Creation of new states: whether a challenge to federalism

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1. Introduction

The Constitution is nothing but a legal document. India's Constitution is India's supreme law and hence every law enacted by the government of India must conform to it. It defines the fundamental rights and duties of the citizen of India. Our Constitution avows the ''Union of India'' to be a sovereign, democratic republic, assuring its citizens of justice, equality, and liberty and to promote among them all fraternity. In 1976, by constitutional amendments, the words 'socialist', 'secular' and 'integrity' and 'Fraternity' were added. Our Constitution is the longest written constitution of any sovereign country in the entire world. It contains 395 articles in 22 parts, 12 schedules and more than 100 amendments. Amendments to the constitution can be made by Parliament, yet the Hon'ble Supreme Court of India held (though it is rather controversial) that not every constitutional amendment is permissible. An amendment should respect the 'basic structure' of the constitution, which is immutable. The procedure is laid out in Article 368.

One of special features of the Union of India is that the union is indestructible but the power conferred on Parliament includes the power to form a new state or union territory by uniting a part of any State or Union territory to other State or Union territory. The identity of States can be altered or even expunged by the Parliament. The Constituent Assembly declined a motion in concluding stages to designate India as '' Federation of States''.

Dr. Bhimrao Ramji Ambedkar, as chairman of the Constitution Drafting Committee, who was the Chief Architect of The Constitution of India, explained the position as to '' Federation of States'' as infra:

''... that though India was to be a federation, the federation was not the result of an agreement by the states to join in a federation and that the federation not being the result of an agreement, no state has the right to secede from it. The federation is a union because it is indestructible. Though the country and the people may be divided into different states for convenience of administration, the country is one integral whole, its people a single people living under a single imperium derived from a single source. ...''

2. Analogus provisions:

India is a federal state but its federalism is different from other countries so it is needed to discuss about the provisions of creation of new states in other countries.

2.1. Condition in U.S.A:

USA is an ideal federal country. There are 51 states in number. According to the constitution of USA arti iv, section 3, "new states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned as well as of the congress."

2.2. Condition in U.K:

UK is a unitary state. It comprises the whole of the island of great Britain which contains England, wales and Scotland as well as the northern portion of the island of Ireland. As UK do not have written constitution, therefore, there is no any specific provision for the formation of state. However, the present political structure ok UK which includes the above states came into existence after various Acts passed time to time. For example in 1284, statute of Rhuddlan in this Wales and England became united and named as England.

In 1536, Laws in Wales Acts, 1535 and 1542 wales and England stayed together but the name of country became the kingdom of England and wales became full and equal part of the kingdom of England.

In 1603 Union of The Crowns Act passed and in this the wales, England and Scotland came under a common king. The territory is known as Great Britain.

In 1707 **Act of Union** passed and the parliament of wales England and Scotland merged.

In 1801 **Act of Union** 1800 passed and Ireland became the part of kingdom of Great Britain and later it had been known as United Kingdom of great Britain and Ireland.

In 1921, Anglo-Irish treaty, in this north Ireland became the part of kingdom. Now known as Great Britain and Northern Ireland. The main land of Ireland now known as republic of Ireland.

So we can see that parliament and kingship have all the power to merge or make any state or alter any boundary etc.

3. Historical background: -

Before independence India was divided into 571 princely states. These indigenous princely states believed in independent governance, which was the biggest obstacle in building a strong India. At this time India had three types of states (1) 'Territories of British India', (2) 'Princely states' and the colonial territories of France and Portugal.

After the Indian independence; 562 princely states had nodded to join the Indian Confederation except Hyderabad, Junagadh, Bhopal and Kashmir.

Since the Indian independence the boundaries of the Indian states keep on changing year by year. From 571 princely states and 17 provinces before partition, to 14 states and 6 Union Territories following the Reorganisation of States in 1956 to 29 states and 7 union territories in 2014, now after the bifurcation of Jammu & Kashmir to 28 states and 9 Union Territories after it.

The names of the States and the Unions have been described in the First Schedule. This schedule also holds that there are four Categories of State and territories – Part A, Part B, Part C and Part D.

- Part A – includes the nine provinces which were under British India
- Part B – princely states consisted of this category
- Part C – centrally administered five states
- Part D – Andaman and Nicobar Islands

3.1. Abolishing of these schedules

- In the seventh amendment of the Constitution in 1956, the distinction between Part A and Part B states was abolished later on part c and also abolished.
- Subsequently, states were reorganized on a linguistic basis.
- As a result, several new states were formed, eg. Haryana, Goa, Nagaland, Mizoram etc. At present, there are 28 States and 8 UTs.

3.2. Committees: -

3.2.1. In 1948, S.K. Dhar

A judge of the Allhabad H.C. was appointed by the government to head a commission that would look into the need for the reorganisation of states on the linguistic basis. However, the commission preferred reorganisation of states on the basis of administrative convenience including historical and geographical considerations instead of linguistic lines.

3.2.2. In December 1948, JVP Committee (Jawaharlal Nehru and Vallabhbhai Patel and Pattabhi Sitaramayya)

The Dhar Commission report produced general disappointment and led to the appointment by the Congress in December 1948 of another Linguistic Provinces Committee, made up of three members, namely Jawahar Lal Nehru, Vallabhbhai Patel, and Pattabhi Sitaramayya, and thus popularly known as the JVP Committee. In its report (1949), the Committee reaffirmed the position of the Dhar Commission. The Committee also recommended that the creation of new provinces should be postponed for a few years so that they could concentrate on other matters of vital issues and not allow ourselves to be distracted by this issue. The study also stated that if public opinion is insistent and overwhelming, they have to submit to it as Democrats subject to certain restrictions on India's good as a whole.

In 1953, the first linguistic state is Andhra Pradesh for Telugu speaking people was born. The government was forced to separate the telugu speaking areas from the state of Madras, in face of a prolonged agitation and the death of potty Sriramulu after a 56 day hunger strike.

3.2.3. December,1953, Fazl Ali Commission

The creation of the Andhra State increased the demand from other regions for the formation of States on a linguistic basis. In December 1953, the Government announced the creation of a Reorganization Commission of three-member States, chaired by Fazal Ali, to examine the whole problem. The two other members of the Commission were H.N. Kunzru and K.M. Pannikar. In its report, the Commission sought a balanced approach between regional feelings and national interests. The Commission proposed abolishing the four-fold division of states in keeping with the original Constitution and recommended the establishment of 16 states and 3 central territories.

The Commission also established the following four main principles as the basis for reorganization-

i. Preserving and enhancing the security and unity of the country;
ii. Financial, economic and administrative viability;
iii. Linguistic and cultural homogeneity;
iv. And the scope for the successful implementation of a development plan.

After a long journey of creation of new states today we have 28 states and 8 UTs among them we got 2 UTS i.e. Jammu and Kashmir and Leh Laddakh are the newest and daman and diu merged with dadra and nagar haveli in January 2020.

4. Constitutional provisions related to creation of new states

Article 1 elucidates India a ''Union of States''. These states are specified in the First Schedule of the constitution. First Schedule lists the States and Territories of India and also lists if any changes to borders of them. Articles 2, 3 and 4 enable parliament by law admit a new state, increase, decrease the area of any state or the parliament can change the name of any state.

4.1. ARTICLE 1 Name and territory of the Union

(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

It is necessary to distinguish the phrases 'Union of India' and 'Territory of India'. The Union of India includes only those States which enjoy the status of being members of the federal system and share the distribution of powers with the Union. The Union Territories are not included in the Union of states whereas the term Indian Territory includes not only the States but also the Union Territories and other territories that India may acquire. In the First Schedule of the Constitution, the States and Territories are specified.

4.2. Article 2. Admission or establishment of new States

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

Article 2 of the Constitution confers power on the Parliament to admit or establish new States. Parliament has admitted by using this power, for example, the French settlements of Pondicherry, Karaikal, etc.

Article 2 concerns the admission or establishment of new states which were not part of India. Admission of new state can be done only by a constitutional amendment. Accordingly, constitutional amendments had to be passed under article 368. When Portugese and French territories were taken over by the government of India and admitted into the Indian Union as UTs of GOA, DAMAN DIU, DADRA NAGAR HAVELI and PUDUCHERRY.

This power of parliament is very wide but under article 2 parliament cannot override the constitutional scheme. If a law goes beyond the constitutionally permissible latitudes that law can be questioned as regards its validity.

Article 3: Formation of new States and alteration of areas, boundaries or names of existing State

Article 3 enables parliament to effect by law reorganisation inter se of the territories of the states constituting the Indian Union.

4.2.1. Reasons for drafting this article: -

The reasons for drafting this article are as follows: -

i. The princely states had not been fully integrated.
ii. Reorganisation could not be postponed for so long.
iii. A simple and easy method for reorganisation of states at any point of time.

4.2.2. Procedure

Parliament may increase or decrease the area of any State or may alter the borders or names of any State. In this respect, Parliament follows the following procedures.

Step 1: Either House of Parliament, on the recommendation of the President, may introduce a bill giving effect to any or all of the amendments set out above.

Step 2: If such a bill affects the boundary or the name of a State, the President shall refer the bill to the State Legislature concerned before putting it before the Parliament for its opinion.

Step 3: If the State Legislature fails to express an opinion within that time limit, it shall be deemed to have expressed its opinion. The Parliament is not bound to accept or act on the views of the State Legislature, even if the State has submitted its views within a period of time.

The proviso of Article 3 makes it compulsory on the part of the President to refer the bill to the legislature of the 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. Our constitution provides the prospective changes including alteration of boundaries. In 1968, some changes were incorporated as to the states Bihar and Uttar Pradesh, in consequence of that in same territory in Shahbad District of Bihar lying between the fixed boundary and the deep stream of the river Ganga being transferred from the State of Bihar to the Uttar Pradesh state.

In the case of Union Territories, before such a bill, it is not necessary to seek the views of the Legislatures of Union Territories, For example, such Bills concerning Mizoram, Arunachal Pradesh, Goa, Daman, and Diu were introduced in Parliament without obtaining such views.

Article 3 thus demonstrates the vulnerability and dependence of the territorial integrity of the States on the Union, whereas, in federations such as the USA or Australia, the borders or names of States cannot be changed by the Federation without the consent of the States.

4.3. Law Made Under Article 2 And 3 Will Not Come Under Article 368 Etc. (Article 4)

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 4 states that any law referred to in Article 2 or Article 3 shall contain such provisions as required to amend the 1st Schedule and IV Schedule in order to give effect to the provisions of the law and may also contain such specific, incidental and consequential provisions as the provisions may be considered necessary by the Parliament. may deem necessary.

Article 4 allows for consequential changes to the First Schedule (names of the States in the Union of India) and the Fourth Schedule (number of seats allocated by each State to the Rajya Sabha). It also notes that it does not consider a constitutional amendment under Article 368. It also states that no law existing States or creating a new State will be considered a constitutional amendment. It is in line with the previous provisions of the requirement, of a simple majority in Parliament and suggests full control of the Union over the territories of the individual States of the Union.

5. THE ACCESSION OF INDIAN STATES TO THE DOMINION OF INDIA: -

Before the Indian partition of 1947, 584 Princely States existed in India, often known as the Native States, which were not fully and formally the part of British India, areas of the Indian subcontinent which had not been invaded or occupied by the British, but under partial control, subject to subordinate alliances.

The era of the princely states effectively ended in 1947 with Indian independence. Around 1950, almost all principalities had either acceded to India or Pakistan. The process of accession was largely peaceful, with the exception of Jammu and Kashmir (whose ruler opted for independence but decided to join India after invasion by Pakistani forces), Hyderabad (whose ruler opted for independence in 1947, followed a year later by Indian police action and annexation of the state), Junagarh (whose ruler joined Pakistan but was annexed by India).

While India officially gained independence, there was a desire for state reorganization in a different part of India. While the demand for new states was mainly based on language, constitutional makers held a variety of views. But since the Constituent Assembly did not have enough time to examine such a huge issue and administrative difficulty, they formed a Commission to investigate the matter.

5.1. Arrangement of States as on 26th January, 1950

In the meantime, the Republic of India came into existence on 26 January 1950. The constituent units of the Indian Union have found themselves classified into Part A, Part B, Part C, and Part D. This was only a temporary arrangement, as a satisfactory solution could not yet be found.

- Part A States included the provinces of the former governors. The nine States of Part A were Assam, Bihar, Maharashtra, Madhya Pradesh (formerly Central Provinces and Berar), Madras, Orissa, Punjab (formerly East Punjab), Uttar Pradesh (formerly United Provinces), and West Bengal.

- Part B States included the former Princely States. Part B States were Hyderabad, Jammu, and Kashmir, Madhya Bharat, Mysore, Patiala, and the Eastern Punjab States Union (PEPSU), Rajasthan, Saurashtra, Travancore-Cochin and Vindhya Pradesh.
- Part C States comprised both the provinces of the former Chief Commissioners and some of the Princely States. Part C States were Ajmer, Bhopal, Bilaspur, Cooch-Behar, Coorg, Delhi, Himachal Pradesh, Kutch, Manipur, and Tripura.
- The Andaman and Nicobar Islands were the only State in Part D.

5.2. Continuation of demands for linguistic States

Demands for the formation of States on a linguistic basis have increased further. In October 1953, after the long-drawn agitation and death of Potti Sriramulu after a 56-day hunger strike for the cause, the Government of India was forced to create the first linguistic state, Andhra Pradesh, by separating the Telugu-speaking parts of the Madras State.

6. Legislation under this article:

a) Assam (alteration of boundaries) Act, 1951, which altered the boundaries of the state of assam consequent on cession of a strip of territory comprised in that state of the government of Bhutan.
b) Andhra state Act, 1953 which formed the new state of Andhra Pradesh by seprating some territory from the state of madras.
c) Himachal Pradesh and Bilaspur (new state) Act, 1954, which merged the two former part c states to form one state of himanchal Pradesh.
d) Bihar and West Bengal (Transfer of Territories) Act, 1956, transferred certain territories from bihar to west Bengal.
e) States Reorganisation Act,1956, reorganised the boundaries of the different states. It established the new state of kerala and merged the former states of Madhya bharat, pepsu, saurashtra, Travancore-cochin, ajmer,Bhopal,coorg,kutch and vindhya Pradesh in other adjoining states.
f) Andhra Pradesh and Madras (alteration of boundaries) Act, 1959, provided for the alteration of boundaries of states of Andhra Pradesh and Madras.
g) Rajasthan and Madhya Pradesh (Transfer of Territories) Act, 1959, transferred certain territories from the state of Rajasthan to that of Madhya Pradesh.
h) The Bombay Reorganization Act, 1960, divided the State of Bombay into two States, Gujarat and Maharashtra.
i) Acquired territories (merger) Act, 1960, merged certain territories into the states of Assam, Punjab and west Bengal, certain territories acquired from pakistan under agreements entered into between governments if India and Pakistan.

j) The Nagaland State Act 0f 1962 established Nagaland as a separate State.
k) The Punjab Reorganization Act,1966, split Punjab into Punjab and Haryana.
l) The new State of Himachal Pradesh, consisting of the existing Union Territory of Himachal Pradesh, was established by the State of Himachal Pradesh Act, 1970.
m) The New States of Manipur, Tripura, Meghalaya and Union Territories of Mizoram and Arunachal Pradesh have been established by the North eastern Areas (Reorganization) Act, 1971.
n) Haryana and up (alteration of boundaries) Act, 1979
o) Arunachal Pradesh were granted statehood by the State of Arunachal Pradesh Act, 1986.
p) Mizoram were granted statehood by the State of Mizoram Act, 1986
q) Goa was incorporated as a separate State of the Union by the Goa, daman and diu reorganisation Act, 1987.
r) Chattisgarh was formed as a result of the Madhya Pradesh Reorganization Act, 2000, which came into force on 1 November 2000.
s) Uttranchal came into existence on 8 November 2000 under the Uttar Pradesh Reorganization Act, comprising the northern districts of Kumaon and the Garhwal hills of Uttar Pradesh.
t) The State of Jharkhand was established by the Bihar Reorganization Act 2000 of 15 November, consisting of 18 southern districts of Chhota Nagpur and Santhal Pargana of Bihar.
u) The State of Telangana was established by the Andhra Pradesh Reorganization Act 2014 and came into force on 2 June 2014.
v) On 31 October 2019, the act reconstituted the former state of Jammu and Kashmir into two union territories, Jammu and Kashmir and Ladakh.
w) The new State of Sikkim was established by the Constitution Act (36th amendment) of 1975

7. The States Reorganization Act,1956

It entered into force in November 1956. This Act and the Seventh Constitutional Amendment Act of 1956 abolished the distinction between Part A and the Part B States and the Part C States. Instead, they were classified into two categories: states and territories of the Union. This Act provided for 14 States and 6 Union Territories to be established as follows:

7.1. States

Assam, Andhra Pradesh, Bihar, Bombay, J&K(by the instrument of accession), Kerala, Madhya Pradesh, Madras, Mysore, Orissa, Punjab, Rajasthan, Uttar Pradesh, and West Bengal.

7.2. Union Territories

Andaman & Nicobar Islands, Delhi, Himachal Pradesh, Laccadive, Minicoy & Amindivi Islands, Manipur, and Tripura.

8. Scope of Article 3

The States and the Territories thereof after the amendment of Article 1(2) reads: State and the territories thereof shall be as specified in the First Schedule. The Constitution contemplates changes of the territorial limits of the constituent states and there is no guarantee about their territorial integrity.

The intention seems to be given an opportunity to the State legislature to express its view within the time allowed. If the State Legislature fails to avail itself of the opportunity such failure would not invalidate the introduction of the Bill. There is nothing in the proviso to indicate that Parliament must accept or act upon the view of the State Legislature. Indeed, two State Legislatures may express totally divergent views. All that is contemplated is that the Parliament should have before it the views of the State legislature to the proposals contained in the Bill and then be free to deal with the bill in any manner it thinks fit and following the usual practice and procedure prescribed by and under the rules of business. What is to be referred to the State Legislature is the proposal contained in the Bill. It is not necessary that every time an amendment of the proposal contained in the bill is moved and accepted, a fresh reference should be made to the State Legislature.

Parliament has been vested with the exclusive power of admitting or establishing new states, increasing or diminishing the area of an existing State or altering its boundaries, the legislature or legislatures of the States concerned having only the right to an expression of views on the proposals. For making such territorial adjustments it is not necessary even to invoke the provisions governing constitutional amendments.

Article 3(a) enables Parliament to form a new State and this can be done either by the separation of the 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. There can be no doubt that foreign territory which after the acquisition becomes a part of the territory of India under Article 1 (3) (c) is included in the last clause of Article 3 (a). Thus Article 3(a) deals with the problem of the formation of a new state and indicates the modes by which a new state can be formed.

article 3 (b) provides that a law may be passed to increase the area of any State. This increase may be incidental to the reorganization of States under Article 3 (b) may have been taken out from the area of any state may also be the result of adding to any state any part of the territory specified in Article 1 (3) (C). Article 3 (d) refers to the alteration of the boundaries of any State and such alterations would be the consequence of any of the adjustments specified in Article 3 (a),(b),(c). Article 3 (e) refers to the alteration of the name of any State.

9. Cession of the territory: -

The power given to parliament to reorganise states cannot be availed of by it to cede any Indian territory to a foreign country. This point was settled by the supreme court in an advisory opinion of 1960.

Supreme court stated in magan bhai v. union of india that a constitutional amendment is necessary in a case where de jure and de facto Indian territory is ceded to a foreign country, but settlement of boundary dipute between india and othr country stands on a different footing. The settlement of boundary dispute cannot be held to be cession of territory. This matterrests with the executive.

The factual situation in the instant case was that hostilities broke out between india and Pakistan on a boundary dispute in kutch. The matter was then reffered by both countries to be a tribunal for arbitration. The question arose whether the award of the could not be implemented by an executive act, or was a constitutional amendment necessary? The supreme court ruled that it could be done by executive action as it involved no cession of territory, but amounted only to demarcation of the boundary line on the surface of the earth.

10. Case Laws

10.1. Berubari Union case, 1960

In this case, the supreme court held that the power of Parliament to diminish the area of a State (under Article 3) does not cover the cession of Indian territory to a foreign country. 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. Supreme Court in 1960 ruled that the 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.

10.2. R.C.Poudyal & Ors. v. Union of India,

Article 3 was discussed and it was observed: "It cannot be predicted that the article confers on Parliament an unreviewable and unfiltered power immune from judicial scrutiny. The power is limited by the fundamentals of the Indian constitutionalism and those terms and conditions which the Parliament may deem fit to impose, cannot be inconsistent and irreconcilable with the foundational principles of the Constitution and cannot violate or subvert the constitutional scheme. The validity of a statute is to be tested by the constitutional power of the Legislature at the time of its enactment by that Legislature, and if thus tested, it is beyond the legislative power, it is not rendered valid.

10.3. Mullaperiyar Environment Protection Forum V. Union of India, (2006) 3 SCC 643: AIR 2006 SC 1428

In this case, the validity of Section 108 of the State Reorganization Act, 1956 which allows for the continuation of existing agreements between the existing states at that time. The Court held that the legislative powers referred to Article 3 and Article 4 are supreme and not subject to or bound by Article 246 and List II and List III of the Seventh Schedule. It also held that the constitutional validity of the legislation referred to Article 3 and Article 4 can not be

questioned on the grounds of lack of legislative competence in relation to the list in the Seventh Schedule.

10.4. Ram Kishore Sen v. Union of India, AIR 1966 SC 644, 648: (1966) 1 SCR 430

The Constitutional Act (18th amendment) 1966 adds two explanations to Article 3, incorporating the decision of the Supreme Court in this case, which clarified the term "State" in the term "State" which includes the term "Union Territories" but since there is no such necessity with regard to the provision of Article 3, it is also provided that the term "State" does not include the term "Union Territories". The reason is that, in the event of a change and alternation in the borders of the State, it is necessary to seek the opinion of the States concerned; but since the Union Territory is governed by the Parliament itself, the inclusion of the Union Territory in the term "State" would have been redundant. The second explanation further clarifies the Parliament's Power. It provides that Parliament's power under Article 3 clause (a) includes the power to form a new State or Union Territory by uniting a part of any State or Union Territory with any other State or Union Territory.

10.5. Babu lal Parante v. State of Bombay, 1960 A.I.R. 51, 1960 S.C.R. (1) 605.

The Court explains the provisions of Article 3 of Indian Constitution: The period within which the State Legislature must express its views has to be specified by the President; but the President may extend the period so specified. If, however, the period specified or extended expires and no views of the State Legislature are received, the second condition laid down in the proviso is fulfilled in spite of the fact that the views of the State Legislature have not been expressed.

The intention seems to be to give an opportunity to the State Legislature to express its views within the time allowed; if the State Legislature fails to avail itself of that opportunity, such failure does not invalidate the introduction of the Bill.

Nor is there anything in the proviso to indicate that Parliament must accept or act upon the views of the State Legislature.

Clearly, Indian Constitution envisioned a situation where a state may refuse to provide its view or provide negative views about a formation of a new state, and therefore gave full powers to Indian Parliament to go ahead with its decisions irrespective of opposition from the State Assembly.

11. Conclusion

It said that the Constitution is the supreme law of the land. The Parliament is a body empowered to make laws for the welfare state, but in doing so, the Members of the Parliament need to ensure that the legislation that is presented and enacted does not derogate from the constitution and, above all, does not have to be in breach of the basic structure of the constitution of India. The constitutional provision under Article 3 was incorporated with a benevolent idea to realize geographical and economic unification of India but now it seems that this provision has become a tool for satisfying regional and linguistic

aspirations of people and an instrument to achieve electoral gains. The two terms "Linguistic" and "Cultural" have never been more misused than in recent times. It is difficult to understand what has happened to our power of assimilation and why the feeling of linguistic and regional fanaticism is gaining ground day by day. The increasing demand for new states apparently manifests this tendency cropping up in our country and unfortunately by creating more states, our government has further intensified the problem.

The notion of "small is beautiful" seems to be illusionary; at least past experiences suggest that. It would be the most profound mistake if anyone thought that creation of new states is panacea for all the problems. The need of the hour is to concentrate more on development of the states already existing. It is immaterial whether the state is small or big; what is required is a strong political will to govern with full honesty and sincerity. Development requires a conducive atmosphere to be created by both; leaders and citizens.

The provision under Article 3 of the Constitution, that the centre may destroy the very existence of a state by altering its boundary lines in a way it chooses, gives a picture of unitary form of government actually prevailing in our country in the garb of federalism. The fundamental principle that a federation depends upon the territorial integrity of states seems to have been overlooked. The further division of the country has leaded to turmoil and agitation in the country leading to a further growing demand for creation of new states, where everyone wants a state according to his/her own whims and fancies. The regional ties have become so strong that it has given rise to a phase where in the regional roots have gained predominance over the national unity and integrity. There are fasts until death and people are coming out on roads asking for their own state as if state is nothing but a toy that could be handled and modified according to them. And all of this is being done in the name of Linguistic division to support the development of the state and ensure better governance.

11.1. Suggestions

Under the cover of reorganization of states, a gradual balkanization of the country should not be encouraged, as that would defeat the Preamble mandate of and our persistent quest for 'national integrity'.

The need of the hour is to concentrate more on development of the states already existing. It is immaterial whether the state is small or big; what is required is a strong political will to govern with full honesty and sincerity. Development requires a conducive atmosphere to be created by both; leaders and citizens and not division of states on the claims of aiding the development of the states.

There should be formation of a new body which looks into state reorganization. Formation of new states should be left to a competent commission or to any other body or authority that may be set up either ad hoc for a particular purpose or in general terms as a kind of statutory, constitutional authority having quasi-judicial character that may decide upon the issue.

Economic viability is an important aspect as many times we have witnessed that a newly created State lacks required financial resources to carry on its functions. Therefore, no new state should be created unless it has the resources or revenue to incur at least 60 per cent of its expenditure from the day of its coming into existence.