

LAW AND OPINION**The apex court should decide on Kashmir without being swayed by popular mood**

The Supreme Court's decision to form a five-member Constitution Bench to examine the validity of the abrogation of the special status given to Jammu and Kashmir puts an end to apprehensions that its response to the Centre's legal measures since August 5 will only be one of quiet acquiescence. The court appeared reluctant to intervene in the immediate aftermath of the decisions when the restrictions imposed on political activity, communications and movement of the people were challenged. Instead, it chose to give enough time to the Centre to stabilise the situation. It seemed to afford wide latitude to the executive to decide the extent to which fundamental rights, including the freedom of the media, would be restricted in the name of achieving greater integration of Jammu and Kashmir with India and preparing for its development. In some habeas corpus matters, the court is yet to examine the legality of the detention of the persons concerned. True relief in such cases lies in ascertaining the whereabouts of a detenu and determining the lawfulness of the detention, but in a couple of matters, the court has only "allowed" the petitioners to travel to Kashmir and meet the detenus. Lawyers and activists have begun drawing parallels with the court's infamous approbation of the suspension of the writ of habeas corpus during the Emergency in the ADM Jabalpur case.

The petitions before the court cite many grounds for challenging the President's August 5 Order, by which the Order of 1954, which set out the constitutional provisions applicable to J&K, was superseded. A substantial question is on the validity of the substitution of the concurrence of the Governor for that of the government while under President's Rule; in effect, the Centre is taking its own consent to alter the status of the State. The replacement of the term 'Constituent Assembly' (of J&K) found in Article 370 with the term 'Legislative Assembly' is also under challenge. Another question that looms large 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 the court cannot ignore. It does appear that there is widespread popular support for the government's decision to declare Article 370 inoperative and to divide the State into two Union Territories. Yet, the court is duty-bound to examine the legality of the measures taken by the President and Parliament on August 5 and 6. The challenge before the court is to give a

reasoned verdict on these questions of constitutional importance, with far-reaching implications for democracy and federalism, without being swayed by the popular mood in J&K or the rest of India.

<u>Words</u>	<u>Kind</u>	<u>Meaning</u>
Apex	Noun	Tip, peak, summit, pinnacle, top, crest, vertex
Sway	Verb	Swing, shake, oscillate, undulate
Abrogation	Noun	Repudiation, revocation, abolition, over riding
Apprehension	Adj.	Anxiety, angst, uneasiness, nervousness
Acquiesce	Verb	Agree to, consent to, allow accept
Reluctant	Adj.	Unwilling, apathetic, uninterested
Aftermath	Noun	Result, outcome, repercussions, consequences
Stabilise	Verb	Root, becalm, calm, steady
Latitude	Noun	Freedom, leeway, elbow room
Habeas corpus		A writ requiring a person under arrest to be brought before a judge
Detenu	Noun	A person held in custody
Detention	Noun	Custody, imprisonment, incarceration
Ascertain	Verb	Find out, discover, establish, discover
Where about	Noun	Location, position, site, place, situation
Supersede	Verb	Replace, supplant, displace, oust
Concurrence	Noun	Agreement, consistency, accord
Consent	Noun	Agreement, assent, concurrence, accord
Alter	Verb	Change, mutate, transmute, metamorphose
Downgrade	Verb	Decrease, diminish, belittle, relegate
Verdict	Noun	Judgement, adjudication, decision, finding, decree
Precedent	Noun	Model, exemplar, pattern, prior, instance
Implication	Noun	Suggestion, inference, insinuation, innuendo
Loom	Verb	Emerge, appear, become, visible, materialize, appear Indistinctly

THINKERING FOR OPTICS

The latest FDI rule changes may not be enough to draw a rush of investments

On the face of it, the Centre's announcement on Foreign Direct Investment (FDI) norms on Wednesday appears to be one more push to make India a more attractive destination to

overseas investors, especially those keen on entering the market for the long haul. From extending the available 100% FDI under the automatic route in the coal mining sector (till now permitted only for captive consumption) to include those companies seeking to commercially sell the commodity, to distinctly including contract manufacturing under the automatic 100% route and easing local sourcing norms for overseas investors in the Single Brand Retail Trading (SBRT) business, the changes in investment guidelines approved by the Cabinet have been touted as “FDI policy reform”. The government, clearly concerned by the economic slowdown and persistently weak investment activity, has sought to provide a policy fillip to attract more foreign capital into sectors that it sees as having a multiplier effect particularly in terms of job creation. One must also consider the pressing contexts. Earlier this month, the RBI pointed out that net FDI flows had moderated to \$6.8 billion over the first two months of the current fiscal year, from \$7.9 billion in April-May 2018. And with Prime Minister Narendra Modi having set a goal of ensuring India becomes a \$5 trillion economy within the next five years, the overall consumptive capacity needs to be raised manifold to undergird demand growth. To that end, the act of widening reforms in coal mining, manufacturing and retail is completely understandable.

A closer examination, however, raises several concerns about the ultimate attractiveness of these changes. For instance, the tweaks to investment norms on coal appear at first flush to be a win-win for both the economy at large and the coal industry, the environmental costs of focusing on one of the most polluting fossil fuels notwithstanding. This is predicated on the prospect of seeing an influx of both capital and modern technology into mining and processing, as well as raising domestic supply of the key raw material for power, steel and cement production thereby cutting costly and burgeoning imports. But for foreign mining companies to make a beeline to pitheads, several related regulatory and market challenges will have to be addressed post-haste. Large miners will need economies of scale and so require access to large contiguous fields with minimal bureaucratic constraints on operations. While domestic thermal power plants have had to rely on increased imports in recent times, many of the electricity producers themselves are in financial stress. How much additional investments may actually accrue is not clear.

<u>Words</u>	<u>Kind</u>	<u>Meaning</u>
Announcement	Noun	Declaration, statement, proclamation, pronouncement
Keen	Adj.	Eager, anxious, impatient, determined, longing

Haul	Verb	Drag, pull, tug, heave, draw, tow, man handle
Consumption	Noun	Using up, use, utilization, expending, expenditure
Norms	Noun	Standard, usual, normal, typical, average
Tout	Verb	Acclaim, applaud, extol, laud, commend, magnify
Persistent	Adj.	Tenacious, preserving, determined, resolute
Fillip	Noun	Stimulus, boost, encouragement, incitement
Pressing	Adj.	Urgent, acute, grave, dire, desperate
Tweak	Verb	Pull sharply, twist, tug, pinch, twitch
Pollute	Verb	Contaminate, adulterate, doctor, taint, foul
Fossil fuel	Verb	Natural, fuel, e.g. – coal, gas, etc
Influx	Verb	Inundation, inrush, stream, ingress
Burgeon	Verb	Grow rapidly, mushroom, snow ball, proliferate
Pithead	Noun	The top of a mining pit
Contiguous	Adj.	Adjacent, neighbouring, adjoining
Accrue	Verb	Result, arise, ensue, emanate, stem