



Proposed Article 371(K) for Ladakh: Constitutional Safeguards and a New Democratic Governance Model

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Recent Developments:

- The **Ministry of Home Affairs (MHA)** has discussed a proposed **Article 371(K)** as a possible constitutional arrangement for Ladakh, with the objective of providing stronger safeguards for **land, culture, language, environment and natural resources** along with greater democratic representation.
- The proposal reportedly envisages a **sui generis governance model** under Part XXI of the Constitution rather than simply extending the existing Sixth Schedule framework to Ladakh.
- Discussions between the Union Government and representatives of Ladakh have focused on creating a mechanism that can balance **constitutional protection, democratic participation, tribal interests and strategic-administrative requirements**.
- The proposal is significant because Ladakh is a **Union Territory without a legislature**, while most existing special provisions under Articles 371 and 371-A to 371-J were designed for specific States.
- The Administration of Ladakh has simultaneously continued administrative reforms and discussions on constitutional safeguards, including efforts to extend the benefits of the **Ladakh Autonomous Hill Development Council Act** to newly created districts.

Constitutional Context of Article 371:

Part XXI and Special Constitutional Arrangements:

- **Part XXI** of the Constitution is titled "**Temporary, Transitional and Special Provisions**" and contains Article 371 along with Articles 371-A to 371-J, which provide differentiated constitutional arrangements for particular States.
- These provisions demonstrate the Constitution's capacity to accommodate **regional diversity, customary institutions, geographical conditions and distinctive administrative requirements** without adopting an identical governance structure throughout India.
- Article 371 itself provides special arrangements for **Maharashtra and Gujarat**, particularly through provisions relating to separate development boards for specified regions.

Existing Articles 371-A to 371-J:

Article

State

Broad Constitutional Focus

371

Maharashtra, Gujarat

Special responsibility for regional development through development boards

371-A

Nagaland

Naga customary law, religious and social practices, land and resources

371-B

Assam

Committee for tribal areas within the Legislative Assembly

371-C

Manipur

Hill Areas Committee and special administrative arrangements

371-D, 371-E

Andhra Pradesh, Telangana

Equitable opportunities in public employment and education; Central University

371-F

Sikkim

Special constitutional arrangements following Sikkim's integration with India

371-G

Mizoram

Customary law, religious and social practices, land and resources

371-H

Arunachal Pradesh

Governor's special responsibility regarding law and order

371-I

Goa

Special provision concerning the Legislative Assembly

371-J

Karnataka

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Special provisions for the Hyderabad-Karnataka, now Kalyana Karnataka, region

- The existing framework therefore illustrates that **Article 371 is not a uniform template**, but a constitutional mechanism capable of creating State-specific arrangements.

Why is Article 371 Relevant to Ladakh?

Ladakh's Distinct Constitutional Position:

- Ladakh became a separate **Union Territory without a legislature on 31 October 2019** following the **Jammand Kashmir Reorganisation Act, 2019**, creating a governance structure different from States and Union Territories such as Delhi or Puducherry that have legislatures.
- The absence of an elected Legislative Assembly means that Ladakh does not possess a conventional State-level legislative institution through which regional political demands can be expressed.
- Consequently, a specially designed constitutional provision could provide an intermediate institutional arrangement between **direct Union administration and full Statehood**.
- A proposed **Article 371(K)** could therefore become a **tailor-made constitutional model for a Union Territory**, subject to the precise constitutional text ultimately proposed and enacted.

Democratic Representation and Local Governance:

- Before the reorganisation of Jammu and Kashmir, Ladakh's political representation operated within the larger **Jammu and Kashmir Legislative Assembly**, while the post-2019 arrangement shifted substantial administrative authority towards the Union Territory administration.
- The existing **Ladakh Autonomous Hill Development Councils (LAHDCs)** provide an important layer of local democratic governance in Leh and Kargil, but their constitutional position differs fundamentally from the autonomous district councils established under the Sixth Schedule.
- The Ladakh Administration continues to conduct elections for the **LAHDC Leh and LAHDC Kargil**, demonstrating that representative institutions already exist at the district level even though there is no Union Territory legislature.

Why Does Ladakh Seek Stronger Constitutional Safeguards?

Land, Employment and Cultural Identity:

- Concerns over **land ownership, employment opportunities, demographic change and preservation of cultural identity** have remained central to political demands in Ladakh.
- The region possesses distinctive cultural traditions and communities, including **Drokpa, Balti and Changpa**, whose cultural heritage was specifically highlighted by the National Commission for Scheduled Tribes.
- The **National Commission for Scheduled Tribes (NCST)** recommended in September 2019 that Ladakh be included within the **Sixth Schedule**, citing the need for democratic devolution, protection of land and agrarian rights, preservation of cultural identity and greater transfer of development funds.

Political Demands:

- The **Leh Apex Body (LAB)** and **Kargil Democratic Alliance (KDA)** have emerged as important platforms representing political demands from the region.
- Their demands have broadly included **statehood, Sixth Schedule protection, stronger democratic institutions, safeguards for land and employment, and greater local participation in decisions concerning infrastructure and development**.
- The demand for constitutional safeguards therefore reflects a broader debate concerning how **development, environmental protection, cultural preservation and democratic representation** can be balanced in a strategically sensitive Himalayan Union Territory.

What Has Been Proposed Under Article 371(K)?

Proposed Sui Generis Governance Model:

- The reported proposal envisages a **new Chapter K under Article 371**, designed specifically for Ladakh rather than mechanically applying the constitutional arrangements created for States.
- The proposed elected body is expected to be **directly elected**, thereby creating a stronger democratic mandate than the present administrative structure.
- The proposed body could receive legislative authority over subjects closely connected with Ladakh's regional identity, including **land, culture and language, forests, environment and natural resources**.
- The arrangement could potentially provide authority over additional matters presently administered through the Union Territory framework, subject to the final constitutional and statutory design.
- The concept is therefore important from the perspective of **asymmetric federalism**, under which different regions can receive different institutional arrangements according to their historical, geographical and socio-cultural circumstances.

Why a Sui Generis Model?

- A sui generis model could allow Parliament to address Ladakh's requirements without necessarily converting the Union Territory into a State or extending the entire Sixth Schedule framework to it.
- Such an arrangement could potentially combine **Union-level control over strategic matters** with greater local authority over subjects directly affecting everyday life and regional identity.
- The approach would therefore represent an example of **constitutional flexibility within Indian federalism**.

Key Unresolved Issues:

Executive and Legislative Powers:

- The most important unresolved question concerns the exact division of **legislative and executive powers** between the proposed elected body, the Lieutenant Governor and the Union Government.
- A meaningful elected institution would require clearly defined authority over **policy-making, implementation, budgeting and local administration**, rather than merely consultative functions.

Finances and Planning:

- The effectiveness of democratic decentralisation would depend on adequate **financial resources, budgetary powers and planning authority**.
- Without predictable financial devolution, even constitutionally protected institutions could remain dependent on administrative approvals from higher authorities.

Bureaucratic Control:

- Another major issue is whether the proposed elected body would exercise meaningful control over the **local bureaucracy and implementation machinery**.
- Clear allocation of responsibilities would be necessary to prevent institutional overlap between elected representatives and the Union Territory administration.

Police and Public Order:

- **Police and law-and-order powers** are particularly sensitive because Ladakh is a strategically important border Union Territory.
- Any future arrangement would therefore need to reconcile **democratic accountability** with the Union Government's legitimate requirements concerning national security, border management and public order.

Role of the Lieutenant Governor:

- The precise scope of the **Lieutenant Governor's discretionary and administrative powers** would be crucial for determining whether the proposed arrangement provides substantive democratic autonomy.
- A clearly defined constitutional distribution of powers could reduce institutional conflicts and establish predictable decision-making procedures.

Sixth Schedule and Article 371(K): A Comparison:

Sixth Schedule:

- The **Sixth Schedule**, read with **Article 244**, provides constitutionally protected **Autonomous District Councils** in specified tribal areas of **Assam, Meghalaya, Mizoram and Tripura**.
- These councils can exercise legislative, judicial and administrative functions over specified subjects, including **land, forests, water management, agriculture, village administration, social customs, inheritance and certain local matters**.
- The Sixth Schedule therefore provides a comparatively strong constitutional framework for **tribal self-governance and protection of customary institutions**.

Why Ladakh's Inclusion Is Significant:

- The NCST recommended bringing Ladakh under the Sixth Schedule in 2019 because of its **tribal population, distinctive cultural heritage and need for stronger democratic devolution and land protection**.
- However, the existing constitutional framework of the Sixth Schedule specifically identifies tribal areas in the northeastern States, making Ladakh's inclusion constitutionally distinctive.
- The proposal for Article 371(K) can therefore be viewed as an attempt to create an **alternative constitutional route** that addresses Ladakh-specific requirements without simply reproducing the existing Sixth Schedule model.

Article 371-A and 371-G as Comparators:

- **Article 371-A** protects specified Naga customary practices, religious and social matters, and ownership and transfer of land and its resources in Nagaland.
- **Article 371-G** provides comparable protections for Mizoram concerning Mizo customary law, religious and social practices, and land.
- These provisions demonstrate how the Constitution can provide **special protection to cultural practices and land-related interests** while retaining the State within the Union's constitutional framework.
- A future Article 371(K), if enacted, could similarly be designed around **Ladakh-specific cultural, ecological, land and governance requirements**.

Article 240 and the Present Union Territory Framework:

Presidential Regulatory Power:

- **Article 240** empowers the President to make regulations for the peace, progress and good government of specified Union Territories.
- The present constitutional text does not list Ladakh directly among the Union Territories named in Article 240, but the **Ladakh Autonomous Hill Development Councils (Amendment) Regulation, 2025** was promulgated using Article 240 read with the Jammu and Kashmir Reorganisation Act, 2019.
- This illustrates the importance of the statutory framework created after the reorganisation of Jammu and Kashmir in understanding the present governance of Ladakh.

Constitutional Amendment Process:

How Could a New Article 371(K) Be Inserted?

- A new constitutional article would ordinarily require a **Constitution Amendment under Article 368**, rather than an ordinary law passed by Parliament.
- A Constitution Amendment Bill may be introduced in **either House of Parliament**.
- The Bill must ordinarily be passed by a **majority of the total membership of each House and by a majority of not less than two-thirds of the members present and voting**.
- Ratification by **at least half of the State Legislatures** is required where the amendment affects specified federal provisions, including certain provisions relating to the Union-State constitutional structure, representation of States, the Seventh Schedule or Article 368 itself.
- After completion of the constitutionally prescribed procedure, the Bill is presented to the **President for assent**, following which the Constitution stands amended according to the terms of the legislation.
- Any future Article 371(K) would therefore have to satisfy not only the political negotiations surrounding Ladakh but also the **constitutional amendment procedure and the Basic Structure doctrine**.

Significance for Indian Federalism:

Asymmetric Federalism:

- The Ladakh debate highlights India's model of **asymmetric federalism**, where constitutional arrangements can vary according to regional history, ethnicity, geography and administrative requirements.
- Articles 371-A to 371-J already demonstrate that **uniformity is not the only constitutional conception of federalism** in India.
- A Ladakh-specific provision could further demonstrate the Constitution's ability to accommodate **territorial diversity without compromising national unity**.

Democratic Decentralisation:

- Stronger constitutional protection could deepen **participatory governance** by transferring appropriate decision-making powers closer to local communities.
- Such decentralisation can improve the alignment between public policy and local requirements in areas such as **land use, cultural preservation, tourism, infrastructure and environmental management**.

Environmental Governance:

- Ladakh's fragile Himalayan ecosystem makes **sustainable development** particularly important.
- Local participation in decisions concerning land, water, forests and infrastructure can potentially improve environmental governance while maintaining national standards and strategic oversight.

Borderland Governance:

- Ladakh shares sensitive international boundaries and has considerable **strategic and geopolitical significance**.
- Any decentralised governance model must therefore balance **local democratic aspirations with national security, border infrastructure and strategic mobility requirements**.

Way Forward:

Balancing Autonomy and National Interests:

- The future constitutional arrangement should clearly distinguish between **local subjects**, where democratic institutions can exercise substantial authority, and **strategic subjects**, where stronger Union oversight may

remain necessary.

- The proposed framework should establish clear rules for **executive authority, legislative competence, financial devolution, bureaucratic accountability and the Lieutenant Governor's powers.**
- A transparent consultation process involving **Leh, Kargil, elected councils, tribal communities, civil society and the Union Government** can improve the legitimacy of the eventual settlement.
- Constitutional safeguards should also be accompanied by effective institutions for **environmental protection, sustainable tourism, employment generation and equitable regional development.**

Value Addition for UPSC:

- **Essay:** The proposed arrangement illustrates the constitutional principle that **unity can be strengthened through accommodation of diversity rather than administrative uniformity.**
- **Constitutional keywords:** Asymmetric Federalism, Article 244, Article 240, Article 368, Sixth Schedule, Article 371, Democratic Decentralisation, Constitutional Safeguards and Basic Structure Doctrine.
- **Core analytical takeaway:** The Ladakh debate is not merely about creating another administrative institution; it concerns the constitutional balance between **democratic representation, regional identity, tribal and land rights, environmental protection and national security.**