

Reshaping Governance: Exploring the Dynamics of Change in Jammu and Kashmir.

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ABSTRACT: In August 2019, Narendra Modi's government revoked Jammu and Kashmir's constitutionally granted autonomy. The decision is being analysed in the aftermath of N. Modi's triumphant re-election to the post of Prime Minister in May 2019, after completing a first term that began in 2014. The Modi government fundamentally altered the institutional framework of the Indian Republic by taking this step. Jammu and Kashmir went from being a state comprised of three regions (Ladakh, Jammu, and Kashmir) to being divided into two administrative units: on the one hand, the UT of Jammu-and-Kashmir, with an elected assembly; and on the other hand, the UT of Ladakh, without an elected assembly, with both being administratively headed by the Lt. governor. The government of India repealed Articles 370 and 35A of the Jammu and Kashmir Constitution, which ultimately account for the larger socio-political dynamics, and withdrew the state's special status and autonomy. The paper will attempt to investigate the formation of a new governance pattern and the changes that occurred, which resulted in a new centralised and authoritarian power structure.

Keywords: J&k, Government, Constitutional Autonomy, Article 370&35A, Governance,

I. INTRODUCTION

The subject of the study of Kashmiri history appears very interesting. As per the folklore in the dictionary, the name Kashmir signifies a "parched terrain." Rajatarangini, a renowned source of Kashmiri history, tells us that the Kashmir Valley was initially a lake. The attribute of the city of Srinagar is historically attached to the famous Mauryan ruler Ashoka. Jammu, today recognised as a city, was founded by Raja Jambo Lochan around the 14th century B.C. The ancient Greeks and Romans were familiar with the Kashmir Valley during its golden age as a beautiful country and a major centre of learning. The territory in question is geographically connected to Pakistan, India, Afghanistan, the former Soviet Union, and China. The successful rulers are Ashoka (273-232 B.C.), the Kushan dynasty (circa 100 C.E.), Mihira-kula (515-550 C.E.), the Karkota dynasty (631 C.E.), Lalitaditya (724-761 C.E.), Avantivarman (855-883 C.E.), Uptala (until 939 C.E.), Vyasaskaradeva (939-949 C.E.), Parva Gupta (949 C.E.), Ksema Gupta (950-958 C.E.), Didda (958-1003 C.E.), Samgramaraja (1003-1028 C.E.), Ananta (1028-1063), Kalsa (1063-1089 C.E.), Harsa (1089-1101 C.E.), Uccale (1101-1111 C.E.), Jaya Simha (1128-1155 C.E.), Bopadeva (1171-1286), the Damra dynasty (1286-1320 C.E.), Rinchana (1320-1323 C.E.), Shah Mir (1339-1342 C.E.), Shihab-ud-Din (1354-1373 C.E.), Qutub-ud-Din (1373-1389 C.E.), Sultan Sikander (1389-1413 C.E.), Sultan Zain-ul-Abidin (1420-1470 C.E.), Mirza Haider Daughlat (1541-1551 C.E.), the Chak dynasty (1561-1586 C.E.), the Mughals (1586-1753 C.E.), the Afghans (1753-1819 C.E.), the Sikhs (1819-1846 C.E.), and the Dogras (1846-1947 C.E.), happen to be among the more renowned rulers of the region. The status of the state of Jammu and Kashmir has been a subject of controversy in global politics since its attainment of independence. The state underwent a significant shift following its annexation by Maharaja Ranjit Singh. Under his command, a Sikh union was formed, and Kashmir gained independence from the rule of the Mughal empire in the early 19th century. The Anglo-Amritsar Agreement of 1846 enacted legal control of the princely state of Jammu and Kashmir, which eventually was sold to Dogra Raja Gulab Singh for an amount of 75 lakh rupees. The Dogra ruler then achieved success in gaining control over the Kashmir Valley and the Ladakh Wizarat, which covered Baltistan, Kargil, and Leh, and eventually merged them with the established governance of Jammu. The state was ruled by Dogra rulers who exhibited strict control, and there existed a disparity in the rights conferred on Muslim citizens in comparison to their Hindu counterparts. In the context of P.N. Bazzaz's work titled "Inside Kashmir," it can be inferred that the Dogra rule has been viewed as a Hindu Raj from a bourgeois perspective. These are arguments to suggest that Muslims have not received equitable treatment in comparison to Hindus. Initially, it must be acknowledged that despite claims of impartial treatment across all social groups, Muslims were placed under particularly harsh treatment in certain aspects, mainly due to their religious affiliation. Exit of British made Indian sub-continent division into two distinct regions, namely India and Pakistan. During that period, Jammu and Kashmir was under the influence of Maharaja Hari Singh. As a princely state, it was given the choice to either comply with India or Pakistan or stay as a sovereign nation. The choice that was adopted by Raja Hari Singh to go after self-governance rather than aligning with the two newly independent nations is an important instance in the political history of the region. However, the interim rule came under attack by individuals from the northwest border region who were backed by Pakistan. In light of these circumstances the Maharaja of Jammu and Kashmir sought assistance from the then Prime Minister of India, Pt. Jawaharlal Nehru. However, initially, the request was turned down on account of the fact that Jammu and Kashmir was not a part of India. Consequentially, in that emergency situation, the Maharaja had no choice but to execute an agreement to accede to India via the instrument of accession on the 26th of October, 1947. The ratification of the state's accession to India was voted upon by the Constituent Assembly on February 6, 1954. The legal document as a constitution for

governing the Indian state of Jammu and Kashmir was ratified by a Constituent Assembly on November 17, 1956, and came into effect on January 26, 1957, J&K had its own Prime Minister and Sadr-e-Riyasat until 1965, when the J&K Constitution was amended (Sixth Constitution of J&K Amendment Act, 1965) by the then Congress government, which replaced the two positions with Chief Minister and Governor respectively and Sir Albion Banerjee (1927-29) was appointed by Dogra ruler Maharaja Hari Singh as first prime minister, consequently nine prime ministers were appointed till independence. The first after Independence was Mehr Chand Mahajan (October 1947-March 1948). He was replaced with Sheikh Mohammad Abdullah, who until then had been Head of the Administration, when Abdullah was arrested under Jawaharlal Nehru's orders on August 9, 1953, Bakshi Ghulam Mohammad was appointed Prime Minister of J&K. The next two J&K Prime Ministers were Khwaja Shamsuddin (1963-64) and Congress leader Ghulam Mohammad Sadiq (until March 30, 1965). It was during Sadiq's tenure that the Centre replaced the two posts. In fact, Sadiq became the first Chief Minister of J&K, serving until December 1971. Thus based on the agreement in place, Jammu and Kashmir agreed to surrender only three subjects, especially defence, external affairs, and communication, to the dominion of India. The Indian government committed that the residents of Jammu and Kashmir would constitute their own constituent assembly and decide on the extent of India's jurisdiction over the state. The Indian Constitution could only offer an interim solution with respect to the state's commitment to maintaining the autonomy of the state of Jammu and Kashmir Article 370 has been incorporated into the Indian Constitution to grant it a special status, allowing it to have its own state constitution and state flag within India's quasi-federal-oriented polity.

II. Jammu and Kashmir state constitutional and legal framework.

This seventeenth day of November, 1956, do hereby adopt, enact and give to Jammu and Kashmir a constitution. The people of the State of Jammu and Kashmir, thus, finally settled the controversy regarding accession through the Constituent Assembly comprising of their elected representatives. No one, even the worst critic, has ever doubted the representative nature of the Constituent Assembly. Self-determination is a one-time slot - the people of the State took a final decision and, therefore, the question of any further 'self-determination' or 'plebiscite' does not arise either legally or morally. The 'wishes' of the people of Jammu and Kashmir have been duly ascertained through the duly elected Constituent Assembly. The State's accession to India, therefore, cannot any longer be questioned or doubted. The 1954 report of the Constituent Assembly was followed by the Constitution of Jammu and Kashmir, which read Jammu and Kashmir is and shall be an integral part of India". The use of the expression 'is and shall be' is sign both of the past and the future relationship of the State India. This section is in affirmation and reiteration of the desire of the people of the State to be an integral part of India. It has been put beyond the powers of the State legislature to amend by virtue of the mandate of section 147 of the Constitution. This provision was apparently incorporated in order to "avoid any fissiparous tendencies raising their ugly heads in the future". It, thus, follows that the accession of Jammu and Kashmir to the Union of India is legal and constitutional, which has been 'ratified' by the people of the State also. It is, therefore, complete, final, legal and irrevocable from this above constitution of state, it is confirmed that's the constitution was framed by constituent assembly of state and accession was signed and made Jammu and Kashmir the integral part of India which was legal and irrevocable. but what the present BJP government done is totally against the peoples will, against the constitution of India, it is clearly stated that constitution so framed by constituent assembly by keeping Article 370 and 35A which gives special status, does not come under article 268 amendment procedure.

2.1 ARTICLE 370

The foundation for Jammu and Kashmir's integration into India was Article 370. Sheikh Abdullah, the prime minister, wrote this article. Maharaja Hari Singh asks N. Gopalswamy Ayyangar, a member of the constitution-drafting committee, for assistance because B.R. Ambedkar rejected this draught. The state of Jammu and Kashmir has been given special status under Part XXI of the Constitution of India, which deals with temporary, transitional, and exceptional provisions. This clause was added to the constitution on October 17, 1949. Article 370 was seen to be a transitory measure by the centre despite Abdullah's desire for it to be permanent. This article claims that Jammu and Kashmir has a distinct constitution and is exempt from the Indian constitution. They were free to choose the style of their flag. People in Jammu and Kashmir are not Bounded to respect Indian national symbols, and if they do so, they are not breaking the law. The state's borders cannot be enlarged or narrowed by the Indian parliament. The guiding principles of public policy and fundamental obligations do not apply in Jammu & Kashmir. For regulating matters relating to property ownership, fundamental rights, and citizenship, the state has separate laws. Any law in the state of Jammu and Kashmir cannot be implemented by the parliament without the consent of the state administration. Defence, foreign policy, economics, and communications do not fall under the purview of the aforementioned power. The Jammu and Kashmir Assembly was given authority under Article 35A of the Indian Constitution, which was derived from Article 370, to specify the permanent residents of the state and their unique rights and benefits.

2.2 Article 35(A)

Article 35A was inserted to the constitution by an order signed by then-President Rajendra Prasad on the advice of the union government's leader, Jawaharlal Nehru. This order was issued in 1954 under Article 370 (1) (d) following the signing of the Delhi Agreement in 1952 between Nehru and the then-Prime Minister of Jammu and Kashmir, Sheikh Abdullah. While article 35(A) has not changed, some aspects of article 370 have been watered down over the years. Article 35(A) was included unconstitutionally because article 368(1) indicates that the constitution permits only the parliament to modify the constitution, yet the parliament requires the Jammu and Kashmir government's assent before enacting laws in the state. As a result, it lacks key parliamentary sanctions. This Article 35A confer certain rights and privileges on residents of Jammu and Kashmir Residential rights: A person is considered a permanent resident of the state if they were a state subject on May 14, 1954, or if they have lived there for 10 years and have legitimately acquired real estate there. When a woman marries a citizen of another

country, some privileges are prohibited by the permanent resident. It includes the children of those women as well. The high court of Jammu and Kashmir ruled in the case of Charu wali Khanna v. Union of India that women who marry non-residents will not lose their rights, albeit their children will not be entitled to such succession rights. Property & job rights: According to article 35A, no outsider is permitted to own property or work in Jammu & Kashmir. While Pakistani refugees were granted citizenship under the Jammu and Kashmir constitution, Indian refugees who migrated to Jammu and Kashmir during partition are still not treated as state subjects. Additionally, they rejected offering scholarships to deserving students. The state's economic growth was negatively impacted. These run afoul of the constitution's articles 14, 19, and 21 on fundamental rights.

2.3 Jurisdiction of Parliament

In J&K, Parliament or the Union Legislature doesn't have as much power as it does in other states. Up until 1963, Parliament could only make laws about things on the Union List. It had no power over the Concurrent List, which is on the 7th Schedule of the Constitution. But now, the Parliament can make laws not only about things on the Union List, but also about some things on the Concurrent List. Unlike other states, J&K is in charge of the powers left over. Parliament doesn't have the power to make laws about preventive detention for the state; this rests with state assembly.

2.4 Autonomy in certain matters

Any action taken by the Union Legislature or Union Executive that changes the name or borders, or any international treaty or agreement that changes the territory or border of state and how any part of the state's territory is used, there was a need of approval from the State Legislature or State Executive, depending on the situation. The Constitution of J&K can hold on it.

2.5 Emergency Provisions

India cannot declare Financial Emergency under Article 360 in the state. Only war or external aggression can cause the Union to declare state emergency. No proclamation of emergency based on internal disturbance or imminent danger thereof shall have effect in relation to the state unless (a) it is made at the request or with the concurrence of the state's government, or (b) the President applies it subsequently to that state at the state's request. The state was given Articles 356 and 357 in December 1964.

2.6 Fundamental Duties, Directive Principles and Fundamental Rights

The Constitution's Part IV (Directive Principles of State Policy) and Part IVA (Fundamental Duties) do not apply to J&K. Along with other fundamental rights, J&K is still covered by Articles 19(1)(f) and 31(2) of the Constitution; as a result, the fundamental right to property is still protected in this state.

2.7 High Court of J&K

The J&K High Court has limited power as compared to other Indian High Courts. It cannot declare a law to be unconstitutional. Under Article 226 of the Constitution, it was prohibited from issuing writs except for the enforcement of fundamental rights.

2.8 Official language

Part XVII of the Constitution applies to Jammu and Kashmir only insofar as it pertains to (i) the official language of the Union; (ii) the official language for communication between one state and another; or between a state and the Union; and (iii) the language of the Supreme Court proceedings. Urdu is the state's official language, but English may be used for official purposes unless the state legislature specifies otherwise.

III. Unveiling the Rationality Behind the Transformative Change in Jammu and Kashmir: Exploring the Abrogation of Article 370

3.1 Historical perspective

Historically, the territory of Kashmir is situated in a geographically critical spot between Pakistan and India, that lead to an initial state of ambiguity. However, adhering to the infiltration of tribesmen and disguised Pakistan Army personnel, Raja Hari Singh went on to sign an Instrument of Accession, ultimately leading to the state's integration into the Union. The decision was taken in accordance with a set of particular circumstances. But after independence of India and accession of state to union of India remain as a bone of contention between the two neighbouring nations. this historical perspective is also one of reason for abrogation of Article 370 and bifurcation of state into two union territory.

3.2 Political perspective

The latest move made by the BJP-led NDA government to repeal Article 370 and completely integrate Jammu and Kashmir into the Indian Union can be seen as a reflection of the party's longstanding politico-ideological appetite. This desire is explicitly stated in the BJP's 2019 Lok Sabha Election manifesto, which clarifies the party's historical position on the "abrogation" of Article 370 and the nullification of Article 35-A. The latter allowed the Jammu and Kashmir Legislature to define permanent residents of the state. In addition, the Jammu and Kashmir Reorganisation Act of 2019 was implemented by the Central government, which aimed to divide the region of Jammu and Kashmir into two distinct Union territories, namely Jammu and Kashmir and Ladakh. The prompt implementation of a reorganisation plan following the revocation of Jammu and Kashmir's special status may have been a preemptive measure to address potential civil unrest in the Kashmir Valley. The alteration of Jammu and Kashmir's status to that of a Union Territory is expected to grant increased authority to New Delhi in terms of local administrative and legislative powers. This will be accompanied by direct oversight of the police force and

responsibility for ensuring the protection and upkeep of public order. The Indian Home Minister, Amit Shah, provided assurance to the parliament that the central government will restore full "state" status to the union territory of J&K when the situation returns to normalcy and the appropriate time arrives. The abrogation of Article 370 by the ruling BJP may have two potential implications. The first implication is that the BJP could potentially benefit politically from this decision, both within Jammu and Kashmir and throughout the rest of India. Additionally, it is possible that New Delhi will increase its emphasis on the Kashmir issue as an internal matter of India in reaction to any efforts at third-party intervention. The potential risks associated with the government's actions in the Valley include the possibility of civilian unrest and terror attacks, communal tensions in J&K, and the internationalisation of the Kashmir issue. The government is aware of these risks. The recent revocation of Article 370 by the Bhartiya Janata Party (BJP) has the potential to yield significant long-term political benefits for the party throughout India. Furthermore, this decision may have a substantial impact on the political landscape of Jammu and Kashmir, potentially leading to a reshaping of the region's status quo. Furthermore, this significant decision has the potential to reinforce the ideological foundation of the BJP and simultaneously undermine the support infrastructure of opposition parties in India. An electronic version is available.

3.3 Integration and development perspective

The change has brought about socio-economic development in both the new UT's i.e. UT of Jammu-Kashmir and the UT of Ladakh. Empowerment of people, removal of unjust Laws, bringing in equity and fairness to those discriminated since ages who are now getting their due along with comprehensive development are few of the important changes that are ushering both the new Union Territories towards the path of peace and progress. The historic decision set off a major political as well as social makeover of the region, which had enjoyed special rights since Independence. The government, while justifying its move, said that Article 370 was the "root cause" of terror in the Valley and hindered the economic and social development of the region.

3.4 Terrorism

The government's primary rationale behind the revocation of special status was to "eliminate the threat of terror." Data provided by the home ministry shows that terror-related incidents have reduced drastically since the revocation of Article 370. In a written reply in Rajya Sabha, the home ministry recently said that compared to 2019, number of terrorist incidents have reduced by 59% in 2020. The incidents reduced by a further 32% till June 2021 compared to the corresponding period in 2020. It said that a total of 59 people have been killed in terror-related incidents since August 2019 while no civilian has died during the same period in law and incidents. However, there have been renewed concern about cross-border terrorism recently after the twin drone attacks on the IAF station the Jammu airport. It was the first time that drones were used in such an attack, triggering fears of more such sophisticated attacks in the future.

3.5 Political activity

There has been a flurry of political activity in the Union Territory over the last year, especially after the release of top leaders like PDP chief Mehbooba Mufti and National Conference president Farooq Abdullah and his son Omar. They had been placed under house arrest following the revocation of Article 370. In October 2020, the political leaders came together to form the Gupkar alliance with an objective to restore the special status of the state. The alliance includes parties like NC, PDP, CPI, CPM and some local outfits. Congress and Sajad Lone's Peoples Conference were also part of the alliance but later withdrew their support. The Gupkar alliance contested the District Development Council (DDC) elections in December 2020 and emerged victorious in the Kashmir valley. More recently, Prime Minister Narendra Modi held a meeting with the top leaders of the erstwhile state to discuss the way forward. He said that elections could be possibly held after the delimitation exercise in J&K. However, almost all mainstream parties have insisted that J&K's statehood must be restored before the delimitation exercise.

3.6 Rehabilitation of Kashmiri Pandits

As per a 1990 report, as many as 44,167 Kashmiri Migrant families had fled the Valley since the 1990s due to security concerns. Out of these, the count of registered Hindu migrant families is 39,782. In its written reply in Rajya Sabha in March 2021, the government said that 3,841 Kashmiri migrant youths have moved back to Kashmir in recent years and have taken up jobs in various districts under the Prime Minister's rehabilitation package. It had said that 1,997 candidates have been selected for jobs under the same package in April, 2021. The government had said that it prepared a comprehensive policy to provide residential accommodation to the migrants who have moved back to Kashmir.

3.7 Industrial promotion

The government had informed Rajya Sabha in March 2021 that a total number of 456 MoUs amounting to Rs 23,152.17 crore have been signed with potential investors since the creation of UT of Jammu and Kashmir. It said all flagship schemes of the Modi government, including individual beneficiary centric schemes are also being proactively implemented in the UT. The Centre has approved a new Industrial Development Scheme for Jammu and Kashmir with an outlay of Rs 28,400 crore to boost industrial activity while nurturing existing industries as well. Moreover, the J&K administration approved a business revival package of Rs 1,352.99 crore in September, 2020.

3.8 Domicile issue

The Jammu & Kashmir government decided to issue domicile certificates to the husbands of local women married to people from outside the state. This was a significant move as it allowed them to buy land or property in the Union territory or apply

for government jobs. Commissioner secretary to J&K government, Manoj Kumar Dwivedi, issued an order dated July 20 in which he specified that rules that make spouse of domicile certificate holder eligible for getting the certificate. The J&K administration had said that till January this year, a total of 33,80,234 domicile certificates had been issued.

3.9 J&K cadre-AGMUT merger

In another key move, the Jammu & Kashmir cadre for All-India Services (IAS, IPS and Indian Forest Service officers) were merged with the existing cadre of Arunachal Pradesh, Goa, Mizoram and Union Territories (AGMUT). The decision was taken to help tackle the shortage of All-India Services officers in J&K owing to an earlier UPA rule fixing the ratio of direct recruits in Civil Services to promotes from J&K state civil services (Kashmir Administrative Service) at 50:50 instead of the 67:33 formula followed in other states. As a result, any officer belonging to AGMUT cadre is now eligible to be posted in UT of J&K and UT of Ladakh, and vice-versa.

IV. Governance of Union Territory

When talking about the difference between a state and a UT, a state is a division under Indian constituency, which has a separate government. States are explained as the administrative unit that has its elected government, which has the right to frame its laws. It has its own legislative assembly and the Chief Minister, for administration. The Governor acts as the representative of the President, in states. There is a distribution of sovereign legislative and executive powers between the Centre and state, regarding the territory of that state. On the other hand, UTs are ruled directly by the Central government and has a Lieutenant Governor as an administrator, who is the representative of the President of India and appointed by the Central government. UTs have no representation in the Rajya Sabha except Delhi and Puducherry. UT is a small administrative unit that is ruled by the Union. The UTs are controlled and administered directly by the Central government.

4.1 UTs' Constitutional Status

The Union Territories are specified in Schedule I Part II of the Constitution of India. These territories are administered in accordance with the provisions of Article 239 to 241 of the Constitution of India. Under the Government of India (Allocation of Business) Rules 1961, Ministry of Home Affairs is the nodal Ministry for all matters of Union territories relating to Legislation, Finance & Budget, Services and appointment of Lt. Governors and Administrators. Every Union territory is administered by an Administrator appointed by the President under Article 239 of the Constitution of India. In Andaman & Nicobar Islands, Puducherry and Delhi, administrator is called Lt. Governor, while in Chandigarh, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep he/ she is known as Administrator.

4.2 Power of Union Territories

UTs are administrated by the President acting to such extent, as he thinks fit, through an Administrator appointed by him. Administrators of Andaman and Nicobar Islands, Delhi and Puducherry are designated as Lieutenant Governors. The Governor of Punjab is concurrently the Administrator of Chandigarh. The Administrator of Dadra and Nagar Haveli is concurrently the Administrator of Daman and Diu. Lakshadweep has a separate Administrator. The NCT of Delhi and UT of Puducherry each has a legislative assembly and council of ministers. Legislative assembly of UT of Puducherry may make laws with respect to matters enumerated in List II or List III in the Seventh Schedule of the Constitution in so far as these matters are applicable in relation to the UT. The legislative assembly of NCT of Delhi has also these powers with the exceptions that Entries 1, 2 and 18 of the List II are not within the legislative competence of the legislative assembly. Certain categories of Bills, however, require the prior approval of the Central government for introduction in the legislative assembly. Some Bills, passed by the legislative assembly of the UT of Puducherry and NCT of Delhi are required to be reserved for consideration and assent of the President.

4.3 Extent of Legislative Power for Jammu and Kashmir

The Jammu and Kashmir Reorganisation Bill, 2019 paves the way for formation of the UT of J&K. It will join two other UTs — NCT of Delhi and Puducherry — which, through Article 239 A of the Constitution, have a legislative assembly to enact laws on certain subjects and a Council of Ministers headed by a Chief Minister to aid and advise the Lieutenant Governor on subjects related to such legislation. For subjects outside the purview of the assembly, the Lieutenant Governor does not need the aid and advice of the Chief Minister. Section 13 of the Bill states that the provisions contained in Article 239 A of the Constitution that are applicable to UT of Puducherry shall also apply to the UT of J&K. The UT Assembly has the power to enact laws on matters under the State List and the Concurrent List, barring subjects that are exclusively under the ambit of the Union government.

In the J&K Bill, Section 32 proposes that the assembly can make laws on any subjects in the State and Concurrent lists except on state subjects relating to “public order” and “police”. Therefore, all laws on these two subjects will be directly under the Centre. This is the case in Delhi, too. In Delhi, by insertion of Article 239AA and by virtue of the Sixty-ninth Constitutional Amendment passed by Parliament, the Assembly cannot legislate on matters in entry 18 of the State List, which is land. In J&K, the Assembly can do so. Further, Section 53(2)(iii) of the Bill states that the Lieutenant Governor shall, in the exercise of his functions, act in his discretion, in matters related to “All India Services and Anti-Corruption Bureau”. Therefore, all appointments and other administrative matters related to the ACB will be directly under the Lieutenant Governor. In addition to it, Part XIII and Section 88(4) of the Bill make it clear that the Lieutenant Governor will have discretionary powers relating to composition, strength and allocation of officers of the Indian Administrative Service, Indian Police Service and Indian Forest Service.

Therefore, the proposed policy shift is believed to strengthen the government's control over policymaking in Jammu and Kashmir, thus possibly restricting the influence of the public's opinion. The most recent decisions of the Bhartiya Janata Party-led government in Parliament strive to alter the special status of Jammu and Kashmir within the Union of India. However, it is worthwhile to note that these moves comprise two distinct parts. An alteration has been made to Article 370 of the Indian Constitution, which formerly granted a degree of autonomy to Jammu and Kashmir. One of the bills under consideration proposes the division of the state into two distinct Union Territories.

V. UT Of Jammu and Kashmir

The concept of a 'Union Territory' is unique to India. First introduced in the States Reorganisation Act of 1956, the term refers to those territories that were too small to be independent or too significantly different (economically, culturally or geographically) to be merged with the states that surrounded them. These territories were to be administered directly by the Centre. The State Reorganisation Commission (SRC) was inspired by the "major and minor provinces" that existed at the "close of the 18th century". These were managed by governors and chief commissioners and the central government respectively.

Initially, the Constitution recognised four different categories of territories in Schedule 1: Former British India provinces (Part A), princely states (Part B), chief commissioner provinces (Part C) and the Andaman and Nicobar Islands (part D). When the states were reorganised, Part D became the basis for UTs. During the discussion on reorganisation of states in 1956, the States Reorganisation Commission recommended creation of a different category for these territories since they neither fit the model of a state nor do they follow a uniform pattern when it comes to governance. Both would be headed by an Administrator to be designated as Lieutenant Governor (LG). In addition to normal powers, the LG would be empowered to "act in his discretion" in matters related to All India Services and Anti-Corruption Bureau (ACB) - which have been a contentious issue between the National Capital Territory (NCT) of Delhi and central government. From now on, like other state legislatures, the term of the UT of J&K would be for five years - from six years. The Legislative Council would be abolished. The number of seats to be filled through direct elections would be 107, which will be further enhanced to 114 after a delimitation exercise is carried out. All this is done in the absence of a state assembly in J&K appears to have aided New Delhi to go for constitutional reforms. The J&K state coalition government created in 2015 dissolved in June 2018 as the BJP lost its support for its Kashmir-based coalition partner, resulting in direct federal rule via the centre-appointed governor. Due to disagreements over the use of force to confront a deteriorating security situation (the BJP advocated greater use of force), BJP officials declared the coalition unsustainable. For the first time since 1996, J&K came under "President Rule" in December 2018, by putting the state legislature under the jurisdiction of Parliament. On the 5th of August, 2019, Shri Amit Shah, the Union Home Minister of India, made the announcement that Article 370 and Article 35-A of the Indian constitution will no longer be in effect. These articles had conferred a unique status to the state of Jammu and Kashmir. According to Article 35-A of the Constitution of India, the legislature of Jammu and Kashmir State is given the authority to define the permanent inhabitants of the state as well as their unique rights and advantages. Article 35A was not a component of the constitution that was in place when India first established its constitution in 1949. After some time, it was ratified by the state governments and included in the constitution of India via Presidential Order in 1954. This was done with the approval of the Indian government at the time. Union Minister for Home Affairs also introduced two bills and two resolutions regarding Jammu and Kashmir (J&K) in Lok Sabha on the same day on 5th August 2019. These are as follows:

(1) Constitution (Application to Jammu & Kashmir) Order, 2019 {Reference of Article 370(1) of Constitution of India} – issued by President of India to supersede the 1954 order related to Article 370. In exercise of the powers conferred by clause (1) of Article 370 of the Constitution, the President of India, with the concurrence of the Government of the State of Jammu and Kashmir, has issued such Order.

(2) Resolution for Repeal of Article 370 of the Constitution of India (Reference. Article 370)

(3) Jammu & Kashmir (Reorganisation) Bill, 2019 (Reference. Article 3 of Constitution of India)

Article 370(3) of the Indian Constitution states that the President of India possesses the authority to change or remove any article by issuing a notification, provided that the Constituent Assembly of J&K makes such a recommendation. Regarding Article 370(1), the President of India gave his signature to the Constitution (Application to Jammu and Kashmir) Order 2019, which was published on August 5th, 2019. This order stipulates that all of the provisions outlined in Article 4 of the Indian Constitution will be applicable to Jammu and Kashmir. If you want to read it correctly, Jammu and Kashmir Constituent Assembly is actually Jammu and Kashmir Legislative Assembly. Changes to Article 370 that are quite similar to these ones have been made in the past as well. When the President of India publishes the notification regarding this matter, the implementation of Article 370 will come to an end because the President's rule is currently in effect in the state. As a result, the President of India, acting on the advice of the Parliament of India, issued a declaration that as of the 6th of August 2019, all of the clauses of Article 370 will no longer be in force.

5.1 UT Of Ladakh

The Ladakh region has held great geostrategic importance down history. Yet, it has received stepmotherly treatment from the now-suspended J&K government, despite occupying some 60% of the erstwhile state's geographical area. Now with the passage of the J&K Reorganisation Act, 2019, Ladakh will become separate UT without a legislature and will consist of two districts i.e. Kargil and Leh. With over 70% Buddhist, it will be the first Indian UT with a Buddhist majority. However, Ladakh's demography is complicated. While the Leh region is predominantly Buddhist (66%), the Kargil area is dominated by Shia Muslims.

Further, the passes of Ladakh connect Central Asia, South Asia and China, and the region is cut off from the rest of India for six months during winter. The tribes here have limited means of livelihood, poor roads, impossible telecom and internet connectivity, undeveloped markets for their produce and low employment opportunities. The proximity of the India-Pakistan-China border, and the ubiquitous presence of Indian Army and paramilitary forces, underlines not only Ladakh's strategic sensitivity, but also its people's vulnerability. Tribes constitute 90% of the population of Ladakh made up of the districts of Leh and Kargil. Gujjars, Bakarwals, Bots, Changpas, Baltis and Purigpas have played an important role in various wars that have been fought, and have been displaced and disturbed by border tensions. With Ladakh as a UT, humane laws such as the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, and the vigilance of national watchdogs, like the National Commission for Scheduled Tribes (NCST), can be duly applicable to safeguard the welfare of the tribes of this region. Very few of tribal Ladakh's youth have travelled beyond Kargil and Leh. Visits to different parts of India to familiarise them with developments elsewhere could be organised to help expand their knowledge horizons and facilitate their integration into the national mainstream.

5.2 CHANGES/SHIFT

With the revocation of this provision, Jammu and Kashmir has gone from extraordinary to ordinary. That is, all previously exempted legislation will henceforth be applicable under the Constitution. It is now easier to declare a state of emergency. Also, within the state the J&K assembly will no more be able to clear any bills. Following are the points which are much effected:

a) No separate constitution

After the scrapping of article 370, Jammu and Kashmir will not have separate constitution anymore; it is abided by the constitution of India.

b) Citizenship given to J & K people's

After scrapping it, all the people of Kashmir and Jammu will be the Citizens of India only and will purview come under the Indian citizens and will same by the other nations of the world be recognized.

c) Jammu and Kashmir people's Fundamental rights

Before the scrapping of the article 370, Kashmir and Jammu people were not able to take advantages of all the rights provided by the Constitution of India. Article 370 gives them special status and dual citizenship. This article provides them only property rights and state rights. After scrapping of article 370 all people of Kashmir and Jammu now able to enjoy Fundamental rights mentioned in the Constitution of India

d) Nomination of Kashmiri migrants

The Bill adds that the Lieutenant Governor may nominate up to two members from the Kashmiri migrant community to the Legislative Assembly. One of the nominated members must be a woman. Migrants are defined as persons who migrated from the Kashmir Valley or any other part of the state of Jammu and Kashmir after November 1, 1989, and are registered with the Relief Commissioner. Migrants also include individuals who have not been registered due to: (i) being in government service in any moving office, (ii) having left for work, or (iii) possessing immovable property at the place from where they migrated but are unable to reside there due to disturbed conditions.

e) Jammu and Kashmir flag

After scrapping of Article 370, the privilege of having separate flag for Kashmir and Jammu State is withdrawn from J&K people. Now J & K people should have only the Indian flag and they are legally and morally bound to respect the Indian National Flag.

f) National anthem

Jammu and Kashmir have to abandon their state Anthem. They should have to adopt the National Anthem of India. And they are also demanded to respect and honour the national anthem of India

g) Legislature Working

The Jammu and Kashmir legislature will now doesn't have right to clear bills with respect to the state, because the legislature of the J&K is not different from the other state legislatures. All the matters and things which fall under the ambit of union list such as defense, the security of the nation, foreign affairs, foreign loan, taxes on Income, atomic energy, inter-state trade, shipping and navigation etc., all these will be solely dealt with by the central government.

h) Indian laws application

After scrapping article 370 all around 106 central laws going to be applicable for Jammu and Kashmir. Before abrogation of Article 370 Parliament needed permission or approval of the state government for applying laws, except for foreign affairs finance, defense, and communications but after revoking of article 370, the parliament no need to ask for state government's permission or approval for applying laws and also have liberty or right to modify boundaries of the state and change its name.

i) Geographical changes

After removal of article 370 Jammu and Kashmir became a union territory and will have legislature whereas Ladakh will be another union territory with no legislature

j) Ownership of property

Before Removal of article 370 only the citizens of Jammu and Kashmir were able to buy and sell property in Jammu and Kashmir, but now the property of Jammu and Kashmir will be buy or sell by all the citizens of India.

VI. Conclusion:

This shift in from state to union territory is a brave step, as we see long after india's independence, the central government from different political parties tried differently to scrap article 370 but this distinctive status of Jammu and Kashmir can be removed, only with the permission of its people however BJP government had taken the advantage of full majority in lower house (Lok Sabha) of parliament and scraped Article 370. This government not only removed article 370 but brought a shift in geographically, demographically, politically and administratively. It was assumed that abrogating Article 370 will lead to growth and development in private investments, education, health, empowerment and tourism in UT but the fact is Abrogation of Article 370 would not solve the problem of Kashmiris' alienation. Aside from a "security-oriented approach" to containing adolescent radicalization and lowering terror attacks and infiltration efforts, the government must reinforce the region's democratic system. And policy implementation schemes in order to win the heart and minds of inhabitants as rightly said by Dr. Ambedkar. As he said, bad or good lays in the implementing authority's hands. This is vivid that, the world can hope now to see a peaceful and prosperous Kashmir and Jammu, the Real heaven on the Earth.

References:

- [1] Explained: When Jammu & Kashmir had its own Prime Minister and Sadr-e-Riyasat <https://indianexpress.com/article/explained/when-jammu-kashmir-had-its-own-prime-minister-and-sadr-e-riyasat-5675554/>
- [2] AGARWALA, JAI SHANKAR. "Article 370 of the Constitution: A Genesis." *Economic and Political Weekly*, vol. 50, no. 16, 2015, pp. 25–27. *JSTOR*, <http://www.jstor.org/stable/24482059>. Accessed 11 Dec. 2023.
- [3] Lalwani, Sameer P., and Gillian Gayner. *India's Kashmir Conundrum: Before and After the Abrogation of Article 370*. US Institute of Peace, 2020. *JSTOR*, <http://www.jstor.org/stable/resrep25405>. Accessed 11 Dec. 2023.
- [5] Venkataramakrishnan, R. (2019, August 5). *J&K: Why is BJP turning a state into a Union Territory and diminishing citizens' democratic rights?* [Text]. Scroll.In. <https://scroll.in/article/932895/j-k-why-is-bjp-turning-a-state-into-a-union-territory-and-diminishing-citizens-democratic-rights>
- [7] Yamanan, S. (2019, August 5). *Move to scrap special status of Jammu and Kashmir is an unprecedented attack on India's Constitution* [Text]. Scroll.In. <https://scroll.in/article/932869/move-to-scrap-special-status-of-jammu-and-kashmir-is-an-unprecedented-attack-on-indias-constitution>
- [8] Two years since Article 370 abrogation: What has changed in Jammu & Kashmir? (2021, August 5). *The Times of India*. https://timesofindia.indiatimes.com/india/two-years-since-article-370-abrogation-what-has-changed-in-jammukashmir/articleshow/85057707.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
- [10] Rather, T. (2020). Abrogation of article 370 of the constitution of india: Socio-economic and political implications on jammu and kashmir. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3664550>
- [12] *News on air—News services division: Breaking news today, top headlines, live updates, top stories*. (n.d.). Retrieved 22 August 2023, from <https://www.newsonair.gov.in/default.aspx?aspxerrorpath=/Main-News-Details.aspx>
- [14] 31st October, 2019 — clause (a) of Section 2, vide notification No. S.O. 2889 (E), dated 09th August, 2016 see Gazette of India Extraordinary, Part II, s. 3 (ii)
- [15] The jammu and kashmir reorganisation (Amendment) bill, 2023. (n.d.). PRS Legislative Research. Retrieved 22 August 2023 <https://prsindia.org/billtrack/the-jammu-and-kashmir-reorganisation-amendment-bill-2023>
- [17] Mangiarotti, E. (2023). Reclaiming the lost paradise: The jammu and kashmir reorganisation act and india's new historical narrative on kashmir. *Il Politico*, 258(1), 83–95. <https://doi.org/10.4081/ilpolitico.2023.814>