Polity & Governance · GS - II

To what extent is Article 370 of the Indian Constitution, bearing marginal note “temporary provision with respect to the State of Jammu and Kashmir”, temporary? Discuss the future prospects of this provision in the context of Indian polity.

EXAM YEAR	PAPER	SUBJECT
2016	GS - II	Polity & Governance

MARKS	WORD LIMIT
12.5	~200 words

Answer Hint

Article 370; constitutional relationship; Constituent Assembly of Jammu and Kashmir; presidential orders; federalism; Supreme Court judgment; constitutional change

Model Answer

Introduction

Article 370 originally provided a special constitutional framework governing the relationship between Jammu and Kashmir and the Union of India. Its marginal note described it as a temporary provision.

Why It Was Considered Temporary

- The provision emerged from the circumstances of Jammu and Kashmir's accession and its distinctive constitutional position.
- Article 370(3) contained a mechanism for the President to declare the article inoperative or operative with modifications, subject to the specified constitutional process.
- The marginal note reflected its intended temporary character, though the nature and operation of the provision were historically contested.

Constitutional Developments

In August 2019, Presidential Orders and parliamentary measures changed the operation of Article 370, and Jammu and Kashmir was reorganised into the Union Territories of Jammu and Kashmir and Ladakh.

In December 2023, the Supreme Court upheld the constitutional changes concerning Article 370. It held that Jammu and Kashmir did not retain internal sovereignty and that Article 370 was a temporary provision. The Court also directed that steps be taken to restore statehood to Jammu and Kashmir at the earliest and upheld the Election Commission's role in conducting elections.

Future Prospects

- The central constitutional debate has shifted from whether Article 370 remains operative in its former form to the implications of the 2019 changes.
- Restoration of statehood, democratic representation and effective local governance remain important issues.
- Security, development, political participation and public trust will influence the region's constitutional and political future.

Conclusion

Article 370's former special constitutional arrangement has been rendered inoperative through the 2019 changes upheld by the Supreme Court. The future challenge is to strengthen democratic governance, federal accommodation and constitutional rights in Jammu and Kashmir.

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