

3RD Dr. R. U. SINGH MEMORIAL NATIONAL MOOT COURT COMPETITION

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MOOT PROPOSITION

VENUE:

Faculty of Law

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(LUMA)



1. Asgard is a sovereign socialist secular democratic republic that follows federalism where by power is shared between Union and States. The Constitution of Asgard came into existence when colonial Asgard was divided into Union of Asgard and Republic of Titan. When it was granted independence there were 526 princely states in Asgard, they were allowed to be a part of either Asgard or Titan or to remain independent and exercise their right to self-determination.
2. There were two prominent religions in the Colonial Asgard, Marvelism and Gothism. The partition took place on the prevalence of these religions in the two countries. Marvelism was a majority religion in Asgard and Gothism in Titan. After partition most of the princely states became either a part of Asgard or Titan, however a handful remained sovereign.
3. Among the princely states which preferred to be independent was the State of Vormir which shared borders with the Asgard and Titan. The ruler of the princely state of Vormir was a Marvel while maximum population of the state followed Gothism therefore the ruler exercised its right to self -determination and decided to remain sovereign.
4. Soon there was an invasion in Vormir by the tribesmen and the army from Titan, the ruler sought the help of Asgard, which in turn led to the accession of Vormir to Asgard by signing of the Instrument of Accession on October 26, 1947. Asgardian and Titan forces thus fought their first war over Vormir in 1947-48. Soon Asgard referred the dispute to the United Nations. It asked Titan and Asgard to remove its troops conduct a "free and fair" plebiscite to allow people of Vormir to decide their future. Titan ignored the UN mandate and continued fighting. On January 1, 1949, a ceasefire was agreed and the part of the state of Vormir which was captured by Titan was declared to be belonging to the Union of Asgard. Both Asgard and Vormir also formed a treaty that they will solve their disputes mutually over Vormir.
5. The accession of Vormir led to inclusion of Article 370 in Part XXI of the Constitution of Asgard under the heading 'Temporary, Transitional and Special Provisions'. According to this article, except for defence, foreign affairs, and communications it restricted the Parliament's legislative powers in respect of Vormir. For extending a central law on subjects included in the Instrument of Accession (IoA), mere "consultation" with the state government was needed. But for extending it to other matters, "concurrence" of the state government was mandatory. Thus, the state's residents live under a separate set of laws.

6. In 1952 Vormir leaders discussed their relationship with the Asgard which led to a comprehensive Sakaar Agreement. The agreement extended Asgardian citizenship to the 'State subjects' of Vormir. In the light of agreement 'Article 35A' was added to the Constitution of Asgard by the Constitution (Application to Vormir) Order, 1954. It extended several provisions of the Asgardian constitution to Vormir and under the Article all identified residents are issued a permanent resident certificate, which entitles them to special benefits related to employment, scholarships, ownership and settlement.
7. The Article 35A is criticised for it creates a "class within a class of Asgardian citizens" and it was included by the executive head without any discussion in the Parliament. Further it only appears in the appendix of the Constitution of Asgard. However, legal experts are of the view that the article cannot be revoked as it was issued in exercise of the powers conferred by Article 370 (1) of the Asgard Constitution, which allows the state to enjoy autonomy.
8. In the year 1956, Vormir adopted its Constitution and defined itself as an integral part of Asgard under Part II. This left no possibility of a plebiscite. Asgard changed the titles of Prime Minister and Sadr-i-Riyasat to Chief Minister and Governor, respectively.
9. Article 370 was supposed to be interpreted as temporary in the sense that the Vormir Constituent Assembly had a right to modify/delete/retain it and it shall continue until a plebiscite happens as per the UN guidelines. The State's constituent assembly dissolved itself on 25 January 1957 without recommending either abrogation or amendment of the Article. Although the Article 370(3) permits deletion by a Presidential Order. Such an order, however, is to be preceded by the concurrence of Vormir's Constituent Assembly. Since the Assembly was dissolved the future of the Article became uncertain. Uncertainty prompted an incessant situation in the State and tension between the Titan, Asgard and Vormir. In the following time Vormir witnessed a steady rise of militant outfits, several unstable governments, arrests and violent killings.
10. Ever since the Odin Janata Party (OJP), a prominent political party in Asgard came to power at the Centre in 2014, scraping of Special Status of Vormir was one of the goals in their manifesto. In 2016 the party formed a coalition government with Vormir's Democratic Party (VDP) in the State of Vormir. During this time there were many calls by the party ideologues to scrap the Articles 370 and 35A. When it

returned to power in Asgard in 2019 they were again pressurised for their long-awaited manifesto promise of abrogation of the Articles.

11. On 25 July, Howard Singh the OJP Leader in Vormir withdrew its support to the ruling VDP. He also held a conference the next day and pointed that Gamora Mufti has links with terrorists and is corrupt in her practices. She has hollowed Vormir's positive aspirations and continuing a government with her party is not possible anymore. VDP lost majority in the State and Gamora Mufti's supporters who consider her as the "Daughter of Vormir" broke into a mass rebellion. There was continuous stone pelting and attack on the army personnel's in the state. Thanos Abdullah leader of opposition party, Vormir National Conference (VNC) held a conference on the morning of 30 July that he will support VDP to again form government. On the same day by afternoon the Governor of Vormir send a report to the President for imposition of President's Rule in the State under Article 356 of the Constitution of Asgard. He cited breakdown of constitutional machinery and law and order as reasons for the same.
12. The Odin Janata party who had been opposing the special status for Vormir for a long time soon proposed the Constitutional (Application to Vormir) Order, 2019 to repeal the Articles and called for bifurcation of the state into two union territories that is; Wakanda (centrally administered) and Vormir (with its legislative assembly) by introducing the Vormir Reorganisation Bill, 2019. The government used the "Interpretation clause" of Article 367 of the Asgardian Constitution wherein the reference to "Constituent Assembly" was to be read as "Legislative Assembly of the State" and all the references to "Sardar-i-Riyasat" were to be considered as referring to Governor of the State and imposed Governor's Rule in the state which basically transferred all the powers to the governor, who abrogated the provision without consultation with the State Government.
13. Prominent Vormir leaders, including former Chief Minister Gamora Mufti and opposition leader, Thanos Abdullah were placed under house arrest after imposition of President's Rule. Internet and mobile services were curtailed, and Section 144 of Criminal Code of Procedure, 1973 was imposed. Opposition parties protested in parliament against the Bill and the complete shutdown of the Vormir valley. Government's move was criticised as the Reorganization bill breached the 1954 Presidential Order as no consent or concurrence of the Legislature or the State

Government was taken at any point. Further the state was locked down by imposing Sec. 144.

14. The present government claimed that integrating Vormir with rest of Asgard was necessary because the former was under-developed with respect to healthcare, poverty, economic growth as compared to the rest of Asgard and this integration will open opportunities for them. It also argued that due to presence of the Articles 370 and 35A there is unceasing uprising in the state it was becoming a brooding ground for terrorists. It justified its action by saying scrapping of the articles will support "One Nation, One Constitution" theory and that this will help end violence and enable people to access government schemes such as reservation, right to education, ownership and right to information among others which are provided under various enactments. It also voiced the reason of discrimination being practiced against Vormir women population as a reason for the ending the special status.
15. The Special Status also creates discrimination with citizens of Vormir and the rest of citizens of Asgard. The articles prohibit the citizens of Asgard from exercising their fundamental rights in the State of Vormir. Although Vormir is an integral part of Asgard yet it has a separate flag and set of rules for the people of Asgard who are not state citizen. Thus, fundamental rights of State of Vormir stand in contrast with those of Asgard.
16. The sudden abrogation and its procedure invited more than a dozen petitions. The pleas have been filed by a variety of persons, including lawyers, artists, bureaucrats and politicians. The petitions have alleged that the Article 370 amendment could not have been done without the concurrence of a duly elected Constituent Assembly in Vormir. Gamora Mufti approached the Court against her house detention. Thanos Abdullah filed writ petition against the imposition of President's Rule in the state without giving chance for floor test. The decision to substitute the "Governor" as the authority to recommend and ratify proposals to change the legal status of the State, according to the petitioners, is "illegal and unconstitutional."
17. A plea was also made by a Sakaar State Vision NGO, it flagged the issue of freedom of the press being violated and imposition of Section 144 they pointed out that essential services including ambulances, police and fire services are also not accessible due to the curfew situation and communication blockade. They claimed that they had tried to contact the local administration to get news about the status of people living in State of Vormir, but the "entire Valley seemed to be under detention."

18. The Government has stated that the essential services are not completely banned. Telephone booths have been established at many places, medical and other necessary services are also been provided by the government according to allotted time schedule and only the usage of private services is been prohibited. It further stated that internet services had to be shunned for it was being misused to intensify the mass rebellion in the state.
19. The petitions before the court have cited many grounds for challenging the President's Order. A substantial question is whether a federal unit can be downgraded from the status of a State to that of a Union Territory, a move for which there is no precedent. The constitutional morality of the rest of the country deciding the destiny of a State without the consent or participation of its citizens is also a serious issue brought before the courts.
20. The apex court clubbed all the petitions and the following issues are now pending before the Hon'ble Supreme Court of Asgard, to be decided on 16 February, wherein arguments have to be made on the following issues:
- I. Whether the petitions are maintainable or not?
 - II. Whether imposition of President's Rule under Article 356 of the Constitution of Asgard valid?
 - III. Whether enforcement of Constitution (Application to Vormir) Order, 2019 in the State of Vormir valid?
 - IV. Whether imposition of Section 144 of Criminal Code of Procedure and the House Arrest of prominent political leaders of the State of Vormir valid?
 - V. Whether the reorganisation of the State of Vormir into Union Territories of Wakanda and Vormir valid?

Note: The laws of Union of Asgard and State of Vormir are pari materia to that of Union of India and State of Jammu and Kashmir respectively.

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