies*, Vol. 7 Issue 2, (2021).

¹⁹ A J&K PRIMER from myth to reality, *Centre for Policy Research*, (2019).

²⁰ 'Abrogation of Article 370: Coercive Federalism over Cooperative Federalism', *Indian Journal of Law and Legal Research*, Vol 2, Issue 2, (2021).

Ira Singhal²¹, in her work, highlights the serious issue as research title reflect “article 370 and article 35A – the impending question of their legal validity”. In this research, work author highlights the complex issue against these two articles and the highpoint of petitions in the supreme court of India based on legal analysis and further changes that positively impact the Jammu and Kashmir. The author highlights a matter of issues as the historical view of points regarding article 370, the debated gyratory around article 370 of Indian constitution, article 35A with its constitutional validity of the provisions.

Jhanavi Sodhi²², states in her article that, the amendment of Article 370 in August 2019, which effectively nullified the special status of Jammu and Kashmir, was a watershed moment in the history of the region that went largely uncontested by the international community. Besides China and Pakistan, most countries were unwilling to openly criticise India’s actions in Kashmir. The limited international response to India’s actions largely focused on the humanitarian situation in the Valley, rather than the constitutional changes themselves. Her paper outlines the plausible reasons behind the muted international response on Kashmir.

Kashish Mahajan²³ in her paper outline the legal measures adopted to effectuate the changes made after the abolition of article 370 and then proceeds to examine their constitutional validity. The paper contends that the legislative assembly of the state can be construed to mean the constituent assembly of the state, thereby keeping the mechanism for the abrogation of article 370 alive. The paper also lays down the legal standard for the kind of decision that may be taken by the President and the Parliament during the operation of President’s rule and argues that the action of abrogating article 370 and bifurcating the state of Jammu and Kashmir is unconstitutional when tested against the standard.

Marium Kamal²⁴ in his research paper talks about how on august 5, 2019 Prime Minister Narendra Modi under the BJP government took historic but highly controversial decision. The author further wonders if the Modi government’s Kashmir gamble will pay off in the end or will it proof to be a historic blunder and push the two nuclear armed nations to the brink of war. While discussing how the congress leadership opposed the Modi’s move describing it as black day for democracy, the author states that Jammu and Kashmir’s democracy would now be further weakened. This relates to cheating because the people were misled into believing that the mobilization of 10,000 were being made in the response to a terrorist assault threat but there were no dangers. Thus, the people of Kashmir were kept in the dark, during that time. Nobody paid attention to the people and democratically elected leaders of Jammu and Kashmir, a move that is equivalent to a dictatorship.

²¹ “ Art. 370 and Art. 35A – The impending question of their legal validity”, *International Journal for Law Management and Humanities*, Volume 1, Issue 3, (2018).

²² ‘The Article 370 Amendments on Jammu and Kashmir: Explaining the Global Silence’, *ORF Report*, Issue No. 318 (May 2021).

²³ ‘The Abrogation of Article 370 and Bifurcation of Jammu and Kashmir-A Bridge Too Far’, *Indian Journal of Constitutional Law* Vol. 9, 106, (2020).

²⁴ ‘Hindutava : A Blind Faith’, *Journal of Development and Social Sciences*, Vol 4, no.3, (July-Sept 2023).

In their article, **Mintu Pathak and Jhanin Mushahary**²⁵, shed light on the consequences of withdrawal of Article 370 in the state of J&K. The authors primarily focus on the socio political effects of the abrogation of the Article in the valley of Kashmir, and while diving deeper also throws some insight on the global controversies concerning the Indian government's action. The authors contend that the decision has caused a significant degree of international reaction from the diverse countries around the globe. The work also highlights the attempts of Pakistan and China to open new chapter on Kashmir issue in the United Nations Security Council.

Moonis Ahmar²⁶ in his article discusses how the erosion of article 370 since mid-1950s by diminishing the special status of J&K, questioned the claim of New Delhi that secularism was an unalienable principle of the Indian state. He talks about how the Indian state has no official religion and recognizes all religions, yet the phenomenon of Indian secularism is often contested and tested time and again. The paper analyze the nature of article 370 of the Indian constitution, its gradual erosion and its implication on Jammu and Kashmir. The work discusses how a sense of alienation and deprivation deepened among the already frightened populace of J&K and the sustain use of force by the Indian state quell popular surge against the excesses of security forces, transformed the Valley of Kashmir from Heaven on Earth to a large scale prison camp manned by hundreds of thousands of Indian military and border security forces. The paper also critically analyze the consistent assertion by the Modi regime that article 370 needs to be undone and the special status given to J&K needs to be abolished so as to fully integrate that disputed territory under the Indian union.

Munazza Khalid²⁷ in his article says that the abrogation of the constitutional article 370 and 35A has severe consequences for south Asian strategic stability. India's annexation of Indian held Jammu and Kashmir and the scrapping of Article 370 has resulted in human rights violations, mass killings, economic undermining and social strangulation of the Kashmiri people. The author further highlights the need of a well addressed and timely strategy for the situation to come under control.

In his paper, **Mustansar Siam**²⁸ that the abolition of article 370 unilaterally, (a bilateral issue) which altered the autonomous constitutional status of the state of Jammu and Kashmir triggered widespread response from the international community. The revocation of article 370 and 35A has lead to the increase the militarization in the region and raised concerns about human right violation and restriction on civil liberty. He maintains that the state of human rights in Kashmir has deteriorated following the revocation of article 370 and 35A and this could be seen as negative impacts on the world's largest democracy.

²⁵ 'The Revocation of Article 370 in Indian Constitution: An Analysis of the Socio-Political and Economic Effects after withdrawal of the Article in Jammu and Kashmir' *Journal of Positive School Psychology* Vol.6, No.4, (2022).

²⁶ 'Indian Secularism and the erosion of Article 370', *Pakistan Vision* Vol 18 No.1, (2019).

²⁷ 'Abrogation of Article 370 and 35A, human rights situation in Indian Occupied Kashmir and options for Pakistan', *Journal of Humanities, Social and management sciences* Vol 2 no.1 (2021).

²⁸ 'Politics of exclusion in India: A threat to liberal democracy and regional integration', *Pakistan Journal of social Research* Vol 5,no.2, (June 2023).

Nazir Hussain²⁹, in his research paper, focuses on on the revocation of Article 370 by the Modi Govt. on 5 August 2019 by using Majoritarian power. The abrogation of the Article 370 turned out to be against the very spirit of the Indian Constitution, principles of humanity and the democratic norms at a broader level. This move was also against the fundamental rights from article 26-28-freedom of religion on one hand and on the other the targeting of one particular community by the BJP gov. because J&K is the only Muslim majority state which has around 67 percent Muslim population. The mission of the abrogation of article 370 was in fact mentioned in the manifesto of BJP since 1980. After the partition of Indo-Pak in 1947, J&K was a provincially an independent state which was earlier sold by the British Govt. to Maharaja Gulab Singh for a sum of 7.5 million. After partition, unfortunately, on 20 August 1947, Pakistan invaded Kashmir. In its defence, Maharaja Hari Singh sought help from India and then acceded to the Indian Union temporarily by signing “Instrument of Accession.” The author claims that the political parties of J&K, are solely responsible for the abrogation of Article 370. His work is an attempt to unveil the myth from reality.

Neha³⁰, in her article, in her article discusses that special status to J&K created many complex problems including the threat of unity of the country. The authors state that the Article 370 was a temporary provision and it was essential to abrogate, modify and eliminate this article. Thus, the author has taken a single approach towards the abrogation.

Pallavi Chetan Patil³¹ in her article while listing out the pros and cons of abrogation of Article 370, states that Abrogation which is India’s internal matter, international community except Pakistan and China has supported India. It has a positive impact on growth and stability, however, Kashmiri Muslims believe that this act brought more negative impact on their life. While the pros include, the Indian Constitution applies on the state, property can be bought by Indians in Kashmir, tourism can be benefited and single citizenship for all, the cons include that the relations with Pakistan have become worst, possibility of more terrorism, and stability will take more time to return in the state.

Preeti Sharma and Sheila rai³² address the historical approach of article 35A, the conditions 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 in relation to Article 370.

Ritika Kanwar³³ in her article envisages to analyse the nature of Indian federalism in the light of Article 370. The article scrutinizes the historical background of Article 370 along with the dealing with constitutionality of such abrogation of Article 370 all the while relating it with the facets of basic structure of the constitution.

²⁹ ‘Historical Analysis of Abrogation of Article 370’, *UGC Care Journal*, Vol.19, Issue 42 (June 2020)

³⁰ ‘Abrogation of Article 370 of The Indian Constitution: An Analytical study’, *International Journal of Creative Research Thoughts*, Volume 8, Issue 8 (August 2020).

³¹ ‘A study on pros and cons of Abrogation of Article 370 in India’, *Think India Journal*, Vol-22 Issue-36 (Dec 2019).

³² ‘Article 35-A and its implementation-A Quest for stability in Jammu and Kashmir’, *Journal of Emerging Technologies and Innovative Research*, Volume 6, Issue 4, (2019).

³³ ‘Abrogation of Article 370: Impact on Asymmetrical Federalism in India’, *International Journal of Integrated in Law*, Vol 2 Issue 3 (2022).

Robina Khan, Muhammad Zubair Khan & Zafar Abbas³⁴ in their article argue that there is continuous violation of internationally accepted human rights in the Valley of Indian occupied Kashmir. The authors have examined the violations of UDHR- 1948, ICCPR-19966 and CRC-1990 specially after the abrogation of article 370 in Jammu and Kashmir. According to the authors, the current human rights situation in the Kashmir region has deeply worsened and thus deserve immediate international attention and action from the concerned authorities. The Indian army under the protection of the Special Powers Act are vested with unlimited powers including the right to arrest anyone without the judicial warrant. In such situation, the Kashmiri people have no hope of getting justice in a court of law.

Sachin Tiwari³⁵ in his paper discusses how the international world responded strongly to the repeal of article 370 and the division of state J&K in august, 2019. The paper analyzes the article 370 and the legitimacy of the politics around it based on how the arguments surrounding article 370 only seek limited influence. The article also contends that India's move to abrogate article 370 has resulted in substantial international opposition, which is not a positive sign. However, despite the decision's constitutional complexities, most nations have recognized the new reality of Kashmir, albeit with the grave reservation about human rights and India's way of handling of the issue. Thus, India has managed to keep the narrative from sparring out of hand, confining it to only justifiable criticism from diverse countries.

Sameer P Lalwani and Gillian Gayner³⁶ in their paper focuses on India's Muslim majority state of Jammu and Kashmir in the wake of its revoked autonomy in august, 2019, how the evolving nature of the Kashmir contributed to such a political gambit and where the situation is headed after the abrogation and the possible outcomes of what may happen.

Shally Rani³⁷ in her article throws light on consequences of deletion of article 370 about J&K by the existing government of BJP. The author throws insight on how some Kashmir Muslims think that this act brought more negative impact on their life. The work also states that the action has built emotional and psychological barrier between the people of Kashmir and the rest of the India. Furthermore, revoking article 370 will allow the centre to declare emergency in the state except in case of award as per the constitution order 2019.

Syeda Tahreem Bukhari³⁸, in her article while calling out the action of Modi regime in revoking article 370, illegal, says that India is on the verge of unilaterally dissolving the lingering conflict of Jammu and Kashmir which is a bilateral issue. The author highlights that the unilateral move, particularly revoking the special status of J&K are not nearly an internal matter of India but rather a breach of various clauses of international law. Further, the attempt of scrapping article 370 reflects the rise of policy subscription to the traditional

³⁴ Moving towards human catastrophe: the abrogation of article 370 in Kashmir Valley', *Journal of Muslim Minority Affairs*, (2021).

³⁵ 'Political Impacts of Article 370 Of Jammu and Kashmir', *International Journal of Economics Perspectives*, (September 2022).

³⁶ 'India's Kashmir Conundrum: Before and After the Abrogation of Article 370', special report no.473, (August 2020).

³⁷ 'Kashmir and the Abrogation of Article 370: An India's perspective', *International Journal of Multidisciplinary Educational Research*, Vol 9 Issue: 7(1), (July, 2020).

³⁸ 'Arthashastra Underpinning: A Case Study of Article 370', *International Journal of Kashmir Studies*, Vol.5 No.1 (2023).

Hindutva wisdom. India has created a deadlock on Kashmir conflict. The onus of responsibility is on India to create a conducive environment for dialogue with Pakistan over the Kashmir conundrum. Thus, the author in his work highlight the need of conciliation with Pakistan over the issue and calls out the India's responsibility in doing so.

Tariq Rather³⁹, in his article makes an analyses the integration of the state of Jammu and Kashmir with the Indian Union through the Instrument of Accession (1947) under the pretext of Article 370 of the Indian constitution. Article 370 provided a special position to the state of Jammu and Kashmir in the quasi – federal – oriented polity of India as envisaged in its constitutional set up. It explores legal nature and character of the Article 370 within the Indian Constitution, and also highlights the true nature and meaning of autonomy of Jammu and Kashmir within the Indian Union. The author tries to highlight how after seventy four years Indian govt. arbitrarily and unilaterally abrogated Article 370 without the consent of Jammu and Kashmir constituent Assembly/Elected Government. This paper also analyses social, economic and political implications of abrogation of Article 370. It further highlights the exploitative nature of Indian government which was once upon a time a defender of democratic values and means.

Tawheeda Nabi, Subaiya Nazir and Shahid Hussain Wani,⁴⁰ 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 by the authors. While highlighting the special features of article 370 such as separate constitution, emergency provisions, discussing basic duties, directive principles, and basic rights concerning article 370, the work takes into its ambit other matters such as the matter of Jammu and Kashmir's high court, matter of official language, autonomy in certain matters, and other serious issues.

Utkarsh Anand⁴¹, in his newspaper article, while reporting about Article 370's hearing states that Following a marathon hearing spanning over 16 days, the Supreme Court on Tuesday reserved its verdict in a clutch of petitions that have challenged the August 2019 abrogation of Article 370, which granted special status to Jammu and Kashmir, and the subsequent restructuring of the state into two Union territories.

Vivek Kumar Mishra⁴² in his article, straightaway calls out that Article 370 was an obstacle in the process of democratic decentralization of the state. The work states that corruption and poverty prevailed in the face of lack of socio-economic infrastructure, with the special status hindering the outsiders to set up new businesses and preventing the state's integration with the rest of India. Thus, the author has thrown light on the positive impacts of the abrogation of article 370 and how it will help in developing the state as a whole, all the while its effect on the democracy of India.

³⁹ 'Abrogation of Article 370 in India: Socio-Economic and Political Implications on Jammu and Kashmir' *International Journal of Research and Analytical Reviews* Vol 7 Issue (3 July, 2020).

⁴⁰ 'Article 370 and its implementation', *International Journal of Creative Research Thoughts*, Volume 6, (2018).

⁴¹ 'Article 370 hearing concludes, Supreme Court reserves verdict', *Hindustan Times* (06 Sept, 2023).

⁴² 'The Abrogation of Article 370 International Research', *Indian Journal of Asian Affairs*, Vol 33 no.1/2 (June-Dec 2020).

In his paper, **Zaid Deva**⁴³, basically focus on the case of Sampat Parkash, which laid down that the power to give concurrence continued beyond the constituent assembly's dissolution in 1957. The primary focus of the article is to evaluate the reasoning of the decision and draw a framework for the exercise of powers under Article 370 in the post-constituent assembly phase.

Zaheer Abbas⁴⁴, in her article discusses how the issue of Kashmir has remained a longstanding dispute since the sub-continent gained independence from British rule. The United Nations has continuously advocated for a peaceful resolution based on the wishes of the Kashmiri people. However, India has consistently denied these calls for dialogue and resolution, despite having sought UN involvement in the past. This has led to accusations of India being in illegal occupation of the region and violating international law, with reports of human rights abuses in India Held Kashmir (IHK). A significant turning point occurred on August 5th, 2019, when the Indian government unilaterally abrogated Article 370 and Article 35A of the Constitution, which altered the region's demographic landscape. While India has presented legal and governance-based justifications for this move, critics argue that it does not legitimize the autocratic abrogation of Kashmir's special status, given its disputed nature between India and Pakistan for over seven decades. This abstract highlights the most contentious aspect of India's actions—the demographic alteration of Kashmir—considered by many as a tyrannical step aimed at depriving Kashmiris of their right to self-determination. Amidst allegations of long-standing human rights abuses, this study critically examines India's actions from a legal perspective, analysing the potential violations of international law resulting from the revocation of Kashmir's special status. By shedding light on this complex issue, the study aims to contribute to a broader understanding of the legal implications surrounding India's actions in Kashmir.

The Hindu Bureau⁴⁵ states, the Hon'ble Supreme Court on Tuesday reserved verdict in the challenge to the abrogation of Article 370 of the Constitution. The petitioners argued that the abrogation was an attack on federalism and a fraud played on the Constitution. They also pointed out that the 2019 Act is unconstitutional since Article 3 does not give the Parliament powers to downgrade federal democratic States into a less representative form such as a Union Territory. On the contrary, the Union government contended that the abrogation was necessary to completely integrate J&K into the Union of India and that elections in the valley would be conducted as soon as normalcy returns on the ground. The Bench also raised several pertinent questions during the proceedings- whether the dissolution of the State Constituent Assembly could render Article 370 beyond abrogation, whether the provision forms a part of the Basic Structure of the Constitution etc.

⁴³ "OF A TUNNEL AND A (QUALIFIED) TRAFFIC: AMENDMENT ORDERS, SAMPAT PRAKASH, AND THE RECASTING OF ARTICLE 370," National Law School of India Review: Vol. 33: Issue 2, Article 2.

⁴⁴ 'International Law and Self Determination: A Case for Kashmir's Special Status', International Journal of Kashmir Studies, Vol.3 (2021).

⁴⁵ The Hindu, (September 05, 2023).

RESEARCH GAP

After reviewing the literature, the researcher is of opinion that extensive has been done on the provisions of Article 370, it's historical background and to some extent, it's abrogation. But not many papers are there on the effects of Abrogation of the controversial article on secularism, how the other nations have responded to it, and the current situation prevailing in the state. Much recently, the Supreme Court has taken up the challenge against the abrogation after 4 years. The researcher in this present paper will be dealing with the present scenario of Article 370, it's effects on relationship between India and Pakistan, along with the recent updates by the Highest Court of the land.

REVOCATION OF ARTICLE 370: AFTERMATH

The revocation of Article 370 on August 5, 2019, marked a significant constitutional and political transformation in Jammu and Kashmir (J&K). This move not only altered the region's legal framework but also initiated a complex interplay of socio-political, economic, and security dynamics.

1. Constitutional and Legal Repercussions

- **Abolition of Special Status:** The immediate effect was the cessation of J&K's special status, leading to the application of Indian laws and the Indian Penal Code (IPC) in lieu of the erstwhile Ranbir Penal Code.
- **Reorganization into Union Territories:** J&K was bifurcated into two Union Territories—Jammu & Kashmir, and Ladakh—under the Jammu and Kashmir Reorganisation Act, 2019.
- **Legal Integration:** Central laws became applicable to the region, impacting various sectors including education, governance, and civil rights.

2. Political Dynamics and Governance

- **Shift in Political Landscape:** The abrogation led to the dissolution of the state assembly and the imposition of direct central governance, altering the political fabric of the region.
- **Electoral Developments:** In December 2023, the Constitution Bench upheld the Union's abrogation of Article 370. They reasoned that the provision was a temporary measure meant to ensure Jammu and Kashmir's integration into India In *Re: Article 370 of the Constitution*.⁴⁶

3. Socio-Economic Transformations

- **Economic Growth:** Post-abrogation, J&K attracted significant investments, leading to increased tax revenues and economic activities.
- **Infrastructure Development:** Projects like the Zojila Tunnel and the Udhampur-Srinagar-Baramulla Rail Link have enhanced connectivity and infrastructure in the region.
- **Tourism Surge:** The region experienced a record influx of tourists, indicating a positive shift in the tourism sector.

⁴⁶ 2023 INSC 1058

4. Security and Administrative Challenges

- **Security Measures:** The revocation led to an increase in security measures, including the deployment of additional forces and restrictions, to maintain law and order.
- **Administrative Hurdles:** The transition to Union Territory status posed administrative challenges, including the reorganization of governance structures and redistribution of resources.

5. Human Rights and Civil Liberties

- **Restrictions on Civil Liberties:** Reports indicate that the revocation led to restrictions on freedom of expression and assembly, raising concerns about human rights in the region.
- **Impact on Local Population:** The changes affected the local population's access to resources, employment opportunities, and political participation.

CHANGING CONCEPT OF SECULARISM IN LIGHT OF EROSION OF ARTICLE 370

The abrogation of Article 370 in August 2019, which granted Jammu and Kashmir (J&K) special autonomy, has had profound implications for India's secular framework. Indian secularism, as conceptualized by Rajeev Bhargava, is characterized by "principled distance" between religion and state, allowing for state intervention only to prevent discrimination and promote equality. The revocation of Article 370 has raised concerns about the erosion of this secular principle, particularly in the context of J&K's Muslim-majority demographic.

1. Theoretical Framework: Principled Distance

Bhargava's model of secularism emphasizes the state's neutrality and its role in ensuring equal treatment of all religions. This approach contrasts with Western models that advocate for a strict separation between religion and state. In India, secularism is not merely about non-interference but involves active engagement to address religious inequalities and promote social justice.

2. Constitutional and Legal Implications

- **Revocation of Article 370:** The abrogation led to the reorganization of J&K into two Union Territories, Jammu & Kashmir, and Ladakh, with the central government assuming direct control. This move has been perceived by some as undermining the region's autonomy and altering its demographic and cultural identity.
- **Legal Repercussions:** The revocation resulted in the extension of Indian laws to J&K, including those related to property rights and domicile. The introduction of new domicile laws has raised concerns about potential demographic changes and the implications for the region's Muslim-majority status.

3. Political and Social Dynamics

- **Demographic Concerns:** The new domicile rules have allowed non-residents to acquire property and settle in J&K, leading to fears among the local Muslim population about the dilution of their demographic majority. This policy has been criticized for potentially altering the region's political landscape and undermining its distinct identity.
- **Human Rights Issues:** The revocation has been accompanied by reports of increased militarization, restrictions on civil liberties, and suppression of dissent. Human rights organizations have documented

instances of arbitrary detentions and limitations on freedom of expression, raising questions about the state's commitment to secular and democratic values.

4. Secularism and Religious Nationalism

- **Rise of Hindutva Ideology:** The ascendance of Hindutva, which seeks to define Indian culture in terms of Hindu values, has influenced political discourse. This ideology often blurs the lines between religion and state, posing challenges to the secular principles enshrined in the Indian Constitution.
- **Judicial Concerns:** Instances such as Prime Minister Modi's participation in a Hindu religious ceremony at the Chief Justice's residence have raised concerns about the independence of the judiciary and the erosion of secularism. Critics argue that such events undermine the separation between religion and state institutions.

5. International Perspectives

- **Global Reactions:** The international community's response to the revocation has been varied. While some countries have expressed concern over the human rights situation in J&K, others have refrained from commenting, citing the issue as an internal matter for India. This divergence reflects differing perspectives on state sovereignty and human rights.
- **Diplomatic Strategies:** India has employed diplomatic efforts to mitigate international criticism, emphasizing the legality of its actions and portraying the revocation as a step towards national integration. These strategies have been aimed at maintaining India's image as a secular democracy on the global stage.

The 2025 Pahalgam Attack: Implications for Secularism, Security, and Religious Identity

On April 22, 2025, a terrorist attack in Pahalgam, Jammu and Kashmir, resulted in the deaths of 26 individuals, including 25 tourists and one local Muslim. This incident has intensified debates surrounding the intersection of secularism, security, and religious identity in the region.

The attack occurred near Pahalgam. Five armed militants, believed to be affiliated with The Resistance Front (TRF), an offshoot of Lashkar-e-Taiba, opened fire on a group of tourists. The attackers specifically targeted Hindu and Christian tourists, singling them out by checking their names and demanding they recite the Islamic declaration of faith. One local Muslim, Syed Adil Hussain Shah, attempted to intervene and was killed in the process. The assailants fled to the Pir Panjal range, prompting a large-scale security operation.

The attack has led to heightened political tensions within India. West Bengal Chief Minister Mamata Banerjee criticized the central government's handling of national security, attributing the incident to its "callousness" and accusing the Bharatiya Janata Party (BJP) of politicizing the sacrifices of the armed forces.

Internationally, the BRICS Parliamentary Forum condemned the attack, expressing concern over its destabilizing effects in the region.

Secularism and Religious Identity

The attack has raised questions about the erosion of secularism in India, particularly in the context of Jammu and Kashmir's Muslim-majority demographic. The targeting of non-Muslim tourists and the subsequent communal tensions highlight the challenges to the country's secular framework.