

The Union and its Territory : Part I (Articles 1- 4)

Part I of Indian Constitution is titled The Union and its Territory. It includes articles from 1- 4. Part I is a compilation of laws pertaining to the constitution of India as a country and the union of states that it is made of. This part of the constitution contains the law in the establishment, renaming, merging or altering the borders of the states. Articles under Part I were invoked when West Bengal was renamed, and for formation of relatively new states such as Jharkhand, Chattisgarh or Telengana.

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

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 2a : Sikkim to be associated with the Union

{...}

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

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.

Also read: Council of Ministers in States (Articles 163-164)

Explanation I: In this article, in clauses (a) to (e), "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

Explanation II: The power conferred on Parliament by clause (a) includes the power to form a new State or Union territory by uniting a part of any other State or Union territory to any other State or Union territory.

Article 4 : Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedule and supplemental, incidental and consequential matters

(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 in amendment of this Constitution for the purposes of article 368.

Info-bits related to Part I : The Union and the territory (Articles 1- 4)

1. Article under which Sikkim was made part of Indian Union : Article 2a.
2. Article under which Telangana was made part of Indian Union : Article 3.
3. Article 3 original provision was amended by Constitution (fifth amendment) Act, 1955 on 24 December 1955.
4. Nowhere under Part I, it is mentioned that India is a federal state. It rather uses the phrase "Union of States".
5. The territorial waters and the exclusive economic zones shall also become part of the states or union territories in the absence of any listing of them separately in Schedule 1 and 4 of the constitution.
6. An **economic zone (EEZ)** is a seazone prescribed by the United Nations Convention on the Law of the Sea over which a state has special rights over the exploration and

use of marine resources, including energy production from water and wind. It stretches from the baseline out to 200 nautical miles (370 km) from its coast.

- The difference between the territorial sea and the exclusive economic zone is that the first confers full sovereignty over the waters, whereas the second is merely a “sovereign right” which refers to the coastal state’s rights below the surface of the sea. The surface waters, as can be seen in the map, are international waters.

- The constitution (40th amendment) act, 1976, substituted a new Article 297 so as to vest in Union of India all lands, minerals, and other things of value underlying the ocean within the territorial waters or continental shelf or exclusive economic zone of India.

- The territorial waters, continental shelf, exclusive economic zone and other maritime zones act, 1976* was enacted by the Indian government to notify the sovereign rights on these areas for dealings with other countries.

- However, it is not clear whether states are debarred from imposing taxes or royalty on the minerals extracted from the territorial waters and the exclusive economic zone (which are still under states jurisdiction) as per serial no. 50 of state list in seventh schedule of the constitution.
- For creation or destruction of a state the permission from the concerned state is not mandatory under Indian Constitution. But the bill has to referred to the concerned state legislature for expressing its views.
- Prior recommendation of the President of India is necessary for the state creation/renaming bill. (Article 3). No such provision is mandatory under Article 2 (new states).

