Art 370 and Line of Control

What is the issue?

- Article 370 of the Indian Constitution was recently scrapped by the Indian government. Click here to know more.
- In this context, here is a discussion on the status of the Line of Control (LoC) between India and Pakistan.

What is the LoC?

- Legally, the LoC is a ceasefire line between India and Pakistan and is not an international boundary.
- Under international law, it is defined and protected by a bilateral treaty, the 1972 Simla Agreement.
- The Agreement was executed in writing between India and Pakistan following the 1971 war.
- It was subsequently ratified by both parliaments.



Will scrapping Art 370 affect LoC status?

- As with any bilateral treaty, the status or definition of the LoC can be legally altered only with the agreement of both India and Pakistan.
- The constitutional changes to Article 370 do not automatically make an impact on the status of the LoC.
- On a question over the impact of this constitutional change on the Pakistani side territory, the Indian home minister reiterated India's claim to the whole of Kashmir.
- However, a diplomatic response from the Ministry of External Affairs clarified that the changes do not affect either the LoC or the Line of Actual Control (the disputed border with China running through Ladakh).
- Given these, many see the LoC as merely continuing with an indefinite and harmful status quo, thus preventing a substantive resolution of the conflict.





What is the legal contention now?

- A domestic law of one country simply cannot amend a bilateral treaty without the consent of the other party.
- E.g. Previous amendments and additions to Article 370, too, have not changed the LoC.
- Also, in 2018, Pakistan introduced the Gilgit Baltistan Order 2018 to begin the integration of Gilgit Baltistan into the federal structure of Pakistan.
- It was a step towards making it the country's fifth province, akin to Punjab or Sindh.
- While India and Kashmiris on both sides of the LoC opposed the move, there was no suggestion that the LoC should be sacrificed.
- Given these, the unilateral constitutional changes, as with scrapping Art 370, fundamentally violate the letter and spirit of the Simla Agreement.
- Notably, Article 4 (2) of the Simla Agreement states as below:
    1. Neither side shall seek to alter it (the LoC) unilaterally, irrespective of mutual differences and legal interpretations
    2. Both sides further undertake to refrain from the threat of the use of force in violation of this Line
- This would clearly justify internationalising the conflict over Art 370, violating the ceasefire and in the extreme, direct military action.
- Indeed, Pakistan briefly threatened to reconsider its adherence to bilateral treaties, including the Simla Agreement, in response to India's latest move.

How significant is the LoC?

- Preserving the sanctity of the LoC will prevent the border crisis from further worsening.
- The existence of LoC also sustains the hopes of finding common ground in an increasingly polarised environment.
- Pakistan realises that the Line of Control would be the only remaining way for it to retain its claim on Kashmir.
- India has adopted an identical position for exactly the same reasons.
- The governments should thus preserve the gains made on the LoC.

Source: Indian Express

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