

GDMUN'23

Lok Sabha

BACKGROUND GUIDE





PARLIAMENT OF INDIA

Study Guide

Committee: Lok Sabha

Agenda: Jammu and Kashmir statehood: Fostering inclusive governance and regional stability

Greetings members!

It gives us immense pleasure to welcome you to the simulation of the **Lok Sabha** at GDMUN. We look forward to an enriching experience.

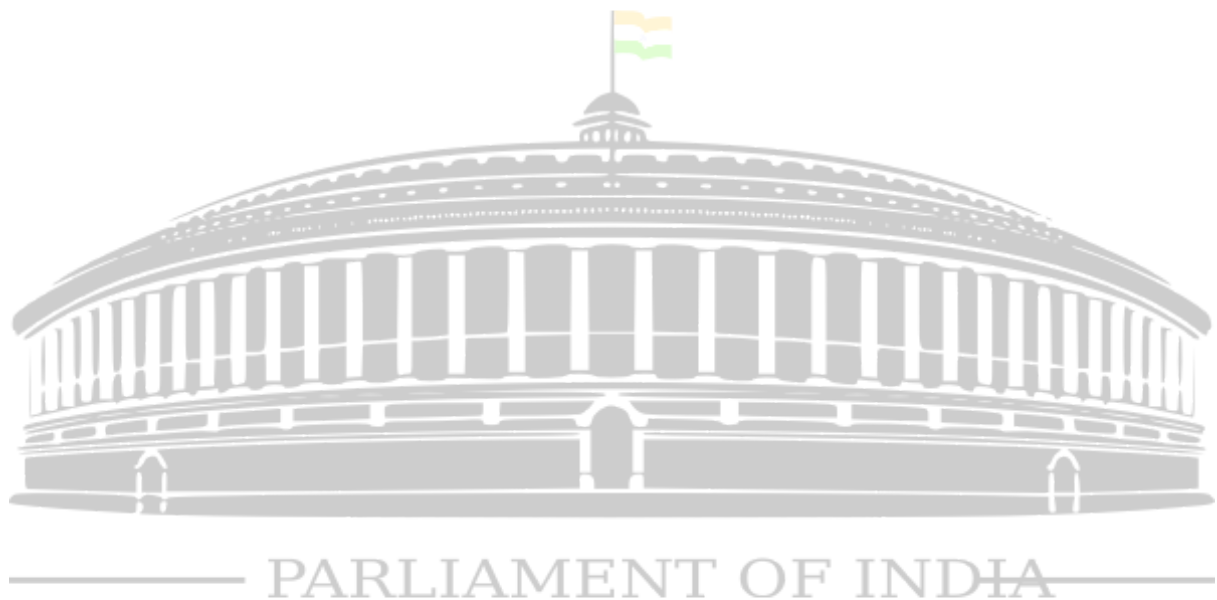
This study guide is by no means the end of research it will be encouraged and appreciated if the members can find new realms in the agenda and bring it forth in the committee. Such research, combined with good argumentation and a solid representation of facts is what makes an excellent performance. Kindly understand that fluency, diction, oratory skills, or even rules of procedure for that matter, have very little importance as opposed to the content you deliver. So just research well, and you are bound to make a lot of sense. Please note members that this committee is expected to work from a welfare standpoint. Each and everything of relevance has been elaborated upon in this study guide and the executive board further, will be more than happy to resolve any sort of queries which might come up at any point in time. Always remember delegates that originality, good interpretation, and means of expression are the three most powerful weapons any orator possesses, therefore, never shy away from expressing an original idea or thought. Stay calm, and read the concepts thoroughly, and you will be doing wonders in the 'Art of debating and political

deliberation' in no time. Being mindful of the above will make your arguments wholesome and useful. On that note, we would like to end. We look forward to an exciting and interesting committee, which should certainly be helped by the all-pervasive nature of the issue. Hopefully we, as members of the Executive Board, also have a chance to gain from being a part of this committee. Please do not hesitate to contact us regarding any doubts that you may have.

Wishing you the Best of Luck!

Regards,

The Executive Board



Valid Sources

1. Government Reports (Each ministry publishes its reports using External Affairs Ministry)
2. PTL, PIB
3. Government Websites
4. Government run News channels i.e., RSTV, LSTV, DD News
5. Standing Committee Reports/ Commission Reports
6. RTI Proofs
7. Parliamentary Standing Committee reports
8. Questions and Answers of the parliament
9. High Court, Supreme Court Judgements
10. References from the Indian Constitution



Agenda Overview

The crown state of India, Jammu & Kashmir had always found itself in heavy debates as to the political machinery and the Constitution of the State and the conditions that used to prevail in Jammu & Kashmir due to the same. Ever since the State's accession to the Indian Union on the 26th October 1947, the state has functioned under Article 35 A (initiated in 1954) and Article 370 which have distinguished the functioning of the State from that of the others in the Indian Union. While Jammu & Kashmir had been granted an autonomous status and had the power to define its permanent residents among the many other distinctions, the very same, had found themselves under the scanner for reasons ranging from violation of the Right to Equality under Article 14 to prevention of privatisation in the State which incurred heavy revenue losses for the state. One of the most controversial laws in modern Indian history, Article 370 stated that the Centre needs the state government's concurrence to apply laws — except in defence, foreign affairs, finance and communications. It means the state's residents live under a separate set of laws, including those related to citizenship, ownership of property, and fundamental rights, as compared to other Indians. As a result of this provision, Indian citizens from other states cannot purchase land or property in Jammu & Kashmir.

Article 35A allowed the state legislature to define the Jammu and Kashmir's permanent residents. The article had been inserted via the Constitution (Application to J&K) Order, 1954. It was issued by the then President Rajendra Prasad under Article 370 on PM Nehru's advice. The state's Constitution, at the time of its adoption in 1956, defined a permanent resident as someone who was a state subject on May 14, 1954, or who has been a resident for 10 years, and

has lawfully acquired immovable property.

Both of these articles were REVOKED in a historic ruling on the 8th of August, 2019, in a whirlwind, fiery resolution primarily led by Amit Shah, the Home Minister of India. Placed under virtual lockdown, Jammu & Kashmir saw all communication lines being cut and house arrests of some of the most prominent Kashmiriyat based leaders. As the Bill gained momentum in the Lower House, Indian President Ram Nath Kovind issued an order under the power of Article 370, overriding the prevailing 1954 Presidential Order and nullifying all the provisions of autonomy granted to the state. Once the Article was scrapped, Home Minister Amit Shah introduced a Reorganisation Bill in the Indian Parliament, seeking to divide the state into two union territories to be governed by a lieutenant governor and unicameral legislature.

The Rajya Sabha further passed the resolution with 125 votes in favour and 61 against. On 6th August, the Rajya Sabha rallied in an unprecedented majority and passed the Reorganisation Bill with 370 votes in favour and 70 against. While international human rights groups condemned the revocation resolution, stating that it was unethical to bring it about in such a manner where the voice of the people of Jammu & Kashmir was lost, the Hindu nationalists celebrated, stating that this "could bring peace and investment" to this region. The strength of this move is seen in the fact that many major regional parties, which were long-standing foes of the Bharatiya Janata Party, supported the decision and praised the eventual unification it would lead to. Jamiat Ulema-e- Hind, a prominent Muslim organisation in India, also supported the decision. The Buddhist community in Ladakh – the eastern region of Jammu and Kashmir– also supported the decision, stating that they have been long ignored and now they can be "owners of our own destiny". The NDA government passed the Jammu and Kashmir Reorganisation Bill, 2019, in the Rajya Sabha. It became a historic day, as Article 370 was revoked. August 5th, 2019 created huge news in the Indian economy.

The budget of the newly created Union Territories will be announced soon after the announcement of Union budget for 2020-21. The Union Budget for 2020–2021 will be presented by Finance Minister, Nirmala Sitharaman on 1 February 2020, 11 am as her second budget. This will be the second budget of Narendra Modi led NDA government's second term. The Armed Forces (Special Powers) Act which grants special powers to the Indian Army operating in disturbed areas is another contentious topic for the State; one which has resulted in numerous Human Rights violations. The Status of the AFSPA after the revocation of Article 370, the allocation of funds towards peacekeeping in the valley, the relevance of the AFSPA post the revocation, its importance in battling separatist threats and violent uprisings, will also be topics of utmost concern.



Article 370

Article 370 of the Indian Constitution was initially introduced in order to bring the people of Jammu and Kashmir into the mainstream democracy of India and strengthen the nation but has proved to be the biggest hurdle in modern debate and has significantly given rise to the causes of separatists, contrary to its intended purpose.

The article provides the state of Jammu and Kashmir with autonomous status and the authority to make a separate individual constitution along with control over every government affair other than defence, foreign affairs and communications. According to Article 370, the state's concurrence is required by the central government to apply any law other than the features of the Instrument of Accession.

History

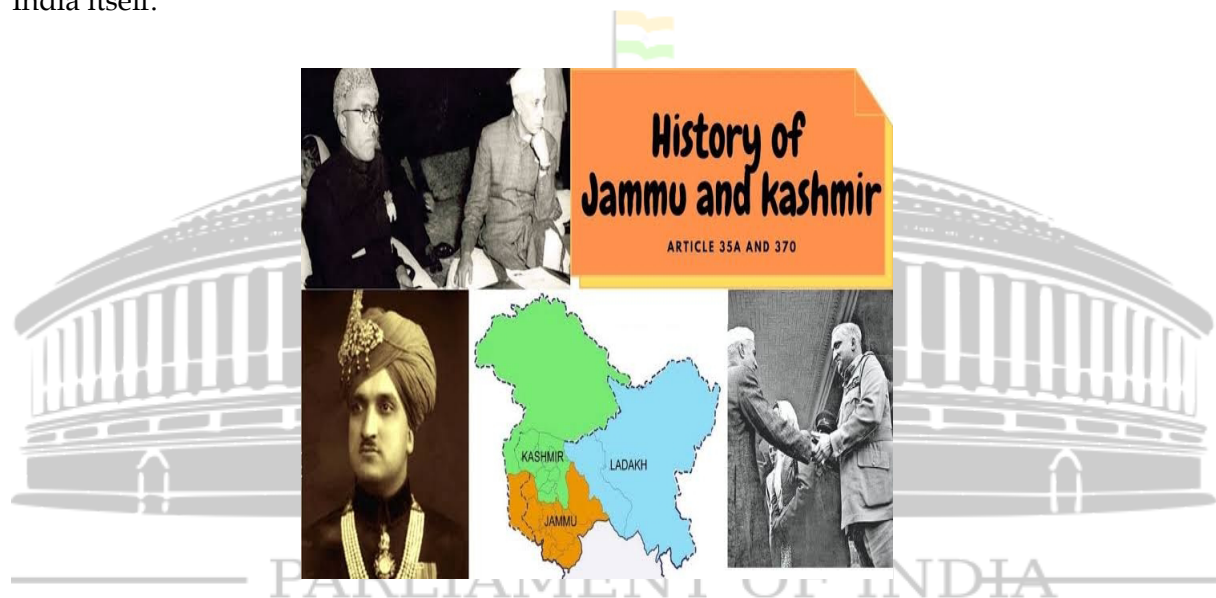
Similar to any other princely state, the state of Jammu and Kashmir aimed to develop their own constitution and create its own laws for unique governance. All of India's princely states were invited to send a representative to India's Constituent Assembly and were motivated to set up constituent assemblies for their respective states. Even though the states of Saurashtra Union, Travancore-Cochin and Mysore had developed their own model constitution, they accepted the Indian Constitution after making a few amendments. They believed that the subjects available for legislation by the central government and the state governments across India should be uniform.

In the case of Jammu and Kashmir, the representatives to the constituent assembly proposed that only those provisions of the Indian Constitution that correspond with the original Instrument of Accession (which was on three matters: defence, foreign affairs and communications) should be applied. The provision was drafted by Sheikh Abdullah who had been appointed by

Jawaharlal Nehru and then the prime minister of Jammu and Kashmir - Maharaja Hari Singh. Maharaja Hari Singh wanted an 'iron clad autonomy' which means a sole government without any foreign intervention; which the central government at the time did not agree to.

The government wanted control over defence, foreign affairs and communications as a minimum requirement for providing Jammu and Kashmir autonomous status. These sectors were the most important to the central government due to the close proximity between **Jammu and Kashmir** and Pakistan.

Article 370 of the Indian Constitution gives the state of Jammu and Kashmir a special autonomous status which, if simply put, is a near intervention-free state of governance directed by a separate constitution but approved and authorised by the Government of India. Despite this status, three matters that hold extreme importance in the governance of a country, i.e. international relations, communications and external affairs are looked after by the Government of India itself.



Timeline

History and Timeline of the Article

The state of Jammu and Kashmir was known as a princely state before 1947. The citizens of the state were not regarded as colonial subjects, but as subjects of the state while under British Raj. The Hereditary State Subject Order was a decree by the Maharaja of Kashmir in the year 1927, which granted these subjects the right to government employment, land use and land ownership. The order made clear that these rights are only to be granted to state subjects, with no exceptions for non-state subjects.

The Hereditary State Subject Order by the Maharaja was born due to protests to

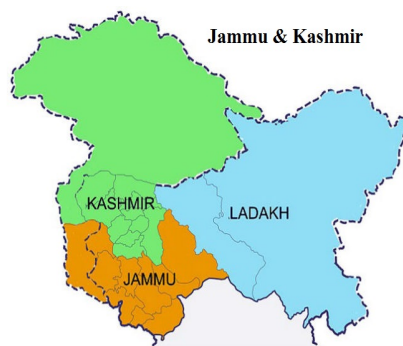
keep the culturalism of Kashmir intact and because of demonstrations such as the '**Kashmir Kashmiriyon ke liye**' (Kashmir for the Kashmiris) movement by Kashmiri Muslims and Hindu Kashmiri Pandits. The order was further emphasised as the Maharaja's court wanted to prevent any Englishmen or rich aristocrats from settling in Kashmir. Therefore, the order was authorised with the purpose of keeping land preserved for the ethnic people of Kashmir. After Jammu and Kashmir joined the Indian Union in 1947 and the Maharaja of Kashmir gave up control of the state, the Hereditary State Subject Order was still in effect as the state subjects retained their exclusive status. In the Delhi Agreement of 1952, held between the PM of the Indian Union Jawaharlal Nehru

and the PM of Jammu and Kashmir Sheikh Abdullah, both state governments agreed to provide Indian citizenship to all J&K state residents while also ensuring that the state government of J&K makes decisions on the rights of the state subjects, giving them the renewed status of permanent resident (PR). This was further reflected in The Presidential Order of 1954 (officially 'The Constitution (Application to Jammu and Kashmir) Order, 1954') when Article 35A was formally introduced into the Indian constitution.

The purpose of The Presidential Order of 1954 was to implement the 1952 Delhi Agreement itself. It codified the agreement of the following –

1. Granting Indian citizenship to permanent residents of Jammu and Kashmir.
2. The introduction of Article 35A, granting the state of Jammu and Kashmir the right to decide the privileges accorded to the state's permanent residents, with regards to permanent property, settlement in the state and government employment.
3. The fundamental rights of the Indian Constitution to be applied to the state of Jammu and Kashmir.
4. The Supreme Court has jurisdiction over the state.
5. The central government obtains the ability to declare a national emergency in the event of external aggression.

Article 35A was placed under Article 370 of the Indian Constitution that pertained to the state of Jammu and Kashmir. The article is seen as an exception allowed by Article 370.



J&K Reorganisation Act, 2019

The Jammu and Kashmir Reorganisation Bill, 2019 was introduced in Rajya Sabha on August 5, 2019 by Amit Shah. The bill was passed in Rajya Sabha the same day and was passed by the Lok Sabha on 6 August 2019. It received the President's assent on 9 August 2019. The act recognises the state into two union territories, namely the eponymous union territory of Jammu and Kashmir, and that of Ladakh. While the former will have a legislative assembly, Ladakh will be administered by a lieutenant governor alone. The union territory of Ladakh will include the districts of Leh and Kargil, while all other districts will be accorded to Jammu and Kashmir. Out of the six Lok Sabha seats allocated to the state of Jammu and Kashmir, one will be allocated to Ladakh and five will be accorded to the Jammu and Kashmir union territory. The High Court of Jammu and Kashmir will function as the High Court for both the union territories. The act provides that the administration of Jammu and Kashmir will be as per Article 239A of the Indian constitution. Article 239A, originally formulated for the Union territory of Puducherry, will also be applicable to Jammu and Kashmir.



The Power of Governor

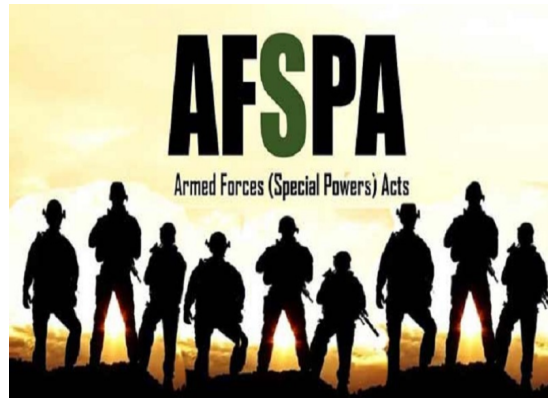
The Union Territory of Jammu and Kashmir will be administered by the President, through an administrator appointed by him. The administrator will be known as the Lieutenant Governor just like New Delhi Union Territory.

On the other hand, the Union Territory of Ladakh will also be administered by the President, through a Lieutenant Governor appointed by him. The Legislative Assembly may make laws for any part of the Union Territory of Jammu and Kashmir. These laws are related to;

(a) Any matters specified in the State List of the Constitution, except “Police” and “Public Order”, and

(b) Any matter in the Concurrent List applicable to Union Territories.

Further, Parliament will have the power to make laws in relation to any matter for the Union Territory of Jammu and Kashmir like the other UTs of India.



Armed Forces (Special powers) Act [AFSPA]

The Armed Forces (Special Powers) Act was passed on 11 September, 1958 to handle the chaos happening in the disturbed regions of the North Eastern region of the country. Later due to the increasing insurrection the act was implemented in Kashmir as well. The act provides the Indian armed forces with special permission to take whatever action they consider necessary in the interest of maintaining law and order in the disturbed areas.

Any state declared as a disturbed state would stay in the control of the armed forces for at least three months. Section (3) of the AFSPA act specifies that for the central government to declare any area as disturbed the state government of the state's opinion should be considered deeply as to take any further action.

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AFSPA gives the armed forces the following allowances:

- I. Any suspect could be arrested without a warrant.
- II. The armed forces could search any house without any search warrant.
- III. The law enables the armed forces to forbid any gathering of five or more people in an area.
- IV. After giving due warning to any disturbing factor, if it still persists to stay the armed forces have the authority to open fire on the disturbing factor.
- V. If a person is a repeated offender and keeps at disturbing the peace of the area, then the armed forces have been authorised to use force till his/her death.
- VI. If the armed forces suspect any militant or offender hiding in a building, then the armed forces can destroy the site.

AFSPA is in violation of the following human rights in the Indian Constitution and International Conventions –

Article 21: The right to life – As AFSPA gives the armed forces the right to kill suspects and arrest them by force.

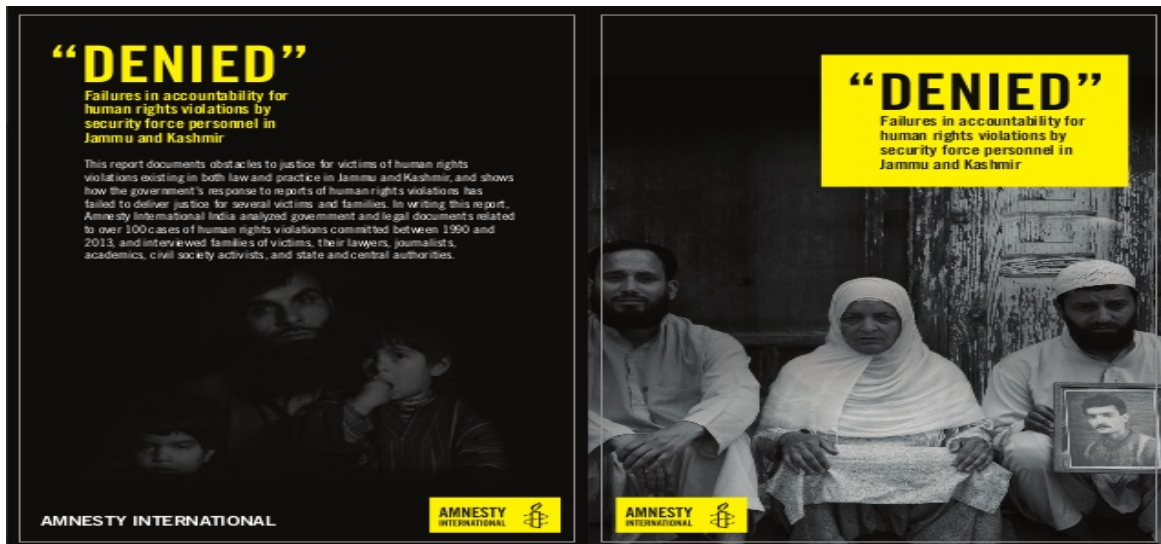
Article 22: The protection against arrest and detention: AFSPA gives the forces authorisation to arrest any person simply on the basis of doubt.

Immunity to security forces: AFSPA provision of legal immunity to the armed forces count for all actions, including killing a person under suspicion. This does not bring justice to the armed forces for any crimes and does not hold the doer responsible. Prosecution of one's actions is the most important factor in bringing justice to any disturbed area, and it is one that has been overlooked through AFSPA.



1986 Kashmir Riots

Ever since independence, Kashmir has been plagued by consistent operations launched by the insurgents. In 1986, communal riots broke out in the state against the Kashmiri Hindus. These riots occurred when the Kashmiri Muslims forced Kashmiri Pandits to evacuate the Kashmir valley as a result of terrorism. Approximately 1000 people lost their lives and more than 1000 people became homeless. An Indian news magazine reported that about 1,200 Pandits were assassinated, 1,600 houses were burnt and at least 50 temples were devastated by the militants. The same report claimed that more than 3,50,000 Hindu Pandits were forced to leave the Valley.



Human Rights

In November 2021, the authorities arrested a prominent Kashmiri human rights activist, Khurram Parvez, on politically motivated charges under the abusive counterterrorism law, the Unlawful Activities Prevention Act (UAPA). Parvez, 44, is the program coordinator of the Jammu and Kashmir Coalition of Civil Society and the chair of the Asian Federation Against Involuntary Disappearances. He has documented cases of enforced disappearances and investigated unmarked graves in Kashmir, and as a result, the Indian authorities have repeatedly targeted him for his human rights work.

United Nations human rights experts, calling for his immediate release, expressed "regret that the Government continues to use the UAPA as a means of coercion to restrict civil society's, the media's and human rights defenders' fundamental freedoms."

Since August 2019, at least 35 journalists in Kashmir have faced police interrogation, raids, threats, physical assault, restrictions on freedom of movement, or fabricated criminal cases for their reporting. In June 2020, the government announced a new media policy that made it easier for the authorities to censor news in the region. In 2022, the authorities rearrested Fahad Shah, Aasif Sultan, and Sajad Gul under the Public Safety Act after they had been granted bail separately in other cases filed against them in retaliation for their journalism work.

Since 2019, the security forces have been implicated in numerous abuses including routine harassment and ill-treatment at checkpoints, arbitrary detention, and extrajudicial killings. In March 2021, five UN expert mandates wrote to the Indian government seeking information about the detention of a Kashmiri politician, Waheed Para; the alleged killing in custody of a shopkeeper, Irfan Ahmad Dar; and the enforced disappearance of Naseer Ahmad Wani, a resident of Shopian district. They raised concerns about "the repressive measures and broader pattern of systematic infringements of fundamental rights used

against the local population, as well as of intimidations, searches, and confiscations committed by national security agents."

Some suggested Sub-topics

1. Finding the Balance Between Sovereignty and Integration: The Abrogation of Article-370
2. Ensuring Political Engagement and Representation in Jammu and Jammu & Kashmir
3. Media Freedom and the Influence of Propaganda in Jammu & Kashmir
4. Managing Transboundary Water Disputes for Regional Stability
5. Addressing Youth Radicalization in Jammu & Kashmir: Root Causes and Mitigation Strategies
6. Empowering Women Economically in the Jammu & Kashmir Region
7. Humanitarian Aid and Relief Efforts in Conflict-Affected Jammu & Kashmir
8. Promoting Cross-Border Trade and Economic Relations in Jammu & Kashmir
9. Tackling the Refugee Crisis in Jammu & Kashmir: Solutions for Displacement and Return
10. Preserving Cultural Heritage and Identity in the Kashmir Valley
11. The Role of Religious Institutions in Kashmiri Society and Governance
12. Achieving Transitional Justice and Reconciliation in Kashmir
13. Enhancing Border Security and Building Confidence-Building Measures
14. Strategies for Countering Terrorism in the Jammu & Kashmir Region
15. The Influence of the Kashmiri Diaspora in Global Advocacy
16. The Contribution of Local Governance Structures to Conflict Resolution
17. The Societal Impact of Armed Militancy in Kashmir
18. Access to Healthcare in Conflict Zones: Addressing Challenges in Kashmir
19. Cybersecurity and the Dynamics of Information Warfare in Jammu & Kashmir
20. Upholding International Humanitarian Law in Kashmir: Compliance and Accountability
21. Balancing Economic Growth and Conservation Efforts in Kashmir's Tourism Sector
22. Programs for Rehabilitating and Integrating Refugees in Kashmir
23. Addressing Historical Injustices: The Kashmiri Pandit Exodus

NOTE-The ethical ROPs of Lok Sabha will be followed and to avoid any confusion, The same will be explained by the Executive board.