IMPACT OF LAWS ON SOCIO-ECONOMIC CONDITION OF CITIZENS OF JAMMU AND KASHMIR: A CURRENT PERSPECTIVE

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ABSTRACT
This document talks about Article370 mentioned in the worlds lengthiest constitution known as 'The Constitution Of India'. The temporary provisions are provided in the Indian constitution under Part XXI. The Jammu and Kashmir empowered by the Indian Constitution that legislature to elucidate permanent residents. And also explaining the constitution Articles from 371A to 371I. Explaining the importance of the article in relation to Union of India and affecting the life of subjects of the state of Jammu and Kashmir. The Jammu division being ignored in this run for Kashmir.

Keywords: Assembly, Constitution, Jammu & Kashmir, State

INTRODUCTION
From the very starting two nation theory was in being that from British India a new state was emerging Pakistan among various princely states. The Jammu and Kashmir was in lime light in International stage and target as international stratagem. The British were of the opinion to make it under the administration of Pakistan but destiny has its own saying and the Maharaja Hari Singh went with the Union of India as Maharaja was an Indian first and then a Maharaja. This British conspiracy came to light when the Round Table Conference at London happened which was held in 30's. The Statement made by Maharaja was taken as an alarm by Sheikh Abdullah a kashmiri in Muslim University of Aligarh who questioned the Maharaja Authority in Jammu & Kashmir and revolted against Maharaja and raised a political party naming his party as Muslim Conference. The name of the party was later changed to National Conference to give it a secular look and started Quit Kashmir Movement alike that of Gandhiji Movement of Quit India against the British Authorities. The British and the Congress both supported the movement.

The Instrument of Accession especially after a long delay to be added to Indian Constitution in order to connect the state with the Parliament and Parliament with Kashmir by doing so the laws can be set forth in the state. The Instrument of Accession got recognized and that was under Article 370, the conditions that the ruler of Kashmir in year 1948 by signing the instrument entering into the Union of India was a constitutional recognition.

The Kashmir Constituent Assembly decided to adopt it. The original draft came to light by the Jammu and Kashmir. Discussions were held among the state as well as the Government of India not more than five months. The Government of India passed the Article 306A which now known as Article 370 which was passed on May27, 1949 in the Constituent Assembly of Jammu and Kashmir. Ayyangar gave his statement on the future relations that if state does not ratify then we shall honour the decision made by Jammu and Kashmir over not joining with the Union of India. Meanwhile in June 1949 when Sheikh who was accompanied with three other as members of Constituent Assembly. The direct voting of all the members and draft of Constitution was prepared by Constituent Assembly of the state. Constituent Assembly on October17th, 1949 adopted the Article 370 in the Constitution. Ayyangar made aware that Article 370 adequacy for India, Article 1 of Constitution of India which provides
that Jammu & Kashmir is part of India and is mentioned in the list of Indian states. A passage into and out of which the Indian Constitution be applied in the state.

Part XXI of Constitution second Article, unique in sense that as the first word Temporary second word Transitional and third word Special Provision are the heads of the Part XXI. Under the Constitution empowers the state to draft a separate constitution and such power to the state restrict the power of the Parliament in the State, it is very clear that the central law are not applicable and to make them applicable there must be meeting of minds if any central law is to be applied to Jammu and Kashmir subjects. Article nature is temporary in sense that the Constituent Assembly of state was given an absolute power to amend or remove or keep and it was temporary in nature.

Special Status in India's Constitution is not only given to the state of Jammu and Kashmir. Special status is given to Nagaland and the parliament act is not extended to it automatically until the approval of the state Legislative assembly in matters relating to the religious and social practices of the Nagas, the customary laws as well as the practices, land ownership and transfer and also of its resources. Certain laws do not extend to Nagaland that is The Indian Penal Code and the criminal law of India, The Code of Criminal Procedure, Tuensang District have a next level kind of autonomy that even the state legislative assembly alone can't deal with and a appointment of person as who act as the minister of the affairs of Tuensang. People who is of the opinion that all the states are having same kind of relationship with the centre. People are not aware of the fact that India is the land of diversity and they do not have not yet read Article 370 with respect to Article371A to Article 371I as mentioned in the Constitution of India. Maharashtra and Gujarat accorded with the special status that certain responsibilities are affixed with the governors of the states with regards to establishment of distinct boards for Vidarbha and Marathwada in state of Maharashtra. Similarly in Gujarat to Saurashtra and Kutch and equal funds to be distributed. Likewise Assam under A. 371B, Manipur A. 371C, Andhra Pradesh A. 371 D and E, Sikkim A. 371F, Mizoram A. 371G, Arunachal Pradesh A. 371H and Goa A.371I are given Special Status.1
The apex court of India has been restricted on the issues made under the treaties for the region of Sikkim.

Important provisions of Article 370:
Indian citizenship and all related benefits (fundamental rights) extends to the permanent residents of Jammu and Kashmir as per the Constitution.
In relation to Defence, foreign affairs, finance and communications, Indian Parliament without the approval of legislature make laws.
The residents of state are governed under distinct laws and the residents are having dual citizenship, but ownership rights and Fundamental rights may vary as compared to that of the other Indian citizens.
Article 1 provisions must apply in relation to that state and other provisions also be applied subject to exceptions and modifications made by presidential order.
It does not discriminate between male and female, females had to seek fresh status of permanent resident after marriage.
The Indian Parliament have no authority to increase or reduce the borders such power is vested with State Legislature.
The article does not allow people from other states to purchase land in Jammu and Kashmir.

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Citizens of India who does not possess cannot purchase land or immovable property in Jammu & Kashmir.

In context to the term of State legislative Assemblies, they have a term of five years whereas the Jammu and Kashmir legislature have six year term.

Jammu & Kashmir has two flags one is the National Flag that is Tri Colour and a separate State flag having three lines and a symbol of ploughing with red background.

In the state if person insults national symbols it is not a cognizable offence.

The Jammu and Kashmir citizens are governed under the laws passed by state legislature which come under the Constitution of Jammu and Kashmir.

The Centre having no power to impose financial emergency under Article 360 in the state but only if war broke out or due to external aggression. Declaration of the emergency on ground of state internal disturbance as well as any imminent danger can only be made on the decision made by the state government.

Jurisdiction over state is governed only in circumstances which are enumerated in Union List as well as the Concurrent List. State List absent for the state of Jammu and Kashmir.

Residuary powers of the state belong with the State Legislature rather than with Parliament, there are certain matters to which Parliament is empowered with the exclusive powers such as preventing secession activities or disrupting the integrity or sovereignty of India.

The Legislature of Jammu and Kashmir are empowered with the preventive detention law and not the Indian Parliament. Therefore, law made in India on preventive detention does not apply to Jammu & Kashmir.

Part IV which talks about Directive Principles of the state policy and Part IVA The Fundamental Duties are not at all applicable to the state.

Jurisdiction of Supreme Court does not lies in the State.

The concept of dual citizenship is enjoyed by the citizens of Jammu and Kashmir, the female may lose the Jammu and Kashmir citizenship if they get married to the residents of other States.

Woman on marrying a man who belongs to Union of India and not having a state subject of Jammu and Kashmir, loses her citizenship and on the other hand if a woman marries a Pakistani citizen she will be entitled to have a citizenship of Jammu & Kashmir.

Pakistan's citizens entitlement to Indian citizenship if marriage is commenced with the Kashmiri girl under this Article.

Indian laws which includes Right To Information and agencies like Central Bureau of Investigation, Controller And Auditor General are not applicable to state.

**Article 35A:**

Article 35A was made part of the Constitution. Under the order made during 1954 followed by 1952 Delhi Agreement which set foot into Jawaharlal Nehru and Sheikh Abdullah who was at that time Prime Minister of Jammu and Kashmir. The Agreement extended citizenship to the subjects of the state. State’s legislature been empowered under Article 35A to interpret permanent resident of state. Providing them with special rights as well as privileges which only the subjects who are permanent resident can enjoy can enjoy to the subjects who are permanent residents. Person falling under the meaning of Class I or Class II and who by acquisition of immovable property or who are living in for not less than ten years in total are considered as ordinary resident of the state before any enforcement of this law such was considered resident permanent in nature under the Constitution of the state.

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2 www.theindiaforum.in (last retrieved on: 11-February-2020)
It gives advantage to the subjects in the employment in any government sector and to acquiring and obtaining of immovable property and scholarships as well as government providing aid. This was all done because on joining the Union of India the residents of the state which were entitled to certain rights were not withdrawn when with State joins the Union Of Indian. Any law which is dealt with the definition of permanent residents will not be disabled not be invalid on very ground that such law is in conflict with the rights which Constitution of India confers. Article 31B provides us with an exemption from fundamental rights. It has been mentioned under the IXth Schedule that cannot be confronted on ground that it infringes the fundamental rights. In the IXth Schedule there are about 285 laws that have been included.3 There persons who took refuge in Jammu and Kashmir who migrated during the partition are not included as State subjects, which came into effect by the order of the president's order which came on May14th, 1954. This was exercising of power is mentioned under Article 370(1) with unanimity of the State.

**Critical side of Article 35A:**

As land ownership is concerned there is presence of restriction on acquiring land not only in state of Jammu and Kashmir but also in Arunachal, Himachal Pradesh, Nagaland, Manipur. Woman are not treated equally and are discriminatory in nature in relation to certain land laws which are in force. Daughters are not entitled to acquisition of agricultural land while son is alive and discriminate between married and unmarried women. The Kashmiri women who marry outside Kashmir are discriminated over the inheritance of immovable property. Same follows for the Kashmiri women new born who consummates marriage, right of inheritance as are not available to them not alike that of Kashmiri men marry outside the state. A Male permanent resident can marry a non state subject and not lose any rights whereas his non state wife gains state subject rights, also her children's born from that marriage. India of the 2019 is totally different from that of India of 1947.4 The woman from J&K who marries a non state subject loses many of her state subject rights. Her husband and children are disbarred from acquiring the state subject status. Her children cannot inherit her property, cannot get entry into government colleges, cannot get government jobs and cannot vote. The residents who are non-permanent residents of Jammu and Kashmir under the state laws are not eligible for employment under any office of the State government and also from voting in the election. Students holding merit are not entitled for scholarships and the court of law not adjudicate such matter.

The second-class citizens of state are the non-permanent residents as defined under state law.

**Analyses**

Maharaja Hari Singh was dethrone by Sheikh on conspiracy with Nehru to become the Prime Minister of the State and rule the state eminently and Nehru favoured sheikh and seats allocation being unwarranted favouring Kashmir over Jammu so that every time the elections happen the Kashmir is to be considered more important due to more number of seats. This move of Nehru was a gift to his Sheikh friend. It is said that one can choose his friends as well as enemies but not their neighbours similarly Pakistan as neighbours there were issue regarding borders. The Jammu Division though having more population as well area as

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3 [www.theindiaforum.in](http://www.theindiaforum.in) (last retrieved on: 11-February-2020).

4 *ibid.*
compared to that of Kashmir Division the unfair or biased bifurcation of seats caused disarray as Jammu division with land area of 27% as compared to Kashmir having 17% of land area. India’s Finance Minister Nirmala Sitharaman on February 1st, 2019 announced that the Centre has proposed the budget of Rs 30,757 crore for Union Territory of Jammu and Kashmir and Rs 5,958 crore for Union Territory of Ladakh for financial year 2020-21. It was always Kashmir Valley having consistently having majority of financial support and region of Jammu being always ignored even major tax payments were collected from Jammu region and Jammu handicapped in terms of nationalism. It is very clear that the Jammu division has always suffered time and again the social and economic as well as cultural problems of the Jammu region faced have always been completely ignored. It is now that point where people have adopted religious approach. The two shops of Chief Minister in the state continued between Congress and National Conference to such an extent that National Conference taking hand of congress for power. The release of Sheikh Abdullah from imprisonment was contempt as well as murder so called democracy during 1980’s. The death of Sheikh was again a stage performance where congress removed Farooq Abdullah then by manipulating in the elections gave him the power this was the outset of terrorism in the state. From the year 1990 for a decade, there on hartals were started and violent protests broke out in Jammu region over the prevention of Shri Amaranth Yatra in Kashmir valley over this Shri Amaranth Agitation broke out, in the year 2009 Shopian fake rape and murder incident arose, floods happen in the valley in year 2014, 2016 was year when terrorist Burhan Wani was gunned down by the security forces 2018 agitation, in fact Kashmir Valley witnessed the unrest and the major concern over minor law never came to light, valley witnessed unrest for months all together during which pelting of stones over security forces was the profession in which youth was also included and mob lynching during nights, Pulwama Attack on CRPF convoy was the last nail in the coffins of separatism. Member of Legislative Assembly and practically National Conference, People Democratic Party, raised Pro Pakistan Slogans in the legislative Assembly, even the Hurriyat two sides of same coin following Pro-Pakistan agendas. Jammu has not even received 15% of Central grants given to states from year 2000 to 2016. Though Jammu possess one percent of the population of the country still money has drowned in Kashmir rather negligible development works in Jammu division. The Bhaderwah known for its beauty and is located in the foothills of Himalayas town in Doda district which comes under Jammu division has completely been ignored and Kashmir preferred over it. Dishonest conduct by those in power, favouritism so called nepotism, hundi transactions, State Bank scams, finger towards political lawlessness in the state. After having majority in the elections Bhartiya Janta Party with Modi for second time with Home Minister, Complete integration to Union of India was made public on October 31st, 2019. Now the status of Jammu and Kashmir is that it is recognized as Union Territory, very much part of India with all laws and full parliamentary control of India and laws like Code of Civil Procedure and Code of Criminal Procedure, Indian Penal Code now applicable to Union Territory of Jammu and Kashmir, a vision of S.P. Mukherjee "Ek Vidhan Ek Nishan Ek Pradhan" has been achieved. Once for all with the Bhartiya Janta commitment to abrogation of Article 370 and 35-A all discriminating laws, a sense of inequality, Anti-national activities, bleeding India as well as misery among the locals came to an end. The journey to full integration with India has tough for Jammu & Kashmir. Article 370 was the bedrock in constitutional connection between the state and rest of the India. At least 45 times Article 370 has been used by India to extend provisions of the Indian Constitution to J&K.

The President of India ordered abrogation of the status which has been accorded in Article 370. Now parliament having full power over the state. This Order came to force at once and superseding the Constitution Order of 1954. A Bill has now been passed by the centre "The
Jammu and Kashmir Reorganisation Bill, 2019", with the purpose to make bifurcation of the state. Bifurcation of state into two, Union Territory of Jammu and Kashmir with legislature like Delhi and Union Territory of Ladakh without legislature like Chandigarh. The Ladakh having a vast area but with very less population and due to difficult terrain. There has been a very pending demand for a long time of people of Ladakh to acquire a status of a UT in order to perceive their ambition.

A bill introduced in parliament for such section who are economically weaker shall have reservations in government jobs as per 'Jammu and Kashmir Reservation Bill, 2019.'

Now that the special status is taken away citizen of India be able to acquire property in the state subject to certain restrictions.5

On October 31, the Union Ministry of Home Affairs announced that UT of Jammu and Kashmir will have its own GST while UT of Ladakh will be governed by the Union Territory GST Act.

It is was never an integration issue but of allowing autonomy to the citizens. Integration as well as evenness are not the two sides of same coin. It is believed that granting of autonomy and preserving the diversity have lasting integration. Article 370 a course which began on October 26th, 1947 has ultimately comes to an end, October 31st, 2019 Accession day to be celebrated as well as Integration with India.

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