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**(c) Issues pertaining to J&K**

**Kashmir** falls with in the north-western region of the Indian subcontinent. At present, it is the largest area of Indian-administered state of Jammu and Kashmir comprising of the three divisions of Kashmir valley, Jammu and Ladakh. Kashmir shares its borders with China and Pakistan. Hinduism, Buddhism followed by Kashmir Shaivism have been center of Kashmir region. Conflict between India and Pakistan of Kashmir began in August 1947 and also the precise geographic location and non secular groups inside Kashmir has made it a zone of collapse of interests. This area is believed to be mainly inhabited by Muslims.Kashmir being situated between India and Pakistan has brought tough fate to Kashmir after the India’s independence. This continuous conflict is known as Kashmir issue. This rivalry between the 2 countries evolved over the years to succeed in present days, where it’s still a serious problem. During this point United Nations (UN) has tried to assist solving this problem but the countries cannot reach a conclusion.

In 1947 the Kashmir issue started with the partition of the British Indian Empire. The new-formed India and Pakistan were competing for dominance over the state because of the religious issues. This became a serious cause of the Indian-Pakistani conflict with proactive actions from both countries to become Kashmir`s dominions. India and Pakistan has had conflicts though the years till nowadays but the Kashmir issue remains the foremost and the severe one. The UN took major part in trying to prevent the conflict to escalate during a nuclear war. However separatism of Muslim militants occurred, which was the basis and the root cause for terrorism in this region. The issues of kashmir has been the main impact in worsening the Indian-Pakistani conflict over the years.

Dr Ashiq explained in his article “Kashmir dispute: A brief history” , He said Most of the inhabitants are Muslims but a specific ethnic, called “Kashmiriyat”, can be noticed”. The land was bought is 1948 from the East India Company for the amount of Rs 75 lakh. The aim of it was to add it to Raja Gulab Singh of Jammu present lands ruled. Maharaja Hari Singh, was the last Maharaja of the state of Kashmir and Jammu in India who inherited Raja Gulab Singh of Jammu.

In 1932 All Jammu and Kashmir Muslim started a Conference to fight for the Kashmiri independence, by Sheikh Mohammed Abdullah, occurred after the offset which led to The National Conference in 1939. The Maharaja created The Glancy Commission and confirmed grudge and asked for the solutions in 1932. Two years after in 1934 there was a new agitation because the Commission’s proposals weren’t implemented into actions. People’s patience ended as a result in 1946 when a Quit Kashmir movement started to return the independence of india ,the population was led by the National Conference. After this act the Kashmir issue began to grow in importance. A lots of things changed for the Kashmir Valley with in that year because of the mapping of the Indian subcontinent.

The British Empire gave independence to India in August 1947. The whole India was divided into West Pakistan, India and East Pakistan. The 500 princely states was offered to choose between having Pakistan or India as its dominion like with Kashmir. The decision had to be taken on the basis of the wishes of the population and geographical closeness. However the Maharaja of kashmir, who was originally Hindu, was trying to delay his decision, hesitating between remaining independent or joining India. For which Kashmir suffered an invasion or an attack from Pakistan from the west to take under them. For which Maharaja of Kashmir asked India for help in exchange of joining their allainace. Then the Maharaja handed the control of Kashmir and Jammu to India. The Pakistan people asked for a referendum from the Kashmiri people, but it was refused. Then the Pakistani army clashed with the Indian forces. India suggested vote if Pakistan retrieves its army. Pakistan people then refused for it stating that the people would not vote sincerely because of the presence of the Indian army. On 1st January 1948 United Nations was involved. After a year, the UNCIP (United Nations Commission for India and Pakistan) suggested a referendum with in the Kashmir valley to clarify its status as explained in “Part 3: Kashmir Issue – Its Current Status” and this could only be taken out only with the presence of Indian and Pakistani armed forces. As in 1948 and 1949 both countries accepted but failed to come to an agreement due to differences. After the end of the war, India received the more productive part of Kashmir compared to Pakistan, as stated in “Role of United Nations In Kashmir Dispute”. Later the state was guareented with central control in the defense, the foreign affairs and the communication with special status and internal economy.

In the beginning of 1949 Line of Control was founded. The Line of Control divides Kashmir to Indian-administrated to the east and south and Pakistani-administrated to the north and west . Religion was one of the main causes of the Kashmir issue as More than 1/2th of the population of Kashmir was Muslim, which made it the only Indian state with such proportion of Muslims. The main conflict mainly comes from outside and it is more a religious issue than a territorial.

In Kashmir, Religion was one of the main causes of the issue. More then half of the population of Kashmir is Muslim, which is it the only Indian state with such proportion of Muslims. However the kashmir Valley has its own cultural identity – Sufism and is used to treating both religions equally. Mostly the main conflict mainly comes from outside and it is more of a religious issue than that of a territorial. Earlier the rulers of Kashmir lead wrong policy according to many dominions and influenced individual people with incentives rather than the collective wishes.

In 1947 was the year of the first collapse of the Indian-Pakistani relations, which evolved in two wars (in 1947-1948 and 1965) for Kashmir. Most of their battles ended without a winner. The only exception is the where Pakistan was completely defeated by Bangladesh at war in 1971. In 1999 fight over Kashmir, known as Kargil conflict, led to a new conflict but it did not turn into a war.

Nowadays The Indian-Pakistani conflicts aren’t over yet. As stated in “After partition: India, Pakistan, Bangladesh” the 2 counties are big nuclear powers within the times of the world. The militants break through the Line of Control (LOC) frequently in order to disturb the peace. In 2002 India positioned 7 lakh troops and Pakistan 3 lakh troops on either sides of the LOC, which is the internationally accepted shared border for both of them. Their armored, military forces were prepared for a war. India was ready for an offence against the militants and Pakistan was prepared to defend. The diplomatic actions and a prevention from a nuclear war from sharp Western policy stopped Indian and Pakistan from being proactive.

The Muslim separatists increased their number significantly in the early 1990s. The Pakistani Hizbul Mujahideen was suspected to be sustained by Islamabad, are the foremost significant one. The Jammu and Kashmir Liberation Front (JKLF) was the most and the largest group of militants, proactive about the independence, until 1994 where it turned to politics. All-Party Hurriyat (Freedom) Conference (APHC) incoporates a lot of followers among militants, desiring Kashmir to receive independence from India. Several militants groups and also the hard faction of APHC have proposed a tribute between Indian, Kashmiri and Pakistani people, but India has been refusing so far. So in 2004 one of the faction of APHC started bilateral talks with India. However there have been complaints against India for not creating an environment as said earlier. The last talks between the 2 sides happened in 2006.

The Kashmir issue was left out of the list with disputes by The Security Council of UN (“Kashmir issue left unmentioned in United Nations”). Jammu and Kashmir weren’t mentioned within the list of the unresolved long-running conflicts. Pakistan objected to the current decision. The United Kingdom envoy to the UN, Mark Lyall Grant stated that there are other conflicts within the Middle East and other geographical parts of the world, which the Council are engaged with in the recent years.

Three active groups of foreign terrorists – Harakat ul-Mujahideen (based in Pakistan with supporters in Kashmir is answerable for hijacking an Indian airplane and attacks on Indian civilians in Kashmir), Jaish-e-Mohammed (wants to take in Kashmir into Pakistan and openly declared war to the United States), Lashkar-e-Taiba (one of the most and largest important terrorist organizations, has taken responsibility for several attacks on Indian targets both with in the Kashmir valley and India). In line with the Jamal Afridi, he said that Kashmir becomes an area of terrorism and while most of the Kashmir terrorists gets trained along with Taliban and al-Qaeda terrorists while they get in tuned through Muslims seminars.

In 1949, J&K's interim government and India's Constituent Assembly negotiated "special status" for the new state, leading to Article 370 of the Indian Constitution in 1950, the same year the document went into effect. The Article formalized the terms of Jammu and Kashmir's accession to the Indian Union, generally requiring the concurrence of the state government before the central government could make administrative changes beyond the areas of defense, foreign affairs, and communications*.* On August 2019, the Indian government announced that it would make major changes to the legal status of Jammu and Kashmir (J&K) state, specifically by repealing Article 370 of the Indian Constitution and Section 35A of its Annex, which provided the state “special” autonomous status, and by bifurcating the state into two successor “Union Territories” with more limited indigenous administrative powers which was implemented on November 1, 2019. The former princely region’s sovereignty has been unsettled since 1947 and its territory is divided by a military “Line of Control” with Pakistan controlling about one-third and disputing India’s claim over remaining part of J&K .The United Nations considers J&K to be disputed territory, but India calls the recent legal changes an internal matter, and it generally opposes third-party involvement in the Kashmir issue.

The long-standing position of United States people on Kashmir issue is that the territory’s status should be settled through negotiations between India and Pakistan while taking into consideration of the needs of the Kashmiri people. The Trump Administration needed peace and respect for human rights within the region, but its criticisms are relatively muted. With key U.S. diplomatic posts vacant, some observers worry that U.S. government capacity to deal with South Asian instability is thin, and the U.S. President’s July offer to “mediate” on Kashmir may have contributed to the timing of latest New Delhi’s moves. The US seeks to balance pursuit of a broad U.S.-India partnership while upholding human rights protections, further as maintaining cooperative relations with Pakistan.

Now as the Kashmir issue has been one of the largest conflicts since 1947. The Indian-Pakistani actions against each did not bring results. The geographical location and religious variety within the Kashmir valley make it an on-going issue. United Nation can only cool the conflict in order to prevent the world from a nuclear war, but are powerless in solving the main problem. By which the Kashmir has turned into a place of separatism and terrorism. Many terrorists attack India in direct and indirect ways to show the world that Kashmir is a part of Pakistan. Therefore the Kashmir issue remain unsolved after the United Nation has taken out of the list because of long-running conflicts. No bright future is expected in the Kashmir.

**(g) Ethnic conflict in Nagaland**

[**Nagaland**](https://en.wikipedia.org/wiki/Nagaland) falls within the [north eastern](https://en.wikipedia.org/wiki/North-East_India) region of [India](https://en.wikipedia.org/wiki/India) mainly occupied by Nagas. The continuing conflict fought between the ethnic [Nagas](https://en.wikipedia.org/wiki/Naga_people" \o "Naga people) and the government of India and [Myanmar](https://en.wikipedia.org/wiki/Myanmar) is what the ethnic conflict in Nagaland.  Nagaland is mainly at the trijunction border of India on the West and South, north and Myanmar on the East.

"National Socialist Council of Nagaland (Khaplang)", which wants an independent "greater Nagaland" to incoporate territory now in Myanmar, supported on ethnicity; and the "Naga National Council (Adino)". On 16 May 1951 the question of "Naga Supremacy" was put to vote. The Naga after much thought formed an armed wing of NNC to protect themselves, known as NSG (Naga Safe Guards).

Today, India’s northeast is a mixture of mountains, forests and lush plains. It is [isolated](http://www.ncert.nic.in/publication/Miscellaneous/pdf_files/tinei101.pdf) from the mainland by the 22 kilometer-wide [Siliguri corridor](https://thediplomat.com/2013/11/geographys-curse-indias-vulnerable-chickens-neck/) that connects the state of West Bengal to Assam. Before the india’s Independence and the creation of present-day Bangladesh, the region was at the margins of the British Indian Empire, and the tribes settled in it were [treated more distinctly](http://www.ide.go.jp/library/English/Publish/Download/Jrp/pdf/133_3.pdf) by the British than other regions on the subcontinent. The Britishers cared less about the relatively small populations in the region and cared more of their governance in that region. They had the [access to land and they used that for the movement of goods and resources](http://shodhganga.inflibnet.ac.in/bitstream/10603/60447/9/09_chapter%203.pdf) between eastern India and present-day Burma. The relatively northeast of India has long been plagued with conflict. Of India’s “Seven Sisters,” or northeastern states, Mizoram, Manipur, Assam, Nagaland, and Tripura have experienced varying levels of violence since 1945. However, the conflict in Nagaland —is also popularly known as the “[mother of insurgencies](https://www.thehindu.com/opinion/lead/Mother-of-insurgencies-or-reinvention/article14962563.ece)”.

In 1946 the Naga National Council (NNC) was created under Phizo's leadership. They signed a Nine-Point Agreement which granted Nagas rights over their lands and legislative and executive powers. No law from the provincial or central legislatures could affect this agreement as empowered by judicial capacity of naga court. The agreement had included a clause demanding that the people Nagaland to be brought into the identical administrative unit at the earliest. However, one clause stipulate. The Governor of Assam have a special responsibility for a period of ten years to confirm that due observance of this agreement to be extended for an extra period, or a replacement agreement regarding the long term of the Naga people to be fell upon.

The clarification of this clause has been challenged between the Nagas and the Indian Government. To Nagas this clause meant independence from India at the end of the 10 year period but not for the Indian government, it just meant that they have to make new agreement if all this fails. The Nine-Point Agreement was rejected by Phizo, to who the agreement became difficult to address the issue of Naga sovereignty. The NNC under Phizo's leadership declared Naga independence on 14 August 1947 and successfully propagated the concept of Naga sovereignty throughout the Naga tribes. A Naga vote was organised on 16 May 1951. The Naga struggle remained peaceful within the 1940s and early 1950s.

Anyhow, a disagreement occurred infront of it that whether the deal could be extended or a new one would be made. Finally at the end of a 10-year period this disagreement led to  declaration of independence od Naga by Aug. 14, 1947, one day before India got independennce. India responded to this on 1952 by [sending its armed forces into Nagaland](http://shodhganga.inflibnet.ac.in/bitstream/10603/60432/9/09_chapter%202.pdf) to get back the territory, beginning a violent insurgency.Following the deployment of armed forces, the violence exploded, and the insurgency could not be controlled. By which the President of India Rajendra Prasad [enacted](https://www.refworld.org/pdfid/4e5630622.pdf) “The Armed Forces (Assam and Manipur) Special Powers Ordinance, 1958,” which was later subsumed into the [Armed Forces (Special Powers) Act, 1958](http://nagapol.gov.in/PDF/The%20Armed%20Forces%20Special%20Powers%20Act%201958.pdf). This act granted the Indian Army powers to fire upon suspected militants and arrest suspects without a warrant in their quest to maintain status quo in “disturbed areas.”The Naga insurgency was an armed ethnic conflict led by the Naga National Council (NNC) in 1956 which aimed for the secession of Naga territories from India.

In the words of historian Benjamin Zachariah, ″It was within the north-east of India that the Nehruvian vision took on its most brutal and violent forms.″ The actions of execution and rape by the Indian defence forces could’nt endear to the Nagas a way of belonging with the Indian nation. The Indian government coerced the dissenters into accepting their power with the appliance of Kautilya's advice to use internal force. Gandhian advice to have interaction with the aim of reaching a typical ground through negotiations was also utilised. The Indian Govt acknowledged a separate Naga state within the Indian Union in 1960 and also the state was inaugurated in 1963.

The State Nagaland has a special provision Article 371A .In this article of the Constitution it states that no act of Parliament would apply to the state of Nagaland in matter concerning to religious or social practices of Nagas, Naga customary law and procedure, administration of civil or criminal justice involving decisions consistent to Naga customary law and ownership and transfer of land and its resources (The Week).The legislature of Nagaland must pass a resolution for an act to be applicable to the state. The governor is given special responsibilities with reference to law and order within the state.( The Week)

Naga rebels have engaged in a violent insurgency against the govt of India since 1952, fighting for a independent state “Nagalim” or “Great Nagaland”. The August 2015 [announcemen](http://pib.nic.in/newsite/PrintRelease.aspx?relid=124222)t offered a ray of hope — not only for bringing peace to Nagaland, but for resolving the last vestiges of a conflict that has limited development in several Indian states and hindered India’s ambitions because it looks to “[Act East](https://www.mea.gov.in/in-focus-article.htm?24216/Act+East+Indias+ASEAN+Journey).” Nearly four years later, the road to a lasting peace remains challenging.Because of the naga conflict, the geostrategic location of India land border with Southeast Asia  [has really very bad infrastructure development](https://www.cogitasia.com/unrest-isolation-in-indias-northeast-domestic-politics-pose-obstacles-to-regional-connections/) in that region. Resolving the Nagaland issue can unlock many new development and opportunities in that area and can make a new era of trade, infrastructure, and cultural connectivity with Southeast Asia. We can also reenergizing the “Act East” policy by a two-step approach to move towards resolution of the conflict once the differences of Naga rebel factions have united the government can repeal the Armed Forces (Special Powers) Act in Nagaland and nearby Manipur; and second, a states-led resolution process that allows for the creation of a virtual state that protects and administers the cultural and land rights practices of the Naga. Such an approach would be pleasant to all parties and will boost the Naga identity within the union of India without compromising the existing territorial integrity of any state.

A lack of unity among Naga rebels has repeatedly hampered efforts to barter a long lasting peace over the years. In the early 1960s, the All Tribes Naga People’s Conference approached India with a proposal to form a state of Nagaland within India. The proposal peak within the [16-Point Agreement](https://peacemaker.un.org/sites/peacemaker.un.org/files/IN_600726_The%20sixteen%20point%20Agreement_0.pdf) that created the Nagaland state and gave local bodies significant autonomy over governance. However, the agreement wasn’t accepted by most of the Naga people and they continued fighting.

The Shillong Accord of 1975 made another advance, where the segment of the NNC agreed to accept the Constitution of India. However, this accord, too, was rejected by an oversized swath of rebels. But some rebels, broke and removed and formed the Nazi Council of Nagaland (NSCN). With this NNC became a nonentity. However, the newly formed NSCN, too, faced problems because the three leaders disagreed on whether the group should engage during a dialogue with the Indian government. By 1988, that faction had itself split into two groups, the NSCN-IM, which favored talks with India and was led by Isak and Muivah, and also the NSCN-K, which opposed talks and was led by Khaplang. the govt. began negotiating with the previous, which remains the most important Naga rebel organization, reaching a ceasefire in July 1997. Since, then peace talks are ongoing, largely focused on the key demands put forth by the NSCN-IM:

1. India should recognize the “unique history” of the Nagaland  
2. Repeal of the military (Special Powers) Act in Nagaland  
3. All Naga areas should be territorially integrated  
4. Nagas should have their own constitution that might cover governance within the integrated “Nagalim.”

India on it’s part has also demanded that the governance structure for all the Naga rebels must be within the structure of the Constitution of India, and there should be no opposing to any territorial changes involving int the states of Assam, Arunachal Pradesh and Manipur. As there are significant number of Naga populations. And as an unspoken concern for India, it has also been the degree of unity among the Naga rebels and ensuring peace settlement will only lead to peace and it would not be rejected by Nagas in the past.

The August 2015 Framework Agreement was signed between the govt. of India and also the NSCN-IM on these terms. Under the framework agreement, the Indian government has already fulfilled the primary demand, with the prime minister’s office saying, “The Government of India recognized the unique history, culture and position of the Nagas and their sentiments and aspirations.” Nevertheless, they continued application of the military (Special Powers) Act and also the demand for territorial integrity remain the foremost intractable. Today, the NSCN-IM and therefore the government of India remain engaged in talks on a final peace agreement.

And moreover now the section of the Naga rebels continue to oppose the peace talks. Specially the Khaplang’s faction, they opposed the negotiations between the NSCN-IM and the government and continued to make more violence. The group also attacked an Army convoy in Manipur on June 4 2015, killing 18. This attack resulted in the government of India [declaring](http://pib.nic.in/newsite/PrintRelease.aspx?relid=130500) this faction “as a terrorist organization under the Unlawful Activities (prevention) Act, 1967.” The NSCN-IM have also [declared](https://www.irrawaddy.com/opinion/guest-column/peace-nagaland-myanmar-india-role-play.html) them as unrepresentative of the Naga people and their desire.”

As in the central government elections of 2019, the prime minister’s announcement at the time of 2015 needs to be delivered this time on its promises. The resolving of the conflict will unlock tremendous economic opportunities for the people living in north eastern states of India and it will help india a lot fulfill It’s vision of its “Act East Policy”. The “Act East Policy” of India also calls for deep engagement with Southeast Asian countries. It is one of the [centerpiece](https://www.firstpost.com/business/economy/modi-govt-to-give-greater-push-to-indias-look-east-policy-says-sushma-swaraj-2011353.html) of Prime Minister Narendra Modi’s foreign policy. This policy [builds](https://www.lowyinstitute.org/sites/default/files/indias-new-asia-pacific-strategy-modi-acts-east.pdf) upon the “Look East Policy” created  by Prime Minister P.V. Narasimha Rao, and it also has greater regional connectivity and land-based infrastructure from India towards Myanmar, Thailand, and other far east asian countries. However, the implementation of such policy is still a dream and it has many lack of resolution and problems on the Naga conflict.

The One path forward could be the creation of a new institution headquartered in Nagaland that manages the land transfer and cultural issues for all the Naga across state boundaries without disturbing the other states rights. The demand for government from the NSCN was recognition of the Nagas’ unique history which has already been met . Any autonomous structure that would build upon there progress and ensuring the third and fourth demands of cultural unity and separate governance of Nagas protected under the auspices of the broader of Indian constitution. However such settlement would be a balanced compromise between the demands of the north eastern states of india and those of the Naga rebels. When the boundaries of the states and the constitutional powers of the states does not change, India can go a step further than just recognizing and honoring the rights and history of the Naga people. Now Nagaland and other north eastern india neighbour are no longer under the rule of the British Empire, but a strategic region linking South and Southeast of Asia and by fulfilling their promise and resolving the Naga conflict, the govt of India and the people of the northeast india can unlock tremendous economic opportunities and create new types of governance structures to be modelled.

Work Cited (Reference)

"A Overview Of The Kashmir Issue History Essay." ukessays.com. 11 2018. UKEssays. 08 ukessays.com/essays/history/a-overview-of-the-kashmir-issue-history-essay.php?vref=1**.**

Ghosh, P. (2015, September 5). *Essay on “Kashmir” (1000 Words)*. World’s Largest Collection of Essays! Published by Experts. ,shareyouressays.com/essays/essay-on-kashmir-1000-words/113396

*Kashmir: Background, Recent Developments, and U.S. Policy*. (2020, January 13). CRS Reports. https://www.everycrsreport.com/reports/R45877.html

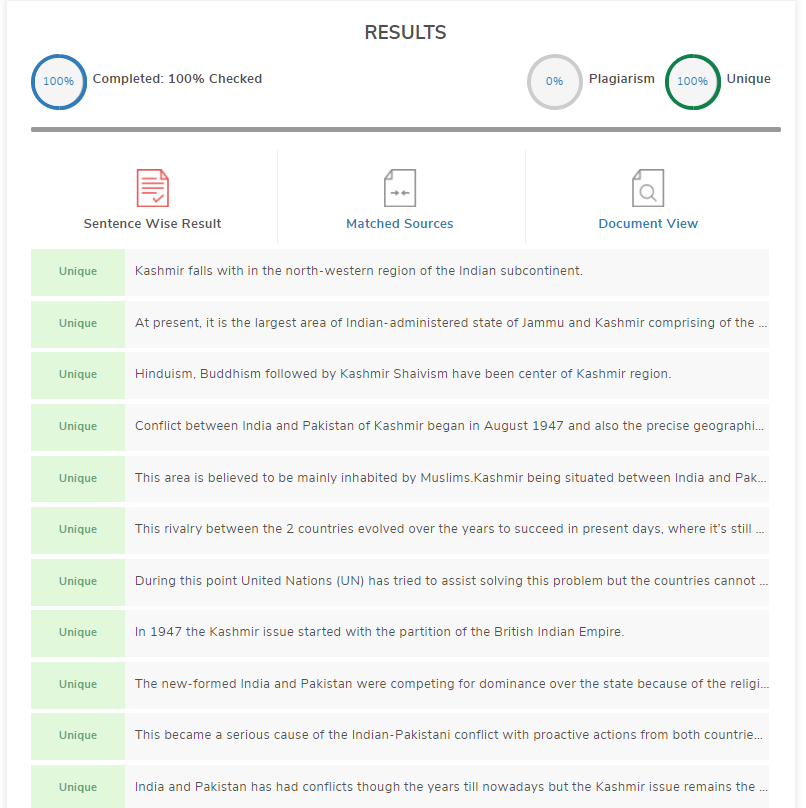
Wikipedia contributors. (2020, August 2). *Ethnic conflict in Nagaland*. Wikipedia. https://en.wikipedia.org/wiki/Ethnic\_conflict\_in\_Nagaland#References

Aylward, M. K. (2019, January 18). *Nagaland’s Time: A States-Led Effort to Resolve the Naga Conflict*. War on the Rocks. <https://warontherocks.com/2019/01/nagalands-time-a-states-led-effort-to-resolve-the-naga-conflict/>

Desk, W. (2019, August 5). *States that have special provisions under Article 371 (A-J)*. The Week. https://www.theweek.in/news/india/2019/08/05/states-that-have-special-provisions-under-article-371-a-j.html

*Indian National Security and Counter-Insurgency*. (n.d.). Google Books. https://books.google.co.in/books?id=RiecBQAAQBAJ&pg=PA47&redir\_esc=y#v=onepage&q&f=false

Q 1 Essay on Issues Pertaining to J&K



Q2 Ethnic Conflict in Nagaland

