



Article 370: Implementation, Abrogation & Judicial Dimensions

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<i>Article 370, Jammu and Kashmir, Constitution of India, Autonomy.</i>	<i>India is renowned for having one of the earliest and most impactful written constitutions in the world, which incorporates aspects from diverse charters. The framers of the Indian constitution were compelled to meticulously analyze all topics due to the great diversity present inside the country. Article 370, which is an inherent component of the constitution, confers upon J&K the privilege of possessing its own constitution, state emblem, and administrative autonomy within its territorial confines. Furthermore, it is stipulated that any legislation enacted by the national legislative body must get approval from the respective state government in order to be enforceable within the specified jurisdiction, with the exception of issues pertaining to foreign policy, defence, and communications. As a result, the inhabitants of J&K are subject to distinct legal provisions concerning citizenship, property ownership, and fundamental rights in comparison to the remainder of India. The initial intention of Article 370 was to serve as a temporary and transitional measure. However, it had a substantial influence on the economy of J&K and conferred a notable advantage to political and separatist factions operating within the area. The Government of India has recently undertaken the decision to fully integrate the Union territories of Jammu-Kashmir and Ladakh into the nation's mainstream.</i>

This integration has been achieved by constitutional modifications and the restructuring of the former state. The unification of J&K and Ladakh has resulted in the provision of constitutional guarantees and the application of all Central Laws to the residents of these regions. This study intends to examine the implications of the revocation of Article 370 and provide insights into the present socio-economic condition of the region of Jammu and Kashmir.

1. Introduction

The J&K in northern India is of considerable strategic significance because to its geographical proximity to key nations such as Russia, India, China, Afghanistan, and Pakistan. The state's particular social and political climate is attributed to its unique qualities and strategic location, setting it apart from other states. The historical trajectory of Jammu and Kashmir's governance can be delineated into four distinct epochs, characterised by varying regimes and influences. In the year 1947, Maharaja Hari Singh of Kashmir entered into an agreement known as the Instrument of Accession, so establishing a formal association between the region of Kashmir and the Dominion of India. The ratification of the accession by the Constituent Assembly of J&K was a necessary requirement as outlined in Article 370 of the Indian Constitution¹. This research paper facilitated a transitional phase wherein the Government of India, in collaboration with the Government of Kashmir, had the ability to extend certain elements of the Indian Constitution to the state. The aforementioned structure conferred upon the executive branch of the state some legislative tasks that were exclusive to its own Constitution, while other sections of the Indian Constitution were not applicable in the region of Jammu and Kashmir.

In 1947, Sheikh Abdullah assumed the role of State Emergency Administrator and implemented a series of comprehensive changes aimed at fostering citizen participation in the processes of policymaking and government. The local populace expressed their support for the formulation of their own constitution and the installation of a Responsible Government within the region, resulting in a proclamation issued by Maharaja Hari Singh in 1948². Article 370 was specifically formulated to pertain solely to the circumstances prevailing in the region of Jammu and Kashmir, mandating that any modifications or revisions to its provisions must be determined by the Constituent Assembly of the state. The utilisation of

¹ Khazir, N., & Amin, P. M. (2011), Socio-Economic Development of Jammu & Kashmir, A Case Study of Charari-Sharief Tehsil in J & K

² Constituent Assembly (Legislative) Debates (India, 1948), Vol. III, p. 1656

the phrase "temporary" within Article 370 was intended to provide a mechanism for the amendment of the article through mutual consensus, rather than implying that it might be unilaterally revoked or substituted without due process. In the year 1950, India implemented a novel constitution, whereby Article 370 was developed with the purpose of governing the constitutional association between India and the region of Kashmir³. In collaboration with the Government of Jammu and Kashmir, the President of India issued "The Constitution (Application to Jammu and Kashmir) Order, 1950," delineating the specific domains in which the Union Parliament possessed legislative jurisdiction over the state. Despite Article 394 becoming obsolete due to the implementation of Article 370, the latter remained legally valid. The President was tasked with specifying the exact provisions of the Indian Constitution applicable to the region of Jammu and Kashmir. Consequently, the state was obligated to adhere to any modifications or exceptions established by the President.

2. Unveiling a New Era: The Transformative Development of Jammu and Kashmir

J&K is a geopolitical entity that has been designated as a Union Territory within the Republic of India. It is situated in the northern region of the country. This location is internationally recognised as a prominent tourist attraction due to its picturesque landscapes and rich cultural legacy. In addition to conventional forms of recreational tourism, the region of J&K presents extensive opportunities for adventure, religious, spiritual, and health tourism. The economy of J&K is predominantly driven by the services sector and agriculture. The primary objective of this study is to conduct a thorough examination of the economic growth in the region of J&K, with particular emphasis on its agro-based industries, handicrafts sector, tourism industry, and the recent governmental efforts aimed at fostering investment in the area⁴.

The economic scenario of Jammu and Kashmir is currently undergoing a remarkable shift, showing promising growth prospects for the upcoming fiscal year 2023-2024. The region's Gross Domestic Product (GDP) is anticipated to surpass Rs 2.30 lakh crore, indicating an impressive growth rate of 10 percent. This foreseen expansion outlines an optimistic path for the region's economic progress. In the approaching financial year, it is projected that Jammu and Kashmir's GDP will attain Rs 2,30,727 crore, marking a notable 10 percent increase from the preceding year. The data from the 2022-23 fiscal year positioned J&K's GDP at Rs 2,09,752 crore. Noteworthy is the expected elevation in the tax-to-GDP

³ Raj. (2020, May 5). Geopolitical Problem of Jammu and Kashmir: A Review of Some Classical and Specific Geostrategic Views from a Locational Perspective. *INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS*, 8(5), 3030–3038. <https://ijcrt.org/papers/IJCRT2005397.pdf>

⁴ "Jammu and Kashmir Presentation and Economic Growth Report | IBEF." India Brand Equity Foundation, 1 Nov. 2022, www.ibef.org/states/jammu-and-kashmir-presentation. (last visited 01 August 2023)

ratio, forecasted to reach 8.82 percent for the fiscal year 2023-24, displaying a significant enhancement over the prior year's ratio of 7.77 percent. This upward trend underscores the strengthened connection between tax revenue collection and GDP. The tax-to-GDP ratio, a metric that assesses the proportion of a state's tax revenue concerning its GDP, plays a pivotal role in gauging a region's financial well-being and distribution of resources. It's pertinent to highlight that for the fiscal year 2023-24, the debt-GDP ratio stands at 49 percent. This places Jammu and Kashmir as the second-highest state in the country in terms of the debt-GDP ratio. This ratio indicates the extent of indebtedness relative to the size of the economy.

Relatively, several states have experienced elevated debt-to-GDP ratios in recent times. Noteworthy instances include Punjab (53.3 percent), Rajasthan (39.8 percent), West Bengal (38.8 percent), Kerala (38.3 percent), and Andhra Pradesh (32.4 percent) for the fiscal year 2021-22. Despite challenges, Jammu and Kashmir has adeptly maintained a commendable pace of progress while efficiently managing expenses on both revenue and developmental fronts. Official budget documents underline that the overall growth of Gross State Domestic Product (GSDP) for the fiscal year 2021-22 reached 14.64 percent (1st Revised), in contrast to the financial year 2020-21. This resilience is manifest across various economic sectors, demonstrating its inherent vigor. The government's commitment to balanced advancement across all sectors is evident. Forecasts predict a growth rate of 10 percent, coupled with substantial improvements in GST, excise, and stamp duty collections. As of February 2023, GST collections have achieved Rs 6666.04 crore, showcasing a significant growth of 14.64 percent compared to the corresponding period in the previous fiscal year. Additionally, the excise collection has reached Rs 1658.35 crore as of February 2023, revealing a noteworthy increase of 14.92 percent when compared to the corresponding period in the fiscal year 2021-22. Similarly, stamp duty collections have followed a positive trajectory, reaching Rs 438.88 crore by February 2023, signifying a 9.33 percent rise from the previous fiscal year⁵.

Agro-based industries refer to a category of economic activities that are primarily reliant on agricultural inputs and resources for their production processes. Due to the ample availability of natural resources, the region of J&K has successfully developed and expanded its agricultural industry. The state of J&K exhibits a notable potential for horticulture due to its diverse range of agro-climatic conditions. The climatic conditions in J&K are highly conducive for the cultivation of flowers, making it an ideal region for floriculture. Moreover, this state has the distinction of housing the largest tulip garden in Asia.

⁵ Ministry of Finance, Government of India, *Budget 2023- 2024*, https://www.indiabudget.gov.in/doc/budget_speech.pdf

The manufacturing of Jammu and Kashmir's renowned handicrafts has expanded into a substantial enterprise. The government has placed significant emphasis on the traditional handicraft industry because to its substantial employment base and potential for exportation. The state is renowned for its various cottage industries, including carpet weaving, silk production, shawl manufacturing, basketry, pottery, copper and silverware craftsmanship, and walnut woodwork. Approximately 340,000 individuals are gainfully employed in the cottage handicrafts industry as skilled artisans. J&K attracts tourists from many parts of the globe who are drawn to its awe-inspiring natural scenery and profound cultural heritage. The region of J&K presents significant prospects for many forms of tourism, including adventure, pilgrimage, spiritual, and health tourism, in addition to the more prevalent forms of tourism. The industrial policy of the state encompasses a range of attractive incentives and a streamlined permitting process. Within the context of industrial zones, it is possible to get a lease for a period of 90 years, during which the land can be utilised at a reduced cost. The National Highway Infrastructure Development Corporation (NHIDCL) is currently constructing five tunnels in the UT. These tunnels, which are estimated to cost US\$ 3.42 million, aim to enhance year-round accessibility and alleviate traffic congestion.

The region of J&K in India possesses a significant amount of unexplored potential. The governmental authorities of J&K have implemented many initiatives aimed at enticing investors and fostering economic growth within the region. The government's endeavours to attract foreign direct investment (FDI) have shown positive results. According to the Department for the Promotion of Industry and Internal Trade (DPIIT), the total value of Foreign Direct Investment (FDI) in J&K over the period from October 2019 to June 2022 amounted to US\$0.7763 million. The presence of foreign investors in J&K is indicative of a favourable trend for the region, as it signifies their willingness to allocate capital towards investment opportunities. Furthermore, the administration has earmarked financial resources for the purpose of housing and urban development within the State Budget for the fiscal year 2022-23. A sum of INR 1,137 crore (equivalent to US\$ 139.06 million) has been committed towards the domain of housing and urban development, with the aim of enhancing the quality of life for the local populace. The region of J&K exhibits a robust agricultural and horticultural industry, characterised by significant yields of various crops, particularly fruits and vegetables. The anticipated horticulture crop production for the fiscal year 2021-22 in the state is projected to reach 3,580.82 thousand metric tonnes. The estimated total output of vegetables in the state was 1,338.27 thousand metric tonnes, while the expected total production of fruits was 2,237.87 thousand metric tonnes. This situation offers a potential for investment in the food processing sector and the establishment of cold storage facilities.



The region of J&K has implemented a policy aimed at attracting enterprises through the provision of appealing incentives and the establishment of a streamlined single-window clearance procedure. Land is allocated at preferential rates in industrial zones through a lease agreement for a period of 90 years, hence facilitating the establishment of firms in the respective area. The place in question is now seeing growth in its popularity among tourists, as seen by the significant influx of 113.16 million visitors in the year 2021. The government is implementing strategies aimed at fostering tourism, with the objective of stimulating regional economic expansion and generating novel avenues for employment. The National Highway Infrastructure creation Corporation (NHIDCL) is now undertaking the creation of five tunnels within the Union Territory (UT). This endeavour is being carried out as a component of the government's broader infrastructure development projects in the region, with an estimated expenditure of \$3.42 million. The construction of the tunnels is projected to be finalised by the year 2024, thereby facilitating access during all seasons. A forthcoming elevated light metro rail system is scheduled to be operational in 2022-2023 with the aim of mitigating traffic congestion in Srinagar and Jammu. Several firms have entered into memorandums of understanding (MOUs) with the intention of potentially making investments up to Rs. 23,152 crore (US\$ 3.17 billion). Investors ought to pay attention to this situation. In February 2021, Prime Minister Narendra Modi opened the second edition of the Khelo India Winter Games in Gulmarg, with the aim of positioning J&K as a prominent hub for winter sports. The proposed initiative is expected to have a positive impact on the tourism and sporting infrastructure of the region.

3. Judicial Interpretation of Article 370

The state of Jammu and Kashmir, situated in India, has played a significant role in the historical and contemporary political landscape of the nation. The territorial dispute over J&K between India and Pakistan has been a subject of longstanding contention since the early years following India's independence. The majority of the people in the region of J&K consisted of individuals who identified as Muslim, whereas the ruling monarch adhered to the Hindu faith. On the fifteenth of August in the year 1947, this diminutive princely realm emerged as the final entity among a trio to make a decision between affiliating with the Dominion of India or Pakistan. In October 1947, the region of J&K experienced an incursion by Pakistani tribesmen. In response, Maharaja Hari Singh, the reigning sovereign of the region during that period, engaged in a formal arrangement commonly referred to as the Instrument of Accession. This arrangement entailed the provision of military aid by the Indian government⁶.

⁶ Sarvepalli Gopal, *Selected Works of Jawaharlal Nehru: Second Series*, 274 (1987).

In *Prem Nath Kaul v. J&K*⁷ involved the examination of the Big Landed Estates Abolition Act of 1950, which was promulgated by Maharaja Yuvraj Karan Singh, the offspring of Maharaja Hari Singh, within the jurisdiction of J&K. The objective of the Act was to eliminate extensive landed estates and instigate land reforms in the area. The central argument in the case revolved around the alleged unlawful enactment of the Act by the Maharaja. It was argued that Article 370 of the Indian Constitution limited the Maharaja's power in making laws, as it granted special independent status to J&K. The Supreme Court of India, in its judgment, upheld the legality of the Big Landed Estates Abolition Act, 1950. The court made a ruling confirming the constitutionality of the Act, stating that it had been appropriately accepted by the Maharaja. The legislative measure sought to tackle agrarian concerns and socio-economic inequalities that were widespread in the state. It was determined to fall within the jurisdiction of the Maharaja's legislative authority during that period.

K High Court and ruled that the Indian Parliament did indeed possess the legislative authority to formulate the SARFAESI Act and implement it within J&K.

The Court underlined that the Constitution of India holds the highest authority in the country, and its stipulations take precedence over the constitution of any state. The Regarding the interpretation of Article 370, the court concluded that the Maharaja had unrestricted authority to make laws, not being bound by the provisions of Article 370. The presence of Article 370 was found not to place any restrictions on the Maharaja's legislative powers. The explanation clarified that Article 370 mainly concerned the special relationship between J&K and the Union of India, and it didn't limit the ruler's ability to enact laws in the state. The verdict in the *Prem Nath Kaul* case affirmed the Maharaja's legislative authority to create laws for the J&K region, and it also validated the legality of the Big Landed Estates Abolition Act, 1950. It's important to highlight that Article 370 didn't place any bounds on the ruler's comprehensive legislative powers, nor did it impede the state government's capacity to establish laws. This particular case significantly influenced the evolution of the legal framework related to land reforms and legislative jurisdiction within the distinct context of J&K's special position according to Article 370.

The court's view the case of *Sampat Prakash v. J&K*⁸ was to the constitutional soundness of the 1959 and 1964 Presidential Orders that were promulgated as per Article 370(1) of the Constitution of India. The aforementioned directions effectively extended the term of Article 35(c) in J&K, hence providing preventive detention statute with protection against legal challenges rooted in FRs. The

⁷ *Prem Nath Kaul v. Jammu & Kashmir*, 1959 AIR 749

⁸ *Sampat Prakash v. Jammu & Kashmir*, 1970 AIR 1118

termination of the J&K Constituent Assembly in 1957 signified the conclusion of Article 370. The petitioner argued that the discontinuation of the J&K Constituent Assembly resulted in the expiration of Article 370, hence rendering it ineffective and lacking in operational authority. The petitioner contended that subsequent to the implementation of the J&K Constitution, the President's power to modify or revise orders issued under Article 370(1) became null and void, notwithstanding the continued existence of Article 370.

The Supreme Court, in its judgment, upheld the validity of the 1959 and 1964 Presidential Orders made under Article 370(1). The Court rejected both of the petitioner's arguments and provided that "Article 370 will only dissolve upon the recommendation of the Constituent Assembly under Article 370(3). The Court clarified that Article 370 was not automatically rendered ineffective after the dissolution of the J&K Constituent Assembly. Instead, as per the language of Article 370(3), it could only cease to operate if the Constituent Assembly recommended such a course of action." The authority to give directives encompasses the authority to introduce, modify, alter, or revoke them, as the General Clauses Act of 1897 is applicable to the Constitution. The judicial decision determined that the President possessed the authority to revise or alter the directives issued under Article 370(1), since the General Clauses Act of 1897 was deemed applicable to the Indian Constitution. As per the provisions of this legislation, the authority to give a directive encompasses the authority to modify, alter, or revoke it, unless there is evidence of an opposing intention. The ruling in the Sampat Prakash case provided elucidation on the enduring legitimacy of Article 370 and the authority of the President to modify orders enacted in accordance with it. It affirmed that Article 370 would persist unless the Constituent Assembly recommended its dissolution, and the President retained the authority to amend or modify orders issued under Article 370(1). This case played a significant role in interpreting the scope and application of Article 370 and its implications on the powers of the President and the Union Government in relation to J&K.

The case of *Mohd. Maqbool Damnoo v. J&K* revolved⁹ around a challenge to the J&K Preventive Detention (Amendment) Act, 1967, based on the argument that it went against Article 370(1) of the Indian Constitution. The assertion was that the amendment did not obtain the approval of the *Sadar-i-Riyasat* (chief executive) as required by Article 370(1) of the Indian Constitution. Understanding the historical context was essential to grasp the matter. In 1952, the J&K Constituent Assembly replaced the Maharaja with the *Sadar-i-Riyasat* as the head of the state's executive. Consequently, any modification to state laws

⁹ *Mohd. Maqbool Damnoo v. Jammu & Kashmir*, 1972 AIR 963

needed the endorsement of the Sadar-i-Riyasat under Article 370(1) for legitimacy. Nevertheless, the Supreme Court upheld the amendment to the Preventive Detention Act, 1967. This decision was rooted in the fact that the amendment had gained the agreement of the J&K Governor, who had taken the place of the Sadar-i-Riyasat following the 1965 amendment to the J&K Constitution. The 1965 amendment substituted the Sadar-i-Riyasat with a governor as the head of the state's executive.

Furthermore, modifications were introduced to Article 367 of the Indian Constitution to provide an interpretation of mentions of Sadar-i-Riyasat as governor. This adjustment was carried out to synchronize with the modifications in the J&K Constitution. Consequently, the ruling by the Supreme Court provided elucidation that even though Article 370(1) initially indicated the Sadar-i-Riyasat, later changes to the J&K Constitution and Article 367 of the Indian Constitution altered the understanding of Sadar-i-Riyasat to signify the governor. Consequently, the concurrence of the governor for the amendment to the Preventive Detention Act, 1967, was deemed valid, even though it was required under the earlier version of Article 370(1). The Mohd. Maqbool Damnoo case played a significant role in clarifying the interpretation of Article 370(1) in the context of changes to the executive head's title in J&K. The judgment reinforced the principle that amendments to state laws should receive the assent of the appropriate authority, even if that authority undergoes changes over time. It also highlighted the impact of constitutional amendments on the interpretation and application of specific provisions in the Indian Constitution.

The case of *SBI v. Santosh Gupta*¹⁰ pertained to an appeal against the decision of the J&K High Court, which had declared that the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), were not applicable to J&K. The central question in this situation was whether the Indian Parliament possessed the legal authority to formulate the SARFAESI Act and extend its scope to the state of J&K. The respondent's argument rested on the premise that the Act's provisions did not extend to J&K due to the state's distinct status conferred by Article 370 of the Indian Constitution.

Article 370(1)(b) of the Indian Constitution imparts a distinct autonomous standing to J&K, outlining that the tenets of the Indian Constitution can be applied to the state with modifications and exclusions as decided upon between the state government and the President of India. The Supreme Court, in its verdict, invalidated the decision of the J&K Court's rationale was that due to the superiority of the

¹⁰ *SBI v. Santosh Gupta*, 1980 AIR 1219

Indian Constitution, it can expand its provisions, such as the SARFAESI Act, to encompass the state of J&K. The judgment stipulated that the application of the Indian Constitution to J&K was not confined by the limitations of Article 370(1)(b). To support this, the Court referred to the 1954 Presidential Order, which extended various aspects of the Indian Constitution to J&K, affirming that the Constitution of India is applicable to the state, along with the parliamentary legislative powers.

In the case of Justice K.S. Puttaswamy v Union of India, the Supreme Court of India asserted that the Constitution not only embodies the enduring values of Indian society, but also possesses the capacity to ensure the continued relevance and enforceability of its provisions. As to the Supreme Court, the Constitution possesses a viable prospect as it allows for varying interpretations by successive cohort¹¹. In the case of Kesavananda Bharti v. State of Kerala¹², The concept of fundamental structure was initially articulated by the Supreme Court. The principle of fundamental structure posits that the Parliament possesses the authority to modify any provision within the Constitution, as long as the fundamental attributes and guiding tenets of the text remain intact. One could argue that Article 370 is exempt from the fundamental structural theory as it remains unamendable by Parliament under Article 368. The challenge associated with this line of reasoning is in its failure to critically evaluate the extent to which Article 370 is deemed indispensable to the Constitution, hence rendering it immune to amendment or deletion by the President, even upon the State Legislature's request. If Article 370 were deemed an integral component of the Constitution, it would be subject to the fundamental structure theory, which would impose constraints on the authority of Parliament to modify it. In conclusion, in order to assert that Article 370 is presently ingrained in the fundamental framework of the Constitution, rendering it immune to amendment or repeal by the Legislative Assembly, it is imperative to establish that the responsibility of fulfilling the condition stated in the proviso to clause (3) lies with the Constituent Assembly rather than the Legislative Assembly.

Federalism, according to the Court's decision in S.R. Bommai v. UOI¹³, requires a separation of powers between the federal government and the individual states. This perspective was upheld by the Supreme Court in Jindal Stainless Limited v. State of Haryana¹⁴, in which the Court maintained the supremacy of the Constitution, the separation of powers, and the judicial independence. The delineation of powers amongst different authorities is expounded upon in the Seventh Schedule of the Constitution,

¹¹ Justice K.S. Puttaswamy v. Union of India, AIR 2017 SC 4161, para 151.

¹² AIR 1973 SC 1461

¹³ S.R. Bommai v. Union of India, AIR 1994 SC 1918

¹⁴ Jindal Stainless Limited v. State of Haryana, (2017) 12 SCC 1

which provides a comprehensive account of the specific areas of jurisdiction assigned to Lists 3, 4, and 5. According to judicial pronouncements, it has been established that the presence of asymmetric or pluralistic federalism is not an essential characteristic of federalism. In this form of governance, states possess varying degrees of power and maintain unique legislative and administrative relationships with the central authority, according to their individual requirements and specificities. Hence, except from Article 370, it may be argued that asymmetric federalism does not constitute a fundamental element of federalism as outlined in the Constitution, nor does it form an integral part of the constitutional framework. Articles 371A and 371B serve as illustrations of asymmetric federalism. The inclusion of Article 370 in the Constitution deviated from the core principles of the broader federal framework by imposing restrictions on the legislative powers of Parliament and bestowing a higher degree of autonomy to J&K than what was prescribed in the three Lists. The alignment of J&K with the heart of the Indian federal structure through the removal of Article 370 can be argued as not constituting a violation of the federalist principle.

The jurisdiction to determine the extent of legal autonomy granted to the State of Jammu and Kashmir, as per Article 370, lies with the elected representatives who represent the interests of the populace. This provision enables a dynamic and evolving constitutional relationship between the Union and the State. Henceforth, it is plausible that the citizens of the State, by means of their elected representatives, may vote to revoke Article 370 and embrace the Constitution in its complete form. This suggests that the collaboration between the President and the Legislative Assembly has the potential to override Article 370, without being hindered by the basic structure theory¹⁵.

The Constitution of India incorporates a concept of power polarity, which grants certain states increased autonomy compared to others. This is done to safeguard them from potential encroachments by the central government, given their distinctive characteristics. States like Assam, Mizoram, Meghalaya, and Tripura possess tribal lands that fall under the purview of the Constitution's Sixth Schedule. The Sixth Schedule proposes the establishment of regional and district councils with the authority to govern laws within their respective regions. These autonomous territories consist of Scheduled Tribes. The Councils possess decision-making powers regarding property ownership, land use, and the administration of non-reserve forests and waterways. They also have jurisdiction over disputes related to parental, marital, and

¹⁵ Dembi, Divyanshu and Doiphode, Niraj and Gupta, Kamiya, Understanding federalism in India through the J&K reorganisation Act, 2019 (October 15, 2021). Available at SSRN: <https://ssrn.com/abstract=3971069> or <http://dx.doi.org/10.2139/ssrn.3971069>

property rights. However, the central government's recent action in 2019, by revoking the autonomy conferred on J&K through Article 370, has raised questions about the performativity of these "special" provisions. This move seemingly challenges the notion of a unique 'federal' scheme within the Indian Constitution¹⁶.

In essence, the Constitutional provisions for special status and increased autonomy for certain states are meant to acknowledge their distinct characteristics and protect their interests. However, the central government's actions in recent times have raised concerns about the actual implementation and sustainability of these special provisions, hinting at a possible shift in the dynamics of federalism in India..

4. Status of J&K after abrogation of Article 370

Jammu and Kashmir, known for its scenic beauty, has been the center of attention due to its geographical location and political instability. However, in recent years, the region has witnessed significant changes in its political, economic, and social landscape following the abrogation of Article 370. One of the most prominent changes was the launch of the Universal Health Coverage scheme, AB-PMJAY-SEHAT, providing health insurance coverage to all families in Jammu and Kashmir. This scheme has brought much-needed healthcare services and financial relief to families, especially during medical emergencies. Data shows that millions of families have been covered under this scheme, indicating its positive impact on the healthcare sector. The political landscape has also seen notable developments, including extending voting rights to previously marginalized communities like the Valmiki community, Gorkhas, and refugees from Western Pakistan. The implementation of the domicile law has addressed concerns about identity and rights, ensuring access to employment and land ownership for long-term residents¹⁷.

Economically, J&K have benefited from various government initiatives, such as the Pradhan Mantri Kisan Scheme, providing financial assistance to farmers grappling with climate change and market fluctuations. The Pradhan Mantri Awas Yojana has aimed at providing affordable housing, and the market intervention scheme for apple cultivation has stabilized prices for this cash crop. The Atmanirbhar J&K and Ladakh plan has been introduced to promote local industries, create jobs, and bolster the region's economy. This plan focuses on five pillars: economy, infrastructure, system, demography, and demand, with the goal of making the region self-reliant. The region has also witnessed the implementation of

¹⁶ The Jammu and Kashmir Reorganisation Act, § 4, No. 34, Acts of Parliament, 2019 (India).

¹⁷ A. (2023, May 31). J&K's tourism blooms after abrogation of Article 370: Report. The Times of India. <https://timesofindia.indiatimes.com/india/jks-tourism-blooms-after-abrogation-of-article-370-report/articleshow/100646827.cms?from=mdr>

various policies and schemes to support artisans, enhance skill development, and boost the tourism sector. Additionally, the government's zero-tolerance policy against terrorism has led to a decline in terrorist incidents, contributing to a more peaceful environment. Following the revocation of Article 370 in J&K, there have been notable developments in the region. One significant achievement of the Government was the successful organization of the G20 working group meeting on tourism, attended by representatives from 27 nations. This marked the return of normalcy to J&K after thirty years of turmoil caused by the repeal of Article 370. The entrepreneurial registrations in the Union territory have reached 770,000. Jammu and Kashmir's standing in farmer income rankings has improved to fifth place due to government efforts in the past four years. Moreover, 168 memorandums of understanding (MOUs) worth Rs. 13,600 crores have been signed, and 25 new national highway projects have been approved, costing Rs. 11,721 crores.

Furthermore, seven additional medical colleges have been approved, increasing the medical seats from 500 to 955. The completion of the world's tallest railway bridge and the operation of the Vande Bharat train between Jammu and Delhi have been accomplished. The construction of the Katra-Delhi six-lane expressway is in progress; upon completion, it will reduce the distance between Delhi and Katra from 727 km to 588 km, cutting travel time in half. The construction of the 14-km-long Zojila tunnel on the Srinagar-Leh portion of NH-1A, costing Rs. 6800 crore, is underway and will offer improved all-weather connectivity. Additionally, the 58-kilometer-long four-lane Jammu ring road project is advancing rapidly, with two sections already open to traffic, aiming to alleviate congestion. The Government also sanctioned the establishment of two AIIMS institutions in J&K, with AIIMS Jammu starting its first MBBS session and AIIMS Kashmir expected to be completed in 2025. IIT Jammu and IIM are also transitioning to their permanent campuses. The Jammu Zoo project in Nagrota, Jammu, has completed its initial phase and is now the largest zoo in north India, promoting eco-tourism. The inauguration of the Tirupati Balaji temple near Jammu city by LG Manoj Sinha on June 8, 2023 has also become a significant milestone, enhancing pilgrimage tourism in the region¹⁸.

The evolution of Jammu and Kashmir following the abrogation of Article 370, which stripped the region of its special privileges, has been a subject of substantial scrutiny and analysis. An affidavit submitted by the Ministry of Home Affairs, Government of India, in the case "In re: Article 370 of the Constitution," sheds light on the profound changes that have taken place. The affidavit asserts that the

¹⁸ Shuvam Sharma, *J&K: After 4 years of Abrogation of Article 370*, DAILY EXCELSIOR (Aug. 11, 2023, 10:47 PM), <https://www.dailyexcelsior.com/jk-after-4-years-of-abrogation-of-article-370/>

aftermath of this pivotal decision has ushered in a newfound normalcy, effectively putting an end to over three decades of turmoil. The affidavit highlights the resumption of normal life in the region, once rife with conflict and unrest. The document asserts that the resurgence of tranquility can be attributed to the cessation of street violence that had long plagued the area. This violence, often orchestrated by terrorist networks and secessionist elements, is now referred to as a "thing of the past."¹⁹

One of the most notable achievements in the wake of Article 370's abrogation is the sharp reduction in organized stone-pelting incidents, which were intricately linked to the agendas of terrorism and separatism. These incidents, which numbered as high as 1767 in 2018, have dwindled down to a remarkable zero in the year 2023. Alongside this, the once-persistent phenomena of bandhs and hartals, which often brought the region to a standstill, have now become distant memories.

Central to this transformation has been the diligent implementation of anti-terror measures. The affidavit emphasizes that these "resolute anti-terror actions" have successfully dismantled the terror ecosystem that once thrived in the region. This crackdown on terrorist activities has yielded a significant reduction in terror recruitment figures, plummeting from 199 in 2018 to a mere 12 in 2023, up until the present date. The Ministry's affidavit also sheds light on the government's proactive approach to channeling the energies of the region's youth towards constructive avenues. A policy of mainstreaming youth has been championed, aimed at steering them away from the allure of militancy. This multifaceted strategy underscores the government's commitment to fostering a stable and prosperous environment. Furthermore, the affidavit highlights the government's ongoing efforts to facilitate the safe return of Kashmiri Pandits to the Valley. Transit accommodations designed to ensure their security and integration are nearing completion, with substantial progress anticipated within the next year. This initiative resonates with the broader vision of inclusivity and unity within the region.

5. Conclusion

This study has revealed that the revocation of Article 370 resulted in substantial alterations to the political and constitutional framework of the region of Jammu and Kashmir. The withdrawal of the region's special status, as provided by Article 370, and the consequent reorganisation of the state into two distinct union territories, namely Jammu and Kashmir, and Ladakh, represented a significant transformation in the

¹⁹ Krishnadas Rajagopal, *Centre's view on life in J&K post-Article 370 has no bearing on constitutional challenge to abrogation: Supreme Court*, THE HINDU (Aug. 11, 2023, 11:00 AM), <https://www.thehindu.com/news/national/centre-on-life-in-jammu-kashmir-post-repeal-of-article-370-has-no-bearing-on-constitutional-challenge-to-the-abrogation-sc/article67066662.ece>



governing framework. The central government has acquired direct authority over certain issues that were hitherto within the purview of the state government. Consequently, a shift in the political landscape occurred, resulting in the region's governance being assumed by the Lieutenant Governor, who is selected by the President of India. The revocation of Article 370 resulted in extensive demonstrations and security complexities in the area. There were apprehensions over the possibility of social upheaval and militant activities subsequent to the judgement. The security forces were diligently observing the situation in order to uphold law and order.

The region experienced substantial economic and developmental transformations subsequent to its transition into union territory. The central government implemented a range of programmes and initiatives with the objective of fostering economic growth, enhancing infrastructural development, and facilitating employment generation in the region. Subsequent to the abrogation, the governmental authorities implemented measures involving internet restrictions and communication lockdowns within the region with the aim of curbing the dissemination of misinformation and upholding security. The aforementioned constraints were progressively alleviated over a period of time; however they exerted a discernible influence on the daily routines and modes of communication within the region. The act of abrogation resulted in notable changes within the political sphere, as certain political factions expressed their support for the decision while others voiced their opposition. A number of notable political figures were subjected to house arrest or incarceration. The worldwide community exhibited a range of responses towards the move, with opinions being divided. While several nations endorsed India's choice as an internal affair, others voiced apprehensions on the state of human rights and the limitations imposed on communication.