



1. Dilution of Article 35A could potentially change the demography of the Valley,

- What is Article 35A?
- When was Article 35A incorporated in the Indian constitution?
- Is Article 35A against the spirit of unified India?
- What's the way forward, if the Article 35A revoked?

GS paper 2 (Indian Constitution- historical underpinnings, evolution, features, amendments, significant provisions and basic structure.)

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In this video, you can find detailed answers for all the above questions.

The above article has been retrieved from:

Apurva Vishwanath. (2019, July , 31). As heat in J&K builds up, pending in Supreme Court: 7 petitions against Article 35A. Indian Express. Retrieved from

<https://indianexpress.com/article/india/centre-sends-more-forces-to-kashmir-triggers-speculation-on-fate-of-article-35a-5859202/>



What is the context about?



The Centre's decision to dispatch additional forces to Kashmir has given fresh cause to speculate that Article 35A of the Constitution could be revoked.



The law that defines the permanent citizens of the state extends Indian citizenship to them and allows the state legislature to extend special privileges to them is currently under challenge before the Supreme Court.



However, the challenge does not preclude the Centre from bringing in a new law on the issue.

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What is Article 35A?



Article 35A is a provision incorporated in the Constitution giving the Jammu and Kashmir Legislature a carte blanche to decide who all are ‘permanent residents’ of the State and confer on them special rights and privileges in public sector jobs, acquisition of property in the State, scholarships and other public aid and welfare.



The provision mandates that no act of the legislature coming under it can be challenged for violating the Constitution or any other law of the land.

When was Article 35A incorporated in the Indian constitution?



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Article 35A was incorporated into the Constitution in 1954 by an order of the then President Rajendra Prasad on the advice of the Jawaharlal Nehru Cabinet.



The controversial Constitution (Application to Jammu and Kashmir) Order of 1954 followed the 1952 Delhi Agreement entered into between Nehru and the then Prime Minister of Jammu and Kashmir Sheikh Abdullah, which extended Indian citizenship to the ‘State subjects’ of Jammu and Kashmir.



The Presidential Order was issued under Article 370 (1) (d) of the Constitution. This provision allows the President to make certain “exceptions and modifications” to the Constitution for the benefit of ‘State subjects’ of Jammu and Kashmir. So, Article 35A was added to the Constitution as a testimony of the special consideration the Indian government accorded to the ‘permanent residents’ of Jammu and Kashmir.



Is Article 35A against the spirit of unified India?



It treats non-permanent residents of J&K as ‘second-class’ citizens.



Non-permanent residents of J&K are not eligible for employment under the State government and are also debarred from contesting elections.



Meritorious students are denied scholarships and they cannot even seek redress in any court of law. Further, the issues of refugees who migrated to J&K during Partition are still not treated as ‘State subjects’ under the J&K Constitution.

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It was inserted unconstitutionally, bypassing Article 368 which empowers only Parliament to amend the Constitution.



The laws enacted in pursuance of Article 35A are ultra vires of the fundamental rights conferred by Part III of the Constitution, especially, and not limited to, Articles 14 (right to equality) and 21 (protection of life).



What's the way forward, if the Article 35A revoked?



It is necessary to give confidence to the residents of J&K that any alteration in status quo will not take away their rights but will boost J&K's prosperity as it will open doors for more investment, resulting in new opportunities.



Article 35A, which was incorporated about six decades ago, now requires a relook, especially given that J&K is now a well-established democratic State.



The whole project of federal nation-building requires constant negotiation between the nation-state and its components. Such efforts need to have an underpinning of at least some kind of transparent democratic process. If Article 35A is to be removed, it must be removed as an expression of the will of the people, through a political process which includes the people of Jammu and Kashmir in the discussion.