

TNPSC GROUP I / II - PRELIMINARY INDIAN POLITY - WORKSHEET

UNION AND ITS TERRITORY - 2022

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 28 states and 8 union territories.** The provisions of the Constitution pertaining to the states are applicable to all the states in the same manner. However, the special provisions (under Part XXI) applicable to the States of Maharashtra, Gujarat, Nagaland, Assam, Manipur, Andhra Pradesh, Sikkim, Mizoram, Arunachal Pradesh and Goa 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 readjustment 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:

- (i) a bill contemplating the above changes can be introduced in the Parliament only with the prior recommendation of the President;
- (ii) 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 Parliament. 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.

The Parliament can thus 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 foreign country?

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 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.

Exchange of Territories with Bangladesh

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 111 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.

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. *Sardar Vallabhai Patel* took over as the Deputy Prime Minister and Minister of Home Affairs and the merging of princely states began. He along with *VP Menon*, Patel's able Secretary, who did the groundwork, since he was formerly an Indian civil servant, who served the last three British viceroys, made political integration possible. 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.

Junagarh

The Nawab of Junagadh, Muhammad Mahabat Khanji III or his Dewan, Shah Nawaz Bhutto both rejected to join India but the majority of the population were non-Muslims, nonetheless Dewan Bhutto joined Pakistan on 15th August 1947. People started to protest and insisted the Dewan to request the Indian government to take over the administration. A *plebiscite* was held on 20 February 1948 and people voted to join India.

Hyderabad

Hyderabad, the largest princely state under Nizam Mir Osman Ali Khan Siddiqi, Asaf Jah VII, wanted to join neither India nor Pakistan. When the peasants of Telangana, who were mostly Hindus, revolted, he exerted violence using his army to suppress the resistance and to fight against the Indian Union. Eventually, in September 1948, the Indian army under *Operation Polo (Police action)* annexed Hyderabad and overthrew the Nizam, merging the State with the rest of the country.

Kashmir

It had a Hindu ruler Maharaja Hari Singh. Since the majority of the populations were Muslims, Pakistan assumed Kashmir belonged to them. When Hari Singh wanted military assistance from India, he signed the *Instrument of Accession* on 26th October 1947. Through this agreement, India took over the administration of Jammu and Kashmir.

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 State. 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.

Linguistic Reorganisation of the State Pre-Independence

The plan for linguistic re-organisation began in 1917 by the Congress party; especially the Andhra Provincial Congress Committee consolidated the Telugu speaking districts from the Madras Presidency in 1917.

After a long struggle that began in 1895, to separate from Orissa from Bihar and Orissa Province, **Odisha** became the first Indian State to be linguistically independent State in 1936.

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 re organisation 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 **re organisation 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 of independent India**, 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 reorganization 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 reorganization 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

1. Maharashtra and Gujarat - Bombay Reorganisation Act, 1960

In 1960, the bilingual state of Bombay was divided 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.

2. 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**.

3. **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. In 2019, Dadra and Nagar Haveli and Daman and Diu were merged as one Union Territory with Daman as capital (came into force on 26th January 2020).
4. **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**.
5. **Nagaland - State of Nagaland Act, 1962**
In 1963, the State of Nagaland was formed 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.
6. **Haryana, Chandigarh and Himachal Pradesh - Punjab Reorganisation Act, 1966; New State of Himachal Pradesh Act, 1970**
In 1966, the State of Punjab was bifurcated ' 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 elevated to the status of a state (18th state of the Indian Union).

7. Manipur, Tripura and Meghalaya - North Eastern Reorganisation Act, 1971

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 'sub-state' 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.

8. Sikkim - New State of Sikkim Act in 1975

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 conserving 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.

9. Mizoram, Arunachal Pradesh and Goa - State of Arunachal Pradesh Act, State of Mizoram Act 1986

In 1987, three new States of Mizoram, 1 Arunachal Pradesh and Goa 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.

10. Chhattisgarh, Uttarakhand and Jharkhand - Madhya Pradesh Reorganisation Act, Uttar Pradesh Reorganisation Act, Bihar Reorganisation Act, 2000

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. These became the 26th, 27th and 28th states of the Indian Union respectively.

11. Telangana - Andhra Pradesh Reorganisation Act, 2014

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 (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. The States Reorganisation Act (1956) merged the Telugu speaking areas of Hyderabad state with the Andhra state to create the enlarged Andhra Pradesh state. Again, Andhra Pradesh was bifurcated into two separate states, namely, the Andhra Pradesh (residuary) and the Telangana in 2014.

12. Jammu & Kashmir and Ladakh - Jammu and Kashmir Reorganisation Act, 2019

Till 2019, the erstwhile State of Jammu and Kashmir had its own constitution and thus enjoyed a special status by virtue of Article 370 of the Constitution of India. In 2019, this special status was abolished by a presidential order known as "*The Constitution (Application to Jammu and*

Kashmir) Order, 2019". However, the inoperative Article 370 continues to remain in the text of the Constitution of India. Thus, the number of states and union territories increased from 14 and 6 in 1956 to 28 and 8 in 2019, respectively.

Pending States

The process of reorganisation of States continues with some of the localities demanding separate States:

1. Harith Pradesh (Western Uttar Pradesh)
2. Purvanchal (Eastern Uttar Pradesh)
3. Bodoland (Northern Assam)
4. Saurashtra (Southern Gujarat)
5. Gorkhaland (Northern West Bengal)
6. Vidarbha (Eastern Maharashtra)
7. Kosal (Western Odisha)

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 renamed 'Tamil Nadu'. Similarly, in 1973, Mysore was renamed 'Karnataka'. In the same year, Laccadive, Minicoy and Amindivi Islands were renamed 'Lakshadweep'. In 1992, the Union Territory of Delhi was re-designated as the National Capital Territory of Delhi (without being conferred the status of a full-fledged state) by the 69th Constitutional Amendment Act, 1991. In 2006, Uttaranchal was renamed²⁵ as 'Uttarakhand'. In the same year, Pondicherry was renamed as 'Puducherry'. In 2011, Orissa was renamed as 'Odisha'.