

Chapter - 5

UNION AND ITS TERRITORY

Articles 1 to 4 under Part-I of the Constitution deal with the Union and its territory.

According to article 1, the territory of India can be classified into three categories:

1. Territories of the states
2. Union territories
3. Territories that may be acquired by the Government of India at any time.

The names of states and union territories and their territorial extent are mentioned in the first schedule of the Constitution. Being a sovereign state, India can acquire foreign territories according to the modes recognised by international law, i.e., cession (following treaty, purchase, gift, lease or plebiscite), occupation (hitherto unoccupied by a recognised ruler), conquest or subjugation.

Article 2 grants two powers to the Parliament: (a) the power to admit into the Union of India new states; and (b) the power to establish new states. Article 2 relates to the admission or establishment of new states that are not part of the Union of India. Article 3, on the other hand, relates to the formation of or changes in the existing states of the Union of India.

PARLIAMENT'S POWER TO REORGANISE THE STATES

Article 3 authorises the Parliament to:

- (a) from a new state by separation of territory from any state or by uniting two or more states or parts of states or by uniting any territory to a part of any state.
- (b) increase the area of any state,
- (c) diminish the area of any state,
- (d) alter the boundaries of any state, and
- (e) alter the name of any state.

However, Article 3 lays down two conditions in this regard: one, a bill contemplating the above changes can be introduced in the Parliament only with the prior recommendation of the President; and two, before recommending the bill, the President has to refer the same to the state legislature concerned for expressing its views within a specified period.

It is thus clear that the Constitution authorises the Parliament to form new states or alter the areas, boundaries or names of the existing states without their consent. In other words, the Parliament can redraw the political map of India according to its will. Hence, the territorial integrity or continued existence of any state is not guaranteed by the Constitution.

Moreover, the Constitution (Article 4) itself declares that laws made for admission or establishment of new states (under Article 2) and formation of new states and alteration of areas, boundaries or name of existing states (under Article 3) are not to be considered as amendments of the Constitution under Article 368. This means that such laws can be passed by a simple majority and by the ordinary legislative process.

EVOLUTION OF STATES AND UNION TERRITORIES

Integration of Princely States

The Indian Independence Act (1947) created two independent and separate dominions of India and Pakistan and gave three options to the princely states viz., joining India, joining Pakistan or remaining independent. Of the 552 princely states situated within the geographical boundaries of India, 549 joined India and the remaining 3 (Hyderabad, Junagarh and Kashmir) refused to join India. However, in course of time, they were also integrated with India—Hyderabad by means of police action, Junagarh by means of referendum and Kashmir by the Instrument of Accession.

Dhar Commission and JVP Committee

The integration of princely states with the rest of India has purely an ad hoc arrangement. There has been a demand from different regions, particularly South India, for Reorganisation of states on linguistic basis. Accordingly, in June 1948, the Government of India appointed the Linguistic Provinces Commission under the chairmanship of S K Dhar to examine the feasibility of this. The commission submitted its report in December 1948 and recommended the reorganisation of states on the basis of administrative convenience rather than linguistic factor. This created much resentment and led to the appointment of another Linguistic Provinces Committee by the Congress in December 1948 itself to examine the whole question afresh. It consisted of Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramayya and hence, was popularly known as JVP Committee. It submitted its report in April 1949 and formally rejected language as the basis for reorganisation of states.

However, in October 1953, the Government of India was forced to create the first linguistic state, known as Andhra state, by separating the Telugu speaking areas from the Madras state. This followed a prolonged popular agitation and the death of Potti Sriramulu, a Congress person of standing, after a 56-day hunger strike for the cause.

Fazl Ali Commission

The creation of Andhra state intensified the demand from other regions for creation of states on linguistic basis. This forced the Government of India to appoint (in December 1953) a three-member States Reorganisation Commission under the chairmanship of Fazl Ali to re-examine the whole question. Its other two members were K M Panikkar and H N Kunzru. It submitted its report in September 1955 and broadly accepted language as the basis of reorganisation of states. But, it rejected the theory of 'one language-one state'. Its view was that the unity of India should be regarded as the primary consideration in any redrawing of the country's political units. It identified four major factors that can be taken into account in any scheme of reorganisation of states:

- (a) Preservation and strengthening of the Unity and security of the country.
- (b) Linguistic and cultural homogeneity.
- (c) Financial, economic and administrative considerations.
- (d) Planning and promotion of the welfare of the people in each state as well as of the nation as a whole.

The commission suggested the abolition of the four-fold classification of states under the original Constitution and creation of 16 states and 3 centrally administered territories. The Government of India accepted these recommendations with certain minor modifications. By the States Reorganisation Act (1956) and the 7th Constitutional Amendment Act (1956) the distinction between Part-A and Part-B states was done away with and Part-C states were abolished. Some of them were merged with adjacent states and some other were designated as union territories. As a result, 14 states and 6 union territories were created on November 1, 1956

New States and Union Territories Created After 1956

Maharashtra and Gujarat:

In 1960 the bilingual state of Bombay was divided into two separate states—Maharashtra for Marathi-speaking people and Gujarat for Gujarati-speaking people.

Dadra and Nagar Haveli:

The Portuguese ruled this territory until its liberation in 1954. Subsequently, the administration was carried on till 1961 by an administrator chosen by the people themselves. It was converted into a union territory of India by the 10th Constitutional Amendment Act, 1961.

Goa, Daman and Diu:

India acquired these three territories from the Portuguese by means of a police action in 1961.

Puducherry:

The territory of Puducherry comprises the former French establishments in India known as Puducherry, Karaikal, Mahe and Yanam. The French handed over this territory to India in 1954.

Nagaland:

In 1963, the State of Nagaland was formed by taking the Naga Hills and Tuensang area out of the state of Assam.

Haryana, Chandigarh and Himachal Pradesh:

In 1966, the State of Punjab was bifurcated to create Haryana, the 17th state of the Indian Union, and the union territory of Chandigarh. On the recommendation of the Shah Commission (1966), the Punjabi-speaking areas

were constituted into the unilingual state of Punjab, the Hindi-speaking mean were constituted into the State of Haryana. In 1971, the union territory of Himachal Pradesh was elevated to the status of a state (18th state of the Indian Union.)

Manipur, Tripura, Meghalaya and Sikkim :

In 1972, the political map of Northeast India underwent a major change. Thus, the two Union Territories of Manipur and Tripura and the Sub-State of Meghalaya got statehood and in 1947, Sikkim was an Indian princely state ruled by Chogyal. In a referendum held in 1975, they voted for the abolition of the institution of Chogyal and Sikkim becoming an integral part of India.

Mizoram, Arunachal Pradesh and Goa :

In 1987, three new, States of Mizoram, Arunachal Pradesh and Goa came into being as the 23rd, 24th and 25th states of the Indian Union respectively.

Chhattisgarh, Uttarakhand and Jharkhand:

In 2000, three more new States of Chhattisgarh, Uttarakhand and Jharkhand were created out of the territories of Madhya Pradesh, Uttar Pradesh and Bihar respectively.

<u>Schedules of the Constitution at a Glance</u>		
Number	Subject Matter	Articles Covered
First Schedule	: 1. Names of the States and their Territorial Jurisdiction. 2. Name of the The Union Territories and their extent.	1 and 4
Second Schedule	: Provisions relating to the emoluments, allowances, privileges and so on of: 1. The President of India 2. The Governors of States 3. The Speaker and the Deputy Speaker of the Lok Sabha 4. The Chairman and the Deputy Chairman of the Rajya Sabha 5. The Speaker and the Deputy Speaker of the Legislative Assembly in the states 6. The Chairman and the Deputy Chairman of the Legislative Council in the states 7. The Judges of the Supreme Court 8. The judges of the High Courts 9. The Comptroller and Auditor-General of India	59, 65, 75, 97, 125, 148, 158, 164, 186 & 221
Third Schedule	: Forms of Oaths or Affirmations for: 1. The Union ministers 2. The candidates for election to the Parliament 3. The members of Parliament 4. The judges of the Supreme Court 5. The Comptroller and Auditor-General of India 6. The state ministers	75, 84, 99, 124, 146, 173, 188 and 219

	7. The candidates for election to the state legislature	
	8. The members of the state legislature	
	9. The judges of the High Courts	
Fourth Schedule	: Allocation of seats in the Rajya Sabha to the states and the union territories.	4 and 80
Fifth Schedule	: Provisions relating to the administration and control of scheduled areas and Scheduled tribes.	244
Sixth Schedule	: Provisions relating to the administration of tribal areas in the states of Assam, Meghalays, Tripura and Mizoram.	244 and 275
Seventh Schedule	: Division of powers between the Union and the States in terms of List I (Union List), List II (State List) and List III (Concurrent List). Presently, the Union List contains 100 subjects (originally 97), the state list contains 61 subjects (originally 66) and the concurrent list contains 52 subjects (originally 47).	246
Eighth Schedule	Languages recognized by the Constitution. Originally, it had 14 languages but presently there are 22 languages. They are: Assamese, Bengali, Bodo, Dogri (Dongri), Gujarati, Hindi, Kannada, Kashmiri, Konkani, Maithili (Maithili), Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santhali, Sindhi, Tamil, Telugu and Urdu. Sindhi was added by the 21 st Amendment Act of 1967; Konkani, Manipuri and Nepali were added by the 71 st Amendment Act of 1992; and Bodo, Dongri, Maithili and Sandthali were added by the 92 nd Amendment Act of 2003.	344 and 351
Ninth Schedule	Acts and Regulation (originally 13 but presently 282) of the state legislatures dealing with land reforms and abolition of the zamindari system and of the Parliament dealing with other matters. This schedule was added by the 1 st Amendment (1951) to protect the laws included in it from judicial scrutiny on the ground of violation of fundamental rights. However, in 2007 the Supreme Court ruled that the laws included in this schedule after April 24, 1973, are now open to judicial review.	31 - B
Tenth Schedule	Provisions relating to disqualification of the members of Parliament and State Legislatures on the ground of defection.	102 and 191

	This schedule was added by the 52 nd Amendment Act of 1985, also known as Anti-defection law.	
Eleventh Schedule	Specifies the powers, authority and responsibilities of Panchayats. It has 29 matters. This schedule was added by the 73 rd Amendment Act of 1992.	243 - G
Twelfth Schedule	Specifies the powers, authority and responsibilities of Municipalities. It has 18 matters. This schedule was added by the 74 th Amendment Act of 1992.	243 - W

Sources of the Constitution at a Glance

Sources	Features Borrowed
1. Government of India Act of 1935	Federal Scheme, Office of governor, Judiciary, Public Service Commissions, Emergency provisions and administrative details.
2. British Constitution	Parliamentary government, Rule of Law, Legislative procedure, single citizenship, cabinet system, prerogative writs, parliamentary privileges and bicameralism.
3. US Constitution	Fundamental rights, independence of judiciary, judicial review, impeachment of the president, removal of Supreme Court and high court judges and post of vice-president.
4. Irish Constitution	Directive Principles of State Policy, nomination of members to Rajya Sabha and method of election of president.
5. Canadian Constitution	Federation with a strong Centre, vesting of residuary power in the Centre, appointment of state governors by the Centre, and advisory jurisdiction of the Supreme Court.
6. Australian Constitution	Concurrent List, Freedom of trade, commerce and intercourse, and joint sitting of the two Houses of Parliament.
7. Weimar Constitution of Germany	Suspension of Fundamental Rights during Emergency.
8. Soviet Constitution (USSR, now Russia)	Fundamental duties and the ideal of justice (social, economic and political) in the Preamble.
9. French Constitution	Republic and the ideals of liberty, equality and fraternity in the Preamble.
10. South African Constitution	Procedure for amendment of the Constitution and election of members of Rajya Sabha.
11. Japanese Constitution	Procedure established by Law.