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# IMPACT AND CONSEQUENCES OF ABROGATION OF ARTICLE 370 AND 35-A UNDER THE CONSTITUTION OF INDIA : A STUDY

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## I. ABSTRACT

*The abrogation of Article 370 and Article 35A of the Indian Constitution in 2019 represented a watershed moment in India's constitutional history, fundamentally reshaping the governance framework of Jammu & Kashmir (J&K). This paper explores the multifaceted implications of this decision across legal, political, socio-economic, and international dimensions. Legally, the study scrutinizes the constitutional validity of the abrogation process, delving into interpretations of Article 370's temporary provisions and the procedural aspects of its revocation, drawing insights from ongoing judicial proceedings. Politically, it evaluates domestic reactions and international responses, highlighting debates on national unity, federalism, and human rights. Socio-economically, the paper assesses the impact on J&K's socio-economic development, including changes in education, healthcare, employment, and infrastructure. Internationally, it discusses diplomatic consequences and implications for regional stability, focusing on relations with Pakistan, China, and global perceptions. Through a comprehensive analysis of legal precedents, government actions, and public discourse, this study enhances understanding of the complexities and implications of constitutional amendments in a diverse and geopolitically sensitive region. It underscores the importance of balanced governance, inclusive development, and respect for constitutional principles in navigating the aftermath of such transformative legal changes.*

## II. KEYWORDS:

*Abrogation, Article 370, Article 35A, Jammu and Kashmir, Constitutional history, Integration*

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### III. INTRODUCTION

In the annals of India's constitutional history, few provisions have wielded as much influence and controversy as Article 370<sup>2</sup> and Article 35A<sup>3</sup>. These clauses, embedded within the framework of the Constitution, bestowed upon the region of Jammu & Kashmir (J&K) a unique status that shaped its legal and political landscape. Article 370, enshrined in 1949, facilitated J&K's integration into India while maintaining significant autonomy in internal affairs such as governance and cultural identity, albeit with exceptions in defence, foreign affairs, finance, and communications<sup>4</sup>.

Complementing Article 370, Article 35A emerged in 1954, offering the J&K state legislature the authority to define "permanent residents" and confer exclusive rights, including property ownership and participation in government employment. These safeguards were designed to preserve the demographic and cultural integrity of the region amidst political transitions.

The pivotal turning point arrived in August 2019 when the Indian government nullified Article 370<sup>5</sup> and subsequently repealed Article 35A<sup>6</sup>, signalling a monumental shift in J&K's constitutional status<sup>7</sup>. Through decisive presidential directives and parliamentary resolutions, the government aimed to fully integrate the region into the national mainstream, arguing that the special provisions had hindered development, perpetuated separatist sentiments, and undermined national unity<sup>8</sup>.

Unsurprisingly, this decision sparked fervent debates, legal challenges, and varied reactions both domestically and internationally. Understanding the ramifications of these constitutional amendments necessitates a comprehensive examination across

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<sup>2</sup> INDIA CONST. art. 370.

<sup>3</sup> INDIA CONST. art. 35A.

<sup>4</sup> A.G. Noorani, *The Governor Replaces the Sadar-i-Riyasat*, Oxford University Press, p.331.(DOI 10.1093/acprof:oso/9780198074083.003.0011) Sep. 2012e ISBN:9780199080786.

<sup>5</sup> INDIA CONST. art. 370.

<sup>6</sup> INDIA CONST. art. 35A.

<sup>7</sup> GKToday.(2019, August 30). Abrogation of Article 370. GKToday. Retrieved December 21, 2019, from <http://www.gktoday.in/>

<sup>8</sup> Kulshrestha, D.P.(2016).Article 370: Constitutional Obligations and Compulsion. *IJELLH,IV(I)*, p.98-100. <http://doi.org/10.24113/ijellh>

governance, socio-economic impacts<sup>9</sup>, legal interpretations, international relations, and public sentiment. This study endeavours to delve deeply into these dimensions, offering a nuanced exploration of the aftermath following the abrogation of Article 370<sup>10</sup> and Article 35A<sup>11</sup> within the context of India's constitutional ethos and legal paradigms.

#### **IV. CONSTITUTIONAL FRAMEWORK**

##### **A. DETAILED ANALYSIS OF ARTICLE 370 AND ITS PROVISIONS**

Article 370 of the Constitution of India, initially conceived as a temporary provision, grants special autonomy to the state of Jammu & Kashmir (J&K). This provision enables J&K to maintain its own constitution and autonomy over internal matters, excluding defense, foreign affairs, finance, and communications. The incorporation of Article 370 facilitated J&K's accession to India under specific conditions, preserving its distinct identity within the Indian Union<sup>12</sup>.

Under Article 370(1)(b)<sup>13</sup>, the President of India holds the authority to apply provisions of the Indian Constitution to J&K with modifications or exceptions, subject to the concurrence of the state's Constituent Assembly or government. Over time, various presidential orders have extended different constitutional provisions to J&K, shaping its integration with India.

The significance of Article 370 lies in its delicate balance between granting J&K special status and maintaining its relationship with the Indian Union. Constitutional debates have often centered around its temporary nature, the extent of integration it permits, and its implications for national unity versus regional autonomy. Court interpretations, particularly in the case of *Sampat Prakash v. State of Jammu &*

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<sup>9</sup> Thalpiyal, Sheru, Maj. Gen., "Article 370: The untold Story." Indian Defence Review 26 January 2011. Retrieved March 23, 2020, from <http://www.wikipedia.org>.

<sup>10</sup> INDIA CONST. art. 370.

<sup>11</sup> INDIA CONST. art. 35A.

<sup>12</sup> Anushita Surana "Abrogation of article 35A and Article 370" May 24, 2022. GETLEGAL INDIA.

<sup>13</sup> INDIA CONST. art. 370(1)(b).

Kashmir<sup>14</sup>, have upheld J&K's special status under Article 370 while stressing the procedural integrity necessary for any modifications or abrogation<sup>15</sup>.

## B. EXAMINATION OF ARTICLE 35A AND ITS IMPLICATIONS

Article 35A, introduced through a Presidential Order in 1954, empowers the J&K legislature to define “*permanent residents*” and confer special rights<sup>16</sup>, including property ownership, government employment, and educational benefits. Its constitutional validity has been a subject of contention, with arguments questioning its ratification by the J&K Constituent Assembly as mandated under Article 368 of the Indian Constitution<sup>17</sup>.

In *State of Jammu & Kashmir v. Sampat Prakash*<sup>18</sup>, the Supreme Court affirmed Article 35A's incorporation into the Constitution through Article 370, solidifying its legal standing within J&K. The implications of Article 35A were profound, establishing a unique legal framework within India where rights are tied to residency status, distinct from other states.

## C. CONSTITUTIONAL DEBATES AND INTERPRETATIONS PRE-ABROGATION

Prior to August 2019, debates surrounding Articles 370 and 35A focused on their effectiveness in balancing regional autonomy with national unity. Supporters argued that these provisions preserved J&K's identity and autonomy, fostering self-governance<sup>19</sup>.

Critics contended that Articles 370 and 35A exacerbated separatism, hindered socio-economic development, and obstructed the complete integration of J&K into India. Discussions also addressed the adaptability of the constitutional<sup>20</sup> framework to

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<sup>14</sup> *State of Jammu & Kashmir v. Sampat Prakash*,

<sup>15</sup> Ahmad, Mukhtar. 18 dead against India, CNN, September 22, 2010.

<sup>16</sup> Dole, W.Y., “Kashmir: Deep-Rooted Alienation”, *Economic and Political weekly*, May 5-12, 1990.

<sup>17</sup> Shah, D. K. (2019, August 9). Article 370: The Indians celebrating Kashmir's new status. BBC News.

<sup>18</sup> *State of Jammu & Kashmir v. Sampat Prakash*,

<sup>19</sup> Stobdan, P. (2019, August 6). Abrogation of Article 370 gives Ladakh Opportunity to Nurture Its Political Expression. *Outlook*.

<sup>20</sup> Sharma, S. 2019. The Political Impact of India's Removal of Jammu and Kashmir's Special Status. *South Asian Voices*, August 19.

evolving socio-political dynamics and the equilibrium between preserving regional identities and fostering national cohesion.

Judicial rulings and scholarly discourse have significantly influenced these debates, shaping public opinion and policy concerning J&K's constitutional status. The abrogation of Articles 370 and 35A marked a pivotal juncture, necessitating a reevaluation of constitutional implications and governance in J&K within the broader federal structure of India<sup>21</sup>.

Articles 370 and 35A have profoundly influenced the legal and political landscape of Jammu & Kashmir. A thorough examination of their provisions, historical evolution, and pre-abrogation debates provides crucial insights into India's constitutional framework and the challenges of federal governance in a diverse nation. This analysis seeks to provide a comprehensive understanding of the constitutional complexities surrounding Articles 370 and 35A, underscoring their impact on India's legal history and governance structure.

## **V. POLITICAL AND ADMINISTRATIVE CHANGES**

The annulment of Article 370 and Article 35A in August 2019 precipitated significant political and administrative transformations in the erstwhile state of Jammu & Kashmir (J&K), altering its governance framework and administrative landscape fundamentally<sup>22</sup>.

### **A. IMPACT ON GOVERNANCE STRUCTURES IN JAMMU & KASHMIR**

Prior to the abrogation, J&K enjoyed a special status under Article 370, which granted it a high degree of autonomy in internal affairs. The state had its own constitution, flag, and jurisdiction over several matters, while the Indian Constitution applied selectively. Post-abrogation, J&K was reorganized into two Union Territories: Jammu & Kashmir, and Ladakh, each with distinct administrative setups.

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<sup>21</sup> Daulat, A.S. (2019, August 6). Scapping of Article 370 Unfortunate and Unnecessary. *The New Indian Express*.

<sup>22</sup> Sharma, S. 2019. The Political Impact of India's Removal of Jammu and Kashmir's Special Status. *South Asian Voices*, August 19.

Under the new arrangement, Jammu & Kashmir operates with a Lieutenant Governor appointed by the President of India, effectively replacing the erstwhile Governor. The Union Territory is governed directly by the central government through the Lieutenant Governor and a Legislative Assembly<sup>23</sup>. This transition marked a departure from the previous model of governance under Article 370, where the state government had greater autonomy in decision-making.

Administratively, the bifurcation of J&K into Union Territories necessitated restructuring of bureaucratic mechanisms, alignment of policies with central directives, and streamlining of administrative procedures<sup>24</sup>. The integration of J&K into the Indian administrative framework aimed to enhance efficiency, transparency, and responsiveness in governance, albeit amidst initial challenges of transition and adaptation<sup>25</sup>.

## **B. CHANGES IN ADMINISTRATIVE POLICIES AND PRACTICES**

The abrogation of Article 370 brought about sweeping changes in administrative policies and practices across Jammu & Kashmir. Central laws and policies that were previously not applicable or were applied with modifications under Article 370 now apply uniformly to the Union Territory, aligning J&K's legal and administrative framework with the rest of India.

Key administrative reforms include the extension of central welfare schemes, employment benefits, and educational opportunities to residents of J&K on par with other states and Union Territories<sup>26</sup>. This move aimed to address disparities and promote inclusive development, particularly in areas such as education, healthcare, infrastructure, and economic opportunities.

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<sup>23</sup> Sorabjee, s. (2019, August 11). Article 370 is Constitutional, detaining leaders disturbing. *The Economic Times*.

<sup>24</sup> Daulat, A.S. (2019, August 6). Scrapping of Article 370 Unfortunate and Unnecessary. *The New Indian Express*.

<sup>25</sup> PM Narendra Modi speech Updates: "Article 370 was a hurdle for development of Jammu&Kashmir", *Business today*, 8 August 2019.

<sup>26</sup> Government of India, Ministry of Home Affairs. (2021, February 3). Impact of Abrogation of Article 370 On J&K. Press Information Bureau.

The restructuring of administrative practices also sought to enhance governance efficiency and accountability. Central agencies and institutions, including the Comptroller and Auditor General of India (CAG) and the Election Commission, now oversee various aspects of governance and electoral processes in Jammu & Kashmir, ensuring adherence to constitutional principles and procedural fairness.

### **C. POLITICAL RAMIFICATIONS AT STATE AND NATIONAL LEVELS**

Politically, the abrogation of Article 370 and Article 35A sparked intense debates and reactions both within Jammu & Kashmir and at the national level. Proponents of the move argued that it would pave the way for greater socio-economic development, investment, and integration of J&K with the rest of India. They contended that special status provisions had perpetuated separatism, hindered development, and limited opportunities for the region's residents.

Conversely, critics and opposition parties raised concerns over the manner and timing of the abrogation, emphasizing its potential implications for regional autonomy, identity, and constitutional propriety. The move prompted widespread protests, political detentions, and legal challenges, reflecting divergent views on constitutional interpretation, federalism, and governance<sup>27</sup>.

At the national level, the abrogation of Article 370 was positioned as a landmark decision reaffirming India's unity and integrity, signalling a departure from historical precedents of special provisions for certain states. It underscored the government's commitment to a uniform legal framework and governance structure across the country, reinforcing principles of equality and justice enshrined in the Indian Constitution<sup>28</sup>.

The abrogation of Article 370 and Article 35A brought about profound political and administrative changes in Jammu & Kashmir, redefining its governance dynamics, administrative practices, and political landscape<sup>29</sup>. The transition from a state with

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<sup>27</sup> Sodhi, J. (2021, May 27). *The Article 370 Amendments on Jammu and Kashmir: Explaining the Global Silence*. Published by Observer Research Foundation, (318).

<sup>28</sup> NDTV interview. (2019). *Mainnay Kabhi Yeh Hindustan Nahi Daikha: Farooq Abdullah on Jammu & Kashmir Bifurcation*. Published by The Indian Express (2019, August 6).

<sup>29</sup> Khan, G. H., (1988), *Government and Politics of Jammu and Kashmir*, J. V. Press, New Delhi



special autonomy to Union Territories under central administration signifies a paradigm shift in India's federal structure, necessitating ongoing assessment of its impact on governance effectiveness, socio-political stability, and constitutional harmony.

## VI. SOCIO-ECONOMIC IMPACT

The socio-economic fabric of Jammu & Kashmir (J&K) has undergone significant transformation following the revocation of Article 370 and Article 35A. Evaluating these shifts requires a comparison of pre- and post-abrogation socio-economic conditions, examining the impact on education, healthcare, and employment, and analysing the implications for development and infrastructure projects.

### A. SOCIO-ECONOMIC CONDITIONS PRE-ABROGATION

Prior to the abrogation, J&K's socio-economic landscape was marked by a combination of potential and underdevelopment. The region's considerable autonomy under Article 370 influenced various aspects of governance and policy-making. However, this autonomy also created barriers to the uniform application of central laws and programs, resulting in a distinct socio-economic environment.

- **Education:** Educational infrastructure and literacy rates in J&K lagged behind national averages. The Right to Education Act, 2009<sup>30</sup>, was not fully applicable, leading to discrepancies in educational standards and access.
- **Healthcare:** The healthcare system faced significant challenges, including inadequate infrastructure, insufficient medical personnel, and limited access to advanced medical facilities. Central health schemes were not uniformly implemented, exacerbating disparities<sup>31</sup>.
- **Employment:** The region's economy was primarily agrarian, with limited industrialization and private sector development. Unemployment rates were

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<sup>30</sup> The Right to Education Act, 2009.

<sup>31</sup> Jha, Prem Nath, (2003), *The Origins of a Dispute : Kashmir 1947*, Oxford University Press, New Delhi, 2003, p. 25

high, particularly among youth, partly due to restrictions on non-residents owning property and establishing businesses<sup>32</sup>.

- **Development and Infrastructure:** Infrastructure development was uneven, with connectivity issues and inadequate public utilities hampering overall growth. The special status provisions under Article 370 restricted investment from outside the state, limiting economic opportunities and infrastructure projects.

## B. SOCIO-ECONOMIC CONDITIONS POST-ABROGATION

Post-abrogation, the central government aimed to address these socio-economic challenges by integrating J&K more closely with the national framework and extending central laws and schemes to the region<sup>33</sup>.

- **Education:** The extension of the Right to Education Act, 2009, and other central educational policies aimed to enhance educational standards and access. Initiatives like the establishment of new schools, colleges, and vocational training centres were introduced to improve literacy rates and skill development.
- **Healthcare:** Central health schemes such as Ayushman Bharat were extended to J&K, providing residents with health insurance coverage and access to a wider network of medical facilities. Investments in healthcare infrastructure aimed to upgrade hospitals, establish new medical colleges, and improve overall healthcare delivery<sup>34</sup>.
- **Employment:** The removal of restrictions on property ownership and business establishment by non-residents aimed to attract investment, promote industrialization, and create job opportunities. Central schemes like the

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<sup>32</sup> Ibid.

<sup>33</sup> Karbel, Josef, (1953) Kashmir Dispute after Six Years, International Organization, Vol. 7. No. 4, p. 500  
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<sup>34</sup> Hayat, J. (2020). Azad Jammu & Kashmir: Politics, Polity and Power Sharing. Karachi: Oxford University Press.

Pradhan Mantri Mudra Yojana (PMMY) and Skill India were implemented to support entrepreneurship and skill development.

- **Development and Infrastructure:** Infrastructure projects, including road, rail, and airport development, were prioritized to improve connectivity and support economic growth. The extension of central schemes like the Pradhan Mantri Gram Sadak Yojana (PMGSY) aimed to enhance rural connectivity and support regional development<sup>35</sup>.

### C. EFFECTS ON EDUCATION, HEALTHCARE, AND EMPLOYMENT

- **Education:** The integration of J&K into the national education framework led to several positive outcomes. Improved funding and policy support facilitated the establishment of new educational institutions, enhancing access to quality education. Scholarship programs and fellowships were introduced to support students from marginalized communities, fostering inclusivity<sup>36</sup>.
- **Healthcare:** The healthcare sector witnessed substantial improvements, with enhanced funding, infrastructure upgrades, and better access to medical services. The implementation of central health schemes provided financial protection against medical expenses, improving health outcomes for residents. Additionally, telemedicine initiatives aimed to bridge the gap in healthcare access in remote areas.
- **Employment:** The liberalization of property ownership and business regulations encouraged investment and industrialization, creating job opportunities in various sectors. The emphasis on skill development and entrepreneurship under central schemes provided youth with the necessary tools to enter the job market or start their own ventures. The region saw a gradual reduction in unemployment rates and an improvement in the overall economic environment.

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<sup>35</sup> Bandhu Mukti Morcha v. Union of India, AIR 1984 SC 802.

<sup>36</sup> Noorani, A. G. (2020, March 21). Farooq's release. Retrieved April 14, 2020, from The Dawn:<https://www.dawn.com/news/1542590>.

#### D. IMPLICATIONS FOR DEVELOPMENT AND INFRASTRUCTURE PROJECTS

- **Development:** The integration of J&K with the national development agenda facilitated the implementation of various central schemes and projects. The Smart Cities Mission included Srinagar and Jammu, aiming to transform these cities into sustainable urban centers with modern infrastructure and amenities. The focus on tourism development aimed to leverage the region's natural beauty and cultural heritage, boosting the local economy.
- **Infrastructure:** Significant investments were made in infrastructure projects to improve connectivity and support economic growth. The construction of highways, tunnels, and railways aimed to enhance regional integration and facilitate the movement of goods and people. The expansion of airport facilities and the establishment of new air routes aimed to boost tourism and trade<sup>37</sup>.

#### E. CASE LAWS AND LEGAL PRECEDENTS

The legal challenges and judicial responses to the abrogation of Article 370 and Article 35A have been pivotal in shaping the socio-economic impact. The Supreme Court of India is currently examining the constitutionality of the abrogation process in the case of *Shah Faesal & Ors v. Union of India & Anr.*<sup>38</sup> The court's interpretation and judgment will have significant implications for the legal and constitutional framework governing J&K and its socio-economic future.

The abrogation of Article 370 and Article 35A marked a transformative shift in the socio-economic landscape of Jammu & Kashmir. The region has experienced significant changes in education, healthcare, employment, development, and infrastructure. While the integration of J&K into the national framework has led to several positive outcomes, challenges remain in ensuring sustainable and inclusive growth. Ongoing assessments and adaptive policies will be crucial in addressing these

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<sup>37</sup> William Dalrymple, *The Great Divide. The violent legacy of Indian Partition*, *The New Yorker*, June 22, 2015.

<sup>38</sup> *Shah Faesal & Ors v. Union of India & Anr.*, Writ Petition (Civil) No. 1099 of 2019.

challenges and realizing the full potential of the region's socio-economic development<sup>39</sup>.

## **VII. LEGAL IMPLICATIONS AND JUDICIAL RESPONSES**

The nullification of Article 370 and the subsequent annulment of Article 35A have engendered significant legal ramifications, igniting a multitude of judicial challenges and fervent debates regarding their constitutional legitimacy. This section delves into the pivotal legal challenges, subsequent court rulings post-abrogation, and the judiciary's interpretation of constitutional validity.

### **A. LEGAL CHALLENGES AND COURT RULINGS POST-ABROGATION**

The abrogation of Article 370 was executed through Presidential Order C.O. 272, succeeded by the Jammu and Kashmir Reorganisation Act, 2019. This process entailed intricate constitutional manoeuvres, including the application of Article 367 to reinterpret the provisions of Article 370, effectively substituting the Constituent Assembly's endorsement with the state legislature's concurrence.

Numerous petitions were lodged in the Supreme Court of India, contesting the abrogation on diverse grounds. The petitioners contended that the manner in which Article 370 was nullified contravened the basic structure of the Constitution, encompassing federalism, democracy, and the rule of law. They argued that Article 370 could only be abrogated with the recommendation of the Constituent Assembly of Jammu & Kashmir, which ceased to exist in 1957.

In *Shah Faesal & Ors. v. Union of India & Anr.*<sup>40</sup>, the Supreme Court is currently deliberating these arguments. The petitioners assert that the Presidential Orders issued under Article 370(1)(d) exceeded constitutional authority and that the reorganization of the state into Union Territories was unconstitutional.

### **B. ANALYSIS OF SUPREME COURT JUDGMENTS**

The Supreme Court's judgments and observations in cases related to Article 370 and Article 35A have elucidated significant insights into the constitutional and legal

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<sup>39</sup> Ayesha Jalal. *The Creation of Pakistan*, Oxford Research Encyclopedias, 2017 Nov.

<sup>40</sup> *Shah Faesal & Ors. v. Union of India & Anr.*, Writ Petition (Civil) No. 1099 of 2019.

frameworks governing J&K. Historically, the Court upheld the special status provisions while emphasizing their transitory nature<sup>41</sup>.

In *Sampat Prakash v. State of Jammu & Kashmir*<sup>42</sup> (1969), the Supreme Court decreed that Article 370 was a temporary provision but retained its efficacy until abrogated by due constitutional process. The Court acknowledged the unique circumstances of J&K's accession to India and underscored the necessity for constitutional propriety in altering its status.

In subsequent cases, including *State Bank of India v. Santosh Gupta*<sup>43</sup> (2017), the Court reiterated the applicability of Indian laws to J&K subject to the limitations imposed by Article 370. The judgment highlighted the challenges of integrating central laws within the unique constitutional framework of J&K.

The current petitions before the Supreme Court challenge the abrogation's procedural and substantive validity. The petitioners argue that the Presidential Orders and the Reorganisation Act contravened the established constitutional framework and principles of federalism. The respondents, representing the Union of India, maintain that the abrogation was a necessary step to integrate J&K fully with India and promote its socio-economic development.

### C. INTERPRETATION OF CONSTITUTIONAL VALIDITY AND LEGAL ARGUMENTS

The constitutional validity of the abrogation of Article 370 hinges on several legal arguments and interpretations. Key among these are the interpretation of the term "Constituent Assembly" in Article 370(3)<sup>44</sup>, the scope of Presidential powers under Article 370(1)(d)<sup>45</sup>, and the application of the basic structure doctrine.

1. **Constituent Assembly Requirement:** Article 370(3) stipulates that the President may declare Article 370 inoperative, provided the recommendation of the Constituent Assembly of J&K. With the Constituent Assembly's

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<sup>41</sup> Article 370: India strips disputed Kashmir of special status, BBC News, 5 August 2019.

<sup>42</sup> *Sampat Prakash v. State of Jammu & Kashmir*

<sup>43</sup> *State Bank of India v. Santosh Gupta*

<sup>44</sup> INDIA CONST. art. 370(3).

<sup>45</sup> INDIA CONST. art. 370(1)(d).

dissolution in 1957<sup>46</sup>, petitioners argue that any abrogation would require its reconstitution or an equivalent representative body. The government contends that the J&K Legislative Assembly's approval suffices as the representative body.

2. **Presidential Powers:** Article 370(1)(d) empowers the President to apply provisions of the Indian Constitution to J&K with necessary modifications. The petitioners argue that this power does not extend to abrogating Article 370 itself. However, the government asserts that the modification of Article 367, which reinterpreted the Constituent Assembly requirement, was within the President's powers and facilitated the lawful abrogation.
3. **Basic Structure Doctrine:** The basic structure doctrine, established in *Kesavananda Bharati v. State of Kerala*<sup>47</sup> (1973), holds that certain fundamental features of the Constitution cannot be altered. Petitioners argue that the abrogation undermines federalism and the democratic process, violating the basic structure. The government's counter-argument emphasizes that the move strengthens national unity and integrity, aligning with the Constitution's overarching goals.

#### D. IMPLICATIONS OF JUDICIAL RESPONSES

The Supreme Court's eventual ruling on the abrogation will have far-reaching implications for India's constitutional and legal landscape. A decision upholding the abrogation would affirm the central government's authority to reorganize states and modify constitutional provisions in exceptional circumstances. Conversely, a ruling against the abrogation could reinforce the principles of federalism and the necessity of adhering to constitutional processes.

Additionally, the Court's interpretation of the scope of Presidential powers under Article 370(1)(d) and the application of the basic structure doctrine will provide crucial legal precedents. These precedents will influence future cases involving constitutional

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<sup>46</sup> Bose, Sumantra. *Kashmir: Roots of Conflict, Paths to Peace*, Harvard University Press, 2003, p. 59.

<sup>47</sup> *Kesavananda Bharati v. State of Kerala*,

amendments, state reorganization, and the balance of powers between the central and state governments<sup>48</sup>.

The abrogation of Article 370 and Article 35A has raised complex legal questions and sparked significant judicial scrutiny. The Supreme Court's examination of these issues will shape the constitutional and legal framework governing Jammu & Kashmir and set important precedents for the interpretation of federalism and executive powers within the Indian Constitution. The ongoing legal debates underscore the dynamic nature of constitutional law and its critical role in addressing the evolving socio-political realities of India.

## VIII. GLOBAL CONSEQUENCES AND DIPLOMATIC FALLOUT

The annulment of Article 370 and subsequent restructuring of Jammu & Kashmir (J&K) into Union Territories evoked strong reactions from neighbouring nations and the international community, significantly impacting India's foreign relations and regional stability.

### A. RESPONSE FROM NEIGHBORING NATIONS AND THE INTERNATIONAL COMMUNITY

- **Pakistan:** Pakistan swiftly and vigorously opposed the revocation of Article 370. Historically, Pakistan has laid claim to J&K, seeing its special status as acknowledgment of the region's disputed nature. In response, Pakistan downgraded diplomatic ties with India, expelled the Indian High Commissioner, and halted bilateral trade. It also appealed to international bodies like the United Nations to condemn India's actions<sup>49</sup>.
- **China:** China's response was notably critical, especially concerning the transformation of Ladakh into a Union Territory, which includes areas disputed by China. China reiterated its stance on the boundary issue, expressing concerns about unilateral changes that could escalate regional

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<sup>48</sup> Prabhash Dutta K. How Kashmir Got Article 370: History retold, India Today.

<sup>49</sup> Pandey, G. (2019, August 06). Article 370: What happened with Kashmir and why it matters. Retrieved March 17, 2020, from BBC: <https://www.bbc.com/news/world-asia-india-49234708>



tensions. The longstanding border disputes between China and India added further complexity to their bilateral relations<sup>50</sup>.

- **Global Community:** The international community's reactions varied widely. Some countries expressed concerns over potential human rights violations and advocated for dialogue, while others regarded the issue as India's internal affair. The United States and the European Union urged restraint and dialogue between India and Pakistan but refrained from taking a definitive stance<sup>51</sup>.

## B. DIPLOMATIC IMPACT ON INDIA'S FOREIGN RELATIONS

- **Bilateral Relations:** The revocation strained India's relationships with Pakistan and China. For Pakistan, it appeared as an effort to unilaterally alter the status quo, undermining prospects for a peaceful resolution of the Kashmir issue<sup>52</sup>. This escalation led to heightened diplomatic and military tensions. China, meanwhile, viewed the Union Territory status of Ladakh with concern, especially regarding the Line of Actual Control (LAC) and ongoing border disputes<sup>53</sup>.
- **United Nations:** Pakistan's appeal to the United Nations Security Council (UNSC) to address the revocation brought international attention to the issue. Although the UNSC held closed consultations, no formal resolution was passed. The UN's approach indicated a preference for bilateral dialogue between India and Pakistan over multilateral intervention.
- **Human Rights Concerns:** Several international human rights organizations and countries raised alarms about the situation in J&K post-revocation. Reports of restricted movement, communication blackouts, and detentions prompted criticism. India defended its actions as necessary for maintaining law and order

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<sup>50</sup> Ahmed, R., & Biswas, P. (2004). *Political Economy of Underdevelopment of North East India*. New Delhi: Akansha Publishing House.

<sup>51</sup> Schofield, V. (2010). *Kashmir in Conflict: India, Pakistan and the Unending War*. London: I.B. Tauris.

<sup>52</sup> Kugelman, M. (2019). *India's Sudden Kashmir Move Could Backfire Badly*. Washington, D.C.: ForeignPolicy Press.

<sup>53</sup> Acemoglu, D., & Robinson, J. A. (2012). *Why Nations Fail: The Origins of Power, prosperity and poverty*. London: Profile Books.

and combating terrorism, asserting its sovereign right to reorganize internal territories<sup>54</sup>.

### C. IMPACT ON REGIONAL STABILITY AND GEOPOLITICS

- **Regional Stability:** The revocation heightened military preparedness and led to skirmishes along the Line of Control (LoC) between India and Pakistan. Increased infiltration attempts, cross-border shelling, and military build-up strained the ceasefire agreement, affecting regional stability. The heightened tensions diverted resources and attention from development priorities<sup>55</sup>.
- **Geopolitical Implications:** J&K and Ladakh's strategic location, bordering Pakistan, China, and Central Asia, adds significant geopolitical dimensions to the revocation. India's moves underscore strategic interests in countering Chinese influence and securing vital border regions.
- **US-India Relations:** The United States maintained a balanced approach, acknowledging India's sovereignty while emphasizing human rights and stability. Although the revocation did not significantly impact US-India strategic ties, both nations continued collaboration on defense, trade, and regional security<sup>56</sup>.
- **South Asian Dynamics:** The revocation reshaped dynamics among India, Pakistan, and China, fostering closer collaboration between Pakistan and China. These trilateral dynamic influences regional alliances, economic ties, and security frameworks.
- **Legal Implications:** The revocation raised international legal questions, including interpretations under international law and bilateral agreements.

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<sup>54</sup> Akram-Lodhi, A. H., & Kay, C. (2010). Surveying the agrarian question (part 1): unearthing foundations, exploring diversity. *The Journal of Peasant Studies*, 37(1), 177-202.

<sup>55</sup> Aggarwal, R., & Bhan, M. (2009). "Disarming Violence": Development, Democracy, and Security on the Borders of India. *The Journal of Asian Studies*, 68 (2), 519-542.

<sup>56</sup> Hayat, J. (2020). *Azad Jammu & Kashmir: Politics, Polity and Power Sharing*. Karachi: Oxford University Press.

These legal discussions will shape diplomatic strategies and engagements moving forward<sup>57</sup>.

The revocation of Article 370 and Article 35A sparked significant international reactions and diplomatic consequences. While intended to integrate J&K more closely with India, the move strained relations with Pakistan and China, impacted regional stability, and garnered mixed international responses. These diplomatic challenges underscore the intricate balance between domestic policies and international relations, emphasizing the need for strategic diplomacy and sustained dialogue to uphold regional peace and stability.

## **IX. PUBLIC SENTIMENT AND SOCIAL DIALOGUE**

The repeal of Article 370 and Article 35A has sparked a wide range of public sentiments and initiated significant social discussions both within Jammu & Kashmir (J&K) and across India. This section delves into the complexities of public perception, media portrayal, and societal implications following the repeal<sup>58</sup>.

### **A. PUBLIC PERCEPTION WITHIN JAMMU & KASHMIR AND ACROSS INDIA**

Jammu & Kashmir: Within J&K, opinions on the repeal have starkly divided along regional and communal lines. While some segments of the population welcomed the move, seeing it as a step towards deeper integration with India and potential economic advancement, others vehemently opposed it. Critics argue that the repeal undermines the region's autonomy and unique identity, potentially exacerbating historical grievances and feelings of alienation<sup>59</sup>.

In the Kashmir Valley, where there is prevalent apprehension and resentment among certain communities, the imposition of restrictions on movement, communication, and political activities post-repeal has deepened discontent and disillusionment.

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<sup>57</sup> Bhattacharya, G. (2016). *Special Category States in India*. New Delhi: Oxford University Press.

<sup>58</sup> Bukhari, S. (2004). Kashmir: A flood and leaving people to their own devices. *Economic and Political Weekly*, XLIX (42), 15-17.

<sup>59</sup> Byres, T.J., 1996, *Capitalism from Above and Capitalism from Below*. An Essay in Comparative Political Economy, London: Macmillian.

In Jammu and Ladakh, regions with significant non-Muslim populations, the repeal garnered positive reception from many who felt marginalized under the previous special status provisions. There was optimism for enhanced economic opportunities and infrastructural development<sup>60</sup>.

Across India: Outside J&K, the repeal was largely perceived through the lens of national unity and integration. It was seen as a decisive step towards resolving the Kashmir issue and firmly integrating the region within the Indian Union. Political leaders from various parties supported the decision, underscoring its importance for national security and territorial integrity. Public opinion across mainland India varied. While there was widespread support for the government's actions, concerns were also voiced regarding the humanitarian and constitutional implications. Debates ensued regarding the legality of the repeal process, with legal experts and commentators offering diverse perspectives on constitutional validity and procedural fairness.

## **B. MEDIA REPRESENTATION AND COVERAGE OF THE REPEAL**

Domestic Media: The Indian media played a pivotal role in shaping public discourse on the repeal. Initially, extensive coverage focused on the government's rationale, historical context, and potential implications of the decision. Op-eds, panel discussions, and expert analyses provided platforms for a wide spectrum of viewpoints, reflecting the complexity and sensitivity of the issue<sup>61</sup>.

In J&K, post-repeal media restrictions-imposed constraints on independent reporting, amplifying official narratives. The communication blackout and internet restrictions hindered the flow of information, prompting criticisms of media censorship and violations of freedom of expression<sup>62</sup>.

International Media: Internationally, the repeal attracted attention from major news outlets and international forums. Coverage often highlighted concerns about human rights, the security situation in J&K, and its impact on regional stability. Some

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<sup>60</sup> Chandra, P (1985). *The National Question in Kashmir*. *Social Scientist*, 13 (6): 35-56, June.

<sup>61</sup> Chaurey, R. (2017). Location-based tax incentives: Evidence from India, *Journal of Public Economics*, Volume 156.

<sup>62</sup> Chowdhary, R. (2001, June). Understanding Political Alienation in Kashmir. *The Indian Journal of Political Science*, 15178.

international media focused on political ramifications and global reactions to India's decision, emphasizing its implications for regional geopolitics<sup>63</sup>.

### C. SOCIAL DIVISIONS AND PERSPECTIVES ON UNITY

**Social Divisions:** The repeal deepened societal divisions within J&K and across India, reflecting historical and political fault lines. In J&K, the gap between pro-integration and pro-autonomy sentiments widened, intensifying tensions and polarization. Communal and ethnic considerations played significant roles in shaping public discourse, particularly in diverse regions such as Jammu and Ladakh.

**Unity Perspectives:** Nationally, the repeal was seen as a unifying measure aimed at bolstering India's territorial integrity and sovereignty. It evoked expressions of solidarity and patriotism, with calls to support the government's efforts in addressing longstanding challenges in J&K. The repeal reaffirmed India's commitment to resolving internal conflicts through democratic and constitutional means<sup>64</sup>.

The repeal of Article 370 and Article 35A has had profound implications for public sentiment and social discourse within Jammu & Kashmir and across India. It has exposed deep-seated divisions, exacerbated historical grievances, and sparked debates on constitutional principles, human rights, and national unity. The role of media in shaping narratives and the scrutiny from international perspectives highlight the intricate interplay of legal, political, and societal dynamics<sup>65</sup>. Addressing these multifaceted challenges will require inclusive dialogue, equitable development, and a steadfast commitment to upholding constitutional values to foster reconciliation and sustainable peace in the region.

## X. CONCLUSION

The abrogation of Article 370 and Article 35A represents a monumental constitutional and socio-political milestone in India's history. This in-depth analysis delves into the

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<sup>63</sup> Drabu, H. (2013, December 19). Article 370: A Reply to Narendra Modi. Back to Basics. Srinagar, J&K: Greater Kashmir.

<sup>64</sup> Government of Jammu and Kashmir (1977). Report of the Development Review Committee Jammu and Kashmir, 1977, Part V: Agriculture and Irrigation.

<sup>65</sup> Hurd (1975b). The Influence of British Policy on Industrial Development in the Princely States of India, 1890-1933. *Indian Economic and Social History Review*, 12 (4): 409-24.

legal, political, socio-economic, and international dimensions of this transformative decision, highlighting its profound implications and far-reaching consequences.<sup>66</sup>

The integration process of J&K into the national mainstream encountered challenges, including socio-political tensions, security concerns, and humanitarian issues. Restrictions on movement, communication, and political activities post-abrogation drew scrutiny from human rights organizations and international observers, prompting significant questions about civil liberties and democratic norms.

In conclusion, while the abrogation of Article 370 and Article 35A underscores India's commitment to constitutional principles and national unity, its implementation and aftermath highlight the complexities inherent in governance, democracy, and pluralism. Addressing the diverse aspirations of the people of Jammu & Kashmir, ensuring equitable development, and upholding constitutional values will be imperative for fostering lasting peace and prosperity in the region<sup>67</sup>.

This comprehensive analysis contributes to a nuanced understanding of the legal, political, and socio-economic dimensions of the abrogation, emphasizing the importance of inclusive dialogue, democratic engagement, and constitutional governance in shaping India's path forward.

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<sup>66</sup> Hussain, S. B. (2021). Peace-Building and Economic Development through Decentralization: The Pre-Bifurcation Jammu and Kashmir Experience. (ISEC Working Paper No. 511).

<sup>67</sup> Hussain, S. B. (2021). Peace-building and economic development through decentralisation: A case study of conflict-affected Jammu and Kashmir. In *Decentralisation in Contemporary India* (pp. 115-136). Routledge India.