

REPEAL OF ARTICLE 370: ANALYSING THE IMPACT VIA SOCIOECONOMIC LENS

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ABSTRACT

Jammu & Kashmir has been a mosaic of disputes for decades. It is at the centre of politics and debates. This research article underscores the importance of this issue and aims to examine the effects of the abrogation of Article 370 on Jammu and Kashmir, as the two are inextricably linked. The abrogation has serious repercussions and has faced a lot of protest with a petition being filed about its legality in the Supreme Court this year. It is the socioeconomic aspect that has been examined using various variables such as mental health, investments, poverty, and women's rights. Wherever issues have cropped up, solutions for the same have also been discussed.

Keywords: Article 370, Jammu & Kashmir, Dispute, Temporary, Socioeconomic, Union Territory, Poverty, Mental Health, Investment, Education, Women's Rights.

INTRODUCTION

The state of J&K also known as '**Paradise on Earth**' has been a place of conflict for several decades for India and Pakistan. It is filled with beautiful snow-covered mountains that have seen the bloodshed of three wars. It is a place of strategic importance for both countries. It stands as a **crucial crossroad** at the heart of Asia. If it were to be fully under either country's control, it would have serious repercussions on trade and national security. Thus, it has **geopolitical** and **monetary significance**.

India's efforts to integrate J&K into the Union of India failed due to opposition from the leaders of J&K. India then used a security foundation to control J&K which led to frequent Human Rights violations. The law which used to govern the state was Article 370. It was repealed by the government led by PM Narendra Modi on August 15, 2019, along with Article 35A. The state was then divided into two Union territories- Ladakh and Jammu & Kashmir.

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Article 370 guaranteed the people of J&K the **autonomy** to have their constitution, flag, and a two-house legislature with the authority to enact laws. Article 35A on the other hand granted **special rights and privileges to the residents** of J&K. It also enforced limitations on individuals from outside the area, preventing them from acquiring properties or securing employment in government positions within the region. The removal of these has had a huge impact that can be seen in many aspects including **social and economic aspects**.¹ Whether this socioeconomic trajectory goes upward or downward has been further explored in this research article.

RESEARCH OBJECTIVE

1. Analyze the repercussions of the abrogation of Article 370 in terms of social and economic impacts.
2. To compare the socioeconomic scenario before and after the abrogation of Article 370.
3. To analyze whether the impact of the abrogation of Article 370 has been negative or positive using statistical data.

LITERATURE REVIEW

The article "*J&K: Analysing Progress since the Modification of Article 370*"² evaluates the impact of policy changes post the modification of Article 370. While discussing the need for critical assessment and public involvement, the article addresses the evolving geopolitical landscape, challenges related to targeted killings, and the resettlement of the Kashmiri Pandit community. However, a more comprehensive impact assessment and a deeper exploration of public participation and geopolitical implications are needed.

The article titled "*Will the Abrogation of Article 35A Lead to Greater Gender Equality in Jammu & Kashmir?*"³, examines the potential effects of Article 35A's abrogation on gender equality in the region. It analyzes legal and socio-cultural implications, focusing on property ownership, inheritance, and marriage-related provisions. However, further research is needed to empirically assess the real-world impact of the abrogation on women's rights and to examine policy implementation challenges.

¹ BBC News, <https://www.bbc.com/news/world-asia-india-49234708> (last visited August 15, 2023)

² Shivani Singh, J&K: Analysing Progress since the Modification of Article 370, 4 INDIAN J.L. & LEGAL Rsch. 1 (2022).

³ Will the Abrogation of Article 35A Lead to Greater Gender Equality in Jammu & Kashmir? 8 JILS (2017) 85

The article titled “*The Kashmir Conflict - Article 370 (and the Validity of Article 35-A)*”⁴ outlines adverse effects such as the lack of safeguards for minorities, denial of education rights, and discrimination against women. It discusses the abrogation of Article 370, its legal complexities, and judicial interpretations. Research gaps include potential mechanisms to address concerns arising post-repeal.

Chapter 3 of the paper titled “**One for All: Abolition of Article 370 and 35A of the Indian Constitution**”⁵, discusses the drawbacks of Articles 370 and 35A, emphasizing limitations on industrial growth, and gender-biased property rights. The abrogation's benefits encompass gender equality, property rights, education, and opportunities for J&K's populace. Research gaps include a need for deeper exploration of the socio-economic impact, and legal complexities post-repeal of Articles 370 and 35A.

RESEARCH AND CRITICAL ANALYSIS

Background: From August 2019, the Kashmir valley experienced conditions resembling a curfew, and *Section 144 of the Criminal Procedure Code*⁶ was enforced, restricting gatherings of more than four individuals. Several important persons were detained. There was a massive Internet blackout which led to communication being cut off completely which had been justified by citing provisions of the *Indian Telegraph Act, 1855*.⁷

J&K now holds the record for the **longest shutdown ever** with 552 days imposed in any region of India.⁸ It also **tops the no. of blackouts in any region of the country** with a total of 422 blackouts until the year 2022. In 2022 itself, it faced 24 disruptions which is more than any other country in the world.⁹

The Impact: These blackouts have been supposedly imposed to maintain public order but they end up stifling reporting in the region and blindsides the world from viewing the true scenario of the region. The consequences of the shutdown have been devastating for the economy, stifling business within the area and resulting in a significant migration of young individuals

⁴ Ayesh Jain, *The Kashmir Conflict - Article 370 (and the Validity of Article 35-A)*, 2 INT'L J.L. MGMT. & HUMAN. 354 (2019).

⁵ Sudhangee Handoo, *One for All: Abolition of Article 370 and 35A of the Indian Constitution*, 4 INDIAN J.L. & LEGAL RSCH. 1 (2022).

⁶ Code of Criminal Procedure, 1974, § 144, No. 2, Acts of Parliament, 1974 (India)

⁷ The Guardian <https://www.theguardian.com/world/2020/jan/05/the-personal-and-economic-cost-of-kashmir-internet-ban> (last visited August 15, 2023)

⁸ Internet Shutdowns <https://internetshutdowns.in/> (last visited August 15, 2023)

⁹ Surfshark <https://surfshark.com/blog/internet-censorship-2022> (last visited August 15, 2023)

seeking alternative employment opportunities which has had a major impact on mental health. People could not even communicate in case of emergencies.

The socioeconomic impacts of this abrogation have been further explored using several variables below.

IMPACT ON MENTAL HEALTH

A survey conducted in 2016 by Doctors Without Borders (MSF) documented that around 45 percent of the Kashmiri populace (approximately 1.8 million adults) encountered varying degrees of mental discomfort.¹⁰ Women have been disproportionately affected and this contention is well supported by MSF's "Kashmir Mental Health Survey 2015."¹¹ The results of the survey have been tabulated below:

Condition	Females affected (in %)	Males Affected (in %)
Potential depression	50%	37%
Symptoms of anxiety disorder	36%	21%
PTSD	22%	18%

Being the most militarised zone in the world¹², the people of J&K live among troops and violence and conflict. This has led to an **increase in trauma and anxiety**, particularly **among women and children**.

Mental Health has been a social stigma in the region for decades. Lack of awareness stopped people from even addressing it let alone treating it. It was only recently that more awareness spread and people started seeking professional help but this process was hindered by the internet blackout and Covid-19 which hit soon in 2020 and added more pressure and led to a further deterioration in mental health.¹³ Disturbing news which surfaced recently also reports

¹⁰ Medecins Sans Frontiers <https://msfsothasia.org/msf-scientific-survey-45-kashmiri-population-experiencing-mental-distress/> (last visited August 15, 2023)

¹¹ Medecins Sans Frontiers https://www.msfindia.in/sites/default/files/2016-10/kashmir_mental_health_survey_report_2015_for_web.pdf (last visited August 15, 2023)

¹² SBS News <https://www.sbs.com.au/news/article/explained-kashmir-the-most-militarised-zone-in-the-world/z9s3tx5cq> (last visited August 15, 2023)

¹³ Relief Web <https://reliefweb.int/report/india/silent-mental-health-crisis-among-women-kashmir>

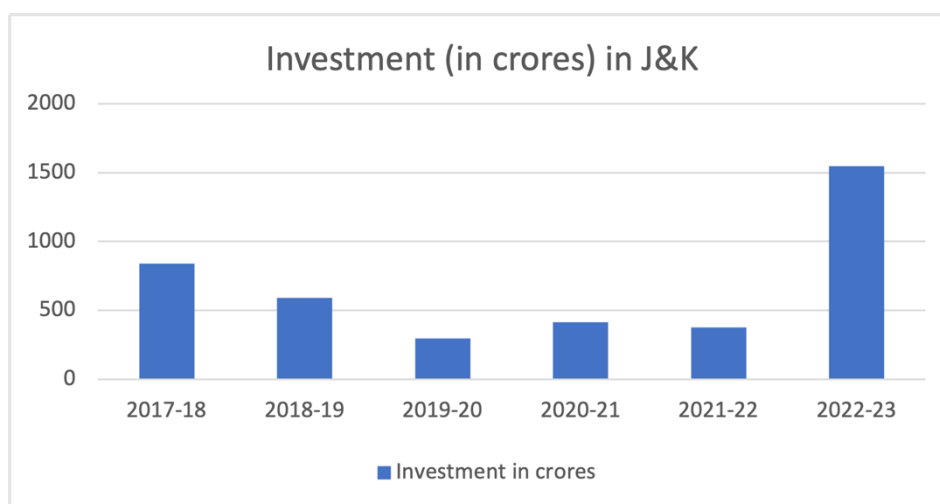
an increase in drug consumption.¹⁴ This is another serious concern which furthermore highlights the need for professional services in the region.

Mental health services are right now primarily concentrated in hospitals situated in Srinagar. The availability of **professional services needs to be increased** in such a region where crisis is a constant. Awareness needs to be spread among people and the blot of stigma needs to be removed.

IMPACT ON INVESTMENT AND TOURISM

The government defended the abrogation of Article 370 by stating that it would open the door for private investments in J&K, leading to increased development opportunities. However, the data on investments has shown a **complicated trajectory** over the years.

Investment data from the Union Territory released by the Ministry of Home Affairs shows a downward trajectory. Investments dropped by a massive 55 percent from 2017-18 to 2021-22.¹⁵ The drop in 2020 and 2021 could have been due to the COVID-19 pandemic. However, that may not be the only explanation as the sharpest fall in investment took place in the two financial years preceding the pandemic.



The year 2019-20 marked the lowest point for investment in J&K, coinciding with the annulment of its special status. The goal of increased investments which the government had promised was not exactly in sight. A New Industrial Policy was announced in 2021, which

¹⁴ <https://www.bbc.com/news/world-asia-india-65744378> (last visited August 15, 2023)

¹⁵ The Quint <https://www.thequint.com/news/politics/jammu-kashmir-investment-decline-article-370-abrogation> (last visited August 16, 2023)

turned out to be a game changer. It brought in Rs. 1547.88 crore in 2022-23 (up to January 2023) which turned out to be the **highest investment ever** in all the financial years.¹⁶ Therefore, it can be said that the elimination of restrictions and the introduction of the new policy have boosted the investments in the economy of J&K.

Tourism as an industry also **boosted overall**. For the first time in history, the region welcomed a record 1.88 crore tourists in 2022.¹⁷ This impressive growth can be attributed to several key factors, including improved infrastructure, enhanced connectivity, and more effective law enforcement. The surge in tourism was further propelled by a post-COVID-19 influx of travellers.

A crucial factor behind this tourism boom was the increased sense of security following the abrogation of Article 370. This significant change played a pivotal role in attracting tourists, as the region became more stable and safer. Therefore, we can say that the future holds promising potential for the continued development and success of tourism in the region.

IMPACT ON UNEMPLOYMENT AND POVERTY

The National Multidimensional Poverty Index (MPI), created by NITI Aayog, serves as a measure of multidimensional poverty in India. According to the latest MPI, which utilizes data from NFHS-5 (2019-21) and NFHS-4 (2015-16), J&K has witnessed a **substantial decline in multidimensional poverty**.¹⁸ The report reveals that poverty levels in Jammu and Kashmir are now below the national average. The proportion of the multidimensionally poor population in the region has dropped from 12.56% to 4.80%, lifting over 1 million people out of poverty.

Nonetheless, numerous economists argue that the reduction of poverty in J&K is **significantly less substantial** compared to that of other states, including even the BIMARU states characterized by significant poverty levels.¹⁹ **Unemployment** is also **prevalent** in J&K which is supported by data from The Centre for Monitoring Indian Economy (CMIE),²⁰ which tracks

¹⁶ Press Information Bureau <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1910073> (last visited August 16, 2023)

¹⁷ Hindustan Times <https://www.hindustantimes.com/cities/chandigarh-news/record-1-88-cr-tourists-visited-jammu-and-kashmir-in-2022-officials-101676403157236.html> (last visited August 16, 2023)

¹⁸ NITI AAYOG <https://niti.gov.in/sites/default/files/2023-07/National-Multidimensional-Poverty-Index-2023-Final-17th-July.pdf> (last visited August 16, 2023)

¹⁹ Outlook India <https://www.outlookindia.com/national/where-does-j-and-k-stand-in-multidimensional-poverty-index-2023-news-308628> (last visited August 16, 2023)

²⁰ NDTV <https://www.ndtv.com/india-news/jammu-and-kashmir-unemployment-rate-is-a-staggering-18-3-the-national-average-is-4242006> (last visited August 16, 2023)

monthly unemployment in India, has reported that the unemployment rate in Jammu and Kashmir for the 15-29 age group stands at 18.3 percent. This rate is about 8 percent in the rest of the country. This is an area of concern for the region as taking people out of poverty is not just sufficient. They need to be provided with means of earning their livelihood.

IMPACT ON EDUCATION

After the removal of Article 370, several new prospects have opened for the education sector in J&K. The government has put forth several schemes and is making improvements in government schools to bring them to par with private schools. Even the NEP 2020 was implemented and an enrolment drive has been launched. As parents grew more aware and took the improved facilities into consideration, more children have been enrolled in schools.

The fear of terrorism has been removed from the minds of people up to a major extent which also allows them to send their children. Data from the Kashmir Observer also says the same.²¹

	GER for higher secondary education	GER for secondary education
2018-19	42.4%	58.1%
2021-22	53.2%	60.5%

The education sector has grown and improved.

IMPACT ON WOMEN'S AND CHILDREN'S RIGHTS

One of the arguments put forth to support the removal of Article 370 is that it was done to safeguard women's rights. However, this assertion is built upon misconceptions. The notion that women forfeited their **permanent residency** upon marrying a non-permanent resident is unequivocally untrue.

Article 35A granted the J&K state legislature, the authority to define permanent residents (PR) and extend special rights and privileges to them. When women PRs married non-permanent residents (NPR), they would lose their PR status, resulting in the denial of their property

²¹ Kashmir Observer <https://kashmirobsvrer.net/2022/12/01/student-enrollment-improved-in-jk-schools-during-last-4-years/#:~:text=As%20per%20the%20data%2C%20in,boys%20and%2024.1%20percent%20girls.> (last visited August 16, 2023)

ownership and inheritance rights. The 2002 ruling by the J&K High Court in the case of *State of Jammu & Kashmir v. Susheela Sawhney*²² had already overturned this discriminatory effect on female PRs. The significant decision established that the daughter of a permanent resident who marries a non-permanent resident would not lose her permanent resident status in the state.

However, this legal interpretation did not extend the same property rights to their offspring nor does it cover cases where the daughter shifts out of the State. Intriguingly, these restrictive provisions did not apply to male Jammu & Kashmir permanent residents and this has had a negative effect.²³

However, with the scrapping of Article 370, **women in J&K can now buy** real estate and **transfer** property to children, even if they get married to a non-resident.²⁴ Overall, women in J&K have **gained increased empowerment and equality**. Acts like the Protection of Women from Domestic Violence Act, 2005 are now enforceable in the Union Territory.

On the other hand, **crimes against women are increasing**. The latest report from the National Crime Records Bureau (NCRB) indicates a 15.62 percent rise in crimes against women in 2021 compared to 2020, with over 7,000 arrests made in Jammu and Kashmir for such offences in 2021.²⁵

Moreover, the **State Commission for the Protection of Women and Child Rights** has been **disbanded**. This has led to women being underrepresented with no institution for the redressal of their issues relating to domestic violence or harassment at workplaces.²⁶

It was in 2021 that a **special cell** for J&K and Ladakh of the NCW was given approval to set up to address burning issues but it will have **very little impact** considering the efforts and time it will take the issues to Delhi and not everyone can file online complaints.²⁷ Thus, women have fewer avenues to solve their problems. The best way to address this would be to set up a

²² State of J&K v. Susheela Sawhney, 2002 SCC OnLine J&K 34

²³ Dailyexcelsior [Discrimination with women in J&K - Jammu Kashmir Latest News | Tourism | Breaking News J&K \(dailyexcelsior.com\)](https://www.dailyexcelsior.com/discrimination-with-women-in-j-k-jammu-kashmir-latest-news-tourism-breaking-news/) (last visited August 16, 2023)

²⁴ The Statesman <https://www.thestatesman.com/bengal/jk-now-women-better-lot-1502913649.html> last visited August 16, 2023)

²⁵ Ibid.

²⁶ Outlook India https://www.outlookindia.com/national/no-place-to-go-rising-crimes-against-women-in-jammu-and-kashmir-weekender_story-282439#:~:text=There%20were%20315%20cases%20of,intention%20to%20outrage%20their%20modesty. (last visited August 16, 2023)

²⁷ India Today <https://www.indiatoday.in/india/story/ncw-creates-separate-cells-for-j-k-ladakh-to-solve-women-issues-in-the-region-1787492-2021-04-05> (last visited August 16, 2023)

special cell in the union territory itself to ensure accessibility to it or establish **a separate body** for fast redressal of cases with various branches in various districts. Awareness about the same should also be spread in rural areas through outreach programs.

IMPACT ON RESERVATION

The *J&K Reservation Act, 2004*²⁸ was in effect before Article 370 was abrogated. This law was established to provide job reservations for SCs, STs, and OBCs in the region.²⁹ After the abrogation, the J&K Reservation Act, 2004 was revised and expanded to apply to both the Union Territory of J&K and the Union Territory of Ladakh, along with specific amendments. These changes are detailed in the *J&K Reorganisation Act of 2019*.³⁰

The implementation of the *J&K Reservation (Amendment) Act of 2019*³¹ stems from the understanding that individuals living along the international border often face educational and socio-economic disadvantages due to ongoing border tensions. In some cases, the situation becomes so dire that residents are forced to leave their homes and relocate to safer areas in order to protect themselves but this ends up hampering their primary livelihood and development.³²

The J&K Reservation (Amendment) Act, 2019 extended a **10% quota** to economically weaker sections in the Union Territory of J&K, with special constitutional provisions. Extending the reservation eligibility will provide opportunities for education and growth to a lot more people.

However, these laws have slowly started tilting in favour of Jammu (since 2018) which can be seen from the proposed bills by the government for reservation in the territory in 2023.³³ The proposition proposed to make some Pahari communities from the Jammu region eligible for reservation. It can be deduced that the government is trying to politicize the policy of reservation for winning votes.³⁴ The policies need to be evened out to benefit the entire

²⁸ J&K Reservation Act, 2004, No. 14, Acts of Jammu and Kashmir Legislature (India)

²⁹ Press Information Bureau <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1592361> (last visited August 15, 2023)

³⁰ J&K Reorganisation Act, 2019, No. 34, Acts of Parliament, 2019 (India)

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³² Dailyexcisor <https://www.dailyexcelsior.com/more-amenities-for-border-villages/> (last visited August 16, 2023)

³³ The Wire <https://thewire.in/government/are-jks-reservation-laws-being-changed-to-further-politically-marginalise-kashmir> (last visited August 16, 2023)

³⁴ Ibid.

population of the Union territory. Apart from these issues, reservation overall has been **beneficial** to the population of the Union Territory.

CONCLUSION

In conclusion, the abrogation of Article 370 in J&K has ushered in a complex array of socio-economic transformations and challenges. While the decision was intended to promote integration and development, its **consequences have been multifaceted and nuanced**, affecting various aspects of the region's social fabric and economic landscape.

Mental health suffered due to prolonged internet shutdowns, necessitating enhanced mental health services and awareness. Reservation policies show progress but also underscore disparities, calling for balanced growth strategies. Investment and tourism improved, yet sustained efforts are needed for lasting benefits.

The advancements in education post-Article 370 reveal a promising trajectory, yet continuous efforts are vital to provide quality education and bridge the learning gap. Policy interventions that strengthen the education infrastructure and enhance accessibility will play a pivotal role in shaping the region's future. Women's and children's rights progressed post-Article 35A, yet challenges remain.

According to the Economic Survey 2022-23 of the Union Territory³⁵, there is a **projected doubling of J&K's Gross State Domestic Product (GSDP)** over the next five years. This growth is anticipated to be driven by a focus on sectors such as industries, agriculture, horticulture, tourism, and the service sector. The survey highlights that the GSDP is expected to show a 15% growth at current prices, aligning with the national average. Notably, the report reveals that J&K's economy has outpaced the national average in recent years.³⁶

Thus, the territory is already on the path towards growth and becomes imperative for policymakers and society to **work in tandem to foster holistic development, uplift vulnerable sections**, and ensure a brighter future for the people of J&K. By **addressing**

³⁵ Economic Survey 2022-23 <https://www.indiabudget.gov.in/economicsurvey/doc/Statistical-Appendix-in-English.pdf> (last visited August 16, 2023)

³⁶ The Hindu <https://www.thehindu.com/news/national/other-states/jks-gsdp-likely-to-double-in-next-five-years-economic-survey/article66686752.ece> (last visited August 16, 2023)

existing gaps and challenges, the Union Territory can **realize its full potential** and contribute positively to the larger socio-economic landscape of India.

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