

## ARTICLE 370 AND THE KASHMIR CONUNDRUM: CONSTITUTIONAL AUTONOMY, REVOCATION, AND SOCIO-POLITICAL RAMIFICATIONS

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**Introduction:** Article 370, enshrined in the Indian Constitution in 1949, was a unique provision that accorded special status to Jammu and Kashmir, enabling the state to maintain its own constitution, flag, and autonomy over internal affairs. This arrangement stemmed from the region's complex accession to India in 1947 amid geopolitical tensions involving India, Pakistan, and China. The provision

was revoked on August 5, 2019, by the Government of India, sparking widespread debate over its constitutional validity, political motivations, and socio-economic consequences. This paper aims to analyze the objectives of Article 370, its historical evolution, and the ramifications of its abrogation, employing a multidisciplinary approach that integrates legal, political, and social perspectives.

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### Historical Context and Implementation:

Article 370 was incorporated into the Indian Constitution following negotiations between the Indian government and Kashmiri leaders, notably Maharaja Hari Singh and Sheikh Abdullah. The Instrument of Accession, signed on October 26, 1947, provided the legal basis for Jammu and Kashmir's integration into India, but with conditions that preserved significant autonomy. The article stipulated that the Indian Parliament's legislative powers over the state were restricted unless concurred by the state's government, and only the state's Constituent Assembly could recommend modifications to this arrangement.

In 1954, the Presidential Order extended certain provisions of the Indian Constitution to Jammu and Kashmir, with the state's concurrence, formalizing the application of fundamental rights and other constitutional guarantees. Article 35A, introduced via this order, further empowered the state to define "permanent residents" and restrict property ownership and employment rights to them, safeguarding the region's demographic and cultural character (Noorani 45).

However, the autonomy granted by Article 370 was progressively eroded through subsequent presidential orders and political interventions. Between 1954 and 2019, numerous constitutional provisions were extended to the state, often with the consent of state governments led by the National Conference or Congress. Critics argue that this gradual dilution undermined the original intent of Article

370, rendering it a "shell" of its former self by the time of its revocation (Rather 112).

### The Revocation of Article 370:

On August 5, 2019, the Government of India, led by the Bharatiya Janata Party (BJP), issued a Presidential Order (C.O. 272) amending Article 367 to reinterpret the term "Constituent Assembly" as "Legislative Assembly." Since Jammu and Kashmir was under President's Rule at the time, the Union Parliament assumed the powers of the state legislature. A statutory resolution was passed in the Rajya Sabha, followed by a Presidential Order (C.O. 273) on August 6, 2019, rendering all clauses of Article 370, except clause 1, inoperative. Concurrently, the Jammu and Kashmir Reorganisation Act, 2019, was enacted, bifurcating the state into two Union Territories: Jammu and Kashmir (with a legislature) and Ladakh (without a legislature) ("Article 370: What Happened").

The revocation was accompanied by significant security measures, including the deployment of additional troops, communication blackouts, and the detention of regional political leaders. The government justified these actions as necessary to preempt violence and integrate Jammu and Kashmir fully into India, citing the need to extend constitutional protections, promote economic development, and curb terrorism (Shah and Shah 7).

### Constitutional and Legal Debates:

The abrogation of Article 370 raised complex constitutional questions, which were adjudicated by the Supreme Court of

India in a landmark ruling on December 11, 2023. The court unanimously upheld the revocation, reasoning that Article 370 was a temporary provision intended to facilitate Jammu and Kashmir's integration into India. The court further clarified that the state did not retain sovereignty distinct from other Indian states, and the President's actions were within constitutional bounds (In Re: Article 370).

Critics, however, argued that the revocation violated the spirit of federalism and the terms of the Instrument of Accession. Petitioners contended that the abrogation required the consent of the state's Constituent Assembly, which had dissolved in 1957, rendering the action unconstitutional. Others highlighted the lack of consultation with Kashmiri stakeholders, framing the move as a unilateral imposition that undermined democratic principles ("What's Article 370").

#### Socio-Political Implications:

The revocation of Article 370 has had profound socio-political consequences for Jammu and Kashmir, reshaping its governance, economy, and social fabric.

- 1. Governance and Political Dynamics:** The bifurcation of the state into Union Territories centralized administrative control, reducing local political agency. While the Supreme Court mandated the restoration of statehood and elections by September 2024, the absence of a state legislature has fueled perceptions of disenfranchisement among Kashmiris (In Re: Article 370).
- 2. Economic Impacts:** The government argued that revoking Article 370 would spur economic development by allowing non-residents to purchase land and invest in the region. However, critics warn of potential demographic shifts and land grabs, which could alter the region's Muslim-majority character (Rather 115).
- 3. Social and Cultural Identity:** The revocation has intensified debates over Kashmiri identity and autonomy. Many Kashmiris view the move as an assault on their cultural and historical distinctiveness, while supporters argue it promotes national integration (Shah and Shah 9).

- 4. Human Rights Concerns:** The communication blackout and detentions following the revocation drew criticism from human rights organizations, which documented restrictions on freedom of expression and movement. The region continues to face security challenges, with ongoing tensions between state forces and local populations ("Article 370: What Happened").

#### Conclusion:

Article 370 was a cornerstone of Jammu and Kashmir's relationship with India, embodying a delicate balance between autonomy and integration. Its revocation in 2019 marked a pivotal moment in India's constitutional and political history, with far-reaching implications for federalism, regional identity, and national unity. While the move aimed to streamline governance and foster development, it has also deepened divisions and raised questions about the inclusivity of India's democratic framework. Future efforts to restore statehood and engage with Kashmiri aspirations will be critical to achieving lasting stability and reconciliation in the region.

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