# Article 371K and Special Constitutional Safeguards for Ladakh

**Mains**: *GSII – Governance*

## Why in News?

*The Union Government has proposed Article 371K to provide special constitutional safeguards for Ladakh, following an in-principle agreement to establish a directly elected UT-level body with legislative, executive, financial and planning powers.*

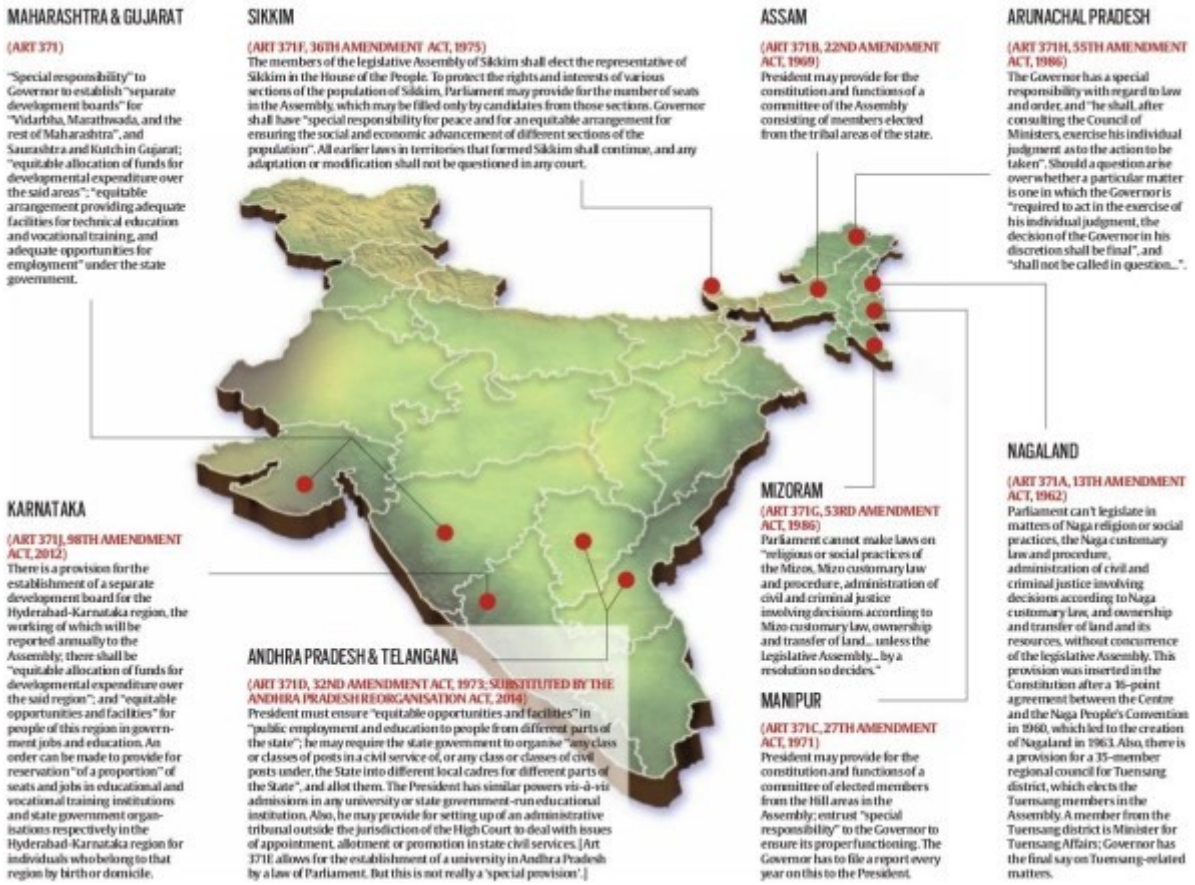
## What is Article 371?

- Articles 371 and 371A to 371J provide special constitutional arrangements for different States and regions.
- However, Article 371 was not originally designed as a special protection for tribal or Northeastern regions.
- **Historical Background –**
- **Post-Independence** – At Independence, India comprised British provinces and princely states.
    - Princely states joined India under different historical and administrative circumstances, which initially classified as Part B States.
- **Original Article 371 (1950)** – The original Article 371 provided for Central supervision over Part B States.
    - It was intended as a transitional arrangement during the early years of the Constitution.
- **Reorganisation of States (1956) –** The States Reorganisation Act and 7th Constitutional Amendment, 1956 abolished the Part A, Part B and Part C classification.
    - The original Article 371 consequently ceased to operate in its earlier form.
- **Emergence of Special Provisions** – Article 371 was subsequently replaced by provisions providing special arrangements for Maharashtra and Gujarat.
    - These focused on equitable regional development, including Vidarbha, Marathwada, Saurashtra and Kutch.
- **Different Forms of Article 371 -** India adopted a flexible constitutional approach to accommodate regions with different:
    - Historical circumstances
    - Social and cultural structures
    - Administrative requirements
    - Regional inequalities
    - Political demands

- Thus, Article 371 evolved into an instrument of asymmetric federalism, allowing different regions to receive different constitutional arrangements.

## What is the Evolution of Special Constitutional Provisions?

- **Article 371A - Nagaland** – Emerged from the Naga political movement and the 16-Point Agreement of 1960.
    - Protects Naga religious and social practices, customary law and procedure.
    - Provides protection to the ownership and transfer of land.
- **Article 371B - Assam –** Created in the context of demands from Assam's tribal and hill areas.
    - Provides for a special committee in the Assam Legislative Assembly.
- **Article 371C (Manipur)** – Introduced after Manipur became a full State.
    - Addresses the political relationship between the tribal hill areas and Imphal Valley.
    - Provides for a special committee of the Legislative Assembly consisting of members elected from hill areas.
    - The Governor has a special responsibility regarding the administration of hill areas.
- **Article 371D - Andhra Pradesh –** Emerged from regional tensions between Telangana and Andhra.
    - Based on the Six-Point Formula of 1973.
    - Seeks equitable opportunities in education and public employment across different regions.
- **Article 371F – Sikkim** – Introduced following Sikkim's integration into the Indian Union in 1975.
    - Intended to manage the constitutional and administrative transition of the erstwhile independent State.
- **Article 371G - Mizoram –** Emerged from the 1986 Mizo Peace Accord.
    - Protects Mizo religious and social practices, customary law and procedure.
    - Provides protection to customary administration of justice and ownership and transfer of land.
    - Certain Parliamentary laws on these matters do not automatically apply unless agreed to by the Mizoram Assembly.
- **Article 371H - Arunachal Pradesh –** Provides the Governor with special responsibility for law and order in the State.
- **Article 371I - Goa –** Provides that the Goa Legislative Assembly shall consist of not less than 30 members.
- **Article 371J – Karnataka –** Added to address regional backwardness in the Hyderabad-Karnataka region, now Kalyana Karnataka.




## What Could Article 371K Mean for Ladakh?

- **Proposed Constitutional Arrangement**
  - Article 371K could provide Ladakh with a special constitutional framework despite being a Union Territory without a legislature.
  - It may establish a directly elected UT-level body with legislative, executive, financial and planning powers.
- **Legislative & Administrative Powers**
  - The body could legislate on land, culture and language, forests, environment and natural resources.
  - It may also exercise powers over subjects assigned to the UT under Article 240.
  - The elected executive could supervise civil servants, including APAR-related matters, within its jurisdiction.
  - Ladakh leaders have also sought control over law and order.

## How Could 371K Differ from Existing Provisions?

- **Protection of Resources** – The demand for protection of land and natural resources resembles the protective framework under Articles 371A and 371G.
- **Democratic Institutions** – Unlike some existing provisions, Ladakh is seeking a substantial directly elected governing institution with legislative, executive and financial powers.
- **Application of Central Laws –** If certain Central laws are made applicable only with the approval of the proposed elected body.
  - This provision would resemble the stronger protective mechanism found under

Articles 371A and 371G.

- **Control over Administration** – If the elected executive receives control over bureaucracy and law and order,
    - The proposed arrangement would provide the UT-level leadership with substantial administrative authority.

## What is the Significance of Article 371K?

- **Constitutional Accommodation** – It would demonstrate the flexibility of the Constitution to create region-specific governance arrangements.
- **Protection of Local Interests** – Special constitutional safeguards could provide greater protection to land, culture, language, environment and natural resources.
- **Democratic Decentralisation** – A directly elected UT-level body could provide greater local participation in governance and decision-making.
- **Asymmetric Federalism** – It would illustrate India's approach of accommodating regional diversity through differentiated constitutional arrangements.

| Key Concerns: Scope of Article 371K |
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| • The effectiveness of Article 371K will depend on the extent of powers constitutionally protected.<br>• Merely creating an elected body with legislative powers may offer limited safeguards.<br>• Stronger protection would require control over land, natural resources, recruitment and administration.<br>• A role in deciding the applicability of Central laws could provide additional protection.<br>• Greater control over law and order and bureaucracy would further strengthen the institution. |

## What could be done?

- **Clearly Define Powers** – The constitutional provision should clearly specify the legislative, executive, financial and planning powers of the proposed body.
- **Ensure Constitutional Protection** – Important areas such as land, natural resources, culture and local employment should receive clearly defined safeguards.
- **Strengthen Democratic Accountability** – The proposed institution should have appropriate mechanisms for representation and financial transparency.
- **Balance Local Autonomy and National Interests** – The framework should balance local aspirations and environmental concerns with India's strategic and national interests in the region.
- **Ensure Effective Implementation** – Constitutional safeguards should be supported by appropriate administrative, financial and institutional mechanisms.

## What lies ahead?

- The evolution of Article 371 reflects India's constitutional ability to accommodate regional diversity through asymmetric federalism.
- For Ladakh, Article 371K could represent a new model of constitutional accommodation for a Union Territory without a legislature.
- Its effectiveness, however, will depend on the precise powers and safeguards ultimately incorporated into the constitutional provision.

## Reference

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