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CHASING ITS OWN TAIL AROUND THE MAPLE

*Unlike all the other,
Countries around we find a strange,
Sprouting of parties here from start to end,
From top to bottom nobody...absolutely none,
Have any policy or diplomacy since there is no leader,
Who can hold everyone together everybody wants to be a leader
In a country which is so diverse in caste, religion and language.
It becomes easy for these leaders to use their axe to make another split
A separate identity...flag and following with just the same motive in mind to be in power.....*

The Author

Snehil Sharma, Meha Dad, students of College of Legal Studies, UPES Dehradun

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I. INTRODUCTION

According to us, the above metaphor means nature of a pursuit in which steps forward take you no closer to your destination. In general sense it means that being busy in such a discussion or works which is not producing any result or final conclusion but tends to waste of time on a particular thing which has no end or we can say to be busy doing a lot of stuffs but attaining very little.

Unchanged with the case of our Indian government, as from 1947 the constituent assembly has been debating the issue of article 370 that whether it should be abolished or not and has not reached a final conclusion yet. Article 370 of Indian constitution has been in controversy for a long period of time since when it was executed in Jammu and Kashmir by congress government. It provides special status to Jammu and Kashmir which is a bone of controversy. The main promoter of this article was India's first Prime Minister Pandit Jawahar Lal Nehru.

“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. – Mirza Waheed (a poet from the period of Raja Gulab Singh)

II. HISTORY

Before conversing about Article 370, it would be suitable to know why Jammu and Kashmir is a controversial place. In the year 1846, Jammu and Kashmir State was formed under the Treaty of Amritsar between EIC and Raja Gulab Singh of Jammu who bought Kashmir valley from EIC for Rs.75, 00,000 and added it to Jammu and Ladakh which was previously under his rule. In 1932, Sheikh Mohammed Abdullah set up the All Jammu and Kashmir Conference to fight for Kashmiri freedom from Maharaja's rule because Raja Hari Singh was part of a Hindu Dogra dynasty, ruling over a majority of Muslim State. The largely Muslim population was kept poor, illiterate and was not adequately characterized in the State's services. In the year 1946, National Conference launched Quit Kashmir movement challenging abrogation of the Treaty of Amritsar and restoration of sovereignty to the people of Kashmir. Abdullah was arrested. A crucial progress in the history of Jammu and Kashmir in the twentieth century was the crystallization of the popular opposition to the Maharaja's rule through the Jammu and Kashmir National Conference, led by Sheikh Abdullah. With India's independence, Maharaja Hari Singh, the ruler of Kashmir in 1947, had three options: to remain independent, to merge with India, or to merge with Pakistan. It was Jawaharlal Lal Nehru persuaded the Maharaja, who initially wanted to stay independent, to accede to India. When Hari Singh declared Jammu and Kashmir independent in 1947, Pakistan immediately propelled a guerrilla war to free the region, which had a majority of Muslims, from Hindu rule. The Maharaja, realizing his incapability to protect his territory, requested the Indian government for help. Then, India's first home Minister, Sardar Vallabh Bhai Patel, asked the king of Jammu and Kashmir to sign reunification agreement with India if he wanted India's military assistance. The Maharaja agreed to the same and after which the accession treaty was signed by govt. of India and the Maharaja on October 26, 1947¹. When India got Independence from British rule in 1947, united India was divided into two separate nations- India and Pakistan. But, Jawaharlal Nehru announced the termination of war all of a sudden and fighting ended due to which Indian army could not set free the complete territory of Jammu and Kashmir and approximately 55% of the state remains in the occupation of Pakistan even today and remaining 45% is ruled by India².

Till now India and Pakistan have fought thrice. Later in 1975, after the war with India, Pakistan got divided into two parts and a new country, Bangladesh, was surfaced on the map of the world. Since then, Pakistan has been spreading terrorism to India which is triggering serious damage to our nation in terms of people's life, security and law and order situation. It is also important fact that local Muslims in Jammu and Kashmir support Pakistan's terrorism and that is why; Indian has to deploy around 7 lakh Indian soldiers to look after Jammu and Kashmir.

The most recent example of India - Pakistan conflict is the surgical strike which was finished by the Indian army. The decision of surgical strikes² was taken in the wake of rise in infiltration bids. Terrorists had begun gathering in large numbers along the LoC with the objective of overpassing the border and targeting the locations in Jammu and Kashmir, as well as other metros. In such a

¹ Sumeet Malik, Landmarks in Indian Legal and Constitutional History (11TH EDITION,2016)

² MP Jain, Outlines of Indian constitutional history,744-745(7th Edition.2014)

scenario surgical strikes was considered the best alternative to deal with the threat³. Continuing it further, when the Maharaja contracted to the same and the Indian government and the Maharaja signed the accession treaty (“the Instrument”) on October 26, 1947, Its **“Clause 5” said that it could not be altered without the state’s consent. “Clause 7” specifically protected the state’s right to ratify the application of any future constitution of India in its territory. It read:**

“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.”⁴

The Instrument did not result in the union of Kashmir which was governed by its own Constitution of 1939 – into India and only formed a temporary settlement under which India’s government would look after the subjects of defense, foreign affairs, and communication while Kashmir would have its own constitution, flag, and Prime Minister. In a broadcast on November 2, 1947, Nehru spoke of the temporary nature of the Instrument. **“... Both the Kashmir government and the National Conference pressed us to accept this accession and to send troops by air, but made condition that the accession would have to be considered by the people of Kashmir later when the peace and order were established...”** Seven years after the Constitution of India was adopted, the Constitution of Jammu and Kashmir came into full force. Among its 158 sections is Section 3, which clearly states that, **“The State of Jammu and Kashmir is and shall be an integral part of the Union of India”** and is not acquiescent to change even, using the amending provisions of that constitution **and hence Article 370 was established⁵.**

⁶[370. Temporary provisions with respect to the State of Jammu and Kashmir (1) Notwithstanding anything in this Constitution, --

(a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;

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

(i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession 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

³ <http://economictimes.indiatimes.com/news/defence/army-conducted-surgical-strikes-on-terror-launch-pads-on-loc-significant-casualties-caused-dgmo/articleshow/54579855.cms> (last visited on 19 April, 2017)

⁴ <http://indiafacts.org/kashmir-issue-begins-instrument-accession/> (last visited on 19 April, 2017)

⁵ <http://blog.mylaw.net/article-370-historical-context-and-the-text-should-inform-any-debate-over-repeal/> (Last visited 9th april,2017)

⁶ In exercise of the powers, conferred by this article the President, on the recommendation of the Constituent Assembly of the State of Jammu and Kashmir, declared that, as from the 17th day of November, 1952, the said article 370 shall be operative with the modification that for the Explanation in clause (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 Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office."

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

Explanation. --For the purposes of this article, the Government of the State means the person for the time being recognized by the President as the Maharaja of Jammu and Kashmir 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 order⁷ 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 provision 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 notification⁸.

Article 370 of the Indian Constitution was eventually written by Gopalaswami Ayyangar. Under Part XXI of the Constitution of India, which deals with “**Temporary, Transitional and Special provisions**”, the state of Jammu & Kashmir has been accorded special status under Article 370. All the provisions of the Constitution which are applicable to other states are not applicable to J&K. For example, till 1965, J&K had a Sadr-e-Riyasat for governor and prime minister in place of chief minister. According to this article, except for defense, foreign affairs, finance and communications and Parliament needs the state government's concurrence for applying all other laws. Thus the state's residents live under a separate set of laws, including those related to citizenship, ownership of property, and fundamental rights, as compared to other Indians. As a consequence of this provision, Indian citizens from other states cannot purchase land or property

⁷ See the Constitution (Application to Jammu and Kashmir) Order, 1954, (C.O. 48), as amended from time to time in Appendix I.

⁸ Commentary of the constitution of India Vol 2, Arvind P Datar, 2036-2037 (2nd Edition, 2007)

in Jammu & Kashmir. The state is permitted to have its own Constitution. Under Article 370, the Centre has no power to declare financial emergency under Article 360 in the state. It can declare emergency in the state only in case of war or external aggression⁹. The Union government can therefore not declare emergency on grounds of internal disturbance or forthcoming danger unless it is made at the request or with the accord of the state government. **“Clause 3” of Article 370 clearly states that the President may, by public notification, declare that this Article shall cease to be operative but only on the recommendation of the Constituent Assembly of the State.** In other words, Article 370 can be rescinded only if a new Constituent Assembly of Jammu and Kashmir is set up and is agreeable to recommend its revocation. It means that Parliament has the control to amend the Constitution to alter this provision¹⁰. Also the Indian Parliament cannot increase or reduce the borders of the state in any mode and the state is relieved from the complete applicability of the Constitution of India.

Because of Article 370

- People living in Jammu & Kashmir have dual citizenship, i.e. of J & K and of India.
- Jammu & Kashmir has two flags; a separate state one and the second, National Flag.
- Due to the Article 370, prior permissions has to be taken to hoist the National Flag; as along with it the State Flag has to be hoisted too.
- The time period for a constituent assembly in Jammu & Kashmir is of 6 years, whereas all over India, it is 5 years.
- Insulting of national symbols in India is not cognizable offence in Jammu & Kashmir.
- Surprising thing is if a national flag is being burnt in Jammu & Kashmir, it is not a cognizable offence.
- The government of India cannot enforce any law in Jammu & Kashmir, without the concurrence of the State Government.
- The Article 370 restricts the government of India in imposing policies except defense, external affairs and communication sectors.
- As per Article 370, the orders of Supreme Court of India are null and void in Jammu & Kashmir.
- If any woman marries a man who is not a citizen of Jammu & Kashmir, she loses all her citizenship (state rights). Whereas if any woman marries a Pakistani, she will be entitled to have a citizenship of Jammu & Kashmir.
- Right to Information and CAG is not applicable in Jammu & Kashmir due to Article 370. The Comptroller and Auditor General (CAG) of India is an authority, established by the Constitution under Constitution of India/Part V - Chapter V/Sub-part 7B/Article 148, who audits all receipts and expenditure of the Government of India and the state governments, including those of bodies and authorities substantially financed by the government. The CAG is also the external auditor of Government-owned corporations and conducts supplementary audit of government companies, i.e., any non-banking/ non-

⁹ Dr. Kailash rai, the constitutional law of India (11TH EDITION,2015)

¹⁰ Dr. K.s. Chauhan, parliament powers functions & privileges (1ST EDITION,2013)

insurance company in which Union Government has an equity share of at least 51 per cent or subsidiary companies of existing government companies.

- Women in Jammu & Kashmir come under the Sharia law's jurisdiction, because of Article 370. The applicability of the Sharia Act has come under controversy in the past as well. There have been previous instances when the issue of protection of women's rights as part of the broader fundamental rights came into conflict with religious rights.
- It is due to Article 370 that the Panchayat has no authority in Jammu & Kashmir.
- People living outside Jammu & Kashmir cannot buy land or vote in the state because of the Article 370¹¹.

In the case of **J&K National Panthers Party Vs Union of India**¹², in SC

The petitioner has challenged the Jammu and Kashmir Grant of Permit for Resettlement in (or Permanent Return to) the State Act, 1982. The law gives a right of return and resettlement in the state to all permanent residents who migrated to Pakistan after March 1, 1947. While the Indian Constitution has a provision for such return, the J&K Constitution gives the right of resettlement to those who were permanent residents until 1954.

The Bill was first passed by the Assembly in 1982, and for a second time after Governor B K Nehru returned it for reconsideration. The Governor gave his assent, but the legislation had meanwhile been sent to the Supreme Court by President Giani Zail Singh for its opinion on whether it would be "constitutionally invalid". On November 8, 2001, a five-judge bench "declined to express its advisory opinion" and returned it "unanswered". Immediately afterward, a PIL was filed before the SC and the implementation of the law was stayed.

The law provides people who left the state especially during the communal carnage in Jammu in 1947, the right to return. It has been vehemently opposed by every government at the Centre. The primary beneficiaries of the law would be Muslims.

The citizens of Jammu & Kashmir can be the citizens of India, but not vice-versa.

Article 370 gives Pakistan's citizen's entitlement to Indian citizenship, if he marries a Kashmiri girl.

"You want that India should defend Kashmir, India should develop Kashmir, and Kashmiris should have equal rights as the citizens of India, but you don't want India and any citizen of India to have any rights in Kashmir. I cannot betray the interest of my country." -Dr.B.R. Ambedkar

III. ARTICLE 370 EXPLAINED

Article 370 which grants a special status to the State of Jammu and Kashmir in comparison to other India states came into force on 26 January, 1950 along with the rest of the Constitution. On

¹¹<http://indiatoday.intoday.in/story/article-370-issue-omar-abdullah-jammu-and-kashmir-jawaharlal-nehru/1/364053.html> (Last visited 19th April)

¹² J&K National Panthers Party v. Union of India, (2011) 1 SCC 228

the same day, Constitution (Application to the State of Jammu and Kashmir) Orders 1950 was issued by the then President of India, in discussion with the government of Jammu and Kashmir, in exercise of the powers conferred by Article 370.

In July 1952, Sheikh Abdullah signed Delhi Agreement with the Central government on Centre-State relationships, providing for autonomy of Jammu and Kashmir within India and of regions within Jammu and Kashmir. Subsequently on January 23, 1954, Bakshi Ghulam Mohammad, the then Prime Minister of the State of Jammu and Kashmir declared Jammu and Kashmir as a part of the Indian Union. In February, 1954 the Constituent Assembly of Jammu and Kashmir ratified the accession of the State of Jammu and Kashmir to India. The President of India, with the concurrence of the Government of the State of Jammu and Kashmir, issued the Constitution (Application to the State of Jammu and Kashmir) Orders 1954. The 1954 Order which came into force on May 14, 1954 outdated the 1950 Order and implemented the Delhi Agreement as ratified by the Constituent Assembly of Jammu and Kashmir.

Order, 1950

This Order may be called the Constitution (Scheduled Tribes) Order, 1950.

1. The Tribes or tribal communities, or parts of, or groups within, tribes or tribal communities, specified in [Parts I to XXII] of the Schedule to this Order shall, in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Tribes so far as regards members thereof residents in the localities specified in relation to the respectively in those Parts of that Schedule.
2. [Any reference in this Order to State or to a district or other territorial division thereof shall be construed as a reference to the State, district or other territorial division as constituted on the 1st day of May, 1976.]¹³

The 1954 Order contains Article 35A provides:

Equivalent of laws with respect to permanent residents and their rights.— Notwithstanding anything contained in this Constitution, no existing law in force in the State of Jammu and Kashmir, and no law hereafter enacted by the Legislature of the State: (a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or (b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects—

(i) Employment under the State Government;

(ii) Acquisition of immovable property in the State;

(iii) Settlement in the State; or

(iv) right to scholarships and such other forms of aid as the State Government may provide, shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this Part.

¹³ <http://welfarepunjab.gov.in/Acts/11950stord.pdf>

It is often alleged that Article 35A is in conflict with the Articles 14, 19 and 21 of the Constitution for creating a special class of citizens within a class of citizens of India.

The 1950 and 1954 Orders form a part of the Constitution of India and Appendices to the Constitution.¹⁴

Hence after considering all the facts and assertions above we can easily refer that our government is still in controversy regarding article 370 and after treating it with certain EXECUTIVE, LEGISLATIVE and JUDICIARY decisions no conclusion or end result has been taken out from it since 1950.

Till now Pakistan has achieved the following agendas for Jammu and Kashmir:

- I. It has compelled the Kashmiri Hindus from Kashmir.
- II. It has transformed the Kashmiri Muslims into pro-Pakistani traitors.
- III. Spying into Kashmir has been made difficult.
- IV. Power of Kashmir administration has been restricted and cut into size.
- V. It has nearly internationalized the Kashmir problem¹⁵.

IV. CONCLUSION

It's a contentious question whether Article-370 should be abrogated or not. Arguments in favor of and against, on the issue of abrogation, are perfectly balanced. **Article 370 was always meant to be a temporary provision** yet what the Abdullahs and other advocates of Article 370 always tried to hide was the fact that even the Constitution of India states it very clearly that Article 370 is a temporary provision which is incorporated in Part XXI of the Constitution under Temporary and Transitional Provision.¹⁶ This part has been completely overlooked by the Abdullahs and others who while appreciating all the benefits and grants from India have formed nothing less than their own freedom in J&K. Both Ambedkar and Sardar Patel were opposed to Article 370¹⁷. In fact, even those in Congress who believed in keeping the status quo and wanted not to interfere with the provisions of Article 370, cannot deny the fact that Dr BR Ambedkar, the architect of Indian Constitution as well as Sardar Patel were both against such a provision. Yet Nehru went forward with Article 370 to keep Sheikh Abdullah in good humor and formed another stable Achilles' heel for India just as by taking the Kashmir issue to UN, he made sure that India's chance to grab back portions of Kashmir seized by Pakistan is gone forever.

V. EFFECTS OF ARTICLE 370

The next main point that could be discussed here is that the Kashmiri Strategy is to **use Indian money to survive and then claim to be not integral part of India**. The reality is that if the Indian Government stops providing money to J&K, whole J&K administrative machinery would breakdown because the J&K Government does not even have enough money to pay its

¹⁴<http://onelawstreet.com/challenge-to-constitution-order-1954-in-relation-to-jammu-kashmir-before-supreme-court/>

¹⁵ MP Jain, Outlines of Indian constitutional history,744-745(7th Edition.2014)

¹⁶ A.V Dicey, An introduction to the study of law of Constitution. (10TH Edition.2008)

¹⁷ ¹⁷ MP Jain, Outlines of Indian constitutional history,744-745(7th Edition.2014)

employees, for developmental work and for running healthcare and education facilities of the state. Although Pakistan had succeeded in various objectives like they have demolished Hindu temples and made other Hindus to live the valley as the result Hindu population there has decreased by 8 lacs. Also, business of tourism has come to termination, art and culture have no place, people are jobless and refugee camps are growing due to this in the country.¹⁸ Also it includes the concept of self-rule that the separatists propagate to carry on with Article 370 is a misconception because it is a foregone conclusion that J&K, as a state would be ruled by the people of J&K only through democratically elected governments. It would not be the Tamils or Gujratis or Bengalis who would come to govern their state. This apart, the discriminatory nature of Article 370, the manner in which it excludes women of J&K from inheriting family property in the state, in case they marry beyond the state, are all too well acknowledged. Likewise, Indians from rest of India are neither permitted to buy properties in J&K as well. Further, it is mainly Article 370 which prevents major investments by Indian investors outside J&K, or foreign investors, into the state. All these constrain integration of J&K with rest of India and this profits only those who have shaped their freedoms in the state and have complete monopoly on all business affairs. In fact, one of the biggest reasons for dissatisfaction and bitterness among the youth of Kashmir is sheer high level of unemployment in the state and one of the biggest causes for the same is the lack of employment opportunities which is dearth because investments cannot come to the state. Arguments stating that it was a temporary provision and was subsequently required to be done away with in a few years, favored its abrogation. If Article-370 is abrogated, a plea for plebiscite would be more lethal, as it would have been right to hold a referendum within 5 years from the date of accession and not after 60 years. This counter view is in favor of those against abrogation. Article-370 can be repealed by an amendment to the Constitution of India as contemplated by Article-368, the only condition being the non-destructive nature of the amendment as regards “Basic Structure of the Constitution”. Although, the President of India had been conferred with the power to suspend or modify Article-370 by issuing a notification but for that purpose, the recommendation of the constituent assembly of J&K “shall be necessary”. Since the constituent assembly no longer exists, there is no question of existence of such power. As far as Article-368 is concerned, it is obligatory that the amendment be extended by a Presidential order under Article-370(1) which again consists of “concurrence of” or “consultation with” the State Government.¹⁹

VI. PRESENT SCENERIO AND WHAT SHOULD BE DONE?

The above referred analysis indicates to the inference that it's still not elucidated that the amendment so extended would be effective or not. The absolute power as regards relationship between Article-370, Union of India and State affairs rests with the State Government. And in case of an incongruity between the State Government and Union of India on the issue of abrogation, which is necessary, the consequence would be the everlasting existence of Article-370. The need of the hour is to frame a logistic interpretation of the appropriate clauses to the

¹⁸ Dr. Durga Das Basu, Comparative Constitutional Law. (3rd Edition.2014)

¹⁹ <http://www.legallyindia.com/views/entry/challenge-to-constitution-order-1954-in-relation-to-jammu-kashmir-before-supreme-court>(Last Visited 19th April.2017)

article, keeping in mind the intention of the framers of the constitution. By constructing a provision for amendment, its framers never proposed to bequeath the operation of Constitution with absolute rigidity but to make available for a bit of liveness to keep pace with the ever changing needs of the society and to serve the ends of justice. Amendment of Article-370, as per the present circumstances is a myth as of now but this situation can be easily dealt with using logistic approach and can be very tactfully altered to a reality. There is no adverse point of Article 370. It has protected the J&K from discordant politics. But if broken it will be good economically. Many bigger companies will establish here. In capitalistic terms removing this is beneficiary and in social terms removing this will create discrepancies.²⁰

But it's not that tranquil to abrogate it as people of state don't want article 370 to be removed because the people of J&K have no trust on the Indian government. The government is also at fault in this case with all the election malpractices that happened in few of the elections earlier. So a plebiscite won't certainly give a positive outcome. Secondly, the separatist leaders would make it problematic for elimination of the article since the Pakistan element is a major problem. Also Kashmir being a subject in the UN is challenging as well for the removal of this article. And the job creation is almost nil here so breaking 370 will create chaos here.

Objectives of Pakistan as observed till now are:

- To generate in the minds of Kashmiris, sympathies towards Muslim traitors in Kashmir.
- To generate or manufacture conditions in Kashmir captivating the Kashmiri Hindus to leave Kashmir.
- Not to permit the Local Govt. to know what take place in Kashmir and thus to make the government blind to real facts.
- To restrict the administrative machinery of Jammu and Kashmir within its own building.
- That Indian government will not support them.²¹

The unrelenting call for abrogation of Article 370 is doubted by many nationalists to be a design to weaken the Centre when the country is facing a critical condition which calls for a check on all fissiparous trends. The demand strengthens the fears of sensitive Kashmiris. It is not legally and constitutionally reasonable; it casts uncertainties on our secular professions, and deepens the fears of the minorities. The only way forward in this scenario is CBMs (confidence building measures) to be monitored by the Indian government with regard to the people of Kashmir. Unless confidence is remade in their hearts no solution would be able to come forward. That is a major step toward the removal of this article²².

²⁰ Rajeev Bhargava, politics and ETHICS of the INDIAN CONSTITUTION (5TH Edition.2012)

²¹ MP Jain, Outlines of Indian constitutional history,744-745(7th Edition.2014)

²² V Venkatesan, Constitutional Conundrums challenges to India's democratic process, (1st Edition.2014)

