

Abolition of Kashmir Special Status Under Article-370 By Narendra Modi Government and its Repercussions

A. Z. Hilali*

Abstract

Kashmir dispute is one of the world's persistent conflicts between the big actors of South Asia i.e India and Pakistan, which has affected the regional geopolitical landscape. There is no viable diplomatic road map exists for resolving the conflict. The issue has become complex because both countries have nuclear nukes and left no option for future prospect for peace. The unending ebb and flow of violence in Indian-held Kashmir leaves innocent and unarmed people in an uncertain situation, and the great powers, including the United States, are not taking an interest to resolve the issue through diplomatic means. The Indian right wing Janata Party's leader Narendra Modi, has taken actions to withdraw Kashmir special status under Article-370 and converted it into a federally administered territory. Thus, the Indian government actions have altered the regional dynamics and diminished the chances for lasting peace. Further, necessitating immediate intervention by global actors to prevent a potential nuclear war in the region.

Introduction

In the *literature* of International Relations, the concept of geopolitics has emerged as an important discourse in the modern world. Some countries believe in the “realist” school of thought and have adopted an imperialist power oriented strategy to enlarge their geographical frontiers. In this context, the geopolitics of India is based on expansionist vision, which they apply to Jammu and Kashmir annexation, as they did in Sikkim, Manavader, Junagarh (Junagadh) and Hyderabad. Thus, India's heartland geopolitics is centered around the South Asian region, and their focus is on Jammu and Kashmir, where they practice power to gain control over the area. So, the omnipotence of Indian leaders has put the region into unending wars, hostility, and it seems to be a boiling pot or zone of guerrilla warfare, which is not controllable by force. Since the departure of the British Empire, Jammu and Kashmir has been the world's flashpoint, melting pot, and geopolitical hot spot. While Kashmir is a part of the Himalayan region which was once a princely state but became disputed after the partition (1947) of British India and left Kashmir as an unfinished agenda of partition. Strategically, Jammu and Kashmir is situated at the foot of the Hindu Kush, Karakoram and Himalayas ranges. The whole of the Jammu and Kashmir region is based on three great ranges, an amalgamation of three remarkable cultures of Islam, Hinduism, and the Han Chinese civilization (Shahzad, 2019). Many races and cultures overlap because the region is socio-culturally rich with different races and religious communities, like Muslims, Hindus, and Buddhists, including numerous indigenous spiritual groups.

Strategically, the Jammu and Kashmir region is divided into different areas, such as Jammu, the Kashmir Valley, the Ladakh region, Azad Kashmir, Gilgit-Baltistan (including *Skardu* and Hunza), Aksai Chin, and the Trans-Karakoram Tract (Shaksgam Valley) territory, with

* Professor, Department of Business Administration, Iqra University (Chak Shahzad), Islamabad, Pakistan.
Email: a.z.hilali@iqrauni.edu.pk

the borders touching Afghanistan, China (Xinjiang), India, Pakistan, and the Central Asian Republics (Tajikistan). The region is sandwiched between the triangular nuclear states: India, Pakistan and China, and it is truly a catastrophic region. Moreover, besides its strategic value, Pakistan and India claim Kashmir for cultural and social reasons. In addition, the Jammu and Kashmir regions have a unique position within the 562 princely states of the British Empire because it was one of the largest states and was dominated by a Muslim population. Its geographical area is around 222,870 sq Kilometers, which means it is larger than Denmark, the Netherlands, Belgium, and Luxembourg. In contemporary times, Kashmir's 45 percent of its area is under Indian control, and 35 percent is governed by Pakistan which is called Azad Kashmir and only 20 percent of the area is claimed by China. However, India and Pakistan are the main parties that fought three direct wars (1948, 1965, and 1971) over Kashmir and two indirect limited wars, meaning one was in 1985 on the Siachen Glacier and another was the Kargil war in 1999.

In this situation, China is an important actor in the region, which has claims on Jammu and Kashmir, parts of Aksai Chin, and Ladakh, as both areas are vital for China. The area has a connection with two border areas such as Xinjiang and Tibet and is linked through the difficult Taklimakan Desert. Furthermore, Pakistan has given the Shaksgam Valley to China, which is an integral part of Gilgit-Baltistan, but under the 1963 Sino-Pakistan Agreement, the area has been provisionally handed over to China, until the Kashmir issue is resolved (Khan, 1968).¹ In this context, Shaksgam, with its link to Aksai Chin, has justified Chinese influence over the Kashmir region as Shaksgam is situated close to the Siachen Glacier, which is on the western side of the Line of Control between Pakistan and India (Katoch, 2018). In this regard, China's interest is not restricted to the Ladakh region because it has core stakes in the Gilgit-Baltistan area due to the CPEC programme along with the Belt and Road project, which ultimately will be linked with the hot waters of the Persian Gulf region and Gwadar Port. In this situation, Kashmir's location is significant to all concerned countries in the era of the new Great Game in South Asia and the Kashmir region has emerged as a buffer between US backed India and China backed Pakistan. The region has the capability to affect the geopolitics of the whole region, including Central Asia. As claimed by Nehru, "Kashmir is vital for India because of its pivotal location and link with the Central Asian region (Shahzad, 2019)." In the recent past, India has built a hundred kilometers road in the most remote and vulnerable area close to the Line of Actual Control (LAC) in the Ladakh Galwan Valley, and it is attached to an air base, which was revitalized in 2008. The air base will increase Delhi's offensive capability and can help to move forces and weapons quickly during wartime, which infuriated Beijing. China accused India and blamed New Delhi for the stand-off and said that the country has altered realities (Ethirajan & Pandey, 2020). This paper analyze repercussions of the abolition of Kashmir Special Status Under Article-370 By Narendra Modi Government exploring the geopolitical importance and historical perspectives of the long standing problem. For the purpose a large number of books, articles research paper, newspaper reports and online documents are consulted following document study method.

Kashmir Under the Dogra Dynasty

Historically, the Kashmir region has never been governed by native Kashmiris, and its oppression and colonial exploitation started with its occupation by the Mughal Empire in 1589. The area was ruled by the Afghans (1753-1819), Sikhs (1819-46), and the Dogras who ruled (1846-1947) until the British Empire created two new dominions i.e India and Pakistan. The Mughals were the only rulers, who did some efforts to alleviate the region from socio-

¹. A road from Urumqi, Xinjiang, goes all the way around the Taklimakan and through the daunting terrain of the Himalayas reaches Lhasa, Tibet — a part of this track passes through Aksai Chin. Adjacent to Aksai Chin is the Trans-Karakoram Tract, a 5,800 square kilometers belt, famously known as the Shaksgam Valley.

cultural poverty and worked to manage its natural beauty by the development of mega gardens in Kashmir. The Afghans used Kashmiri people as slaves to work in their native land for construction in the fields. They imposed different types of expensive taxes on the local products (Shawl and Cloths) of home industry. The Sikhs rulers exploited Kashmir's resources, as mentioned by William Moorcroft, that Kashmiris were treated by the Sikhs "little better than cattle (Halder, 2019)." However, in 1846, when the British East India Company severely defeated the Sikh forces in the Anglo-Sikh wars (1845 and 1846) then the Kashmir region was sold to the Hindu Dogras as a "commodity" and later sold to Gulab Singh at a sum of 7.5 million rupees as compensation for siding with the British in the Anglo-Sikh war.

Maharaja Gulab Singh (1846-1857) was the creator of Dogra rule and the Sikhs ruled around 106 years in Kashmir with other three rulers such as Ranbir Singh (1857-1885), Pratap Singh (1885-1925), and Hari Singh (1925-1952). Thus, under the Sikh dynasty, Dogra rulers treated the Kashmiri people as slaves and imposed excessive taxes on the common people with the aim of collecting a huge amount, which they had to pay to the British. All Dogra rulers banned the native people from holding any land in the area. More than seventy-five (75%) percent of cultivated land was under the Dogra rulers. The working class was dependent on Hindu Dogras, and many labours were under the state forced labour system and were never paid wages (Lone, 2012; Wilhelm, 2010). There was also a marriage tax on Kashmiri people, in addition to the "zaildari tax," which was compulsory for all native people, particularly for Muslims. The Dogra ruler imposed Koshur (Dogra native language) in Kashmir as well as Urdu as the official language of the state and this action was against the will of Kashmiri Muslims. Moreover, there were no official or semi-official jobs allowed for Muslims, including teaching and administration. State jobs were only permissible for Hindu Pandits and other Hindus within Kashmir (Noorani, 2011) Thus, the majority of the Muslim population was helpless, and most "petite bourgeois" were Hindus. Thus, under the Dogra rule, Kashmiri Muslims were completely deprived of all socio-cultural and economic activities. At that time, mosques and madrassas were not allowed for socio-political activities, then, Sufi tombs and shrines contributed greatly to socio-political activities among the people. So, Sufi darbars (places) served as a shield against the Dogra oppressive rule and contributed to the promotion of Kashmiriyat (Kashmiri nationalism), which ultimately led to a mass uprising against the Dogra rule in Kashmir (Dar, 2019).

At that time, Kashmiri people were not allowed to engage in any socio-political activities. The Maharaja approved party politics in the region, which was allowed only for Hindus and not for Muslims. Consequently, three political parties' were formed in the region, i.e Kashmiri Pandits Conference, Hindu Sabha (Jammu), and Sikhs' Shiromani Khalsa Darbar, which was allowed to operate. There was no Muslim representation and no political party represented the Muslims. In this situation, Sheikh Mohammad Abdullah, a school teacher, formed the *Reading Room Association* (later renamed the All-Jammu and Kashmir National Conference) in 1930, with the support of educated people who started political discussions about the common masses of Kashmir. They started meetings in Sufi shrines and mosques, which attracted common masses and middle-class people. Thus, the Muslims started agitations against the Maharaja's oppressive actions. A serious situation emerged on July 13, 1931, when thousands of Muslims attacked the Srinagar jail to release a young Muslim leader named Abdul Qadeer. Dogra forces treated the people with brutality, in which 22 (Twenty-Two) demonstrators were murdered and many were injured. According to Prem Nath Bazaz, the feelings of the masses that moved towards the jail were not against Hindus but certainly their sentiments were anti-oppressive (Ashraf, 2020). Bazaz endorsed the immaturity of

Reading Room Party (RRP) and claimed that the antagonistic attitude and biased behavior of Hindus towards the Muslims were the main causes of Muslim abuses (Bazaz, 1954).

Kashmir Under Siege of British and Dogra Rule

Maharaja Gulab Singh and the British Empire signed an agreement at Amritsar in March 1846, which was later called the “Amritsar Treaty” and the state of Jammu and Kashmir was declared a special political entity. Under the treaty, the Maharaja gave ransom to the British for more power and also gifted them one horse, twelve shawl goats of approved breed (six male and six female) and three pairs of shawls. Thus, in the last episode of Dogra rule, Maharaja Hari Singh gave permanent resident status and citizenship rights to Hindus as defined in Notification No. 1-L/84 of 1927, but not to Muslims, and also laid punitive taxes on Muslims and exempted Hindus. According to Prem Nath Bazaz, Muslims were unbearable because the situation in Muslim majority areas was “appalling, dressed in rags and barefoot. Most of the landless labourers working as serfs for absentee [Hindu] landlords (Bazaz, 1954). Muslim reaction against the Maharaja’s rule was recorded, and for this purpose, the Maharaja selected B.J Galancy, (an English ICS Officer) in April 1932 for a fair inquiry to find out the real causes of Muslim unrest. So, the Galancy Commission recommended political and socio-economic reforms, particularly in administration, education, land distribution, and taxation structure in its report and also suggested a better life for common Muslims (Ahmad, 2017).

In this situation, Sheikh Abdullah launched the “*Naya Kashmir*” magazine in 1944, in which he gave the “Kashmir Manifesto” based on the “National Economic Plan” and a ‘Constitution’ for the State. His movement was popular among the masses because he emphasised the rights of the people but became controversial within the people due to his friendship with Jawaharlal Nehru and his pro Congress stance. However, *Sheikh* Abdullah launched the “Quit Kashmir” movement in April 1946 against Maharaja Hari Singh, in line with Mahatma Gandhi’s “Quit India” movement (1942). At that time, *Sheikh* Abdullah said, “The atrocity of the Dogra rule has smashed the souls of the masses. Kashmiris are good people, but the Maharajah’s treatment made them unattractive. So, it is an appropriate time to react against the Maharaja because...sovereignty is not the right of illegitimate rulers, and every person of the land must shout ‘Quit Kashmir’ because Kashmiris are the real masters of the land (Bamzai, 1994).” *Sheikh* Abdullah also rejected the Treaty of Amritsar (1846) and announced that the real time had arrived to say “goodbye” to the Treaty because the region is not the personal property of Maharajah Hari Singh (Akbar, 1985).” It was a fact that during the Dogra rule in Kashmir, the opposition against the Hindu rulers was based on socio-cultural and religious causes, not a class struggle. Nonetheless, the Muslim Conference, led by Ghulam Abbas, supported the idea that Kashmir, being a Muslim majority area, should be part of Pakistan. This notion was endorsed by other Kashmir based parties, such as the Kashmir Socialist Party (KSP), who proclaimed in September 1947, “It will be better for the backward Kashmiri people to join Pakistan (The Kashmir Times, October 1947).” The Kisan Mazdoor Conference equally supported (1947) the idea that the Kashmir accession should be to Pakistan because of the Muslim majority population. They said that Kashmir’s main rivers and three highways flow into Pakistan (Kabakay & Bhatti, 1998).² In the same way, Mohandas Karamchand Gandhi also mentioned on December 25, 1947, “The Maharaja of Kashmir is declared guilty and responsible for all ills in the state (Bamzai, 1994).”

². The Kisan Mazdoor Conference was a group of farmers who discussed the issues facing Kashmir. Most were not landowners, as the rich Dogras based in the Jammu region owned much of the farmlands in Kashmir. So Pakistan not only offered them a practical option by way of their reliance on Lahore, but a way for them to free themselves of their Dogra landowners who would have no place in a communal Islamic Pakistan.

With this background, on October 22, 1947, tribal people from the Khyber Agency, Waziristan, and Dir State forces collectively marched against Hari Singh's army to bail out Kashmir people from the terrible Dogra rule. At that time, Maharaja Hari Singh extended his hand of friendship towards Sheikh Abdullah to keep Pakistan away from Kashmir. Sheikh Abdullah went to Delhi as a special representative of Hari Singh for India's assistance to counter move to join Pakistan. However, Lord Mountbatten (Viceroy of India) rejected the idea of providing military shelter without signing the 'Instrument of Accession.'³ The situation left no option for the Maharaja to sign for New Delhi's help against Pakistan (Lamb, 1992). In response to Sheikh Abdullah's services, Hari Singh nominated him "Emergency Administrator" of Kashmir as per the desire of Nehru (Lamb, 1994). On the 27th of October, 1947, early in the morning, Indian forces landed in Srinagar and fought against the Pakistani tribal people who were close to the capital, Srinagar (Bamzai, 1994). Jinnah, on the same day, ordered General Gracey to send Pakistani forces into Jammu and Kashmir but Gracey declined to obey Jinnah's instructions because there was not sufficient regular Pakistani forces available to prevent Indian intervention. On the other hand, Field Marshal Marshal Auchinleck gave a threat to Jinnah that "Royal British troops would be withdrawn if Pakistan's forces entered Kashmir. In this way, Auchinleck gave a chance to India to complete the operation of Accession (Jamal, 2009)." Pakistan rejected admitting Accession, and *Liaquat Ali Khan*, Prime Minister of Pakistan, said on 4th of November, 1947, "Pakistan will not accept the accession of Kashmir to India because it is a "fraud" and it is a naked aggression on the people of Kashmir by its illegitimate rulers (Sahadevan, 2001)." On the other side, Indian Prime Minister, Jawaharlal Nehru, as per the directive of Mountbatten, took the matter to the United Nations (Dogra, 2020) and firmly said, "We have acknowledged that the fate of Kashmir would be decided by the people. This is our commitment not only to the people of Kashmir but to the world (Jawahar Lal Nehru (1966)." Nehru also addressed the Rajya Sabha and clearly stated, "We will not, and cannot, back out of it. We are prepared, when peace and law and order have been established, to have a referendum held under international auspices like the United Nations. We want it to be a fair and just reference to the people, and we shall accept their verdict (Nehru, 1950). In the same way, during Gandhi's visit to Srinagar (Kashmir), in August 1947, he stated that he had, "No reluctance to say that the wishes of the Kashmiri people will be the supreme law in Jammu and Kashmir (Noorani, 2013)."

Resistance and Insurgency in Kashmir

In the modern war literature, "insurgency" is primarily a political struggle for legitimacy, and its violent aspect has the potential to control territory and resources (Romaniuk & Webb, 2015). Insurgency is not a conventional war or terrorism, but it shares with them the use of force to achieve a political end. The crucial difference is the scope and scale of the violence, and insurgency attempts to bring about change through the force of arms (Fall, 1999). In an insurgency, the adversaries are asymmetric, and the weaker, and almost always a sub-state group, attempts to bring about political change by administering and fighting more effectively than its state-based foe through the use of guerrilla tactics. David Kilcullen describes that "insurgency, unlike terrorism, is characterized by the support and mobilization of a significant proportion of the population, and for this reason, it widely differs in terms of character, but obtaining power and political control is the prerequisite for success and the desired outcome (Kilcullen, 2005)." Thus, the struggle of Kashmiri people is not purely

³. The Instrument of Accession is a legal document executed by Maharaja Hari Singh, ruler of the princely state of Jammu and Kashmir, on 26 October 1947. By executing this document under the provisions of the Indian Independence Act 1947, Maharaja Hari Singh agreed to join India.

religious because there is a frustration against poverty, socio-economic backwardness and the unfair treatment of the federal government, which attributes to the steady rise of militancy in the region, and the root causes of Kashmiri militancy remain internal, which have converted into irregular warfare. On the other hand, warfare is like violence conducted by sub-state actors, and it can be called insurgency (Desmond, 1995). It can undermine the legitimacy of the ruling elites and government. It can bolster their own standing by a protracted strategy, conventional and unconventional means, and guerrilla warfare. In the recent past, Vietnam's and Afghanistan's insurgency against foreign domination are probably the remarkable incidents of the 20th century. Edward *Luttwak* argued that the downfall of the Soviet Empire has given significant courage to the Afghan people's struggle against oppressed rule, which can destroy the country's economy and political system (Luttwak, 2001; Fukuyama, 2006). In this regard, Kashmir's indigenous insurgency is ethnically cohesive and exclusive against the New Delhi's brutal rule. The freedom fighters were impressed by Mao's guerrilla warfare methods to bleed Indian forces and keep the issue of Kashmir alive (Mao Zedong, 2000). In this way, the freedom fighters enjoyed safe sanctuaries within the area and had uncontested political and diplomatic support behind them. They are fighting with regular Indian forces with traditional and conventional instruments and gaining unbeatable experience and highly skilled knowledge of war tactics.

Historically, the roots of the Kashmir uprising lie in the state election, which was held in 1989, and New Delhi deliberately rigged it to achieve hidden objectives. Since then, around 115,000 young and unarmed Kashmiris have died, approximately 11,000 have been injured, 1800 have suffered pellet injuries in the eyes, 5,000 have been left disabled, 10,000 people have disappeared, 11500 have been arrested, and FIRs have been registered against 3200 youth (Greater Kashmir.com, 2016, 2021). According to the US State Department report 2019-2020, the Indian military in Jammu & Kashmir was involved in extrajudicial murders of selective people (US Department of State, 2020). The UN High Commissioner for Human Rights (UNHCHR) report from 2017 to 2018 and 2019-2020 mentioned that the AFSPA and Jammu & Kashmir Public Safety Act (1978) "had created too many problems for the local innocent people, and it was on record that the Indian military was involved in human rights violations (UNHCHR, 2020)." Asia Watch also reported that, Indian forces badly treated people and used different means, such as torture, illegal detentions, and rapes (including the Shopian rape and murder case of May 2009 and the Kunan-Poshpora mass rape on 23 February, 1991), among many other draconian acts. Human Rights Watch and Amnesty International stated that Indian forces "threatened people during search operations and instantly executed prisoners who were in their custody and killed in retaliation." In this regard, they used rape as an instrument to "disgrace people (Human Rights Watch, 1993, 2003)." According to Usman Chohan and Omer Aamir, the Indian army not only "used rape as a weapon of war" but also treated the common masses inhumanely (Chohan & Aamir, 2019; Amnesty International, 2020).

There are many other socio-economic causes of unrest in Kashmir, and these are enough eye-openers for the world. The region is rich in natural resources but deprived of all basic facilities and presents a grim picture on all major fronts in the 21st century. In this regard, the Kashmir region is under the grip of socio-economic poverty and illiteracy, and more than half of its population is unable to read and write. There are no proper communication and industrial network, and the region is isolated from the rest of the state and the country. There is no economic development in the region, and the area is one of the most backward and neglected zones. Thus, the region has no developmental infrastructure, and the majority of skilled and educated youth from rural and urban areas are unemployed. The overall unemployment rate in Kashmir is higher than that of the rest of India because, for many years

the federal government has had no revolutionary plan for the uplift of the region. Nevertheless, Kashmir region's growth rate is extremely poor, low-income, and nearly 65 percent of the Kashmir population lives below the poverty line, which is one of the primary economic problems in the region. Additionally, during the winter season, severe cold weather with chilly winds wraps many parts of the Kashmir region, and hilly areas receive heavy snowfall, while others get heavy rain. Roads normally remain blocked in the region, and the Indian army using cold weather as an instrument to prevent the freedom fighters' activities is never involved in clearing the snow and restoring traffic in the snow-laden areas.

In the above mentioned grave situation, the Kashmiri people, particularly in the valley, which is the most populated area, have jumped into a severe crisis. It is a fact that it was India's oppressive approach that was responsible for pushing all streets of Kashmir into theatres of violent protesters and stone-pelting. The majority of youngsters, women and middle age people are involved in fighting against the Indian forces. In response, the army's retaliation is brutal and even includes conducting surgical strikes against the innocent people. Thus, Indian acts of repression against unarmed people by its forces clearly constitute state-sponsored terrorism to hide their own failures in the Kashmir region (Yusufzai, 2021). The Indian government has taken many political, economic, and military steps to control the continued protests against the New Delhi's domination, but they are not going to end anywhere, as people seek freedom from India. So, it has also been proved that there is a total failure of India's security establishment to rescue Kashmir from a seemingly everlasting conflict, and it seems that the region will be the graveyard of Indian forces, of lost ambitions and grand folly; of disappointment, disillusionment, and, ultimately, severe defeat.

Origin of the Articles 370 and 35-A

Maharaja Hari Singh signed the Instrument of Accession in 1947 with India, and the next morning, on the 27th of October 1947, Pandit Jawaharlal Nehru sent forces to help the Maharaja to keep Kashmir with the Indian union. At the same time, Nehru appointed Gopalaswamy Ayyangar, (An *Indian* Administrative Service - IAS officer), to draft the Article-370 for the special status of Kashmir within the structure of the Indian Constitution and assured autonomy. The status was ratified by the Presidential Order on January 26th, 1950, as a special provision regarding Jammu and Kashmir without modification (Jagota, 1960). According to S. P. Sathe, this was done with the consultation of Kashmiri leaders, and Article-370 demonstrates the intent and the meticulousness of the drafters of the Constitution in ensuring the retention of Kashmir's autonomy (Sathe, 2021). Thus, all concerned matters were formalized in Article-370, including the exclusive hereditary rights of 1927 as a state's subjects. Furthermore, when Article 370 was practically applied to Kashmir, the state Constituent Assembly abrogated the Constitution of India and adopted complete self-governance (Article 370; Rasool, 2021).⁴ Although, once the Constituent Assembly of Kashmir was dissolved in 1957 due to a domestic crisis, Article-370 remained effective. Moreover, in 2018, the Supreme Court of India proclaimed that Article-370 of the Constitution was permanent in terms of the special status of Kashmir, and it would be permanent through the years of its existence, and abrogation was impossible (Ikram & Iqbal, 2018)."⁵

⁴. See details the Article 370 of the Indian Constitution (p.286), titled "Temporary provisions with respect to the State of Jammu and Kashmir," Article 370(1) and restricted both the applicability of the Indian Constitution to the state and the powers of the national government within the state to limited domains.

⁵. The apex court (Supreme Court of India) was hearing a petition by Kumari Vijayalakshmi Jha, who sought a declaration that Article 370 was a temporary provision that lapsed with the dissolution of the Jammu and

Importance of Article-370 and 35-A

The Constitution of India clearly defined the autonomous status of Jammu and Kashmir by Article-370, and the region became empowered to draft its own constitution through the state Constitution Assembly. It has also been mentioned in the Article-370 (1) (b) that the federal Parliament cannot make any law for the state of Kashmir without the consultation of the state authorities, and it was also mentioned in the Instrument of Accession. Moreover, Article-370 (1) (d) specifies that the constitutional provisions may be applicable to the state but are “subject to modifications or changes that can be made by the Presidential Order with the concurrence of the state government. Thus, the Article-370 of the Constitution has given complete autonomy to the state of Jammu and Kashmir, and the state legislature was authorized to draft its own laws. In light of these constitutional privileges, Jammu and Kashmir received its own flag, constitution, and freedom over the domestic administration of the region. In July 1952, it was decided by the agreement which was signed between Jawaharlal Nehru, the Prime Minister of India, and Sheikh Abdullah, the Prime Minister of Kashmir, that India’s citizenship law would be valid for Kashmir and would permit the the adjustment of the privileges of the permanent residents. So, this pact was ratified by the President of India and issued as the Presidential Order in 1954 for the state of Jammu and Kashmir in the continuation of Article-370 (1) of the Constitution and added Article 35-A in the Constitution. Thus, the Constitution certified in Part- III of Jammu and Kashmir’s 1956 Constitution that the state of Kashmir could define itself regarding the permanent residents of the state, including their special rights and privileges. The Constitution has also given the power to the state of Kashmir to decide for itself the issue of immovable property.⁶

Abolition of Article-370 & 35-A

It is a historical tragedy that the Kashmir region has never been governed by Kashmiris themselves, and foreign rulers, including the Dogra, did nothing for the region and treated people like slaves. So, an apartheid type of situation is still being faced by Kashmiri Muslims, who feel insecure because constitutional privileges have been removed. It has become clear that India has no plan to protect the legitimate rights of Kashmiri people and taking unilateral actions against the long-suffering Muslim population. According to Vaiko (MDMK - General Secretary). “The Indian National Congress deceived the people of Kashmir and failed to fulfill its promise to hold a plebiscite in the region.” Jawaharlal Nehru promised a plebiscite in Kashmir, but he put Sheikh Abdullah in jail and said, “There is no place for either for gratitude or friendship in the dictionary of the Congress (The Hindu, 2019).” India’s permanent envoy to the United Nations, M. C. Chagla, spoke to the UN that three elections conducted in Kashmir amounted to a plebiscite but the Congress always betrayed the promise (The Hindu, 2019).

Thus, in the continuation of the previous history, Narendra *Modi*, the leader of the Bharatiya Janata Party (BJP), who has been dominating New Delhi since 2014, frequently declared that Jammu and Kashmir’s autonomous position had promoted terrorism and separatism in the region, and its status was one of the reasons for keeping the area underdeveloped. Home Minister Amit Shah said that the Article-370 was largely symbolic of liberty for a separate state, with its flag and state constitution, which was no more than a sheaf of paper (BBC News, 2019). In this way, the BJP’s actions are for the promotion of Indianization, as their leaders mentioned that they had a calculated vision that no area of the country was disputed

Kashmir Constituent Assembly on January 26, 1957, and the Constitution of Jammu & Kashmir was void, inoperative and in breach of the Constitution.

⁶. Article 35-A also includes a brief historical background of the dispute, the legal steps taken to revoke the special status, and legal challenges to that decision.

with any country, including China and Pakistan. According to Rakesh Sinha, (a BJP lawmaker), “The obligatory partition between India and Kashmir has been done away with,” and “the slogan of one nation’ is now a ground reality (The Hindu, 2019).” In the general elections of 2019 and 2024, it was mentioned in the party’s manifesto that party would abrogate Article-370 and 35-A, and Jammu and Kashmir would be integrated with the rest of India. They also claimed that Kashmir region would be the equal part of the Indian union as a means of ending the conflict with Pakistan. According to Rakesh Mohan Chaturvedi, Kashmir’s special status under Article-370 is the real cause of corruption, terrorism, and alienation of the state (Chaturvedi, 2019; Business Today, 2019). Amit Shah addressing the Nehru Memorial Museum on March 8, 2021, said, “The first Indian Prime Minister’s decision to internationalise the Kashmir issue was his biggest mistake in the years following the country’s Independence. In 1948, India went to the United Nations, which was more than a Himalayan blunder (The Indian Express, 2021).” In the same way, B. L. Santhosh Bommarabettu Laxmijanardhana Santhosh (General Secretary of the Bharatiya Janata Party) also mentioned that the New Delhi’s action to roll back Jammu and Kashmir’s special status under Article-370 was the first step towards the correction of previous mistakes of Jawaharlal Nehru, and it was the beginning of finishing the alienation of the region (The Indian Express, 2021).

In this connection, the BJP, through a series of Presidential Orders, changed the direction of Article- 370, and replaced the name of “Constituent Assembly” with “Legislative Assembly” in 2018. On August 5, 2019, Home Minister, Amit Shah, moved the bill in the *Rajya Sabha* about the Article-370 and the reorganization of the Jammu and Kashmir Bill 2019. The upper Parliament removed the clauses of Article-370 of the Indian Constitution, and mentioned that special status would no longer be applicable in the state (The Hindu, August 5, 2019). In this situation, the BJP took a resolution to the Rajya Sabha (the upper chamber of India’s bicameral legislature) and approved a legal resolution. On August 6, 2019, the same resolution was also passed by the legislature’s lower chamber (Lok Sabha). The resolution “authorized” the President to abrogate the Article-370(3) as soon as possible. On August 6, 2019, Presidential Order C. O. 273 was released, that “all provisions of the Article-370 and 35-A of the Indian Constitution, without any modifications, shall be applied to the State of Jammu and Kashmir,” meaning the state cannot enjoy special status. The basic purpose of the abrogation of Article-370 and 35-A was to merge Jammu and Kashmir with the mainland of India, and its autonomous position was converted into two Union Territories. So, one Union Territory, would be the Kashmir Valley, which would have a legislature, whereas the other, Ladakh (a mountainous region bordering China), would be without a legislatur (BJP, 2019). In reality, the Bharatiya Janata Party (BJP) fulfilled the desire of its right wing extremist Shyama Prasad Mukherjee to abolish Article-370 and Article 35-A without further delay. Mukherjee, who died during a protest against the special status of Jammu & Kashmir in 1953, had said that there was no need of two constitutions, two prime ministers, and two flags in one nation (Wani, 2020). The BJP leaders explained the benefits of abrogation of Article-370, and Amit Shah (Home Minister), said that now any Indian citizens can buy property in Kashmir. The Army Chief, General Bipin Rawat, said that after the government’s move regarding Kashmir’s status, “any local militant picking up the gun against security forces would no longer be a militant. The gun and the man would be separated. The man would go to the grave, and the gun would be with us (Rawat, 2019).”

Reaction against the Abrogation of Article-370

The removal of “Article-370 and 35-A” not only challenged the identity of Kashmiris but also made it a “bloodbath” zone. The action made the region’s economy bleed, politically unstable, socio-culturally insecure, and has created an alarming situation in the South Asian

region. Many political observers and legal experts argued that the BJP's action against the Article-370 is illegal and unlawful. They have also stated that the entire region has lost its autonomous status and has come under the direct rule of New Delhi (Ellis-Petersen, 2020; Duschinski, 2008). The issue was headed for a showdown in India's Supreme Court, and their act was out of the boundaries of the constitution and law. On the other hand, the former Home Minister and senior Congress leader Palaniappan Chidambaram, argued that canceling the Article-370 was "the worst day in the Constitutional history of India. The Congress assumed that the government "dismembered" Jammu and Kashmir by "mischievously misinterpreting" articles in the Constitution, and cautioned that the idea of India as a Union of states is in grave danger (India Today, 2019)."

Former Chief Minister, Mehbooba Mufti, described the situation as "the black day for Indian democracy" which has "catastrophic implications (Mufti, 2019). In the same way, the opposition leader in the Rajya Sabha, Ghulam Nabi Azad, said, "I had never imagined that the BJP leadership and the President of India would chop the autonomy of Kashmir (National Herald, 2019)." Meanwhile, the Congress MP from Assam and the party's chief in the Rajya Sabha, Bhubaneshwar, called the changing of the Article-370 a "disastrous step (The Hindu, 2019)." Omar Abdullah said that the removal of articles is naked aggression against the people of the State (Abdullah, 2019). A. G. Noorani, a constitutional expert, said that the act of "abrogation is not only unconstitutional, but also a fraud," and the application will only foster vested interests of the BJP and the harsh decision has shaped a climate of separatism (Gettleman, Raj, Schultz, & Kumar, 2019)." So, the action has compelled the people to feel that the eradication of Article-370 & 35-A is an unreasonable act," which made them second-class citizens. Moreover, the abolition of the Article 35-A justified the outsiders acquiring property in Kashmir, and it can change the demographic position of the region from a majority Muslim to a majority Hindu population and for this purpose, the government has given enclaves for Kashmiri Pandits and ex-servicemen (Sainik Colonies) (Wani, 2020)." The government also formulated a new law, which will provide domicile rights to people who have public sector jobs or are residents over land (Kiran, 2019). Moreover, domicile rights have been a long-time demand of Kashmiri native people since the Dogra rulers, but they never honoured the local citizens (The Hindu, 2019).

Security Lockdown and Indefinite Curfew in Kashmir

After the abrogation of Article-370 and 35-A in Kashmir, a sense of deprivation prevailed in the Muslim majority region. As federal forces poured into the Muslim majority valley and imposed an undeclared curfew to prevent any kind of *eventuality against the August 5, 2019, brutal action*. The day of revocation was very gloomy, and Kashmir seemed quiet, and most of areas were deserted. The action was perceived to be a *naked* attack on the integrity of the Kashmiri people, and they strengthened the resistance against the New Delhi administration. The BJP government put the Valley of Kashmir under an unprecedented lockdown because the government feared that Kashmiris would protest against the revocation of autonomy, and there was no way to normalize the situation. After the abolition of Article-370, the government took strict actions, and educational institutions were closed down (Schools, Colleges and Universities) for an indefinite time. Thousands of people were arrested from different professions, including students, lawyers, traders, shop owners, and human rights activists. The BJP government disconnected all types of communication links (Mobile network, WhatsApp), internet, landlines, and Instagram), to prevents socio-political movements of the masses and their leaders. The government blocked phone lines and also denied internet access to the people. It has showed that the federal government had a nervous breakdown because they curtailed the Kashmiris' ability to share personal news with each other, including calls to doctors, ordering supplies, business deals, social talk, family

discussions, and information about exams and term papers etc (Housen, et al., 2019). It is regrettable that the region has been converted into the world's "largest prison" because the people of Kashmir are being denied access to basic amenities, including medicines. In this regard, Kashmiris face daily restrictions on their freedom of expression and rough treatment from security personnel. According to Shabnum Ara, Alice Richardson, and Giovanni Pintaldi, who conducted a combined study on the Kashmir insurgency affected area with reference to a regression approach, they found traumatic events, such as crackdowns, frisking, interrogation with threats to life, torture, damage to property, and forced separation from family and direct combat exposure, such as military attacks (Housen, et al., 2019). In this regard, Kashmir is the victim of the word "Genocide," as one of the international civil society organizations, based in the US, has already issued a Genocide Alert, proclaiming that the situation in Indian occupied Jammu and Kashmir has crossed the ten stages of the genocidal process (Quersh, 2019).

Conclusion

Kashmir has long been a flashpoint and become the most dangerous place in the world because India and Pakistan are both nuclear powers. The situation became worse when the geopolitics of Jammu and Kashmir was radically changed by the India's ruling Bharatiya Janata Party's (BJP) as they removed Kashmir's decade's long special status. Pakistan has strongly reacted against New Delhi's unilateral action and called the move illegal and a violation of the UNSC resolutions (1948-49) on Kashmir and a desecration of the Shimla Agreement (1972) between the two countries. Pakistan always claimed Kashmir as its jugular vein and described the Indian action as an illegal annexation of the region. In fact, the India's actions to abrogate the special status cannot remove the disputed nature of Kashmir's position and it will remain on the UN agenda. The BJP's action has serious socio-economic, political and strategic consequences and the action has placed the people under a complete siege. However, it has been proved that the ongoing freedom movement, prospects of renewed insurgency, and asymmetrical warfare have ended India's hopes of peace and harmony in the region because the government's action is the beginning of never-ending violence in the region. It has also been proved that the solution of Kashmir is only possible by providing the right of self-determination, which is the only way to end the suffering of the Kashmiri people.

References

- Abdullah, O. (2019). Govt's decision on Article 370 as a betrayal of trust. *Business Standard*, New Delhi, August 5, 2019.
- Ahmad, K. B. (2017). *Kashmir: Exposing the myth behind the narrative*. London: SAGE Publications, Inc., pp. 23-56.
- Akbar, M.J. (1985). *India, the Siege Within: Challenges to a nation's Unity*. New York: Penguin, pp. 227-228.
- Amnesty International (2020). Indian Army Abuses in Kashmir. London: Amnesty International Report, August –September 2020.
- Ashraf, M. M. (2020). A Fight Against Tyranny. *The Nation* (Lahore), July 17, 2020.
- Bamzai, P. N. K. (1994). *Culture and political history of Kashmir* (Vol. 1). New Delhi: M D Publications Ltd., pp. 541-664.
- Bazaz, P. N. (1954). *The history of struggle for freedom in Kashmir: cultural and political, from the earliest times to the present day*. New Delhi: Kashmir Publishing Company. pp. 14-44.
- BBC News (2019). Viewpoint: Has India pushed Kashmir to a point of no return?. *BBC News*, August 13, 2019.

- BJP Government released the new political map of the country showing 28 states and nine Union Territories. See *The Week, Magazine*, <https://www.theweek.in/news/india/2019/11/02/govt-releases-india-new-political-map-after-formation-of-jammu-and-kashmir-ladakh-uts.html>
- Business Today (2019). Narendra Modi speech, “Article 370 was a hurdle for development of Jammu & Kashmir.” *Business Today*, August 8, 2019.
- Chaturvedi, R. M. (2019). Article 370 cause of corruption and terrorism: Amit Shah. *The Economic Times*. 6 August, 2019.
- Chohan, U. W., & Aamir, O. (2019). Kashmir: Beyond imbroglios. *Journal of Indo-Pacific Affairs*, (Summer 2020), pp. 163-65.
- Dar, A.M. (2019). The Sufi and mystic movements in the region of Kashmir: Influences and impacts. *International Journal of Research and Analytical Reviews (IJRAR)*, 6(1), 16-20.
- Desmond, E. (1995). The insurgency in Kashmir (1989–1991). *Contemporary South Asia*, 4(1), 5-16.
- Dogra, R. (2020). Nehru going to UN on Kashmir was an error. And he knew it. *The Print.Com*, August 27, 2020.
- Duschinski, H. (2008). Survival is Now our Politics: Kashmiri Hindu Community Identity and the Politics of Homeland. *International Journal of Hindu Studies*, 12(1), 41-64.
- Ethirajan, A., & Pandey, V. (2020). China-India border: Why tensions are rising between the neighbours. *BBC News*, May 30th 2020.
- Ellis-Petersen, H. (2020). Our Identity has been Robbed’: Life in Kashmir After a Year in Crisis. *The Guardian*, August 5, 2020.
- Fall, B. B. (1999). *The theory and practice of insurgency and counterinsurgency*. Naval War College Review, 15(1), 46-57.
- Fukuyama, F. (Ed.). (2006). Nation-building: beyond Afghanistan and Iraq. *Foreign Affairs*, 1, 18-31.
- Gettleman, J., Raj, S., Schultz, K., & Kumar, H. (2019). India revokes Kashmir’s special status, raising fears of unrest. *The New York Times*, August 05, 2019.
- Greater Kashmir.com (2016, 2021). The Human Cost of Kashmir Conflict. *Greater Kasshmir.com*, August 26, 2016, and March 5, 2021
- Halder, T. (2019). Kashmir’s Struggle Did Not Start in 1947 and Will Not End Today. *Al Jazeera. com*, 15.
- Housen, T., Lenglet, A., Shah, S., Sha, H., Ara, S., Pintaldi, G., & Richardson, A. (2019). Trauma in the Kashmir Valley and the mediating effect of stressors of daily life on symptoms of posttraumatic stress disorder, depression and anxiety. *Conflict and Health*, 13(58), 9-32.
- Human Rights Watch (1993). Asia Watch Report on “*Rape in Kashmir: A Crime of War.*” 5(9), 1-18
- Human Rights Watch (2003). Asia Watch Report on “*Human Rights Violation in Kashmir. 2001-2002*”. 6(10), 6-34.
- Ikram, A. & Iqbal, Z. (2018). Impossible to Abolish Article 370. *India.com* (News Desk), April 04, 2018.
- Jagota, S. P. (1960). Development of constitutional relations between Jammu and Kashmir and India, 1950—’60. *Journal of the Indian Law Institute*, 2(4), 519-538.
- Jamal, A. (2009). *Shadow war: The untold story of Jihad in Kashmir*. New Delhi: Vij Books, 2009, p. 41.
- Kabakay, P. & Bhatti, S. (1998). *Kashmir Conflict: A Study of What Led to the Insurgency in Kashmir Valley*. Stanford University, Stanford Paper, 1(1), 5-19.
- Katoch, P. C. (2018). (PVSM, Uysm and AVSM), Beyond Shaksgam –China Scorching Himalayas Blatantly, *The United Service Institution of India (USI)*, January 25.
- Khan, A. (1968). *Friends Not Masters*. London: Oxford University Press.
- Kilcullen, D. J. (2005). Countering global insurgency. *Journal of Strategic Studies*, 28(4), 597-617.
- Kiran, N. (2019). Jammu and Kashmir Among top five with high average of Unemployment rate. *India Today*, August 6, 2019.
- Lamb, A. (1992). *Kashmir: A disputed legacy, 1846-1990*. Oxford: Oxford University Press, pp. 25-54.

- Lamb, A. (1994). *Birth of a tragedy: Kashmir 1947*. Oxford: Roxford Books, pp. 18-36.
- Lone, S. U. R. (2012, January). Begar (Forced Labour) in Kashmir during the Dogra Period (1846-1947 AD). In Proceedings of the Indian History Congress, *Indian History Congress*. 73 (1), 861-871.
- Luttwak, E. (2001). *Strategy: the logic of war and peace*. Cambridge, MA: Harvard University Press. pp. 21-34
- Muhammad, A.M. (2020). A Fight Against Tyranny. *The Nation* (Lahore), July 17.
- Mao Zedong (2000). *On Guerrilla Warfare* (Samuel Blair Griffith II-Translator), Illionis: University of Illinois Press, pp. 11-26.
- Mufti, M. (2019). Darkest Day in Indian Democracy. *The Times of India*, August 5, 2019.
- National Herald (2019). Ghulam Nabi Azad on Kashmir resolution, "Jammu and Kashmir's head chopped off; identity lost," *National Herald*, August 05, 2019.
- Nehru, Jawaharlal (1950). Nehru Speeches at the United Nations (UN) for plebiscite in Kashmir, November 2, 1947. See Jawahar Lal Nehru (1966). *Speeches: United Nations General Assembly 1951-1956*. New Delhi: Government Department of Publications. Jawaharlal Nehru, Address to the Rajya Sabha (Upper House) on the issue of Kashmir. See Jawaharlal Nehru Speeches on Kashmir. New Delhi: Rajya Sabha Documents, 1950, pp. 45.
- Nehru, Jawaharlal (1950). Address to the Rajya Sabha (Upper House) on the issue of Kashmir. See Jawaharlal Nehru Speeches on Kashmir. New Delhi: Rajya Sabha Documents.
- Noorani, A.G. (2011). Sufism in Kashmir. *Frontline*, December 16, 2011.
- Noorani, A.G. (2013). *The Kashmir Dispute: 1947-2012*. New Delhi: Oxford University Press, 21-34.
- Quershi, S. M. (2019). Quershi addressing the 42nd session of UNHRC in Geneva, "Kashmir at UNHRC: Lies, falsification and distortion," *Zee News*, September 10, 2019.
- Rasool, S. (2021). Understanding Kashmir's Legal Matrix. *The Nation* (Lahore), February 07, 2021.
- Rawat, B. (2019). Army Chief Bipin Rawat to "Anyone picking up gun in Kashmir will go to grave". *The Indian Express*, July 27, 2019.
- Romaniuk, S. N., & Webb, S. T. (Eds.). (2015). *Insurgency and counterinsurgency in modern war*. London: Routledge, pp. 6-18.
- Sahadevan, P. (2001). Conflict and peacemaking in South Asia. New Delhi: Lancer, p. 221.
- Sathe, S. P. (2021). Article 370: A Short History of Kashmir's Accession to India. *Economic and Political Weekly (Engage-EPW)*, 24 September 2021, <https://www.epw.in/engage/article/article-370-short-history-kashmir-accession-india>
- The Hindu (2019). -- August 20, 2019.
- The Hindu (2019). Centre scraps Article 370, bifurcates J & K into two Union Territories," Business Line, The Hindu, August 5, 2019.
- The Hindu (2019). Centre scraps Article 370, bifurcates J & K into two Union Territories," Business Line, *The Hindu*, August 5, 2019.
- The Hindu (2019). Vaiko, "Nehru Never Kept His Promise on Kashmir. *The Hindu*, August 9, 2019.
- The Hindu (2019). See Narendra Modi Speech at 73rd Independence Day Celebration at Red Fort, "One Nation, One Constitution Spirit has become a Reality Now," *The Hindu*, August 15, 2019.
- The Hindu (2019). The Jammu and Kashmir Reorganisation Bill was passed with 125 members voting in favour of it and 65 voting against it. The Congress, the Left parties, the DMK, the MDMK, the SP and the RJD voted against the Bill, while the Trinamool Congress walked out. One member abstained from voting. See "Centre Scraps Article 370, Bifurcates J & K into two Union Territories," *The Hindu* (Business Line), August 5, 2019.
- The Indian Express (2021). "Amit Shah Blame Nehru's 'historic blunder' for 'Kashmir issue,'" *The Indian Express*, March 8, 2021.
- The Indian Express (2021). Narendra Modi "People of Kashmir want to join mainstream." *The Indian Express*, March 8, 2021.

- The Kashmir Times (1947). The Kashmir Socialist Party (KSP), passed resolution in their annual convention “Kashmiri Struggle for Rights,” Kashmir Socialist Party (KSP), See The Kashmir Times, October 1947.
- UNHCHR (2020). Situation of Human Rights in Kashmir. High Commissioner for Human Rights (UNHCHR), Geneva: UNHCHR Office, 2020, pp. 14-34.
- US Department of State (2020). *Country Reports on Human Rights Practices 2018-2019*, Bureau of Democracy, Human Rights and Labor, March 11, 2020, US Department of State - <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/>
- Wani, A. (2020). Life in Kashmir after Article 370. ORF Special Report No. 99, January 2020, Observer Research Foundation, p. 3.
- Wani, A. (2020). Life in Kashmir after Article 370. ORF Special Report No. 99, January 2020, Observer Research Foundation, p. 3.
- Wilhelm, S. (2010). Can India give up Kashmir: an option or a risk?. (Unpublished Thesis), The Graduate School of Arts and Sciences, Master of Arts in Liberal Studies, Georgetown University Washington, (11/18/2010), pp. 71-80.
- Wilhelm, S. (2010). Can India give up Kashmir: an option or a risk?. (Unpublished Thesis), The Graduate School of Arts and Sciences, Master of Arts in Liberal Studies, Georgetown University Washington, (11/18/2010), pp. 71-80.
- Yusufzai, R. (2021). The Kashmir Dispute. The News (International), February 9, 2021.