5

Union and its Territory

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

Union of States

Article 1 describes India, that is, Bharat as a 'Union of States' rather than a 'Federation of States'. This provision deals with two things: one, name of the country, and two, type of polity.

There was no unanimity in the Constituent Assembly with regard to the name of the country. Some members suggested the traditional name (Bharat) while other advocated the modern name (India). Hence, the Constituent Assembly had to adopt a mix of both ('India, that is, Bharat')

Secondly, the country is described as 'Union' although its Constitution is federal in structure. According to Dr B R Ambedkar, the phrase 'Union of States' has been preferred to 'Federation of States' for two reasons: one, the Indian Federation is not the result of an agreement among the states like the American Federation; and two, the states have no right to secede from the federation. The federation is an Union because it is indestructible. The country is an integral whole and divided into different states only for the convenience of administration¹.

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. At present, there are 29 states and 7 union territories. The provisions of the Constitution pertaining to the states are applicable to all the states (except Jammu and Kashmir)² in the same manner. However, the special provisions (under Part XXI) applicable to the States of Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Telangana, Sikkim, Mizoram, Arunanchal Pradesh, Goa and Karnataka override the general provisions relating to the states as a class. Further, the Fifth and Sixth Schedules contain separate provisions with respect to the administration of scheduled areas and tribal areas within the states.

Notably, the 'Territory of India' is a wider expression than the 'Union of India' because the latter includes only states while the former includes not only the states but also union territories and territories that may be acquired by the Government of India at any future time. The states are the members of the federal system and share a distribution of powers with the Centre. The union territories and the acquired territories, on the other hand, are directly administered by the Central government.

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. For example, India acquired several foreign territories such as Dadra and Nagar Haveli; Goa, Daman and Diu; Puducherry; and Sikkim since the commencement of the Constitution. The acquisition of these territories are discussed later in this chapter.

Article 2 empowers the Parliament to 'admit into the Union of India, or establish, new states on such terms and conditions as it thinks fit'. Thus, 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. The first refers to the admission of states which are already in existence while the

second refers to the establishment of states which were not in existence before. Notably, 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. In other words, Article 3 deals with the internal re-adjustment inter se of the territories of the constituent states of the Union of India.

Parliament's Power to Reorganise the States

Article 3 authorises the Parliament to:

- (a) form 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 legistature concerned for expressing its views within a specified period.

Further, the power of Parliament to form new states includes the power to form a new state or union territory by uniting a part of any state or union territory to any other state or union territory³.

The President (or Parliament) is not bound by the views of the state legislature and may either accept or reject them, even if the views are received in time. Further, it is not necessary to make a fresh reference to the state legislature every time an amendment to the bill is moved and accepted in Parliament⁴. In case of a union territory, no reference need be made to the concerned legislature to ascertain its views and the Parliament can itself take any action as it deems fit.

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. Therefore, India is rightly described as 'an indestructible union of destructible states'. The Union government can destroy the states whereas the state governments cannot destroy the Union. In USA, on the other hand, the territorial integrity or continued existence of a state is guaranteed by the Constitution. The American Federal government cannot form new states or alter the borders of existing states without the consent of the states concerned. That is why the USA is described as 'an indestructible union of indestructible states.'

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 names of existing states (under Articles 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.

Does the power of Parliament to diminish the areas of a state (under Article 3) include also the power to cede Indian territory to a foreign country? This question came up for examination before the Supreme Court in a reference made by the President in 1960. The decision of the Central government to cede part of a territory known as Berubari Union (west Bengal) to Pakistan led to political agitation and controversy and thereby necessitated the Presidential reference. The Supreme Court held that the power of Parliament to diminish the area of a state (under Article 3) does not cover cession of Indian territory to a foreign country. Hence, Indian territory can be ceded to a foreign state only by amending the Constitution under Article 368. Consequently, the 9th Constitutional Amendment Act (1960) was enacted to transfer the said territory to Pakistan.

On the other hand, the Supreme Court in 1969 ruled that, settlement of a boundary dispute between India and another country does not require a constitutional amendment. It can be done by executive action as it does not involve cession of Indian territory to a foreign country.

The 100th Constitutional Amendment Act (2015) was enacted to give effect to the acquiring of certain territories by India and transfer of certain other territories to Bangladesh in pursuance of the agreement and its protocol entered into between the Governments of India and Bangladesh. Under this

deal, India transferred III enclaves to Bangladesh, while Bangladesh transferred 51 enclaves to India. In addition, the deal also involved the transfer of adverse possessions and the demarcation of a 6.1-km undemarcated border stretch. For these three purposes, the amendment modified the provisions relating to the territories of four states (Assam, West Bengal, Meghalaya and Tripura) in the First Schedule of the Constitution. The background of this amendment is as follows:

- 1. India and Bangladesh have a common land boundary of approximately 4096.7 kms. The India-East Pakistan land boundary was determined as per the Radcliffe Award of 1947. Disputes arose out of some provisions in the Radcliffe award, which were sought to be resolved through the Bagge Award of 1950. Another effort was made to settle these disputes by the Nehru-Noon Agreement of 1958. However, the issue relating to division of Berubari Union was challenged before the Supreme Court. To comply with the opinion rendered by the Supreme Court, the Constitution (Ninth Amendment) Act, 1960 was passed by the Parliament. Due to the continuous litigation and other political developments at that time, the Constitution (Ninth Amendment) Act, 1960 could not be notified in respect of territories in former East Pakistan (presently Bangladesh). 4a
- 2. On 16th May, 1974, the Agreement between India and Bangladesh concerning the demarcation of the land boundary and related matters was signed between both the countries to find a solution to the complex nature of the border demarcation involved. This Agreement was not ratified as it involved, inter alia, transfer of territory which requires a Constitutional Amendment. In this connection, it was also required to identify the precise area on the ground which would be transferred. Subsequently, the issues relating to demarcation of un-demarcated boundary; the territories in adverse possession; and exchange of enclaves were identified and resolved by signing a Protocol on 6th September, 2011, which forms an integral part of the Land Boundary Agreement between India and Bangladesh, 1974. The Protocol was prepared with support and concurrence of the concerned State Governments of Assam, Meghalaya, Tripura and West Bengal. 4b

EVOLUTION OF STATES AND UNION TERRITORIES

Integration of Princely States

At the time of independence, India comprised two categories of political units, namely, the British provinces (under the direct rule of British government) and the princely states (under the rule of native princes but subject to the paramountcy of the British Crown). 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.

In 1950, the Constitution contained a four-fold classification of the states of the Indian Union—Part A, Part B, Part C and Part D State⁵. In all, they numbered 29. Part-A states comprised nine erstwhile governor's provinces of British India. Part-B states consisted of nine erstwhile princely states with legislatures. Part-C states consisted of erstwhile chief commissioner's provinces of British India and some of the erstwhile princely states. These Part-C states (in all 10 in number) were centrally administered. The Andaman and Nicobar Islands were kept as the solitary Part-D state.

Table 5.1 *Territory of India in 1950*

States in Part-A	States in Part-B	States in Part-C	States in Part-D
1. Assam	1. Hyderabad	1. Ajmer	1. Andaman and Nicobar Islands
2. Bihar	2. Jammu and Kashmir	2. Bhopal	
3. Bombay	3. Madhya Bharat	3. Bilaspur	
4. Madhya Pradesh	4. Mysore	4. Cooch- Behar	

5. Madras	5. Patiala and East Punjab	5. Coorg	
6. Orissa	6. Rajasthan	6. Delhi	
7. Punjab	7. Saurashtra	7. Himachal Pradesh	
8. United Provinces	8. Travancore-Cochin	8. Kutch	
9. West Bengal	9. Vindhya Pradesh	9. Manipur	
		10. Tripura	

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, Vallahbhai Patel and Pattabhi Sitaramayya and hence, was popularly known as JVP Committee⁶. 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, 1956.⁷

Table 5.2 *Territory of India in 1956*

States	Union Territories
1. Andra Pradesh	1. Andaman and Nicobar Islands
2. Assam	2. Delhi
3. Bihar	3. Himachal Pradesh

4. Bombay	4. Laccadive, Minicoy and Amindivi Islands
5. Jammu and Kashmir	5. Manipur
6. Kerala	6. Tripura
7. Madhya Pradesh	
8. Madras	
9. Mysore	
10. Orissa	
11. Punjab	
12. Rajasthan	
13. Uttar Pradesh	
14. West Bengal	

The States Reorganisation Act of 1956 established the new state of Kerala by merging the Travancore – Cochin State with the Malabar District of Madras state and Kasargode of South Canara (Dakshina Kannada). It merged the Telugu-speaking areas of Hyderabad state with the Andhra state to create the Andhra Pradesh state. Further, it merged the Madya Bharat state, Vindya Pradesh state and Bhopal state into the Madya Pradesh state. Similarly, it merged the Saurashtra state and Kutch state into that of the Bombay state, the Coorg state into that of Mysore state; the Patiala and East Punjab States Union (Pepsu) into that of Punjab state; and the Ajmer state into that of Rajastan state. Moreover, it created the new union territory of Laccadive, Minicoy and Amindivi Islands from the territory detached from the Madras state.

New States and Union Territories Created After 1956

Even after the large-scale reorganisation of the states in 1956, the political map of India underwent continuous change due to the pressure of popular agitations and political conditions. The demand for the creation of some more states on the basis of language or cultural homogeneity resulted in the bifurcation of existing states.

Maharashtra and Gujarat In 1960, the bilingual state of Bombay was divided⁸ into two separate states—Maharashtra for Marathi-speaking people and Gujarat for Gujarati-speaking people. Gujarat was established as the 15th state of the Indian Union.

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. They were constituted as a union territory by the 12th Constitutional Amendment Act, 1962. Later, in 1987, Goa was conferred a statehood. Consequently, Daman and Diu was made a separate union territory.

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. Subsequently, it was administered as an 'acquired territory', till 1962 when it was made a union territory by the 14th Constitutional Amendment Act.

Nagaland In 1963, the State of Nagaland was formed¹⁰ by taking the Naga Hills and Tuensang area out of the state of Assam. This was done to satisfy the movement of the hostile Nagas. However, before giving Nagaland the status of the 16th state of the Indian Union, it was placed under the control of governor of Assam in 1961.

Haryana, Chandigarh and Himachal Pradesh In 1966, the State of Punjab was bifurcated¹¹ to create Haryana, the 17th state of the Indian Union, and the union territory of Chandigarh. This followed the demand for a separate 'Sikh Homeland' (Punjabi Subha) raised by the Akali Dal under the leadership of Master Tara Singh. On the recommendation of the Shah Commission (1966), the punjabi-speaking areas were constituted into the unilingual state of Punjab, the Hindi-speaking areas were constituted into the

State of Haryana and the hill areas were merged with the adjoining union territory of Himachal Pradesh. In 1971, the union territory of Himachal Pradesh was elevated¹² to the status of a state (18th state of the Indian Union).

Manipur, Tripura and Meghalaya In 1972, the political map of Northeast India underwent a major change. ¹³ Thus, the two Union Territories of Manipur and Tripura and the Sub-State of Meghalaya got statehood and the two union territories of Mizoram and Arunachal Pradesh (originally known as North-East Frontier Agency—NEFA) came into being. With this, the number of states of the Indian Union increased to 21 (Manipur 19th, Tripura 20th and Meghalaya 21st). Initially, the 22nd Constitutional Amendment Act (1969) created Meghalaya as an 'autonomous state' or 'substate' within the state of Assam with its own legislature and council of ministers. However, this did not satisfy the aspirations of the people of Meghalaya. The union territories of Mizoram and Arunachal Pradesh were also formed out of the territories of Assam.

Sikkim Till 1947, Sikkim was an Indian princely state ruled by Chogyal. In 1947, after the lapse of British paramountcy, Sikkim became a 'protectorate' of India, whereby the Indian Government assumed responsibility for the defence, external affairs and communications of Sikkim. In 1974, Sikkim expressed its desire for greater association with India. Accordingly, the 35th Constitutional Amendment Act (1974) was enacted by the parliament. This amendment introduced a new class of statehood under the constitution by conferring on Sikkim the status of an 'associate state' of the Indian Union. For this purpose, a new Article 2A and a new schedule (Tenth Schedule containing the terms and conditions of association) were inserted in the Constitution. This experiment, however, did not last long as it could not fully satisfy the aspirations of the people of Sikkim. In a referendum held in 1975, they voted for the abolition of the institution of Chogyal and Sikkim becoming an integral part of India. Consequently, the 36th Constitutional Amendment Act (1975) was enacted to make Sikkim a full-fledged state of the Indian Union (the 22nd state). This amendment amended the First and the Fourth Schedules to the Constitution and added a new Article 371-F to

provide for certain special provisions with respect to the administration of Sikkim. It also repealed Article 2A and the Tenth Schedule that were added by the 35th Amendment Act of 1974.

Mizoram, Arunachal Pradesh and Goa In 1987, three new States of Mizoram, ¹⁴ Arunachal Pradesh ¹⁵ and Goa ¹⁶ came into being as the 23rd, 24th and 25th states of the Indian Union respectively. The Union Territory of Mizoram was conferred the status of a full state as a sequel to the signing of a memorandum of settlement (Mizoram Peace Accord) in 1986 between the Central government and the Mizo National Front, ending the two-decade-old insurgency. Arunachal Pradesh had also been a union territory from 1972. The State of Goa was created by separating the territory of Goa from the Union Territory of Goa, Daman and Diu.

Chhattisgarh, Uttarakhand and Jharkhand In 2000, three more new States of Chhattisgarh,¹⁷ Uttarakhand¹⁸ and Jharkhand¹⁹ were created out of the territories of Madhya Pradesh, Uttar Pradesh and Bihar respectively. These became the 26th, 27th and 28th states of the Indian Union respectively.

Telangana In 2014, the new state of Telangana came into existence as the 29th state of the Indian Union. It was carved out of the territories of Andhra Pradesh.

The Andhra state Act of 1953 formed the first linguistic state of India, known as the state of Andhra, by taking out the Telugu speaking areas from the State of Madras (now Tamil Nadu), Kurnool was the capital of Andhra state and the state high court was established at Guntur.

The States Reorganisation Act of 1956 merged the Telugu-speaking areas of Hyderabad state with the Andhra state to create the enlarged Andhra Pradesh state. The capital of the state was shifted to Hyderabad.

Again, the Andhra Pradesh Reorganisation Act of 2014 bifurcated the Andhra Pradesh into two separate states, namely, the Andhra Pradesh (residuary) and the Telangana. Hyderabad is made the joint capital for both the states for a period of 10 years. During this period, the Andhra Pradesh should establish its own separate capital. Similarly, the Andhra Pradesh High

Court is renamed as the Hyderabad High Court (High Court of Judicature at Hyderabad) and is made common for both the states till a separate High Court is set-up for the State of Andhra Pradesh.

Thus, the number of states and union territories increased from 14 and 6 in 1956 to 29 and 7 in 2014 respectively.²⁰

Change of Names The names of some states and union territories have also been changed. The United Provinces was the first state to have a new name. It was renamed 'Uttar Pradesh' in 1950. In 1969, Madras was renamed²¹ 'Tamil Nadu'. Similarly, in 1973, Mysore was renamed²¹ 'Karnataka'. In the same year, Laccadive, Minicoy and Amindivi Islands were renamed²³ 'Lakshadweep'. In 1992, the Union Territory of Delhi was redesignated as the National Capital Territory of Delhi (without being conferred the status of a full-fledged state) by the 69th Constitutional Amendment Act, 1991.²⁴ In 2006, Uttaranchal was renamed²⁵ as 'Uttarakhand'. In the same year, Pondicherry was renamed²⁶ as 'Puducherry'. In 2011, Orissa was renamed²⁷ as 'Odisha'.

Table 5.3 *Territory of India in 2014 (and upto 2016)*

States	Union Territories
1. Andhra Pradesh	1. Andaman and Nicobar Islands
2. Arunachal Pradesh	2. Chandigarh
3. Assam	3. Dadra and Nagar Haveli
4. Bihar	4. Daman and Diu
5. Chhattisgarh	5. Delhi (National Capital Territory)
6. Goa	6. Lakshadweep
7. Gujarat	7. Puducherry
8. Haryana	
9. Himachal Pradesh	

10. Jammu and Kashmir	
11. Jharkhand	
12. Karnataka	
13. Kerala	
14. Madhya Pradesh	
15. Maharashtra	
16. Manipur	
17. Meghalaya	
18. Mizoram	
19. Nagaland	
20. Odisha	
21. Punjab	
22. Rajasthan	
23. Sikkim	
24. Tamil Nadu	
25. Telangana	
26. Tripura	
27. Uttarakhand	
28. Uttar Pradesh	
29. West Bengal	

Table 5.4 Articles Related to Union and its Territory at a Glance

Article No.	Subject-matter
1.	Name and territory of the Union

- 2. Admission or establishment of new states
- 2A. Sikkim to be associated with the Union—(Repealed)
- Formation of new states and alteration of areas, boundaries or names of existing states
 - Laws made under Articles 2 and 3 to provide for the amendment of
- 4. the First and the Fourth Schedules and supplemental, incidental and consequential matters.

Notes and References

- 1. Constituent Assembly Debates, volume 7, P, 43.
- 2. The State of Jammu and Kashmir enjoys a special position by virtue of Article 370 of the Indian Constitution. It has its own separate State Constitution.
- 3. Added by the 18th Constitutional Amendment Act of 1966.
- 4. Babulal v.State of Bombay (1960).
- 4a. This information is downloaded from the website of Ministry of Law and Justice (Legislative Department), Government of India.
- 4b. *Ibid*.
 - 5. See Table 5.1.
- 6. It had no chairman or convenor.
- 7. See Table 5.2.
- 8. By the Bombay Reorganisation Act, 1960.
- 9. By the Goa, Daman and Diu Reorganisation Act, 1987.
- 10. By the State of Nagaland Act, 1962, with effect from December 1, 1963.
- 11. By Punjab Reorganisation Act, 1966.
- 12. By the State of Himachal Pradesh Act, 1970, with effect from January 25, 1971.
- 13. By the North-Eastern Areas (Reorganisation) Act, 1971, with effect from January 21, 1972.
- 14. By the State of Mizoram Act, 1986, with effect from February 20, 1987.
- 15. By the State of Arunachal Pradesh Act, 1986, with effect from February 20, 1987.
- 16. By the Goa, Daman and Diu Reorganisation Act, 1987.

- 17. By the Madhya Pradesh Reorganisation Act, 2000.
- 18. By the Uttar Pradesh Reorganisation Act, 2000.
- 19. By the Bihar Reorganisation Act, 2000.
- 20. See Table 5.3.
- 21. By the Madras State (Alteration of Name) Act, 1968, with effect from January 14, 1969.
- 22. By the Mysore State (Alteration of Name) Act, 1973.
- 23. By the Laccadive, Minicoy and Amindivi Islands (Alteration of Name) Act, 1973.
- 24. With effect from February 1, 1992.
- 25. By the Uttaranchal (Alteration of Name) Act, 2006.
- 26. By the Pondicherry (Alteration of Name) Act, 2006.
- 27. By the Orissa (Alteration of Name) Act, 2011.