



“Reimagining Federal Unity in a Geopolitical Hotspot: India’s Constitutional Integration of Jammu and Kashmir in International Perspective”

Dr. Senthil Kumar Anantharaman
Independent Researcher
August 6 2025

“Reimagining Federal Unity in a Geopolitical Hotspot: India’s Constitutional Integration of Jammu and Kashmir in International Perspective”

Abstract:

The abrogation of Article 370 in 2019 marked a watershed moment in India's constitutional evolution. It altered the legal and political contours of the relationship between the Union Government and the erstwhile State of Jammu and Kashmir. This paper examines the theoretical and practical challenges of constitutional integration in a federal democracy, with a specific focus on harmonizing regional autonomy with national unity. It proposes a framework for integration that respects the distinctiveness of the region while reinforcing constitutional supremacy, participative federalism, and socio-legal reconciliation. Drawing upon comparative models, jurisprudential reasoning, and public policy instruments, the article suggests a sustainable path for constitutional assimilation that upholds democratic legitimacy, inclusive governance, and constitutional morality.

Keywords: Constitutional Integration, Article 370, Jammu and Kashmir, Federalism, Legal Pluralism, Constitutional Identity, Indian Constitution, Regional Autonomy

1. Introduction

India’s federal architecture is a unique amalgam of centralized powers and regional diversities. The Constitution of India, while establishing a strong Centre, simultaneously accommodates various forms of asymmetry to reflect the country's pluralistic identity. Nowhere has this asymmetry been more visible than in the constitutional arrangement concerning Jammu and Kashmir. Article 370, originally a temporary provision, granted special autonomy to the region, stemming from the terms of the Instrument of Accession signed in 1947. It reflected the complex political negotiations and sensitivities that accompanied the state's accession to India. Over the decades, Article 370 evolved from a symbol of autonomy to a contested site of constitutional and political debates.

On August 5, 2019, the Government of India abrogated Article 370 through a Presidential Order and passed the Jammu and Kashmir Reorganisation Act, 2019. This development effectively revoked the state's special status, bifurcated it into two Union Territories, and extended all provisions of the Indian Constitution to the region. The decision has sparked widespread legal, political, and academic discourse on the legitimacy, legality, and long-term implications of such a move.

Adding a critical dimension to this discourse, the Supreme Court of India in a landmark Constitution Bench judgment delivered in December 2023 (*In Re: Article 370 Abrogation*), upheld the constitutionality of the 2019 Presidential Orders and the Reorganisation Act. The Court held that Article 370 was a temporary and transitional provision, and the President’s powers under Article 370(3) could be exercised validly in the absence of a Constituent Assembly, provided the Parliament (exercising powers of the State Assembly during President’s Rule) recommended the change. While the judgment was seen as affirming the formal legality of the process, it also acknowledged the need for democratic restoration and socio-political reconciliation in the region. This ruling provides important judicial scaffolding for furthering constitutional integration.

This article investigates how constitutional integration can be meaningfully pursued within the framework of Indian federalism without compromising regional aspirations or constitutional coherence. It argues that beyond the formal act of abrogation lies the deeper task of building a harmonized constitutional identity that upholds democratic participation, respects regional cultures, and adheres to the principles of constitutional morality and justice. The paper seeks to articulate a principled and pragmatic roadmap for this integration.

This study repositions the discourse on Article 370 within international relations by exploring how India's constitutional reconfiguration intersects with global legal norms, international perceptions of minority rights, and comparative models of federal integration in conflict-sensitive contexts.

2. Objectives

- To critically assess the constitutional and legal implications of the abrogation of Article 370.
- To conceptualize a framework for sustainable constitutional integration that goes beyond legal incorporation.
- To develop a policy-oriented framework (LIVED) for inclusive, rights-based, and geopolitically responsible integration.
- To explore comparative and theoretical approaches to regional integration within complex federal systems.
- To identify institutional, legal, and policy mechanisms that promote legal harmonization, democratic restoration, and rights-based governance.
- To examine comparative cases of regional autonomy, secession, and integration to draw insights for India.
-

2. Conceptual Framework and Approach

The term *constitutional integration* refers to the deliberate process of assimilating a region with special legal or political status into the broader constitutional and institutional framework of a nation. Unlike mere territorial annexation, constitutional integration is normative: it seeks alignment with constitutional values, democratic legitimacy, and socio-legal cohesion.

Three conceptual anchors underpin this process:

- **Normative Alignment:** The legal framework of the integrated region should progressively align with national constitutional principles such as rule of law, fundamental rights, and separation of powers.
- **Democratic Legitimacy:** Integration must involve democratic processes such as electoral participation, consultative law-making, and accountable governance to ensure legitimacy and inclusion.
- **Cultural Reconciliation:** Integration should not efface regional identities but accommodate them within a pluralistic constitutional order. This includes the protection

of linguistic, cultural, and religious rights, as enshrined in Part III and IV of the Constitution.

In the context of Jammu and Kashmir, constitutional integration is not merely about the extension of central laws but about restoring a participatory democracy, rebuilding trust, and addressing long-standing grievances. This paper argues for a values-based approach rooted in the doctrine of constitutional morality, as elaborated in landmark judgments such as *Navtej Singh Johar v. Union of India* (2018) and *Indian Young Lawyers Association v. State of Kerala* (2018), which emphasize justice, liberty, equality, and dignity as interpretive touchstones.

In the international relations context, constitutional integration is both an assertion of internal sovereignty and a signal to the global community. The region of Jammu and Kashmir, historically claimed by Pakistan and partially occupied by China (Aksai Chin), exists in a triangulated geopolitical framework. Hence, India's internal decisions have external ramifications.

Three theoretical dimensions frame this process:

1. **Sovereign Assertion:** Integration is an affirmation of territorial sovereignty and constitutional supremacy, especially important in post-colonial statecraft.
2. **Normative Compliance:** Integration must align with global norms such as the International Covenant on Civil and Political Rights (ICCPR), UN declarations on minority rights, and democratic governance.
3. **Conflict Sensitivity:** Measures taken post-integration must be attuned to the risks of alienation, insurgency, or regional destabilization, necessitating soft-power tools and public diplomacy.

The proposed "LIVED" framework (Legal harmonization, Institutional restoration, Value-based reassurance, Equitable federalism, and Dialogue and healing) builds upon these principles and provides a structured pathway for integration that is legally sound, democratically legitimate, and socially inclusive.

4. Methodology This article adopts a doctrinal and comparative legal research methodology, supplemented by jurisprudential analysis and policy evaluation. The following approaches have been employed:

- **Doctrinal Legal Analysis:** Examination of constitutional provisions, especially Articles 370, 1, 3, and 356 of the Indian Constitution, along with related Presidential Orders and Parliamentary enactments.
- **Jurisprudential Review:** Detailed analysis of case law, including the recent 2023 Supreme Court Constitution Bench judgment (*In Re: Article 370 Abrogation*), and relevant precedents like *Prem Nath Kaul v. State of Jammu and Kashmir* (1959), *Sampat Prakash v. State of J&K* (1969), and *State Bank of India v. Santosh Gupta* (2016).
- **Comparative Federalism:** Review of integration processes in federations such as Canada (Quebec), the United Kingdom (Scotland), and Spain (Catalonia), focusing on constitutional asymmetry and regional autonomy.

- **Policy and Institutional Analysis:** Evaluation of the Jammu and Kashmir Reorganisation Act, 2019; central administrative mechanisms post-abrogation; and socio-political developments including electoral prospects, delimitation, and restoration of statehood.
- **Primary and Secondary Sources:** Use of constitutional texts, official government records, parliamentary debates, and academic publications from journals like *NUJS Law Review*, *Indian Journal of Constitutional Law*, and commentaries by constitutional scholars.

This multi-layered methodology allows a holistic understanding of the constitutional, legal, political, and socio-cultural dimensions of integration.

5. Results

The findings from the analysis underscore the following key outcomes:

- **Judicial Validation of Abrogation:** The 2023 judgment by the Supreme Court upheld the President's authority under Article 370(3) to abrogate the provision, ruling that the exercise was legally tenable despite the dissolution of the J&K Constituent Assembly. It emphasized the temporary nature of Article 370 and clarified that the Union Parliament, during President's Rule, could validly recommend such changes.

Citation: Supreme Court of India, Constitution Bench, In Re: Article 370 Abrogation, Writ Petitions (Civil) Nos. 1099 of 2019 & connected matters, Dec 2023.

- **Formal Legal Integration Achieved:** As per the Jammu and Kashmir Reorganisation Act, 2019, all Union laws now apply to the region, effectively ending the constitutional asymmetry. J&K was reorganized into two Union Territories—J&K with a legislature, and Ladakh without one.
- **Democratic Deficit and Political Vacuum:** The region has seen a prolonged period without an elected legislative assembly since 2018. The absence of elected governance and delays in holding elections or restoring full statehood have created a democratic deficit and weakened participatory federalism.
- **Socio-Legal Uncertainty and Alienation:** Despite formal integration, issues like internet shutdowns, preventive detentions, and clampdowns on civil liberties have exacerbated feelings of alienation. Public opinion remains deeply polarized, and confidence in institutions is low, as indicated by reports from civil society organizations (e.g., CHRI, 2022).
- **Delayed Political Reconciliation:** Although the Supreme Court has urged early elections and restoration of statehood, the Centre's timeline remains vague. Local stakeholders have expressed dissatisfaction over the pace and inclusivity of integration.
- **Emergence of New Administrative Order:** Post-abrogation, the Union has introduced administrative reforms such as the Jammu and Kashmir Industrial Policy 2021 and a new domicile law. These reflect efforts at governance normalization, though criticisms exist regarding transparency and representation.

6. Discussion

The judicial endorsement of Article 370's abrogation has provided constitutional closure to a longstanding question. However, integration is a multifaceted phenomenon that extends beyond legal formalism. The following issues merit discussion:

- **Constitutional Morality vs. Legal Positivism:** While the abrogation may be legally valid, its conformity with the principles of constitutional morality—dignity, inclusion, and accountability—is contested. As Dr. B.R. Ambedkar emphasized, democracy in India is not just a political ideal but a moral one (*CAD, Vol. XI*).
- **Democratic Restoration as a Precondition:** Without reinstating an elected government and legislature, integration remains top-down and incomplete. The Supreme Court's directive to hold elections and restore statehood must be seen not merely as a procedural requirement but a substantive constitutional necessity.
- **Comparative Constitutionalism:** Experiences from Canada (Quebec) and the UK (Scotland) highlight that integration works best when it accommodates regional distinctiveness within a shared national framework. India's success lies in managing this balance through cooperative rather than coercive federalism.
- **Public Trust and Transitional Justice:** Reconciliation with local communities requires acknowledgment of past grievances and inclusive dialogue. Legal formalism cannot substitute for participatory governance and culturally sensitive policymaking.
- **Federal Equilibrium:** The Article 370 case raises questions about the elasticity of Indian federalism. While asymmetry was originally conceived to accommodate diversity, its removal must now be compensated by enhancing participatory and distributive justice in the region.

In conclusion, while the abrogation of Article 370 marks a shift towards formal unity, the deeper project of constitutional integration must involve democratic rejuvenation, legal pluralism, and inclusive policy design. The LIVED framework proposed in the next section seeks to address this normative and institutional gap.

7. The LIVED Framework: A Normative Model for Inclusive Integration

To move beyond legal integration toward deeper constitutional unity, this paper proposes the **LIVED Framework**, an analytical tool designed to assess the lived experience of constitutional integration in Jammu and Kashmir. This framework enables a multi-dimensional evaluation of both processes and outcomes post-abrogation as shown in Figure 1

- **L – Legitimacy:** Any lasting constitutional settlement must be anchored in democratic legitimacy. This involves restoring elected government, holding free and fair elections, and ensuring institutional accountability. Supreme Court directions in 2023 calling for early elections reinforce this pillar (*In Re: Article 370 Abrogation*, 2023).
- **I – Inclusion:** Constitutionalism must be inclusive, embracing linguistic, cultural, and ethnic diversity. Representation of marginalized groups and fair delineation of electoral constituencies are key. The delimitation process must be transparent and respect regional demographic sensibilities.
- **V – Voice:** Citizens must have the right and the platform to express dissent, offer feedback, and participate in policy discourse. The suppression of media and preventive

detentions weaken the public voice and violate constitutional guarantees under Article 19.

- **E – Equity:** Economic and social justice must underpin integration. The new domicile rules and land reforms must be monitored to prevent exploitation or demographic engineering, ensuring equitable access to resources and opportunities.
- **D – Dialogue:** A constitutional dialogue is necessary between the Union and the people of Jammu and Kashmir. This includes not just political stakeholders but civil society, youth groups, and religious and cultural institutions. Without deliberative engagement, constitutionalism risks degenerating into majoritarianism.

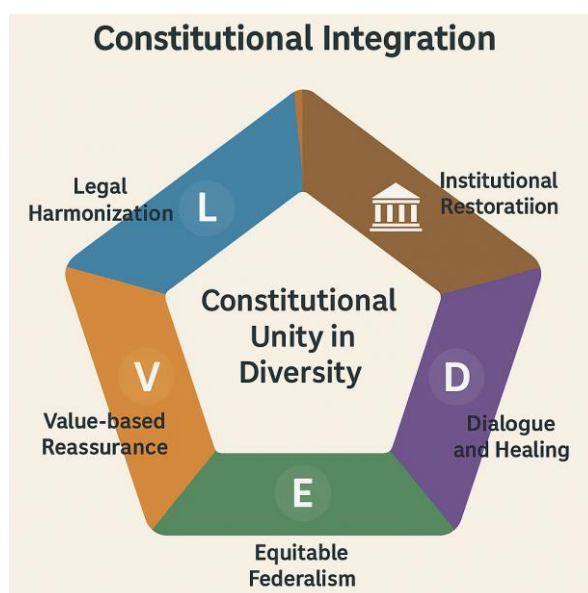


Figure 1

8. Policy Recommendations for Global Engagement and Domestic Legitimacy

Based on the LIVED framework, the following policy measures are recommended to foster meaningful constitutional integration:

1. **Immediate Restoration of Democratic Institutions:** Implement the Supreme Court's directive to hold legislative elections without delay. Reconstitute the J&K Legislative Assembly and initiate statehood restoration to fulfill the promise of democratic self-rule.
2. **Institutionalize a Truth and Reconciliation Commission (TRC):** Create an independent body to document grievances, detentions, disappearances, and human rights violations over the past three decades. This would help rebuild public trust.
3. **Transparent Delimitation and Representation:** Ensure that the delimitation process is based on transparent, constitutional criteria and not political expediency. Maintain representation balance between Jammu and Kashmir regions.
4. **Periodic Review Mechanism:** Establish a joint constitutional review body comprising Union and J&K representatives to evaluate the socio-political and economic impact of integration every two years.

5. **Federal Sensitization Measures:** Integrate J&K's history and constitutional evolution into national legal and civics curricula to promote mutual understanding across India's diverse federal units.
6. **Preserve Cultural Autonomy:** Encourage preservation of Kashmiri, Dogri, Balti, and Ladakhi languages and cultural practices through policy and financial incentives.
7. **Restore Statehood and Elections:** Fulfil the Supreme Court's recommendation to hold elections and reconstitute a legislative assembly.
8. **Transitional Justice Commission:** Address past grievances to restore credibility.
9. **Monitor Human Rights Metrics:** Collaborate with national human rights institutions and maintain transparency.
10. **Track Geopolitical Messaging:** Use MEA and Indian missions abroad to project India's constitutional commitment.
11. **Cultural Diplomacy:** Promote the pluralistic heritage of J&K globally to offset narrow security narratives.

9. Conclusion

The abrogation of Article 370, while legally upheld, has triggered far-reaching consequences that transcend the constitutional text. The Supreme Court's 2023 verdict provides judicial clarity but also compels the State to act with greater constitutional responsibility. True integration is not just the absence of asymmetry but the presence of participatory federalism, inclusion, and trust.

India's constitutional actions in Jammu and Kashmir reflect a sovereign prerogative, but such sovereignty in the 21st century is inseparable from international perception. Legal formalism must be matched with inclusive governance and democratic legitimacy. The LIVED framework offers a roadmap that bridges internal consolidation with external responsibility, ensuring that federal unity does not come at the cost of global credibility or regional peace.

As India aspires to global leadership, it must showcase Kashmir not as a securitized zone but as a reconciled, pluralistic space within a democratic and constitutional ethos.

In this spirit, the Indian Union must now transform formal unification into genuine constitutional fraternity—by restoring democracy, empowering institutions, and honouring the plural ethos of the region.

References

- UN Office of the High Commissioner for Human Rights. (2019). "Update of the Situation of Human Rights in Kashmir."
- Bhat, A. (2023). "Constitutionalism, Federalism, and the Kashmir Question Post-Abrogation." *Indian Journal of Constitutional Law*, 17(2), 123–147.

- Choudhry, S. (2008). *Constitutional Design for Divided Societies*. Oxford University Press.
- Noorani, A. G. (2011). *Article 370: A Constitutional History of Jammu and Kashmir*. Oxford University Press.
- Sibal, K. (2024). "The Supreme Court on Article 370: Legality without Legitimacy?" *Economic and Political Weekly*, 59(3), 9–12.
- Thiruvengadam, A. K. (2017). *The Constitution of India: A Contextual Analysis*. Hart Publishing.
- Ministry of External Affairs. (2019). "India's Statement on Abrogation of Article 370."
- Supreme Court of India. (2023). *In Re: Article 370 Abrogation*, Writ Petition (Civil) No. 1099 of 2019.
- Centre for Policy Research. (2024). "Jammu and Kashmir After Article 370: A Policy Review."
- Human Rights Watch. (2022). "Kashmir: Civil Liberties and Detentions Post-2019."
- South Asia Terrorism Portal (SATP). (2023). "Security and Stability Trends in J&K."