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Day 2: Discuss the constitutional provisions for the creation and abolition of the States in India, with examples.

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Approach / Explanation / Answer

Approach

- Introduce the constitutional provisions regarding the states and UT.
- Discuss the constitutional provisions for the creation and abolition of the States.
- Conclude suitably.

Introduction

- According to Article 1, the territory of India can be classified into three categories namely, Territories of the states, Union territories, Territories that may be acquired by the Government of India at any time.
- The states are the members of the federal system but union territories are directly administered by the Central government.

Body

- Being a sovereign state, India can acquire foreign territories. For example, India acquired several foreign territories such as Dadra and Nagar Haveli; Goa, Daman and Diu; Puducherry; since the commencement of the Constitution.
- **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:
 - The power to admit into the Union of India new states (refers to the **admission of states which are already in existence, E.g., Sikkim**).
 - The power to establish new states (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 relates to the changes in the existing states of the Union of India.** It deals with the internal re-adjustment inter se of the territories of the constituent states. It authorizes the Parliament to -
 - form a new state by separation of territory from any state or by uniting two or more states;

E.g., Formation of Telangana from A.P. and Jharkhand from Bihar).

- Increase, diminish, alter the area of any state and boundaries or name of any state. **E.g., Alteration of area and name of U.P., M.P. and Karnataka.**
- However, **there are two conditions in this regard:**
 - A bill, for this, can be introduced in the Parliament only with the prior recommendation of the President;
 - The President has to refer the same to the state legislature for expressing its views within a specified period (though the President or Parliament is not bound by the views of the state legislature). In the case of a union territory, no reference need be made.
- It is, thus, clear that the Constitution authorises the Parliament to form new states or alter the areas, boundaries or names of the existing states without their consent. In other words, the **Parliament can redraw the political map of India according to its will.**
 - Therefore, India is rightly described as 'an indestructible union of destructible 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** (can be passed by a simple majority).
- **Power of Parliament to cession of Indian territory to a foreign country:** In 1960, **Berubari Union (West Bengal)** Case, 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 to transfer the said territory to Pakistan.
 - The 100th Constitutional Amendment Act (2015) was enacted to exchange of certain territories by India and Bangladesh. Under it, India transferred 111 enclaves to Bangladesh, while Bangladesh transferred 51 enclaves to India.

Conclusion

Hence the constitution has categorically defined the power of parliament for creation of new states or alter the boundaries of the existing states. By using these provisions parliaments have created various states like Telangana, Haryana, etc.

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