

Security Situation in Jammu & Kashmir Before and After the Abrogation of Article 370

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Abstracts: The paper briefly analyses how to government revocation of article 370 and 35(A) were nullified that gave the previous state its special status and the mandate to define its domicile rules. Over the years, Article 370 underwent several dilutions with the agreement of the Kashmiris and the elected state government. These dilutions aimed to promote integration, improve administration, and ensure good governance. Despite these changes, Article 370 continued to hold immense symbolic and psychological importance for the people of Kashmir. It also exemplified India's asymmetric federalism, wherein certain federal subunits were granted varying rights, often acknowledging their unique ethnic identity. The paper critically examines the security situation in Jammu and Kashmir before and after the abrogation of Article 370, with a focus on how the government maintains internal peace and security in the region. It also seeks to understand the continuity and changes in the nature of the security situation in Jammu and Kashmir.

1. Introduction

Jammu and Kashmir known as the 'paradise' on earth was until the partition of India, the largest among the Princely States. India was under the colonial rule of British till 1947. On August 1947, British India was divided into two dominions India and Pakistan. However this partitioning did not apply to the vast areas occupied by 565 princely states of India, such as Jammu and Kashmir, that had enjoyed semi-autonomous status under the British colonial era.

¹ These princely states, although technically recovering independence with Britain's 'lapse of Paramountcy' on August 15, 1947 were in fact pressured by Britain's last viceroy in India, Lord Louis Mountbatten, to accede by that date to India or Pakistan. As the process of integrating these princely states started, Jammu and Kashmir acceded to India by signing an Instrument of Accession on 26th October 1947.² Under Instrument of Accession, Jammu and Kashmir surrendered only three subjects (Defence, External Affairs, Communication) to the dominion of India. In terms of the security and terrorism, the dispute with Pakistan over Jammu and Kashmir is the main source of terrorism within the subcontinent. The Jammu and Kashmir problem can be traced back to the partition of the country during its independence in 1947.³ That being said, it is no longer the only cause of the continuing conflict in the state Rather, it is the failure of democratic institutions that has alienated the people in the state and perpetuated the conflict. The deeply flawed unemployment rate amongst educated youth, rampant corruption, and rigging of the 1987 election to the State Assembly resulted in deterioration of the law and order situation.⁴ This, in turn, marked the beginning of an anti-India insurgency and a separatist movement. Jamwal (2003) argues that a large portion of the unemployed youth crossed over to Pakistan, which was already on the lookout to exploit any opportunity to its advantage. Since then, Pakistan has been actively providing diplomatic, political, moral, and financial support as well as arms and training to the militants. The Pakistan sponsored separatist movement and terrorist activity against India began to falter in the mid 1990s.⁵

The insurgency has ruined the normal functioning of the state, and has forced New Delhi to notify the erstwhile state of Jammu and Kashmir as a "disturbed area" and invoke controversial and draconian laws like the Armed Forces Special Powers Act (AFSPA) to maintain peace. Though New Delhi tried to occasionally reach out to Pakistan and even to Kashmiris over the years, but for some brief periods of hope, peace has not prevailed in the Kashmir Valley.⁶

Following the precedent set by his predecessors, Atal Behari Vajpayee and Manmohan Singh, Prime Minister Narendra Modi has also tried to reach out to Pakistan. For two years from his swearing-in ceremony in 2014, Modi made overtures to find a peaceful resolution to the conflict over Kashmir. He invited Nawaz Sharif,

the Prime Minister of Pakistan, for his swearing-in ceremony, and made an unscheduled landing in Lahore on Christmas 2015 to greet his counterpart on his birthday a move that defied diplomatic convention and stunned foreign policy experts.⁷

The optimism surrounding the potential improvement of India-Pakistan relations was short-lived due to a terrorist attack on the Pathankot Air Force Station in early 2016. This attack was carried out by five Jaish-e-Mohammed terrorists, and it was followed by months of tension that escalated after the killing of militant leader Burhan Wani in August of that year. Burhan's death reignited calls for azadi and jihad, leading to an increase in homegrown insurgency as many local youth joined terror groups. Pakistan took advantage of the situation by increasing infiltration of trained terrorists to carry out attacks on Indian military installations. The first such attack was on the 12th Brigade of the Indian army in the Uri sector, resulting in the deaths of 17 army personnel and injuries to 20 others. In response, India conducted surgical strikes on suspected terror launchpads in Pakistan-occupied Kashmir (PoK).⁸

2. Abrogation of Article 370:

Since the Constitution came into force on 26 January 1950, certain provisions of the Indian Constitution were made applicable to the erstwhile State of Jammu and Kashmir through Constitution Orders issued by the President of India. However, many provisions relating to Fundamental Rights, States, Panchayats, Municipalities, Cooperative Societies, Services, Elections, etc. were either not made applicable or were applied with exceptions and modifications. As a result, the people of Jammu and Kashmir were unable to fully enjoy the Constitutional rights that the rest of the citizens in the country had. Additionally, the introduction of Article 35A through a Constitution Order in 1954 imposed restrictions on other citizens while granting special rights and privileges to the permanent residents of Jammu and Kashmir. These constitutional ambiguities, including Article 35A, hindered the complete integration of the people of Jammu and Kashmir with the rest of the country, fostered a separatist mindset, and impeded overall growth and development despite the support from the Government of India. However, the Constitution Order issued on 5 August 2019, based on the concurrence of the State Government, aimed to address these long-standing issues.

Simultaneously, based on the recommendation of the State Government and exercising its powers of the State Legislature during the President's Rule, the Parliament passed a resolution recommending the President of India to issue a Declaration under Article 370(3). Subsequently, the President of India issued a Declaration on 6 August, 2019, which rendered all clauses of Article 370 inoperative and applied all provisions of the Constitution of India to the State of Jammu and Kashmir in its entirety, disregarding any conflicting provisions in Article 152, Article 308, or any other provision of the Constitution of Jammu and Kashmir. As a result of this Declaration and subsequent steps, the entire country now operates under a unified Constitution and Flag.

Furthermore, in response to the longstanding demand of the people of Ladakh, the Parliament passed the Jammu and Kashmir Reorganisation Bill, 2019 on 5 and 6 August 2019. This bill, which received the President of India's assent on 9 August 2019, led to the creation of a new Union Territory of Ladakh without a Legislature, as well as a new Union Territory of Jammu and Kashmir with a Legislature, separating them from the former State of Jammu and Kashmir. The Central Government then issued a notification on 9 August, 2019, designating 31 October, 2019 as the appointed date for the establishment of these two new Union Territories. Through the Jammu and Kashmir Reorganisation Act and subsequent measures, the delimitation of Constituencies has been facilitated, and all Central Laws have been made applicable to both Union Territories with appropriate amendments, while corresponding State laws were repealed. The Lieutenant Governors of both Union Territories assumed their positions on 31 October 2019.

Since the Legislative Assembly of the Union Territory of Jammu and Kashmir is yet to be constituted after delimitation, the President of India has issued a proclamation under section 73 of Jammu and Kashmir.

3. Security Situation in Jammu & Kashmir before Abrogation of Article 370:

Jammu and Kashmir has been affected by terrorist and secessionist violence, sponsored and supported from across the border, for more than two and half decades. Since the advent of terrorism in Jammu and Kashmir, 5,652 civilians and 3,123 security force personnel have lost their lives as on December 2018. The

trends of terrorist violence in Jammu and Kashmir during the last fifteen years have been shown in the table given below:

Table 1: Terrorists Activities in Jammu and Kashmir 2000-2018

Year	Incidents	SFs killed	Civilians killed	Terrorists killed
2000	1385	441	641	1708
2001	4522	536	996	2020
2002	4038	453	1008	1707
2003	3401	314	795	1494
2004	2565	281	707	976
2005	1990	189	557	917
2006	1667	151	389	591
2007	1092	110	158	472
2008	708	75	91	339
2009	499	64	78	239
2010	488	69	47	232
2011	340	33	31	100
2012	220	15	15-	72
2013	170	53	15	67
2014	222	47	28	110
2015	208	39	17	108
2016	322	82	15	150
2017	342	80	40	213
2018	614	91	39	257

Source: Compiled by author from MHA (Annual Report 2000-2018)⁹

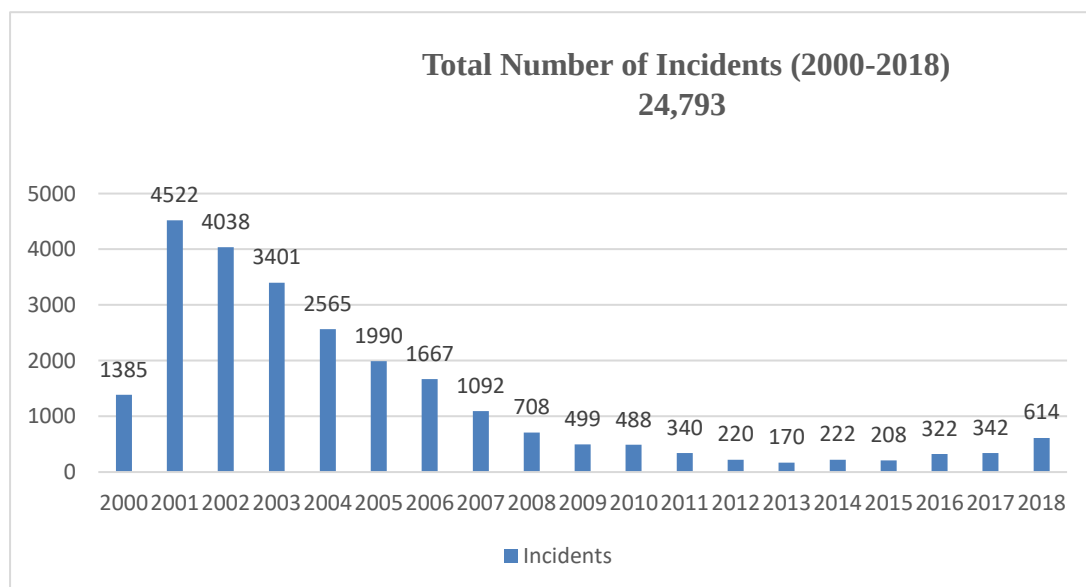


Fig 1: Total Number of Accidents Year Wise

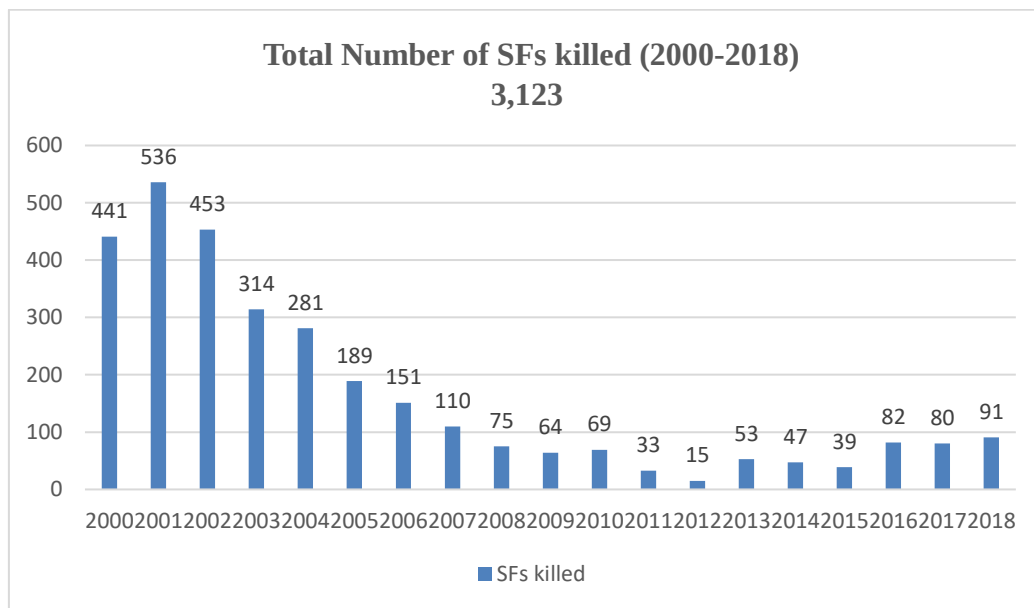


Fig 2: Total Number of SFs Killed Year wise

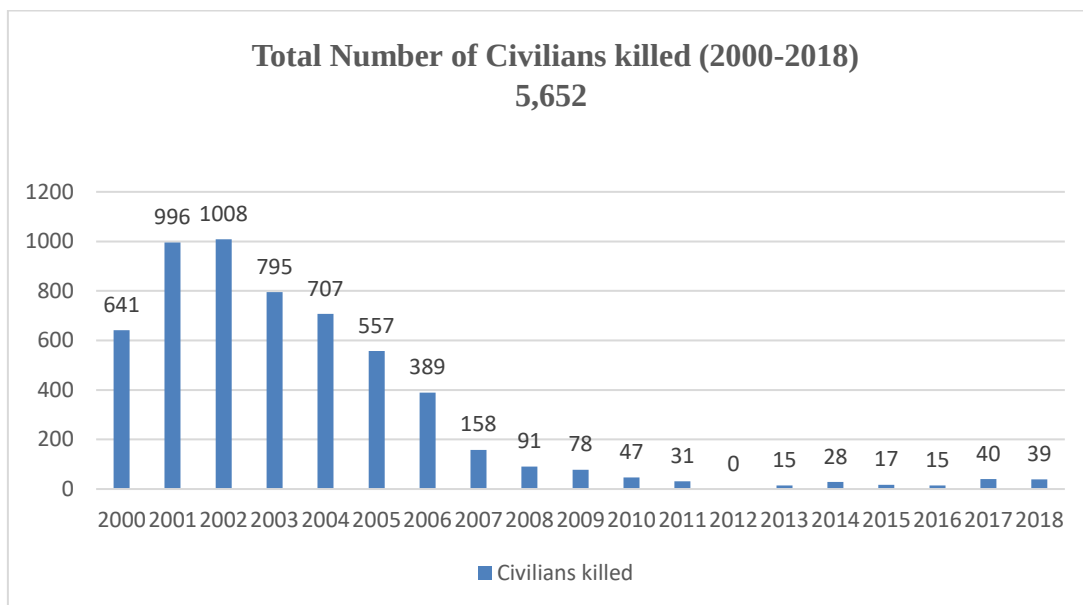


Fig 3: Total Number of Civilians Killed Year wise

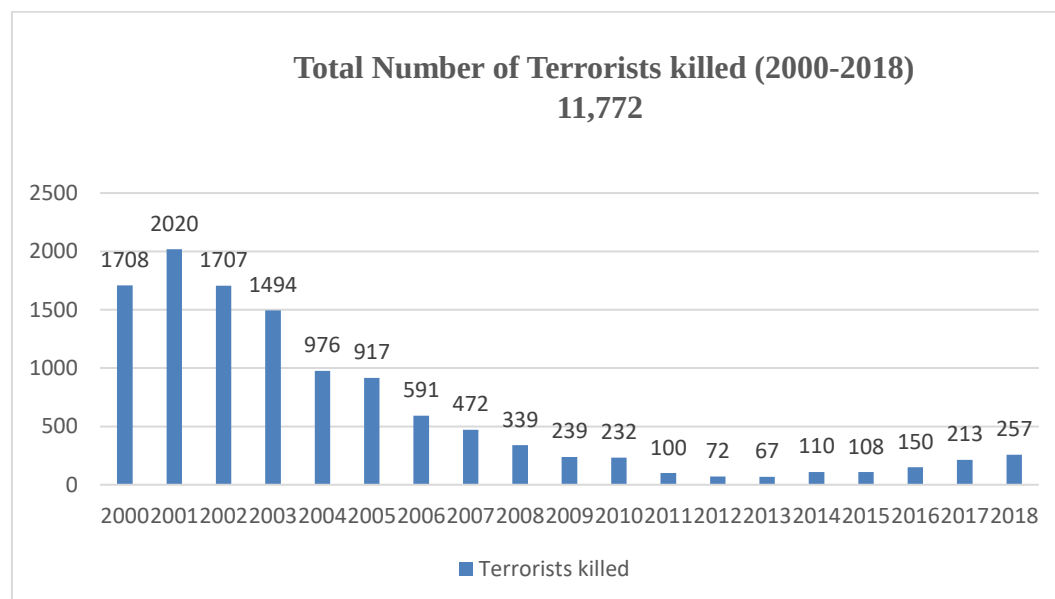


Fig 4: Total Number of Terrorist Killed Year wise

According to the table, state sponsored terrorism or “cross-border terrorism” continues to bleed into Jammu and Kashmir. The state has witnessed an average of five terror-related incidents per day in the last 18 years. As many as 8,775 civilians and security forces have been killed in over 24,793 terrorism-related incidents across the state between 2001-2018 while around 21,800 terrorists have been gunned down in encounters with security forces during this period of turmoil and bloodshed.

The highest number of terrorism related incidents was recorded in the year 2001 when the state saw 4,522 such incidents, followed closely by 4,038 terror incidents in 2002. However, the number of terror incidents has reduced on the whole and civilian casualties have recorded a declining trend since 2006 and 2007 respectively. In the year 2013, only 170 incidents, the lowest-ever in the past 18 years, were recorded. Similarly, in the last 18 years, a total of 3,123 security forces have lost their lives in countering terrorism. According to the Home Ministry records, in 2001, a total of 536 security forces were killed, followed by 453 in 2002. But the damage suffered by the forces has reduced significantly since 2012 when only 15 security forces lost their lives.

Kalyanaraman (2010), argues that with the end of the cold war, the Soviet Union withdrew from Afghanistan and terrorists shifted their focus from the Afghan region to Indian-administered Kashmir. They staged their first attack in Kashmir against a jeep carrying Indian air force personnel in 1990. While that was just the beginning, the menace soon spread as terrorists established their networks well beyond the Kashmiri region as well. The successful attack on the Red Fort in New Delhi in December 2000, marked first major attack outside of Jammu and Kashmir.¹⁰ In this regard, most security analysts and academics state that after the cessation of US aid to the Mujahideen fighters following the withdrawal of the Soviets from Afghanistan, huge caches of arms remained with the Northern Alliance and the ubiquitous Pakistani Inter-Services Intelligence (ISI) Agency. These leftover weapons were subsequently used to arm the *jihadis*.¹¹ Analysts have further asserted that jihadist organizations affiliated with the International Islamic Front (IIF) had been active in Jammu and Kashmir since 1993. Furthermore, the Al-Qaeda imprint has been felt in India in the form of jihadist suicide terrorism in Jammu and Kashmir since 1998. This imprint can be seen in the mimicking of Al-Qaeda’s way of operating - in terms of the use of self-fabricated explosives, improvised explosive devices (IEDs), fidayeen or suicide attacks, use of the internet and use of mobile phones as trigger devices - all of which became visible in the Indian context as well. Furthermore, the selection of soft targets, economic and strategic infrastructure, civilians, etc. also mirrors the Al-Qaeda’s mode of operation. When the indigenous insurgency in Jammu and Kashmir-that was initially spearheaded by the Jammu and Kashmir Liberation Front (JKLF) and the Hizbul Mujahideen-lost steam in the mid 1990s, the ISI seized the opportunity to prop up Pakistan-based groups like the Harkat-ul-Ansar, LeT, and Jaish-e-Mohammad (JeM) in an attempt to escalate the “proxy war” in Jammu and Kashmir.¹² By doing so, the ISI also took control of and began manipulating the insurgency in Jammu and

Kashmir. Well-trained in camps run by the ISI and located in Pakistan Occupied Kashmir, operatives from these groups had no particular affinity for Jammu and Kashmir. They switched roles effortlessly between insurgent actions while infiltrating into Jammu and Kashmir through tough Indian defences along the Line of Control (LOC), melting away into the semi-urban landscape of the Kashmir Valley and waiting for an opportunity to perpetrate acts of terrorism.¹³

After 9/11, the main concern of Al-Qaeda and Taliban was to take on and oppose the might of the US. The ISI utilized that sentiment and somewhat successfully exploited the situation by enabling a massive induction of Foreign Terrorists (FT) into Jammu and Kashmir, some of them even managed to move to other parts of India.¹⁴ In 2015, the two deadliest terrorist groups in India were LeT and Hizbul Mujahideen, which were also operating in Pakistan, Afghanistan and Bangladesh at the time. LeT mainly operates in Pakistan and has been responsible for 22 deaths in 2015. Hizbul Mujahideen - allegedly based in Pakistan – on the contrary, has been responsible for fewer deaths since its peak in 2013. The group was responsible for 30 deaths in 2013, which fell to 11 the following year and finally seven deaths in 2015.

4. Security Situation in Jammu & Kashmir after Abrogation of Article 370:

Jammu and Kashmir has been affected by terrorist and secessionist violence, sponsored and supported from across the border, for more than two and half decades. Since the advent of Abrogation of Article 370, 147 civilians and 214 security force personnel have lost their lives as on December 2022. The trends of terrorist violence in Jammu and Kashmir during the last 4 years have been shown in the table given below:

Table 1: Terrorists Activities in Jammu and Kashmir 2019-2022

Year	Incidents	SFs killed	Civilians killed	Terrorists killed
2019	594	80	39	157
2020	244	62	37	221
2021	229	42	41	180
2022	151	30	30	193

Source: Compiled by author from MHA (Annual Report 2019-2022)¹⁵

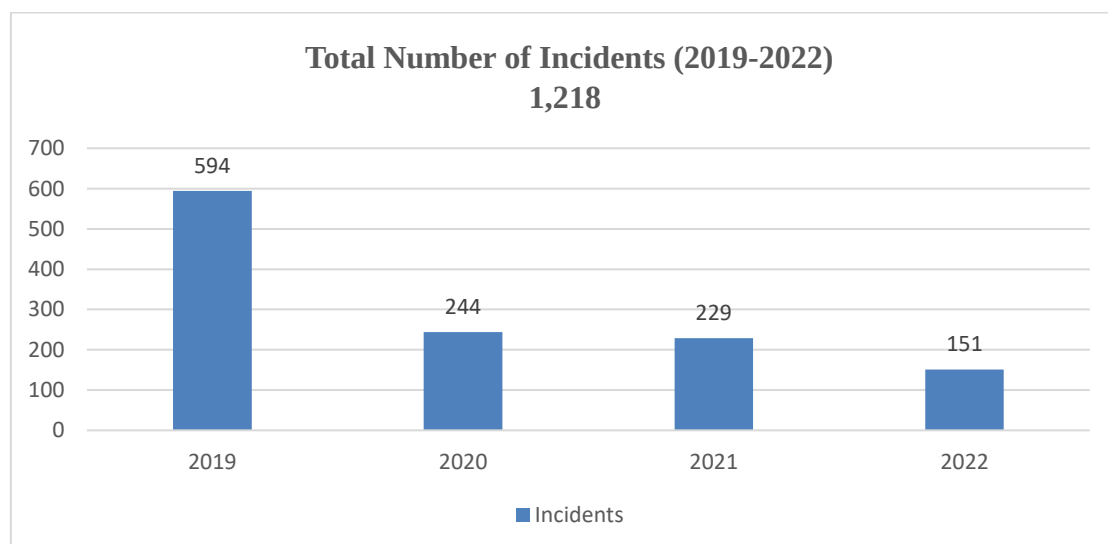


Fig 5: Total Number of Incident Year Wise

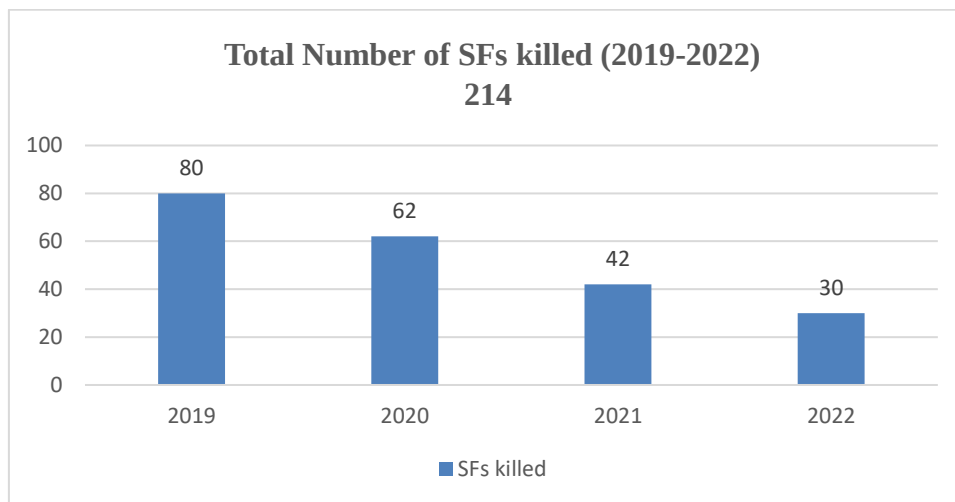


Fig 6: Total Number of SFs Killed Year wise

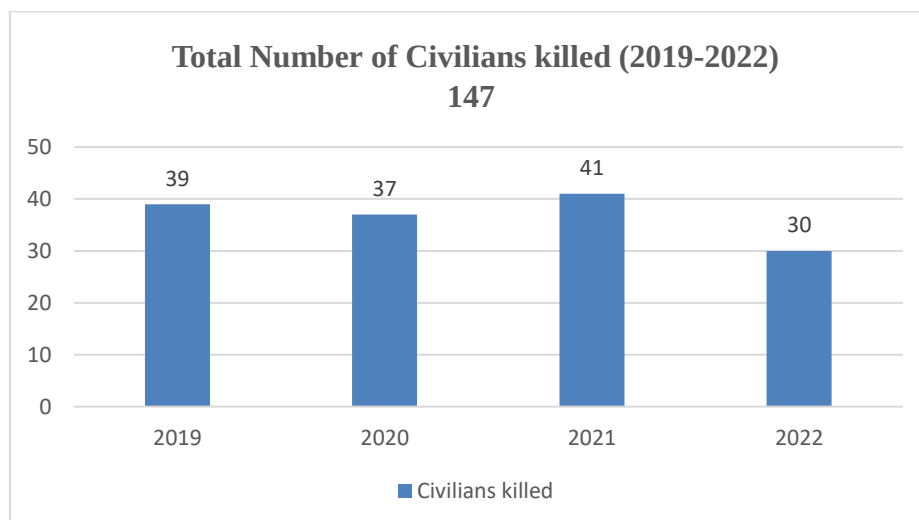


Fig 7: Total Number of Civilians Killed Year wise

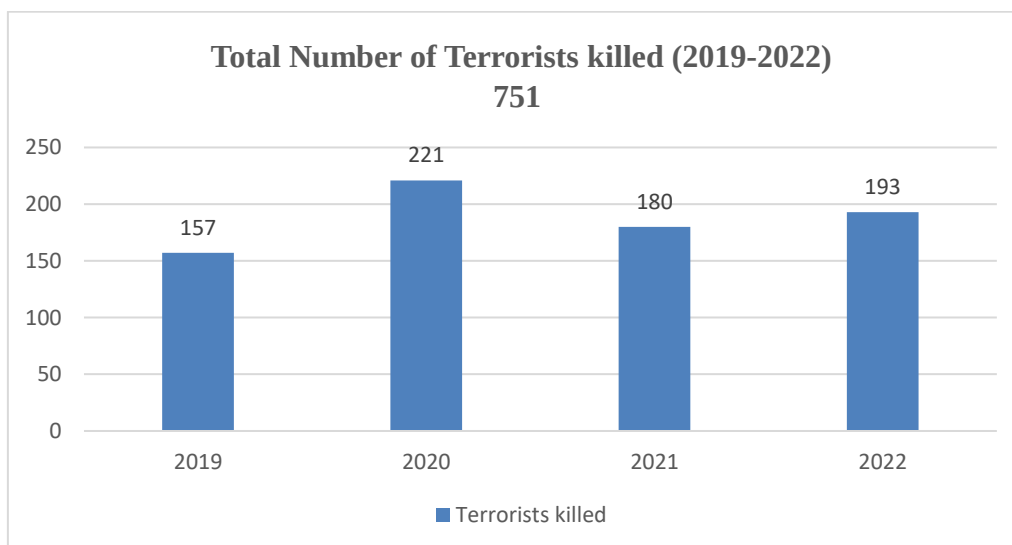


Fig 8: Total Number of Terrorist Killed Year wise

According to the table, state sponsored terrorism or “cross-border terrorism” continues to bleed into Jammu and Kashmir. The state has witnessed an average of 0.87 terror-related incidents per day in the last 4 years. As many as 334 civilians and security forces have been killed in over 1,218 terrorism-related incidents across the state between 2019-2022 while around 21,800 terrorists have been gunned down in encounters with security forces during this period of turmoil and bloodshed.

The highest number of terrorism related incidents was recorded in the year 2019 when the state saw 594 such incidents. However, the number of terror incidents has reduced on the whole and civilian casualties have recorded a declining trend since 2020 and 2022 respectively. In the year 2022, only 151 incidents, the lowest-ever in the past 4 years, were recorded. Similarly, in the last 4 years, a total of 214 security forces have lost their lives in countering terrorism. According to the Home Ministry records, in 2021, a total of 42 security forces were killed, followed by 80 in 2019. But the damage suffered by the forces has reduced significantly since 2022 when only 30 security forces lost their lives.

5. Conclusion

Jammu and Kashmir has been affected by terrorist and secessionist violence, sponsored and supported from across the border, for more than two and half decades. Since the advent of terrorism in Jammu and Kashmir, 5,652 civilians and 3,123 security force personnel have lost their lives as on before Abrogation of Article 370. The state has witnessed an average of five terror-related incidents per day in the last two decade. As many as 8,775 civilians and security forces have been killed in over 24,793 terrorism-related incidents across the state between 2001-2018 while around 21,800 terrorists have been gunned down in encounters with security forces during this period of turmoil and bloodshed.

Since the advent of Abrogation of Article 370, 147 civilians and 214 security force personnel have lost their lives as on December 2022. . The state has witnessed an average of 0.87 terror-related incidents per day in the last 4 years. As many as 334 civilians and security forces have been killed in over 1,218 terrorism-related incidents across the state between 2019-2022 while around 21,800 terrorists have been gunned down in encounters with security forces during this period of turmoil and bloodshed.

Endnotes

¹ Rather, Tariq, (2020), “Abrogation of Article 370 of the Constitution of India: Socio-Economic and Political Implications on Jammu and Kashmir”, *International Journal of Research and Analytical Reviews*, July 2020, Volume 7, Issue 3, Available at SSRN: <https://ssrn.com/abstract=3664550> or <http://dx.doi.org/10.2139/ssrn.3664550>

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³ Marwah, Ved. (2003), “India's internal security challenges”, *Strategic Analysis*, 27(4):503-515.

⁴ Supra Note 31.

⁵ Jamwal N. S. (2003) “Terrorists’ Modus Operandi in Jammu and Kashmir” *Strategic Analysis*, Vol. 27, No. 3

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⁷ Ibid

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⁹ Ministry Of Home Affairs Annual Report 2001-2015.

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¹⁵ Ministry Of Home Affairs Annual Report 2001-2015.