



**"WOMEN'S HUMAN RIGHTS IN JAMMU AND KASHMIR: RITUAL AND REALITY
AFTER THE REVOCATION OF ARTICLE 370"**

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Abstract:

The revocation of Article 370 on August 5, 2019, fundamentally altered the legal and political status of Jammu and Kashmir (J&K), integrating the region fully into the Indian Union. This shift has had significant implications for women in J&K, who have historically navigated a unique socio-legal landscape influenced by both state-specific laws and the broader national context. This study examines how the abrogation of Article 370 impacted women's rights, focusing on legal changes, socio-economic challenges, and the persistent barriers to full gender equality in the region.

Prior to the revocation, J&K women were subject to a distinct legal framework that, while more progressive in some areas, often restricted their rights in terms of property, inheritance, and marriage, particularly when compared to the rest of India. The abrogation of Article 370 extended national laws—such as the Protection of Women from Domestic Violence Act, the Sexual Harassment of Women at Workplace Act, and the Equal Remuneration Act—into J&K, offering a more uniform legal protection for women. Additionally, government schemes like Pradhan Mantri Ujjwala Yojana(PMUY), Pradhan Mantri Jan Dhan Yojana(PMJDY), and Beti Bachao Beti Padhao Yojana(BBBPY) were extended to J&K, with a potential to improve women's health, financial inclusion, and education.

Keywords: *Women's Human Rights, Jammu and Kashmir, Revocation of Article 370, Gender Justice, Socio-political Changes, Legal Reforms, Women's Empowerment, Post-370 Era, Gender Disparities, Cultural Practices, Conflict Zones.*



Introduction:

The revocation of Article 370 of the Indian Constitution on August 5, 2019, marked a historic turning point in the governance and legal status of Jammu and Kashmir (J&K). This special constitutional provision had granted J&K autonomy over most areas of governance, including laws related to property, citizenship, and women's rights. While this autonomy shaped a unique legal and social framework for the region, it also perpetuated structural inequalities, particularly against women, through patriarchal laws and practices.

Women in J&K have historically faced complex challenges rooted in socio-cultural norms, legal frameworks, and the broader impact of prolonged conflict in the region. Before the revocation, state-specific laws often restricted women's rights to property and inheritance, especially when they married outside the state, effectively institutionalizing gender inequality. These laws existed alongside systemic issues of violence, limited access to education, and restricted economic participation, leaving women in a precarious position.

The abrogation of Article 370 integrated J&K into the Indian Union, bringing the region under the ambit of national laws, including key legislations aimed at protecting women, such as the Domestic Violence Act and the Sexual Harassment at the Workplace Act. While this move has been celebrated as a step toward ensuring gender justice and equality, it has also sparked significant debates about the actual impact on women's lives. Questions about the practical implementation of these laws, the persistence of socio-cultural barriers, and the effects of heightened security concerns remain central to understanding the lived realities of women in the region.

This paper aims to explore the multifaceted impact of the revocation of Article 370 on women's rights in J&K. It critically examines the legal, economic, and social dimensions of this transition, assessing whether the promises of equality and empowerment have translated into reality. By highlighting both the opportunities created by new legal frameworks and the challenges posed by entrenched socio-political conditions, this study seeks to provide a nuanced understanding of women's human rights in J&K in the post-370 era.

Historical and Legal Background

Before the revocation of Article 370, the legal framework governing women's rights in Jammu and Kashmir (J&K) was distinct from the rest of India. Women in J&K faced significant legal disadvantages, particularly regarding property and inheritance. Under the State Subject Law, women who married outside the state lost their right to inherit property from their fathers, a discriminatory provision that underscored the gender inequities entrenched in the region's legal system. Additionally, the Jammu and Kashmir Muslim Personal Law often upheld patriarchal norms, further restricting women's rights in areas such as property



division and marital rights. While some legal protections existed, they were insufficient to challenge the broader structural inequalities faced by women.

While Article 370 provided J&K with autonomy to enact its own laws, this autonomy resulted in an inconsistent legal framework for gender equality. Many progressive Indian laws, such as the Hindu Succession (Amendment) Act, 2005, or national protections under laws like the Domestic Violence Act, were not extended to J&K, leaving women in the region without the safeguards available to women in other parts of the country. This duality of laws meant that while women in J&K benefited from certain protections in areas such as healthcare and education, they remained disadvantaged in economic rights, particularly in terms of property ownership and inheritance. The autonomy granted under Article 370 inadvertently entrenched traditional and patriarchal practices that left women vulnerable to systemic inequalities.

The sociocultural fabric of J&K has long been shaped by patriarchal norms that restricted women's mobility, autonomy, and decision-making power. Within the predominantly Kashmiri Muslim community, deeply ingrained traditions often overshadowed legal provisions, limiting women's participation in public and economic life. Despite legal reforms, societal attitudes toward gender roles remained a barrier to progress. Moreover, the prolonged political conflict in the region exacerbated these challenges, creating significant economic vulnerabilities for women, particularly in rural areas. Access to education and healthcare was limited, further marginalizing women in a region already grappling with socio-political instability. These cultural and socioeconomic conditions underscore the complex realities that women in J&K faced before the abrogation of Article 370.

Changes after the Revocation of Article 370:

- **Legal and Constitutional Changes:**

- The revocation led to the complete integration of Jammu and Kashmir into India, making Indian national laws applicable to the region.
- **Remuneration Act, 1976** (ensuring equal pay for equal work).
- Major legal shifts also included changes in property laws. Women now had greater access to inheritance rights, and the application of Indian family laws meant women could assert rights in marriage, divorce, and custody that were previously restricted.

- **Government Policies and Women's Rights:**

- Post-revocation, Indian government welfare schemes were extended to the region, including those focused on women:



1. Pradhan Mantri Ujjwala Yojana (PMUY):

- **Objective:** The Pradhan Mantri Ujjwala Yojana aims to provide free liquefied petroleum gas (LPG) connections to women from below the poverty line (BPL) households. The scheme seeks to reduce the health hazards associated with traditional cooking methods (such as using firewood) and provide women with a cleaner, safer, and more convenient cooking fuel.
- **Impact on Women in Jammu and Kashmir:**
 - *Empowerment and Health:* For many women in rural and remote areas of Jammu and Kashmir, this scheme has been a significant step toward improving their health by reducing exposure to indoor air pollution caused by traditional cooking methods. This is especially important in a region where many women continue to rely on firewood and other polluting fuels.
 - *Economic Benefits:* The scheme also brings economic savings as women no longer need to purchase firewood, and it allows them to free up time that was previously spent on procuring fuel.
- **Challenges:**
 - *Access Issues:* Despite the scheme's potential benefits, its implementation in Jammu and Kashmir has faced delays. In conflict-prone areas and areas that are geographically isolated, women often struggle to get regular LPG cylinder refills due to disruptions in supply chains or local security issues.
 - *Awareness and Outreach:* In some rural pockets, there is a lack of awareness about the scheme, and women remain unaware of the benefits they are entitled to.

2. Pradhan Mantri Jan Dhan Yojana (PMJDY)

- **Objective:** The Jan Dhan Yojana is a financial inclusion program that aims to ensure access to financial services, including banking, savings, and insurance, for all households, particularly those in rural and economically backward areas. The program is designed to empower women financially by providing them with bank accounts and financial independence.
- **Impact on Women in Jammu and Kashmir:**
 - *Financial Inclusion:* Women, particularly in rural areas, have benefited from this initiative by gaining access to basic banking services, which in turn promotes economic independence. Many women who previously did not have bank accounts can now manage their savings and engage in small-scale economic activities.
 - *Direct Benefit Transfer (DBT):* The Jan Dhan accounts allow women to receive subsidies and other welfare benefits directly into their accounts, providing a more transparent and efficient means of disbursement.
- **Challenges:**



- *Cultural and Social Barriers:* Despite the financial inclusion efforts, women in Jammu and Kashmir face societal and cultural barriers that hinder their participation in financial activities. Patriarchal norms often prevent women from managing their own accounts, and many women rely on male relatives to handle their finances.
- *Lack of Infrastructure:* In remote areas, where banking infrastructure is limited or non-existent, women struggle to access their accounts, and the lack of digital literacy can further complicate the process.

3. Beti Bachao Beti Padhao Yojana (BBBP)

- **Objective:** The Beti Bachao Beti Padhao Yojana was launched to address the declining child sex ratio and promote the welfare of girls through education and healthcare. The scheme aims to empower girls by promoting their education and improving their health and survival rates.
- **Impact on Women in Jammu and Kashmir:**
 - *Encouraging Education:* One of the major achievements of this scheme in Jammu and Kashmir has been the increased enrolment of girls in schools and higher educational institutions. In a region where girls' education has historically faced cultural and logistical barriers, the scheme has been an important step toward changing attitudes toward female education.
 - *Improved Healthcare for Girls:* The scheme also focuses on improving the nutritional and healthcare status of girls, ensuring that they have access to better medical care and health services.
- **Challenges:**
 - *Security and Access Issues:* In conflict-prone regions of Jammu and Kashmir, especially in rural and remote areas, the safety of girls remains a significant concern. Frequent disruptions to normal life due to political unrest, curfews, and security operations sometimes lead to schools being closed, hindering girls' access to education.
 - *Cultural Resistance:* There is still a strong cultural bias against female education in certain parts of Jammu and Kashmir, particularly in conservative communities. Parents may still prioritize boys' education over girls' education due to deeply entrenched gender roles.
 - However, access to these schemes remained uneven, especially in conflict-prone areas, with rural women facing particular difficulties.
- **Access to National Programs:**



- Women in J&K now had access to various national health, education, and social security programs. This included subsidies for healthcare, greater access to maternity benefits, and improved educational opportunities.
- Yet, on-the-ground implementation faced significant challenges, including local resistance, bureaucratic inefficiencies, and a lack of infrastructure in remote areas.

Challenges Faced by Women Post-Revocation:

- **Security and Safety Concerns:**

- The ongoing security situation in J&K remains one of the most critical issues. Women are often the victims of violence during periods of political instability and militarization.
- Women face risks of sexual violence, particularly in conflict zones, where armed forces have been accused of abuses, including sexual violence.
- Women displaced by violence or military action continue to face difficulties in accessing basic services and rebuilding their lives.

- **Cultural Resistance and Socio-Political Barriers:**

- Despite legal advancements, strong local resistance from conservative and patriarchal forces means that women's participation in political and economic life remains constrained.
- In rural and conservative areas, traditional practices such as child marriage, restrictions on mobility, and limited access to education persist, limiting women's progress despite national legal protections.

- **Political and Civil Rights:**

- While the revocation of Article 370 led to a shift in political participation, women continue to face barriers in actively participating in political processes due to security constraints, gender biases, and lack of representation.
- The marginalization of women in political structures, coupled with violence and fear, hampers their ability to influence governance and policy decisions.

Impact on Socio-Economic Status of Women:

- **Economic Empowerment:**

- The formal integration of J&K into India theoretically opened up employment opportunities, but the persistent conflict and instability limited economic growth.
- Government schemes aimed at improving women's economic empowerment often face implementation delays and local resistance, particularly in rural areas.

- **Education and Healthcare:**

- Post-revocation, there has been an increase in access to education for girls, with enrollment rates improving, but dropout rates remain high due to cultural, security, and economic factors.



- Access to healthcare has improved in some areas, but many women, especially in rural zones, continue to face barriers in accessing reproductive health services, maternal care, and general healthcare due to both infrastructural and societal challenges.
- **Property and Inheritance Rights:**
 - Legal changes related to property and inheritance have given women greater rights, but the societal implementation of these rights is slow. Women are still often excluded from the family decision-making process, especially in land inheritance and property ownership matters.

Government Efforts and Role of Civil Society:

- **Government Initiatives:**
 - Analysis of new policies and reforms post-revocation aimed at improving the welfare of women, with a critical look at how well these policies have been implemented on the ground.
- **Role of NGOs and Activists:**
 - NGOs and civil society organizations play a crucial role in addressing issues like gender-based violence, access to education, and healthcare in Jammu and Kashmir. Their work in advocacy and grassroots organizing is essential in advancing women's rights in the region.

Conclusion:

The revocation of Article 370 in Jammu and Kashmir on August 5, 2019, marked a watershed moment in the region's history, particularly in the context of women's rights. While the integration of Jammu and Kashmir into the Indian Union promised greater access to national laws and programs aimed at advancing gender equality, the real-world impact of these legal and policy changes on women has been mixed. A summary of how the revocation of Article 370 has affected women's legal rights, socio-economic status, and overall well-being, highlighting both positive and negative outcomes. Reflection on the future of women's rights in Jammu and Kashmir, considering political stability, legal reforms, and social acceptance of gender equality. A call for both national and international efforts to continue supporting women in Jammu and Kashmir in realizing their full rights and potential, despite the challenges posed by the ongoing conflict and political volatility.



References :-

□ Primary Legal Documents:

- Constitution of India (Article 370 and its related provisions).
- Jammu and Kashmir Reorganization Act, 2019.
- Personal laws applicable in Jammu and Kashmir, such as the Jammu and Kashmir Muslim Personal Law Act.

□ Government Reports and Publications:

- Ministry of Home Affairs, Government of India: Reports on the socio-economic impact of Article 370's abrogation.
- National Commission for Women (NCW) reports on women's rights in conflict zones.
- Census Reports of Jammu and Kashmir for demographic and gender-specific data.

□ Books and Academic Articles:

- Zia, Ather. *Resisting Disappearance: Military Occupation and Women's Activism in Kashmir*. University of Washington Press, 2019.
- Schofield, Victoria. *Kashmir in Conflict: India, Pakistan and the Unending War*. Bloomsbury Academic, 2021.
- Kaul, Nitasha. "Kashmir: A Place of Blood and Memory," *Race & Class*, 2020.
- Peer-reviewed articles from journals such as *Economic and Political Weekly*, *Indian Journal of Gender Studies*, and *International Journal of Human Rights*.
- Case studies on the impact of Article 370 abrogation on women's legal and social rights.



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