

Jammu and Kashmir special status to full integrity: constitutional and empirical analysis

Prof. Sachin Tiwari

Director Research and Development, Gyanveer University, Sagar(M.P.)

researchcell@gyanveeruniversity.edu.in

Abstract

Article 370 of the Indian Constitution historically granted special status to Jammu and Kashmir, shaping its legal, political, and socio-economic framework for decades. This paper critically examines the origins, evolution, and implications of Article 370, with particular emphasis on its abrogation in August 2019. Moving beyond doctrinal analysis, the study integrates empirical data up to 2024, including trends in tourism, security, and investment. The findings suggest that while the abrogation has facilitated administrative integration and economic expansion, its broader success depends on political normalization, democratic restoration, and sustained public trust. The paper contributes to contemporary debates on federalism, constitutional change, and national integration in India.

Keywords: Article 370, Jammu & Kashmir, Federalism, Constitutional Law, National Integration, Post-2019 Reforms

1. INTRODUCTION

Article 370 occupied a unique position within the Indian constitutional framework. Designed as a temporary provision, it was intended to address the exceptional circumstances surrounding the accession of Jammu and Kashmir to India in 1947. Over time, however, it evolved into a deeply contested constitutional mechanism—perceived alternately as a bridge of integration and a symbol of separation.

The abrogation of Article 370 on 5 August 2019 marked a decisive constitutional shift. This paper revisits the historical foundations of the provision and evaluates its transformation in light of recent developments. By combining legal analysis with empirical data, the study seeks to provide a balanced and grounded understanding of the region's transition up to 2024.

2. HISTORICAL BACKGROUND AND CONSTITUTIONAL EVOLUTION

The incorporation of Article 370 was closely linked to the Instrument of Accession signed in 1947. Initially, the Union Parliament's legislative authority extended only to defense, foreign affairs, and communications. Over subsequent decades, through Presidential Orders, a large portion of the Indian Constitution was gradually extended to Jammu and Kashmir.

Despite being labeled "temporary," Article 370 remained operative due to political sensitivities and the absence of a clear constitutional mechanism for its removal after the dissolution of the state's Constituent Assembly in 1957. This created a paradox where a transitional provision acquired near-permanent status.

3. LEGAL STRUCTURE AND IMPLICATIONS OF ARTICLE 370 (PRE-2019)

3.1 Asymmetrical Federalism

Article 370 institutionalized a form of asymmetrical federalism, allowing Jammu and Kashmir to retain its own constitution and autonomy over internal matters.

3.2 Restricted Legislative Powers

The Indian Parliament required the concurrence of the state government to legislate on subjects beyond those specified in the Instrument of Accession.

3.3 Special Rights and Article 35A

The provision enabled laws that restricted property ownership and certain rights to permanent residents, distinguishing the state from the rest of India.

3.4 Emergency and Fundamental Rights Framework

Emergency provisions and fundamental rights operated differently, reflecting the state's semi-autonomous status.

4. ABROGATION OF ARTICLE 370 AND CONSTITUTIONAL RECONFIGURATION (2019)

On 5 August 2019, the Government of India issued Presidential Orders that effectively nullified Article 370. This was followed by the Jammu and Kashmir Reorganization Act, 2019, which bifurcated the state into two Union Territories: Jammu & Kashmir and Ladakh.

This move marked the transition from asymmetrical federalism to a more uniform constitutional structure, bringing the region fully under the Indian Constitution.

5. METHODOLOGY

This study adopts a **qualitative and quantitative approach**, combining:

- Constitutional and legal analysis
- Review of secondary literature
- Empirical data (2016–2024) on tourism, security, and investment

The data is used illustratively to identify macro-level trends rather than precise econometric conclusions.

6. EMPIRICAL ANALYSIS OF POST-ABROGATION TRENDS (2016–2024)

Table 1: Key Development Indicators

Year	Tourists (Million)	Terror Incidents	Investment (₹ Crore)
2016	8.5	322	1200
2017	9.2	342	1500
2018	8.7	417	1800
2019	8.0	255	2200
2020	3.0	244	3000
2021	11.0	229	4500
2022	18.0	125	8000
2023	20.5	110	12000
2024	21.0	95	15000

6.1 Tourism Trends

Tourism, often a proxy for stability, shows a notable recovery after 2020. The sharp decline during the pandemic was followed by sustained growth, indicating improved infrastructure and perception of safety.

6.2 Security Indicators

Data reflects a gradual decline in terror-related incidents post-2019. While this suggests enhanced security measures, the persistence of incidents highlights the need for continued vigilance.

6.3 Economic Development

Investment levels have increased significantly, reflecting policy reforms and greater integration with national economic frameworks.

7. DISCUSSION

The post-2019 transformation of Jammu and Kashmir cannot be understood through a single lens. The empirical data suggests progress in security and economic domains, yet these improvements coexist with important political and social considerations.

The abrogation has reduced constitutional asymmetry, but it has also sparked debates on federalism and democratic participation. The challenge lies in balancing national integration with regional aspirations.

8. CONCLUSION

The abrogation of Article 370 represents a watershed moment in India's constitutional history. It has redefined the relationship between the Union and Jammu and Kashmir, replacing a framework of special status with one of uniform governance.

While early indicators point toward economic growth and improved security, the long-term success of this transition depends on democratic restoration, institutional stability, and inclusive development. The process is ongoing, and its ultimate outcomes will unfold over time.

References

1. Government of India. (2019). *Jammu and Kashmir Reorganization Act*.
2. Supreme Court of India. (2023). *Judgment on Article 370*.
3. Ministry of Home Affairs. (2022–2024). *Annual Reports*.
4. Government of India. (2023). *Economic Survey*.

5. Noorani, A.G. (2020). *Article 370: A Constitutional History of Jammu and Kashmir.*
6. Bose, Sumantra. (2021). *Kashmir at the Crossroads.*
7. Choudhry, Sujit. (2022). *Comparative Constitutional Law and Federalism.*