

# UNION AND ITS TERRITORIES

## CONSTITUTIONAL PROVISIONS AND PHILOSOPHICAL BASIS

- Article 1 to 4, along with Schedule 1, pertain to the Union and its territory.
- **Art. 1 reads**→ India, that is, Bharat as a 'Union of States' rather than a 'Federation of States'.
- This provision deals with two things: -
  - Name of the country - India that is Bharat
  - Type of polity - Union of States
- "India" and "Bharat" these two names in Art.1 is compromise between two divergent opinions. Some members suggested the "Bharat", while other advocated the modern name "India". Pertaining to this, Constituent Assembly had to adopt a mix of both ("India, that is, Bharat")
- The phrase "Union of States" has been preferred to "Federation of States" for two reasons:
  - Indian Federation is not the result of an agreement among the states like the American Federation
  - States have no right to secede from the federation.
- The **federation is a Union because it is indestructible**. The country is an integral whole and divided into different states only for the **convenience of administration**.

Articles	Provisions
Article 1	Name and territory of the Union
Article 2	Admission or establishment of new States
Article 3	<p>Formation of new States and alteration of areas,</p> <p>boundaries or names of existing States</p>
Article 4	Laws made under Articles 2 and 3 to provide for the amendment of the first and the Fourth schedules and supplemental, incidental and consequential matters

## Article 1: Name and Territory of India

- India is a Union of States.
- India's territory includes **State territories**, **Union territories** in the **First Schedule**, and any **acquired territories** at any time.

### NOTE

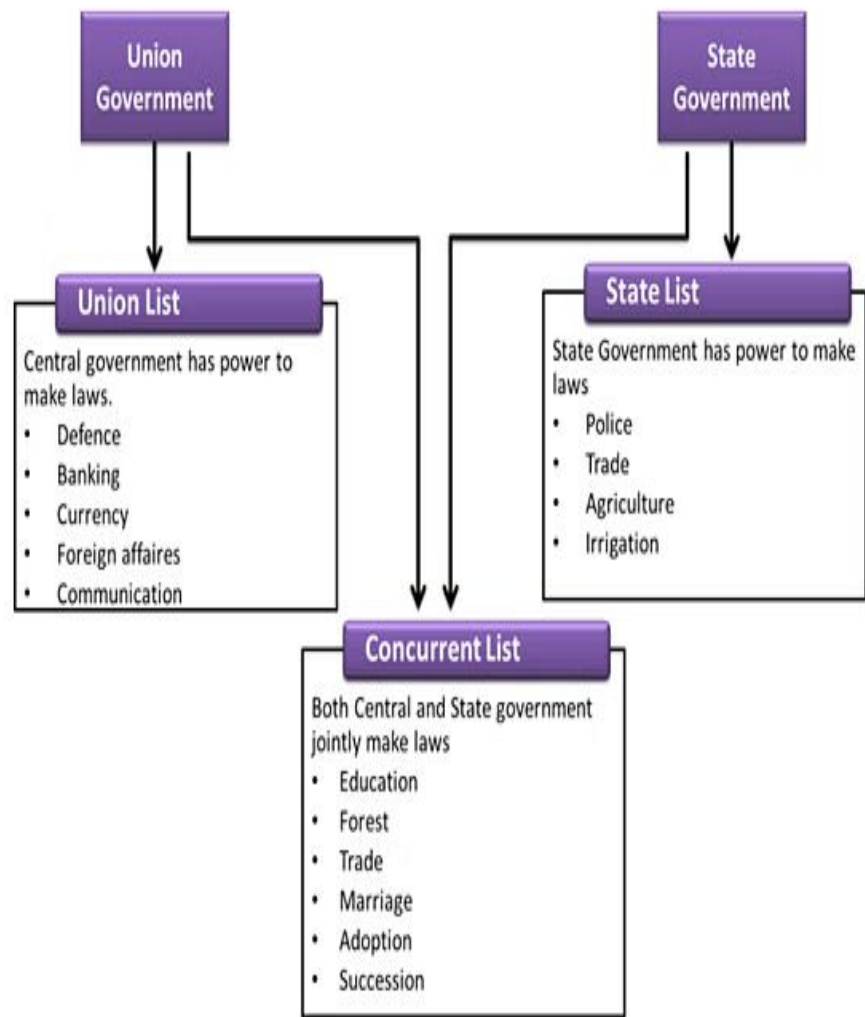
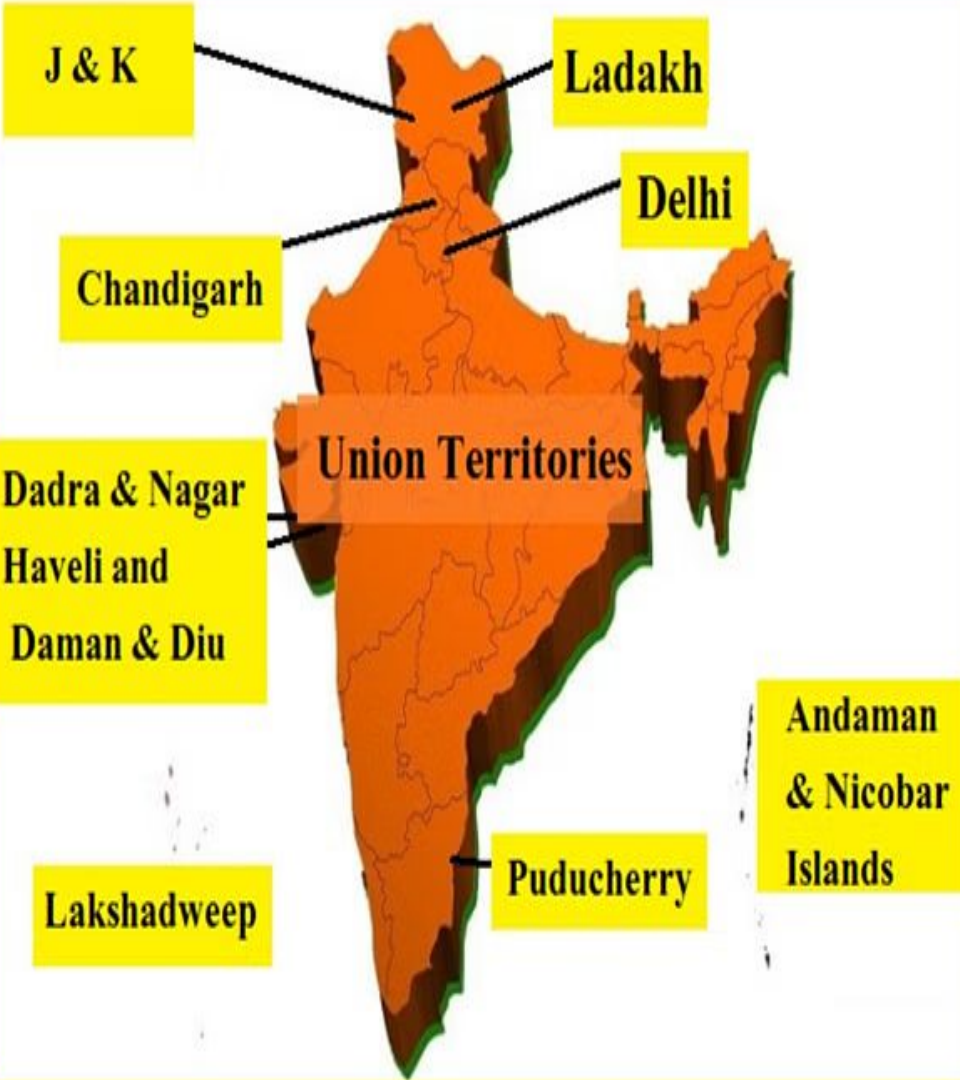


1. "Territory of India" is a comprehensive term encompassing states, union territories, and potential future acquisitions.
2. States are federal system members with shared powers alongside the Centre.
3. Union Territories are directly administered by the Central government.
4. Acquired Territories can be obtained by India through recognized international law methods (Cession, Occupation, Conquest, or Subjugation).
5. Currently, India has 28 states and 8 union territories.

## Article 2: Admission and Establishment of New States

- Article 2 grants Parliament two powers:
  - a. Admitting new states into the Union of India.
  - b. Establishing entirely new states.
- Article 2 primarily deals with **external territory adjustments** concerning the **Union of India's constituent states**.





### Article 3: Formation of New States and Alteration of Existing States

- **Article 3 empowers Parliament to:**
  - Create a new state by separating territory from an existing state or uniting two or more states, parts of states, or territories with a part of any state.
  - **Expand the geographical area** of any state.
  - **Reduce** the area of any state.
  - **Modify** the boundaries of any state.
  - **Change the name of any state.**
- This authority is subject to **specific conditions**, including **Presidential recommendation** and **state legislature consultation**.
- **Article 3** pertains to **internal territorial adjustments** among the Union's constituent states

### Article 4: Laws under Articles 2 & 3

- Laws related to admission, establishment, or alteration of states are **not considered Constitutional amendments under Article 368**.
- These laws can be enacted with a **simple majority & normal legislative procedures**.

## Points to note:

- **For states:**
  - **Parliament** can introduce a bill for the mentioned changes **only with prior recommendation of the President.**
  - **The President must refer the bill to the concerned state legislature** for their views within a specified period before making a recommendation.
  - **The President or Parliament is not bound by the state legislature's views and can accept or reject them, even if received in time.**
- **For UT's:** No need to consult the concerned legislature & Parliament can take action as it deems fit.
- **Constitution allows Parliament** to create new states or modify the boundaries, areas, or names of existing states **without requiring state consent.** This means the **territorial integrity of states is not constitutionally guaranteed.**
- **India is described as "an indestructible union of destructible states,"** whereas the **USA is known as "an indestructible union of indestructible states,"** where the territorial integrity of states is guaranteed. In USA the **federal government cannot create new states or alter the borders of existing ones** without the consent of the states involved.
- **The transfer of Indian territory to a foreign country or the settlement of a boundary dispute with another nation requires a constitutional amendment under Article 368 (BERUBARI UNION CASE;** led to enactment of **9th Constitutional Amendment Act 1960**). **Boundary disputes can be resolved through executive action** since they don't involve ceding Indian territory to a foreign country.



## Evolution of States and Union Territories in India:

### Before Independence: Integration of Princely States

- India had British provinces and princely states pre-independence.
- **Indian Independence Act (1947)** offered options to princely states: join India, join Pakistan, or remain independent.
- **549 princely states joined India, while 3 (Hyderabad, Junagadh, Kashmir) initially refused but later integrated through various means.**
  - Hyderabad by means of **police action (Operation POLO)**
  - Junagarh by means of **referendum**
  - Kashmir by the **Instrument of Accession**.

### Post-Independence Classification (As of January 26, 1950):

- Constituent units classified into Part A, Part B, Part C, and Part D.
- Part A: Former Governor's Provinces.
- Part B: Former Princely States.
- Part C: Former Chief Commissioners' provinces and some Princely States.
- Part D: Andaman and Nicobar Islands.

The States Reorganization Act (1956) and the 7th Constitutional Amendment Act (1956) abolished this four-fold division of states.

### Formation of Commissions:

- Dhar Commission (1948) set up by Constituent Assembly to explore reorganization.
- Dhar Commission recommended administrative convenience over linguistic basis.
- JVP Committee (1948) led by Nehru, Patel, and Sitaramayya concurred with the Dhar Commission.
- Both commissions suggested delaying new state creation for a few years if public opinion persisted.

### Linguistic State Demands:

- Strong demand for linguistic states.
- Andhra Pradesh, the first linguistic state, created in October 1953, following the death of Potti Sriramulu after a hunger strike.
- Formation of the States Reorganization Commission in December 1953 to address linguistic demands.

### Fazal Ali Commission:

- Fazal Ali Commission (1953) sought a balanced approach, considering regional and national interests.
- Recommended abolishing the four-fold classification and creating 16 states and 3 centrally administered territories.
- Four major principles for reorganization: security and unity, viability, linguistic and cultural homogeneity, and development plans.



## States Reorganization Act, 1956:

- Came into force in November 1956.
- Abolished Part A and B distinctions and Part C states.
- Classified into two categories: States and Union Territories.
- Created 14 States and 6 Union Territories.



**South Indian States prior to the States Reorganisation Act.**

**UT of Delhi was redesignated as National Capital Territory (NCT) according to 69th Constitutional Amendment Act 1991.**

## New States and Union Territories:

- **Maharashtra and Gujarat (1960)**- Bilingual state of Bombay divided.
- **Dadra and Nagar Haveli (1961)**- Former Portuguese territory.
- **Goa, Daman and Diu (1962)**- Acquired from Portuguese.
- **Puducherry (1962)**- Former French establishments.
- **Nagaland (1963)**- Carved out of Assam.
- **Haryana, Chandigarh (1966)**- Punjab bifurcated; Chandigarh becomes a Union Territory.
- **Himachal Pradesh (1971)**- Elevated from a Union Territory.
- **Manipur, Tripura, Meghalaya (1972)**- UTs elevated to states; Mizoram and Arunachal Pradesh created.
- **Sikkim (1975)**- First an "associate state," later became a full-fledged state. **(36th Amendment Act)**
- **Mizoram, Arunachal Pradesh, Goa (1987)**- Became states.
- **Chhattisgarh, Uttarakhand, Jharkhand (2000)**- New states carved from Madhya Pradesh, Uttar Pradesh, and Bihar.
- **Telangana (2014)**- Created from Andhra Pradesh.
- **Jammu & Kashmir and Ladakh (2019)**- Jammu & Kashmir bifurcated into two Union Territories.

This evolution highlights India's transition from princely states to its current state and union territory structure.

## Evaluating Linguistic Reorganization of States:

### Background:

- Initially supported by Gandhi and Nehru after the Nagpur session in 1920.
- Nehru, once a strong supporter, became a critic after witnessing the partition horrors.
- Resurgence of demands for linguistic states in the late 1940s, e.g., Sanyukta Karnataka, Maha-Gujarat, and Punjab.
- Notable movement in Telugu-speaking areas of Madras Presidency, leading to the formation of Andhra Pradesh in 1953.

### Merits:

1. **Secular Mode:** Linguistic basis is more secular compared to caste or religious criteria.
2. **Better Learning Outcome:** Linguistic provinces enable education in one's mother tongue.
3. **Unity in Diversity:** Promotes and develops regional languages and cultures.
4. **Participation in Democratic Process:** Masses can participate effectively if the language of administration aligns with their own.
5. **Efficient Administration:** Multilingual states can be challenging to administer efficiently.



**Andhra Pradesh**

# The state of Telangana

**UPA on Tuesday,  
July 30, 2013  
unanimously  
endorsed the  
creation of a  
separate state  
of Telangana**

A special meeting of the Union Cabinet has been convened on July 31, apparently to discuss the issue of separate Telangana state



### Demerits:

1. **Potential for Further Demands:** Could lead to additional linguistic demands given the linguistic diversity in the country.
2. **Regionalism:** May slow down the emergence of a national identity and composite culture.
3. **Sub-Nationalism:** Encourages subnational sentiments, potentially leading to Balkanization.
4. **Platform for Secular Demands:** Sub-national identities can become rallying points for voicing secular demands, creating conflicts like the Marathi vs. Bihari issue.
5. **Economic and Financial Viability:** Small states are not always economically and financially viable (e.g., Jharkhand).

### Critical Analysis of Demand for Small States:

1. **Culture and Ethnicity:** Demands like Gorkhaland, Nagalim, and Bodoland stem from cultural and ethnic differences.
2. **Better Governance:** Proposals to split larger states for improved governance (e.g., Uttar Pradesh).
3. **Political Reasons:** Groups in certain regions demand separate states for political dominance (e.g., Harit Pradesh in western UP).
4. **Imposition of Local Language and Culture:** Concerns about the imposition of language and culture by state governments (e.g., West Bengal).
5. **Economic Backwardness:** Demands related to economic disparities (e.g., Telangana and Vidarbha).

6. **Administrative Convenience:** Smaller states can lead to more effective and efficient governance.
7. **Homogeneity in Developmental Aspirations:** Smaller states tend to have more uniform developmental goals.
8. **Enhanced People's Participation:** Closer administration allows greater public participation.
9. **Viability:** The economic growth experience of several small states demonstrates their viability.
10. **Democratic Decentralization:** Supports decentralization for better governance.
11. **Resolving Identity Crisis:** Helps ethnic groups develop their language and culture.

#### **Demerits:**

1. **Defining "Small State":** Lack of a clear definition and objective criteria for "small states."
2. **Financial Allocation:** Complicates financial allocation and center-state relations.
3. **Against Sardar Vallabhbhai Patel's Vision:** Goes against Patel's consolidation drive.
4. **No Guarantee of HDI Enhancement**
5. **Dependence on the Center:** Small states may rely more on the center due to a limited tax base.
6. **Economic Viability Concerns:** Many North East states are heavily dependent on the center.
7. **Administrative Duplication:** Risks duplicating administrative setups, such as courts and human resources.



## **Conclusion:**

Effective utilization of existing local bodies and blocks for development, along with capacity building, is a way forward.

## **Need for a Second State Reorganization Commission:**

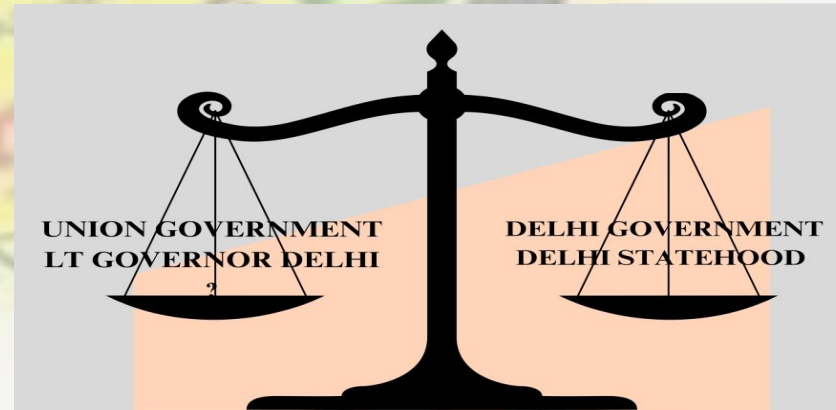
- This commission should establish sound and objective criteria for reorganization.
- Recognize reorganization as an ongoing process rather than a one-time solution.
- Address the exponential population growth in many states.
- Adapt to the evolving regional sentiments of neglect due to 30 years of economic reforms (LPG).
- Ensure alignment with contemporary developmental aspirations and economic realities.
- Strive for equitable, inclusive social, economic, and environmental growth.



## Delhi as a State: A Critical Evaluation

*In Favor:*

1. **Legislative Assembly Existence:** The 69th Amendment in 1991 established the Legislative Assembly of Delhi. With nearly two crore people in Delhi today, it's essential to grant it greater power.
2. **Representation and Self-Governance:** Statehood provides equal rights to people for representation and self-governance.
3. **Projected Population:** A UN report forecasts that Delhi's urban agglomeration will become the most populous city globally by 2028, reinforcing the need for statehood.
4. **Elected Government's Role:** An elected government, representing a substantial population, should have a say in law and order and land management.
5. **Coordination Resolution:** Statehood can resolve the issue of coordination and frequent conflicts between the Central and Delhi governments.



### Against:

1. **Local Political Ambitions:** The demand for full statehood is primarily driven by local political interests and ambitions, rather than a national necessity. Delhi, as the national capital, must prioritize the interests of the entire country.
2. **Institutions of National Importance:** Delhi houses institutions of national significance, such as the President's estate, Parliament, and foreign embassies. Ensuring their protection requires special security measures and close coordination, which is the responsibility of the Union Government.
3. **National Ownership:** India's national capital belongs to every citizen of the country, not just those residing in the city.
4. **Administrative Burden:** Granting statehood would impose an enormous administrative burden on the Delhi government, including responsibilities for civic amenities, law and order, and finances.

### Way Forward:

1. **Acknowledging Overlapping Jurisdictions:** Recognize that overlapping jurisdictions in a national capital are inherent, and constitutional entities must manage this reality.
2. **Power-Sharing Arrangements:** Establish greater autonomy and fairer power-sharing arrangements among different constituents.
3. **Enhancing Governance:** Restructure governance to ensure clear accountability for specific functions falls under a single organization or individual.
4. **Constitutional Revision:** Advocate for the urgent revision of existing constitutional provisions (e.g., 69th Amendment and Article 239) and Rules of Business in Delhi.