
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

ABROGATION OF ARTICLE 370: NATIONAL INTEGRATION OR PATRONISATION?- Sarika Yadav¹**ABSTRACT:**

The abrogation of Article 370, a constitutional provision granting special status to Jammu and Kashmir, has ignited a contentious debate over its implications for national integration. This research paper delves into the genesis and evolution of Article 370, providing an overview of its historical context. The timeline of its revocation is examined alongside perspectives on national integration, evaluating whether the move fosters cohesion or exacerbates divisions. Moreover, the paper scrutinizes whether the abrogation represents a form of patronisation or empowerment for the region. Through a comprehensive analysis, this paper aims to contribute to a nuanced understanding of the complex socio-political dynamics surrounding the abrogation of Article 370.

KEYWORDS:

Article 370, Abrogation, National Integration, Jammu and Kashmir, Patronisation, Empowerment, Revocation, Constitutional provision

TABLE OF CONTENTS

1. Introduction
2. Overview of Article 370 - Genesis & Evolution
3. Revocation & its Timeline
4. Perspectives on National Integration
5. Patronisation or Empowerment?
6. Conclusion & Recommendations

CHAPTER 1: INTRODUCTION

¹ Student, Amity Law School, Noida, Uttar Pradesh

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

The abrogation of Article 370 in August 2019 marked a significant milestone in the history of India's constitutional framework and its relationship with the region of Jammu and Kashmir. For decades, Article 370 had granted the state a special autonomous status, delineating its distinct legal and administrative powers within the Indian Union. However, the decision to revoke this provision sparked widespread debate and stirred deep-seated tensions, raising fundamental questions about the nature of national integration in a diverse and complex socio-political landscape.

Against this backdrop, this paper aims to explore the multifaceted dimensions of the abrogation of Article 370, probing into its genesis, evolution, and the implications thereof. By examining the historical context and timeline of the revocation, alongside diverse perspectives on national integration, the paper seeks to unravel the complexities surrounding this contentious issue. Moreover, it endeavours to critically assess whether the abrogation represents a step towards genuine empowerment or a form of top-down patronisation, particularly in the context of the people of Jammu and Kashmir. Through this analysis, the paper aims to shed light on the broader implications of the abrogation for the socio-political fabric of India and its aspirations for unity amidst diversity.

CHAPTER 2: OVERVIEW OF ARTICLE 370 – EVOLUTION& FRAMEWORK

Article 370 – The ‘Interim’ Provision

The narrative of Article 370 within the Indian Constitution is deeply entangled with the historical context surrounding the signing of the Instrument of Accession in 1947. Initially conceived as a temporary measure, Article 370 conferred special autonomous status upon the state of Jammu and Kashmir, granting it significant autonomy within the India. Over time, Article 370 underwent a complex and transformative journey, shaping the legislative framework and paving the way for intricate interactions between the central government and the state.

The evolution of Article 370 encompassed legal intricacies, political dynamics, and socio-economic implications. From its inception as a provision bestowing special status upon Jammu and Kashmir to its eventual revocation in 2019, Article 370 has been a subject of intense debate, legal contests, and political manoeuvres. The abrogation of Article 370 in 2019 marked a pivotal moment, with proponents lauding it as a stride toward national

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

integration and security, while detractors decried it as a breach of constitutional principles and the state's unique status.

The legal framework of Article 370 outlined that the President possessed the authority to issue orders for the application of constitutional provisions with modifications, a prerogative affirmed by the Supreme Court in cases such as *P. L. Lakhanpal vs. the State of J&K*.²

The story of Article 370 shows how India has dealt with making a unified country while respecting different identities and regions. The legal fights, political changes, and finally getting rid of Article 370 have changed how things work in that area. It reminds us of India's journey to be fair and united, making us think about who we are, how much freedom we should have, and what it means to be part of India, questions that people are still talking about today.

Implications for the Indian Union

The ramifications of Article 370 on the Indian Union were substantial and diverse, encompassing several key aspects:

- **Special Status for Jammu and Kashmir:** Article 370 conferred special autonomous status upon the state of Jammu and Kashmir within the Indian Union. This allowed the state to maintain its own constitution, flag, and internal administrative control, while certain policy domains such as defence, foreign affairs, finance, and communications remained under the jurisdiction of Union of India.
- **Limited Legislative Powers:** Article 370 imposed constraints on the legislative authority of the Indian Parliament concerning Jammu and Kashmir. The state legislature was empowered to draft its own constitution, delineating the status of permanent residents and their exclusive rights and privileges.
- **Unique Relationship with the Union:** The relationship between Jammu and Kashmir and the Indian Union, as stipulated by Article 370, differed from that of other princely states that merged with India. It represented a distinctive form of asymmetric federalism, allowing for a degree of autonomy within the broader Indian Federal Structure.

²1956 AIR 197

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

- **Socio-Economic Development:** The revocation of Article 370 and the subsequent reorganisation of Jammu and Kashmir into two Union Territories (Jammu and Kashmir, and Ladakh) aimed to stimulate socio-economic progress in the region. This restructuring facilitated the integration of the area into the national mainstream, ensuring that the rights enshrined in the Indian Constitution and the benefits of central legislation were accessible to the population of Jammu and Kashmir and Ladakh.
- **Peace and Progress:** The annulment of Article 370 sought to empower the inhabitants, dismantle discriminatory regulations, foster equality and justice, and spur holistic development in the area. The implementation of a three-tier system of grassroots democracy through Panchayati Raj Institutions was designed to enhance governance and local engagement.

The Constitutional Application Order 1950: The Constitutional Application Order 1950, issued under Article 370 of the Indian Constitution, was a pivotal document establishing the relationship between Jammu and Kashmir and the rest of India. It granted the state significant autonomy, allowing it to have its constitution, state flag, and control over internal administration, with certain exceptions in matters of defence, foreign affairs, finance, and communications. This Order, issued by the President of India, delineated the scope of Parliament's powers in the state and introduced Schedule II, specifying modified provisions of the Constitution applicable to Jammu and Kashmir.

Initially intended as an interim measure until the formulation of the state's constitution, the Order gradually lost efficacy over time, culminating in the revocation of Article 370 in 2019. Despite its importance in defining the special status of Jammu and Kashmir within the Indian Union, the Order was superseded by subsequent presidential orders, notably the 1954 order, which extended more provisions of the Constitution to the state with modifications and exceptions. This constitutional framework, established in 1950, aimed to harmonize the state's autonomy with the broader legal framework of the Indian Constitution, albeit with evolving interpretations and eventual consequences.

Article 35A: Article 35A is a provision in the Indian Constitution that empowers the legislature of Jammu and Kashmir to define "permanent residents" of the state and grant them special rights and privileges. This article, introduced through a Presidential Order in 1954,

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

allows the state legislature to make laws related to permanent residency,³ including regulations on property rights, employment under the state government, settlement in the state, and access to scholarships and other forms of aid provided by the state government. The provision of Article 35A has been a subject of debate and legal scrutiny, particularly regarding its constitutional validity and its potential conflict with the principle of equality before the law enshrined under Article 14 of the Indian Constitution.⁴

Thus, Article 35A provides special rights and privileges to the permanent residents of Jammu and Kashmir, while Article 370 grants special status to the state of Jammu and Kashmir, allowing it to have its own constitution, a separate flag, and independence over all matters except defence, foreign affairs, and communications. Both provisions have been subject to debate and legal challenges, with some arguing that they are discriminatory and harm development, while others view them as essential for protecting the state's distinct demographic character and unique status.⁵

CHAPTER 3: REVOCATION & ITS TIMELINE

The revocation of Article 370, which granted special status to the state of Jammu and Kashmir, was carried out by the Bhartiya Janata Party (BJP) government in 2019 through two Presidential Orders, CO 272 and CO 273, on August 5 and August 6, respectively. The first Order amended Article 367, which dealt with the interpretation of the Constitution, by stating that the phrase 'Constituent Assembly' under Article 370 would be read as 'Legislative Assembly' of the state of Jammu and Kashmir. At the time, Jammu and Kashmir was under President's Rule, by which its Legislative Assembly and Governor were replaced with the Union Parliament and the President. Therefore, the BJP government was able to dissolve Article 370 without the consent of the state's legislative assembly.⁶

³The Hindu Article, Article 35A took away fundamental rights while giving special rights to permanent residents of J&K, says CJI, available at: <https://www.thehindu.com/news/national/article-35a-took-away-fundamental-rights-while-giving-special-rights-to-permanent-residents-of-jk-says-cji/article67244792.ece>

⁴Supreme Court Observer, Constitutionality of Article 35A, available at: <https://www.scobserver.in/cases/we-the-citizens-constitutionality-of-article-35a-background/>

⁵The Indian Express Article, Explained: What are Articles 370 and 35A, available at: <https://indianexpress.com/article/explained/understanding-articles-370-35a-jammu-kashmir-indian-constitution-5610996/>

⁶Supra Note 10

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

1962: Puralal Lakhanpal v The President of India⁷

In the case of Puralal Lakhanpal v The President of India, a Presidential Order was issued allowing Jammu and Kashmir's representation in the Lok Sabha solely through indirect elections, whereas other states conducted direct elections. This Order amended the application of Article 81, which concerns the composition of the Lok Sabha, to exclude Jammu and Kashmir. The petitioners contested the Order, arguing that the President's authority was limited to making only 'minor' modifications to constitutional provisions. However, the Supreme Court upheld the Presidential Order, asserting that the term 'modification' in Article 370 should be interpreted broadly to encompass even an amendment. The Court emphasised that 'modification' should be afforded the 'widest possible amplitude' within the context of Article 370.

1968: Sampat Prakash v State of Jammu & Kashmir⁸

In Sampat Prakash v State of Jammu & Kashmir, the Supreme Court examined the constitutional validity of two Presidential Orders that extended the application of Article 35(c) in Jammu & Kashmir. Article 35(c) served as a special provision granting immunity to preventive detention laws from fundamental rights claims in the state. The petitioners contended that Article 370 ceased to be operative after the dissolution of the Constituent Assembly, thereby stripping the President of authority to issue orders under Article 370(1). However, the Supreme Court ruled that Article 370 retained its validity even after the dissolution of the Assembly. This ruling implied that Article 370 had acquired a permanent status within the Constitution, notwithstanding the absence of the Constituent Assembly.

1972: Maqbool Damnoo v State of Jammu & Kashmir⁹

In Maqbool Damnoo v State of Jammu & Kashmir, the President issued an Order to amend Article 367, the interpretation clause of the Constitution, altering the definition of 'Sadar-i-Riyasat' to 'Governor'. The petitioners contested this Order, arguing that it lacked the 'recommendation' of the Constituent Assembly, which had already been dissolved. However, the Supreme Court upheld the validity of the Presidential Orders. The Court interpreted the amendment as a mere clarification, given that the office of the 'Sadar-i-Riyasat' no longer

⁷Supra Note 1 at 7

⁸1969 AIR 1153

⁹ 1972 AIR 963

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

existed. According to the Court, the Governor had succeeded the 'Sadar-i-Riyasat' and was entitled to exercise all the powers previously vested in that office.

2019 – The Reorganisation Act & Abrogation of 370

- August 5: President Ramnath Kovind issues an Order (C.O. 272), amending the interpretation of 'Constituent Assembly' under Article 370(3) to 'Legislative Assembly' by modifying Article 367. This adjustment necessitates the approval of the 'legislative assembly' for any presidential order.¹⁰ Given the absence of a functioning 'legislative assembly' in Jammu and Kashmir due to Governor's and subsequent President's rule, Parliament fulfils this requirement during the state's governance under President's Rule. Notably, the Constituent Assembly had dissolved over 60 years ago.
- August 6: The Rajya Sabha passes a statutory resolution recommending the abrogation of Article 370 and the enactment of the Jammu and Kashmir Reorganisation Act, 2019.
- August 6: The Lok Sabha approves the statutory resolution and passes the Reorganisation Act, subsequently endorsed in the Rajya Sabha. President Ramnath Kovind issues Order (C.O. 273), rendering Article 370 obsolete, thereby revoking the special status accorded to Jammu and Kashmir.¹¹ All provisions of Article 370 cease to operate, except clause 1, which states the applicability of the Indian Constitution to the State of Jammu and Kashmir.
- August 9: The Union Parliament passes the Jammu and Kashmir Reorganisation Act, 2019, dividing the state into two Union territories: Jammu and Kashmir, and Ladakh. Jammu and Kashmir are designated to have a legislative assembly, while Ladakh is not. Union Home Minister Amit Shah highlights the reorganisation's potential to enhance tourism, development, and industries in the Union territory.¹²
- August 28: A 3-Judge Bench, led by former Chief Justice Ranjan Gogoi, along with former Chief Justice S.A. Bobde and Justice Abdul Naseer, begins hearing arguments on the Constitutionality of the Presidential Order. After two days of proceedings, the

¹⁰The Constitution (Application to J&K) Order, 2019 “C.O. 272”

¹¹ Declaration Under Article 370(3) Of the Constitution "C.O. 273"

¹² The Hindu Article, J&K loses its special status, divided into two UTs, available at: <https://www.thehindu.com/news/national/jk-loses-its-special-status-divided-into-two-uts/article61587397.ece>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

Bench deems it necessary to refer the matter to a Constitution Bench for further deliberation.¹³

2023 – Constitutional Bench upheld the Abrogation¹⁴

July 3: The Supreme Court assigns the challenge to the Abrogation of Article 370 to a newly constituted Constitution Bench, led by Chief Justice D.Y. Chandrachud, alongside Justices S.K. Kaul, Sanjiv Khanna, B.R. Gavai, and Surya Kant—the five senior-most judges of the Supreme Court. The new Bench replaces former Chief Justice N.V. Ramana and Justice Subhas Reddy. A single-page notification indicates that the Bench will address further directions on July 11th, 2023.

July 11: Lawyers representing petitioners and the Union government convene in Courtroom 1, the CJI's Court, at 10:30 AM to discuss the roadmap of the challenge. The Bench, led by the CJI, announces that hearings will commence on August 2nd, 2023, almost four years after the Presidential Order that revoked Jammu and Kashmir's special status. The case is renamed 'In re: Article 370 of the Constitution' as the lead petitioner withdraws. The Supreme Court prepares to hear 22 petitions challenging the Abrogation of Article 370.

September 5: After 16 days and over 60 hours of hearings, the Constitution Bench reserves judgment. Senior Advocate Kapil Sibal presents arguments for 14 hours, followed by Solicitor General Tushar Mehta for 11 hours. Only three advocates from Kashmir participate. Key issues deliberated include Kashmir's internal sovereignty, the President's powers during President's Rule, and the legitimacy of the Constituent Assembly of Jammu and Kashmir.

December 11: The Constitution Bench unanimously upholds the Union's abrogation of Article 370, deeming it a temporary provision to facilitate Jammu and Kashmir's integration with India. In a 476-page judgment, CJI Chandrachud, supported by Justices Gavai and Kant, writes the majority opinion. Justices Kaul and Khanna offer a separate concurring opinion.

The Bench declares para two of C.O. 272 unconstitutional for using Article 367's interpretation clause to amend Article 370, yet upholds C.O. 272 in its entirety. Additionally, the Bench asserts the President's authority to abrogate Article 370 without the Constituent Assembly's recommendation. Consequently, C.O. 273 is upheld.

¹³Manohar Lal Sharma vs Union of India & Anr Writ Petition (Civil) No. 1013/2019

¹⁴ Shah Faesal & Anr vs Union of India & Anr Writ Petition(s)(Civil) No(s).1099/2019

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

The Bench refrains from ruling on the constitutionality of Jammu and Kashmir's reorganisation into Union Territories, with Solicitor General Tushar Mehta assuring the imminent return of statehood to J&K. The decision to establish the Union Territory of Ladakh is affirmed.

Lastly, the judgment asserts the inoperability of the Constitution of Jammu and Kashmir following Article 370's abrogation.

CHAPTER 4: PERSPECTIVES ON NATIONAL INTEGRATION

Government's Rationale

The government's rationale for abrogating Article 370 is based on several reasons. One of the primary reasons is to promote national integration and unity by removing the special status granted to Jammu and Kashmir, which was seen as a barrier to the full integration of the region into the Indian Union. The government argued that Article 370 created a sense of separatism and hindered the integration of Jammu and Kashmir with the rest of India. By abrogating this article, the government aimed to remove barriers to investment and economic activity, promote development, combat terrorism, and bring equal opportunities for all citizens¹⁵.

Another reason for abrogating Article 370 is to address the issue of cross-border terrorism and militancy in Jammu and Kashmir. The government claimed that the special status of Jammu and Kashmir contributed to these problems, and its removal would help in addressing them more effectively¹⁶.

Additionally, the abrogation of Article 370 was seen as a way to improve the security of the borders and address long-standing issues of corruption and bureaucratic hurdles in the region. The government believed that the abrogation would lead to more efficient and transparent

¹⁵Supreme Court Observer, Understanding the Abrogation of Article 370: Origin and Impact, available at: <https://www.scobserver.in/journal/understanding-the-abrogation-of-article-370-insights-into-its-origin-and-impact/>

¹⁶ Jagran Josh Explainer, Explainer: What is the meaning of Abrogation of Article 370 in Kashmir, available at: <https://www.jagranjosh.com/general-knowledge/what-is-the-meaning-of-abrogation-of-article-370-in-kashmir-1702287658-1>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

administration, facilitating infrastructure development, economic growth, and job creation in Jammu and Kashmir¹⁷.

Furthermore, the abrogation of Article 370 was also aimed at removing the special status that prevented the Indian Parliament from making laws for Jammu and Kashmir, except for defence, foreign affairs, and communications. With the abrogation, the Constitution and other territorial laws of India now apply to the region as they would to any other State, and the region no longer has a separate flag¹⁸.

The government's vision for Jammu and Kashmir after the abrogation of Article 370 includes promoting economic development, industrial growth, and creating a conducive environment for investments to drive comprehensive development and national integration in the region.

Public Opinion & Perception

Public opinion on the abrogation of Article 370 in India is largely in favour of the decision, with a majority of Indians supporting the Supreme Court's verdict upholding the power of the President to abrogate the article. According to a survey conducted by C Voter, about seven out of every ten respondents in Indian states apart from Jammu and Kashmir agreed with the verdict, while less than two disagreed. In the Jammu region of J&K, about 56 per cent of the respondents agreed, while just about 35 per cent in the Kashmir valley shared the same view. More than 50 per cent of the respondents in the valley disagreed with the verdict of the top court¹⁹.

The government's rationale for abrogating Article 370 is centred around promoting national integration and unity by removing the special status granted to Jammu and Kashmir, which was seen as a barrier to the full integration of the region into the Indian Union. The government aims to remove barriers to investment and economic activity, promote development, combat terrorism, and bring equal opportunities for all citizens.

¹⁷ India Today Article, Scrapping Article 370: A step to reviving educational and employment opportunities facing J&K, available at: <https://www.indiatoday.in/education-today/featurephilia/story/scrapping-article-370-a-step-to-reviving-educational-and-employment-opportunities-facing-j-k-1590409-2019-08-22>

¹⁹ The Hindu Article, Watch | The historic shift in Jammu and Kashmir's status | Explained, available at: <https://www.thehindu.com/news/national/the-historic-shift-in-jammu-and-kashmir-status-explained/article67635628.ece>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

The India TV-CNX opinion poll conducted in Jammu and Kashmir predicts that the people of the region are satisfied with the abrogation of Article 370, with 41 per cent people responding that it extremely helped Jammu and Kashmir, 29 per cent saying it marginally helped the region, 23 per cent believing it didn't help at all, and 7 per cent not having any opinion. The poll also found that 73 per cent people believed that scrapping of the Article 370 helped curbing terrorism in the region, while 20 per cent said it didn't help. Additionally, 67 per cent of the respondents said that they are happy with the scrapping of Article 370, while 28 per cent were of the contrary opinion.²⁰

However, there are also concerns about the impact of the abrogation on the region's cultural identity and political autonomy. Some critics argue that the decision has eviscerated a bit of the unique Kashmiri identity and created a sense of victimhood among the people of the valley²¹. There are also concerns about the potential consequences on the region's demographic composition and the government's ability to address these concerns effectively.

Role of Media

Media played a significant role in the abrogation of Article 370, which granted special status to Jammu and Kashmir. The abrogation was a significant move by the Indian government to fully integrate the region into the Indian Union, removing the barriers that had previously limited the application of central laws and provisions in the region.

Media outlets provided extensive coverage of the abrogation, highlighting the government's rationale, the practical implications, and the reactions and responses from various stakeholders. The media disseminated information about the origins of Jammu and Kashmir's unique status, the contents of Article 370, and the reorganisation of the state following the abrogation.

²⁰India TV Report, India TV-CNX Poll: 73 per cent say scrapping Article 370 curbed terrorism in J-K, PM Modi most popular face, available at: <https://www.indiatvnews.com/jammu-and-kashmir/jammu-kashmir-opinion-poll-73-per-cent-say-scrapping-article-370-curbed-terrorism-pm-modi-most-popular-face-india-tv-cnx-opinion-poll-2024-03-07-920365>

²¹India Today Article, Opinion: Article 370 - Winning Kashmiri hearts and minds remains a challenge in the Valley, available at: <https://www.indiatoday.in/opinion/story/opinion-article-370-winning-kashmiri-hearts-and-minds-remains-a-challenge-in-the-valley-2477315-2023-12-18>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

The media also reported on the practical implications of the abrogation, including the removal of the special status granted to Jammu and Kashmir, the application of the Constitution and other territorial laws of India to the region, and the redundancy of the Constitution of Jammu and Kashmir and the region's separate flag. The exclusive benefits granted to permanent citizens of Jammu and Kashmir to own and acquire property within the region were also removed.²²

The media played a crucial role in shaping public opinion and perception on the issue. The government's rationale for the abrogation was centred around promoting national integration and unity by removing the special status granted to Jammu and Kashmir, which was seen as a barrier to the full integration of the region into the Indian Union. The government aimed to remove barriers to investment and economic activity, promote development, combat terrorism, and bring equal opportunities for all citizens.

Reactions and responses to the abrogation were reported extensively by the media, including condemnations and demands to lift the ban on communication. The media reported on the drastic form of collective punishment, the covert new strategy of restricting the free flow of information, and the impact on independent newsgathering and the dissemination of verified information.²³

The media also reported on the international response to the abrogation, including opposition from Pakistan and China, and the BJP government's stance that this issue concerned only India and no international borders were breached.²⁴

The media has been instrumental in portraying different perspectives, highlighting the government's rationale, and capturing the reactions of various stakeholders in the following manner:

- **Shaping Public Opinion:** Media platforms have been pivotal in presenting diverse viewpoints on the abrogation of Article 370, ranging from government narratives to opposition criticisms. Through news reports, opinion pieces, and debates, the media has influenced how the general public perceives this significant constitutional change.

²³Engage EPW Article, Silence in the Valley: Kashmiri Media After the Abrogation of Article 370, available at: <https://www.epw.in/engage/article/silence-valley-kashmiri-media-after-abrogation>

- **Disseminating Information:** Media outlets have been crucial in providing information about the implications of the abrogation of Article 370, explaining the legal, political, and social ramifications of this decision. By disseminating accurate and timely information, the media has helped citizens understand the context and consequences of this move.
- **Capturing Reactions:** The media has played a vital role in capturing the reactions of different stakeholders, including political leaders, experts, activists, and the general public. By reporting on protests, statements, and sentiments related to the abrogation, the media has provided a platform for voices on all sides of the debate.
- **Promoting Dialogue and Debate:** Media platforms have facilitated discussions, debates, and dialogues on the abrogation of Article 370, allowing for a range of perspectives to be heard. By providing a space for informed discussions, the media has contributed to a more nuanced understanding of the issue.
- **International Coverage:** The role of international media in covering the abrogation of Article 370 has also been significant. International news outlets have highlighted the global implications of this decision, contributing to a broader understanding of the issue on the international stage.

The media's role in the abrogation of Article 370 and its impact on national integration has been pivotal in shaping public opinion, disseminating information, capturing reactions, promoting dialogue, and providing international coverage. The media's ability to present diverse perspectives and facilitate informed discussions has been essential in understanding the complexities surrounding this constitutional change and its implications for national unity and integration.

CHAPTER 5: PATRONISATION OR EMPOWERMENT?

In the context of Article 370, the difference between patronisation and empowerment lies in the approach and impact of government policies on the region of Jammu and Kashmir.

Patronisation: Patronisation refers to a top-down approach where the government exercises control over a region or group of people, often with a sense of superiority or authority. In the context of Article 370, patronisation could be seen as the government imposing decisions on the region without considering the voices and rights of the local population. It may involve a

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

one-sided exercise of power that does not necessarily prioritise the well-being and rights of the people affected by the decision.

Empowerment: Empowerment, on the other hand, involves a bottom-up approach that focuses on enhancing the agency, rights, and opportunities of individuals or communities. In the context of Article 370, empowerment would entail policies that aim to uplift and empower the people of Jammu and Kashmir, ensuring their participation in decision-making processes, respecting their human rights, and promoting their socio-economic development. Empowerment policies would prioritise the well-being and rights of the local population, aiming to create a more inclusive and participatory environment.

Therefore, while patronisation involves a more authoritative and controlling approach that may not prioritise the rights and well-being of the local population, empowerment focuses on enhancing agency, rights, and opportunities for the people affected by government decisions, promoting inclusivity and participation in the decision-making process.

Criticism of Government Policy

The abrogation of Article 370, has been met with criticism regarding the government's policies. Critics have raised several concerns, including:

- **Constitutional Validity:** There are arguments asserting that the methods employed to abrogate Article 370 were constitutionally impermissible, raising questions about the legality of the process.
- **Lack of Concurrence:** The absence of the state government's concurrence during the president's rule has been underscored as a significant issue, indicating a deficiency in proper consultation and consent.
- **Governor's Discretion:** Questions have arisen regarding the governor's authority to dissolve the legislative assembly unilaterally, prompting concerns about the transparency and inclusivity of decision-making processes.
- **Allegations of Constitutional Manipulation:** Critics have levelled accusations of "constitutional fraud" against the government, suggesting deceptive or unlawful practices during the abrogation process.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

- Potential Consequences of Maintaining Article 370: Concerns have been raised about the potential negative consequences of preserving Article 370, indicating that the provision could have led to detrimental outcomes if not amended.
- Erosion of Autonomy: Critics contend that the abrogation of Article 370 has undermined the autonomy of Jammu and Kashmir, impeding the region's ability to govern itself and make autonomous decisions.
- Restrictions on Rights: The government's post-abrogation policies have faced criticism for exacerbating restrictions on civil liberties in Jammu and Kashmir, resulting in a crackdown on civil society, journalists, lawyers, and human rights advocates.

These criticisms reflect a range of concerns regarding the abrogation of Article 370 and the subsequent policies implemented by the government in Jammu and Kashmir.

Human Rights Concerns

The abrogation of Article 370 has been a controversial issue, with human rights concerns being raised against it. According to Amnesty International, the Indian government has drastically intensified the repression of rights in Jammu & Kashmir in the three years since the abrogation of Article 370. The new briefing, "We are being punished by the law", documents how civil society at large and journalists, lawyers, human rights defenders in particular have faced relentless interrogations, arbitrary travel bans, revolving door detentions, and repressive media policies while blocking access to appeals or justice in courts and human rights mechanisms.

The Indian government has been accused of stifling dissent using draconian laws, policies, and unlawful practices in their arsenal, which has led to a vicious crackdown on civil society and media in Jammu and Kashmir. The authorities are targeting all credible, independent sources of information in and about Jammu and Kashmir, leading to a silence achieved on all dissent through heavy-handed repression, which has spread fear and uncertainty in the region.

Amnesty International has recorded at least 60 instances of crackdown on journalists and human rights defenders since August 2019. The Indian government has total control over information coming out of the region after passing restrictive media policies. After an initial 18-month internet shutdown, the Indian authorities still often suspend internet services in

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

various parts of Kashmir often without any prior notice. In addition, the sudden forced closure of the Kashmir Press Club in 2022 by the Indian government was a big blow to the already fragile media landscape in the region.

Some specific examples of human rights violations reported by international organisations against the abrogation of Article 370 include:

- **Systematic Clampdown on Civil Society:** International organisations like Amnesty International and Human Rights Watch have raised concerns over the systematic clampdown on civil society in Indian-administered Jammu and Kashmir following the abrogation of Article 370. This clampdown has compromised basic principles of dignity, participation, non-discrimination, transparency, and accountability.
- **Harassment and Intimidation of Civil Society Activists:** Civil society members in Indian-administered Jammu and Kashmir have been continuously harassed, tortured, and silenced through illegal means, including extra-legal harassment, intimidation, reprisals, physical and sexual assault, destruction of property, and smearing campaigns. This has created a new normal where civil society activists are threatened and silenced, impacting their ability to operate freely.
- **Restrictions on Freedom of Expression and Association:** The restrictions imposed on freedom of expression, association, assembly, and participation in Indian-administered Jammu and Kashmir have compromised the collective progress of society. The stifling of these rights has limited the ability of individuals and groups to make informed decisions and engage in socio-economic development, violating international human rights standards.
- **Forced Silence and Intimidation of Journalists:** Journalists in Indian-administered Jammu and Kashmir have faced significant challenges in carrying out their work, with communication embargoes impacting the overall society by restricting access to independent ideas, reports, and data. This suppression of independent journalism violates international legal standards related to civil society and freedom of the press.²⁵

²⁵ Human Rights Council 55th Session, available at: <https://documents.un.org/doc/undoc/gen/g24/036/51/pdf/g2403651.pdf?fe=true&token=XOh192cRUVhFk7B6ps>

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

These examples highlight the grave human rights violations reported by international organisations in response to the abrogation of Article 370 in Jammu and Kashmir, shedding light on the challenges faced by civil society, activists, and journalists in the region.

Implications of Abrogation on Regional Stability

The impact of the abrogation of Article 370 on regional autonomy is significant. The region no longer enjoys the special autonomy it once had, raising concerns about the preservation of the unique identity and rights of its residents. The global community has been closely monitoring the situation, with varying opinions on the legality and implications of the move. Some nations view it as an internal matter of India, while others express concerns about the potential impact on regional stability.²⁶

The abrogation of Article 370 has also had implications for the region's political and geographical map. The Jammu and Kashmir Reorganisation Act, 2019, bifurcated the State of Jammu and Kashmir into two Union Territories—J&K and Ladakh. This move has been challenged in the Indian Supreme Court, with petitions filed against the constitutionality of the dilution of Article 370 and the bifurcation of the State into two Union Territories.²⁷

The international reactions to the abrogation of Article 370 have been varied. Some nations view it as an internal matter of India, while others express concerns about the potential impact on regional stability. The abrogation has reduced the sensitivity of the Kashmir issue on the international stage, but it has also raised concerns about the potential for increased tensions in the region.²⁸

CHAPTER 6: CONCLUSION

In conclusion, the abrogation of Article 370 and the subsequent dismantling of the Constitutional Application Order 1950 signify a profound shift in the relationship between

²⁶LinkedIn Article, Understanding the Legal Dimensions of Article 370 Abrogation in Kashmir, available at: https://www.linkedin.com/pulse/understanding-legal-dimensions-article-370-abrogation-sahil-sajad--snlvf/?trk=public_post_main-feed-card_feed-article-content

²⁸Mishra (2020): THE ABROGATION OF ARTICLE 370 INTERNATIONAL REACTIONS, Indian Journal of Asian Affairs, Vol. 33, No. 1/2 (JUNE-DECEMBER 2020), pp. 120-129 (10 pages)

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

Jammu and Kashmir and the Indian Union. What was initially conceived as an interim arrangement to accommodate the unique circumstances of the state evolved into a contentious issue fraught with political, legal, and socio-economic implications. The revocation of Article 370 in 2019 marked the culmination of a gradual erosion of the special status granted to Jammu and Kashmir, fundamentally altering its constitutional status within India.

Furthermore, the demise of the Constitutional Application Order 1950 underscores the complexities of managing diversity within a federated system, balancing the principles of autonomy and integration. While proponents argue that the move promotes national unity and enables equitable development, critics express concerns about its potential to exacerbate regional tensions and undermine the rights of the people of Jammu and Kashmir. As India navigates the aftermath of these constitutional reforms, it is imperative to foster dialogue, reconciliation, and inclusive governance to address the aspirations and grievances of all stakeholders in the region. Ultimately, the true test of national integration lies not in the legal abrogation of provisions but in the meaningful engagement and empowerment of diverse communities within the Indian Union.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>