

## Repeal of Article 370: Implications for India, Pakistan, and the United States

### Primer: Jammu & Kashmir Reorganization Bill, 2019

On Monday, August 5, 2019, the President of India, Ram Nath Kovind, issued a presidential order, which revoked Articles 370 and 35A of the Indian constitution. The articles have institutionalized a unique constitutional relationship between Jammu & Kashmir (J&K) and the Central Government since 1954. Article 35A authorized the J&K legislature to determine residency requirements and restrict property rights. Originally written as a temporary measure, Article 370 restricted the Union government's ability to legislate in J&K without the consent of the state's Constituent Assembly and prevented the Indian Parliament from altering the borders of the state. Supporters of the action including Indian Prime Minister Narendra Modi's Bharatiya Janata Party (BJP) argue that Article 370 undermined national unity, was driven by a desire to appease minority sentiments, and hindered economic development in the region. Its revocation has long been a part of the party's platform. Shortly after, the Jammu & Kashmir Reorganization Bill was passed by India's Rajya Sabha (upper house) on August 5, bifurcating J&K into separate union territories. In response, Pakistan's Prime Minister, Imran Khan, downgraded diplomatic relations with India, recalled Pakistan's top diplomat from New Delhi, expelled India's High Commissioner from Pakistan, and suspended bilateral trade. Following a meeting of Pakistan's National Security Committee on August 7, the prime minister's office stated they would raise the issue to the United Nations (UN) and the UN Security Council (UNSC). This came just two weeks after the Pakistani prime minister visited the United States to meet with US President Donald J. Trump and described the relationship with India as "[turbulent](#)," largely due to the issue of Kashmir.

### Domestic Response in India

Reactions within India have largely favored the president's order. The Lok Sabha (lower house) passed a resolution supporting the presidential order in addition to the Jammu and Kashmir Reorganization Bill by solid margins. Indian National Congress (INC) chief whip in the Rajya Sabha, [Bhubaneswar Kalita resigned](#) in protest of his party's opposition to the J&K decisions. While many congressional ministers of parliament (MPs) have been vocal in opposition to the actions, Kalita's resignation suggests that there is a lack of consensus within the party.

Reactions to the bill within J&K are largely unknown. For over two weeks now [the region has been placed under a nearly total communications blackout, raising concerns regarding press freedom and the accuracy of reporting emanating from the Valley](#). Prominent Kashmiri politicians including two former chief ministers, Omar Abdullah and Mehbooba Mufti, have been [placed under house arrest](#). Abdullah issued a statement, claiming "[GOI \[the government of India\] has resorted to deceit and stealth in recent weeks to lay the ground for these disastrous decisions...The announcement was announced after the entire State, particularly the Kashmir Valley, was turned into a garrison](#)." Restricted internet access has also made it nearly impossible to gauge the reactions of Kashmir's seven million citizens. Jamyang Tsering Namgyal, a BJP MP from Ladakh, issued a statement saying, "[people in Ladakh wanted that the region be freed from the dominance \[and\] discrimination of Kashmir](#)," suggesting that prevailing sentiments may differ between Jammu, Kashmir, and Ladakh.

### International Response

*Pakistan:* Following the events of August 5, Pakistan's Foreign Ministry issued a statement saying, "as party to this international dispute, Pakistan will exercise all possible options to counter the illegal steps." Prime Minister Imran Khan stated, "[if India attacks us, we will respond...we will fight until the last drop of blood](#)." He called

on the Malaysian and Turkish prime ministers, as well as the Crown Princes of Saudi Arabia and the UAE, to recognize the act as violations of UNSC resolutions, and warned that it would pose “[serious implications for regional peace and security](#).” Pakistan’s foreign minister, Shah Mehmood Qureshi, addressed an emergency meeting of the Organization of Islamic Cooperation (OIC), as well as meeting with the Chinese leadership in Beijing. Qureshi also spoke with UN High Commissioner for Human Rights Michelle Bachelet and “[highlighted that the recent Indian measures are in breach of international human rights and humanitarian law](#).” In a press conference on Saturday, Qureshi stated, “[the Pakistan government has decided to take this issue to the UN Security Council. We will be needing China’s help there...China has assured full support to Pakistan](#).” In addition to seeking immediate international support and action by the UNSC, the issue is likely to be a focal point for Pakistan at the upcoming UN General Assembly convening.

*China:* On Friday, August 16, China, a permanent member of the UNSC, called a private meeting to discuss Kashmir, the first time the international body has done so in nearly half a century. Following the meeting, Pakistani Ambassador to the UN, Maleeha Lodhi, argued that, “[the fact that this meeting took place, is testimony to the fact that this is an international dispute](#).” Indian ambassador to the UN, Syed Akbaruddin, reaffirmed the view that this is an internal matter for India. The UNSC did not issue any statement on the issue. Chinese interest in the region centers around Ladakh, where India claims parts of Chinese administered Aksai Chin. Under the [1963 Sino-Pakistan Agreement](#)—which is not recognized as legal by India—Pakistan recognized Chinese sovereignty over portions of Northern Kashmir and Ladakh. Chinese Foreign Ministry spokeswoman Hua Chunying called for negotiation on the recent actions, and stated that “[India’s unilateral amendment to its domestic law, continues to damage China’s territorial sovereignty](#).” The Indian Ministry of External Affairs spokesperson responded that the proposed formation of a “Union Territory of Ladakh” is an “internal matter concerning the territory of India,” to which other countries should refrain from comment.

### **Implications for the United States**

The BJP’s political mandate was renewed and expanded during the recent general elections, which likely emboldened the current government to take action regarding J&K. However, the United States may have inadvertently sowed the seeds for the timing of this incident. During Khan’s recent visit to the United States, President Trump claimed that Prime Minister Narendra Modi asked for assistance in mediating tensions in Kashmir. While Khan welcomed the mediation, Indian External Affairs Minister Subrahmanyam Jaishankar responded that “[no such request](#),” had been made, and reiterated that “[it has been India’s consistent position that all outstanding issues with Pakistan are discussed only bilaterally](#).” In light of the revocation of Articles 370 and 35A, BJP MP Subramanian Swamy said there is [now nothing for Trump to mediate in the Kashmir issue, except for him to tell Khan to return the land taken illegally from India](#). Swamy then tweeted that the government now, “must withdraw the Petition filed by [former Indian Prime Minister Jawaharlal] Nehru in the UNSC seeking UN intervention in Kashmir,” and called for the reclamation of Pakistan Occupied Kashmir. One week after India’s decisions, Pakistani Ambassador to the United States Asad Majeed Khan vehemently called on the United States to help lower tensions. He said, “[the time is now for the United States to make good on Trump’s offer of mediation— not for Pakistan’s sake or for India’s sake, but for the sake of the only people who have not been heard since India gagged them a week ago: the people of Kashmir themselves](#).”

As a strategic partner to both India and Pakistan, the United States plays a crucial role in regional security and stability. The Kashmir crisis, however, has largely been a bilateral pain point. As a partner, the United States is expected to support both India and Pakistan in counter-terrorism efforts, but it is their responsibility to sit down and discuss the implications of recent events on regional stability.

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**This briefing is a product of the Atlantic Council’s South Asia Center, and was prepared by Kyra Kocis, an intern with the Center, with input from Nidhi Upadhyaya, Associate Director, and Irfan Nooruddin, Director. August 2019.**