

# Study on Implications of Article 370

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**Abstract – Section 370 does not prevent less than J&K one is an essential part of the Indian Union. In general, few know how and why this article was characterized and associated with the Constitution of India, despite the serious scruples of Sardar Patel and not if a large number of people from the Congressional Committee and the Constituent Assembly. Article 370 was presented at the end of 1947 between Sheikh Abdullah, who was then Prime Minister of J&K of the Maharajah, and Nehru, who had the Kashmir wallet and kept Sardar Patel, the priest of the house, away from his true border. In this way, Nehru can provide all the evidence of supervision and supervision of the consequences we suffer to J&K. While it was Mountbatten who persuaded Nehru to present the J&K problem to the United Nations, it was Sheikh Abdullah who, driven by his desire to be the head of a free cashmere and his hatred of the Maharaja, persuaded Nehru to give J & K state one extraordinary Their reasons include: the control of 33 percent of Pakistan by J & K, the reference to the United Nations and the referendum.**

**Keyword: Meeting of the Law Committee of the Article on Implications**

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## INTRODUCTION

Article 370 was the program that every movement there could be recognized simply by synchronizing the J&K assembly. It turned out that Nehru's guarantee that Section 370 was volatile and that it would break over time was an invention. The main concern to Sheikh Abdullah was the abolition of the hereditary government and the reform that it devoured them as Sadar of Riyasat, which was to be selected by the congregation. The expansion of the J&K state in the Indian Union was already supported in 1956 4 only by the J&K assembly. The essential purpose was added behind one of the elements specified in the sacred list adhesion instrument in the state of J&K. This appendix clearly indicated that the Domain of India, to which the state had been submitted, would have the power to pass laws, defense identification, external matters and correspondence only in J&K matters. Similarly, provision 7 of the instrument of accession did not force the J&K state to recognize a future constitution of India.

### Art. 370 of the Indian Constitution :

Article 370 was brief and, therefore, the so-called "unprecedented state" of Jammu and Kashmir was equally temporary. It was never the intention that the need to distribute the state of constitutional and political area of India cannot be changed, as proposed by the forces. It should be noted that the measures taken in section 370 that authorize the President of India to "reallocate powers to the Union on these various matters of the Union and the simultaneous list of the seventh list" of the Constitution of India, which

the President agreed, showed with the state government. In any case, the article that carefully considers 370, finally it seems that there are no restrictions on the extent to which the law can be corrected. Deny the law when it requires the sentiment of parliament. Section 370 has become a dividing line that protects the state of Jammu and Kashmir from the national standard. Understanding the provision of this article as a "state by state" funder is a distortion of constitutional reality.

## LEGAL IMPLICATIONS OF ART. 370:

### Jurisdiction of the Parliament

This article states that the Indian parliament, with the exception of chains, foreign policy, finance and communications (the topics are shown in the complementary tool), needs the synchronization of the state government to apply any law. The tenant state, for example, lived through an alternative program project that includes those who were responsible for citizenship, rights and key obligations when they differed in several Indians. according to state of the art 1. 370, which verifies as below 6 -

#### 1) Despite a provision of this constitution:

- A. The provisions of article 238 (now repealed) have no significant impact on this with regard to the state of Jammu and Kashmir,
- B. The legislative intensity of the Parliament for this state will be limited.

- I. The questions on the Union list and the competitive list that the President asks in exchange for the state government are contrary to the questions contained in the instrument of accession that the EU monitors, for example, with respect to the extension of the state to the domain of India that the federal legislator can regulate for this state; Y
- II. There are so many different things on these lists that the president, with the approval of the state government, can make decisions based on the needs of the population.

**Emergency rules** - The Union of India does not do's in a position to report financial emergency under section 360 of the state. The Union can declare a state of emergency only in case of war or external aggression. No emergency announcement due to internal irritation or rapid development towards the possibility that this case be considered in relation to the state, unless (a) it is made to order or with the synchronization of the state legislature; or b) if this has not been done, the President must apply it to that State during the sale or with the consent of the organization of that State. In December 1964, sections 356 and 357 relaxed in the state.

#### **Fundamental obligations, principles and fundamental rights - Part IV**

(Order of state policy principles) and part of the VAT (basic functions) of the constitution do not concern J&K. Despite other important rights, article 19 (1) (f) and 31 (2) of the Constitution are widely appropriate for J&K; In this sense, the fundamental right to property in this state is always guaranteed. It is the main state, which does not have to keep a close record of the flow of money in the state and where and how it is used. In constitutional history, only India so far, a single fundamental right enshrined, that is, the right to education. This privilege no longer releases J&K.

#### **• official language –**

The provisions of Part XVII of the Constitution apply to J&K only to the extent that (i) refer to the official language of the Union; ii) the official language for correspondence between one country and another; or between a state and the Union; and (iii) the language of the Supreme Court systems. The Urdu is the official language of the state, however, the use of English is considered authentic purposes, unless the legislature of the state of your most.

#### **• Modification of Article 370 -**

In accordance with article 370, paragraph 3, the modification of article 370 also requires the approval of the state government agency and the assembly of state representatives. Investigations are being started, how could we amend section 370 if the Constituent

Assembly of the Express no longer exists? Or on the contrary, if it can be corrected very well in a way this is it? Some legal advisors argue that it has usually changed from an amendment law in accordance with section 368 of the constitution and revision in accordance with section 370 (1). In any case, there is not yet a theoretical study. In general, it is not known that Section 370 also had a significant impact in anticipating the transformation of J&K into an essential element of the Indian Union.

#### **Approximate interpretation of article 370:**

In any case, it is very serious that section 370 is misunderstood as improper interpretation of this article has created many of the detachment homes that the nation is currently facing. It is an irregular case in the constitutional history of India that a weak article was written out of a significant association with the current feelings that come and speak for a working nation in Jammu and Kashmir. Unconventional game plans and so-called standard events in the valley use this article as a resource to inspire their worldwide inspiration and abuse non-Muslim minorities to suppress their problems with the common authorities. The result was a change in policies statewide with serious internal exodus of minorities like the Pandits of Kashmir in 1990 and the unification of the pockets shared by most to maintain the atmosphere of Muslim insubordination. It is a problem that this article is used against the spirit of the constitution in supporting the tendencies of Muslim agitators to transform Jammu and Kashmir into a state that violates the constitution<sup>7</sup>. From the constitutional point of view, the situation is also strange, offensive, as for J&K. The spatial conditions do not allow to identify the pair of protected agreements that offer J&K an alternative and specific treatment during the evaluation with several states of India. Pay attention to what you do to say that all these amazing agreements have led to the territory (J & K) of a degree of freedom and power much greater than that of enjoying other stati<sup>8</sup>. In any case, a protected and partial J&K approach and the replacement of Article 370 must be compared.

Under Section 6 of the J&K Constitution, legally exceptional rights and benefits can be granted to an order known as a "relentless resident," a group that, of course, has been described to mean that Indian residents of various states in India and thousands in the same J&K impossible to meet this definition. One of the advantages granted by the J&K Order is that it allows "endless residents" to investigate the burning property in the state. Jagmohan is connected with other similar cases, where article 370 "masks the general idea of India and confuses the vision of an unprecedented social and social dish from Kashmir to Kanyakumari" in his book "My frozen turbulence in Kashmir". The Book of Jagmohan, it should be recalled, was based on the experience of its two houses as administrative head of J & K during an administrative employee, before being finally part of the BJP group. However, from this point of view, the

BJP mentioned the rejection of section 370. In any case, Congress and all the alleged comrades who need the minorities of the nation did so, interpreting this call against Muslims among Muslims. Express part; This incredible "secular" forger has never disapproved that this system for Christ or Marx carries the risk of losing the supposed security of this article 370a

#### **Article 370 of the Indian Constitution: this is evolution**

Beyond vulnerability, the emergence of J&K territory with the association with India was not as common as the expansion of another state; As we have seen before, there have been several reasons, and admirable people from the state have notified that they are satisfied. To deliberately monitor these extraordinary conditions, the Constituent Assembly of India has opted for concise regulation in the Indian constitution to regulate government relations with the J&K region. In this context, the "constituent meeting of the MN N Ayyanger in India has submitted one draft law for unusual arrangements for the area of J & K, numbered 306-An article in the draft constitution. The arrangement together is as follows, where

- Despite everything it contains (Constitution of India)
- The regulation of article 211- A ( now article 238) of this Constitution will have no impact on relations with the territory of Jammu and Kashmir.
- The parliament will be forced to legislate for the state
- These questions once again in the association and synchronous overview sent by the Indian pioneer when he meets the state government in contrast to the questions resolved in the augmentation tool regulate the expansion of the state in the region of India, since that the problems in which the space is, can create laws for the state,

#### **LITERATURE REVIEW**

Anand (2014), article 370 of the Indian Constitution, granted the special status of Jammu and Kashmir, an area developed in the north of the Indian subcontinent that was limited by India as a state from 1954 until October 31, 2019 and a little more than Kashmir since 1947 There are ongoing talks between India, Pakistan and China, with the possibility of having an alternative constitution, a state standard and an autonomous government through the internal state association.

Bakshi (2013), PM The article was written in part XXI of the Constitution, temporary, temporary and special.

The constituent assembly of Jammu and Kashmir, after its establishment, was authorized to recommend the article of the Indian constitution, which should apply to the state, or completely article 370. Cancel after a speech with the state constituent assembly, the presidential order of 1954, he demonstrated the articles of the Indian Constitution that applied to the state. Since the constituent assembly was divided without proposing to reject section 370, the section was considered a permanent segment of the Indian constitution.

Maharaja Gulab Singh (2014) This article, which approximates article 35A, describes that the occupants of the state of Jammu and Kashmir live in an alternative legal system that incorporates fundamental rights, such as citizenship, obligation and related laws., if they are going to differentiate themselves from the residents of other Indian states. [8] Given this plan, Indian occupants came from several states, no country or property in Jammu and Kashmir for sale.

Samvatyear (2014) On August 5, 2019, the Government of India has issued a call sacred to replace the so - called 1954 and addressed to all agreements of the Constitution of India Jammu and Kashmir in the office. The doors went to two places in the Indian parliament with 2/3 of the majority. After the objectives have been achieved in both the offices of the Parliament, which has launched a new call on August 6 in which it says all the provisions of article 370, with the exception of the coupling creek 1.

Basu, DD (2013) Similarly, Parliament passed the Jammu and Kashmir Reorganization Law, which approved the division of the Jammu and Kashmir region into two association zones, the territories of Jammu and Kashmir, Jammu and Kashmir and The territory of the Ladakh Union. The recovery took place on October 31, 2019.

#### **CONSTITUTION OF JAMMU AND KASHMIR**

Bhushan, Vidya (2015) The preamble and article 3 of the current Constitution of Jammu and Kashmir state that the state of Jammu and Kashmir is and will be an integral part of the Union of India. Article 5 stipulated that the official and legitimate force of the state was in contact with or without problems with those over which parliament had the power to legislate for the state in accordance with the provisions of the Constitution of India. The constitution was approved on November 17, 1956 and entered into force on January 26, 1957.

The Constitution of Jammu and Kashmir was made fruitful by the Ordinance on the Constitution of 2019 (Application to Jammu and Kashmir) (CO 272), produced by the pioneer of India on August 5, 2019.

## MEASURES 2019

### PRESIDENTIAL ORDER OF 2019

#### *India revokes the special status of Jammu and Kashmir*

Chopra, (2016) On August 5, 2019, Interior Minister Amit Shah reported in Rajya Sabha (High Square of the Indian Parliament) that the Indian president had issued the 2019 constitutional regulation (application in Jammu and Kashmir) (CO 272) in accordance with section 370 to replace the Constitutional Decree of 1954 (applies to Jammu and Kashmir). The invitation said that all Indian constitutional regulations apply to Jammu and Kashmir. While the 1954 application showed that only a few articles of the Constitution of India were applicable to the Express, the new application approved any internment. In fact, it could be concluded that the different constitutions of Jammu and Kashmir were abandoned. The president sent an invitation to "synchronize the government of Jammu and Kashmir," which clearly shows that the governor was selected by the government of the Union.

Dhyani, SN (2016) The 2019 presidential order also contained an articulation (4) with four sub conditions in article 367 under the title "Interpretations". The article "Sadar - I- Riyasat follows the leader and invites the Council of Ministers" is interpreted as "administrative pioneer of Jammu and Kashmir". The joint state government will join the governor. From the provision to the provision (3) of article 370 of the Constitution, the declaration "Constituent Assembly of the State implicit in the Condition (2)" will examine the "Legitimate Assembly of the State".

#### **370 Temporary provisions concerning the state of Jammu and Kashmir.**

- (1) In spite of everything, the content of this Constitution:
- (a) The provisions of Article 238 will now not have a material impact on the province of Jammu and Kashmir.
- b) Parliament's legislative intensity for this state is limited to ...
- (I) Issues of the union list and the list of competition distributed by the President in consultation with the state government to identify the problems decided in the instrument of accession, expansion of the state in the Indian domain, as matters that the federal legislature can regulate by this state; Y
- (II) Several elements in these lists that the President may decide to consult with the state government at the request of the population.

Burgess Michael (2017) As inspiration for this article, the state government concludes that, according to the direction, Jammu and Kashmir currently consider the person Maharaja for the moment. Office under the proclamation of Maharaja of March 5, 1948;

Chandra, Ashok (2018) For the purposes of this article, the state government is currently evaluating by the President on the recommendation of the Diet as Sadr I- Riyasat (direct governor) by the person concerned. Jammu and Kashmir after an appeal from the current Council of Ministers.

- c) Article 1 and this article apply in relation to that State.
- d) The various provisions of this Constitution apply in relation to this, subject to the exceptions and changes that the President, as he may decide the answer to the population's question,

Since such request for matters contained in the state membership document and contained in section (I) of subcondition (b), does not occur during a session with the state government:

Since no other request to provide this kind is aimed at anything other than it's involved in the previous precondition with the approval of the government .

- (2) If the approval of the state government for the entry (ii) of subcondition (b) of provision (1) or in the program in accordance with the proclamation (d) was proposed by this agreement before the constituent assembly with The state, which is responsible for schematizing the constitution of the state, is subject to this assembly for a decision, which can be taken in this way.
- (3) Without prejudice to the provisions of the preceding provisions of this article, the President may, with an open notice, declare that this article can no longer be used or may be used only with these exceptions and changes as of the date specified by him :

Because the proposal of the constituent assembly contained in condition (2) will be fundamental before the president issues this communication.

#### **OBJECTIVES OF THE STUDY**

- 1. Analyze the mechanism to implement federal laws in the country.
- 2. Analyze the legislative power of the state of J&K with the Indian Federation

## RESEARCH METHODOLOGY

### PRÄSIDENTIALAUFTRÄGE

At the time it was originally written period 370, only two articles of the Indian Constitution were fully applicable to Jammu and Kashmir. The divergent provisions of the constitution would apply with the exceptions and adaptations that the president specifies in his decision in a conversation with or during the state administration. In the exercise of these powers, the President made requests simultaneously to the government of Jammu and Kashmir in accordance with Article 370 (3) of the Constitution.

#### 1950 presidential decree

The presidential - called 1950 the Constitution (Application to Jammu and Kashmir) Order, 1950, officially has with effect from of the 26 January 1950, together with the Constitution of India. He pronounced on arguments and articles of the Constitution of India that were contrary to the instrument of accession, as required by article 370, letter b), subparagraph i).

Thirty-eight problems in the EU: the list has been identified as known problems, in which the Union could be united to create laws for the state. Parts of ten of the 22 parts of the Indian constitution were published in Jammu and Kashmir, with changes and exclusions that the state government had approved.

In this first presidential regulation under article 370 "235 articles of the Indian constitution were not applicable to the Jammu and Kashmir region, 9 were partially appropriate and 29 were important in an appropriate structure."

**This order is replaced by the Presidential Decree of 1954.**

#### Presidential Order since 1952

The President of the Republic - requested in 1952 is already on November 15, 1952 distributed by the state government. Has amended Article 370 by replacing the "perceived speech by the President as the Maharajah of Jammu and Kashmir with the perceived speech by the president as Sadar on the proposal of the Legislative Assembly of the state. I-Riyasat >>. The Correction refers to the abolition of the government of Jammu and Kashmir.

#### Background:

The Constituent Assembly of Jammu and Kashmir was elected in 1951 and founded on October 31, 1951. The Council of Basic Principles of the Constituent Assembly recommended the dismissal of the administration, which was confirmed reliably by the

Assembly on June 12, 1952, in the same period in which Jammu Praia Parishad, led by Hindus, presented a notice to the President of India about the full use of the Indian Constitution declared by the state. The Indian government called Jammu and Kashmir on a mission to Delhi to discuss relations between the center and the state. After the exchange of the Agreement Delhi in 1952, it was closed.

The Prime Minister of the state, Sheikh Abdullah, was in motion to implement the provisions of the agreement of Delhi. However, in August 1952, the State Constituent Assembly adopted the objective of relieving the legislator and a fact (called Sadar - I Riyasat) to move from a selected head of state. Despite reservations about this gradual administration of foreclosure agreements, the central government dismissed and instigated the presidential order of 1952. The Legislative Assembly elected Karan Singh, who later became Prince Regent, the new Sadar - I - Riyasat.

#### Presidential order since 1954

The Presidential - 1954 officially request Regulation Constitution (Application to Jammu and Kashmir) in 1954, is coming into force on May 14, 1954 the understanding of Shared Constituent the race 'State was a favor, the agreement thoroughly Delhi since 1952 perform. Apparently, it was in many ways about the Delhi agreement as well.

**The provisions for the implementation of the agreement Delhi were as follows:**

Indian citizenship has issued a policy of "constant residents" of Jammu and Kashmir (previously called "company"). At the same time, Article 35a was added to the Constitution, the legislative body of the state that allows the infinite benefits of the occupants to control the terms of specific property, the constitution of the state and society.

The fundamental rights of the Indian constitution have been withdrawn by the state. In any case, the state legislature was authorized to order preventive detention for internal security purposes. Change the configuration of the region in the country (which has acquired land without compensation) was also confirmed.

**The jurisdiction of the Supreme Court of India has been extended to the state.**

The central government had the opportunity to report a national emergency in case of external hostility. In any case, their ability to do so due to internal disruptive influences could be interestingly resolved with the synchronization of the state government.

In addition, the implementation of agreements that recently led to no agreement in Delhi has already been carried out:

The budgetary relationship between the Observatory and the State is regulated in a manner comparable to that of the various States. They will have raised the rights of state customs.

The central government could make decisions that affect the character of the state, but only with the approval of the state government.

**Creation:** The decision of the state government to leave the administration led Jammu Praja Parishad, bored to the measures taken, in the Ladakh Buddhists and the Hindu social events in India found help. Sheikh Abdullah also began to examine the estimates of the expansion of Kashmir to India, resulting in the loss of support among members of his cabinet. Eighth month of August 1953 Sheikh Abdullah was fired by General Director Sadar -GB- Riyasat Karan Singh and former candidate Bakshi Ghulam was appointed instead Mohammad. Abdullah and some of his accomplices were arrested and put in prison.

The constituent assembly, which is composed of 60 of the first 75 members, received the recommendations of the Commission of the basic concepts and the Advisory Committee on Fundamental Rights and Citizenship February 6, 1954. The Committee of the principles of the base:

While maintaining the internal autonomy of the State all the responsibilities derived from the reality of growth must and dedicated to its development, listed in Delhi are, find an appropriate place in the constitution. The EESC is based on the principle that a sufficient number of open doors are effectively exceeded in order to obtain certainty and communicate state relations with the Union clearly and correctly.

The 1954 presidential call was made based on these recommendations.

### **New presidential decrees (1955-2018)**

Despite these new calls, between February 11, 1956 and February 19, 1994, forty-seven presidential calls were launched, with several Indian constitutional agreements for Jammu and Kashmir. All these requests were made with "synchronization of the state government" without a constituent assembly. Presidential promotion of this occurred when the state was under the banner of the president and "had no Kashmir government in any way," said Jill Cottrell. The approval of this event granted the governor of the express, an elected representative of the government of the Union. This interpretation is confirmed by the Supreme Court of India in 1972.

The presidential announcements launched since 1954 led to the extension of 94 of the 97 affairs of the Union (powers of the central government) to the state

of Jammu and Kashmir and 260 of the 395 articles of the Constitution of the United Kingdom. These requests were made as a correction to the president's decree of 1954 and not as a substitute, evidently given the fact that his legality has been affirmed, as Cottrell demonstrates.

This technique has been described as the "decline" of article 370. The internal secretary, Gulzarilal Nanda (1963-1966), believed that the terms "phenomenal state" given to Jammu and Kashmir in this article combined an incredibly directed " amendment method " "by the decree of the Indian president, while the powers of the other country through the" normal methodology of change (protected) under strict conditions ". As he showed, article 370 was "the main means" to bring the Indian constitution to Jammu and Kashmir. It is an entry through which "an extraordinary traffic plan has been recently adopted and more will be ". The successors of Nanda the Ministry of Interior have interpreted the section in the same way.

### **Autonomy of Jammu and Kashmir: structure and limits.**

The constitution of India is an administrative structure. The legal objects are contained in an "assignment list", a "status list" and a "concurrent list". The list of ninety-six thematic areas of the Union, including protection, military and external affairs, significant vehicle structures, commercial matters such as banks, exchanges and bonds, is appropriate for the EU government to establish the Union, so to speak . The list of sixty-six states that cover prisons, culture, most businesses and some charges is available to the states. The simultaneous list in which the center and the states can sanction criminal law, marriage, bankruptcy, workers' organizations, motives of life and the penalty of supervision. In the event of a dispute, the Union order will start things. The "residual power" that the laws relating to adoption , which are not specified in the Constitution, belongs to the Union. The Union can also decide that certain projects, courses, ports, etc. They are "nationals", in which case they will become subjects of the Union.

### **APPLICABILITY OF THE INDIAN LAW IN JAMMU AND KASHMIR**

The laws passed by parliament Indian have extended indefinitely Jammu and Kashmir.

Law of all services of India

Questionable Tools Law

Peripheral Security Forces Law

Law of the Focal Supervision Commission

Commodity Law

Law of the Committee Haj

Annual Tax Law

Central tax law for goods and services , 2017

Taxation of goods and services , 2017

Central Laws Act of 1956 (extension to Jammu and Kashmir)

Central Laws Act of 1968 (extension to Jammu and Kashmir)

In 2010, the National Human Rights Commission (NHRC) law was revoked to confirm the action plan in section 370

### **Change of state of Jammu and Kashmir**

#### **Jammu and Kashmir Reorganization Act, 2019**

On 5 August of 2019 he gave to the Minister of the Interior, Amit Shah Rajya Sabha , the law on the restructuring of Jammu and Kashmir (2019) , the state of Jammu and Kashmir in two districts to change the association separately express the territory of Jammu and Kashmir and the Union of the Territory of the Ladakh Union .

It has been proposed that the Jammu and Kashmir association district establish a regulatory body under the bill, but the Ladakh association district is not expected to have a regulatory authority. Before the end of the day, Bill has to give Rajya Sabha with 125 votes in favor and 61 against (67%). The next day, Bill has to pass Lok Sabha with 370 votes in favor and 70 against (84%). The president suspends the bill.

The two associative spaces appeared on October 31, 2019 of the celebrated era of National Unity Day. The Indian pioneer elected a lieutenant delegate for the territory of the Jammu and Kashmir Union and a lieutenant president of Congress for the territory of the Ladakh Union. [99] The 31 governors on October 31, 2019 by Judge Gita Mittal of the Supreme Court in Jammu and Kashmir confirmed the high magistrate, first in Leh for Ladakh UT and then in Srinagar for J&K UT. [100] on the night of October 30, 2019, the presidential rule under Section 356 of the Constitution of India was approved in the Jammu and Kashmir region.

### **CONCLUSION**

Article 370 of the Constitution of India has always been the subject of dialogue. It was a price that Sheikh Mohammed Abdullah was rewarded for the integration of Jammu and Kashmir with India and, in this sense, due to the absurdity of this law and its misalignment of the fiasco with the political and final structure. India.

India is another country, who with enthusiasm for braided administrative law that, all regions provide a uniform treatment and further strengthen the sense of justice in all districts.

In any case, J&K is now separated from the only Indian history in the light of section 370. The consolidated history of J&K goes substantially beyond the representation of J&K government systems in the state. Moreover, when it is explained in relation to article 370 of the Constitution of India, it recognizes even more its veil and its meaning.<sup>13</sup> In fact; the people of Kashmir maintain an authentic presence, which is not absolutely synonymous with various indigenous rights. Horrendous and shields comparable to those of the Indians connected to them. The enormous impact of this condition lies in the regularity of the Indian association. Kashmir is a Muslim state, where many Hindus and Sikhs still live. There has been no more joint cruelty of the events that led to the development of LEDs - Hindus in different parts of the country.

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