



India's Federal Design and J&K Statehood

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Why in News?

The [Supreme Court of India](#) has sought a detailed response from the Centre on [restoring statehood to Jammu and Kashmir \(J&K\)](#) in the plea *Zahoor Ahmed Bhat vs UT of J&K*.

- It is argued that delaying the restoration of J&K's statehood infringes **citizens' rights and undermines federalism**, a part of the [Constitution's basic structure](#).

How are States Created in India?

- **Admission:** A new State may be admitted into India if it has an organized political unit, guided by international law.
 - **Example:** J&K's accession in 1947 via the [Instrument of Accession](#).
- **Establishment:** Territory acquired under international law can be established as a State. **Example:** Goa and Sikkim.
- **Formation/Reorganisation:** Existing States can be reorganized under **Article 3 of the Constitution**, which empowers Parliament to form a new State by separating or merging territories, increasing or diminishing a State's area, and altering the boundaries or names of States. **Example:** Formation of Telangana from Andhra Pradesh.
- **Limitation:** While the **Union can diminish a State's area**, converting it into a Union Territory is **not specifically mentioned in the Constitution** of India, which underscores the **need to restore J&K's statehood in line with the principle of federalism**.
 - But there are certain considerations that brought about the scope for the creation of Union Territories.

Considerations for Formation of UTs

Constitutional Framework

- **Article 1:** India as a "Union of States," (explicitly including UTs).
- The **7th Constitutional Amendment Act** and the **Section 6 of States Reorganisation Act (1956)**: Institutionalized the concept of UTs.

Other Considerations

- **Political & Administrative:** Direct governance in sensitive regions (Delhi, Chandigarh).
- **Cultural:** Preservation of unique cultural identities (Puducherry).
- **Strategic:** Security in Strategic locations (Andaman & Nicobar, Lakshadweep).
- **Developmental:** Focused growth in backward/tribal areas before statehood (Mizoram, Tripura).

What is India's Federal Design and its Impact on J&K Statehood?

- **India's Federal Design: India is a Union of States, indivisible and without a right to secede (Article 1).**
 - The Constitution uses the term '**Union**' instead of '**Federation**' to balance unitary strength with federal character.
 - Federalism ensures equitable resource distribution and representation of States at the Union level.
 - Rajya Sabha as a **permanent House ensures States' representation at the Union level, safeguarding federal interests.**
 - Federalism is part of the Constitution's basic structure, meaning it cannot be abrogated.
- **J&K Context:** The 2019 Jammu and Kashmir Reorganisation Act transformed the region into two Union Territories: Jammu & Kashmir and Ladakh.
 - Although the constitutional validity of this act was upheld by the Supreme Court in 2023, it mandated the **eventual restoration of J&K's statehood.**
 - Critics contend that the **prolonged delay undermines federalism by extending Union dominance through the Lieutenant Governor**, thereby limiting the powers of elected representatives.
 - Conversely, proponents argue that due to **J&K's sensitive security context, maintaining Union control is crucial until stability is firmly established.**
- **Importance of Restoring Statehood: It reaffirms India's commitment to federal integrity by promoting shared governance between the Union and States.**
 - It empowers the elected Assembly, and enhances democratic rights through better representation and accountability.

Process for Restoring Statehood

- Restoring statehood to Jammu and Kashmir would require **repealing the [J&K Reorganisation Act](#)** and introducing a new bill in Parliament.
 - Under Article 3, **Parliament can form a new state** from existing territories with the President's recommendation, who acts on the advice of the **Council of Ministers**, making it a decision of the Union government.
- Precedents of granting statehood to Union Territories in India include Himachal Pradesh in 1971, Manipur and Tripura in 1972, and Arunachal Pradesh and Mizoram in 1987.
 - Additionally, Goa was formed as a state in 1987 by converting the Union Territory of Goa, Daman, and Diu.

Drishti Mains Question:

Q. Examine India's federal design and explain its significance in the context of restoring Jammu & Kashmir's statehood.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. To what extent is Article 370 of the Indian Constitution, bearing marginal note "Temporary provision with respect to the State of Jammu and Kashmir", temporary? Discuss The future prospects of this provision in the context of Indian polity. (2016)

