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Lamenting Ladakh: An Analysis of Sixth Schedule of Indian Constitution with respect to Ladakh Protests

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ABSTRACT

Before the elimination of Article 370, present union territory of Jammu & Kashmir and the territory of Ladakh were one state. Ladakh used to live under the silhouette of Kashmir, as it was absent from center's attention, most of the budget given to the J&K state were used to be spent in Kashmir for security reasonings. Ladakh was lagging behind as it was not included under government policies. It's important to remember that during 370, outsiders were not permitted to carry on business and buy properties in Ladakh. After the removal of the Article, Ladakh people's response were mixed as some were full of joy as they were in the hope of getting centers attention and some were not. In 2019, J&K was made a union territory with legislature and Ladakh was made a distinct union territory but without legislature, not being governed by the legislature, Ladakh is run by bureaucrats and they are not satisfied by it. Now after passing few years of removal of Article 370, Ladakh people are protesting to be Encompassed under Sixth Schedule of the Constitution to guarantee overall economic development and autonomy. This paper dive into the demands of people of Ladakh and understand it in the leu of constitutions sixth schedule to find out what's happening in Ladakh and should they be comprised under the Sixth Schedule of Indian Constitution.

Keywords: *Ladakh, Protests, Indian Constitution, Article 370, Sixth Schedule, Autonomy, Power, Ladakh's Hill Councils.*

I. INTRODUCTION

When the Modi government separated Ladakh from the former state of Jammu and Kashmir in August 2019, joyful shouts of "freedom" rang out across the mountain air. However, numerous of the identical voices are intensifying in opposition today. They claim that 'liberation' from J&K has originated at the expenditure of the special status granted by the annulled Article 370, and here is today a bout to defend the region's identity, land, environment, and autonomy.

Sonam Wangchuk, the technologist, educational reformer, and Magsaysay Honor victor who

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rose to countrywide prominence as the model for Aamir Khan's character in the 2009 movie *3 Idiots*, is the most visible face of the education sector. Wangchuk, corresponding numerous others here, thinks that the Union administration has failed to deliver on the "dream" that it assured, rather leaving Ladakh at the pity of 'outside' powers that are unacquainted with the province's wants and susceptibilities. Furthermore, there is extensive discontent with the absence of employment opportunities and party-political depiction. At the heart of the conflict is a demand that Ladakh be included in the Sixth Schedule, which offers intended for the governance of certain ethnic areas by autonomous district councils with the authority to build rules in parts such as land and forestry, amongst other things. The goal of this establishment, which is found in Article 244 of the Constitution, is to protect tribal populations' welfares and ethos while also allowing for their progress. They think that lacking the Sixth Schedule, an influx of industries could severely harm Ladakh's fragile ecology, as now after removal of Article 370 outsiders can set their business in Ladakh. There are several more reasons for their dissatisfaction which would be studied further in this paper.

(A) Background of Sixth Schedule²:

When India's constitution was being written, there was a significant issue about how to integrate tribal regions with the rest of the country, particularly the north eastern region, which has an extremely diverse tribal population. Second, despite the fact that some people from there were involved in the freedom struggle, they did not feel connected to the rest of the nation. The general decision was that the Assam tribal belt would have a distinct provision than the rest of the country's tribal belt. Part 10 of the Indian constitution exists. It only has one part, Article 244.

This text is divided into two parts: 244 (1) and 244 (2). (2). Except for Assam, 244 (1) applied to the entire nation. This is known as the 5th Schedule. Schedule 6 is a section of 244 (2) that only applies to Assam. Hence as the Sixth Schedule is made only for the North-Eastern Part of India, there's a question that needs to be answered: **Can Ladakh be Included in the Sixth Schedule?**

II. RESEARCH DESIGN

(A) Problem Statement:

After the removal of Article 370, Ladakh became a separate union territory. Now any outsider

² Singh, G. and Manwani, H.M. *The Imperative of the Fifth and Sixth Schedule of the Indian Constitution in the Life of Indian Tribes*, *Jus Corpus Law Journal*. Available at: <https://www.juscorpus.com/wp-content/uploads/2022/10/49.-Gayatri-Singh.pdf>.

is permitted to buy land and set up their business in the territory of Ladakh, as being governed in governors rule where the hill councils of Ladakh doesn't have an autonomy to decide on any cultural matters which cant be refused by the governor, the people of Ladakh are scared that there land and heritage will be all gone as the bureaucrats are very lenient in giving permission to the outsiders to buy lands over there, their major concern is that Ladakh is not geographically fit for commercialization hence they want full economical autonomy to decide their matters on their own by making the hill councils even more autonomous, schedule sixth of the constitution can provide them so. As the people of Ladakh Region are protesting for it to be included under Sixth Schedule which was made for protection of North-Eastern State, there's a problem that needs to be analyzed, whether Ladakh deemed fit to be included under schedule sixth. This paper aims to analyze the various demands of people of Ladakh and the infrastructure of the UT to understand whether there's a rational nexus present between their demands and the inclusion to the schedule or not.

(B) Research Objectives:

- To Comprehend the needs of people protesting in Ladakh
- To Know the Sixth Schedule of the Constitution
- To understand the internal mechanism of government in Ladakh
- To understand changes in Ladakh after Article 370's struck down
- To Analyze whether Ladakh needs Schedule Sixth at the present or not

(C) Research Methodology

The methodology adopted for conducting this research was qualitative. Several primary data like press release, newspaper articles and secondary sources like journal articles have been referred.

III. ANALYSIS

(A) "WHY THE PROTESTS: Understanding the demands of the people of Ladakh"³

Ladakh has four long-standing demands: statehood, legitimate protections under the Sixth Schedule, discrete Lok Sabha seats for Leh and Kargil regions, and employment reserved seat for residents. Let's understand the reasonings behind their demands one by one:

³ Sharma, N. (2023) 'celebrated too soon' - Ladakh fights for identity, autonomy more than 3 yrs. after Article 370 Move, *ThePrint*. Available at: <https://theprint.in/india/celebrated-too-soon-ladakh-fights-for-identity-autonomy-more-than-3-yrs-after-article-370-move/1362553/>.

- a. Threat from the outsiders-** Before removal of Article 370, no outsider had the right to buy land and establish business in Ladakh. After the removal now they can come to Ladakh and establish their business. This would harm the locals because:
- i. **Water scarcity-** Ladakh is the region where people use half of the amount of water of what the people of other parts of the country do. Setting up of industries would require more use of water and Ladakh being the scarce resource cannot afford to provide that amount of water to the industries.
 - ii. **Threat to land and culture-** Locals claim that their land and culture were at least secure prior to separation from J&K. According to them, anybody can now come at their terrestrial, initiate a plan, and utilize their possessions. Currently, nearly 3 lakh individuals reside in Ladakh with inadequate resources, but if a large project is announced and numerous of persons begin to arrive, they will be unable to respond.
- b. Lagging behind without legislature-** Many people rejoiced when Ladakh was granted UT designation. It was hoped that it would improve entree to government reserves and capitals, expand management, and result in improved depiction in Parliament, similar to Puducherry, Delhi, that are UTs with legislative assemblages. However, later becoming a UT in October 2019, it is getting ruled by the central government via a Lieutenant Governor, with absence of legislative assembly. A legislative Union Territory, such as Delhi or Puducherry, has its own parliament and elected MLAs. A UT without a legislator, such as Ladakh, is not governed by elected representatives. Partially statehood is granted to UTs with legislative bodies.
- c. Bureaucracy's Dictatorship-** Ladakh Under Governors Rule, one frequently voiced grievance in Ladakh is that public retainers have been tasked with making critical choices for Ladakh and outlay the majority of the owed budget. Hill councils have no power over them.

"We are now only subject to officials. We receive approximately Rs 6,000 billion. "The Leh and Kargil councils receive only Rs 500 crore, and the balance of the money is decided by bureaucrats," People claimed.

Above all their major focus is on the sixth schedule.

(B) What is Sixth Schedule under Indian Constitution⁴-

⁴ Constitution of India, Article 244, Available at- https://legislative.gov.in/sites/default/files/COI_English.pdf

Article 244: Article 244 delivers for the creation of independent administrative divisions — Autonomous District Councils (ADCs) — within a state that have some lawmaking, jurisdictional, and managerial authority. The Sixth Schedule includes special rules for the management of tribal zones in Assam, Meghalaya, Tripura, and Mizoram, the four north-eastern states.

Areas with their own autonomy: These 4 states' tribal regions are designated as autonomous districts. The director/governor has the authority to organize and reorganize self-directed regions. Acts of Parliament or state legislatures do not smear or apply with specific changes and exclusions to autonomous districts. In this respect, either the President or the Governor has the power of direction.

District Council: Every independent district has a council of 30 associates, four of them are designated by the Governor and the outstanding 26 are chosen through the election. Chosen members serve for a five-year period (except the council is thawed sooner), while selected members serve at the governor's desire. Each self-directed area similarly has its own regional council.

District and regional councils have administrative authority over the regions under their jurisdiction.

- They partake the power to pass laws on definite topics such as land, forests, canal water, everchanging cultivation, village management, property heirloom, nuptial and divorce, societal ethnicities, and more. However, all such statutes need the Governor's approval.
- They form village councils or tribunals to hear suits and disputes amid tribes. They consider their appeals. The governor specifies the high court's authority over these suits and cases.
- The district council has the authority to create, build, ability to govern primary schools, pharma sector, bazaars, ships, piscaries, and infrastructures in the district.
- They have the authority to evaluate and gather land revenue as well as levy specific taxes.

IV. CRITICAL ANALYSIS

(A) Can Ladakh be Encompassed under Sixth Schedule-

The National Commission for Scheduled Tribes suggested addition of Ladakh in the Sixth Schedule in September 2019, observing that Ladakh was largely tribal (exceeding 97%) and that its different cultural legacy needed to be preserved. True, nearly 97% of the population is

indigenous, but the majority of them are Buddhist or Muslim.

They are not completely cut off from the rest of civilization. There are currently ten districts under the 6 schedule that have been given these powers. One in Tripura and three in the other three that are Assam, Mizoram and Meghalaya. The issue with these ten areas is that they prefer to be isolated from outsiders. They do not want to be linked in any manner.

Presently Ladakh is separated in 2 districts, Leh and Kargil, equally designate their own independent district councils, the Leh Autonomous Hill Development Council and the Kargil Autonomous Hill Development Council, which are responsible for a variety of local issues.⁵ The Ladakh autonomous hill development council consists of 30 members, 26 of whom are elected delegates. These 26 are chosen solely from the different regions. **The main issue** is that the hill council has no powers as the sixth schedule, which a lieutenant governor cannot overrule or change with a sign. The rights of the hill council are being eroded to the point where anyone can take over the property. There have been no significant alterations to the council's structure. And the people want the sixth schedule because it will give Autonomous councils a lot of authority and rights. They can manage their region's management, employment, and no one can access without the council's approval, whether it's forests or mountains. There are numerous provisions that will allow locals to manage their communities on their own. They won't have the fear of outsiders coming to their place and ruining it which removal of Article 370 has provided to the other people.⁶

This is very important for Ladakhi's from Environmental point of view, melting glaciers in the Hindu Kush Himalayan Range, where Ladakh is situated, have already been caused by global warming. This has resulted in a water catastrophe in the area.⁷ The Areas where glaciers melt due to global warming, people have to constantly stay on run. In such Situation, if autonomous hill councils won't be given power under schedule sixth then the bureaucrats will be kept on allowing the outsiders to set up their businesses and it would lead to several climate damages not just for Ladakh but for all over India. We can understand from Joshimath's example how important it is to save our environment. The individual's right to a healthy environment syndicates the environmental scopes of public, cultural, financial, political, and social liberties, and it guards the normal elements that allow a honorable lifespan. In India, the right to life

⁵ Administration of union territory of Ladakh, Available at- <https://ladakh.nic.in/whos-who/>

⁶ Ministry of home affairs (2021) *The dream of One Nation, One Law, One Symbol fulfilled A new start in Jammu & Kashmir and Ladakh, Factsheet Details*: Available at: <https://pib.gov.in/FactsheetDetails.aspx?Id=148582>.

⁷ Prakash, P. (2023) *Explained: Sonam Wangchuk's climate fast, Ladakh's fragile ecology and the Sixth schedule, Explained | Sonam Wangchuk's climate fast, Ladakh's fragile ecology and the Sixth Schedule - The Hindu*. Available at: <https://www.thehindu.com/sci-tech/science/explained-sonam-wangchuks-climate-fast-ladakhs-fragile-ecology-and-the-sixth-schedule/article66462752.ece>.

(Article 21) has been applied in a variety of ways. In terms of special classification for Ladakh, the government is hesitant to grant it. The MHA recently conveyed a parliamentary standing committee about, actual goal of including tribal people in the sixth schedule is to safeguard their complete socioeconomic growth, which the UT administration is already addressing, and that sufficient funds are being provided to Ladakh to meet its overall developmental needs. Inclusion of Ladakh in the Sixth Schedule, according to the Ministry of Home Affairs, would be challenging. Sixth Schedule is basically for the Northeast, according to the Constitution. The Fifth Schedule covers tribal areas in the remainder of the country. According to a recent Rajya Sabha report, the Ladakh management lately raised the reserved seat for Scheduled Tribes in direct recruitment from 10% to 45%, that will meaningfully aid tribal development. However, it is the government's prerogative to introduce a Bill to modify the Constitution for this drive if it so desires.

(B) Other Challenges in Including Ladakh under Sixth Schedule⁸-

No further fragmentation: Some have argued that spreading the Sixth Schedule to Ladakh would lead to further fragmentation of the area and new administrative challenges.

Loss of political capital: Also, there are worries about the potential effect of the demand on the area's political and administrative structures.

V. SUGGESTION & CONCLUSION

Ladakh is continuously governed by the governor. There are two regions in a city of 3 lakh people. If we divide 1.5 lakh by the number of districts, each district will have 26 people chosen. So, 52 elected representatives in a population of 3 lakh is certainly a sign of popular participation. The Ladakh Lok Sabha constituency has only 1.5 lakh electors. The entire population is estimated to be around 3 lakhs. With that population, they cannot expect statehood. The problem is that the council has less authority. This should be raised but not by including it in sixth schedule as that is only for North-Eastern State in Present and we don't want to further segregate. When panchayat raj is properly implemented and everyone believes that someone from their neighborhood is a member of the municipality or panchayat, and everything on the Panchayati level is properly done, dissent will decrease vividly. The government should swiftly implement the Panchayat raj system, which was enacted as part of the 73rd amendment in 1992, and conduct elections as soon as possible. One Major Problem is that bureaucrats are not allotting the budget properly, that should be improved and the UT should be provided more

⁸ Editorial, "Ladakh and the Sixth Schedule", *Civils Daily*.

water facilities, education and other basic necessities. Centre should put a little more attention on Ladakh and keep a check & Balance on the bureaucrats. Ladakh's needs should not be ignored as the protest and protestors are very upset and these situations in most of the cases sow a seed of Militancy. People of Ladakh needs to be felt more inclusive because “EK HAI BHARAT TABHI NEK HAI BHARAT”

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