

## **Creation of New States**

Under Article (1) India has been characterized as a 'Union of states, Union territories and any other territories' that may be acquired by the government of India at any time. Article 1(3)-Parliament's power to reorganise states.

## **Admission of New states- Article 2**

Under Article 2 of the Constitution Parliament is empowered to enact a law to admit into the union or establish, new states on such terms and conditions as it thinks fit. Thus Article 2 gives two powers to the parliament-

- (i) To admit new states into the Union.
- (ii) The power to establish new states.

The first refers to the admission of states which are already in existence and are fully formed. The second refers to the admission and formation of a state which was not in existence before.

It is worth noticing that the admission or establishment of a new state will be "on such terms and conditions as parliament may think fit" Here again our Indian Constitution differs from the American and Australian Constitutions which accept the theory of equality of states.

Article 2 gives complete discretion to the parliament to admit or establish new states on such terms as it thinks fit.

After new state is admitted or the boundaries of the existing states are altered the parliament can by law make all consequential changes in the Constitution by simple majority and any Act of the parliament for the aforesaid purpose will not be deemed to be an amendment of the Constitution.

## **Formation of new states and alteration of boundaries etc. of existing states- [Art.3]**

Under Art.3 a new state may be formed or established in the following way--

- a) By separation of territory from any states
- b) By uniting 2 or more states or
- c) By uniting any parts of states or
- d) By uniting any territory to a part of any state.

Parliament under this article can also increase or decrease the area of any state, alter the boundaries or change that of any state. Article 3 deals with formation of new state out of territory of the existing states. The power to form new states under Article 3(a) 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 word 'state' under Article 3 clauses (a) to (e) includes a 'Union Territory'

The Indian Constitution empowers the parliament to alter the territory or names etc of state without their consent or concurrence. That means new state can be formed by law passed by simple majority.

Thus it is clear that the very existence of a state depends upon the sweet will of the central government. Parliament may form a new state or alter the boundaries etc. of existing states and thereby changes the political map of India.

### **Cession of Indian Territory to foreign country**

Under Article 3(c) Parliament may by law increase or diminish the area of any state. The diminution of the area of any state occurs where the part of the state is separated. Parliament has power to cut away the entire area of a state to form a new state or to increase the area of any state.

### **Supreme Court in-In Re Berubari Union Case AIR 1960 SC 845**

It was held that the — of parliament under Art.3 to diminish the area of any state does not cover ceding of Indian territory to a foreign state. Hence the court held that the parliament had no power.

Under Art 3 (c ) to make a law to implement a Berubari agreement (this agreement was entered into with the government of Pak and India). However it could be only be implemented by an amendment of the constitution in accordance with Art. 368.