

## **HAS THE VALLEY OF KASHMIR BECOME THE VALLEY OF INJUSTICE?**

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### **Abstract:**

Has the 'Valley of Kashmir' become the 'Valley of Injustice and deception'? This question may not sound well but pragmatically, Kashmir has always been in peril. The 'paradise on earth' has always been a land of recreation which is left isolated at times of its sufferings, where ordinary people's speech has always remained insignificant, a valley that has always seen the worst of diplomacy, a valley where children grow up with terror and contempt, a valley accustomed to military approaches, tortures, and other human rights violations. The first step of 'injustice' using its poisonous fangs and claws was through the withdrawal of the special status of Jammu & Kashmir on August 5, 2019. As such, this date became a turning point in the history of the Jammu & Kashmir. Article 370 of the Constitution of India was abrogated and the special status of Jammu and Kashmir was usurped and the former state was divided into two union territories. Kashmir no longer has a separate constitution to enjoy its mere autonomy for its neglected land but has to follow the Indian constitution like any other state. All Indian laws automatically apply in Jammu & Kashmir and people from outside this state can now buy property there. This paper describes the legislative measures taken to implement the changes and then examines their compliance with the constitutional legitimacy. Most importantly this written account presents a question in the land of democracy whether injustice takes birth itself or is coerced to take birth to carve up through the means of apportioning diplomats.

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### **Introduction**

Everyday Kashmir is in newspaper or becomes the most highlighted subject in talk shows to attract a good TRP rating. Pelting stones, terrorism, abysmal confrontation with security forces, litigations, apportion are few words which we often equate with the land of valleys. But the past history, diplomatic records and a consummate scrutiny propels us to question whether the above-mentioned unjust felonies are self-born or are actually the products of years of treachery, oppression and injustice, which have indeed made the 'Valley of Kashmir' to 'Valley of Injustice'.

This write-up thus aims to assimilate all historical and current facts which are derived from planned politics and deceptive objective and procedures, a space for readers to answer whether Kashmir is responsible for apportioning India or is used as the "ace of spades" by the apportioning diplomats.

**Now we will delve into the historical account to have a better estimation of the current occurrence.**

### **Independence and the Introduction of Instrument of Accession (IoA):**

After the independence of India, about 580 princely states that signed a treaty of subsidiary with the British regained their sovereignty with the Indian Independence Act, 1947, which divided British India into India and Pakistan. Essentially, these princely states were offered the choice of remaining independent or to join Dominion of India or Pakistan. Under Section 6(a) of the Act, these states are required to sign an **Instrument of Accession** outlining the terms of their accession to India or Pakistan before becoming members of the new dominions.

At first, Maharaja Hari Singh, the then ruler of the princely state of Jammu and Kashmir, refused to integrate with India or with Pakistan and opted to remain a separate state. On 22 October 1947, thousands of armed tribesmen, led by the Army of Pakistan, invaded the State from the north. This forced Singh to seek Indian assistance and subsequently to accede to India.

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The instrument of accession was taken as a legal document signed by Pandit Jawaharlal Nehru and Maharajah Hari Singh on October 26, 1947, declaring the accession of Jammu and Kashmir to India. It was accepted by Lord Mountbatten, the then Governor-General of India, on October 27, 1947. The IoA gave India's Parliament the power to legislate in respect of J&K only on the matters of defence, external affairs and communications. In addition to these areas, the Instrument of Accession also mentions additional subjects such as the election of Members of the Dominion legislature and any offences against laws in relation to any of these matters.

According to Clause 5 of the IoA, Singh specifically mentioned, "the terms of this my Instrument of Accession shall not be varied by any amendment of the Act (Government of India Act, 1935), or of the Indian Independence Act, 1947, unless such amendment is accepted by me by an Instrument supplementary to this Instrument." In Clause 7, he said, "Nothing in this Instrument shall be deemed to commit me in any way as to acceptance of any future constitution of India or to fetter my discretion to enter into arrangements with the Government of India under any such future constitution."

The Maharaja agreed that J&K's accession to the "Dominion of India" would be with the intent that the "Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion" will be legally authorised to carry out in relation to the state such functions vested in them by or under the Government of India Act, 1935. Soon after the accession, an interim state government was instituted by a proclamation made by the Maharaja on March 5, 1948. **Article 370 was incorporated in the Indian Constitution by using IoA.**

### **Article 370: A brief history**

On March 1948, Maharaja Hari Singh of J&K issued a proclamation demanding that his Council of Ministers convoke a National Assembly based on the adult franchise to draft a new Constitution for the region of Jammu and Kashmir. In June, 1949, he transferred all his ruling powers to Yuvraj Karan Singh Bahadur, to be exercised by Bahadur in Hari Singh's absence. The terms of the accession of Kashmir were designed between October 1947 and 26 November 1949, when the Constituent Assembly was drafting the Constitution of India. The Union of India was

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acceded to by J&K on the basis of terms in the 'Instrument of Accession' which enabled the State to maintain a significant degree of autonomy through the legal provision, Article 370.

On October 17, 1949, N. Gopaldaswami Ayyangar introduced draft Article 306A (later renumbered as Article 370) in the Constituent Assembly as part of the initiative to create the Constitution of India. This draft Article's main goal was to provide Kashmir a special position under India's federal structure. Ayyangar was interrupted during his presentation of the draft Article by Moulana Hasrat Mohani, who sharply questioned the justification for such discrimination.

In reaction, Ayyangar clarified that the special status was required due to the peculiar circumstances in Kashmir. Unlike other states, Kashmir was regarded ill-equipped for full integration into the soon-to-be Republic, owing for the most part to the continuous strife within the region and the United Nations' participation in the matter. Following the deliberation, the Constituent Assembly accepted Draft Article 306A as Article 370. Article 370 of the Constitution of India, 1950 affirmed the unique constitutional status of Jammu & Kashmir and recognised its right to frame a State Constitution. The provision significantly limited Parliament's power to legislate for the State and effectively transferred greater power to Jammu and Kashmir. The provision served to ensure that the people of Jammu and Kashmir had complete say over their sovereignty, and that any legislation that pertained to them came into force with their assent.

This provision had three main ingredients. **First**, India would not make laws in Jammu and Kashmir except for three subjects included in the Instrument of Accession. The Parliament could make laws beyond them only with the 'concurrence of the Jammu and Kashmir Constituent Assembly'.

**Second**, no provisions of the Indian Constitution would be applicable to Jammu and Kashmir except for **Article 1**, which declared India as a 'Union of States, and **Article 370**. The President of India could apply provisions of the Indian Constitution in Jammu and Kashmir through an executive order—this would insulate the Constitution of Jammu and Kashmir from the influences of the Parliament of India.

**Third**, according to **Article 370(3)**, the special status of Jammu and Kashmir could not be amended or repealed, unless the Constituent Assembly of Jammu & Kashmir recommended it.

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**THE PAST TO PRESENT OF ARTICLE 370 OF THE CONSTITUTION OF INDIA.****1950-First Constitutional Order Under Article 370 issued by the President**

Under Article 370, President Rajendra Prasad issued his first order, the Constitution (Application to Jammu and Kashmir) Order, 1950, defining the scope and extent of the powers that the Parliament would have in Jammu and Kashmir. The Instrument of Accession stipulated that the Union would govern the State's exterior affairs, communications, and defence. The President's directive specified the specific issues that would fall under these categories. The Order also included Schedule II, which stated the updated Constitutional provisions that would apply to the State.

**1951-Creation of Jammu & Kashmir's Constituent Assembly**

On a chilly October day in Srinagar, the Jammu & Kashmir Constituent Assembly's initial meeting of 75 members took place.

They were members of the National Conference Party, which was headed at that time by Sheikh Abdullah, the prime minister of Jammu and Kashmir. The constitution for Jammu and Kashmir was what they set out to draft.

**1952-Emergence of the Delhi Agreement**

The Governments of India and Jammu & Kashmir entered into the Delhi Agreement in 1952. The agreement related to residuary powers (Article 248) that the Parliament exercised but which did not fall under the purview of the State or Concurrent Lists. According to the Delhi Agreement, the Jammu and Kashmir government will hold this authority. Normally, all residuary powers in other states are exercised by the Union parliament. The Delhi Agreement also gave the state access to some Indian Constitutional provisions, including those relating to fundamental rights, citizenship, trade, Union elections, and legislative authority.

**1954-Issuance of the 1954 Constitutional Order and Implementation of the Delhi Agreement**

The stipulations outlined in the Delhi Agreement of the Indian Constitution of 1952 were put into effect by President Rajendra Prasad's presidential order, which was issued on May 14<sup>th</sup>, 1954.

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The presidential order established Article 35A, which granted special rights to Jammu and Kashmir's permanent residents, and safeguarded Jammu and Kashmir's territorial integrity. With the concurrence of the Jammu and Kashmir Constituent Assembly, this ordinance was approved.

### **1956-Inception of the Constitution of Jammu & Kashmir**

After a fiveyears process, on November 17<sup>th</sup>, 1956, the Constitution of Jammu and Kashmir was espoused with a declaration — 'The State of Jammu and Kashmir is and shall be an integral part of the Union of India'. On the same day, having completed the task they were formed for, the Constituent Assembly of Jammu and Kashmir dissolved. On November 17<sup>th</sup>, 1956, at 12P.M the Constituent Assembly of Jammu and Kashmir dissolved. The President of the Constituent Assembly, Hon'ble Gulam Mohammed Sadiq blazoned — 'Today this historic session ends and with this the Constituent Assembly is dissolved'. The Constituent Assembly made no express recommendation to adulterate Article 370.

### **1959-The Approval of Constituent Assembly is Required for All Presidential Orders – The Supreme Court of India**

The Supreme Court emphasised the importance of Jammu and Kashmir's "final decision of the Constituent Assembly" under Article 370(3) in *Prem Nath Kaul v. Union of India*<sup>3</sup>. This provision mandates that a declaration by the President is subject to approval by the Constituent Assembly. The petitioners in the case contested the validity of the **Big Landed Estates Abolition Act, 1950**, on the grounds that the Maharaja of Jammu and Kashmir lacked the authority to enact it. The Maharaja had the authority to enact the Act, according to the Supreme Court, which affirmed it.

### **1962-The SC contends that the President has Broad Authority to Amend Constitutional Provisions in Jammu & Kashmir**

In *Puranlal Lakhanpal v. The President of India*<sup>4</sup>, a Presidential Order mandated that Jammu and Kashmir be represented in the Lok Sabha through indirect elections alone, whereas other state

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<sup>3</sup>Prem Nath Kaul (vs) The State of Jammu & Kashmir 1959 AIR 749,1959 SCR Supl. (2) 270

<sup>4</sup>Puranlal Lakhanpal (vs) The President of India and others 1961 AIR1519,1962 SCR (1) 688

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s were allowed to have direct elections. Jammu & Kashmir was excluded from the scope of **Article 81**, which deals with the makeup of the Lok Sabha.

Petitioners contested the Order on the grounds that the President can only make "Minor" modifications to the constitutional provisions. Since the word "modification" in Article 370 should be interpreted broadly to embrace even an amendment, the Supreme Court sustained the Presidential Order. The Court decided that in the context of Article 370, the term "modification" should be given the "widest possible amplitude."

### **1968-Article 370 is considered by the SC to be a permanent feature of the Constitution**

The Supreme Court addressed the constitutional validity of two Presidential Orders that extended the application of Article 35(c) to Jammu and Kashmir in the case of *Sampat Prakash v. State of Jammu and Kashmir*<sup>5</sup>. Preventive detention legislation was protected from state-level accusations of violations of basic rights by Article 35(c), a specific clause. The petitioners claimed that because Article 370(1) no longer applied because of the dissolution of the Constituent Assembly, the President no longer had the authority to issue orders. The Supreme Court ruled that even after the Assembly was dissolved, Article 370 would still be in effect. This ruling suggested that notwithstanding the Constituent Assembly's absence, Article 370 had acquired permanent validity in the Constitution.

### **1972-The Apex Court ruled that the President Can Amend Interpretation of Certain Words Through Article 370**

The President issued an Order to amend Article 367, the Constitution's interpretation provision, in the case of *Maqbool Damnoo v. State of Jammu & Kashmir*<sup>6</sup>, changing the definition of "Sadar-i-Riyasat" to "Governor." The petitioners contested this Order, claiming it was lacking the "recommendation" of the disbanded Constituent Assembly. The Presidential Orders' legality was upheld by the Supreme Court. The Court regarded the Amendment as only clarifying as the "Sadar-i-Riyasat" office was no longer in existence. In accordance with the Court, the Governor succeeded the "Sadar-i-Riyasat" and was qualified to use all of the authority formerly held by that position.

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<sup>5</sup>Sampat Prakash (vs) State of Jammu & Kashmir 1969 AIR 1153, 1969 SCR (3) 574 1969 SCC (1) 562

<sup>6</sup>Mohd. Maqbool Damnoo (vs) State of Jammu & Kashmir 1972 AIR 963, 1972 SCR (2) 1014

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### **2016-Only following the Constituent Assembly's recommendation will Article 370 cease to be in effect – asserted by the Supreme Court of India**

The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, a Union government law, was contested before the Supreme Court in *State Bank of India v. Santosh Gupta*<sup>7</sup>. The Jammu and Kashmir Transfer of Property Act, 1920, a piece of local legislation for Jammu and Kashmir, was in conflict with this Act, according to the petitioners. The legislation of the Union was affirmed by the Supreme Court. The Supreme Court noted that no specific time frame for the application of Article 370 was mentioned throughout the hearings. Until the Constituent Assembly issued a recommendation for its termination, the clause would remain in force. This decision strengthened the notion that the Jammu and Kashmir Constituent Assembly's approval or agreement was essential to repeal Article 370.

### **2018-The imposition of Governor's rule in Jammu & Kashmir**

On June 20, Governor Satyapal Malik took control of Jammu and Kashmir after the coalition administration led by Mehbooba Mufti lost support from the state's 25-member BJP and was reduced to a minority. The Governor's rule is only permitted for a maximum of six months under Article 92 of the Jammu and Kashmir Constitution. As a result, on December 19, 2018, the governor's rule ended.

### **2019-Presidential Rule in Jammu & Kashmir**

On December 19th, 2018, President Ram Nath Kovind issued a proclamation imposing President's Rule in Jammu and Kashmir under Article 356 of the Constitution of India. This came at the heels of the Governor's Rule imposed in June 2018. This proclamation was approved by both houses of the parliament in December 2018 and January 2019. The proclamation replaced the Legislative Assembly and Governor with the Union Parliament and the President.

In accordance with Article 356 of the Indian Constitution, President Ram Nath Kovind issued a proclamation on December 19th, 2018, imposing President's Rule in Jammu and Kashmir. This occurred soon after the June 2018 Governor's Rule. In December 2018 and January 2019, both

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<sup>7</sup>State Bank of India (vs) Santosh Gupta And Anr. Etc (2016)

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houses of the parliament gave their approval to this proclamation. The Union Parliament and the President were declared to take the position of the Governor and the Legislative Assembly.

The Union Cabinet extended the President's Rule over Jammu and Kashmir, citing the prevailing situation, extending the rule by six months, starting July 3rd, 2019.

### **2019-Modification of the definition of 'Constituent Assembly'**

In a move reminiscent of Maqbool Damnoo, President Ramnath Kovind issued an Order (C.O. 272) altering Article 367—the interpretation clause—to change the interpretation of "Constituent Assembly" under Article 370(3) to "Legislative Assembly." In particular, this meant that every presidential decree would require the 'legislative assembly' to approve it. The Parliament fulfilled the need for the approval of the "legislative assembly" because Jammu and Kashmir was under President's Rule. Notably, the Constituent parliament had been disbanded for more than 60 years, and the imposition of the Governor's rule (in June 2018) and subsequent President's rule (in December 2019) had left the country without a functioning "legislative assembly." The President's rule was extended for an additional six months in July 2019, at which point the Presidential order was issued.

### **Abrogation of Article 370:**

Without the consent of the Constituent Assembly, Article 370 could be changed by the Union under C.O. 272. The Jammu and Kashmir Legislative Assembly's authority was transferred to the Union Parliament at the time because Jammu and Kashmir was under President's Rule. So, a few hours after C.O. 272 was published, the Rajya Sabha urged in a Statutory Resolution that Article 370 be repealed. The Rajya Sabha's recommendation was put into effect by President Kovind's Proclamation, C.O. 273, which was published on August 6, 2019. Except for clause 1, which was changed to state that the Constitution of India applies to the State of Jammu and Kashmir, all clauses of Article 370 were repealed.

By passing the Jammu and Kashmir Reorganisation Act, 2019, on August 9, the Union Parliament divided the State of Jammu and Kashmir into two Union Territories. Jammu and Kashmir and Ladakh are the two new Union Territories; only the former has a legislative assembly.

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**Reasons why the abrogation of Article 370 of the Constitution of India and the reorganisation of Jammu & Kashmir is deemed to be unconstitutional:**

★ **An abysmal interpretation:** Article 370(3) of the Indian Constitution provides that the President may by Public Notification, declare the Article to be inoperative only with the recommendation of the Constituent Assembly of Jammu & Kashmir.

Here it is pertinent to note that the word ‘Constituent Assembly’ used in Article 370(3) was enabled to be substituted as ‘legislative assembly’ in its place. However, the law of interpretation States that any terminology used in any law or even in the Constitution must be done keeping in mind the intent of the lawmakers, which makes it clear as crystal that the word ‘legislative assembly’ in place of ‘Constituent Assembly’ is wrong interpretation as it defies the will of the lawmakers and completely changes the meaning of the law itself. The law of interpreting the Indian Constitution also inculcates certain principles which must be strictly followed while construing the law. one such principle used is ‘Doctrine of Colourable Legislation’ which enumerates ‘what cannot be done directly, cannot be done indirectly’. Thus, the amendment defies this principle wherein the President indirectly amended Article 370 without the concurrence of the Constituent Assembly of Jammu & Kashmir which was dissolved on November 17, 1956. Hence, in case of any amendment to be attracted in this regard, the concurrence was needed to be taken prior to the dissolution of Constituent Assembly. Thus, with the dissolution of Constituent Assembly Article 370 inevitably was bestowed with its permanent and concrete nature by the Constitution itself.

★ **A treacherous emergency:** Even if we are to consider the interpretation of ‘Constituent Assembly’ as ‘Legislative Assembly’ correct, the abrogation of Article 370 remains unconstitutional as the consent of legislative assembly was also not taken because of the Presidential rule that was prevailing then. However, Article 370(5) of the Indian Constitution states that the provision regarding emergencies under Article 356 applies to that State only with the concurrence of the State. But the emergency in the land of Jammu & Kashmir was imposed without the concurrence of the State.

Article 12 of the Constitution of India defines State by including the words ‘all local and other authorities within the territory of India’ under clause 3. Here the local or other authorities of the

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particular state can express its concurrence on the basis of the response of citizens having their permanent home and hearth over there. The response of the citizens which can be recorded with the execution of Article 19 of the Constitution of India was also Infringed.

Article 19 enumerates the freedom of speech and expression, right to hold demonstration or protest. But the Kashmiri Citizens were denied their internet facilities, right of holding public meetings, by which they could express their will pertaining to the abrogation of Article 370. Additionally, landlines were disconnected, Kashmiri lawmakers were put under house arrest, more than 10,000 troops were sent to the valley in the anticipation of terrorism. Reportedly, there are incidents of expressing disobedience and making contrasting remarks on such abrogation on the part of several significant members of the state and natives of Jammu & Kashmir, whereby names like Naeem Akhtar, Omar Abdullah, M.Y. Tarigami, Hasnain Masoodi are few to name in the list of majority natives showing their confutation. The decision was infact an instance of dictatorship in the facade of democracy wherein the will of the citizensseemed insignificant.

India is a democracy so the will of the people is necessary. The elected representatives of Kashmir did not have any right to put forth the view of the citizens of Jammu & Kashmir. The union government tactfully made a coalition government with a regional party i.e. People's Democratic Party and thereafter withdrew 25 members of BJP with a preplanned vision of imposing governor's rule and presidential rule respectively. This pre-planned emergency allowed the centre to ignore Kashmir's voice through the aid of elected representatives or legislative assembly if for a moment we are to believe that constituent assembly and legislative assembly are interchangeable. Moreover, the MPs appointed in the parliament to put forth Kashmir's voice was ignored in the parliament.

In a nutshell, the whole occurrence scorns the basic structure of our Indian Constitution with forced and tyrannical decision by defying the very object of the Constituent Assembly of India which bestowed our Preamble with the expression "democracy" that distinctively symbolises "rule of people."

★**An unconstitutional reorganisation:**The Jammu and Kashmir Reorganization Act, 2019 creates two Union Territories: The Union Territory of Ladakh (consisting of Kargil and Leh regions) and the Union Territory of Jammu and Kashmir (consisting of the remaining states of

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the original Jammu and Kashmir along with the previous state). This Act was passed by the Parliament while the State Parliament of Jammu and Kashmir was not sitting and the Governor was functioning as the Parliament.

Article 3 of the Constitution of India deals with the formation of new states and the change or modification of the names, borders or territories of existing states. The section empowers parliament to change the territory, boundaries or names of existing states by law. If the President of India does not recommend it, neither parliament has to pass the bill.

Article 3 allows the formation of new states and changes in the territories, borders or names of existing states, but does not allow an existing state to be "downgraded" to a union territory. Article 3 further states that no Bill to change the name/boundary of a State shall be introduced in Parliament without the consent of the State Parliament.

The case of *Pradeep Chaudhary*<sup>8</sup> makes it clear that the relevant state legislature must have an opportunity to discuss the proposal to change the state boundaries and its views must be taken into consideration. The proposal may differ slightly from the final law, and one does not have to agree with the views of the state legislature, but the reference to the state legislature is constitutionally intact.

Therein lies the enigma of the case, the fact that the states of Jammu and Kashmir have a separate constitution. This not only makes the reference to the state legislation all the more necessary, but raises the question of whether a limit beyond mere reference is necessary. Using a simple act of parliament to repeal a state constitution - giving it its political identity in the classic federal sense - seems clearly at odds with the decision in *Mangal Singh*<sup>9</sup> case, which held that the general constitutional scheme must be preserved to achieve the goal according to Article 3.

Article 1 of the Constitution of India states that "India, that is Bharat, shall be a union of states." For the purposes of Article 1, "States" and "Union Territories" are treated differently and "States" remain part of the Union of India. Article 3 of the Constitution cannot be interpreted to authorize the Union to change the status of States to Union Territories because that power has the

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<sup>8</sup> Pradeep Chaudhary & Ors vs Union Of India & Ors (2009)

<sup>9</sup> Mangal Singh & Anr vs Union Of India (1966), 1967 AIR 944, 1967 SCR (2) 109

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necessary effect to enable the Union to transform India into a "Union of Union Territories" and not a "Union of states".

Articles 1 and 3 of the Constitution - do not allow Parliament to retroactively reduce statehood to a less representative form such as a Union Territory. The interpretation of Articles 1 and 3 is supported by the decision of the Hon'ble Court in *S.R. Bommai vs. Union of India*<sup>10</sup> which clearly states that Courts should not adopt an approach, an interpretation that affects or tends to diminish the powers reserved to the states. It is said that federalism in the Indian Constitution is not an administrative convenience but a matter of principle - historically our process and fundamental the result of recognition of reality.

The opinions of the state representatives are necessarily the opinions of the citizens of the state. Therefore, if the law obliges to consult the state, public opinion becomes decisive. Besides, Jammu and Kashmir has enjoyed statehood for a long time and its sudden relegation to Union territory requires good reasons to exist. There must be a reasonable reason to recognize the measure as positive.

### **Conclusion:**

Laws are created to ensure the safety and welfare of citizens. Law accomplishes a variety of goals, like maintaining order, setting standards, protecting liberties and rights, and settling disputes. The Vale of Kashmir got used to face violation of laws and rights day by day. "We are being punished by the law": Three years after Article 370 was repealed in Jammu & Kashmir, by Amnesty International documents how civil society in general and journalists, solicitors and human rights defenders in particular have experienced constant interrogations, arbitrary travel bans, revolving door detentions and repressive media policies while being denied access to appeals or justice in courts and human rights organisations. Since 2019, security forces have engaged in numerous abuses, including routine harassment and ill-treatment at checkpoints, arbitrary arrests and detentions and illegal searches. In March 2021, five UN experts wrote a warrant to the Indian government seeking information on the arrest of Kashmiri politician Waheed Para; the alleged killing of trader Irfan Ahmad Dar while in custody;

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<sup>10</sup> S. R. Bommai v. Union of India ([1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994)3 SCC(1)

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and the enforced disappearance of Naseer Ahmad Wani, a resident of Shopian district. Torture and sexual violence used as a tool of punitive measure and repression.

Any decision of the government pertaining to the citizens or the Constitution shall be based on the motive of building a “welfare state”. However, the above-mentioned incidents continue to prick our conscience whether the abrogation of Article 370 was really intended to assimilate Kashmiris with Indians or just a fraudulent political stunt applied to deceive Jammu & Kashmir and use it as a ‘subject of vote politics’ using nationalist sentiments.

Keeping aside the restraints of national and geographical boundaries and considering justice, will of the civilians, human rights and the ingredients of democracy that should be bestowed to the Kashmiris, the tag of war played with Kashmir between two independent states should cease that is actually ceasing the independence of the Jammu & Kashmir itself. Jawaharlal Nehru once made a promise to the people of Kashmir at Srinagar that when peace will prevail the Kashmiris shall have their right to choose their own fate addressing a plebiscite wherein, they can choose their own state to reside. Instead of instituting peace, the civil society in Kashmir is in peril. However, it is now the time for quashing all animosities and quench the thirst of peace in Jammu & Kashmir and fulfil their long-awaited promise of plebiscite so that no longer a child is seen pelting stones at army personnel out of compulsion, no longer a college student is tagged as a terrorist when he is just fighting for his need of tranquillity and life.

**“Man’s capacity for justice makes democracy possible, but man’s inclination to injustice makes democracy necessary.” – Reinhold Neiburhr**

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