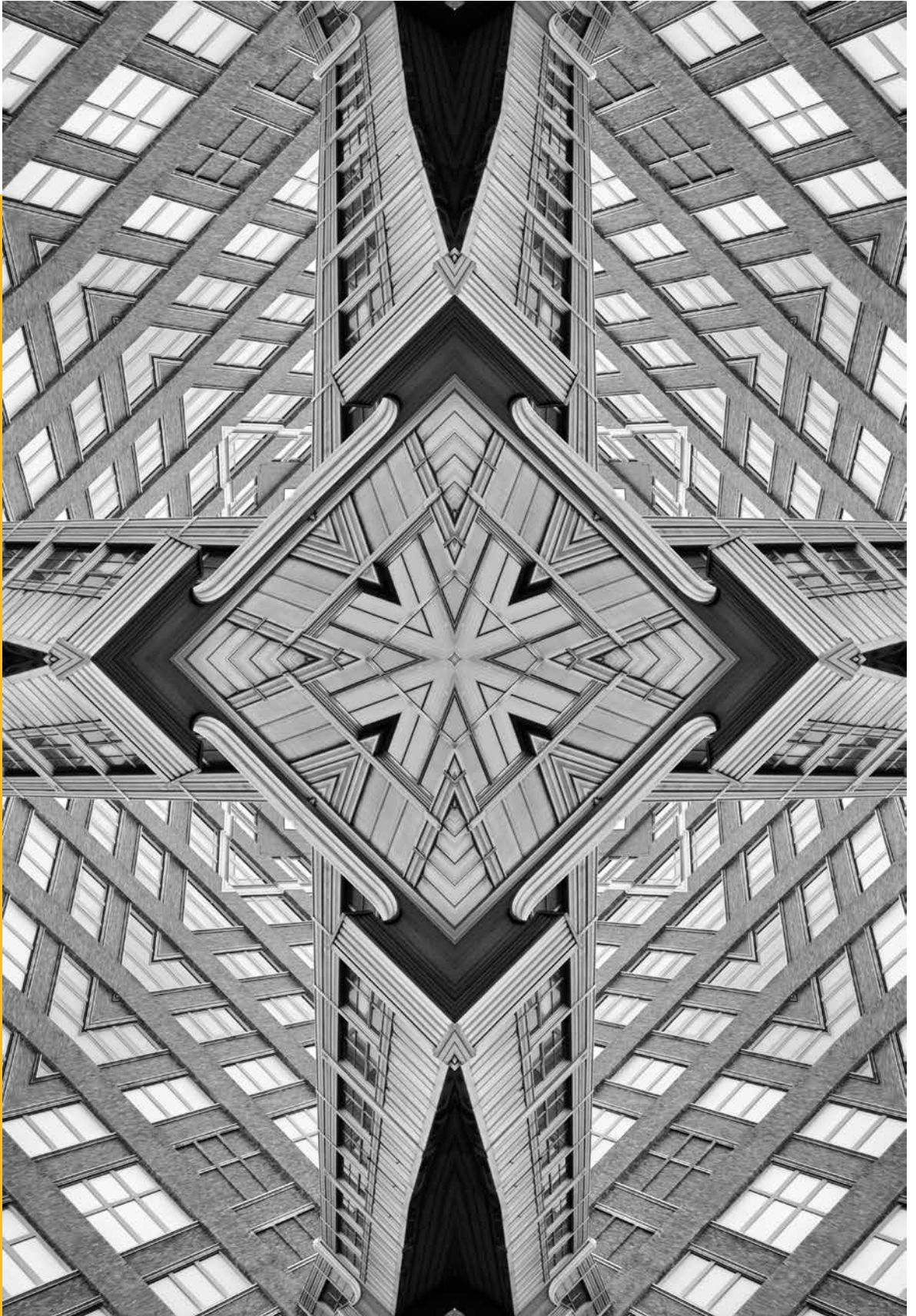


# Occasional Paper



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# The Article 370 Amendments on Jammu and Kashmir: Explaining the Global Silence

**Jahnavi Sodhi**

## **Abstract**

The amendment of Article 370 in August 2019, which effectively nullified the special status of Jammu and Kashmir, was a watershed moment in the history of the region that went largely uncontested by the international community. Besides China and Pakistan, most countries were unwilling to openly criticise India's actions in Kashmir. The limited international response to India's actions largely focused on the humanitarian situation in the Valley, rather than the constitutional changes themselves. This paper outlines the plausible reasons behind the muted international response on Kashmir.

**O**n 5 August 2019, the government of India revoked the special constitutional status of the erstwhile state of Jammu and Kashmir under Article 370 of the Constitution, and abrogated Article 35A which had allowed it to define who its ‘permanent residents’ are and what rights and privileges are attached to such residency. The former state was bifurcated into the Union Territories of Ladakh (without a legislature) and Jammu-Kashmir (with a legislature). Concurrently, the Indian government imposed a near-total telecommunications lockdown in the region, detained political leaders and dissidents, and enforced Section 144 of the Indian Penal Code to prevent violent unrest. The conditions on the ground remained the same for over a year, with many political leaders remaining in detention, District Development Council (DDC) elections taking place as mere tokens of normalcy, and 4G internet services being restored only as late as February 2021. Despite the government’s actions, India received minimal adverse reaction from the international community.

There are three main points of contention surrounding the constitutional amendments. First, should the government have revoked J&K’s special status? Second, was the manner of the changes legally and constitutionally justifiable? Third (and of the most significance to the international community), were the preventative steps taken by the Indian government for the sake of national security justifiable in a democratic country from a humanitarian and political perspective? For the government, following its decision, criticism from the international community would have carried serious implications: it would have legitimised Pakistan’s narrative that J&K was a disputed region, “under occupation” by India, and that third-party mediation was required; and it would have affected the Modi government domestically, becoming fodder for opposition parties. International censure might have forced the government into course correction to shield itself from long-term political consequences.

# Introduction

However, the months following the de-operationalisation of Article 370 witnessed only a muted response, particularly from the governments of the United States, United Kingdom, France, Germany, and Russia.<sup>a</sup> The few exceptions were Pakistan, China, Malaysia, Turkey, and Iran, which expressed concern about the developments in 2019. The criticisms of India's actions in Kashmir have been tame, and remarkably so, when compared for instance to the international response to China's actions in Hong Kong.<sup>b</sup> This paper seeks to understand the reasons for this relative silence. It is based on interviews with foreign diplomats who were based in India in August 2019, as well as an analysis of secondary, published sources.<sup>c</sup>

The first section maps the responses to the constitutional amendments, grouping them into three categories: the implied backing of most Western nations (especially the US and its allies); the criticism of a few countries led by Pakistan and China; and the reticence of much of the Muslim world. This section also contrasts the international response on Kashmir with the overwhelming condemnation of China's national security law in Hong Kong. The second section explores the possible reasons behind the muted response towards India's actions in J&K, broadly laid out in terms of economic, diplomatic, conceptual, and contextual considerations. Based on interviews with foreign officials, the section concludes that India's importance as an economic, strategic, and democratic partner was one of the primary driving factors behind this silence, along with a growing international acceptance that J&K is a domestic issue for India.

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- a However, opposition parties and legislators in these countries did raise more vociferous concerns.
  - b The introduction of a new national security law in Hong Kong was met by a significant international outcry; this will be discussed in further detail in later sections of this paper.
  - c Due to the sensitive nature of the subject, the names of the diplomats, and in some instances the countries they represent, have been withheld.

## The Western World: Tacit Support

In the contemporary geopolitical setting—where India seeks to play a role as a reliable counterweight to a belligerent China—support from the West, especially the US, is crucial for India. Thus, any criticism from the West, in the context of the government’s actions in Kashmir since 5 August 2019, could have influenced India to amend its approach. However, the West’s response was largely muted, with most countries choosing to focus on the humanitarian situation in Kashmir, rather than the change in its constitutional status, since their interest in the legality of India’s amendment of Article 370 was tangential.

US State Department spokesperson Morgan Ortagus called for India and Pakistan to maintain peace and restraint, noting that the US was monitoring the issue closely; however, there would be no change in US policy on Kashmir.<sup>1</sup> Then President Donald Trump, too, noted his willingness to mediate between India and Pakistan.<sup>2</sup> In October 2019, during a hearing held by the US House Foreign Affairs Subcommittee on Asia, the Pacific and Non-proliferation, Acting Assistant Secretary for South and Central Asia Alice Wells declared that the Department supported the Indian government’s official rationale—that of eradicating corruption and promoting development in Kashmir. At the same time, she expressed concerns about the situation in the Valley,<sup>3</sup> defending the right of Kashmiris to protest peacefully and asking the government to lift restrictions and restore normalcy.<sup>4</sup> Wells agreed with Assistant Secretary for Democracy, Human Rights, and Labor, Robert Destro’s assessment of the situation in Kashmir as a “humanitarian crisis,”<sup>5</sup> but maintained<sup>d</sup> that the Indian Parliament had approved the prime minister’s actions in Kashmir and the “institutions of India’s democracy” were reviewing the situation.<sup>6</sup>

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<sup>d</sup> In response to a question by Rep. Ilhan Omar on the US Government’s commitment to the right of self-determination of the Kashmiri people.



# Mapping the Responses

Much of the limited criticism in the US came largely from the opposition.<sup>e</sup> The response was stronger amongst prominent members of the Democratic Party.<sup>f</sup> Bernie Sanders and Elizabeth Warren strongly condemned the communications blockade and suppression of human rights in the Valley;<sup>7</sup> 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 Kashmir” and criticised the restrictions imposed in the Valley as the “weakening” of democracy; and Rep. Pramila Jayapal<sup>g</sup> was critical of the constitutional changes per se.<sup>8</sup> Moreover, In November and December of 2019, two resolutions were introduced in the US Congress on Kashmir: H.Res. 724 focused on the human rights violations in the region and raised the issue of self-determination; and H.Res. 745 condemned the suppression of dissent and the use of measures like communications blockades and mass detentions while recognising the security challenge Kashmir posed for India.<sup>9</sup> A year after the amendments, the US Congress’s Foreign Affairs Committee sent a letter to EAM S. Jaishankar, highlighting that the situation in Kashmir had not been normalised, contrary to the government’s claims.<sup>10</sup>

The UK’s response was broadly akin to that of the US’s. In a telephonic conversation with Prime Minister Narendra Modi, British Prime Minister Boris Johnson reiterated that the UK viewed Kashmir as a bilateral issue between India and Pakistan and called for a resolution through dialogue.<sup>11</sup> British Foreign Secretary Dominic Raab urged for “a reduction in tensions” and “respect for internationally recognized human rights.”<sup>12</sup> As the amendment of Article 370 became a recurring issue in the British electoral platforms of 2019, the MPs were divided. While some British Muslim MPs from the Opposition called for Johnson to “strongly condemn” India’s actions and to “put principle before Britain’s trade relationship” in a letter drafted by MP Yasmin Qureshi,<sup>13</sup> Conservative Party member Bob Blackman insisted that constitutional changes were India’s internal matter.<sup>14</sup> In September 2019, the Labour Party passed a resolution favouring international intervention and a UN-led referendum in Kashmir,<sup>15</sup> but by May 2020, the Party had changed its stance, with Labour leader Keir Starmer calling Kashmir a “bilateral issue for India and Pakistan to resolve peacefully.”<sup>16</sup>

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e At the time, the Opposition primarily comprised the Democratic Party.

f Indeed, a US Congressional Commission meeting held in November 2019, on the human rights situation in Kashmir, was boycotted by the ruling Republicans, who called it biased.

g In December 2019, India’s External Affairs Minister S. Jaishankar cancelled a meeting held by the US Congress Foreign Affairs Committee due to the attendance of Pramila Jayapal.

# Mapping the Responses

Other global powers were equally hesitant in taking a strong stance against India's actions. French President Emmanuel Macron stated that France would monitor the human rights situation on the ground but insisted that the matter be resolved bilaterally between India and Pakistan while avoiding an escalation of hostilities.<sup>17</sup> Similarly, the German ambassador to India Walter J. Lindner called Kashmir a "bilateral issue" and India's "internal matter," while stressing the need to ensure that human rights were upheld in the region.<sup>18</sup> Deviating from the predominant tone, Chancellor Angela Merkel called the situation in Kashmir unsustainable, and one that needed to change;<sup>19</sup> according to a German diplomat, her statement sparked quite a frenzy in India.<sup>h</sup> In Canada, opposition leader Jagmeet Singh condemned the communication blockade as a human rights violation, but Prime Minister Justin Trudeau refrained from making any public statement.<sup>20</sup> The Australian High Commissioner to New Delhi at the time commented that Australia respects India's position on Kashmir being an internal matter and called for a bilateral resolution.<sup>21</sup> Although not a Western ally, another source of some support, at least publicly, was Russia, which urged restraint between India and Pakistan, while acknowledging the issue as bilateral and India's actions as within the constitutional framework.<sup>22</sup>

Most regional organisations did not explicitly censure India. In her meeting with Indian EAM S. Jaishankar, European Union (EU) Foreign Minister Federica Mogherini called for dialogue between India and Pakistan, and stressed the importance of removing restrictions on, and restoring the freedoms of, the Kashmiri people.<sup>23</sup> Following this, a delegation of 27 MEPs visited Kashmir on the Indian government's invitation and declared its support for the Modi government's actions in the Valley.<sup>24</sup> While the EU maintained that the visit was not done in an official capacity,<sup>25</sup> the move was seen as highly controversial because of the political stance of the MEPs, most of whom were from right-wing political parties, especially in light of the Indian government's detainment of local politicians and the ban on opposition leaders and foreign journalists from visiting Kashmir.<sup>26</sup> Despite the criticism it faced, the Indian government hosted another set of 15 foreign envoys on a fact-finding mission to Kashmir in January 2020, including the US ambassador to India, Kenneth I. Juster.<sup>27</sup> During the same month, six resolutions were introduced in the EU that were critical of the Modi

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<sup>h</sup> This was because it was very different from the prevailing international response.

government's actions on the Citizenship Amendment Act (CAA) and J&K,<sup>28</sup> but the vote on the resolutions was deferred till March 2020 to allow more time for a closer examination of the issues.<sup>29</sup> In February 2020, the Indian government again invited 25 foreign diplomats, along with EU MEPs, to visit Kashmir.<sup>30</sup> The EU MEPs concluded that India had taken “positive steps to restore normalcy” and that the remaining restrictions would be “lifted swiftly.”<sup>31</sup>

## China and Pakistan: The Anti-India Voices

The limited resistance against India in the Kashmir matter was led by Pakistan and China, whose protests were on the grounds of the legality and the unilateral nature of India's actions. The criticism from the two nations was not unexpected, since they were most affected by the move. Pakistan emerged as the clear leader of the international opposition to the Indian government's policies in Kashmir, with Prime Minister Imran Khan calling India's actions “illegal and unilateral” and a “crime against humanity.”<sup>32</sup> Pakistani Foreign Minister Shah Mahmood Qureshi, in his speech to the UN Human Rights Council in September 2019, warned of an “accidental war” and termed India's actions genocidal.<sup>33</sup>

Within a week of the constitutional changes, Pakistan downgraded its relations with India, expelled the Indian High Commissioner to Pakistan, recalled its envoy from India, suspended bilateral trade, and initiated a review of bilateral agreements.<sup>34</sup> Since then, Pakistan has repeatedly attempted, with China's help, to raise the issue at the United Nations Security Council (UNSC).<sup>35</sup> When the UNSC denied China's call to hold a formal session on Kashmir, Pakistan accepted an informal closed-door consultation.<sup>36</sup> Three such closed-door meetings have been held since August 2019; however, none has been conclusive in Pakistan's and China's favour. In June 2020, Pakistan again raised concerns about the humanitarian situation in J&K through a joint statement at the UNHRC, which it claimed was backed by 60

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i However, about a year later, Qureshi retracted, stating that war was not an affordable option and asking India to “revisit” its actions on Kashmir to resume dialogue with Pakistan. Asad Hashim, “Pakistan Ready for India Talks If Kashmir Actions ‘Revisited’: FM,” *Al Jazeera*, April 26, 2021, <https://www.aljazeera.com/news/2021/4/26/pakistan-ready-for-india-talks-if-kashmir-actions-revisited-fm>.



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nations.<sup>37</sup> In the statement, it called for an end to the communications shutdown and mass detentions, and requested a UN enquiry into the situation on the ground, along with the implementation of the UNSC resolutions on Kashmir.<sup>38</sup> In a somewhat minor victory for Pakistan, UN High Commissioner for Human Rights Michelle Bachelet, in her global human rights update in September 2020, noted that militancy and security-related violence was continuing to grow in Kashmir and highlighted the lack of internet access, media expression, and political participation.<sup>39</sup> However, her criticism was not exclusive to India and extended to the human rights situation in Pakistan as well.<sup>40</sup>

China's support for Pakistan was driven by its opposition to India's decision to make Ladakh a separate Union Territory, given its border issues with India in the region.<sup>41</sup> In August 2020, China's Foreign Ministry spokesperson Wang Wenbin referred to India's move as "illegal and invalid" but called for the issue to be "properly and peacefully resolved through dialogue and consultation between the parties concerned."<sup>42</sup> However, while seemingly supporting a bilateral resolution of the issue between India and Pakistan, China repeatedly helped Pakistan bring the issue to the UN's attention.

In addition to China, Pakistan received strong support from Malaysia, Turkey and Iran. In his address to the UN General Assembly, Malaysian Prime Minister Mahathir Mohamad said that India had "invaded and occupied" Kashmir.<sup>43</sup> In August 2019, the Turkish Foreign Ministry said that the amendment of Article 370 could "further increase the existing tension" in Kashmir,<sup>44</sup> and a year later, it maintained that India's actions had "further complicated the situation" and had "not contributed to the peace and stability" in Kashmir.<sup>45</sup> Iran's leader Ali Khamenei also called on India to reverse its actions and to adopt a "just policy" to "prevent the oppression & bullying of Muslims" in J&K.<sup>46</sup>

## The Middle East: Reticence

Arguably the most significant response was that from the leaders of the countries in the Middle East. Following the move, the Organisation of Islamic Cooperation (OIC) held a virtual meeting and issued a communique supporting the cause of the Kashmiris and asking India to withdraw its unilateral actions in the region.<sup>47</sup> It also called on India to refrain from making demographic changes in the region and urged the use of a UN-sponsored plebiscite to determine the will of the people.<sup>48</sup> However, the OIC's response was restricted to verbal criticism and did not involve any substantive measures against India.

The responses of certain member states were more revealing. Saudi Arabia skimmed over the issue by urging both parties to maintain peace and stability in the region.<sup>49</sup> In October 2019, during PM Modi's visit to Saudi Arabia, the two nations issued a joint statement rejecting the idea of foreign interference in national domestic concerns.<sup>50</sup> The UAE's ambassador to India, Ahmed Al Banna, noted the decision on Kashmir as India's internal matter and one that would "improve social justice" and "further stability and peace."<sup>51</sup> Shortly after the amendment of Article 370, the UAE awarded PM Modi its highest civilian honour, the Order of Zayed—indicating that the developments in Kashmir had not affected its regard for the prime minister or his government.<sup>52</sup> The Syrian envoy to India, Riad Abbas, said that India's actions in Kashmir conformed with its rights to protect its people, and that the issue had to be resolved bilaterally.<sup>53</sup> Other Gulf nations such as Kuwait, Qatar, Bahrain, and Oman, refrained from issuing direct statements, although Bahrain took legal action against Pakistani and Bangladeshi nationals protesting the constitutional changes.<sup>54</sup> Amongst India's neighbours, Afghanistan denied any ties with the Kashmir issue, rejecting Pakistan's assertions.<sup>55</sup> Thus, despite the Islamic ties with Kashmir, the Middle East remained largely silent about, and at times accepting of the Indian government's actions in Kashmir.

## **A Study in Contrast: Response to China's Actions in Hong Kong**

The international community's response to India's actions in Kashmir stands in stark contrast to its disapproval of the changes that China implemented in Hong Kong. On 30 June 2020, China unilaterally enforced a national security law for Hong Kong, in response to the growing opposition in the territory against China's communist government. The "Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region" criminalises secession, subversion, terrorism, and collusion with foreign forces with maximum penalties of life imprisonment, and increases government control over schools, media, internet, and non-governmental organisations.<sup>56</sup> The legislation impedes the juridical independence of Hong Kong through the establishment of a national security committee by Beijing and the imposition of Chinese law, as well as by limiting Hong Kong's democratic freedoms and making it easier for China to suppress dissent.<sup>57</sup> It also potentially allows for the extradition of accused individuals to China, where it is unlikely for them to receive a fair trial.

Hong Kong's new security law has drawn strong international criticism because it infringes upon the 1997 Basic Law and its "One Country, Two Systems" principle for China and Hong Kong. It was this principle that allowed Hong Kong greater autonomy and democratic rights while being made a semi-autonomous region of China till 2047.<sup>58</sup> Countries such as the UK, the US, Japan, and Australia strongly opposed China's decisions, both through strong verbal condemnations and legislative actions. US Secretary of State Mike Pompeo called the law "draconian" and an impediment to Hong Kong's freedoms, while House Speaker Nancy Pelosi labelled it an act to "intimidate and suppress Hong Kongers," and urged the use of measures such as sanctions and visa limitations.<sup>59</sup> Furthermore, US lawmakers imposed sanctions on banks doing business with China, enforced visa restrictions on CCP officials, and suspended defence equipment sales to Hong Kong.<sup>60</sup> British PM Johnson called the move



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a breach of the Sino-British Joint Declaration, and the country has promised to extend British citizenship to over three million Hong Kongers.<sup>61</sup> Australia offered a five-year visa extension to Hong Kongers and, along with Canada, suspended its extradition treaty with Hong Kong.<sup>62</sup> The EU called on China to “avoid any act which undermines Hong Kong’s autonomy in the legal field, including in terms of human rights,” and highlighted its stake in the maintenance of peace and stability in Hong Kong.<sup>63</sup> It also passed a resolution condemning China’s actions in Hong Kong and urged the adoption of economic sanctions against Chinese officials.<sup>64</sup> At the UNHRC, 27 member nations expressed their concerns over the matter in a joint statement declaring that the new law undermines the autonomy of Hong Kong, and urged China to reconsider its actions.<sup>65</sup>

China’s actions in Hong Kong are comparable with the amendment of Article 370 in August 2019, which involved unilateral action by the Modi government without the consent of J&K’s elected representatives. It stripped the region of its relative autonomy and, according to Pakistan, violated the terms of the Shimla Agreement of 1972 between India and Pakistan. While Hong Kong’s case elicited collective international scrutiny of the unilateral infringement of the autonomy of a region and criticism of the perceived violation of a bilateral agreement between China and Hong Kong, India’s Kashmir actions prompted only a muted international response, with most nations labelling the situation as an “internal matter” and a “bilateral issue” to be resolved by India and Pakistan.

“The international community’s muted response to India’s actions in Kashmir is in contrast to its strong disapproval of the changes that China unilaterally implemented in Hong Kong in 2020.”

# Explaining the International Response

**B**arring a handful of expected critics, most governments in power were largely silent about India's contentious actions in the Valley. In an interview with this author, a Western diplomat noted that most powerful nations were concerned more about the humanitarian situation in Kashmir and less about the legality of the move itself. There are several possible explanations for this. First, many of the countries would have considered their relations with India too important to jeopardise by publicly criticising India's actions—based on its value as an economic or commercial partner; its reputation as a democratic polity; or due to geopolitical and strategic reasons such as balancing against China. Second, there may have been a growing consensus that despite Pakistani efforts, the status of J&K was primarily a domestic issue for India and that external involvement was unwarranted or counterproductive. Third, the active Indian diplomatic outreach efforts in defending the government's position managed to keep the international narrative in India's favour. Fourth, the timing of the move dissuaded active involvement from the international community, since it was overshadowed by other matters such as the CAA in India, Indo-China border clashes in Ladakh, and later, the COVID-19 pandemic. While diplomats interviewed for this paper mentioned some combination of these explanations, the overwhelming consensus remains that India's overall value as a strategic partner, combined with the growing acceptance of J&K as India's domestic issue, resulted in the subdued international response.

## **India: Too Important to Lose**

For many nations, economic considerations may have been key in the decision not to take a strong stand against India's actions in Kashmir. From the US's perspective, India is the ninth-largest trading partner, with US goods and services trade with India amounting to approximately \$146.1 billion in 2019.<sup>66</sup> India is also the EU's 10th largest trading partner, contributing to 1.9 percent of the region's total trade in goods in 2019.<sup>67</sup> When India amended Article 370 and repealed Article 35A, France and India were in the middle of a multi-billion-dollar deal for the Rafale fighter jets;<sup>68</sup> and India's bilateral trade with the UAE and Saudi Arabia already amounted to \$55 billion and \$27.5 billion, respectively.<sup>69</sup> Shortly after 5 August 2019, Saudi Aramco, a Saudi oil giant, announced its intentions for a \$15-billion investment

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in the oil sector of India's Reliance Industries.<sup>70</sup> Additionally, Saudi Crown Prince Mohammed Bin Salman declared that by 2021, Saudi investments in India would amount to more than \$100 billion.<sup>71</sup> These figures highlight the growing importance of India's position in the global economy: India's economy buoys its geopolitical clout.

A second reason for the careful response could be related to India's reputation as a democracy. An Australian official interviewed for this paper described the confidence of his government in Indian democracy as a "self-correcting" system in safeguarding Kashmir, if needed. A German official, meanwhile, stated that *realpolitik* allows India to take such actions, as it has in Kashmir, in keeping with the country's Constitution. Thus, India's reputation as a democracy has been effective in forwarding the narrative of Kashmir as a "domestic matter," and one that is within India's constitutional rights to legislate on unilaterally.

The relative silence on Kashmir can also be attributed to the West's interest in curbing China's unchallenged rise as a hegemon. Over the years, India has emerged as a regional counterweight—possibly the only one—to China, with its refusal to join the flagship Belt and Road Initiative (BRI); the creation of a quadrilateral partnership with Japan, Australia, and the US; and its ban of Chinese apps and goods after the border clashes at Ladakh. Since China has come out in clear support of Pakistan and condemned India's actions in J&K, criticising India on Kashmir can be seen as serving Chinese interests in international diplomatic spheres. According to one German official, India's importance for their country lies simply in the fact that "it is not China." Similarly, a Japanese official confirmed that they considered their strategic relationship with India in deciding to refrain from making an official response on the issue; had India not been such an important global player, a more critical international response would have been likely. Thus, the "China threat" as well as India's growing economic, political, and military clout explains the notable lack of critical global response on Kashmir.



# Explaining the International Response

## **The Global ‘Kashmir Fatigue’?**

Over the years, there has been an increase in global complacency on the Kashmir issue, which has often been termed “Kashmir fatigue”—this has resulted in an overwhelming view that the contentions in the Valley are an “internal matter.” Kashmir was brought to the attention of the international community as early as 1948 when then Indian Prime Minister Jawaharlal Nehru first took the issue to the UNSC. More than 70 years later, the region remains disputed between India and Pakistan. In this context, the global community likely views the dispute as a long-drawn conflict with no favourable resolution in the foreseeable future and has thus willingly accepted it as an India-Pakistan issue. Further, individual foreign policies prevent several nations from getting involved; according to a Japanese diplomat, the key motivation behind Japan’s policy on Kashmir has been driven by its overall policy of non-interference in the domestic affairs of other nations. The Indian diaspora, too, has retreated in recent years on matters related to Kashmir; an Australian official attributed the lack of Australian criticism in part to the absence of domestic pressure to respond to the issue.

This complacency is fuelled by a lack of knowledge regarding Kashmir, wherein India’s and Pakistan’s claims on the territory overshadow Kashmir’s demands for autonomy. Additionally, Kashmir has repeatedly been labelled a “bilateral issue” and India’s “internal matter,” despite Pakistan’s attempts to internationalise it, diminishing the global sense of responsibility that would otherwise be attached to it. What has added to the overall fatigue is the international community’s reluctant acceptance of the BJP’s policies in India, since it has been observed that the current government does not respond positively to criticism, as also evident in the case of the CAA-NRC and the farm laws. According to one German official, part of the reason that Kashmir did not draw a stronger response was the likelihood that it would not have made an impact on India’s actions.

# Explaining the International Response

From Pakistan's perspective, its own shortcomings have put it at a comparative disadvantage when it comes to Kashmir. The country has been repeatedly called out for harbouring terrorists, with the Financial Action Task Force (FATF) issuing a notice in 2019 for Pakistan to take action against UN-designated terrorists present in the country or else face penalties.<sup>72</sup> Pakistan's self-cultivated image of being a safe haven for terrorism has helped India make the case for removing Kashmir's special status as a counter-terrorism measure on the international stage. Moreover, Pakistan failed to garner international support in its favour on the argument of India having violated UNSC Resolution 47 on Kashmir, as it stands in violation of the resolution itself.<sup>j</sup> In 2019, UN Secretary-General Antonio Guterres's spokesperson refused to give a clear comment on whether he believed India had violated the UNSC resolution on Kashmir, thus strengthening India's image.<sup>73</sup> Pakistan's lobbying efforts have also proved ineffective in shifting the global narrative on Kashmir in its favour and in convincing the UN to convene a formal session to discuss the matter and condemn India's actions. So far, Pakistan's persistence has only managed to reinforce the international community's disapproval of the humanitarian situation in Kashmir. Thus, Pakistan's failure to change the status quo has strengthened the global belief that there is no end to the Kashmir conflict in the near horizon.

“For many state leaders, economic and geostrategic considerations may have been key in deciding not to take a strong stand on India's move in Kashmir.”

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j The first operative clause of the UNSC resolution instructs Pakistan to withdraw all national forces and tribesmen from J&K, only following which India was supposed to reduce its own forces to a minimum and hold a plebiscite to determine the will of the people of J&K. However, since Pakistani forces continue to be stationed in Kashmir, India is technically not in legal violation of the UNSC resolution. United Nations, Security Council Resolution 47, The India-Pakistan Question, S/RES/47 (21 April 1948), available from <https://digitallibrary.un.org/record/111955/?ln=en>.

# Explaining the International Response

## India's Diplomatic Victory

Interviews with foreign officials make it clear that India's diplomatic efforts have played a role—albeit limited—in shielding it from censure. From the onset, India was prepared to counter any international backlash to its actions in Kashmir. Its MEA immediately briefed P-5 envoys on its actions, stressing the internal nature of the matter.<sup>74</sup> However, it largely steered clear of internationalising the issue, maintaining that it was its internal matter. Additionally, as a Japanese official confirmed, India further ramped up its outreach efforts in response to Pakistan's attempts at involving external parties in the matter. Consequently, India avoided a UN condemnation, despite China and Pakistan's efforts to raise the issue at the UNSC. By preventing formal UNSC sessions on Kashmir, the Indian government managed to turn the tide considerably in its favour, with the support of nations such as the US and France.<sup>75</sup>

While India did risk bringing increased international attention to the issue by inviting a delegation of foreign diplomats and envoys to visit the region, it made sure to carefully select primarily right-wing politicians, with anti-Muslim and anti-immigration biases.<sup>76</sup> Overall, the Indian response on Kashmir at the international level has been synchronised with the BJP's domestic narrative of the Article being a temporary provision that had impeded the development of the region and had made it a safe haven for terrorists sponsored by Pakistan.<sup>77</sup> Since the amendment of the Article, India has focused on portraying itself as the flagbearer of democracy, taking up the mantle of bringing industrial and institutional development to J&K. It has also lobbied extensively to highlight the apparent legality of its actions in Kashmir to counter Pakistan's narrative of the move being illegal according to international law.<sup>78</sup>

## Serendipitous Timing

Arguably, what helped the Modi government in successfully removing Kashmir from the international stage was a blend of the domestic and global events of 2019-20, and the general shift in political trends observed worldwide in recent years. Article 370 was amended only two months after the BJP was re-elected to power with an absolute majority in the Indian Parliament. Since the constitutional changes were part of the manifesto based on which the BJP contested the



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elections, the party's re-election lent credibility to its actions in the eyes of most spectators in India and abroad. Soon after Article 370 was amended, the Indian government passed the controversial CAA, sparking a series of protests and drawing the attention of the international community, which further helped take the Kashmir conflict off the centre-stage and merged it with the more controversial and larger citizenship issue. Beginning in 2020, the world found itself on the brink of a new challenge with the rapid spread of the COVID-19 virus, declared a pandemic by March 2020. Further, May 2020 witnessed Indo-China border skirmishes along the Line of Actual Control in Ladakh's Galwan Valley. These developments weakened the international response to the situation in Kashmir by diverting global attention.

Over the last decade, the world has witnessed a paradigm shift towards nationalistic politics, perpetuated by the rise of right-wing groups to power, influencing policymakers to prioritise matters of domestic concern over global issues. Nowhere was this more apparent than in the case of the US. Following the 2016 US presidential elections, the US adopted an "America First Policy" and scaled back on its involvement in international issues such as climate change, Afghanistan, and public health. A German official stated that a different US government at the time would have most likely elicited a different global response.<sup>k</sup> Another indication of the prioritisation of national interests over global crises was how the 2015 Syrian refugee crisis, which sparked an influx of refugees in European nations, greatly influenced the UK's decision to leave the European Union.<sup>79</sup> Thus, the relative silence on Kashmir reflects the new age of a reversal of globalisation and the concomitant heightening of nationalism.

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k This isolationist trend may begin to change with the election of Democrat Joe Biden.

# Conclusion

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Since India's Independence, Kashmir has remained a restless region, despite the efforts of successive governments to bring an end to the conflict. Early on, many spectators narrowed in on Article 370 of the Indian Constitution as the root of all problems in Kashmir, although the accuracy of that analysis is contested. The BJP's decision to amend Article 370 was a watershed moment in Kashmir's history and was expected to draw a more palpable reaction from the international community. However, what followed was largely a muted response, driven by a variety of factors discussed in this paper.

First, India has emerged as an increasingly indispensable economic, strategic, and geopolitical power in the 21st century, given its reputation as the largest democracy in the world and its role as a counterweight to China's growing influence. Second, in recent years, there has been a decline in international interest in the region, despite Pakistan's efforts at wielding Kashmir as a weapon against India in diplomatic spheres. Third, Indian diplomatic efforts aimed at immediately quelling any backlash to the removal of Kashmir's special status were far-reaching and well-rounded. Finally, the Indian government's actions vis-à-vis J&K came at the "right time," only partly by design, and partly by accident, for the amendment of Article 370 and the repeal of Article 35A were followed by a rapid succession of events that gradually distracted and distanced the international community.

As the diplomats interviewed for this paper have highlighted, the global silence on Article 370 has been driven by a combination of these reasons, with India's global standing and the increasing fatigue around Kashmir being the primary factors. Indeed, the international response to the constitutional changes has brought to light a long-suppressed reality—that whatever Kashmir's future may be, it is likely to be settled unilaterally and domestically by India. 

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