

Jammu & Kashmir as part of India: A myth or a reality? With specific reference to Art. 370 of the Indian Constitution

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“The dusk here does not arrive on the shoulders of golden sunsets any more, but on the heels of long, encroaching shadows of untraceable trees in the distance, gloomy parallel patterns that cascade over the undulating landscape of unevenly dispersed corpses and other things”

MirzaWaheed¹

1. Introduction

Under Part XXI of the Indian Constitution which deals with “Temporary, Transitional and Special provisions”², the State of Jammu and Kashmir³ has been accorded a special status under the ambit of Article 370. Although the state of J&K has been included in the 1st Schedule of the Constitution of India as the 15th state, all the provisions of the Constitution which are applicable to other Indian states are not applicable to the state of J&K. It is the only State in the Indian Union with a Muslim Majority.⁴ The State of J&K has a separate Constitution known as ‘The Constitution of J&K’⁵, its own State Flag⁶ and its own Anthem called ‘*Quami Taran*’⁷

The working and experience of the Constitution of India exhibit that the “Special Status” accorded to the State of J&K has been a subject of considerable controversy and has been receiving attention at both the National and International levels. The origin of the so called “Kashmir controversy” has been traced back by many scholars to lie in the partition of the Indian sub-continent in 1947, and followed by the aggression agitated by Pakistan in Kashmir. Another aspect is often traced to the act of accession of J&K to India by its rightful ruler⁸. Thus, it is necessary to take a look at the history of the state,

¹MirzaWaheed on the current status of J&K in his book, “*The Collaborator*”.

²Originally, Article 370 fell under the Constitution of India’s Part XXI called ‘Temporary And Transitional Provisions’ and Article 370 itself was dubbed as ‘Temporary provisions with respect to the State of J&K.’ From 1st December 1963, under the Constitution (Thirteenth Amendment) Act, 1962, the title of Part XXI of the Constitution was changed to ‘Temporary, Transitional And Special Provisions’, the word ‘Special’ being the significant addition to the previous title.

³ Hereinafter referred as J&K.

⁴ The territory which immediately before the commencement of this Constitution was comprised in the Indian State of J&K.

⁵ The State Constitution was formally established on 17th November 1956 and came into full force on 26th January 1957.

⁶ Jawaharlal Nehru in Delhi Agreement of 1952. Article 144 of the Constitution of Jammu & Kashmir, 1957 details out the flag of the state. Acc to this Article, the flag should be rectangular and red with three equidistant white vertical stripes of equal width next to the staff and a white plough in the middle with the handle facing the stripes. Also the ratio of the length of the flag to its width is mentioned to be 3:2.

⁷ ‘*The Daily Excelsior*’, June 24, 2002.

⁸ Maharaja Hari Singh was the ruler of J&K in 1947.

reasons for its accession to India and therefore the origin⁹ of the Art 370 incorporated in the Constitution.

2. History

The Dominions of India and Pakistan were the outcome of the Indian Independence Act, 1947. This Act freed the princely states of Hindustan¹⁰ from the reign of the Crown in England but denied them Dominion status independently. The Act permitted the princely states, instead, to accede either to the Dominions of India or Pakistan.

The Instrument of Accession document was prepared under the leadership and guidance of Sardar Vallabhbhai Patel and approved by the princely rulers and the then Viceroy of India, Lord Mountbatten. In this Instrument of Accession, it was agreed that the States would concede the subjects of “defence”, “external affairs” and “communications” to the appropriate Dominion (either India or Pakistan) and also these States were given a fair degree of Independence in the other affairs. However, there were certain other geographical and practical factors which precluded their total independence. J&K and Hyderabad were the only two princely States that did not want to sign the Instrument of Accession and thereby accede to either dominions of India or Pakistan. But eventually due to the territorial constraints, Hyderabad had to accede to India.

J&K was the biggest among the 562 princely Indian States. In fact, in 1944, Mr. Jinnah of Pakistan when tried to persuade Kashmiri Muslims to form an organisation with the intention to accede to Pakistan, he was met with slogans such as ‘Go back Jinnah’, exhibiting that the citizen of J&K did not want to be a part of Pakistan.¹¹ When India and Pakistan gained their independence on 15th and 14th August 1947, respectively; J&K made a standstill agreement with the Pakistan and although no agreement was entered into with India, J&K had thus chosen to remain independent¹². But the absence of agreement with India, riled up Pakistan, and it chose to launch an economic blockade in J&K. Also, Pakistan helped its tribal citizens, aided by the Pakistan Army, to launch a guerrilla war against J&K.

⁹ Anthony Read & David Fisher, ‘*The Proudest Day – India’s Long Road to Independence*’, Pimlico [1998].

¹⁰ [Middle Persian](#) name for India. It was introduced into India by the [Mughals](#) and widely used since then.

¹¹ Bazaz, P. N., *History of Struggle for freedom of Kashmir*, Kashmir Publishing Company, Delhi, 1954, p. 197

¹² *Kashmir’s Accession To India*-Adarsh Sein Anand, Journal of the Indian Law Institute, Vol. 6, No. 1 (Jan.-Mar., 1964), p 77, Indian Law Institute

The J&K defence forces were not well equipped to stop these invaders and thus, the ruler of J&K at the time, Maharaja Hari Singh¹³, had to make a decision as per the circumstances of either approaching Pakistan or India for help against the raiders. But given the fact that Pakistan was aiding the raiders, the Maharaja did not seek help from Pakistan. Hence, the Maharaja decided finally to approach India for help but the only basis on which help could be provided was on the grounds that J&K had to become a part of India. Thus, with the concurrence and on the advice of Sheikh Mohammed Abdullah¹⁴, J&K signed the Instrument of Accession on 26th October 1947 under the provisions of the Indian Independence Act, 1947. The then Governor-General of India, Lord Mountbatten accepted and signed the Instrument deed on 27th October, 1947. Legally and constitutionally India comprises the complete territory of J&K as it stood on the date of signing the treaty but after the 1947 war, Pakistan illegally came to occupy a certain part of J&K which is now known as Azad Kashmir or PoK (Pakistan occupied Kashmir).

3. Constitutional Debates

The accession was signed by the Maharaja in favour of India in consideration of certain commitments and existing basis made by Pt. Jawahar Lal Nehru (the then Prime Minister of India). These 'considerations, commitments and existing basis' were the basis for the 'special provision'¹⁵ embodied in Art 370 of the Indian Constitution. Clause 7¹⁶ of the Instrument of Accession¹⁷ specifically protected the state's right to ratify the application of any future Constitution of India in its territory.

The architect of the Constitution of India, Dr. B.R. Ambedkar, had refused to draft Article 370. Therefore the then Prime Minister Jawaharlal Nehru, in 1949, had asked Kashmiri leader Sheikh Abdullah to draft it. However the article was finally worded by Sri. Gopalaswami Ayyangar, a Union Minister and former Diwan to J&K's Maharajah Hari Singh. Under the Draft Indian Constitution, the provision was drafted as Article 306-A which was incorporated as Article 370¹⁸ in the final

¹³ *Supra* note 9

¹⁴ When Maharaja Hari Singh left Srinagara on 25th October, 1947 and went to Jammu, the winter capital of Kashmir, he appointed Sheikh Mohammed Abdullah as the emergency administrator. Sheikh Abdullah was self-styled "Sher-e-Kashmir" and played the central role in the politics of J&K and its accession to India.

¹⁵ The words '*and special*' were added by the Constitution (13th Amendment) Act, 1962.

¹⁶ "Nothing in this Instrument shall be deemed to commit me in any way to acceptance of any future Constitution of India or fetter my discretion to enter into arrangements with the Government of India under any such future Constitution."

¹⁷ http://jklaw.nic.in/instrument_of_accession_of_jammu_and_kashmir_state.pdf

¹⁸ Temporary provisions with respect to the State of J&K.—

(1) Notwithstanding anything in this Constitution,—

(a) the provisions of article 238 shall not apply in relation to the State of J&K;

(b) the power of Parliament to make laws for the said State shall be limited to—

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and

(ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify

constitution. Article 370 records a solemn compact¹⁹. Neither the Union, nor the state can amend or abrogate it unilaterally, except in accordance with the terms of that provision.

Article 370 was discussed extensively for a period of over five months (from May to October, 1949) between the Prime Minister of India, Jawaharlal Nehru and the Prime Minister of J&K, Sheikh Mohammad Abdullah. Various other colleagues and advisors took part in these discussions from both the sides. The State of J&K is the only State in the Union of India which had the privilege of negotiating the terms of its membership with the Union.

4. Interpretation

Article 370 embodies six special provisions for the state of J&K.²⁰ Firstly, the article exempts the state of J&K from the ambit of Art 238 of the Constitution of India which provides for the governance of all the Indian states. Thus Art 370 by permits the state of J&K to have its own Constitution.

Secondly, the Indian Parliament's legislative power over the State of J&K is restricted to the subjects as mentioned in the instrument of accession only i.e defence, foreign affairs, communications and ancillary powers. In wake of the federal constitutional framework of India, the President of India has the power to extend to State of J&K all provisions of the Constitution of India so long as the matters are specified in the Instrument of Accession. For this purpose of extension, only 'consultation' with the J&K State government²¹ is required as

Explanation.— For the purposes of this article, the Government of the State means the person for the time being recognised by the President as the Maharaja of J&K acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;

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

(d) such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify:

Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:

Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.

(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.

(3) Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:

Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.

¹⁹ Article 370: A Constitutional History of Jammu and Kashmir, A.G. Noorani, Published to Oxford Scholarship Online: September 2012,

<http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780198074083.001.0001/acprof-9780198074083-chapter-1?print=pdf>

²⁰ Noorani, *Supra* note 18

²¹ In exercise of the powers conferred by Article 370 on the President of India, on the recommendation of the Constituent Assembly of the State of J&K, it was declared that, as from the 17th day of November, 1952, the said Art.370 shall be operative with the modification that for the

the application in these matters was already agreed to by the Maharaja in the Instrument of Accession.

Thirdly, apart from those agreed to in the instrument, if any other 'constitutional' provisions or other Union powers were to be extended to J&K, then the prior 'concurrence' of the State government was to be required for such implementation. Thus, by the virtue of Article 370, the citizens of J&K are governed under a separate set of laws when compared to other Indian citizens.

The fourth feature which is provided under Art 370(2) states that the requirement for 'concurrence' is strictly provisional as pertaining to the government of the state and has to be ratified by the State's Constituent Assembly.

The fifth feature is that the 'State Government's authority to give the 'concurrence' lasts only till the State's Constituent Assembly is 'convened' and hence it is an 'interim' power. As soon as the Constituent Assembly of the State was appointed, the State government had no authority to give its own 'concurrence'. This power of the state government was even further lessened as the Constituent Assembly dispersed after the J&K constitution was drafted and executed.

Further, the President of India does not have the power to exercise his power and extend the Constitution of India to the state of J&K indefinitely. This power of the President was further curtailed once the Constitution of J&K was drafted and the State's Constituent Assembly had finally conferred some additional subjects to legislate upon for the Union Government.

The sixth and the last feature attributed under Article 370(3) entrusts the President of India with the power to make an order abrogating or amending the Article 370 in toto. But this power can be exercised by the President only after 'the recommendation' for the same has been made by the State's Constituent Assembly to the Union. It also stated that the recommendation is necessary before the President issues such a notification.

In the above stated Article, clause 3 is of utmost importance. It is this clause that talks about the power of the President to issue any notifications, and/or the power to declare the Article 370 to be repealed. But such acts by the President can be done only after the recommendation is made to the him by the J&K Constituent Assembly. Thus, it is this clause that gives the State of J&K a special status, as the other States and Union Territories of India come under the ambit of the Union and the Union has the final say in their matters and needs no recommendations, consent or concurrence from the State Government except for the matters contained under the State List in Schedule VII of the Constitution of India.

Explanation in cl. (1) thereof, the following Explanation is substituted, namely:- "Explanation – For the purposes of this article, the Government of the State means the person for the time being recognised by the President on the recommendation of the Legislative Assembly of the State as the *Sadar-i Riyasat* of J&K, acting on the advice of the Council of Ministers of the State for the time being in office." (Ministry of Law Order No. C.O. 44, dated the 15th November, 1952). *Now "Governor."

5. Implications Of Art. 370

The contents of Article 370 restrict the applicability of parliamentary legislation to the state of J&K depending either on the consultation or concurrence of the state Government. The state of J&K has its own constitution which was drafted by a different Constituent Assembly²². The constitution was adopted on 17th November, 1956 and thereafter came into force on 26th January 1957. It was signed into law by Dr. Karan Singh²³. The autonomous status of J&K is because of this extraordinary phenomenon of certain laws of the Indian Parliament not being applicable at all or being partly applicable to the state.²⁴ Prof. M. P. Jain writes, "The two characteristic features of this special relationship are: (1) the State has much greater measure of autonomy and power than enjoyed by the other States and (2) Centre's jurisdiction within the State is more limited than what it has with respect to other States."²⁵

This applicability of the Indian constitution to the state of J&K can be divided into three categories. Part first deals with the full applicability of Indian constitution to Jammu and Kashmir State. The Second Part deals with applicability subject to certain modifications and exceptions. The last part deals with those areas which are wholly exempted²⁶ to the State.

The citizens of J&K also have dual citizenship²⁷ unlike the rest of the Indian citizens wherein by virtue of Article 5 of the Constitution of India, there is only single citizenship. The Permanent Residents of J&K enjoy certain rights and privileges as guaranteed to them under the Constitution of J&K which are not available to other Indian citizens.

The 5th Schedule pertaining to the administration and control of Schedule Areas and Scheduled Tribes and the 6th Schedule pertaining to administration of the tribal areas are not applicable to the State of J&K. Also, some Parliamentary laws²⁸ are not applicable to the State of J & K. Infact the state even has its own penal code known as the Ranbir Penal Code and therefore the penal laws of Indian Penal Code are not applicable to the state of J&K. The Union also has no power to legislate Preventive Detention laws for the state and only the J&K State Government has the power to do so.

The Parliament of India has no power to suspend the Constitution of J&K. Apart from this, the Union of India has no power to declare Financial Emergency under Article 360 in

²² <http://www.jklegislativeassembly.nic.in/constituentassembly.htm>

²³ Dr. Karan Singh was the son of Maharaja Hari Singh (the last rightful ruler of the princely State of J&K) and was appointed as the regent of J&K in 1949 after his father stepped down as the ruler and served as the first and last *Sadr-i-Riyasat* of the State.

²⁴ In the USA in contrast, each of the 50 constituent States has its own Constitution, but every Federal law is applicable to all the 50 States by virtue of Article VI of Part IV of the USA Constitution.

²⁵ M. P. Jain; *Indian Constitutional Law, Fourth Edition Reprint, 2002, p.435*

²⁶ (i) Article 31C (ii) Article 36 to 51 (iii) Article 51A (iv) Article 134A (v) Articles 153 to 217

²⁷ Part III- Permanent Residents, Constitution of J&K

²⁸ Example: (i) Indian Penal Code, 1860 (ii) The Prevention of Corruption Act, 1988 (iii) The Religious Institutions (Prevention of Misuse) Act, 1988 (iv) The Delhi Special Police Establishment Act, 1946 (v) The Protection of Human Rights Act, 1993 does not extend to J&K in respect of subjects under List II of Seventh Schedule (vi) The Representation of the People Act, 1950

J&K and only in the circumstances of War or External Aggression, the Union has power to declare Emergency in the State. This has been expressly stated in the Appendix II²⁹ of the Constitution of India.

At the time when the Constitution of India was being framed, the state of J & K was included as Part B State,³⁰ but the provisions of Art 238, which generally governed the relationship of Part B states with the Union of India, were not applicable to it³¹. Though appearing to be extraordinary, this wasn't irregular because unlike the other Indian states, J&K did not accept the application of Indian Constitution in its entirety.

In *Puranlal Lakhanpal v. Union of India*³² the Supreme Court observed, "In the context of the Constitution we must give the widest effect to the meaning of the word modification used in Article 370(1) and in that sense it includes an amendment. There is no reason to limit the word 'modification' as used in Article 370(1) only to such modifications as do not make any "radical transformation" (Emphasis).

Article 370 of the Constitution of India also authorises the President to modify a constitutional provision not only when it is applied to the State but even subsequently after it has been applied. In *Sampat Prakash v. State of Jammu & Kashmir*³³, the Apex Court of India observed, "an amendment made to the constitution does not automatically apply to the state of J&K. It can apply only with the concurrence of the State Government, and when the President issues an order under Article 370." The Apex Court therefore held that under the provisions of Article 370, the Union had the power to issue Orders despite the fact that the J&K State's Constituent Assembly had ceased to exist.

The word 'secular' which was added to the Preamble of Indian Constitution by the 42nd Constitutional amendment in 1976 is omitted in respect of J&K. Thus, the Constitution of J&K does not proclaim itself to be 'secular'. Thus, what has been ruled by Supreme Court of India as a part of the 'Basic Structure' of the country's constitutional framework³⁴ is not applicable to the state of J&K. Also, no amendment made under Article 368 of the constitution of India is applicable to the State of J&K unless and until such amendment is approved by the State Government.

Another aspect is the restriction on purchase of immovable property by non- J&K citizens. This is one of the most resented aspect of the Article 370.³⁵ Interestingly, none of the provisions of Article 370 by itself prevents anyone outside

²⁹ "No proclamation of emergency made on the grounds of internal disturbance or imminent danger²⁹ thereof shall have effect in relation to the state unless, (a) it is made at the request or with the concurrence of the government of the state; or (b) where it has not been so made, it is applied subsequently by the President to that state at the request or with the concurrence of the government of that state"

³⁰ The distinction between part A, B & C state has since been abolished by the States' Reorganisation Act, 1957.

³¹ *Constitution of India, Article 370 (1) (a)*

³² AIR 1961 SC 1519, 1521: (1962) 1 SCR 688.

³³ AIR 1970 SC 118: (1969) 1 SCC 562.

³⁴ *Keshavananda Bharati v. State of Kerala*, AIR 1973 SC 1461, S. R. Bommai v. Union of India, (1994) 3 SCC 1 as cited in P. M. Bakshi, *The Constitution of India* (2002).

³⁵ <https://scroll.in/article/665862/myth-no-1-about-article-370-it-prevents-indians-from-buying-land-in-kashmir>

J&K from purchasing immovable property in the State. Such restrictions flow from authority that Article 370 gives to issuance of executive orders³⁶, exempting or modifying provisions of Parliament's laws or Indian Constitution in respect of J&K.³⁷

The High Court of J&K³⁸ has limited powers as compared to other High Courts within India. The High Court of J&K cannot declare any law unconstitutional and cannot issue writs under Article 226 of the Indian Constitution except for enforcement of Fundamental Rights.

Provisions of Part XVII³⁹ of the Indian Constitution apply to J&K only in so far as they relate 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) language of the proceedings in the Supreme Court.⁴⁰ Urdu is the official language of the state but use of English is permitted for official purposes unless the state legislature provides otherwise.⁴¹

A compilation of texts of the President's Orders under Article 370 made from 1954 to 1994 exhibit that ninety-four out of ninety-seven entries in the Union List and 260 Articles out of the 395 Articles of the Constitution have so far been extended to the State of J&K.⁴²

6. Conclusion

The study of this document makes it clear that the accession of J&K to India is unconditional, voluntary, absolute, final, irrevocable and without any exceptions. The fact that J&K was acceded to India by its rightful ruler, Maharaja Hari Singh, despite the contentions of Pakistan that J&K being a Muslim dominated territory is theirs, the truth remains that J&K is rightfully a part of India and shall continue to be so as Pakistan has no *locus standi* in the matter. Most importantly, the issue of J&K is mostly identified with a certain portion of the state which is known as the PoK (Pakistan occupied Kashmir).

A belief prevails that J&K is 'the most pampered State in India'⁴³ as massive financial assistance⁴⁴ from the Union Government has promoted the economy of J&K.⁴⁵ The state of

³⁶ In the Order of 31st January 1927 of Maharaja Bahadur, clause II forbade outsiders to purchase immovable property in the State. (ibid p.29)

³⁷ Arvind Lavakare; *The Truth about Article 370*; 2005; p-24.

³⁸ Under Part VII of the Constitution of J&K, the J&K High Court has been discussed.

³⁹ Part XVII of the Indian Constitution deals with "Official Language".

⁴⁰ Appendix II of the Constitution of India

⁴¹ *Article 145* of the Constitution of Jammu and Kashmir, 1957.

⁴² Noorani, *Supra* note 18, Chapter 11, p-14

⁴³ Trends for the two years subsequent to 2001-02 have been similar as revealed in RBI's annual publication *State Finances — A Study of Budgets*.

⁴⁴ Arun Shourie stated that 'the per capita Central assistance to Kashmir is 14 times that to Bihar, it is 11 times that to Tamil Nadu, it is 6 times that to even a beleaguered State like Assam. [*The Times of India, Mumbai, Edit page, 8-7-2000*] *Journalist v. Shankar Aiyar* wrote "For all that talk of autonomy or azadi the fact is that Jammu & Kashmir cannot sustain itself without the Centre's support." [*The Great Sop Story, India Today, 14-10-2002*]

⁴⁵ Gulam Mohammed, as Prime Minister of the State candidly admitted, "Kashmir cannot remain independent. Geographically the situation

J&K is neither in a position to forgo the huge financial support that it receives from India, nor in a position to fight the insurgencies on its own accord that are prevalent specially along its borders. It is not the citizens of J&K but the terrorist activity conducted by certain terrorist groups aided by Pakistan that has set up unrest in the J&K state. The 2019 Pulwama attack⁴⁶, can be cited as one of the biggest examples of this.

The citizens of J&K are part of the Indian Union and the youth especially has played an active role in this. Most of the J&K citizens have taken admissions in various colleges across India and have sought and retained employment in multiple Indian States. Further, the youth of J&K has always applied to the Indian Defence Forces and are in large numbers a part of the armed forces. Most recently, on 9th March, 2019, 152 soldiers from J&K graduated from the Jammu and Kashmir Light Infantry Regimental Centre.

It is true that Article 370 represents a "unique relationship" of the State of J&K with India. Keeping in mind that there is supremacy of the Constitution of India in the nation and democracy being the foundation, and J&K as an Indian State, the existence of the Article 370 is contrary to the dictum of 'One Nation, One Constitution, One National Anthem and One National Flag'. Despite the existence of Article 370, The Indian Government has never taken any steps back from overall developing J&K or providing for the State. Hence, at every step of the way since 1947, India has always defended and protected J&K from all atrocities.

Though plebiscite⁴⁷ has actually never happened, the active involvement and participation of the people of J&K in the Indian Administrative Departments, Indian Defence Services, Indian Education system, and so on and so forth clearly exhibit that there is implied consent by them as a part of the Indian nation. Despite more than seven decades having been passed since the Instrument of Accession was signed, there is failure in abrogating Article 370 which may indeed presents a very disturbing picture of the status of the governmental affairs in J&K at both the State and Central level. But the hope is still not lost. In the words of A.G. Noorani, "*Given the political will, sincerity of purpose, and a spirit of compromise, it is not difficult to retrieve from the wreckage of Article 370, a Constitutional Settlement which satisfies the aspirations of the people of Jammu and Kashmir.*"

The state of J&K has time and again been acknowledged with different names such as the 'Abode of Gods', 'Paradise on Earth', 'land of snow-laden Majestic mountains', 'Cradle of Culture and Civilization'. The land of J&K has since ages attracted saints and seers and lovers of nature from far afar in

does not warrant it at all . . . Moreover, Kashmir is a poor State and cannot stand on its own feet." [*The Tribune, Ambala, 17-9-1962*].

⁴⁶On 14 February 2019, a convoy of vehicles carrying security personnel on the Jammu-Srinagar National Highway were attacked by a vehicle-borne suicide bomber at Lethpora (near Awantipora) in the Pulwama district, Jammu and Kashmir, India which resulted in the deaths of 40 Central Reserve Police Force (CRPF) personnel and the attacker. The responsibility for the attack was claimed by the Pakistan-based Islamist militant group Jaish-e-Mohammed.

⁴⁷Merriam- Webster Dictionary defines plebiscite as a vote by which the people of an entire country or district express an opinion for or against a proposal especially on a choice of government or ruler.

search of peace and tranquillity. Yet the irony of fate is that where on the one hand, nature has been most benevolent and gracious to it, on the other, the citizens of J&K are suffering. Thus the citizens of the state of J&K may be compared to a rose flower which though being the most beautiful and fragrancd flower, is always surrounded by thorns.