



## Constructing Threats: The Securitization of Kashmir's Right to Self-Determination

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### **Abstract**

*Since gaining independence, India has employed various tactics to suppress the Kashmiri struggle for self-determination and freedom. This study critically examines India's strategies and policies aimed at undermining the indigenous movement, using the lens of securitization theory. It explores how India, through securitizing actors, has constructed the threat perception of terrorism, extremism, and national security concerns as justifications for imposing severe and often inhumane measures in the contested region. The research contends that India has strategically securitized the legitimate demand for Kashmir's right to self-determination, enabling the implementation of draconian laws and the unprecedented militarization of the territory. These actions have led to widespread political repression and human rights violations. The study further argues that India's vision of 'Akhand Bharat', rooted in the ultra-nationalist Hindutva ideology, is intertwined with its pursuit of*

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*strategic autonomy. The securitization of the Kashmir conflict has bolstered India's regional influence, but it has also had serious implications for regional security and peace. This interpretive study, following a post-positivist framework, deconstructs the security narratives by analyzing the discursive construction and securitization of the Kashmir conflict.*

**Keywords:** *Draconian Laws, Occupied Kashmir, Securitization Theory, Right to Self-determination, Human Rights Violations.*

## **Introduction**

The Kashmir conflict, a longstanding territorial dispute between India and Pakistan, has remained a critical flashpoint since 1947. This conflict, centered on the region of Jammu and Kashmir, referred to by Pakistan as Occupied Kashmir (OK), has been fueled by political<sup>1</sup> and ideological<sup>2</sup> differences. Despite numerous attempts at resolution, beginning with the early intervention of the UN with UN-Resolution 47 of ceasefire, the Tashkent agreement 1966, Simla Agreement

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<sup>1</sup> India and Pakistan have conflicting aspirations for regional dominance in South Asia, which leads to political tensions between them. Historical distrust, especially over the Partition's geographical split and the current struggle in Kashmir, is the primary cause of these divisions.

<sup>2</sup> Ideologically India and Pakistan are divided over aspirations of a secular state in the beginning to shaping into a Hindu state under the BJP regime and creating an Islamic identity or homeland for Muslims of the subcontinent respectively. Their government is still shaped by these opposing beliefs, exacerbating their tensions.

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1972, Agra Summit 2001, Confidence Building measures including Lahore Bus Service and notably ceasefire agreement of 2003 to composite dialogues from 2004-2008 and Back Channel diplomacy<sup>3</sup>, the conflict has reached a stalemate, with both nuclear-armed neighbors entrenched in their respective positions. The primary impediment to a resolution lies in the deep-seated ideological divide between India and Pakistan. While India has demonstrated rapid geopolitical and economic growth over the last decade, from 7.4 % GDP in 2014 to 8.2% in 2024<sup>4</sup>, ligning itself with regional, extra-regional, and international powers to assert its foreign policy goals, Pakistan has struggled with domestic challenges, including economic instability and political discord. These dynamics have hindered efforts at compromise and reconciliation, thereby marginalizing the aspirations of the Kashmiri people for self-determination.<sup>5</sup>

Although the United Nations Security Council (UNSC) has passed numerous resolutions addressing the Kashmir dispute, significant progress has been thwarted by vetoes from India's allies, particularly

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<sup>3</sup> Center for Preventive Action. "Conflict between India and Pakistan." *Global Conflict Tracker*. Council on Foreign Relations. April 9, 2024. <https://www.cfr.org/global-conflict-tracker/conflict/conflict-between-india-and-pakistan>.

<sup>4</sup> G. Goel, "India's GDP Growth In Last 10 Years In 5 Phases [Review of India's GDP Growth In Last 10 Years In 5 Phases]," *Good Returns*, August 23, 2024, <https://www.goodreturns.in/classroom/india-s-gdp-growth-in-last-10-years-in-5-phases-1365103.html>.

<sup>5</sup> Hussain, Ijaz. 1998. *Kashmir Dispute*.

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the Soviet Union during the Cold War. Meanwhile, the situation in Kashmir has deteriorated further under the Hindu nationalist Bharatiya Janata Party (BJP) government, led by Prime Minister Narendra Modi.<sup>6</sup> India's recent policies in Occupied Kashmir, including extrajudicial killings, enforced disappearances, mass detentions, and the suppression of dissent, have intensified human rights violations. Utilizing counterterrorism constitutional mechanisms including AFSPA (Armed Forces Special Powers Act 1990, and PSA (Public Safety Act 1978), the BJP-led government has systematically targeted peaceful protesters, journalists, students, and human rights defenders, undermining democratic institutions and the Kashmiri struggle for self-determination.<sup>7</sup>

The rise of the BJP has been accompanied by the ascendance of Hindutva ideology, which seeks to redefine India as a Hindu state.<sup>8</sup> Chandranath Basu first used the term "Hindutva" in 1892 to describe the state of being Hindu. In 1923, Vinayak Damodar Savarkar, highlighting Hinduism as an ethnic, cultural, and political identity apart from religious dogma, characterized it as a political philosophy.

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<sup>6</sup> Ward, Alex. "India's Risky Kashmir Power Grab, Explained." *Vox*, August 8, 2019. <https://www.vox.com/2019/8/5/20754813/india-kashmir-article-370-modi-hindu-muslim>.

<sup>7</sup> Shamshad, Muhammad. "Institutionalized Impunity: A Case of Aggression and Atrocities of BJP Towards the Kashmiris." *ResearchGate*, January 2024. [https://www.researchgate.net/publication/377188537\\_Institutionalized\\_Impunity\\_A\\_Case\\_of\\_Aggression\\_and\\_Atrocities\\_of\\_BJP\\_towards\\_the\\_Kashmiris](https://www.researchgate.net/publication/377188537_Institutionalized_Impunity_A_Case_of_Aggression_and_Atrocities_of_BJP_towards_the_Kashmiris).

<sup>8</sup>Ramachandran, Sudha. "Hindutva Violence in India: Trends and Implications." *Counter Terrorist Trends and Analyses* 12, no. 4 (2020): 15–20. <https://www.jstor.org/stable/26918077>.

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He maintained that, in contrast to non-Hindus whose sacred territories were outside, Hindus considered India to be both a "fatherland" and a "holy land." Later, this idea impacted Hindu nationalist organizations like the BJP and RSS.<sup>9</sup>

This ideological shift has had profound implications, not only for religious minorities in India but also for the socio-political fabric of Occupied Kashmir. The state of emergency imposed in the region, characterized by pervasive militarization, demographic engineering, and cultural assimilation, has eroded basic human rights.<sup>10</sup> Reports of hate crimes against Muslims and other minorities have surged, with Kashmiri Muslims disproportionately bearing the brunt of these policies. Genocide Watch has raised the alarm over the systematic dehumanization and targeting of Kashmiris, identifying the execution of all ten stages of genocide, from classification to denial.<sup>11</sup>

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<sup>9</sup> Middle East Eye. 2024. "What Is Hindutva and Why Does It Matter?" *Middle East Eye*, 2024. <https://www.middleeasteye.net/explainers/what-hindutva-india-rss-bjp-modi>.

<sup>10</sup> Muhammad Ali Baig, "Issue Brief on 'Two Years of Tyranny: Indian Illegally Occupied Jammu and Kashmir after August 5, 2019,'" *Institute of Strategic Studies Islamabad*, December 17, 2021, <https://issi.org.pk/issue-brief-on-two-years-of-tyranny-indian-illegally-occupied-jammu-and-kashmir-after-august-5-2019/>.

<sup>11</sup> Duschinski, Haley, and Shrimoyee Nandini Ghosh. 2017. "Constituting the Occupation: Preventive Detention and Permanent Emergency in Kashmir." *The Journal of Legal Pluralism and Unofficial Law* 49 (3): 314–37. <https://doi.org/10.1080/07329113.2017.1347850>.

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Under the pretext of countering terrorism and safeguarding national sovereignty, the Modi government has securitized the Kashmiri struggle for self-determination.<sup>12</sup> This securitization has legitimized controversial measures, including settler colonialism, land reforms favoring external investments, heavy militarization, and the imposition of religious nationalism. These actions, framed as responses to security threats, are designed to erode Kashmir's distinct cultural identity and integrate the region into India's territorial and ideological framework.<sup>13</sup> The securitization process aligns with India's broader regional aspirations and significantly affects regional stability and Indo-Pak relations.

Despite a growing body of research on securitization theory in the context of Indian policies,<sup>14</sup> there remains a gap in understanding the specific mechanisms and narratives employed by the Modi government to securitize Kashmir's right to self-determination.<sup>15</sup>

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<sup>12</sup> Basu, Deepankar. 2021. "Majoritarian Politics and Hate Crimes Against Religious Minorities: Evidence From India, 2009–2018." *Ideas.Repec.Org*. <https://ideas.repec.org/a/eee/wdevel/v146y2021ics0305750x21001522.html>.

<sup>13</sup> Swk. 2023. "India's 10 Steps to Settler Colonialism in Kashmir I Stand With Kashmir." Stand With Kashmir. August 23, 2023. <https://standwithkashmir.org/indias-10-steps-to-settler-colonialism-in-kashmir/>.

<sup>14</sup> Cheema, Pervaiz Iqbal, and Khurshid Khan. 2017. "Modi's Kashmir Policy: The Probable Consequence for the Security of South Asia." *Strategic Studies* 37 (3): 1–21. <https://doi.org/10.53532/ss.037.03.00206>.

<sup>15</sup> Pakistan, Hammad Sarfraz | Express Tribune. 2021. "KASHMIR IS on the BRINK of GENOCIDE, WARNS AMERICAN SCHOLAR." Genocidewatch. February 5, 2021. <https://www.genocidewatch.com/single-post/kashmir-is-on-the-brink-of-genocide-warns-american-scholar>.

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This study addresses this gap by examining the patterns and procedures through which the Indian government has legitimized its actions in Occupied Kashmir.<sup>16</sup> Drawing on the Copenhagen School of Security's securitization theory, this research argues that India's portrayal of the Kashmiri struggle as a security threat is a political construct designed to justify its policies. Employing an interpretive qualitative methodology, the study explores the relationship between human rights violations and the securitization of Kashmir's right to self-determination, providing a nuanced understanding of the narratives and implications of this securitization process.

This study contributes to the broader discourse on human rights, securitization, and regional stability by critically analyzing the Modi regime's Kashmir policy. It highlights the implications of these policies for the Kashmiri people, Indo-Pak relations, and regional peace, offering insights into the intersection of domestic governance, international diplomacy, and human rights in one of the world's most volatile regions.

## **Research Questions**

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<sup>16</sup> Pakistan, Hammad Sarfraz | Express Tribune. 2021. "KASHMIR IS on the BRINK of GENOCIDE, WARNS AMERICAN SCHOLAR." Genocidewatch. February 5, 2021. <https://www.genocidewatch.com/single-post/kashmir-is-on-the-brink-of-genocide-warns-american-scholar>.

1. What are the key tactics/mechanisms being utilized by India and how securitization theory best explains India's endeavors to control the legitimate and just struggle of Kashmiris?
2. How and to what extent India has been successful in securitizing Kashmir's indigenous movement for its right to self-determination and freedom?

### **Research Argument**

India has securitized Kashmir's legitimate movement for self-determination by framing it as terrorism and a threat to national security. This securitization serves to advance the broader socio-economic and political interests of the Indian state, including its aspiration for regional dominance. To achieve this, New Delhi has systematically employed draconian laws and oppressive measures aimed at containing and controlling the Kashmiri struggle. The securitization of the indigenous movement has led to widespread human rights violations, the marginalization of the Kashmiri population, and their disenfranchisement. This has resulted in the alienation of Kashmiris, fostering a pervasive sense of estrangement within their own homeland.

### **Theoretical Framework**

The Kashmir conflict offers a significant context to apply the Copenhagen School's **securitization theory**, which asserts that issues

are transformed into security concerns through a performative speech act, whereby an actor declares an existential threat to a referent object, justifying extraordinary measures.<sup>17</sup>

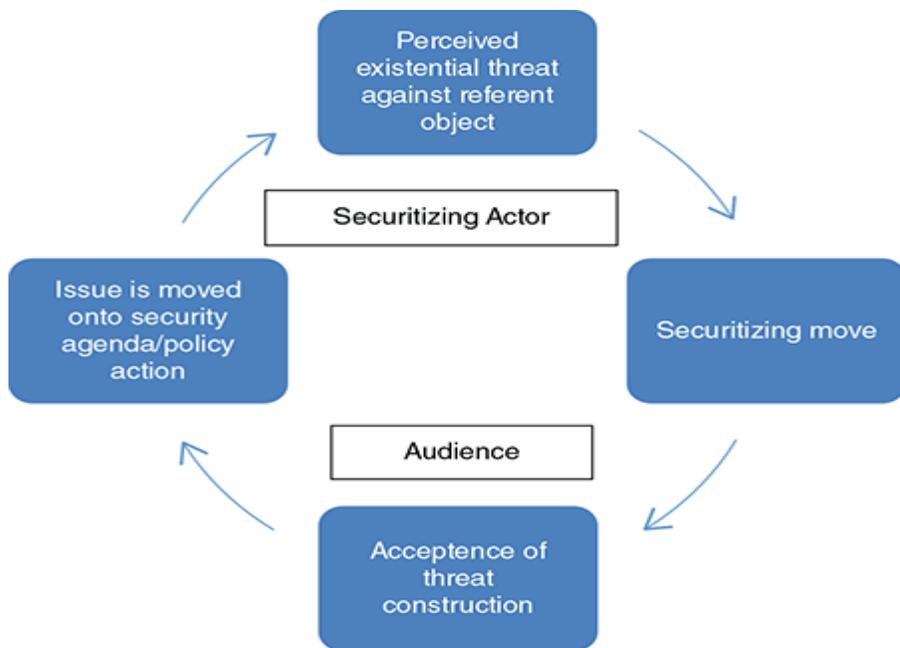


Figure 1.1: Variables of securitization theory<sup>18</sup>

In the case of Kashmir, the Indian state has employed securitization to frame the region’s indigenous movement for self-determination as

<sup>17</sup> Stritzel, Holger. 2012. “Securitization, Power, Intertextuality: Discourse Theory and the Translations of Organized Crime.” *Security Dialogue* 43 (6): 549–67. <https://doi.org/10.1177/0967010612463953>.

<sup>18</sup> Watson, Scott D. 2012. “‘Framing’ the Copenhagen School: Integrating the Literature on Threat Construction.” *Millennium: Journal of International Studies* 40 (2): 279–301. <https://doi.org/10.1177/0305829811425889>.

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a national security threat, equating it with terrorism and insurgency.<sup>19</sup> This framing has been instrumental in enabling the Indian government to adopt emergency politics and implement measures that would otherwise face scrutiny under democratic norms. By constructing the Kashmiri struggle as an existential threat to India's territorial integrity and sovereignty,<sup>20</sup> the Indian government has legitimized extreme actions, including heavy militarization, suspension of civil liberties, and the enactment of oppressive laws like the Armed Forces (Special Powers) Act (AFSPA). The securitization theory's emphasis on the performative power of language explains how India's narrative has redefined political resistance as a threat requiring immediate and extraordinary responses.<sup>21</sup>

The theory's focus on social and political interaction, where security concerns are framed and internalized by audiences, highlights the Indian government's strategic use of rhetoric to gain public and institutional support for its actions in Kashmir. For instance, India has repeatedly invoked the rhetoric of counterterrorism to justify its legislative and military measures in the region, such as the abrogation of Article 370, which revoked Kashmir's special constitutional status.

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<sup>19</sup> Charrett, Catherine. 2009. "A Critical Application of Securitization Theory: Overcoming the Normative Dilemma of Writing Security." *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.1884149>.

<sup>20</sup> Rychnovsk, Dagmar. 2014. "Securitization and the Power of Threat Framing." *Questa Soft*. 2014. <https://www.ceeol.com/search/article-detail?id=106821>.

<sup>21</sup> Eroukhmanoff, Clara. 2020. "Securitisation Theory: An Introduction." *E-International Relations*. May 7, 2020. <https://www.e-ir.info/2018/01/14/securitisation-theory-an-introduction/>.

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These actions, framed as necessary to combat terrorism and promote national security, have effectively marginalized the indigenous population and delegitimized their demands for self-determination. The securitization process, as described by the theory, allows state actors to transcend normal political constraints by presenting these measures as critical for survival, thereby silencing dissent and suppressing political dialogue in Kashmir. This has profound implications for democratic principles and human rights, as securitization enables the state to operate with unchecked authority under the pretext of safeguarding national security.

In Kashmir, securitization theory also reveals how the process of framing threats reshapes societal dynamics.<sup>22</sup> By casting the Kashmiri population as a potential threat, securitization not only justifies military and legislative measures but also normalizes the erosion of individual freedoms and socio-political rights.<sup>23</sup> The theory's insight into the constructed nature of security threats underscores how the Indian state has used rhetoric and exceptional actions to reframe Kashmir's political struggle as an existential danger, thus mobilizing resources and public opinion to support its policies. However, this securitized approach exacerbates the alienation and disenfranchisement of Kashmiris, creating a sense of occupation and

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<sup>22</sup> Wæver, Ole. 2015. "The Theory Act: Responsibility and Exactitude as Seen From Securitization." *International Relations* 29 (1): 121–27. <https://doi.org/10.1177/0047117814526606d>.

<sup>23</sup> Krause, Keith, and Michael C. Williams. 2002. *Critical Security Studies*. Routledge eBooks. <https://doi.org/10.4324/9780203501764>.

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perpetuating cycles of violence and resistance. The application of securitization theory in this context underscores the role of discourse in shaping security policies and highlights the critical need for reevaluating such narratives to address the root causes of conflict and pave the way for a peaceful resolution.<sup>24</sup>

### **India's Securitization of the Kashmir Conflict**

Barry Buzan's securitization theory defines securitization as a discursive process whereby issues are framed as existential threats, necessitating extraordinary measures and justifying actions that deviate from normative political processes. In the context of the Kashmir conflict, India has systematically securitized the region by constructing it as a security threat due to alleged terrorism and separatist activities, which it portrays as a challenge to national sovereignty. This securitization process has enabled the Indian state to implement emergency regulations, deploy a significant military presence, and impose severe restrictions on civil liberties, all under the guise of safeguarding national security.

Securitization theory is particularly apt for analyzing the Kashmir conflict as it explicates how security risks are socially constructed and how extraordinary measures are legitimized. Unlike realist or liberal frameworks, which prioritize power politics and cooperation

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<sup>24</sup> Graff, Richard. 2006. "Securitization Demystified." *The Journal of Real Estate Portfolio Management* 12 (3): 233–48.  
<https://doi.org/10.1080/10835547.2006.12089749>.

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respectively, securitization theory critically interrogates the constructed narratives that underpin security policies. Realist perspectives emphasize the primacy of state sovereignty and power dynamics but often overlook the cultural, historical, and identity-based dimensions of the conflict. Liberal theories, focusing on diplomacy and dialogue, fail to account for how securitization is used as a tool to suppress opposition and consolidate control. By emphasizing subjectivity and interpretation, securitization theory reveals the constructed meanings that frame the Kashmiri struggle for self-determination as an existential threat, enabling the Indian state to justify repressive actions.

India has framed the Kashmiri struggle for self-determination as a fundamental threat to its national security, citing the risk of secession and threats to territorial integrity. This securitization intensified following the rise of armed resistance in the late 1980s, when the Indian state began equating the Kashmiri movement with domestic and international terrorism. By linking the conflict to global narratives of terrorism, India has garnered both domestic and international support for its securitization policies. The deployment of military and paramilitary forces in Kashmir has been framed as a necessary response to this alleged security threat, with laws such as the Armed Forces Special Powers Act (AFSPA) granting security forces sweeping powers, including the authority to use lethal force and make

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arrests without due process. Such measures are justified by framing the Kashmiri conflict as a battle for national survival.<sup>25</sup>

The abrogation of Article 370 in 2019, which stripped Jammu and Kashmir of its special constitutional autonomy, is a prime example of India's securitization strategy.<sup>26</sup> This move was rationalized as a measure to integrate the region fully into the Indian Union, ostensibly to protect national unity and counter separatism. The Indian state further externalized the conflict by emphasizing Pakistan's alleged role in financing terrorism and cross-border insurgency in Kashmir,<sup>27</sup> framing the issue as a regional and global security concern. This externalization underscores the potential for conflict escalation between two nuclear-armed states, reinforcing the justification for extraordinary measures. Domestically, the Hindutva ideology of the ruling Bharatiya Janata Party (BJP) has further entrenched the securitization narrative, framing Kashmiri Muslims as anti-national elements and portraying their aspirations for self-determination as existential threats to India's cultural and national identity.

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<sup>25</sup> Sabzar Ahmad Bhat, "The Kashmir Conflict and Human Rights," *Race & Class* 61, no. 1 (2019): 77–86, <https://doi.org/10.1177/0306396819850988>.

<sup>26</sup> Shumaila Farooq and Saima Gul, "From Pulwama to Indian Revocation of Article 370 in Indian Held Kashmir: Policy Implications on the Geopolitics of South Asia," *Global Legal Studies Review* V (Winter 2020): 8–14, [https://doi.org/10.31703/glsr.2020\(v-i\).02](https://doi.org/10.31703/glsr.2020(v-i).02).

<sup>27</sup> Shergojri, Bilal Ahmad. 2020. "Dynamics of the Indo-Pakistan Conflict: Kashmir or Terrorism?" January 1, 2020. <https://www.pakistan-horizon.piia.org.pk/index.php/pakistan-horizon/article/view/131>.

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Cultural narratives, such as those derived from the Indian epic *Mahabharata*, have also been mobilized in support of securitization. Drawing on themes of righteous war (*dharma yuddha*), Indian authorities have framed their actions in Kashmir as a moral imperative to protect the nation's integrity and values.<sup>28</sup> This invocation of mythology fosters a binary of "us versus them," reinforcing the perception that the Kashmiri struggle is a threat to India's identity and way of life. The Hindutva-driven rhetoric portrays Kashmiri Muslims as separatists or terrorists, thereby legitimizing the militarization of the region and the suppression of dissent.

Specific incidents, such as the 2016 Pathankot attack, exemplify how securitization is operationalized. The Indian state attributed the attack to Pakistani-backed terrorist groups, using the incident to strengthen its narrative of Kashmir as a hub of transnational terrorism.<sup>29</sup> This securitized framing justified India's intensified military presence in the region and bolstered its diplomatic efforts to pressure Pakistan on counter-terrorism grounds. By linking external events to the Kashmiri conflict, the Indian state has strategically reinforced its securitization

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<sup>28</sup> Mishra, Deepanjali. 2019. "Cultural Diplomacy of the Mahabharata: A Case Study of Its Application With Special Reference to Modern India." *Prabandhan: Indian Journal of Management* 12 (7): 49.

<https://doi.org/10.17010/pijom/2019/v12i7/145585>.

<sup>29</sup> Azam, Adeela. "Indian Foreign Policy Towards Pakistan During Modi Era: Assessing the Role of Ideology - Hindu Nationalism." *BTTN Journal* 1, no. 1 (2022): 17–35. <https://doi.org/10.61732/bj.v1i1.9>.

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narrative, further marginalizing Kashmiri demands for self-determination.

Securitization theory provides a comprehensive lens for analyzing how the Kashmir conflict has been constructed and sustained as a security issue. This approach highlights how the Modi government has utilized securitization to pursue domestic political objectives, including consolidating nationalist support, and international aims, such as framing India as a responsible actor combating terrorism. However, this securitization has profound implications for human rights, civil liberties, and prospects for conflict resolution. By framing Kashmiri aspirations as existential threats, the Indian state has normalized repressive measures and escalated violence in the region, perpetuating cycles of alienation and resistance. The securitization of Kashmir underscores the urgent need for critical engagement with such narratives to foster dialogue and address the root causes of the conflict. Without such efforts, the securitization of Kashmir risks entrenching a protracted conflict with devastating consequences for regional and global stability.

## **Methodology**

This study adopts a qualitative research design rooted in the post-positivist paradigm to investigate the nexus between human rights violations and the securitization of Kashmir's right to self-determination. Guided by an interpretive approach, the research seeks

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to unravel the intricate meanings and perceptions underlying India's securitization narrative. By prioritizing hermeneutics and an emic perspective, the study endeavors to understand the context of securitization from the vantage points of both the Indian state and the Kashmiri populace. The post-positivist framework, chosen for its ability to surpass the limitations of positivist approaches, integrates subjective and objective dimensions.<sup>30</sup> This paradigm emphasizes how ideas, norms, ideologies, and discourses shape security and threat perceptions, enabling the deconstruction of India's portrayal of the Kashmiri self-determination movement as a security threat to legitimize extraordinary measures, including repressive laws and military actions.

The interpretive method facilitates a comprehensive analysis of the political, historical, cultural, and social factors informing the securitization of Kashmir. It examines how dominant actors—particularly the Indian government and its armed forces—frame self-determination struggles through rhetoric and language to normalize the use of extraordinary security measures. The study also assesses the implications of these narratives for regional stability, human rights, and the broader conflict dynamics. The research draws on a wide range of academic and non-academic sources, including scholarly papers, books, reports, journals, newspapers, and official

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<sup>30</sup> Anne B. Ryan, "Post-Positivist Approaches to Research," *Academia.edu*, January 2016, [https://www.academia.edu/20535849/Post\\_Positivist\\_Approaches\\_to\\_Research](https://www.academia.edu/20535849/Post_Positivist_Approaches_to_Research).

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publications from states and international organizations. This diverse dataset provides a robust foundation for critically analyzing the securitization process and its repercussions, consistent with the interpretive and exploratory character of the research.

### **Analyzing Specific Draconian Laws: AFSPA, UAPA, AND PSA**

In Occupied Kashmir, examples of human rights violations include torture, extrajudicial killings, rape, cordon and search operations, forced disappearances, and other acts of violence that have been deadly or otherwise harmful. Decades-long abuses of this nature still exist and pose a threat to national security. Human rights violations are now routine for the majority of Kashmiris who were there when the insurgency first began and for those who were young throughout the 1990s and early 2000s and now these inhumane practices are banked upon by using force of law. According to the widely accepted narrative that has developed in recent years, Kashmiri citizens have been detained as both physical and symbolic prisoners of the state after being determined to pose a danger to the state's stability as per the so-called security narrative created by the Modi-led regime<sup>31</sup>. This study, however, aims to explore the specific above-mentioned three draconian laws (PSA, UAPA, AFSPA) drafted and implemented by the illegal settler regime of India.

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<sup>31</sup> John Braithwaite and Bina D'Costa, "Recognising Cascades in India and Kashmir," in *Cascades of Violence: War, Crime and Peacebuilding Across South Asia*, 177–270 (ANU Press, 2018), <http://www.jstor.org/stable/j.ctt22h6r7h>.

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A person may be held without charge for two years under the guise of maintaining public order under the Jammu & Kashmir Public Safety Act, 1978, which gives the State government this authority. The Act fell short of the accepted standards of justice, including equality before the law, the right of the accused to appear before a magistrate within 24 hours of their arrest, a fair trial in public, access to counsel, cross-examining of the witnesses, an appeal process for convictions, and protection from being tried retroactively, among other standards. Even the Act's rules have constantly been broken, albeit they were already poor. The grounds for the prisoners' detention are not disclosed to them, and they are held in custody for a lot longer than what is allowed under the Act. Meeting with their families and counselors is forbidden. The 1990 amendment expanded its scope of operation outside of the State, allowing the State apparatus to retain the inmates in India's jails outside of the State. Any legal actions brought against officials for actions "done in good faith" are likewise prohibited by Section 22 of the Act<sup>32</sup>. The legislation, which was subjected to amendments in 1987 and 1990, has frequently been applied to both political rivals and defenseless Kashmiris. Thousands of individuals have been imprisoned under the Act throughout the years.

Following the murder of commander Burhan Muzaffar Wani, over 660 people were imprisoned under the PSA in 2016, and estimates

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<sup>32</sup> National Assembly of Pakistan. n.d. <https://na.gov.pk/en/content.php?id=90>.

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suggested that there were approximately 360 incidents of preventive detentions in 2017. After a 2019 attack on the Central Reserve Police Force (CRPF) that left 40 people dead, the PSA was applied along with the Unlawful Activities Prevention Act (UAPA) to ban sociopolitical organizations. In response, 500 people were detained, including members of the Jamat-i-Islami, Hurriyat Conference, and Jammu Kashmir Liberation Front (JKLF)<sup>33</sup>. On this account; India violated Article 3, Article 9, article 10, Article 19, and Article 20 of UDHR, Article 13, Article 27, and Article 32 of the 4th Geneva Convention related to protecting civilians in armed conflict, and Article 9 of ICCPR. Under the PSA strategy of indefinite detention is employed to achieve the goal of eradicating the resistance and is intended to reduce it to submission and obedience to the occupier.

Amnesty International has referred to the Public Safety Act (PSA) as an ‘awless law” and has criticized it for being used by authorities in Jammu & Kashmir for preventive detention<sup>34</sup>. However, the Unlawful Activities (Prevention) Act is also widely utilized in J&K to keep people ”out of circulation.” Jammu and Kashmir reported only 45 UAPA cases in 2014, while 255 instances were recorded in 2019 alone, claims human rights and RTI activist Venkatesh Nayak.

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<sup>33</sup> Das, Shaswati. 2019. “Yasin Malik’s Jammu Kashmir Liberation Front (JKLF) Banned.” *Mint*, March 22, 2019. <https://www.livemint.com/news/india/yasin-malik-s-jammu-kashmir-liberation-front-jklf-banned-1553261458535.html>.

<sup>34</sup> Bhat, Aabid. "Politics of Preventive Detention: A Case Study of Jammu and Kashmir Public Safety Act, 1978." *Academia.edu*, April 2022. [https://www.academia.edu/75230351/Politics\\_of\\_Preventive\\_Detention\\_A\\_Case\\_Study\\_of\\_Jammu\\_and\\_Kashmir\\_Public\\_Safety\\_Act\\_1978](https://www.academia.edu/75230351/Politics_of_Preventive_Detention_A_Case_Study_of_Jammu_and_Kashmir_Public_Safety_Act_1978).

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Approximately 1,000 people may have been arrested in Kashmir under the PSA since 2019, according to police sources. In some cases, once a person's PSA detention has been annulled by the High Court, that person has been prosecuted with UAPA. Over 2300 people in Kashmir received UAPA orders between August 2019 and August 2021, and 1,200 cases were filed under its provisions, according to the Jammu and Kashmir Police<sup>35</sup>.

The UAPA was further revised by the Indian government in 2012, and the already ambiguous term "terrorist act" was broadened to encompass actions that put the nation's economic security at risk. Once more, this was done to limit people's ability to participate in resistance politics, notably in OK, it is to be noted that all of the provisions that were repealed as part of the Prevention of Terrorism Act POTA in 2004 were reinstated into the UAPA. Given that, Journalism, Use of social media, Raising Slogans Peacefully, Playing Cricket, Demanding the Remains of the Deceased, False Accusations, Exposing Corruption and Land Grabs, Defending Your Home Against the Army, Singing Songs About Freedom, cheering for Cricket Team, Documenting Human Rights, Writing Articles can lead you to be booked under UAPA<sup>36</sup>.

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<sup>35</sup> Ganai, Naseer, and Naseer Ganai. "UAPA and PSA Go Side by Side in Kashmir." Outlook India, January 16, 2024. <https://www.outlookindia.com/national/india-news-uapa-and-psa-go-side-by-side-in-kashmir-news-387821>.

<sup>36</sup> Pandey, Pankaj Singh, Shubham Mishra, and Sunidhi. 2022. "A Weapon to Stifle Dissent: Unlawful Activities (Prevention) Act, 1967." May 1, 2022. <http://mail.journalppw.com/index.php/jpsp/article/view/5527>.

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Special processes can be used under the UAPA to deal with terrorism-related acts involving both people and organizations. Although the “unlawful activities” law was in operation in post-colonial India, the present BJP administration has sought an aggressive application of this statute. The UAPA allows the government to designate someone as a “terrorist” while preventing them from receiving a fair trial and due process, measures that were previously only permitted against groups and not specific individuals.

### **Case Study**

The Kashmiri civil rights activists are still being held in jail. Khurram Parvez, a notable rights activist from Kashmir, is one noteworthy example in this regard. He is the chairman of the Asian Federation against Involuntary Disappearances (AFAD) and the coordinator of the Jammu and Kashmir Coalition of Civil Society (JKCSS), a significant rights organization in OK. One of the most significant revelations made by the JKCSS, led by Parvez, was the discovery of more than 2000 unmarked graves in the northern portion of OK in 2008, which shocked the area in addition to shedding light on the Indian state’s tactics of torture and intimidation<sup>37</sup>. In 2016, he was charged under the Public Safety Act (PSA) and was not provided with written grounds for his arrest, he was absurdly blamed for disrupting public order and being part of a cessation camp, and when we

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<sup>37</sup> Admin LFK. "Annual Human Rights Review – Indian Occupied Kashmir, 2022." *Legal Forum for Kashmir*. December 31, 2022. <https://lfkashmir.com/annual-human-rights-review/>.

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deconstruct this allegation, it appears to be a coercion mechanism to suppress voices, blind the world from the crimes India commits by curbing freedom of speech and continue advancing its Hindutva ideology in OK. Parvez was detained again in November of 2021 for” criminal conspiracy and waging war against the government” by the harsh terrorism law known as the Unlawful Activities Prevention Act (UAPA).

It should be noted that the Regulations of UAPA violate the right to freedom of speech and expression, freedom of peaceful assembly and association, and right to a fair trial by holding innocents in custody without trial for up to six months, prohibition of arbitrary detention<sup>38</sup>, which are provided under International Covenant on Civil and Political Rights ICCPR to which India is signatory.

A multitude of statutes, in addition to the PSA and UAPA, give the Indian army a culture of impunity. More precisely, the 1990 Jammu and Kashmir Armed Forces Special Powers Act (AFSPA) empowers and encourages the Indian army to use violence in the execution of its authority<sup>39</sup>. It is regarded as a “symbol of oppression, object of hatred, and a tool of devastation and haughtiness. In unrest-stricken areas, the Indian army is granted exceptional authority under the AFSPA, which also gives them legal cover for any acts they may take. What the

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<sup>38</sup> Pandey, Pankaj Singh, Shubham Mishra, and Sunidhi. 2022. “A Weapon to Stifle Dissent: Unlawful Activities (Prevention) Act, 1967.” May 1, 2022. <http://mail.journalppw.com/index.php/jpsp/article/view/5527>.

<sup>39</sup> National Assembly of Pakistan. n.d. <https://na.gov.pk/en/content.php?id=90>.

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Indian military interprets as being necessary for national security is a clear violation of human rights. This Act grants the 900,000 occupying forces stationed in OK, complete impunity. Although there have been 8,000 documented cases of forced disappearance, no one has been brought to justice. The Indian military continues to commit crimes against humanity in OK in 2022<sup>40</sup>.

Legal Forum for Kashmir (LFK) recorded violence committed by Indian paramilitary and military forces, between January to December 2022, under the protection of AFSPA including a total of 312 incidents of killings, 281 Injuries, 382 arrests, 199 Corden and Search operations CASOs, 169 incidences of internet shutdown, 212 structure damaged, and 116 gunfights in Indian illegally occupied Jammu and Kashmir. This violation of rights includes anything from mass murder, enforced disappearances, torture, rape, and sexual assault to political repression and speech stifling. Additionally, starting August 5, 2019, the Kashmiri people have been subjected to methods of collective punishment by the Indian government under the pretext of “counterterrorism”<sup>41</sup>. The inhabitants of OK have become more vulnerable as a result, particularly the Muslims who are always in danger of losing their lives.

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<sup>40</sup> Mehar, Fayyaz, Ishbeer Kaur, Maria Shifa, and Zain-ul-Abideen. 2022. *Annual Human Rights Review – Indian Occupied Kashmir*. Legal Forum for Kashmir. <https://lfkashmir.com/wp-content/uploads/2022/12/LFK-Annual-Report-2022>.

<sup>41</sup> Badri Raina, “Article 370: A Matter of Concern for the Republic, Not Just Jammu & Kashmir,” *Social Scientist* 48, no. 7/8 (566-567) (2020): 41–48, <https://www.jstor.org/stable/26978885>.

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Moreover, the first half of 2023 saw a spate of “atrocious crimes” committed by the Indian occupying authority and the occupying forces stationed in OK. In the first half of 2023, there were 125 murders in various acts of violence across OK. There have been reports of 52 civilian deaths, 30 Indigenous armed fighters, and 43 members of the Indian Occupying Forces between January and June 2023 as a result of the armed action India’s Occupying Forces took against the local community in response to increased military presence. Indian Occupying Forces and Kashmiri independence fighters came into contact with one another at least 19 times. Nearly 97 civilian properties were reported to have been vandalized and destroyed during these CASOs, along with 166 cases of internet shutdowns<sup>42</sup>.

It should be noted that under International Humanitarian Law (IHL), civilian property is protected. Articles 33 and 53 of the Geneva Conventions as well as Article 52 of Protocol I forbid attacks on civilians and their property, regardless of who is responsible for them. Additionally, Article 18 forbids any time attacks on civil hospitals or healthcare facilities. While maintaining that purposeful strikes against civilians and civilian-related objects are forbidden and constitute war crimes, Article 8 (2) (b) (ii) of the 1998 Rome Statute. The Indian occupying forces have been committing this atrocious war crime on

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<sup>42</sup> Admin Lfk, “LFK Bi-Annual Review on Human Rights Situation in IOJK, Jan-June 2023 - Legal Forum for Kashmir,” *Legal Forum for Kashmir* (blog), July 13, 2023, <https://lfkashmir.com/bi-annual-review-on-human-rights-situation-in-iojk-jan-june-2023/>.

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the civilian population of OK for decades in blatant violation of international law, along with other ongoing atrocities.

### **India's Regional Aspirations**

India values Kashmir for three main reasons: its geography, national security, and its resources. The Indus River passes across both states, passing through Kashmir, which is very significant. India depends on the Indus River for irrigation. Additionally, the nation that effectively controls this region has the power to deny the other nation access to water and since India controls the region through which Indus flows, it can do so. The river transports a total of about 16 percent of its water to India, with the remaining 80 percent going to Pakistan.

Large amounts of hydroelectricity can be generated by the water in Kashmir. The occupied state of Jammu and Kashmir bank on hydroelectricity for the majority of its energy requirements. Only approximately 3000 megawatts of power are now produced in Kashmir. The region, however, can produce up to 16,000 megawatts of electricity<sup>43</sup>. Since the Indian administration wants to profit from this, the Kashmir is important. There are also many different types of resources in the area, such as uranium, gold, oil, and natural gas.

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<sup>43</sup> Mukeet Akmal, "After 70 Years, J&K Set to Double Hydropower Generation Capacity," *Greater Kashmir*, August 14, 2022, <https://www.greaterkashmir.com/uncategorized/after-70-years-jk-set-to-double-hydropower-generation-capacity/>.

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Kashmir is a key geopolitical location that connects India to Central Asia and Europe by acting as the only link between South Asia and Central Asia. It is also essential for the BRI and the CPEC, <sup>44</sup>a bilateral endeavor including energy, connectivity, and infrastructure projects that India is particularly concerned about because Pakistan wants to forge direct relations with Central Asia and China through Kashmir.

Because India views Maharaja Hari Singh's instrument of accession as having legal standing, and Kashmir was legitimately and fairly handed to India<sup>45</sup>. The national security of India also depends on it. Only the Siachen Glacier separates Pakistan and China on a physical level. In the event of hostilities, China and Pakistan might unite without Kashmir, seriously harming India. India is worried about this because of its fragile relations with both Pakistan and China.

Ultra-nationalism in India has grown recently as well, especially when Prime Minister Narendra Modi's BJP took office in 2014. Since the (illegal) merger state of Jammu and Kashmir with Indian dominion, India claimed to have witnessed numerous terrorist attacks and asserted that these attackers have bases in Pakistan. India also claims to own the entirety of Kashmir and views legitimate self-determination and self-defense of Kashmiris as terrorism, and a threat

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<sup>44</sup> None a Z. Hilali, "China-Pakistan Economic Corridor and Dynamics of Regional Connectivity: Prospects and Challenges," *Strategic Studies* 39, no. 4 (2020): 89–103, <https://doi.org/10.53532/ss.039.04.00100>.

<sup>45</sup> Ijaz Hussain, "Kashmir Dispute: An International Law Perspective," *CiNii Research*, 1998, <https://cir.nii.ac.jp/crid/1130000794433600128>.

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to sovereignty, therefore in their view, strong measures must be taken to eliminate any resistance to their goal of an “Akhand Bharat” (United India).<sup>46</sup>

India has recently also gotten a lot of backing from other countries. India’s rapid economic and military progress has made it a sought-after trading partner and ally. An illustration of this is the revision of Article 370. The majority of nations supported India’s decision. We can anticipate that this overseas aid will continue to be provided. There is little international pressure on India to change the agreements it has with Pakistan on Kashmir.

For India, there is no justified reason to withdraw its claim from Kashmir, due to its significant value, including its natural resources and hydroelectricity plans. The rise in nationalist and anti-Pakistan sentiment in India has led to a desire to retain Kashmir. The Modi government’s reputation for tough negotiation and international resolve contributed to their victory in elections. The conflict has not significantly impacted India’s economy or politics. Given the current situation, it is unlikely that India will change its stance on Kashmir

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<sup>46</sup> Babar, Sabina. "Hindu and Hindutva Ideology in Indian Polity: Examining Modi’s Administration." *Strategic Studies* 43, no. 2 (2024): 80–96. <https://doi.org/10.53532/ss.043.02.00301>.

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shortly. Instead, India seems to be fully absorbing Kashmir into itself.<sup>47</sup>

In this sense, when India justifies harsh measures to put down opposition by characterizing the self-determination movement in Kashmir as a security concern, it is better able to protect overarching geopolitical goals. India's economic interests are advanced by this dominance over Kashmir, which guarantees access to vital resources, particularly water.<sup>48</sup> Additionally, it improves its geopolitical position by bolstering territorial integrity, supporting strategic autonomy and acting as a barrier against enemies in the unstable South Asian region.

### **India's Strategic Autonomy**

India's approach to the Kashmir dispute is closely related to its desire for strategic autonomy, a goal founded on defending the country's interests and claiming its independence in a world that is changing quickly. This goal calls for a multidimensional approach that integrates foreign policy, military prowess, commercial objectives, and the complex network of regional and international relationships<sup>49</sup>.

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<sup>47</sup> Amjed Jaaved. "What, in Fact, Is India's Stand on Kashmir?" *Modern Diplomacy*, September 25, 2021. <https://moderndiplomacy.eu/2021/09/26/what-in-fact-is-indias-stand-on-kashmir/>.

<sup>48</sup> Barrett, Evan. 2020. "India and China Fight over Kashmir's Natural Resources." *Americans for Kashmir*. June 11, 2020. <https://www.americansforkashmir.org/post/india-and-china-fight-over-kashmir-s-natural-resources>.

<sup>49</sup> C. Raja Mohan, "India: Between 'Strategic Autonomy' and 'Geopolitical Opportunity,'" *Asia Policy* 1, no. 1 (2013): 21–25, <https://doi.org/10.1353/asp.2013.0006>.

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India's escalation of Hindutva-driven policy frameworks is predominantly motivated by Chanakya's worldview. To legitimize its occupation of IOK, the Modi administration has committed several unlawful acts, including revocation of Article 370, creation of Sainik colonies, resettling Kashmiri Pandits, and granting impunity for occupying forces.<sup>50</sup> According to Kautilya's Arthashastra, acquiring land should be prioritized as a greater objective, even at the expense of other moral concerns. His worldview advocates seeing your neighbors with hostility. The BJP Sarkar, primarily the political arm of the extremist Hindu group "RSS," upholds the notion of Akhand Bharat and embraces Kautilya's intellectual paradigms<sup>51</sup>.

Hindutva is a political ideology that strives to promote Hindu hegemony and the Hindu way of life. It has had a huge impact on the vision of the Modi-led Bhartiya Janata Party (BJP). Hindu nationalism and India's cultural and geographical integrity are central to Hindutva philosophy.<sup>52</sup> The Kashmir problem, particularly the desire for self-determination or independence, is presented as a danger to the nation's unity and geographical integrity in Indian discourse. The securitization of the Kashmir problem frequently

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<sup>50</sup> "Sainik Colonies: India Intensifies Its Settler Colonial Project in Kashmir," *Stand with Kashmir*, January 24, 2024, <https://standwithkashmir.org/sainik-colonies-india-intensifies-its-settler-colonial-project-in-kashmir/>.

<sup>51</sup> Abdul Basit and Syeda Tahreem Bukhari, "Arthashastra Underpinning: A Case Study of Article 370," August 1, 2023, <http://ojs.kprijk.org/index.php/openjournalsystem/article/view/124>.

<sup>52</sup> Flåten, Lars Tore. *Hindu Nationalism, History and Identity in India: Narrating a Hindu Past under the BJP* (2016).

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entails presenting it as a response to foreign threats, notably those posed by Pakistan. With its emphasis on a strong and united India, Hindutva ideology views any separatist movement in Kashmir as a threat that must be dealt with swiftly and firmly. Public discourse and media conceptualization of the Kashmir issue also reflect the securitization of the problem. When Hindutva ideology shapes public opinion, it helps to create the impression that Kashmiri self-determination aspirations pose a security risk, which helps to rationalize securitization efforts.<sup>53</sup>

India understands the need to control its destiny and protect its national interests free from undue external interference in a time of changing regional dynamics and shifting power structures.<sup>54</sup> India's strategic autonomy allows it to make independent decisions that are in line with its objectives and top priorities without being subject to outside pressure or interference. India may interact with the rest of the world on its terms, taking into consideration its own needs and objectives, by exercising independence in its foreign policy and military strategy. India's strategic autonomy is evident in its handling of Kashmir's self-determination as a national security issue. This securitization strengthens India's regional status and discourages rivals, enhancing its quest for strategic autonomy. It also has significant geopolitical implications, as maintaining authority in the

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<sup>53</sup> "Kashmir: From National to Human Security." *OpenDemocracy*, 2025.

<https://www.opendemocracy.net/en/kashmir-from-national-to-human-security/>.

<sup>54</sup> Menon, Shivshankar. *India and Asian Geopolitics: The Past, Present*.

Washington, D.C.: Brookings Institution Press, 2021.

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region increases India's influence in international fora and strengthens its geo-political weight by stifling internal opposition and demonstrating stability.<sup>55</sup>

Thus, India's securitization of the Kashmir conflict and its pursuit of strategic autonomy intersect, allowing it to maintain control and position itself as a responsible regional force. This approach improves India's international status, increases negotiating leverage, and strengthens its capacity to reshape the new Asian order. As a result, the Kashmir conflict has become more militarized, which has reduced the political room for discussion and compromise, and alternative ways to conflict resolution have been repressed, by presenting the struggle for self-determination largely as a security issue.

## **Conclusion**

The ongoing situation in Occupied Kashmir represents a profound example of occupation and settler colonialism, where India has undertaken a civilizational project aimed at Hindunizing and Indianizing Kashmiri culture. Through the implementation of draconian laws and policies, such as the Armed Forces (Special Powers) Act (AFSPA), Unlawful Activities (Prevention) Act (UAPA), and the Public Safety Act (PSA), India has systematically sought to suppress the indigenous demand for self-determination.

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<sup>55</sup> Vinodan, C., and Anju Lis Kurian. "Strategic Autonomy and India's Hedging Policies in the Indo-Pacific." *Journal of Asian Security and International Affairs*, October 2024. <https://doi.org/10.1177/23477970241282095>.

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This strategy is grounded in the ruling Bharatiya Janata Party's (BJP) Hindutva ideology, which envisions a shift in Kashmir's demographic landscape from a Muslim-majority to a Muslim-minority region, ultimately aiming to establish India as an "All Hindu State." By framing the Kashmiri struggle for autonomy as a security threat, India has justified the use of extreme measures, portraying these repressive actions as essential for national security, while in reality they are aimed at suppressing the aspirations of the Kashmiri people.

The securitization of Kashmir has provided India with strategic advantages, particularly in terms of regional influence and autonomy. By presenting the Kashmir issue as primarily a security concern, India has been able to consolidate its domestic and international position, while simultaneously reinforcing its control over the region. However, the use of laws like UAPA, PSA, and AFSPA has resulted in widespread human rights abuses, including extrajudicial killings, arbitrary detention, torture, and restrictions on political freedoms. These measures violate numerous international legal frameworks, including the 4th Geneva Convention, the International Covenant on Civil and Political Rights (ICCPR), the Universal Declaration of Human Rights (UDHR), and other conventions aimed at protecting civilians and promoting self-determination. The continued use of these laws underlines the urgent need for international intervention to address the legal and humanitarian crisis in Kashmir.

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While India's securitization of Kashmir has strengthened its geopolitical and strategic autonomy, it has simultaneously undermined the region's internal stability and broader regional peace. The severe and repressive policies enforced in Kashmir have only exacerbated tensions, contributing to political alienation and the continuation of conflict. Securitization theory highlights that the enforcement of such stringent laws may provoke anger and radicalization, further destabilizing the region. To foster lasting peace, it is critical to prioritize de-securitization, engage affected populations in dialogue, uphold human rights, and encourage inclusive political processes. The international community must play a pivotal role in facilitating conflict resolution, ensuring that any peace process includes the voices of the Kashmiri people. Achieving long-term regional stability requires a delicate balance between security concerns and the protection of fundamental human rights, promoting cooperation, diplomacy, and multilateral engagement to mitigate conflict and pave the way for a peaceful resolution.

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