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An Examination of the Conceptual Framework around the Constitutional Abolition of Article 370 in the Indian Constitution and its Socio-Political Consequences for Pakistan

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Abstract

Over the state of Jammu and Kashmir, India and Pakistan have been at enmity since the subcontinent was divided into two distinct states. Prime Minister Nehru reiterated the statement, ensuring that the people of Kashmir would depart immediately if they desired an Indian departure. The region's provisional agreement with India's main territory was subsequently guaranteed by Articles 370 and 35-A of the Indian Constitution. In this study, the consequences and impact of India's annulment of Article 370 on Pakistan are evaluated. The research study takes a qualitative approach, focusing primarily on secondary sources of data based on document analysis. The primary findings of the study indicate that the deteriorating law and order situation in Kash is primarily due to the abrogation of Article 370 in the Indian Constitution. This will have a huge impact on Pakistan's security paradigm by making her more vulnerable to India's hegemonic designs.

Keywords: Articles 370, 35-A, Indian Constitution, Jammu and Kashmir

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Abstract

Over the state of Jammu and Kashmir, India and Pakistan have been at enmity since the subcontinent was divided into two distinct states. Prime Minister Nehru reiterated the statement, ensuring that the people of Kashmir would depart immediately if they desired an Indian departure. The region's provisional agreement with India's main territory was subsequently guaranteed by Articles 370 and 35-A of the Indian Constitution. In this study, the consequences and impact of India's annulment of Article 370 on Pakistan are evaluated. The research study takes a qualitative approach, focusing primarily on secondary sources of data based on document analysis. The primary findings of the study indicate that the deteriorating law and order situation in Kash is primarily due to the abrogation of Article 370 in the Indian Constitution. This will have a huge impact on Pakistan's security paradigm by making her more vulnerable to India's hegemonic designs.

Keywords:

[Articles 370, 35-A](#),
[Indian Constitution](#),
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Introduction

Kashmir is a region that is currently undecided between India and Pakistan. In 1947, shortly after the establishment of the two successor states, the Maharaja of Jammu and Kashmir, a princely state in the

Himalayas, was elected to join India. Subsequently, India and Pakistan engaged in a conflict over the matter each gaining control of a distinct area of the region before agreeing to a ceasefire line. The liberties of the Kashmiri people are guaranteed by Articles 370



and 35A. These articles ensured that Kashmiris had the right to establish their constitution and flag, and they prohibited individuals residing on the Indian mainland from purchasing property, thereby ensuring the composition of their population (Alam, 2020).

The Kargil Valley, which was recently separated from Jammu and Kashmir and incorporated into the Ladakh Union Territory, has also experienced extensive agitation, in addition to the Muslim-majority Valley of Kashmir, which is currently experiencing disturbance. Article 35A of 370 authorizes the state parliament of Kashmir to establish India's perpetual occupation and to provide exceptional civil rights and liberties to individuals who permanently reside in the state. Kashmir is primarily a Muslim region, which is the primary concern. Consequently, the primary objective of revoking the article is to modify the demographics of Kashmir, which is under Indian control. This entails the relocation of Hindus from other regions of the nation to Kashmir, thereby converting the majority Muslim population into a minority in their own land (Katoch, 2017).

Jammu and Kashmir's Pre-Partition History The history of Kashmir is intricately linked to that of the Indian Subcontinent as a whole, as well as the adjacent regions of East Asia, South Asia, and Central Asia. At first, the term "Kashmir" was used to depict the Kashmir Valley. Kashmir, according to certain historians, is a Sanskrit term that translates to "dehydrated land." Today, it incorporates a more extensive region that includes the Trans-Karakoram Tract, Aksai Chin, Gilgit-Baltistan, Pakistani Azad Kashmir, Ladakh, and Indian-controlled Jammu and Kashmir (including Jammu and the Kashmir Valley) (Zutshi, 2017).

The Shah Mir dynasty was founded in 1339 by Shah Mir, the first Muslim king of Kashmir. Throughout the next five centuries, Kashmir was ruled by Muslim nations, namely the Mughal Empire (1586–1751) and the Afghan Durrani Empire (1747–1819). That year, Kashmir was taken over by the Sikhs under the command of Ranjit Singh. Kashmir was ruled by Gulab Singh, the Raja of Jammu, after the Sikhs lost the First Anglo-Sikh War and the British

acquired the province by the Treaty of Amritsar. His heirs were ruled by the British Crown, either directly or indirectly. Jammu and Kashmir are divided into three culturally and ethnically distinct areas: Kashmir is primarily Muslim, Ladakh is primarily Buddhist, and Jammu is primarily Hindu. In the first millennium, the Kashmir region became a significant center for Hinduism and Buddhism. Nevertheless, the sudden decline of Kashmiri Buddhism was precipitated by the emergence of a Hindu sect known as Shaivism in the ninth century. The Hindu king Mihirkula killed Buddhists and worshipped Shaivism. In the 13th and 15th centuries, Sufi saints introduced Islam to Kashmir, which ultimately contributed to the demise of Kashmir Shaivism. However, they did not disregard the accomplishments of earlier civilizations. (Behl, 2019).

Kashmir Conflict Following Independence

Pakistan and India were established in 1947 as a consequence of the subcontinent's division, which was primarily due to religion. Nevertheless, the issue persisted, as there were more than 565 princely states. In theory, these princely kingdoms had the option to either remain distinct or join a particular state. As a result of its geographical location, Kashmir could be incorporated into either Pakistan or India. The Hari Singh Maharaja of Kashmir was a Hindu, but the vast majority of the region's population was Muslim. Hari Singh chose to remain neutral, as he was unable to determine which nation to join. Pakistanis were opposed to India's union with a Muslim-majority region. The ruling was overturned by Pakistan's political establishment through the use of force. Pakistan utilized tribesmen from frontier tribal regions to overturn the ruling due to its inadequate military strength and power. On October 26, 1947, Hari Singh executed the Accession Treaty, which transferred Kashmir to India and requested military support from the Indian government. In 1947–48, Pakistan and India commenced their initial conflict over Kashmir. On January 1, Prime Minister Jawahar Lal Nehru of India submitted a complaint to the United Nations Security Council, which resulted in

the establishment of the United Nations Commission for India and Pakistan (Snedden, C. [2021](#)).

This commission passed a resolution that declared, "We will utilize the democratic process of a fair and impartial referendum to determine whether the state of Jammu and Kashmir will be incorporated into either India or Pakistan." India was confident in its ability to secure a decision following its presentation to the United Nations. The United Nations constituted an emergency administration on October 30, 1948, appointing Sheikh Abdullah as Prime Minister. On January 1, 1949, they reached a ceasefire, with Pakistan controlling the residual portion, while India controls 65 percent of the region. Despite the intended transitional nature of the ceasefire, India persistently refuses to allow the people of occupied Kashmir to decide their future through a referendum. India claimed that Pakistan's signing of a defense treaty with the United States in May 1956 compromised its stability, which is why the plebiscite was not conducted. Indian Prime Minister Nehru declared in a message to the Pakistani Prime Minister on March 5, 1954, that the United States' decision to offer Pakistan assistance had significantly altered the "whole environment of the Kashmir Dispute." Consequently, India was able to absolve herself of the requirement to participate in a vote. Pakistan's justification for participating in security partnerships commanded by the United States was significant. She maintained that this action would guarantee Pakistan's geopolitical stability and prevent India from encroaching on its territory. Following this, India not only manipulated the situation to avoid holding a plebiscite but also implemented actions that resulted in the annexation of occupied Kashmir into Indian Territory (Khurshid, T. [2016](#)).

The Abrogation of Article 370 by India

After securing a resounding majority in multiple national elections, the hardline Hindu nationalist Bharatiya Janata Party (BJP) fulfilled a long-standing pledge to remove Article 370, which preserved the quasi-autonomous status of Indian-occupied Kashmir. The administration also eliminated Article

35A, which guaranteed permanent legal residents the exclusive right to hold office in local government and the exclusive possession of landed property. New Delhi's rejection of the assembly of occupied Kashmir in November 2018 enabled the presidential decree that executed the acts (Alam, 2020).

The national parliament recently passed a law that divided occupied Kashmir into two additional regions—Jammu and Kashmir and Ladakh—that were directly under the authority of the central government. Jammu and Kashmir, unlike Ladakh, has an elected assembly, but it lacks control over the entire state legislature (Ahmar, [2017](#)).

The administration put out a variety of justifications, ranging from battling terrorism and upholding India's integrity to promoting social and economic advancement and instituting democratic values in occupied Kashmir. The Minister of Interior, Amit Shah, told the national assembly that Article 370's existence was necessary to eradicate terrorism. "Article 370 did not bring democracy to Kashmir," he went on. It allowed corruption to flourish and spread." Prime Minister Narendra Modi blames "separatism, terrorism, and pervasive corruption" in the state on Article 370. He claimed that when Kashmir is fully incorporated into the republic, economic growth will be boosted and Kashmiri inhabitants' faith in the Indian state will be restored. However, the arguments put forth by New Delhi have not gained any traction within the Kashmiri community. Furthermore, the Indian government sent hundreds of thousands of additional military and police personnel into an already heavily militarized area soon before August 5 because it expected a strong response to the removal of the state's unique privileges and people's rights (Yousaf, [2021](#)).

Problem Statement

Pakistan has been facing several difficulties, such as social, political, and economic problems, all of which are closely related to our exterior relations and difficulties. The Kashmir dispute with India is our most pressing international dilemma, and it is also the most significant one. The most recent action by India

to repeal Article 370 in Indian-occupied Kashmir has worsened the situation, made it more complex, and added to Pakistan's already numerous problems. Anything between two nuclear-armed neighbors is possible if the current state of affairs continues, including widespread conflict and devastation. Consequently, the study endeavors to emphasize the potential consequences that Pakistan may encounter as a result of India's unilateral decision to eliminate Article 370 in Indian-occupied Kashmir by the Indian administration under Modi.

Research Questions

1. How does the contentious piece fit into the Indian constitution?
2. Why the Kashmir dispute is directly linked with the abrogation of Articles 370 and 35 A?
3. iii. How do these articles affect Pakistan's society and politics?

Objectives of the Study

1. To look at the contentious sections of the Indian constitution.
2. To assess how these articles affect the Kashmir issue.
3. Investigating these papers' sociopolitical ramifications for Pakistan.

Research Design and Method

The study maintains a qualitative approach to ensure a broad and comprehensive scope of research. The initial stage necessitates the use of historical data, including the historical context of the Kashmir dispute. The essential data has been gathered from secondary sources, such as pertinent publications, magazines, journals, reports, newspapers, articles, government documents, websites, and content from both domestic and foreign literature. We have employed a secondary approach to obtain more relevant and authenticated data, considering various authentic books and research articles. The researcher has taken pains to collect information from various authentic sources and then make his own findings, conclusions, and recommendations based on the

ground realities while keeping in mind the significance of the study.

Expected Outcomes

Examining the policies of the right-wing, Modi-led, radical, and fundamentalist Hindu administration in Indian-occupied Kashmir is the main goal of the study. The study also aims to comprehend and assess the justification for India's significant decision to repeal Article 35A of the Indian Constitution, which deprives Kashmiris of their legal protections. Since Pakistan considers Kashmir to be a crucial issue, the study also focuses on how the revocation of Article 370 might affect Pakistan. Additionally, the focus of the research will be Pakistan's Article 370 abrogation and its political, social, and economic ramifications.

Discussions

The Indian Constitution Controversial Articles on Kashmir

According to the Indian Constitution, Article 370 the Indian subcontinent's northern region is home to the disputed state of Jammu and Kashmir. Under Article 370 of the Indian Constitution, Jammu and Kashmir is granted a distinctive status that affords it the autonomy to establish its own flag, constitution, and internal governance. Since 1947, India has ruled over Jammu and Kashmir, a part of the larger Kashmir region that has been a point of conflict for Pakistan, India, and, to a lesser extent, China. Article 370 of the Indian Constitution is found in Part 21. It stated that advice on the extent to which the Indian constitution applies to the state would be provided by the Jammu and Kashmir Constituent Assembly. The state assembly has the authority to completely abolish Article 370, thereby granting the state full application of the Indian Constitution. The 1954 Presidential Order was based on a proposal made by the state constituent assembly regarding whether sections of the Indian constitution should be applicable to the state (Bhat & M. Mohsin, 2023).

It was believed that Article 370 was a permanent component of the Indian Constitution. The state constituent assembly was dissolved without

advocating for its termination. As a result, the laws that regulate citizenship, property ownership, and fundamental rights in Jammu and Kashmir are distinct from those in other States of India. These regulations prohibited Indian citizens from other states from purchasing land assets and property in Jammu and Kashmir. A presidential order was issued by the Indian government on August 5, 2019, which revoked the 1954 decree and implemented the Indian constitution in Jammu and Kashmir. The resolution that served as the foundation for the ruling was enacted by both chambers of India's parliament with a two-thirds majority. On August 6, 2019, a new decree was issued that declared all of the clauses of Article 370 ineffective, with the exception of clause 1. The legislature also passed the Jammu and Kashmir Re-organisation Act, 2019. The division of the state of Jammu and Kashmir into two union territories, which are now termed the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh, was established by this act. In response to 23 petitions that opposed the federal government's intentions to repeal Article 370 of the Constitution, the Supreme Court of India established a five-judge commission. Jammu and Kashmir's initial accession, similar to that of all other princely domains, was predicated on three factors: defense, communications, and foreign affairs. The Constituent Assembly of India, which was in the process of drafting a constitution for the entire nation, requested that all princely kingdoms submit representatives. They also received instructions to establish constituent assemblies within their respective states. Consequently, the government accorded all states (or consolidation of states) the same status as conventional Indian provinces. This implied that the subjects for which the national and state administrations could implement laws were uniform throughout India (Tripathi et al., 2024).

The state is prohibited from adopting any future Indian laws or Constitutions by Clause 7 of the Accession Treaty. The state has the power to establish its own constitutional laws and legislation, as well as determine the additional powers that the federal government should possess. In order to safeguard those liberties, legislation enacted Article 370. A. G.

Noorani, a lawful expert, believes that the article cannot be unilaterally altered or deleted by either the state government or India unless they do so in accordance with its text (Noorani, 2014).

Article 370 Included Five Specific Provisions for Jammu and Kashmir

1. This excluded Indian-occupied Kashmir from the complete enforcement of the Indian Constitution. The Indian government granted occupied Kashmir the authority to create its own constitution.
2. Only with the Indian-occupied Kashmir government's consent can the federal government extend its additional legal powers to occupied Kashmir.
3. The 'arrangement' was only for a short period of time. The occupied Kashmir Constituent Drafting Assembly must approve it.
4. Only the State Legislature of occupied Kashmir could approve the repeal or modification of Article 370.
5. India's administrative rights over occupied Kashmir were restricted by the constitution to the areas of foreign policymaking, strategy and defense, and communication systems.

This decree was enforced on May 14, 1954. The state's Constitution-drafting parliament authorized this exhaustive order to implement the 1952 Accord of Delhi. An agreement was reached between Shaikh Abdullah and Nehru. (Dar et al., 2023).

The Delhi Agreement Implementation Provisions were;

1. Article 35a of the amended Constitution grants the assembly of occupied Kashmir the authority to legislate on the special privileges and rights of the original inhabitants in terms of fixed land possessions, employment, and remaining in the territory.
2. Basic human liberties were granted to Indian-occupied Kashmir by the Indian Union Constitution.

3. In the event of an external attack, the Indian federal government has the authority to declare a national crisis.

The state of occupied Kashmir is conferred privileged status in accordance with Article 370 of the Indian Constitution. The Indian Constitution does not apply all of the norms and laws of its other territories to occupied Kashmir. Under specific circumstances, the Indian government has the power to declare a state of emergency in occupied Kashmir and enforce the governor's rule. Defense, foreign affairs, and communication are all included in the Indian Constitution in occupied Kashmir. The Indian Federal Legislative Assembly had relatively limited authority over occupied Kashmir in comparison to other states. occupied Kashmir. Until 1963, the Indian Legislative Assembly was restricted to legislating on matters that were on the union list and the concurrent list under Schedule 7, with Indian-occupied Kashmir holding no authority. The Indian Legislature lacked the authority to enact preventive custody laws; the Kashmir state assembly was the sole entity with this authority (Jagota, [1960](#)).

India's Constitution, Article 35A

The assembly of Indian-occupied Kashmir was permitted to designate the territory's "legal inhabitants" and grant them particular legal privileges and protection under Article 35A. Through an order and decree in 1954, the president incorporated it into the Constitution in accordance with the provision of Article 370. In accordance with the state of occupied Kashmir, these rights have included the capacity to acquire property and land, the right to vote and participate in politics and elections, the ability to secure government jobs and employment, and other state incentives, such as enhanced healthcare and education. The "rights" in question were not accessible to Indian nationals or transient residents of the region. It was also possible for women who lived in the state to lose their permanent inhabitant status if they married outside of occupied Kashmir. However, on August 5, 2019, the Indian president issued a presidential order that extended all Indian laws to Indian-occupied Kashmir without any specific

protections. This effectively deemed the state's independent constitution and the benefits it received under Article 35A null and void (Wani, Khan, & Yaseen, [2020](#)).

The central government revoked the unique position provided to the region under Article 370 by Presidential Order on August 5, 2019, thereby rendering the entire Indian Constitution enforceable in the territory of Indian-occupied Kashmir. In other words, Article 35A was rendered obsolete. Additionally, the federal legislature implemented legislation that divided the region into two: occupied Jammu and Kashmir and occupied Ladakh respectively. While under presidential authority, the preexisting norms were enforced in the territory of occupied Kashmir until March 31, 2020. The Reorganisation Order of Occupied Kashmir, 2020 was authorized by the federal Ministry of Interior Affairs of the Department of Indian Occupied Kashmir and Ladakh Affairs on March 31. By means of this order, 29 state regulations were eliminated and 109 others were altered in occupied Kashmir. In 2010, the J&K Civil Services (Recruitment and Decentralisation) Act was revised as one of the statutes. The novel concept of "domicile" in the union territory was used to replace references to the state's perpetual inhabitant throughout the enactment. According to the ruling, individuals who have effectively completed the 10th and 12th-grade exams and have resided in Indian-occupied Kashmir for fifteen years or have completed their education in the territory for seven years will be classified as residents of the state. Domicile status will be granted by the state to the daughters and sons of central government personnel and those who worked in occupied Kashmir for a period of ten years. Additionally, individuals who are classified as migrants are eligible to claim benefits that are determined by their place of residence (Katoch, 2017).

Article 370's Impact on the Kashmir Dispute

PM Narendra Modi and Minister of Interior Amit Shah spearheaded the Indian government on August 5, 2019. The unique status of the now-defunct occupied state of Kashmir was terminated by the

Reorganisation of Jammu and Kashmir Act, which was passed by the Lok Sabha and Rajya Sabha, the upper and lower chambers of the legislature. Articles 370 and 35a of the Indian Constitution were repealed by the statute, which granted the predominantly majority region extraordinary autonomy, its own Constitution, and regulations that prohibited individuals without a state citizenship permit from possessing the land (Haroon & Hussain, [2021](#)).

The principal beneficiary of Article 370's revocation in this scenario is the Kashmiri populace. The ongoing struggle for self-rule and independence is occurring among them. Currently, the situation in occupied Kashmir has deteriorated significantly. Since August 5, their suffering has been exacerbated, and they have suffered the most during this protracted conflict. The peaceful protestors are being brutally attacked by the Indian forces. The assault has led to a significant number of injuries and fatalities. This severe situation further exacerbates an already unstable environment in which crimes against humanity have been prevalent for years. The assault on fundamental liberties that preceded the administrative and political changes that commenced in August 2019 has served as a stark reminder of the Indian government's persistent refusal to respect and protect the rights of its citizens in the state. For many years, human rights violations have been pervasive in occupied Kashmir. Consequently, the Kashmir issue has been significantly impacted by the removal of Article 370 (Farooq & Gul, [2020](#))

Torture and Detention

After the repeal of Article 370, there were reports of human rights breaches, including illegal arrest and torture. This brutality has disproportionately affected young people, public figures, citizens, and religious institutions. The people of Kashmir are repressing any political speech by arresting individuals there, both illegally and in accordance with various current laws (Sheikh, [2020](#)). Security personnel in Kashmir have been unlawfully arresting and torturing individuals, including minors, during midnight raids and at barracks. Authorities seize cellphones and

identification cards, holding them for unknown periods and mistreating them. Since the abolishment of special status, arrests have increased, resulting in inhumane measures against innocent civilians. The use of purposeful torture to subdue protests and instill panic in the local population is a significant issue (Askari & Alam, [2023](#)).

Article 370's Sociopolitical Implications for Pakistan

The relationship between India and Pakistan has been close and contentious since the beginning due to the Kashmir wars. Their military forces were repeatedly obliged to stand aside due to the unresolved Kashmir dispute, and they fought three wars. Despite the United Nations' early involvement in resolving a critical situation, the situation has not been resolved, despite resolutions of the United Nations Security Council (UNSC) calling for a referendum to determine whether the people of Kashmir would rather join India or Pakistan. South Asia's standing has so fluctuated, ranging from uneasy to antagonistic. Following their 1998 acquisition of nuclear weapons capability, both rivals turned into global threats as well as regional ones. On August 5, 2019, the Modi government in New Delhi repealed Indian constitutional articles 370 and 35A, worsening an already severe position. India has unilaterally altered the status of Kashmir and converted its transitory borders with China and Pakistan into international borders, thereby violating all UN resolutions and bilateral agreements ([2019](#), Kanjwal). In the end, the armed conflict in Jammu and Kashmir evolved into a war between India and Pakistan. India quickly approached the United Nations Security Council (UNSC) on January 1, 1948, and invoked Article 35 of Chapter 6, which pertains to the peaceful resolution of disputes, to request a cessation, acknowledging its defeat. Following a period of contemplation, the United Nations Security Council (UNSC) adopted Resolutions No. 39 and No. 47 on April 21, 1948. Resolution No. 39 established the United Nations Commission for India and Pakistan (UNCIP) to collect information, while Resolution No. 47 urged

both parties to withdraw their troops from Jammu and Kashmir, establish a transitional government, and implement a cease-fire. The United Nations Security Council (UNSC) adopted a comprehensive resolution on August 13, 1948, that urged the conducting of a free and impartial plebiscite and the implementation of a ceasefire. Qadeer (2017). The United Nations Security Council (UNSC) adopted a resolution on January 5, 1949, appointing a plebiscite administrator this time. On July 27, 1949, India's armed forces drew a truce and declared it, but they never left for any reason. After the UN Commission for Pakistan and India reported its failure, the UN Security Council appointed De Frank Graham and Sir Owen Dixon as UN representatives to resolve the Kashmir dispute. However, neither individual was able to achieve their objectives (Rao, 2019). After failing to secure a positive ruling from the UN, India publicly defied the decisions of the UN Security Council (UNSC) by incorporating Article 370 of the Indian Constitution, thereby incorporating the Indian-occupied territory into its national constitution. 47 Presidential Orders were able to preserve the identity of Kashmiris by weakening the special privileges granted by Article 370. The 91 resolution of 1951 was enacted by the United Nations Security Council (UNSC) when the Constitutional Assembly of Indian-held Kashmir convened in 1951 to draft the state's constitution, which made it clear that the future of the Kashmiri people could only be determined by a UN plebiscite. Similar to this, the Security Council passed Resolution 122 in 1957, stating that the Assembly's resolution to recognize the state's relationship with India was unacceptable. It is unequivocally stated in UNSC resolutions 91 and 122 that any activity or participation of this kind cannot be viewed as a substitute for a vote overseen by the UN (Nawaz (2018).

The Kashmir Conflict as a Barrier

Due to the rivalry between the two nations, the United Nations Organization (UNO) was unable to settle problems in Kashmir in subsequent years. After Pakistan's Operation Gibraltar in Kashmir, border hostilities between Pakistan and India recommenced,

and on September 6, 1965, the second war between them—fought over the Kashmir dispute—began. The war was also resolved by the United Nations, operating under its supervision, with the Tashkent Declaration (1966). Prime Minister Modi stated that India, with whom it has a long history of hostility, helped Mukti Bahini during Pakistan's political unrest, which resulted in an armed uprising in East Pakistan. With help from the USSR, India then attacked Pakistan in 1971, which resulted in the catastrophic loss of East Pakistan on December 16, 1971. After the conflict, on July 2, 1972, the Shimla Agreement was signed, whereby a Line of Control (LOC) would be created as the de facto boundary and problems between the parties would be settled by bilateralism while abiding by the United Nations Charter. India has been able to produce nuclear weapons since 1974, but on May 11 and 13, 1998, they carried out nuclear tests. Pakistan was forced to reveal its cards in retaliation, testing five devices on May 28 and one on May 30, 1998. This is how they rigged the score to keep India inside their borders. The ongoing rivalry between Pakistan and India over Kashmir reached a dangerous point following the 1998 explosions. In Resolution 1172 of June 6, 1998, the UN Security Council urged both nations to halt further testing in the wake of these explosions and to find solutions to bilateral disputes, particularly the tension-causing Kashmir. The US engaged to defuse an armed confrontation that broke out in the Kargil heights in May 1999. As a result, if a subversive episode happens, as the assault on the Indian Parliament in 2001 or the terror attacks in Mumbai in 2008, New Delhi assigns blame to Islamabad and creates a dangerous military standoff, even though Islamabad has denounced and condemned such crimes. In spite of the absence of proof, India accused Pakistan once more of orchestrating the militant attack in Pulwama in February 2019. The Indian Air Force claimed to have destroyed a militant training center when it stormed and bombed Balakot in Pakistan. In retaliation, the Pakistan Air Force downed two Indian fighter jets close to the line of control (LoC) on February 28, 2019, and attacked targets in Indian-controlled Kashmir. The military forces of the two nations were briefly on high alert,

and a nuclear exchange appeared imminent. The major powers and Muslim nations need to take the initiative to defuse the situation. With every terrible incident, the hostile relations between Pakistan and India have teetered on the verge of war because of the conflict in Kashmir. Moreover, bilateral initiatives in this field, like the Agra Summit and others, have consistently fallen short. Apart from its dispute with Pakistan, India's relationship with China has remained challenging because of an unevenly shared boundary that crosses the Ladakh valley in J&K. India started constructing army bases on Chinese soil in 1959, defying Beijing's warnings against Nehru's visionary approach. China finally responded by going on the offensive against India on October 20, 1962, covering a distance of up to 160 kilometers in a short period of time. After humiliating India, China unilaterally declared a cease-fire and withdrew its own forces. (Mirza and Babar, [2021](#)).

The Fallout from the Repeal of Article 370 and the Worldwide Response

After winning with a resounding majority in 2019, the Bharatiya Janata Party government led by Modi immediately initiated the Hindutva movement through the Sangh Parivar, an alliance of right-wing Hindu organizations. Early in August, the government ordered all visitors to leave the valley immediately, imposed a complete communication blackout, put public leaders and politicians under house arrest, and banned all forms of community gatherings and protests in occupied Kashmir. A force of thirty-eight thousand more soldiers was sent to reinforce the security apparatus that had begun holding juveniles. The president issued an order on August 5, 2019, surpassing all prior directions and accomplishing two goals. It began by repealing the process described in Article 370, Section 3. The item can only be repealed by the President with the approval of the Constituent Assembly of occupied Kashmir. Its suspension in 1957, according to the third section, means that it is no longer in existence. On November 21, 2018, Governor Satya Pal Malik dissolved the state assembly in occupied Jammu and

Kashmir after Mehbooba Mufti's Bhartiya Janata Party coalition disbanded her administration in occupied Kashmir on June 19, 2018. Subsequently, the governor assumed responsibility for state affairs. Article 370 grants Occupied Kashmir a distinctive privilege, allowing the state to maintain its own constitution, emblem, laws, and administrative independence. Ultimately, the 1954 constitutional decree that preceded it rendered Article 35A null and invalid (Mishra, [2020](#)).

In order to maintain the demographics of the state, Article 35A forbids non-native Kashmiris from acquiring real estate in occupied Kashmir. By forcing non-natives to relocate to the state, the Indian establishment hopes to upset the demographic balance via the 35A revocation. As a result, the Indian Rajya Sabha (Upper House) and Lok Sabha (Lower House) both voted on resolutions regarding Presidential Order 272 on the same day. Then, the government issued a second presidential order 273, which imposed the full Indian Constitution within India-occupied Kashmir, in contravention of the Instrument of Accession, Clauses 5 and 7, Article 3 of the Indian Constitution, and all United Nations resolutions. Since Indian courts have ruled that all previous laws were ultra vires, the Indian Supreme Court has been faced with multiple challenges challenging the legality of the order. The court has not yet addressed these pleas. However, opinions on the validity of President Order 272 can differ in India. For example, while some constitutional experts, such as Subhash C. Kashyap, consider it to be "a reasonable and legitimate decision," AG Noorani, on the other hand, views it as "an unconstitutional decision, similar to fraud." Concerns over the bill's procedure have been raised by a number of Indian political parties, intellectuals, and analysts. Alongside constitutional academicians and legal experts such as Viplov Sharma and Jaideep Gupta, as well as correspondents such as Rohan Venkatarama Krishnan and Arundhati Roy. Legislators, politicians, and others from Kashmir expressed their disapproval of the current Modi government's provocations with greater vigor. Omar Abdullah feels that Kashmiris have been abandoned by this action, while Mehbooba Mufti feels that it has driven them to the verge. So, it

is probable that it will have a negative impact. The annexation of Kashmir through the removal of Articles 370 and 35A is not motivated by the interests of Kashmiris, as claimed by New Delhi, but rather by Hindu supremacy and Muslim suppression, according to the majority of experts, with the exception of Hindutva supporters. This is consistent with the fundamental historical policy of the Bharatiya Janata Party. The Indian Citizenship Amendment Act, which was implemented in December 2019, primarily discriminates against Muslims and other minorities, despite the fact that secularism is a fundamental feature of the Indian Constitution. The Bharatiya Janata Party and its members contend that Article 370 is a discriminatory law that benefits the Muslim community in occupied Kashmir, while Buddhists, Sikhs, Hindus, and other communities are adversely affected. As noted Congress Party leader P. Chidambaram said on August 6, 2019, during a parliamentary session, annexation is, in the opinion of several observers, a "catastrophic decision" that will have significant consequences for future generations. Leaders of the opposition parties also apparently referred to the move as a "cause of shame" for the administration. According to Brinda Karat, a former Indian legislator, residences belonging to Kashmiris have been violently damaged. They're furious and afraid. Consequently, the forceful move by the Modi government will prevent them from assimilating with India (Zia, 2020). The Indo-China impasse raises the possibility of an Indo-Pak confrontation, according to a report released on June 29, 2020, by the American think group Foreign Policy. According to the assessment of the current state of affairs in the area, Modi's government is allegedly under a great deal of pressure because of its lackluster response to China, which still has bad memories of a brief but violent fight with Pakistan. This comes after a clash with China. Hardline factions and the Indian media are putting pressure on Modi to show initiative in the face of a regional emergency. The report also highlights the fear that permeates the nation, especially in light of the US's lack of engagement. In addition to other issues, the opposition parties in India are raising concerns about the government's inability to carry out its patriotic pledges at home. Prime Minister Modi

would be upset in such a situation and would decide to take on Pakistan, India's longtime enemy. He would rather face off against Pakistan in order to preserve his reputation and conceal India's shortcomings. The Diplomat, Guardian, New York Times, Economist, and other international media outlets have made inquiries regarding significant nations, to oppose India's immoral and inhumane activities in Kashmir, identifying the dispute as an international issue that threatens regional and global peace (Bhattacharya, 2020).

Article 370's Sociopolitical Repercussions for Pakistan

Effects of Article 370 Abrogation

The fundamental element of Modi's Hindutva Programme is the abolition of Article 370 of the Constitution in order to include occupied Kashmir in the Union of India. Consequently, they have quickly put the manifesto's goal into practice by advancing the Hindu nationalist agenda, or Hindutva. The racial mindset of the ruling party has various ramifications. First, lifting the current curfew might trigger devastating bloodshed and the rise of a new liberation movement. Therefore, the activities of India in Kashmir may have disastrous consequences, and the retaliation of New Delhi may destabilize the entire region. Second, Indian soldiers may use heavy weaponry, including annihilation, to put an end to the uprising. Third, as the Rashtriya Swayamsevak Sangh has long argued, India will rebalance the state's population percentage so that the dominant Muslim population becomes a minority. 25,000 non-Kashmiri domicile certificates have reportedly been granted by the current administration through the 2020 Grant of Domicile Certificates in Jammu and Kashmir; in occupied Kashmir. This action illustrates the administration's goal of making Muslims in occupied Kashmir a minority. Fourth, India will carry on propagating the Hindutva doctrine with the help of zealots. A. S. Dulat, a former director of RAW, voiced his worries about the uncertain future that Modi's government is offering to Kashmir, saying that it goes well beyond just repealing Article 370 in its quest to eradicate both the region's Muslim and Kashmiri

identities. Fifth, India would relegate Kashmiris to the position of second-class citizens by denying them equal opportunities. In addition, an irate India may start a war with Pakistan by accusing it of backing the Kashmiri liberation movement as a last-ditch effort to divert attention from internal issues. A nuclear exchange between the two nuclear-armed states might be more potent than any conventional bombing due to India's dictatorial mindset. Not only would this harm the neighborhood, but it would also have worldwide repercussions. One of the main parties to the Kashmir dispute is Pakistan. Pakistan has so strongly rejected India's unilateral action and declared that, in response to Indian provocation; it will explore all of its options. On August 6, 2019, the Federal Parliament of Pakistan passed a motion emphatically denouncing the legitimate and unilateral steps made by India and requesting that the international community take notice of India's transgressions of UN Security Council resolutions. Pakistan then reduced the number of its ambassadors in India. It also forbids using closed transit services and transnational trade. The prime minister of Pakistan, Imran Khan, has hinted that if the world doesn't act, there may be a military conflict between two nuclear powers. The potential for a massacre in occupied Kashmir was underscored by him in a speech to the UN General Assembly on September 27, 2019, in the event that the current curfew is lifted. He foresaw reprisals against India for its oppressive actions, a transfer of responsibility to Pakistan, and a possible nuclear arms race between the two nations, like the one that broke out in February 2019 after the Pulwama assault. 2017 saw Khan and Cheema. Consequently, China dispatched People's Liberation Army (PLA) forces in close proximity to India's borders on May 5, 2020, which led to a serious confrontation with Indian armed forces in the Pangong Tso area. Apart from earlier conflicts, on June 15, 2020, a particularly serious fight involving nuclear weapon states took place in the Galwan Valley and claimed the lives of almost twenty Indian soldiers. India disputes China's accusations that its soldiers targeted soldiers in the Chinese army. The armed standoff has escalated to a higher level, even though it

seems like both sides want to defuse the situation. The Indian Army claims to have seen "aggressive pre-emptive moves" in Daulat Beg Oldi, Demchok, and Pangong Tso Lake by the Chinese army. India's military subsequently increased its presence in the northeastern border regions. China's government has declared and issued warnings that a military conflict might explode and become a war akin to the one that China successfully won in 1962. The second commonly held opinion is that the outcome would probably be even more disastrous and destructive than the fight in 1962 given the current status of superior electromagnetic warfare technologies. Right-wing Hindu nationalists are putting pressure on Prime Minister Modi from within his own country, and he is also facing hostility from other countries, especially his neighbors, who worry that he may make a mistake that could threaten regional stability. The Jammu and Kashmir dispute is a global issue that demands international attention, not just a bilateral one between India and Pakistan, as the Indo-China confrontation has made clear. India, Pakistan, and China are all nuclear powers. Different states have different claims to the geographical area of Kashmir. In the event that a confrontation breaks out between any of these countries, their first priority will be to avoid using nuclear weapons. But in any case, any party driven by survival instincts could go too far, given that the Indian defense minister has said that there are circumstances in which using nuclear weapons might be necessary. Pakistan-Indian relations are entwined with the nuclear issue and the conflict in Kashmir. The volatile climate along the Line of Control is always there, with the possibility that it might escalate into a confrontation between hostile rivals that could explode at any time, as demonstrated by the aggressive actions of India's nationalist Hindutva leadership. Every state in South Asia will make an effort to arm itself with ballistic weapon systems, an advanced and sophisticated missile program, and anti-satellite capabilities due to the fragile situation throughout the region. This will lead to a scramble to acquire military weaponry, which can have disastrous effects on the local

population as well as the entire world community (Kamath, [2021](#)).

Mohammad Ali Jinnah, one of Pakistan's founding fathers, described Kashmir as the nation's jugular vein. But above all, Kashmir's advantageous position cannot be overstated. The allocation of the waters from these rivers was divided by an Indus water treaty that India and Pakistan concluded in 1960. In the event of a significant battle, India may be able to halt the flow of water from Pakistan's rivers, as it functionally controls all of the country's rivers. By the historic Indus Water Treaty of 1960, the Indus River basin was divided between India and Pakistan. Pakistan was granted ownership of three western rivers (Jhelum, Indus, and Chenab), while India was granted ownership of three eastern rivers (Sutlej, Ravi, and Beas). Pakistan benefited from this division by virtue of its status as a lower-riparian state and receiver of the water catchment. In Pakistan, almost 80% of the crops are irrigated through irrigation. The nation has the world's largest continuous irrigation system. 60% of the irrigation water is supplied by the Indus River, while the remaining 40% is sourced from the earth. Thus, Pakistan will be severely impacted by the repeal of Article 370 (Pappas, [2011](#)).

Conclusion

India and Pakistan have a turbulent past and relationship as a result of the Kashmir conflict. The Kashmir issue, which remains a point of tension, has resulted in three battles, border skirmishes, and warlike confrontations. Because of the unsatisfactory, antagonistic, and unfriendly relations between the countries, South Asia has turned into a dangerous region. This area of the world has become one of the most unstable, unpredictable, and deadly since Article 370 was repealed and India annexed the IoK. The execution of UNSC decisions has been hampered by New Delhi's hegemonic, belligerent, and expansionist stance on regional affairs, especially the Kashmir situation. After 70 years of struggle, Kashmiris are resolute to oppose the extreme policies and abuses of Modi's regime. Armed confrontation between neighboring nations could result from a violent response within Kashmir. Their territorial integrity and national interests are directly jeopardized by

India's decision to change the status of Kashmir's disputed region and turn its borders with China and Pakistan into international boundaries. A violent response within Kashmir is possible given the desire of the people there to resist the injustices and radical policies of the Modi regime. This situation will start a domino effect that will result in military conflict among neighboring nations.

Recommendations

The United Nations Security Council needs to take decisive action to stop the Indian government from suppressing the Kashmiri people and taking away their right to self-determination, even though Article 370 of the Indian Constitution has been revoked, depriving them of that right. We suggest changing the constitution to give the Kashmiri people the democratic right to self-determination in light of the problematic character of Article 370. A nuclear catastrophe in the region might be precipitated by the urgent Kashmir dilemma, with far-reaching ramifications. Therefore, it is the duty of the international community to settle the Kashmir dispute in a way that respects the aspirations of the Kashmiri people. Pakistan should take the initiative to convince strong Western nations, permanent members of the UN, and wealthy Muslim nations that The abrogation of Article 370 has exacerbated the suffering of Kashmiris, and members of the Organisation of Islamic Cooperation should exert pressure on India to cease violating human rights in Indian-occupied Kashmir. The UN should step in forcefully and tell India not to change the demographics of Kashmir that it occupies. Pakistan should build more water storage reservoirs since it should be its top priority to secure water. Pakistan can use the stockpiled water if India decides to cut off Pakistan's water supply in the case of a conflict. The United Nations Economic and Social Council (ECOSOC) ought to exert pressure on India to abolish the curfew in Indian-occupied Kashmir, enabling the locals to engage in lawful commerce as a means of subsistence. To keep the area from entering a new military arms race, the international community needs to come up and help resolve the Kashmir dispute. Pakistan must prioritize economic development and encourage increased foreign direct investment in order to sustain and

promote both economic growth and military expenditure. China Pakistan's economic corridor is the foundation of its future. Pakistan should expedite the commencement of the CPEC and expand its

collaboration with China in all areas, including military and economic cooperation, to prevent any potential issues and concerns from India.

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