

Abrogation of Article 370 and 35-A: Policy Options for Pakistan

Asad Ullah Khan*

Abstract

With far-reaching implications, August 5, 2019, marked a pivotal moment in South Asia's geopolitics, diplomacy, regional peace, and human rights. India's decision to abrogate Article 370 and 35-A in Indian Illegally Occupied Jammu and Kashmir (IIOJK) profoundly impacted the dynamics of the IIOJK and new subtleties have appeared after the recent elections of IIOJK assembly. This study addresses India's abrogation of Article 370(A) and the response of the international community, implications for regional stability, and explores the policy options for Pakistan particularly after the recent Jammu and Kashmir Assembly elections. Over the past six years, India has implemented new domicile laws, land laws, and media policies within the occupied territory, reshaping the demographic landscape. These actions have stirred controversy and heightened tensions by contravening various United Nations Resolutions. This article closely examines the ongoing conflict in the context of frozen conflict theory. It touches upon the national and international implications along with insightful perspectives on the potential policy options to address the challenges posed by these developments. It discusses the situation after the recent election in IIOJK Assembly. This study concludes that the recent IIOJK elections have created an opportunity for Pakistan to reshape its policy. By leveraging soft power and amplifying Kashmiri voices, Pakistan can pursue a peaceful resolution aligned with their aspirations.

Keywords: Jammu and Kashmir, Article 370, 35A, Abrogation of Article, India, Pakistan, Policy Options, Conflict of Jammu and Kashmir

*Asad Ullah Khan is a Research Fellow at the China Pakistan Study Center at the Institute of Strategic Studies Islamabad (ISSI). He can be reached at asadkhan@issi.org.pk.

Introduction

The conflict between India and Pakistan is deeply rooted in the history of both countries since their independence; in fact, the bitterness is traced prior to its formation. The conflict ignited in 1947, which led to division of the subcontinent into Pakistan and India. The IIOJK issue is entrenched into the division of the subcontinent. The princely states in the subcontinent were given a choice to accede to either India or Pakistan. Being the bone of contention, the Jammu and Kashmir conflict is pivotal in regional geopolitics, diplomacy, and human rights. Therefore, it demands strategies for peaceful resolution of Kashmir issue. However, Indian unilateral steps are further complicating the peaceful resolution of Kashmir issue.

In 2019, India's ruling Bhartiya Janata Party (BJP) abolished the special status of IIOJK under Article 370 and 35-A of the Indian constitution. Such an amendment stripped the special rights of Kashmiris over land ownership and employment in IIOJK. Such an authoritarian change in laws provoked resentment among the Kashmiris, and they blamed the government as the BJP seemed the architect of such political engineering against people of IIOJK. In the recent election of IIOJK assembly, people of IIOJK voted against the BJP and the newly formed assembly passed a resolution for restoration of special status of IIOJK.

Numerous studies have been conducted on this topic, offering valuable insights into various aspects, methodologies, and outcomes related to the Kashmir issue. R. W. Conway described Kashmir as a distinct valley surrounded by the Himalayas, highlighting its natural beauty, fertile land, and the importance of Srinagar as a trade hub and how Kashmir conflict impacts the regional tension between India and Pakistan.¹ C. Zutshi has analyzed the region's division among India, Pakistan, and China, emphasizing the cultural diversity and geopolitical significance of its sub regions.² M. Ashraf explored Kashmir's ancient history, linking its origins to geological and archaeological findings of a prehistoric lake and how Kashmir issue is one of the most significant issues which can have international repercussions.³ Tariq Ali focused on the human rights violations under Indian military rule and called for global attention to Kashmir's struggle for self-determination.⁴ Finally, Aryal and Muneer assessed the impact

¹ Conway and W. Martin, "The Valley of Kashmir," *Nature* 53, no. 1362 (December 1895): 99–100, <https://doi.org/10.1038/053099a0>.

² C. Zutshi, "India, Pakistan, and the Kashmir Issue 1947 and Beyond," 2009, https://www.semanticscholar.org/paper/India-%2C-Pakistan-%2C-and-the-Kashmir-Issue-1947-and-Zutshi/4847caca77bfba589101b2b142a25be20961d117?utm_source=consensus.

³ M. Ashraf, "Earliest History of Kashmir (Archaeological and Geological Perspective)," 2017, [https://www.semanticscholar.org/paper/Earliest-History-Of-Kashmir-\(Archaeological-And-Ashraf/08b6ad4a828d45910346a0255d267ba554038741?utm_source=consensus](https://www.semanticscholar.org/paper/Earliest-History-Of-Kashmir-(Archaeological-And-Ashraf/08b6ad4a828d45910346a0255d267ba554038741?utm_source=consensus).

⁴ Ibid.

of Article 370's abrogation, arguing it worsened political instability and human rights issues in the region.⁵

These studies provide detailed analysis of the Kashmir issue. However, there is a lack of literature related to Kashmir issue in the context of recent elections in the IIOJK and policy options for Pakistan. The article fills this gap by addressing what has been the international community's response to India's abrogation of Article 370(A), what are the implications for regional stability, and what policy options emerge in light of the recent Jammu and Kashmir Assembly elections? The significance of this study lies in its potential to provide practical policy solution on the abrogation of article 370 and 35-A especially after recent elections in IIOJK. This study utilizes qualitative methodology, and relies on the secondary data and descriptive and explanatory tools to address the undertaken research question.

This paper first presents the theoretical perspective, followed by a brief history of the Kashmir issue. It then provides a detailed account of the abrogation of Articles 370 and 35-A. Subsequently, it discusses the response of the international community, the implications for regional stability, the recent elections in IIOJK, and policy options for Pakistan. Finally, the paper concludes with its findings and provides policy solutions.

Theoretical Framework- Frozen Conflict

The abrogation of Article 370 and 35-A in Jammu and Kashmir has further exacerbated the situation by unfreezing the conflict between the two countries. Frozen conflicts are conflicts that have become frozen and have remained in this condition for several years. In this case, the Jammu and Kashmir issue was also characterized as frozen conflict because of its prolonged stalemate.⁶ In a frozen conflict, freezing often occurs when there is equality of power between the rival parties, and none of them see the prospect of a sudden change in the state of affairs. Jammu and Kashmir is a bone of contention between Pakistan and India from August 1947, and both are not ready to compromise on their stated positions.⁷

Another major characteristic of frozen conflict is in the form of oscillations. The conflict oscillates between periods of melting and refreezing. The situation in Jammu and Kashmir was getting better when Pakistan and India had worked on maintaining peace and

⁵ Saroj Kumar Aryal and Sania Muneer, "Geopolitics, Conflict and Narratives: An Assessment of Kashmir Conflict after the Abrogation of Article 370," *Journal of Asian and African Studies*, August 24, 2023, 370, <https://doi.org/10.1177/00219096231192318>.

⁶ Sumit Ganguly et al., "India, Pakistan, and the Kashmir Dispute: Unpacking the Dynamics of a South Asian Frozen Conflict," *Asia Europe Journal* 17, no. 1 (March 2019): 129–43, <https://doi.org/10.1007/s10308-018-0526-5>.

⁷ Ibid.

security along the Line of Control (LoC), while allowing people of the two sides to travel and trade.

The goal of Pakistan was to enhance the lives of Kashmiris, as it engaged in bilateral dialogue with India at improving relations, which subsequently led to a freeze in violence levels. However, as the status quo in the case of Jammu and Kashmir conflict remained untouched till August 2019. Therefore, one may argue that the conflict was termed as frozen conflict. In this context, the Indian unilateral step towards change of status quo has altogether changed the very dynamics of the conflict. The abrogation of Articles 370 and 35-A in Jammu and Kashmir by India has unfrozen the conflict.

There is one more important aspect to it. The power of the relative parties also matters in the conflict. Therefore, the response to this phenomenon of unfreezing the conflict by the international community is different which could be observed in the later section of the paper. In addition to this, once the conflict is unfrozen it gives an opportunity to both the states involved in the conflict to take measures towards conflict resolution.⁸ However, in this particular scenario, Pakistan is relatively a less powerful state than India and since India has taken a step towards un-freezing the conflict this makes more space for Pakistan to build its narrative on the Jammu and Kashmir issue. Utilizing this space there is a need to revisit and draft an effective Kashmir strategy which may give fruitful results.⁹

Historical Context of the Jammu and Kashmir Dispute

In 1947, Muslim-majority Jammu and Kashmir was ruled by a Hindu leader Maharaja Hari Singh. The blend of demographics and leadership due to differences in religious ideologies and Indian backing to the Maharaja, laid the groundwork for creating instability and disputes over the Jammu and Kashmir region. The majority of the Kashmiris because of their religion and demography, had inclinations towards joining Pakistan. While India was forcing the Kashmiri ruler to join India.

These tensions between the leadership and the nation have continued to grow ever since. Against a backdrop of growing internal unrest as Maharaja realized that he had lost the control over the Muslim Majority. Consequently, in October 1947, according to the Indian perspective ‘Instrument of Accession’ was signed whose date and validity is still under debate.¹⁰ The greed of getting Jammu and Kashmir by India rifted it into two parts. India

⁸ Ibid.

⁹ Ibid.

¹⁰ Erin Blakemore, “The Kashmir Conflict: How Did It Start?” *CULTURE*, May 3, 2021, <https://www.nationalgeographic.com/culture/article/kashmir-conflict-how-did-it-start>.

solidified its control on the southern and eastern portions, popularly referred to as Valley, Jammu, and Ladakh. Meanwhile, Pakistan gained the northern and western areas, known as Azad Jammu and Kashmir and Gilgit Baltistan. Amidst this volatile situation, India approached United Nations, which issued Resolution 47 in April 1948, proposing a plebiscite to determine the future status of Jammu and Kashmir.¹¹ This dispute has been a source of persistent tension between India and Pakistan, leading to multiple conflicts, including two full-fledged wars and the Kargil crisis.

Articles 370 and 35-A

Article 35-A was introduced into the constitution of India as an integral component of amendments instituted through a presidential order in 1954, which was authorized under Article 370.¹² Under the scope of this article, the state of Jammu and Kashmir had the authority to define a specific category of individuals as “permanent residents,” offering them distinct legal status and entitlements. A pivotal aspect of Article 35-A is its empowerment of the government of Jammu and Kashmir to extend entitlements and privileges to these designated “permanent residents.”¹³ These special rights and privileges hold a distinct status, which saved Kashmiris even if others appear to encroach upon any fundamental rights guaranteed by the broader Indian Constitution.

Article 35-A features the region’s autonomy within the broader Indian constitution. Its enactment through the 1954 presidential order, further augmented and facilitated through the scope of Article 370, highlights the distinctive position that Jammu and Kashmir hold.¹⁴ This article holds special position as it provides the state with the prerogative to establish a class of permanent residents thereby endowing them with exclusive legal rights and benefits. Also, these legal provisions provide a sense of security as it prevents from overriding them, even if they seem to impinge upon the fundamental rights upheld in the legal framework of India.¹⁵

¹¹ Rakesh Ankit, “Kashmir, 1945-66: from empire to the Cold War” (PhD diss., University of Southampton, 2014), <https://eprints.soton.ac.uk/370019/>.

¹² Tejas Sateesha Hinder, The Presidential Order of 1954 and Article 35A: A Constitutional Criticism, accessed July 25, 2024, https://www.probono-india.in/Indian-Society/Paper/137_The%20Presidential%20Order%20of%201954%20and%20Article%2035A%20A%20Constitutional%20Criticism.pdf.

¹³ “Article 370: What Happened with Kashmir and Why It Matters,” *BBC News*, August 5, 2019, <https://www.bbc.com/news/world-asia-india-49234708>.

¹⁴ “Kashmir’s Special Status: Five Things to Know,” *News | Al Jazeera*, August 5, 2019, <https://www.aljazeera.com/news/2019/8/5/kashmir-special-status-explained-what-are-articles-370-and-35a>.

¹⁵ “Explainer: What Are Articles 370 and 35A?” *Express Tribune*, August 5, 2019, <https://tribune.com.pk/story/2028458/explainer-articles-370-35a>.

Abrogation of Article 370 and 35-A

Article 35-A is a provision that legally provides the special status of “permanent residents” and their associated entitlements and privileges to Kashmiris, which differs from other residents of other parts of India. The Indian government on August 5, 2019, decided to abrogate it; simultaneously, they eliminated the special constitutional status previously held by the formerly autonomous region of IIOJK under Article 370 of the Constitution.¹⁶ This one-sided action fueled a sense of insecurity in the people of Jammu and Kashmir.

This unilateral abrogation of the articles in IIOJK significantly affected land, media, and domicile laws, giving rise to serious apprehensions. The alteration of land laws in Jammu and Kashmir by the Indian government nullified Article 35-A and granted permission for non-residents of Kashmir to own land and property in the region, effectively overlooking its legal and historical status. It also brought all the political parties on the same page even those who were pro-India earlier like People’s Democratic Party (PDP), Mehbooba Mufti and others. This action, viewed as a violation of international standards, raised concerns about demographic manipulation and the demise of the region’s distinctive cultural identity by the BJP. Shah Mahmood Qureshi, then Pakistan’s Foreign Minister, rightly pointed out, the unilateral and illegal actions by the Indian government to revoke Articles 370 and 35-A are in clear violation of the UNSCR.¹⁷

The unilateral constitutional changes, coupled with on-ground measures such as the introduction of new domicile laws, have further exacerbated the challenges faced by the people of IIOJK. People from other areas of India were granted domicile certificates upon their settlement in the Jammu and Kashmir region. The important factor of religion has also been ignored in this regard. These illegal settlements were done to change the demographic nature of IIOJK into a Hindu majority region. Moreover, the recent changes in media laws and regulating the autonomy of media in the region was an attempt to silence the voices of Kashmiris on what actually is happening inside the valley. This disregard for local considerations infringes upon the right to free expression and diversity of voices, one of the most crucial elements in a vibrant democratic society.¹⁸

¹⁶ Sameer P. Lalwani and Gillian Gayner, “India’s Kashmir Conundrum: Before and After the Abrogation of Article 370,” *US Institute of Peace*, 2020, <http://www.jstor.org/stable/resrep25405>.

¹⁷ “Watch: Pakistan’s Foreign Minister Says Article 370 Is India’s Internal Matter,” *Swarajyamag*, May 7, 2021, <https://swarajyamag.com/insta/watch-pakistans-foreign-minister-says-article-370-is-indias-internal-matter>.

¹⁸ India: ‘We Are Being Punished by the Law’ - Three Years of Abrogation of Article 370 in Jammu & Kashmir,” *Amnesty International*, September 2, 2022, <https://www.amnesty.org/en/documents/asa20/5959/2022/en/>.

The Response of Pakistan and International Community after Revocation of Article 370 and 35A

This decision to immediately withdraw these provisions heightened tensions between Pakistan and India, both of which have historical territorial claims in the region, as Kashmiris aspire to be part of Pakistan. Pakistan criticized this unilateral move by India, considering it a violation of international agreements and UN resolutions that sought a peaceful resolution to the Jammu and Kashmir issue through dialogue and considering the desires of the Kashmiri people. Imran Khan, Pakistan's Prime Minister in 2019, emphasized, 'the unilateral abrogation of Article 370 by the Indian government is a violation of Simla Agreement and the UN Resolutions on Kashmir.'¹⁹

In response to Indian actions, Pakistan retaliated by taking several diplomatic measures, including down grading diplomatic relations with India, putting back trade, and appealing to international organizations to rally support for its stance globally. The Prime Minister of Pakistan and other officials discussed the IIOJK issue at various international platforms, including the United Nations, emphasizing the regional instability and the effects on the lives of Kashmiris.²⁰

Concerns about potential human rights abuses following the annulment gained substantial international attention because of its prominent nature. Consequently, reports emerged regarding communication blockades, curfews, and accusations of mistreatment of civilians. Human rights organizations like Amnesty International and Human Rights Watch demanded openness, unbiased investigations, and the respect of fundamental rights in the region, further underscoring the urgency of the matter.

International responses varied after abrogation of article 370 and 35-A. While some states like China, expressed apprehension about the possible escalation of tensions in the region and called for dialogue between Pakistan and India.²¹ In contrast, United Arab Emirates (UAE), Sri Lanka, and the United States of America (USA) apparently supported India by giving mixed reviews while hoping for peace and stability without criticizing the action.²² This divergence

¹⁹ "Imran Khan on Article 370: Move Will Further Deteriorate Relations between 'nuclear-Capable' Neighbours," *Indian Express*, August 5, 2019, <https://indianexpress.com/article/pakistan/imran-khan-on-article-370-move-will-further-deteriorate-relations-between-india-pakistan-5880527/>.

²⁰ Mubarak Zeb Khan, "Pakistan Formally Suspends Trade with India," *DAWN.COM*, August 10, 2019, <https://www.dawn.com/news/1499076>.

²¹ "China Calls Article 370 Move 'Illegal, Invalid' Again, India Says China Has No Locus Standi," *Wire*, August 5, 2020, <https://thewire.in/diplomacy/article-370-anniversary-china-illegal-india-locus-standi>.

²² Elizabeth Roche, "Article 370: Most Countries Back Indian Government's Move Article 370: Most Countries Back Indian Government's Move," *Mint*, August 6, 2019, <https://www.livemint.com/politics/news/article-370-most-countries-back-indian-government-s-move-1565101524956.html>.

of opinions emphasized the intricacies of the IIOJK issue within global politics. Pakistan has maintained a consistent stance throughout this process, focusing on a diplomatic solution. It has called for international intervention, highlighting dialogue and the inclusion of Kashmiri representatives in the process to ensure a just and lasting resolution that respects the aspirations of the Kashmiri people while prioritizing regional peace and stability.

In the months following the abrogation of both articles, China, Iran, Malaysia, and Turkey voiced their concerns about the inhumane activities in IIOJK.²³ There are numerous reasons for most states' muted response to this issue, and why the criticism has been largely ineffective in exerting any pressure on the Indian government to reconsider its unilateral actions.

China has emerged as a formidable rival to the US in the current geopolitical landscape. Over the past years, China has achieved significant progress, whether it is in strengthening its military, advancing technologically, or boosting its GDP and monetary flow. China has positioned itself as a significant contender for global leadership, causing concern for the US. The US is particularly worried about China's growing influence in the region.²⁴ To counter this influence and balance the power dynamic, the US sees India as a crucial ally that can act as a dependable counterforce against China's assertive expansion.²⁵

Since August 5, 2019, Pakistan tried to get the support of China, Malaysia, and Turkey.²⁶ Apart from these states, the focus of various other nations shifted towards addressing the stability in IIOJK,²⁷ rather than giving primary attention to altering its constitutional status. The legality of India's amendment to Article 370 was not at the forefront of their concerns.

Mapping the Responses

▪ *Silent Endorsement from the Western Nations*

As noted above, the international response to this illegal unilateral action of India is according to the relative power/ and place of both India and Pakistan in the international system. India has deepened alignment with the US-led West in the present great-power competition with China, whereby, political, economic and military cooperation between India and Western nations has expanded. At the diplomatic level, this has translated into both India and the West

²³ Vivek Kumar Mishra, "The Abrogation of Article 370 International Reactions," *Indian Journal of Asian Affairs* 33, no. 1/2 (2020): 120–29, <https://www.jstor.org/stable/27003440>.

²⁴ David Brown, "Why China Could Win the New Global Arms Race," *BBC News*, July 28, 2022, <https://www.bbc.com/news/world-asia-china-59600475>.

²⁵ Michael Schuman, "What Limits Any U.S. Alliance with India over China," *Atlantic*, March 1, 2023.

²⁶ Vivek Kumar Mishra, "The Abrogation of Article 370 International Reactions," *Indian Journal of Asian Affairs* 33, no. 1/2 (2020): 120–29, <https://www.jstor.org/stable/27003440>.

²⁷ *Ibid.*

supporting each other's core interests. Thus, when Pakistan makes a push to present its case, it faces limitations due to Indian alignment with the West. The response from the international community is more aligned towards their own national interest rather than an endorsement of Indian hegemony in South Asia.

Then US President Donald Trump took a neutral stance and showed his willingness to act as a mediator to organize a mutual dialogue between both countries to come to a consensus on the Jammu and Kashmir issue.²⁸ Much of the limited criticism was seen from the opposition as Joe Biden said in his "Agenda for Muslim-American Communities" that "the Indian government should take all necessary steps to restore rights for all the people of Jammu and Kashmir" and criticized the restrictions imposed in the Valley as the "weakening" of democracy.²⁹

The UK's reaction was nearly identical to that of the US. Boris Johnson, Prime Minister of the United Kingdom, spoke with Prime Minister Narendra Modi and reiterated his belief that the problem should be resolved bilaterally between the two countries through talks.³⁰ There was noticeable criticism, particularly from British Muslim MPs from the opposition on the official response from the UK, who urged Boris Johnson to strongly condemn India's actions and portray India's behavior as inhumane, carrying out atrocities against innocent Kashmiris.³¹ However, their efforts saw limited success in September 2019, in the form of a formal resolution passed, favoring international intervention and a UN-led referendum in Jammu and Kashmir.³²

Other major global powers also displayed a notably measured stance regarding India's actions, hesitating to openly condemn the reported atrocities in Jammu and Kashmir. For example, President of France, Emmanuel Macron, expressed his intent to closely monitor the human rights situation in the region while emphasizing that Paris would carefully observe any indications of human rights violations.³³ Simultaneously, the official stance from the French

²⁸ Saloni Kapur, "Kashmir: Why Trump's Offer of International Mediation Is a Good Idea," *Conversation*, December 22, 2022, <https://theconversation.com/kashmir-why-trumps-offer-of-international-mediation-is-a-good-idea-129112>.

²⁹ "Biden Will Play Role in Resolving Kashmir Issue," *Express Tribune*, January 5, 2021, <https://tribune.com.pk/story/2278816/qureshi-hopes-joe-biden-will-play-role-in-resolving-kashmir-issue>.

³⁰ Pti, "U.K. Pm Boris Johnson Tells PM Modi Kashmir a Bilateral Issue, Calls for India-Pakistan Dialogue," *Hindu*, August 21, 2019, <https://www.thehindu.com/news/international/uk-pm-boris-johnson-tells-pm-modi-kashmir-a-bilateral-issue-calls-for-india-pakistan-dialogue/article29212806.ece>.

³¹ William James, "Britain's Johnson Offers Qualified Apology for Islam Remarks," *Reuters*, May 25, 2021.

³² Vivek Kumar Mishra, "The Abrogation of Article 370 International Reactions," *Indian Journal of Asian Affairs* 33, no. 1/2 (2020): 120–29, <https://www.jstor.org/stable/27003440>.

³³ Muhammad Saleh Zaafer, "Solution to Kashmir Issue: India Should Hold Talks with Pakistan, Says Macron," *The News*, August 24, 2019.

officials highlighted the belief that this issue should be resolved through bilateral discussions between Pakistan and India.

Similarly, Germany concurrently expressed genuine concerns for human rights.³⁴ This approach conveyed that Berlin would actively work to uphold human rights standards in the area while avoiding direct condemnation of India, as such an action could potentially strain diplomatic relations. This careful balancing act illustrates how these countries, while acknowledging their commitment to human rights, also prioritizes maintaining diplomatic ties. When Pakistan urged for a strong stance, Germany and other countries like the US, France, Britain, and Russia refused.³⁵

The European Union's reaction closely paralleled that of other key players, with its former Foreign Minister Federica Mogherini emphasizing the vital role of constructive dialogue between the two countries. She underscored the urgent requirement to lift the restrictions impacting the people in Jammu and Kashmir and stressed the imperative of reinstating their fundamental freedoms. This position highlights the EU's commitment to peaceful conflict resolution while acknowledging the crucial aspect of preserving the rights and liberties of the affected populace.³⁶ There has been no official statement from human rights upholders after 2019 that uprightly condemns the act of India.

▪ ***Anti-India Voices in the International Community***

The primary sources of limited criticism and resistance against India's actions predominantly stemmed from Pakistan and China. Both of these states openly protested against inhumane treatment of Kashmiris in IIOJK. In direct response to these developments, Pakistan, acutely affected by the situation, followed a predictable course of action. Then Prime Minister Imran Khan articulated India's actions as "illegitimate and unilateral," taking a solid stance, labelling them as a "crime against humanity." In a significant diplomatic move, Pakistani Foreign Minister of the time Shah Mahmood Qureshi, in his address to the UN Human Rights Council in September 2019, raised concerns about the potential for an inadvertent escalation, categorizing India's actions as a genocidal situation.³⁷

³⁴ Islamuddin Sajid, "Germany expresses concerns over Kashmir situation," *Anadolu Agency*, March 14, 2019, <https://www.aa.com.tr/en/asia-pacific/germany-expresses-concerns-over-kashmir-situation/1418031>

³⁵ Vivek Kumar Mishra, "The Abrogation of Article 370 International Reactions," *Indian Journal of Asian Affairs* 33, no. 1/2 (2020): 120–29.

³⁶ "EU Urges India to Restore Kashmiris' Rights," *Express Tribune*, September 2, 2019, <https://tribune.com.pk/story/2047916/eu-urges-india-restore-kashmiris-rights>.

³⁷ "Pakistan PM Imran Khan Will Forcefully Raise Kashmir Issue at Unga: Shah Mahmood Qureshi," *India Today*, August 28, 2019.

Abrogation of Article 370 and 35-A: Policy Options for Pakistan

Diplomatic relations between Pakistan and India witnessed a significant downgrade in few days. Pakistan expelled the Indian High Commissioner, recalled its envoy from India, and suspended bilateral trade.³⁸ Pakistan raised the matter on the international stage, primarily seeking attention from the UNSC, with the backing of China. Although Pakistan achieved minor successes in confidential UNSC meetings, no substantial victories or official UN statements were made against India. Most criticism has been directed at India, urging it to ameliorate the human rights situation in the region—a concern that extends beyond India alone to include Pakistan.³⁹

Pakistan also found strong support from Muslim-majority countries sharing amicable relations with Islamabad, notably Malaysia, Turkey, and Iran. Malaysian Prime Minister at the time Mahathir Mohamad explicitly conveyed concerns, saying India had “invaded and occupied” Jammu and Kashmir.⁴⁰ The Turkish Foreign Ministry cautioned about adjustments to Article 370, indicating potential repercussions on the current regional climate. Turkey maintained this standpoint over the subsequent year, observing that India’s actions had “further impacted the regional scenario” and had not “contributed positively to the stability of the area.”⁴¹ Iran’s leader, Ali Khamenei, extended his backing, urging India to reevaluate its actions and adopt a balanced approach to safeguard the welfare of the local population in the IIOJK.⁴²

However, the most noticeable response came from Middle Eastern leaders, facilitated by the commencement of the Organization of Islamic Cooperation (OIC).⁴³ In the virtual meetings held at these conferences, a formal declaration was made, demonstrating support for the Kashmiris and calling on India to reverse its independent actions in the area. Nevertheless, the OIC’s reaction was confined to verbal disapproval and did not lead to concrete actions against India. This lack of concrete actions demonstrated the ineffectiveness of diplomatic avenues in exerting significant pressure on India.⁴⁴

³⁸ “Article 370 Revoked: Pakistan Expels Indian Envoy, Suspends Bilateral Trade,” *Business Standard*, August 7, 2019.

³⁹ *Ibid.*, 121.

⁴⁰ App, “Mahathir Urges Ways to Solve Kashmir Dispute,” *The News*, October 8, 2019, <https://www.thenews.com.pk/print/538652-mahathir-urges-ways-to-solve-kashmir-dispute>.

⁴¹ Web Desk, “Erdogan Highlights Kashmir Issue in UN General Assembly,” *Nation*, September 19, 2023, <https://www.nation.com.pk/20-Sep-2023/erdogan-highlights-kashmir-issue-in-un-general-assembly>.

⁴² “Iran’s Khamenei Urges India to Adopt Just Policy towards Kashmiris, Prevent Oppression of Muslims,” accessed July 15, 2024, <https://www.geo.tv/latest/245476-irans-khamenei-urges-india-to-adopt-just-policy-towards-kashmiris-prevent-oppression-of-muslims>.

⁴³ Vivek Kumar Mishra, “The Abrogation of Article 370 International Reactions,” *Indian Journal of Asian Affairs* 33, no. 1/2 (2020): 120–29.

⁴⁴ *Ibid.*

▪ ***India - too valuable to Ignore***

Most countries responded with complete silence or expressed concerns solely about the humanitarian situation in IIOJK, showing little interest in the legal aspects of the issue. This widespread silence can be attributed to the considerable importance of India in global affairs, leading New Delhi to avoid open criticism for safeguarding diplomatic and economic relations with other nations. India has effectively established itself as a vibrant global economy in recent years.

Indian trade with the US was estimated \$191.8 billion in 2022. Its exports were \$73.0 billion and imports were \$118.8 billion.⁴⁵ Furthermore, when the rules governing IIOJK were being changed, India and France were discussing a multibillion-dollar agreement for Rafale fighters. In addition, the silent posture of the UAE and Saudi Arabia can be better understood in light of India's bilateral trade.⁴⁶ Significant investments in oil projects were also underway during this period. The UAE government conferred the highest civilian award, the Order of Zayed, to Indian Prime Minister Modi upon his arrival in the Emirates on 24 August 2019.⁴⁷

Furthermore, over the past years, India has crafted an image as one of the world's largest democracies, successfully shaping the narrative that the IIOJK issue is a "domestic matter" to be resolved internally by India. This carefully managed image has significantly contributed to projecting the perspective that the IIOJK situation should remain a domestic concern.

Threats to Regional Stability

The intensity and magnitude of IIOJK dispute is not understood by many states. Iftikhar Durrani, a political commentator, contends that the ongoing Jammu and Kashmir crisis constitutes a substantial menace to global peace and security on a scale not witnessed since the aftermath of World War II.⁴⁸ The IIOJK dispute represents a significant threat to regional peace and stability in South Asia. Both Pakistan and India possess nuclear weapons, rendering them nuclear-armed nations. Consequently, the persistent conflict over IIOJK raises grave concerns about a potential nuclear confrontation, carrying catastrophic consequences for the two

⁴⁵ "India- India Trade and Investment Summary," United States Trade Representative, accessed July 24, 2024.

⁴⁶ "India-GCC Bilateral Trade and Investment Trends," *India Briefing News*, October 11, 2023, <https://www.india-briefing.com/news/india-gcc-trade-and-investment-trends-25746.html/>.

⁴⁷ Vivek Kumar Mishra, "The Abrogation of Article 370 International Reactions," *Indian Journal of Asian Affairs* 33, no. 1/2 (2020): 120–29, <https://www.jstor.org/stable/27003440>.

⁴⁸ Iftikhar Durrani, "Kashmir Crisis: Threat to World Peace & Challenge to Human Conscience," *ANKASAM* | Ankara Center for Crisis and Policy Studies, September 12, 2019, <https://www.ankasam.org/kashmir-crisis-threat-to-world-peace-challenge-to-human-conscience/?lang=en>.

countries and the entire region.⁴⁹ As Pervez Musharraf, former President of Pakistan, astutely noted, ‘Jammu and Kashmir is the most dangerous conflict zone in the world today. It poses the risk of nuclear conflict escalation between India and Pakistan.’ Numerous instances have illustrated how ongoing tensions regarding IIOJK have resulted in cross-border violence, violating the LoC agreement, and significant civilian casualties.⁵⁰

The Indian unilateral actions enhance potential for escalation. India is using military power to suppress the voices of Kashmiri people; however, this policy is not sustainable, and Kashmiri people are likely to resist. India might blame it on Pakistan, which could increase the risk of escalation between India and Pakistan. This dynamic exacerbates instability in IIOJK and extends to broader region, as both Pakistan and India are nuclear powers.⁵¹

Indian unilateral actions in IIOJK and refusal to resolve the IIOJK issue put pressure on Pakistan to spend on its defense despite multiple economic challenges. India’s heavy investment in the defense budget pushes Pakistan to invest resources in defense and modernize its army. Furthermore, due to Pakistan’s stance on the Kashmir issue, India is supporting terrorist groups, which carry out attacks inside Pakistan.⁵² These attacks not only kill innocent people, but also make it challenging to bring foreign direct investment to Pakistan.

Post-Kashmir Assembly Election Situation

The recent elections in IIOJK dealt a significant blow to the BJP, with the Congress-National Conference alliance securing a majority by winning 49 out of 90 seats.⁵³ The National Conference claimed 42 seats, the Congress 06, and the Communist Party of India (Marxist) 01, while the BJP managed only 29 seats. This outcome is seen as a public rejection of Indian Prime Minister Narendra Modi’s policies in Kashmir, particularly the 2019 revocation of Article 370, which stripped the region of its special status.⁵⁴

Moreover, after these elections, the new assembly passed a resolution, asking the Indian government to take back revocation of Article 370. ‘‘This assembly calls upon the government of India to initiate dialogue with elected representatives of people of Jammu and Kashmir for

⁴⁹ Mobeen Jafar Mir, *Pakistan Kashmir Strategy: An assessment and future outlook*, February 10, 2021, <https://ipi.org.pk/wp-content/uploads/2021/09/Pakistan-Kashmir-Strategy.pdf>.

⁵⁰ ‘‘Musharraf Solution to Kashmir Issue,’’ *History Pak*, September 29, 2020, <https://historypak.com/musharraf-solution-kashmir-issue/>.

⁵¹ Agnieszka Kuszewska, ‘‘The India-Pakistan Conflict in Kashmir and Human Rights in the Context of Post-2019 Political Dynamics,’’ *Asian Affairs* 53, no. 1 (2022): 198–217, <https://doi.org/10.1080/03068374.2022.2041288>.

⁵² Global Times, ‘‘GT Investigates: Evidences, Sources Prove India ‘supports Terrorism’ in Pakistan’s Balochistan - Global Times,’’ accessed July 25, 2024.

⁵³ The News, ‘‘IIOJK Elections,’’ *The News*, 2024, <https://www.thenews.com.pk/print/1238479-iiojk-elections>.

⁵⁴ *Ibid.*

restoration of special status.”⁵⁵ Before this election, serious concerns were raised by the international organizations. Amnesty International said, “the government of fostering a climate of fear and urged an end to arbitrary detentions under strict anti-terror laws used to silence dissent on Jammu and Kashmir.”⁵⁶ While the election reflects resistance to Modi’s oppressive tactics, the broader plight of Kashmir remains unchanged. The region continues to endure human rights abuses, arbitrary detentions, and censorship under Indian occupation. Despite the significance of the election, it does not address the fundamental issues of freedom and dignity for the Kashmiri people.

Furthermore, the Indian government is trying to show that there is normalcy in IIOJK. However, Washington Post in an article revealed that it is far from the truth. One of the interviewees told Washington Post, “in previous elections, people would not vote out of anger and fear. Now, people are coming to vote driven by fear and anger.”⁵⁷ Another Interviewee said, “the establishment interpretation is that they are coming out in such droves because democracy has been restored. Nothing could be further from the truth. The voter turnout is a keen realization of the fact that enough is enough.”⁵⁸

Policy Options for Pakistan

Although Pakistan has consistently raised its voice against the atrocities in various forums, the extent of its success in effecting change since the abrogation of these laws has been limited. Pakistan’s response to the post-elections’ developments in IIOJK must be multifaceted, focusing on diplomatic, legal, and strategic measures. Conversely, India has justified its actions in Jammu and Kashmir as essential steps for the region’s development and integration within the larger Indian framework. Such narrative has to be countered by Pakistan at all forums. The following steps/policies on the part of Pakistan are pertinent in addressing the situation:

- Pakistan should leverage artificial intelligence and data analytics to track and expose human rights violations in IIOJK.
- Pakistan must develop a robust policy approach and prioritize the necessary measures to frame the reality of Jammu and Kashmir dispute and to combat the false allegations by India.

⁵⁵ “Kashmir Assembly Passes Resolution Asking India to Restore Special Status,” *Al Jazeera*, 2024, <https://www.aljazeera.com/news/2024/11/6/indian-kashmir-assembly-issues-resolution-demanding-restoration-of-autonomy>.

⁵⁶ Arunoday Mukharji, “Kashmir Hopes for a Voice for Its Woes after Election,” *BBC News*, 2024, <https://www.bbc.com/news/articles/cx20rr57g16o>.

⁵⁷ Karishma Mehrotra and Shams Irfan, “In a ‘New Kashmir,’ Anger over Indian Repression as Elections Are Held - The Washington Post,” *Washington Post*, 2024.

⁵⁸ *Ibid.*

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- Pakistan must prioritize its economic development and trade, as a strong economy that benefits other nations likely to enhance its global standing and amplify its voice.
- Pakistan should look at how it may engage India in International Court of Justice. The recent case of South Africa against Israel could be taken as an example in this regard.⁵⁹
- Integrate cutting-edge technology such as virtual reality to create immersive experiences that depict the realities of life in IIOJK, offering global audiences a firsthand understanding of the region's plight.
- Pakistan can establish an international digital platform where Kashmiri youth can share their stories, cultural heritage, and aspirations for self-determination, creating a narrative that counters Indian propaganda.
- Pakistan should form strategic alliances with South Asian environmental organizations to address ecological challenges exacerbated by military activities in IIOJK, linking them to broader concerns of regional stability.
- Pakistan must collaborate with think tanks and international experts to publish annual reports on the political, economic, and social disenfranchisement of Kashmiris under Indian policies, reinforcing the illegitimacy of India's actions.

Conclusion

The abrogation of Article 370 and 35-A by India in August 2019 has had profound and wide-ranging repercussions for geopolitics, regional peace, and human rights in the Jammu and Kashmir region. These actions are not just confined to the region of IIOJK; in fact, they have escalated tensions between Pakistan and India, which possess nuclear capabilities. This conflict gets global attention because the consequences of this extend far beyond the borders of these two nations, affecting regional stability and global alliances. The recent elections in IIOJK Assembly and developments which happened after them have added new dynamics in Kashmir issue. Kashmiri people have rejected BJP in recent elections and new assembly also passed a resolution for regions' autonomy. In this situation, Pakistan should not let India silence the Kashmiri voices. It should raise Kashmiri voices on international forums. However, despite the gravity of the situation in IIOJK, international responses have been influenced by geopolitical and economic considerations. India's growing role in the global economy has prompted many nations to prioritize their diplomatic ties with India, sometimes overshadowing concerns about

⁵⁹ Tahir Mahmood Azad and Haseeb Ur Rehman Warrich, "Media as an Instrument of Hybrid Warfare," *Global Mass Communication Review* 2021, https://www.researchgate.net/publication/351775179_21_media_as_an_instrument_of_hybrid_warfare.

human rights. However, on the other hand, the step taken by India has created opportunity for Pakistan to address the issue according to its national interest. Indian attempt has unfrozen the conflict and Pakistan should not hesitate to use this unfreezing moment to gain more benefit out of it. Pakistan needs a very comprehensive and detailed policy to address the multifaceted issue. It must include renewed diplomatic policies, media engagement and rigorous advocacy campaigns on international fora. Adopting consistence stance on the IIOJK dispute, Pakistan must also underscore the importance of soft power like strategic communications and dialogue in resolution of this longstanding dispute to bring regional peace and stability. Pakistan should understand that it is time to reshape the policy from hard power to soft power. A just and peaceful solution, according to the wishes of Kashmiri people with engagement of all the relevant stakeholders remains a formidable challenge for Pakistan.