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Abrogation of Article 370: Its Constitutionality and reorganisation

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Abstract

Jammu and Kashmir has been an integral part of India. The region is enriched in the flora and fauna. The region is of strategic importance as per the territorial security is considered. The region shares its boundary with china and Pakistan. The region was earlier being governed as monarchy under the Maharaja of Kashmir and became part of India after the execution of the instrument of accession. Article 370 and Article 35-A were giving the state limited autonomy and independence as to its certain affairs. The regulation of such laws were temporal and were being enlisted under part 21 of the Constitution. The state was having its own constitution. In 1980s, separatist movements and insurgency has led disruptions in the state. The president has revoked the temporal status of the state through the order and parliament has passed legislation to reorganize the state into two union territories. This article will be evaluating the constitutionality of the order, act and the executive changes made to the region. The article also focuses on the aftermaths and the impacts of the suspension of article 370 in the state of Jammu and Kashmir. The article will discuss the judicial interpretations of the Honourable courts on the Article 370 and the approach favoured by the judiciary in matters of the region.

Keywords: Abrogation, Constitutionality, Insurgency, Temporal Status, Judicial Interpretations.

Introduction

A long and heated debate over the status of the state of Jammu and Kashmir Indian Constitution has come to an end. The ending of discussion has also led to promulgation more wide-spread discussion on legitimacy, impact and nature of changes made to this controversial article. The government has stunned everyone by its move on article 370. As per the article 1 of Indian constitution the state of Jammu and Kashmir was a constituent state of India.

Jammu and Kashmir was a region which was earlier governed as the state for the duration of 65 years from 1954-2019. The region shares the boundary with two of the most aggressive neighbours, and has been a centre of dispute in between India, China and Pakistan. The region was declared as state on 14th May, 1954 after the Presidential Order of 1954 comes into force. Later on in 2019, the parliament has repealed the article 370 i.e., special status of the state. Parliament has passed Jammu and Kashmir Reorganisation Act.

Article 370 of Indian constitution was providing special status to the state of Jammu and Kashmir including Ladakh region (now Union Territories of Jammu and Kashmir and Ladakh). Prior to this change there were some special privileges to the earlier existing state and some unrestricted power to state legislative assembly¹.

Indian parliament has enacted a new legislation which has dissolved the status of statehood of the state and divided state into two Union territories, as Union Territory of Jammu and Kashmir (with legislation) and Union Territory of Ladakh. The Jammu and Kashmir Reorganisation Act, 2019, the act was assented on Aug. 9, 2019 by the President and was published in the Official gazette of India on the same date.

The abrogation of article 370 has led to widespread discussions as to the constitutionality of the new act and the authority of the parliament and the president to abrogate the special status of Jammu and Kashmir. The provision of article 370 has been provided as temporary provision as under the part 21 of Indian Constitution under the heading "Temporary, Transitional and Special Provisions"².

The provisions contained in the article 370 are the provisions which distinguished the state from the rest of regions of the nation. While its interpretation along with the article 35-A provided autonomy to the state of Jammu and Kashmir and restricted the authority of Parliament and central government in regard to the region earlier. The provision starts with the term Temporary provisions with respect to the state of Jammu and Kashmir and then it operates with a notwithstanding clause,

- (a) The provisions of this article 238 shall not apply in relation to the state of Jammu and Kashmir;
- (b) The power of parliament to make laws for the said state shall be limited to
 - (i) Those matters in the union list and the concurrent list which, in consultation with the government of the state, are declared by the president to correspond to matters specified in the instrument of accession.

¹ M. Laxmikanth, Indian Polity, 17.5(5th edition, Eastern Book Company, 2018).

² J.N. Pandey, Constitutional law of India 755 (53rd edition, Central Law Agency, Allahabad, 2016)

(ii) Such other matters in the said lists as, with the concurrence of the government of the state, the president may by order specify explanation for the purposes of this article, the government of the state means the person for the time recognized by the president as the Maharaja of Jammu and Kashmir acting on the advice of the council of ministers for the time being.

(c) the provisions of article 1 and of this article shall apply in relation to that state;

(d) Such of the other provisions of this constitution shall be applied in relation to the state subjects to such exceptions and modifications as the president may by order specify: no such order shall be issued without consulting the governor of the state.

(2) The concurrence of the government of the state referred to be given before the constituent assembly for the purpose of framing the constitution of the state is convened, it shall be placed before such assembly for such decision as it may take thereon.

(3) The president may, by public notification, declare that this article shall cease to be operative only with such exceptions and modification and from the date as he may specify.

The provision in association with the article 35a provided autonomy to the state as article 35A provided that the parliament shall have, and the legislature of a state shall not have, power to make laws with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by parliament; and for prescribing punishment for those acts which are declared to be offences under this part; and parliament shall as soon as may be after the commencement of this constitution, make laws for prescribing punishment for the act referred.

History and the Concept behind the Article 370

Before looking into the abrogation and latest parliamentary attempt to reorganising the state after article 370, one must go through the history of the Jammu and Kashmir. With the end of British rule in India (on 15th of August, 1947), India and Pakistan were formed as two independent Nations by virtue of Indian Independence Act, 1947. The act also provided for the lapse of paramountcy i.e., Independence of princely states, it provided that these can either choose to merge with India or Pakistan or opt to remain Independent. The provision of the lapse of paramountcy has removed the control of the British crown from all the states. Now they were independent and were free to join any of the newly created state or remain independent.

Kashmir's then Ruler Maharaja Hari Singh decided to remain independent. Kashmir was strategically very important for both of the nation India as well as Pakistan. Pakistan was asking for the Kashmir as it was the Muslim majority state. However the maharaja of the Kashmir along with Nizam of Hyderabad has decided to remain independent. The decision was not acceptable by the Pakistan as they wanted Jammu and Kashmir in their territory.

However on Oct 20, 1947 Azad Kashmir Forces supported by Pakistan Army attacked on Kashmir and entered till the Baramula in Kashmir. The attackers were merely 2 hours far from the capital of the state. Maharaja asked India to help and India refused to enter into premises of another state for military operations and asked Maharaja to sign the instruments for the integration with India. Maharaja assented and India handled the Kashmir invasion.

Maharaja Hari Singh decided to sign the “instrument of Accession”. Agreement signed between Pt. Jawaharlal Nehru and Maharaja Hari Singh had granted Kashmir status of special state. Kashmir’s Defence, external affairs and communication was made subject matter of Indian Parliament³.

In 1950 president issued an order and specified the jurisdiction of union in state of Jammu and Kashmir. The order passed in year 1950 has provided for the subjects and articles of the Indian Constitution that corresponded to the instrument of Accession as required by the Art 370 b (i). In the order 38 subjects were mentioned as to which parliament can make laws. This order was superseded by the Presidential order of 1954.

One more order was passed in 1952 which provided for the changing the authority of the Maharaja to the state assembly of the state. The authority of maharaja was challenges in the state the movement for the democracy was led by the Sheikh Abdulla in 1951. The monarchical rule in the state was ended and the sheikh Abdulla became the prime minister of the state. However through Delhi Agreement, and through Constitution of Jammu and Kashmir, the state had acquired distinguish nature in comparison to the other states of the country.

The Delhi agreement was enforced through the Presidential order of year 1954, issued after the assent of the state assembly of the state. The major provisions of the Delhi agreement were as follows:-

1. The state subjects were made the permanent residents of the state as the citizenship was extended to the permanent residents of the Jammu and Kashmir. The state got the right to enact laws on the status, privilege and rights regarding the immovable property, residence and settlement in the state by adding article 35-A in the constitution. The said provisions were used as discrimination tools by the state as they started discriminating people of the state. The stories of Valmiki community and female rights reflected the discrimination which was prevailing in the state.
2. Part 4 and 4a of Indian Constitution i.e., directive principles of states policy and Fundamental Duties applied to the state but however the laws as to the preventive detention was subject to the state legislature on the ground of the internal security. Many other laws as land acquisition was changed and likely amended arbitrarily.

³ M. Laxmikanth, Indian Polity, 17.5 (5th edition, Eastern Book Company, 2018)

3. The president had no power to declare Financial Emergency in the state. However the financial relation of the the centre and state was the same as it was for other states. The state government was on the equal status as to the any other state in India. State taxes and duties were abolished.
4. Article 35a had given enormous power to the legislative assembly of the state. The power included the land, property, citizenship and the marriages. The jurisdiction of the Supreme Court was also extended to the state.
5. The decisions of national emergency on the ground of internal disturbances has to be taken on the consensus from the state legislature. Any decision which affects the disposition of state has to be passed only after the agreement from the state legislature.

Even after 1954 many presidential orders were issued by the president time to time. Around 47 orders were issued in between year 1956 to 1994 in the state, changing many dimensions in the state. The number of subjects on which the parliament can make laws was extended in the state.

The provisions regarding the article 370 were provided in the parts of the temporary provisions. As the state constitutional assembly was set-up in the state for drafting the constitution. It was only meant for its temporal applicability till the assembly drafts its own constitution. However the assembly dissolved itself in the 1957 without removing or making it permanent⁴.

In the words of Gulzari lal Nanda, then home minister (1963-1966) “article 370 was the only way to take constitution into Jammu and Kashmir, it is a tunnel through which a good deal of traffic has already passed and more will”. The powers of central government was only to extend in the state after concurrence with the state assemblies provisions or concurrence.

Now, in 2019 historically NDA⁵ government has declared that the state of Jammu and Kashmir will be now divided into Union Territories and Statehood will be removed. In the order of 1954 it was itself agreed that the president can declare article 370 as operative or inoperative. The president was given the power to declare exceptions and modifications. However a limit was prescribed that only president can exercise with consultation from the constituent assembly of the state. While in the political situations of the same abrogation there were no any party in the power and state emergency was enforced in state of Jammu and Kashmir after the failing of PDP and BJP led government. The powers of the legislative assembly was vested in the governor of the state. The governor has recommended the same and was accepted by the president and by presidential order the same article 370 was abrogated. The parliament has passed the Jammu and Kashmir state Reorganization act, 2019 for regulation and administration in the state. Since the abrogation of the same article people are raising questions on the constitutionality of the same act and the steps.

⁴J.N.Pandey, Constitutional law of India 755 (53rdedition,Central Law Agency,Allahabad,2016)

⁵ National Democratic Alliance (An alliance of BhartiyaJanta Party , Janta Dal United, LokJanshakti Party, Akali Dal, etc)

Reasons for the Abrogation of the Article 370

The geographical and administrative division of state of Jammu and Kashmir was in three units i.e. Kashmir Valley, Jammu and Leach. State had its own legislative assembly with 111 members (including 24 seats of POK). The region has the population of 12,541,302 with Muslim population of 68.31% and Hindu population of 28.45%. State has many languages like Kashmiri, Urdu, Dogri, Pahadi, Hindi and Punjabi. The state is divided in many cultures. The harmony of the state was targeted by the external forces and the internal separatists who started raising demands for the separate Kashmir state and Islamic state. The insurgency initiated in 1980s after the unsuccessful attempt by Pakistan to win the territories of India. The insurgents started targeting non-Muslims and started committing violence against them asking them to leave and vacate the valley. The crime was earlier spontaneous and on lesser scale, but later on taken the form of the organized crime and was started as movement. The insurgents were having different ideology which caused more chaos in dealing with them. There were many groups who were pro-Pakistan and wanted Kashmir to get united with the Pakistan. The group was getting support from the ISI and the military and terror foundations of Pakistan.

Apart from them separatist movement was also initiated in the state. Separatists neither wants to be part of Pakistan nor part of India. They were demanding for the separate and Independent Kashmir. They want to create a state on the ground of insurgency. The insurgency has caused disturbances to the internal peace and security of the state. The insurgency has led to mass violence, stone pelting, and commission of various offences in the valley. The political establishments has also led to the disruptions in the fair elections and the regulations in the state.

The state of Jammu and Kashmir had unique relationship with the central government or union of India. The state was enjoying a much greater measure of autonomy and the liberty as to its own affairs in comparison to the other states. The centres jurisdiction was limited and very restrictive while in comparison to the other states of India. To curb down all such challenges and the insurgency it was vital to abrogate such hindrances to operate in state⁶.

Now the state has been divided into two Union Territories, Jammu and Kashmir UT will be union territory with legislative assembly and UT of Ladakh will be without any legislation⁷. There were several reasons behind this major steps which has caused such steps to be taken by the central government. These reasons are as follows:-

1. Terrorism in the region. The region was suffering insurgent crisis since past 3 decades. The terrorists were attempting to break the state and weaken the hold of the India on the Kashmir and by doing such they were to take control over the region for their illicit means.
2. Separatism movements and their funding were also being the reason for such step. The separatist were spoiling the generations of youth. They were expanding their roots in the valley and asking

⁶ Justice A.S.Anand, The Constitution of Jammu and Kashmir: Its development and comments (8thedition, Universal law Publications, 1994) 92.

⁷The Jammu and Kashmir state Reorganisation Act, 2019

youths to join them. The status of employment and education was not that good and hence individuals were easily derailed from their normal life.

3. Law and order failure causing internal disturbances. The law and order was a major challenge for the forces deployed. The mass killings, genocides, rapes, religious violence were common in the previous decade. The weak hold of centre was not efficient enough to curb that all down. Youths were engaged in the stone-pelting and bombing sacred places.
4. Slow and inadequate development of the state. The state was among the least developed regions in the whole country. Being a hilly area the Kashmir was centre of tourism still the state was on the path of progress and was indulge in the terrorism and separatist activities. The industrial growth of the state was limited and the service sector was inefficient.
5. The strategic location against neighbours. The Kashmir shares its boundary with two countries Pakistan and China. India is facing severe boundary disputes with both of them. The region has two international boundaries. The hill top area can be the entry point of many nations apart from these two. Therefore we need to have a better hold on the hills and to check the day to day activities of our war enemies. The Kashmir becomes very essential to be monitored.

The condition in Kashmir were very insurgent and was very necessary to take steps to control public disorder. The abrogation of article has many strategic benefits on the ground as well as for the people's welfare in the state.

Reorganisation of the Jammu and Kashmir

Parliament of India has passed a historical legislation in this regard. The Jammu and Kashmir reorganisation act, 2019 was passed to reshuffle the administrative situation of state of Jammu and Kashmir. This act has bifurcated the state into two union territories Kashmir and Ladakh. The union territory of Kashmir will be administered by Lieutenant Governor Known as LG and will have its own chief minister and its own state assembly (same as Delhi and Puducherry). However the union territory of Ladakh will be governed by administrator appointed by the president. This bill was introduced in Rajya Sabha by union Home minister Amit Shah on 5th August, Same day this act was passed from the upper house with 125 votes in favour. This bill was passed by Lok Sabha on 6th August and was assented by the president two days later on.

In June 2000, the state assembly of the Jammu and Kashmir has adopted and passed a resolution to declare the state as autonomous state. The resolution included many points as to the more autonomy to the state. The resolution has included the demands like deleting the word temporary from the article 370 and non-application of the article 356 on the state. The demands were raised that the Jammu and Kashmir should have say in external aggression. Such demands were considered to be against our sovereignty and integrity⁸.

A presidential order promulgated by the president of India has subsequently revoked the debated article 370 of Indian Constitution.

Section 3 and 4 of the said act provides for the constitution of two UTs namely Kashmir and Ladakh.

⁸ M. Laxmikanth, Indian Polity, 17.6 (5th edition, Eastern Book Company, 2018)

The act provides for the legislative assembly of Union territory of Kashmir (comprising districts other than Leh and Kargil) with 107 MLAs in it. 24 seats will remain vacant for the POK.⁹

The act extends the jurisdiction of Jammu and Kashmir High Court to be apply on both the union territories. The act consists of 14 parts, 103 sections, 5 schedules and 4 tables. It is a comprehensive legislation which has completely shuffled the political and administrative structure of the Jammu and Kashmir. It includes provisions for the services in the state¹⁰. It provides for the appointment of the advocate general of the union territory of Jammu and Kashmir by lieutenant Governor of the Union territory¹¹

Impacts of the legislation in union territories

Such a major steps has resulted in a widespread discussions whether the move is right or wrong. In any prudent opinion this move will led to the betterment of Kashmir and its condition. Basically it can be measured as step to connect the Region from the rest of India. This will promote the enmity and sense of belongings in the people across the states. Benefits can be analysed with the perspective of a resident of region as well as the resident of outside state. But one thing is clear that the step involves the betterment of the individuals hailing from the state. This will lead to the harmony and peace in the whole country. Some of the major benefits of this move are as follows:-

- This will lead to the development of the region, and will provide a pace to the industrialisation, education in the state. So far we have seen propaganda politics, separatists' movements, and stone pelting which has damaged the Image of the state globally. The negativity perhaps has feared the investors and industrialists from investing in the state due to the political instability.
- This will lead to minimise the unemployment of and poverty in the state. When industries will be established in the Union territories, it will provide the infrastructure and job opportunities to the local people and will help them in setting up many creational activities for their living.
- The state was lacking basic facilities necessary for life this move will definitely enhance the connectivity, networking and integration of Kashmir with rest of the states in India. The more political stability come, development projects starts in the region.
- This will lead to strengthen the bond, emotional attachment of Kashmir with rest of states. Prior because of the legal differences the difference was there in the mind of people as to the status of Kashmir and other Jammu. Afterwards this abrogation will help people in creating a better attachment and attitude towards the region.
- This will be protecting the interest of Kashmiri girls in their property rights by giving them protection under Art.14. As the law on the point was very discriminatory and violate of the fundamental rights of females. If a female will marry any person outside the Kashmir then she was denied from her basic right to property. However they were free to marry the people from Pakistan. This law was discriminating and unjustifiable in itself.

⁹ Pakistan occupied Kashmir (referred to the area of Jammu and Kashmir which has been in control of Pakistan).

¹⁰ Jammu and Kashmir state reorganisation Act, 2019, section 88,89,90,91,92,93.

¹¹ Jammu and Kashmir state reorganisation Act, 2019, section 79.

- The condition of 60000 Valmiki community members was vulnerable in the state. They were established in the regions of the Jammu and Kashmir for practicing hygienic works and cleaning drainage. Although they were residing in the state but still they were being treated as the second class citizen. They don't have voting rights in local elections, they cannot attain any government job and can only earn their bread through cleaning drainage and such works. This move will certainly protect the condition and human rights of Valimikis in the states, who were denied their basic human rights and voting rights.
- Direct control of centre will prevail on the two newly formed Union Territories and strict watch can be observed as the control on the separatist movements. The state is facing the curse since the late 80s and 90s when separatist movement initiated in the whole state. This has led to the terrorism, stone pelting and killings of civilians. That is the reason since after the separatist movement, state has witnessed the deployment of military personals and many of the time declaration of president rule. Now since the centre will be taking direct charge of the state through administrators.
- It will withhold and protect unity and integrity of the India. This will create uniformity in the all states and union territories of India. Cross border activities and sponsored terrorism will be bitterly and effectively eradicated and curbed. It will create and bring prosperity in the Leh, kargil and Ladakh region of the region and more development can be assured in these regions.
- The location of Kashmir and Ladakh are sensitive and they shares boundaries with two aggressive neighbours, it was vital to have centres control on these regions. Laws and orders in the region will be bitterly managed as it will take and administered by central government and no local support could back the separatists. Always the political backing was the back force for local interruptions and stone pelting.
- It will become easy for armed forces to monitor, and guard our international boundaries earlier political establishments has always caused troubles for the armed forces in checking and conducting searches. It can be expected that direct control of Lt. General will aid the anti-terrorism activities.
- It will led to the status of "one nation, one constitution and one Flag". Earlier due to the enforcement of article 370, the Jammu and Kashmir state legislature has adopted a different constitution and flag for Kashmir. This has divided the country and troubled in administration and enactment of uniform law across whole country.

The arrangement enacted by the new legislation and the abrogation of article 370 will definitely bring harmony and progress the development off the region. Now a better command can be exercised by the central government and this will provide more authority to the armed forces to deal with the insurgents and the anti-national forces.

Indian Judiciary and interpretation of Article 370

The move on article 370 has initiated a widespread discussions over the constitutionality and the validity of the Order passed and the Act enacted by the parliament. The central government has changed the status of the whole region. This was considered as a major setback in the state. The executive orders were passed to bring changes in the status enjoyed by the region. The executive head had scrapped article 370 and the without wasting any time a bill to divide the region into two union territories was tabled in the parliament.

The move was followed with utmost care as to the public peace and order. Many leaders of local political parties were detained, many of them were arrested, and internet connections were scrapped down in the region. The government had promised for better development of the state. Previous verdicts of Supreme Court were in favour of the permanence of the article 370 and its better regulation in the state. In case of P.L.Lakhanpal vs. The state of Jammu and Kashmir¹² had pointed out that the presidential order under article 370(1) could not amend article 1 and the article 370 itself. In case of Khazak Chand and others v. State of Jammu¹³ and Kashmir and others. The court applied the same logic and reasoning.

The honourable court in the matters of Sampat Prakash vs. Jammu and Kashmir¹⁴ directed that article 370 requires actions for its abrogation, article 370 will cease to be operative only if the president will issue a direction to that effect on a recommendation made by the constituent assembly of the state. Now in the present situation the constituent assembly has been replaced by the legislative assembly of the state. The legislative was dissolved and governor was in charge of the legislative assembly. So technically he recommended and president has promulgated order for revocation.

In another verdict of Prem Nath Kaul vs. Jammu and Kashmir¹⁵ the honourable Supreme Court has ruled that the plenary powers of the ruler of Kashmir were not limited by the article 370. The temporary provisions of the article 370, the court held that the such provisions were based on the assumptions that the ultimate relationship between India and Jammu and Kashmir would be finally be determined by the constituent assembly of Jammu and Kashmir.

The two of the verdicts refereed were not related to each other and dealt with distinguished issues. The states sovereignty was temporary and can be revoked on the presidential order with consent of the legislative assembly of the state. In another case of Mohd. Maqbool Damnoo v. Jammu and Kashmir¹⁶, in this case the Jammu and Kashmir preventive detention act was challenged however the court upheld the act by referring the article 367 of the Indian constitution. The amendment has taken the assent of the governor on this ground the act was upheld by the court. The verdicts resembles the approach of the court. The courts in many verdicts following principles of the superiority of the constitution of India.

¹²1956 AIR 197 SC

¹³1984 AIR 762 SC

¹⁴1969 AIR 1153 SC

¹⁵1959 AIR 749 SC

¹⁶1972 AIR 963 SC

In case of State Bank of India v. Santosh Gupta¹⁷ the Apex Court has held that article 370 (1) (b) does not limit the power of parliament's power because the constitution of India is applicable to Jammu and Kashmir via the 1954 Presidential order. The Supreme Court has held in favour of the Indian Constitution by stating that the parliament has legislative competence because the constitution is superior to Jammu and Kashmir's constitution. The court strived to create a harmony in both the constitutions by its approaches. The court even went a step further and held that while Article 370 was called temporary provision by the constitution by the constitution, it wasn't subject to any time limit.

Many petitions were filed by different activists, Kashmiri people, NGOs and other institutions challenging the move of abrogation of article 370 in the Jammu and Kashmir. The petitions also challenged the validity of the Jammu and Kashmir state Reorganization Act, 2019 the petitions were clubbed and a 5 members bench was constituted by the Supreme Court including Justice Sanjay Kishan Kaul, Justice B.R.Gavai, Justice Surya kant , Justice R.Subhash Reddy and justice R.V.Ramana. The bench was headed by the Justice R.V.Ramana. A special 3 –judges bench was constituted by the court including Justice NV Ramana, Justice R.Subhash Reddy and Justice BR Gavai to hear all the matters which are arising because of the abrogation of the article 370. The petitions are still being heard with various directions on different matters Associated with the abrogation¹⁸.

The arguments are quite interesting from both the sides as the petitioners are claiming that Jammu and Kashmir State Recognition act, 2019 was unconstitutionally passed under article 3. Article 3 of the constitution does not give the parliament power to downgrade the federal democratic states into a less representative form such as a union territory. The petitioners were contending for their right to have autonomous self-government, specifically with the political and the constitutional status under part III of the Indian Constitution. The petitioners are contending for the application of doctrine of Colourable legislation. So basically the petitions were challenging the erosion of article 370 and secondly challenging the bifurcation of the state into two states. The government is relying on the temporal status of the state and the authoritative power of the governor the powers of president regarding proclamation of orders.

Conclusion

The status given to the State of Jammu and Kashmir was temporary and the very purpose of granting this status was to keep it removable. Kashmir was adopted as an integral part of the nation and hereby, the power of parliament extends to change its nature from any state to Union Territory. Prior permission clause of Jammu and Kashmir's constitution has been also fulfilled as the president's Rule was imposed in the state and in such case parliament can exercises the function of state legislature and pass a resolution to this effect.

¹⁷SLP (Civil) No. 30810-30817 of 2015

¹⁸<https://www.google.com/amp/S/Indianexpress.com/article/explained/understanding-article-370-35a-Jammu-Kashmir-Constitution-56/0996/lite/> visited on 20-02-2021.

There is no question of unconstitutionality, illegality in the whole procedure of removal of statehood and conversion into Union Territories. The legislation has been passed to provide the union territory a stable and progressive system of governance and to maintain the law and order. For the very first time the constitution and all other statutes were fully applied to the all other states of the country. The laws were extended without any restriction on the authorities, definitely this will lead to the advancement and the betterment of the state. Many progressive legislations which has been enacted for the development and the upliftment of the weaker sections of society such as the Schedule Caste and the Schedule Tribes(Preventive of atrocities) Act,1954, the National commission for the Safai Karmacharis Act,1993, labour laws, employee's betterment legislations, Right of children to free and Compulsory Education Act,2009.

The decision of bifurcating the region of Jammu and Kashmir from the Ladakh has been warmly welcomed by the residents of Ladakh as the territory has been discriminated and suffered a lot because of the politics of the state. The region is completely distinguished in geographical conditions and is high aptitude area. The region's development was widely ignored and no major steps were taken for the development. The region was feeling its existence separate because of the policies of the previous governments. The classification of the region from the rest of the area and developing it as a separate Union Territory has been proven a great decision so far. It will help and aid in developing great infrastructure in the state.

The step involves the betterment of the state and its people. The prime concern of every state will be the protection of sovereignty and the public order. Article 370 and the move has prime connection to each other. The legal implication will a must watch in near future, how does the bifurcation and the abrogation results in the advancement of the region including the Ladakh.