

Union and its Territory

Articles 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 administration.

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) 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, Arunachal 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 legislature 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 territory. 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.'