

INFORMATION BULLETIN

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Re-organisation of States in India

Re-organisation of States is the exercise under which different States have been formed in India from time to time after independence. Certain factors have guided the re-organisation and both the Parliament and the State Legislatures have played their role in the process as per the Constitution of our country. Within the first few years of the enactment and enforcement of the Constitution, a States Re-organisation Commission was set up which suggested formation of 14 States and 6 Union Territories based on factors like financial viability, national welfare and development, language and culture, etc. Parliament passed the Constitution (7th Amendment) Act, 1956 to give effect to the recommendations of the Commission. Over the years, a few more States have been created in conformity with the provisions spelt out in the Constitution. At present, there are 28 States and 7 Union territories constituting the territory of India.

Under the Constitution, Parliament has the power to create a State by law through ordinary process of legislation *i.e.* through simple majority. But Legislation in this respect is subject to the condition that no Bill for this purpose shall be introduced in Parliament except on the recommendation of the President. There is a further condition, namely, that before recommending the introduction of such Bill the President shall refer the Bill to the affected Legislature of State or States for views. If however, a State Legislature does not express its views within the time specified by the President, he may recommend the introduction of the Bill without obtaining the views of such a State.

We have seen demands for new States in post-independent India being made from different quarters and regions of the country from time to time. Recently in the wake of one such demand pertaining to Telangana, the Union Cabinet on 3 October 2013 is learnt to have approved the creation of the proposed State by division of the existing State of Andhra Pradesh. The Union Cabinet is reported to have approved the draft Bill pertaining to the same proposed State which the President of India referred to the State Assembly for their views as per the Constitutional requirement. The next Constitutional step awaited in this regard is the introduction of the relevant Bill in Parliament, its passage and the Presidential assent by which the proposed State can find a place in the political map of India.

Constitutional Procedure: Role of Parliament and of State Legislature

The Constitution of India in its very first Chapter and in its maiden article *i.e.* article 1 provides the name of the country as 'India that is Bharat' and what its territories shall comprise. The same article in its Clause 3 specifies the territory of India to comprise the territories of the States, the Union territories and such other territories as may be acquired. The States and Union territories have been specified in the First Schedule of the Constitution. As regards the acquired territories, the same happened to have been acquired at different points of time by cession or annexation. The details in this regard are given in the box below.

Chandernagore, which was acquired by a Treaty of Cession from France, was governed as an 'acquired territory' since June 9, 1952 to October 2, 1954, when it was merged with West Bengal as a result of the Chandernagore (Merger) Act, 1954.

Goa, Daman and Diu, acquired from the Portuguese by annexation, were being administered since 20-12-61 as 'acquired territory' until they were incorporated as a Union territory, by the Constitution (Twelfth Amendment) Act, 1962, with effect from 29-3-62.

The French Settlement of Pondicherry (together with Karaikal, Mahe and Yanam), which was *de facto* ceded to India by the French Government in 1954 was being administered as a foreign territory under the Foreign Jurisdiction Act until 18-8-62, in as much as the Treaty of Cession had not yet been ratified by the French Parliament. After such ratification, the territory of this French Settlement was administered as 'acquired territory' until 28-12-62, when it was constituted into a 'Union territory', by the Constitution (Fourteenth Amendment) Act, 1962.

Under article 2, Parliament may by law admit into the Union or establish new States on such terms and conditions as it thinks fit. As per this article, Sikkim has been admitted into the Indian Union as a State in the First Schedule of the Constitution by the Constitution (36th Amendment) Act 1975 (the details regarding Sikkim are given in the box).

Article 3 spells out the modes/ways of formation of States in the country. The modes so spelt out are (i) by separation of territory from any State (ii) by uniting two or more States or parts of States or (iii) by uniting any territory to a part of any State. And all the aspects that are included in the process are as follows: (a) increase in the area of any State or (b) reduction in the area of any State or (c) alteration in the boundary or (d) name of any State. Parliament can only do this by Law. But a Bill to this effect can only be introduced in Parliament on prior recommendation of the President and the President can only make such recommendation after obtaining the views of the State Legislature on the proposals in the Bill. Thus, both Parliament and the State Legislature have a defined role in the formation of the State under the Constitution.

Before delving deeper into the relative 'role aspect' of both the Parliament and the State Legislature, it may be worthwhile to throw a little light on the changed position in this regard after 1955 in the country. In the Constitution, before 1955 the President of India was required to 'ascertain' the views of the State Legislature. But in 1955, following the Constitution (Fifth Amendment) Act, the word 'ascertain' has been substituted by the word 'refer'. The article 3 thus now reads as given in the box.

Coming further to the introduction of the Bill in Parliament based on Presidential recommendation after referral and obtaining of views from the affected State where the changes are to be effected as per the proposals in the Bill, the Constitution does not specify the time within

Addition of Sikkim as a State

Sikkim was a Protectorate of the Union of India. The Government of India had the responsibility with regard to the defence, external affairs and communications of the State.

By the Constitution (35th Amendment) Act, 1974 Sikkim became an associate state [Art. 2A and 10th Schedule] which were to this effect added by the Constitution (36th Amendment) Act, 1974. The introduction of the status of an 'associate State' into the Indian federal system, however, lost all practical significance, because Sikkim shortly thereafter was admitted into the Indian Union as a State in the First Schedule of the Constitution of India, by the Constitution (36th Amendment) Act, 1975, which was given retrospective effect from 26 April 1975.

which the State Legislature is required to give its views. The President only specifies the time in this regard and he can also extend the period so specified. It may be noted that the President while referring the States Re-organisation Bill, 1956 to the respective State Legislatures had asked them to give views within one month's time. The present proposed Bill as learnt has the referral time limit of six weeks. Further, it may be noted that the President is not bound by the views of the State Legislature. Moreover, he can recommend the introduction of the Bill in Parliament even if the State Legislature under referral has not given its views within the reference time. Similar is also the case with Parliament. It is not bound by the views even if the State Legislature gives its views within the expiry time of the reference.

Parliament can introduce amendments to the Bill which is usually introduced in this regard after being referred to the State Legislature and after obtaining their views. There is no further need of referring the amendment to the State

Before 1955

The proviso in Article 3 read "provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the boundaries of any State or States specified in Part A or Part B of the First Schedule or the name or names of any such State or States, the views of the Legislature of the State or, as the case may be, of each of the States both with respect to the proposal to introduce the Bill and with respect to the provisions thereof have been ascertained by the President".

After 1955

The proviso in Article 3 reads "provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the areas, boundaries or name of any of the States. ***the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired".

[***words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956]

Legislature again for views. The States Re-organisation Bill, 1956 which was referred to the Bombay Legislature proposed for the re-organisation of the State of Bombay into three separate units, namely, (i) Union Territory of Bombay, (ii) the State of Maharashtra, and (iii) the State of Gujarat. But instead of three separate units, the Parliament approved and provided for a composite State of Bombay with an amendment. The same amendment was not referred to the State Legislature. Several Members in Lok Sabha raised a point of order regarding admissibility of the amendment. The Speaker then observed as follows:

".....two conditions are necessary for introduction of a Bill under article 3 of the Constitution: Firstly the recommendation of the President and Secondly the sending of the Bill to the various Legislatures for getting their views on the proposals...." Under these "neither the decisions of the various States are invited nor is it necessary to send every provision of the Bill to the various legislatures. Further, the decisions of the various legislatures are not asked, but only their views or opinions. So far as this Bill is concerned, both the provisions are satisfied.....". "When once the Bill comes before the House, the House is in possession of it and it is in possession of every amendment that is sought to be moved for amending any provisions of the Bill. It is open to the States to give their views or opinion on the Bill, but the ultimate authority is given to this House to pass or reject the Bill".¹

Speaker thus gave the following ruling:

".....article 3 does not apply to this amendment. It is not necessary to have the President's recommendation and it is not necessary to send the Bill again to the State Legislatures. The amendment is not beyond the scope of the Bill"².

A few years later, in 1960, the same matter came for a hearing in the Supreme Court of India in *Babulal vs. the State of Bombay*³ case. While observing that the Proviso regarding referring the Bill to State legislature in article 3 constitutes a Constitutional limitation upon the power of the Union Legislature to affect a federal unit by the unilateral act, the Court drawing attention to the Speaker's ruling gave its view that the Constitution does not specifically require a fresh reference during any further state of the Bill. But the Court further observed that it would be a serious matter if the Bill is substantially replaced by another Bill by the process of amendment. The Court viewed that while it is debarred from invalidating a particular Act of Parliament granting formation of a State on the ground that its introduction was not recommended by the President, there is nothing in the Constitution preventing it from questioning the validity of such Act on the ground that it was not referred to the States as required by the Proviso to Article 3 (Excerpts of Judgment given in the box below).

¹ Lok Sabha Debates, 7 August 1956, Col. 2427

² *Ibid* Col. 2432

³ *Babulal v. the State of Bombay*, AIR 1960 SC 51(54)

Judgement of the Supreme Court 1960

".....True, it is that the Proviso imposes a precedent to the introduction of the 'Bill', and once this condition has been fulfilled, the future course of the Bill is in the hands of the Legislature and that the Constitution does not specifically require a fresh reference during any future state of the Bill. But, however weak it is, it constitutes a Constitutional limitation upon the power of the Union Legislature to affect a federal unit by its unilateral act, and it is the duty of the Court to see that the Constitutional limitation is not reduced to an empty task, by an extreme application of liberal interpretation. It is a serious matter for consideration whether the object of the Proviso would be served if the Union Government is allowed to introduce a Bill in Parliament after referring it to the States and then to substantially replace it by another Bill by the process of amendment in Parliament. There must be a reserve of power in the hands of the Court to pronounce whether a particular amendment was so drastic as to virtually substitute the Bill that was introduced, so as to attract the operation of the Proviso and to require a fresh reference."

"Art. 255 precludes the Court from invalidating the Act on the ground that its introduction was not recommended by the President but there is nothing in the Constitution to debar the Court from questioning the validity of such Act on the ground that it was not referred to the States as required by the Proviso to Art. 3". [*Babulal v. the State of Bombay*, AIR 1960 SC 51(54)]

Jammu and Kashmir forms a part of the 'territory of India' as defined in article 1 of the Constitution. But keeping in view the special Constitutional position of the State under article 370, applicability of article 3 to the State of Jammu and Kashmir is under the condition that no Bill providing for increasing or diminishing the area of the State of Jammu and Kashmir or altering the name or boundary of that State shall be introduced in Parliament without the consent of the Legislature of that State⁴.

The details of the Constitutional provisions concerning formation of States and their re-organisation in Part I, as per articles 1 to 4 of the Constitution of India titled the Union and its Territory is reproduced in the Table given below.

⁴ Constitution (Application to Jammu and Kashmir) Order 1954; Constitution of India, article 370(c); D.D. Basu, Commentary on the Constitution of India, Vol. 1, p. 472

PART-I

THE UNION AND ITS TERRITORY

1. (1) India, that is Bharat, shall be a Union of States.

[(2) The States and the territories thereof shall be as specified in the First Schedule.]

(3) The territory of India shall comprise—

- (a) The territories of the States;
- [(b) the Union territories specified in the First Schedule; and]
- (c) such other territories as may be acquired.

2. Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

2A. [Sikkim to be associated with the Union.]
Rep. by the Constitution (Thirty-sixth Amendment) Act, 1975, s.5 (w.e.f. 26.4.1975).

3. Parliament may by law—

- (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;
- (e) alter the name of any State:

[Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views thereon within such period as may be specified in the reference or within such further period as the President may allow and the period so specified or allowed has expired.]

4. (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give

effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

Source: Constitution of India

The Story of States formation so far

In the original Constitution, the States which formed the Union of India were classified into three categories *viz.*, Part A, B and C States in the First Schedule of the Constitution. Part A States were the former Governors' Provinces of British India, which were ruled by Governor and an elected State Legislature. These States were Assam, Bihar, Bombay, Madhya Pradesh (Central Provinces and Berar), Madras, Orissa, Punjab (East Punjab), Uttar Pradesh (United Provinces) and West Bengal. Part B States were former Princely States or groups of Princely States, governed by a *Rajpramukh* (who was usually the ruler of a constituent State) and an elected legislature. The *Rajpramukh* was appointed by the President of India. These States were Hyderabad, Jammu and Kashmir, Madhya Bharat, Mysore, Patiala and East Punjab States Union, Rajasthan, Saurashtra and Travancore-Cochin. The Part C States included both the former Chief Commissioners' Provinces and some Princely States, and each was governed by a Chief Commissioner appointed by the President of India. These States were Ajmer, Bhopal, Bilaspur, Coorg, Delhi, Himachal Pradesh, Kutch, Manipur, Tripura and Vindhya Pradesh. Besides these, there was another category *viz.* territory specified in Part D of the First Schedule *i.e.* the Andaman and Nicobar Islands, which was administered by a Lieutenant Governor appointed by the Central Government⁵.

Over the years however, there has been much change effected in the organisation of States in India. Effected in conformity with and as per the provisions of the Constitution starting from alteration of boundaries to change of name, one can see creation of altogether new States in India during the span of more than 60 years of independence.

Parliament by law brought into existence a new Part A State namely, Andhra Pradesh which, according to the statement made by the Deputy Home Minister in Parliament on 17 August 1953, was a province which

⁵ Report of the States Re-organisation Commission, 1955, pp. 5-9, 71, 253; D.D. Basu, Introduction of Constitution of India, p. 449

approximated as much as possible to a linguistic Province⁶. Andhra Pradesh came into existence on 1 October 1953 by the State of Andhra Pradesh Act, 1953.

On 22 December 1953, the Prime Minister, Pandit Jawaharlal Nehru made a statement in Parliament to the effect that a Commission would be appointed to examine "objectively and dispassionately" the question of the Re-organisation of the States of the Indian Union "so that the welfare of the people of each Constituent Unit as well as the Nation as a whole is promoted"⁷. This was followed by the appointment of the States Re-organisation Commission (SRC) on 29 December 1953, comprising three members namely, Justice Sabyid Fazi Ali, Hriday Nath Kurzru and Kavalam Madhava Panikkar.

The Resolution of the Government of India in respect of the Re-organisation said:

"The language and culture of an area have an undoubted importance as they represent a pattern of living which is common in that area. In considering a Re-organisation of States, however, there are other important factors which have also to be borne in mind. The first essential consideration is the preservation and strengthening of the unity and security of India. Financial, economic and administrative considerations are also equally important, not only from the point of view of each State, but for the whole Nation."⁸

As far as re-organisation was concerned, the States Re-organisation Commission made their final recommendations on 30 September 1955. As per the Commission Report, the factors bearing on re-organisation of States in the country were, 'cost of change', 'unity and security of India', 'language and culture', 'financial viability', 'requirements of national development plan', 'regional planning and balanced economy', 'smaller versus larger States', etc.

Amendment of certain provisions of the Constitution was necessary to implement the Scheme of States Re-organisation recommended by the States Re-organisation Commission. An enabling Constitution (Ninth Amendment) Bill was introduced in Lok Sabha in this regard on 18 April 1956. The Bill was referred to a Joint Committee of Parliament which after examination presented its report on 16 July 1956. Both the Houses debated and discussed the recommended scheme of re-organisation of States during April, May, August and September 1956. After receiving President's assent on 11 October 1956, the Constitution (Seventh Amendment) Act, 1956 came into force from 1 November 1956. The report of the States Re-organisation Commission recommended fundamental changes both in the nomenclature and description of the constituent units of India. Accordingly, the categorization as Part A, Part B and Part C States was done away with by the Constitution (Seventh Amendment) Act 1956, which declared that the territory of India would comprise the territories of the States, the Union territories and such other territories as might be acquired.

States & UTs as per Constitution (Seventh Amendment) Act, 1956

As per the SRC and the following Constitution Amendment Act, 1956 the territory of the Union of India comprised 14 States viz. Andhra Pradesh, Assam, Bihar, Bombay, Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh, West Bengal and Jammu and Kashmir—and six Union territories viz., Delhi, Himachal Pradesh, Manipur, Tripura, the Andaman and Nicobar Islands and a group of small islands of the Malabar coast in south India called the Laccadive, Minicoy and Amindivi Islands.

After the States Re-organisation of 1956, there have been further changes/alterations effected in the boundaries of States in the country with the passage of time. Some new States have been created from the existing ones while some Union territories have attained full Statehood. Subsequent development in this regard from 1960 onwards in the country is given in the Table below.

Re-organisation/Creation of States after 1960 and till date

Gujarat and Maharashtra	The State of Bombay was divided into two States i.e. Maharashtra and Gujarat by the Bombay (Re-organisation) Act, 1960.
Nagaland	It was carved out from the State of Assam by the State of Nagaland Act, 1962 comprising the territory of the Naga Hills-Tuensang area which was previously a Tribal Area in the Sixth Schedule of the Constitution, forming part of the State of Assam.
Haryana	The Punjab Re-organisation Act, 1966, resulted in splitting the State of Punjab into the State of Punjab and Haryana and the Union Territory of Chandigarh with effect from 1.11.1966.
Himachal Pradesh	The Union Territory of Himachal Pradesh was elevated to the status of State by the State of Himachal Pradesh Act, 1970.
Meghalaya	First carved out as a sub-State within the State of Assam by 23rd Constitutional Amendment Act, 1969. Later in 1971, it received the status of a full-fledged State by the North-Eastern Areas (Re-organisation) Act, 1971.

⁶ Report of the States Re-organisation Commission, op. cit pp. 9, 19

⁷ Ibid. p. 1

Manipur and Tripura	Both these States were elevated from the status of Union territories by the North-Eastern Areas (Re-organisation) Act, 1971.
Sikkim	Sikkim was first given the Status of Associate State by the 35th Constitution Amendment Act, 1974. It got the status of a full State in 1975 by the 36th Constitution Amendment Act, 1975.
Mizoram	It was elevated to the status of a full State by the State of Mizoram Act, 1986.

Arunachal Pradesh	It received the status of a full state by the State of Arunachal Pradesh Act, 1986.
Goa	Goa was separated from the Union territory of Goa, Daman and Diu and made a full-fledged State by Goa, Daman and Diu Re-organisation Act, 1987. But Daman and Diu remained as Union territory.
Chhattisgarh	Formed by the Madhya Pradesh Re-organisation Act, 2000.
Uttarakhand	Formed by the Uttar Pradesh Re-organisation Act, 2000.
Jharkhand	Formed by the Bihar Re-organisation Act, 2000.

Change in the Name of States/Union territories

Name of the old State	Name changed	Act under which it was effected
Mysore	Karnataka	Mysore State (Alteration of Name) Act, 1973.
Madras	Tamil Nadu	Madras State (Alteration of Name) Act, 1973.
Uttaranchal	Uttarakhand	Uttaranchal (Alteration of Name) Act, 2006.
Orissa	Odisha	Orissa (Alteration of Name) Act, 2011.
Pondicherry	Puducherry	Pondicherry (Alteration of Name) Act, 2006.

Union territories becoming States

Name of the Union territory	Name of the State	Act Under which it attained Statehood
Himachal Pradesh	Himachal Pradesh	The State of Himachal Pradesh Act, 1970.
Mizoram	Mizoram	The North Eastern Areas (Re-organisation) Act, 1971.
Arunachal Pradesh	Arunachal Pradesh	The State of Arunachal Pradesh Act, 1986.
Goa	Goa	The Goa, Daman and Diu Re-organisation Act, 1987.

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1. Constitution of India
2. Report of the States Re-organisation Commission, 1955
3. D.D. Basu, Commentary on the Constitution of India, Vol.1
4. D.D. Basu, Introduction to Constitution of India
5. Latest Press Releases/Press Reports

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