The **Constitution of Jammu and Kashmir** was the legal document which established the framework for [the state government](https://en.wikipedia.org/wiki/State_governments_of_India) of the [Indian](https://en.wikipedia.org/wiki/India) state of [Jammu and Kashmir](https://en.wikipedia.org/wiki/Jammu_and_Kashmir_(state)). The constitution was adopted on 17 November 1956, and came into effect on 26 January 1957. It was rendered infructuous on 5 August 2019 by an order signed by the president of India and ceased to be applicable on that date.

The [Constitution of India](https://en.wikipedia.org/wiki/Constitution_of_India) granted special status to [Jammu and Kashmir](https://en.wikipedia.org/wiki/Jammu_and_Kashmir) among [Indian states](https://en.wikipedia.org/wiki/States_and_union_territories_of_India), and it was the only state in India to have a separate constitution. [Article 370](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India) of the Constitution of India stated that [Parliament of India](https://en.wikipedia.org/wiki/Parliament_of_India) and the [Union government](https://en.wikipedia.org/wiki/Government_of_India) jurisdiction extends over limited matters with respect to State of Jammu and Kashmir, and in all other matters not specifically vested in Federal government, actions have to be supported by state legislature.[[1]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-tribune-1)[[2]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-gktoday-2) Also, unlike other states, residual powers were vested with the state government.

Historical aspect[[edit](https://en.wikipedia.org/w/index.php?title=Constitution_of_Jammu_and_Kashmir&action=edit&section=1)]

India gained its independence from the United Kingdom on midnight of 15 August 1947, and simultaneously Pakistan was created as a new country as a result of the [partition of India](https://en.wikipedia.org/wiki/Partition_of_India). [Jammu and Kashmir](https://en.wikipedia.org/wiki/Jammu_and_Kashmir_(princely_state)), then a princely state under suzerainty of British Monarch, and ruled by [Maharaja Hari Singh](https://en.wikipedia.org/wiki/Maharaja_Hari_Singh) who tried to avoid declaring his state's accession to either of the two dominions at the time of independence (although that was not an option under the [Indian Independence Act, 1947](https://en.wikipedia.org/wiki/Indian_Independence_Act,_1947)). Maharaja Hari Singh signed a [standstill agreement](https://en.wikipedia.org/wiki/Standstill_agreement_(India)) with Pakistan. However, on 6 October 1947, Pakistani Muslim tribes, supported by the government of Pakistan, attacked Jammu and Kashmir on the behest of Pakistan to achieve forcible accession to Pakistan. Maharaja Hari Singh requested assistance from India, and when India requested an Instrument of Accession to India, the Maharaja signed it so that India could help in defence.

The [Instrument of Accession](https://en.wikipedia.org/wiki/Instrument_of_Accession_(Jammu_and_Kashmir)) (IoA) gave only limited powers to the Government of India, only about the three subject matters of Foreign affairs, Defence and Communications. Whereas the other states later signed merger agreements, the relationship of Jammu and Kashmir with the Union of India was governed by special circumstances. In view of them, the Article 370 was incorporated in the Constitution.

Among notable and visible differences with other states, till 1965, the head of state in Jammu and Kashmir was called [Sadr-i-Riyasat](https://en.wikipedia.org/wiki/List_of_Governors_of_Jammu_and_Kashmir) (Head of State) whereas in other state, the title was [Governor](https://en.wikipedia.org/wiki/Governor_(India)), and the head of government was called [Prime Minister](https://en.wikipedia.org/wiki/List_of_Chief_Ministers_of_Jammu_and_Kashmir) in place of [Chief Minister](https://en.wikipedia.org/wiki/Chief_Minister_(India)) in other states.

On 5 August 2019, the [President of India](https://en.wikipedia.org/wiki/President_of_India) issued a presidential order, namely, The Constitution (Application to Jammu and Kashmir) Order, 2019 (C.O. 272)[[3]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-G.S.R_.551(E)-3) under [Article 370](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India) making [all the provisions of Constitution of India applicable to the State of Jammu and Kashmir](https://en.wikipedia.org/wiki/Revocation_of_the_special_status_of_Jammu_and_Kashmir) and this has rendered the Constitution of Jammu and Kashmir infructuous from that date. Now the [Constitution of India](https://en.wikipedia.org/wiki/Constitution_of_India) is applicable to Jammu and Kashmir, like all other Indian states.

## Jurisdiction of Parliament[[edit](https://en.wikipedia.org/w/index.php?title=Constitution_of_Jammu_and_Kashmir&action=edit&section=4)]

Under Part XXI of the Constitution of India, which deals with "Temporary, Transitional and Special provisions", the State of [Jammu and Kashmir](https://en.wikipedia.org/wiki/Jammu_and_Kashmir) was accorded special status under Article 370. Even though included in 1st Schedule as 15th state, all the provisions of the Constitution which are applicable to other states were not applicable to Jammu and Kashmir.[[8]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-8) [Government of India](https://en.wikipedia.org/wiki/Government_of_India) can declare emergency in Jammu and Kashmir and impose Governor's rule in certain conditions. Matters related to Defense, Foreign relations, Communication and Finance of Jammu and Kashmir is under jurisdiction of [Constitution of India](https://en.wikipedia.org/wiki/Constitution_of_India).

[Union Legislature](https://en.wikipedia.org/wiki/Parliament_of_India) had very limited jurisdiction over Jammu and Kashmir in comparison with other states. Till 1963, Parliament could legislate on subjects contained in the Union List, and had no jurisdiction in case of Concurrent List under 7th Schedule with Jammu and Kashmir. The Parliament had no power to legislate Preventive Detention laws for the state; only the state legislature had the power to do so.

**370. Temporary provisions with respect to the State of Jammu and Kashmir**[[25]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTECottrell,_Kashmir:_The_vanishing_autonomy2013169-170_Table_5.1_with_footnotes-26)

**(1)** Notwithstanding anything contained in this Constitution,—

(a) the provisions of article 238 shall not apply now in relation to the state of Jammu and Kashmir;[[note 2]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-27)

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

(i) those matters in the [Union List](https://en.wikipedia.org/wiki/Union_List) and the [Concurrent List](https://en.wikipedia.org/wiki/Concurrent_List) which, in consultation with the [Government of the State](https://en.wikipedia.org/wiki/Government_of_Jammu_and_Kashmir), are declared by the [President](https://en.wikipedia.org/wiki/President_of_India) to correspond to matters specified in the [Instrument of Accession](https://en.wikipedia.org/wiki/Instrument_of_Accession_(Jammu_and_Kashmir))  governing the accession of the State to the [Dominion of India](https://en.wikipedia.org/wiki/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.

*Explanation* [1950 wording]: For the purpose of this article, the Government of the State means the person for the time being recognised 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;

*Explanation* [1952 wording]: For the purpose of this article, the Government of the State means the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the [Sadr-i-Riyasat](https://en.wikipedia.org/wiki/Sadr-i-Riyasat) (now Governor) of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office.[[note 3]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-29)

(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 provision 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.[[27]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-30)

Special Provision

The clause 7 of the [Instrument of Accession](https://en.wikipedia.org/wiki/Instrument_of_Accession) signed by [Maharaja Hari Singh](https://en.wikipedia.org/wiki/Maharaja_Hari_Singh) declared that the State could not be compelled to accept any future Constitution of India. The State was within its rights to draft its own Constitution and to decide for itself what additional powers to extend to the Central Government. Article 370 was designed to protect those rights.[[28]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTENoorani,_Article_37020111-2-31) According to the constitutional scholar [A. G. Noorani](https://en.wikipedia.org/wiki/A._G._Noorani), Article 370 records a 'solemn compact'. Neither India nor the State can unilaterally amend or abrogate the Article except in accordance with the terms of the Article.[[29]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTENoorani,_Article_37020111-32)

Article 370 embodied six special provisions for Jammu and Kashmir:[[30]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTENoorani,_Article_37020115-6-33)[[31]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTETillin,_Asymmetric_Federalism2016546-34)

1. It exempted the State from the complete applicability of the Constitution of India. The State was conferred with the power to have its own Constitution.
2. Central legislative powers over the State were limited, at the time of framing, to the three subjects of defence, foreign affairs and communications.
3. Other constitutional powers of the Central Government could be extended to the State only with the concurrence of the State Government.
4. The 'concurrence' was only provisional. It had to be ratified by the State's Constituent Assembly.
5. The State Government's authority to give 'concurrence' lasted only until the State Constituent Assembly was convened. Once the State Constituent Assembly finalised the scheme of powers and dispersed, no further extension of powers was possible.
6. Article 370 could be abrogated or amended only upon the recommendation of the State's Constituent Assembly.

Once the State's Constitutional Assembly convened on 31 October 1951, the State Government's power to give `concurrence' lapsed. After the Constituent Assembly dispersed on 17 November 1956, adopting a Constitution for the State, the only authority provided to extend more powers to the Central Government or to accept Central institutions vanished.

## Emergency provisions[[edit](https://en.wikipedia.org/w/index.php?title=Constitution_of_Jammu_and_Kashmir&action=edit&section=5)]

The Union of India has no power to declare Financial Emergency under Article 360 in the state. The Union can declare emergency in the state only in case of War or External Aggression. No proclamation of emergency made on the grounds of internal disturbance or imminent danger 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. In December 1964, Articles 356 and 357 were extended to the state.

## Fundamental duties, directive principles and fundamental rights[[edit](https://en.wikipedia.org/w/index.php?title=Constitution_of_Jammu_and_Kashmir&action=edit&section=6)]

Part IV, Article 36-51 (Directive Principles of the State Policy) and Part IVA, Article 51A (Fundamental Duties) of the Constitution are not applicable to Jammu and Kashmir. In addition to other fundamental rights, Articles 19(1)(f) and 31(2) of the Constitution are still applicable to Jammu and Kashmir; hence the Fundamental Right to property is still guaranteed in this state. It is the only state which does not have to give a detailed record on the money flowing in the state and where it is used and how. In the Indian Constitutional history only one Fundamental Right has been added so far and that is [Right to Education Act](https://en.wikipedia.org/wiki/Right_to_Education_Act). This right too has not been extended to Jammu and Kashmir.

## Miscellaneous[[edit](https://en.wikipedia.org/w/index.php?title=Constitution_of_Jammu_and_Kashmir&action=edit&section=10)]

Certain special rights have been granted to the permanent residents of Jammu and Kashmir with regard to employment under the state, acquisition of immovable property in the state, settlement in the state, and scholarship and other forms of aid as the state government may provide.

The 5th Schedule pertaining to the administration and control of Schedule Areas and Scheduled Tribes and the 6th Schedule pertaining to administration of tribal areas are not applicable to the state of Jammu and Kashmir.

## Official languages[[edit](https://en.wikipedia.org/w/index.php?title=Constitution_of_Jammu_and_Kashmir&action=edit&section=7)]

Provisions of Part XVII of the Constitution apply to Jammu and Kashmir only insofar as they relate to

1. the official language of the Union;
2. the official language for communication between one state and another; or between a state and the Union; and
3. language of the proceedings in the Supreme Court.

Urdu is the official language of the state but use of English is permitted for official purposes unless the state legislature provides otherwise.

## Autonomy of Jammu and Kashmir: Structure and limitations

India's constitution is a [federal structure](https://en.wikipedia.org/wiki/Federalism_in_India). The subjects for legislation are divided into a 'Union List', a 'State List', and a 'Concurrent List'. The [Union List](https://en.wikipedia.org/wiki/Union_List) of ninety-six subjects, including defence, military and foreign affairs, major transport systems, commercial issues like banking, stock exchanges and taxes, are provided for the Union government to legislate exclusively. The [State List](https://en.wikipedia.org/wiki/State_List) of sixty-six items covering prisons, agriculture, most industries and certain taxes, are available for States to legislate on. The [Concurrent List](https://en.wikipedia.org/wiki/Concurrent_List), on which both the Centre and States may legislate include criminal law, marriage, bankruptcy, trade unions, professions and price control. In case of conflict, the Union legislation takes precedence. The 'residual power', to make laws on matters not specified in the Constitution, rests with the Union. The Union may also specify certain industries, waterways, ports etc. to be 'national', in which case they become Union subjects.[[64]](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTECottrell,_Kashmir:_The_vanishing_autonomy2013165-70)

In the case of Jammu and Kashmir, the 'Union List' and the 'Concurrent List' were initially limited to the matters ceded in the Instrument of Accession; later, they were extended with the concurrence of the State Government. The 'residual powers' continued to rest with the State rather than the Union. According to the State Autonomy Committee, ninety-four of the ninety-seven items in the Union List applied to Jammu and Kashmir; the provisions of the Central Bureau of Intelligence and Investigation and preventive detention did not apply. Of the 'Concurrent List', twenty-six of the forty-seven items applied to Jammu and Kashmir; the items of marriage and divorce, infants and minors, transfer of property other than agricultural land, contracts and torts, bankruptcy, trusts, courts, family planning and charities had been omitted – i.e., the State had exclusive right to legislate on those matters. The right to legislate on elections to state bodies also rested with the State.[[65](https://en.wikipedia.org/wiki/Article_370_of_the_Constitution_of_India#cite_note-FOOTNOTECottrell,_Kashmir:_The_vanishing_autonomy2013177%E2%80%93178-71)

## Relations with Government of India

* **Article 3** in part 2 of the Jammu and Kashmir constitution stated "*Relationship of the State with the Union of India*:-The State of Jammu and Kashmir is and shall be an integral part of the Union of India."[[9]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-page3-9)[[10]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-10)
* **Article 5** of the part 2 was about extent of "Executive" and "Legislative" powers of the state and stated that "[Jammu and Kashmir Legislative Assembly](https://en.wikipedia.org/wiki/Jammu_and_Kashmir_Legislative_Assembly) has executive and legislative power of all matters except those with respect to which [Parliament of India](https://en.wikipedia.org/wiki/Parliament_of_India) has power to make laws for the State under the provisions of the [Constitution of India](https://en.wikipedia.org/wiki/Constitution_of_India)".[[9]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-page3-9) Sectors in which [Government of India](https://en.wikipedia.org/wiki/Government_of_India) can make laws for [Jammu and Kashmir](https://en.wikipedia.org/wiki/Jammu_and_Kashmir) includes Defense sector, Foreign affairs, Finance and Communication.[[1]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-tribune-1)[[2]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-gktoday-2)
* **Article 147** of Part 12 was about amendment of the Jammu and Kashmir Constitution which stated that, "No Bill shall be introduced or moved in State Legislative Assembly to amend or change above mentioned articles 3 and 5."[[11]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-11)

### Relations with Pakistan administered Kashmir

* **Article 48** of Part VI of Jammu and Kashmir constitution defines [Pakistan administered Kashmir](https://en.wikipedia.org/wiki/Pakistan_administered_Kashmir) as "Pakistan Occupied Territory" (POK).[[12]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-page16-12)
* There were 111 seats in Jammu and Kashmir state legislative assembly. Of these seats, 24 were reserved for representatives from Pakistan-controlled Kashmir, to remain vacant until Pakistan ceases the "occupation" of Kashmir.[[13]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-page17-13)

**High Court Of J&K**

* **The High Court of J&K has limited powers as compared to other High Courts within India. It can’t declare any law unconstitutional.**
* **Unlike High Courts in other states, under Article 226 of the Constitution, it can’t issue writs except for enforcement of Fundamental Rights.**

**Amendments Of Constitution**

The Provisions of the State Constitution (except those relating to the relationship of the state with the Union) may be amended by an Act of the Legislative Assembly of the state passed by not less than two-thirds of its membership. If such amendment seeks to affect Governor or Election Commission, it needs the President's assent to come into effect. No amendment of the Constitution of India shall extend to Jammu and Kashmir unless so extended by an order of Jammu and Kashmir President under Article 370(1).[[14]](https://en.wikipedia.org/wiki/Constitution_of_Jammu_and_Kashmir#cite_note-14)

No bill or amendment can be introduced or moved in either House of the Legislature which seeks to make any change in the provisions that (a) the State of Jammu and Kashmir is and shall be an integral part of the Union of India (Art. 3) (b) the executive and legislative power of the State does not extend to matters those with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India (Art. 5),

(