CHAPTER - V

A CRITICAL EXAMINATION OF THE CRITERIA USED IN THE CREATION OF UNION TERRITORIES

After analysing at length the various criteria adopted for constituting the Union territories, it is appropriate to examine how far the criteria used in the creation of Union territories are tenable or, in other words, the rationale behind these criteria.

(1) The strategic criterion

As revealed by the criteria used, it is apparent that the former Union territories of Manipur and Tripura and the existing Union territory of Arunachal Pradesh were created for strategic reasons. Lying on our eastern border, all the three areas are doubtless vitally significant from defence point of view. But since only Manipur, Tripura and Arunachal Pradesh were placed under the control of the Centre for strategic purposes, one must examine whether these were the only strategic areas involved in the creation of Union territories. If this criterion has not been used in respect of all the border areas, what were the reasons underlying the exclusion of other strategic areas from the purview of
the jurisdiction of the Centre? What yardstick has been adopted for bringing the various border areas under Central administration? Further, how far can the policy of the Government of India in creating Union territories on the basis of strategy be reconciled with the policy of ultimate conferment of statehood on these territories, as the conferment of statehood on such Union territories would make them autonomous and, therefore, would stand in the way of effective control for strategic purposes.

Such a scrutiny would reveal that, apart from Manipur and Tripura, there are several other strategic areas, such as Assam, Punjab, Haryana and Rajasthan and from the point of view of security, they are no less significant than Manipur, Tripura and Arunachal Pradesh. But the location of an area alone was not a consideration for direct Central administration. Since the primary objective in reorganising the States was to strengthen the national security, the State Reorganisation Commission, keeping this imperative need in view, considered it a fundamental prerequisite that there should be large and financially resourceful units on the

1 See detailed discussion in Chapter VI entitled, "The Future of Union Territories", p. 184

2 Jammu & Kashmir is also a border State. It enjoys a special constitutional status provided for under Article 370 of the Constitution. It is, therefore, not relevant to consider it from this point of view. The size, name and boundary of this State cannot be altered under Article 3 as in the case of other States.
The smallness of area and the multiplicity of jurisdictions were regarded as handicaps from the point of view of defence. While building up the case for larger states on the border, the S.P.S. differed with this view of the protagonists of small states that the detachment of the North-West Frontier Province from the Punjab recognized the principle of small states on the border. Their attention was drawn to the remarks of the Secretary of State for India and it was observed that this view was based on an incorrect appreciation of the reasons for the detachment of the North-

3 In this respect the Commission observed: "While the primary responsibility for defence arrangements must be that of the Central Government, a considerable burden relating to security arrangements must be borne by the State. It is, therefore, important that a border State should be a well-administered, stable and resourceful unit, capable of meeting the emergent problems arising out of military exigencies. This means that normally it would be safer to have on our borders relatively larger and resourceful states rather than small and less resilient units." \textit{I}ara 113, \textit{p}. 33, \textit{Chapter II, Part II, Report of the States Reorganisation Commission (1955)}

4 \textit{Ibid., para 116, p}. 34

5 In this connection the Commission quoted: "In remarking that the need of a strong administration equipped with all the resources of Government would be felt on the frontier, I did not refer to the political administration. I referred to the advantages that must accrue to the frontier districts of British India from the application to them of the ways and means at the command of a first class administrative unit. The construction of roads, bridges, rest houses, and hospitals and generally the assignment of provincial resources to a particular district may be of the utmost value, and are best secured if the district is an integral part of a large province. In times of disturbance or threatened danger a large province can draft in additional police, procure transport, change local officers, and do much to prepare for troubles before they arise or assume the form of military operations." \textit{I}ara 119, \textit{pp}. 32-33, \textit{Ibid}.
West Frontier Province from the Punjab. The main consideration underlying the separation in preference to small units recognized the essentiality of strong and stable administration on the border. The future of strategic areas was thus examined mainly in the light of the size and financial viability.

In the course of examining, the case of border areas, Assam, Rajasthan and the Punjab were found to be big and capable of guarding the national frontiers. Therefore, the Commission recommended for them the Constitution of States. When the S.R. Commission was considering the future of Assam, it was urged to recommend the formation of a separate Purbachal State out of the territory of Assam. Since the policy was to have sizeable and economically viable units on the borders, the S.R.C. declined to suggest for the creation of a weak unit such as Purbachal on the border. On a similar consideration, the proposal to create Maru Pradesh out of the territory of Rajasthan was turned down by the Commission.

The units which for lack of sufficient resources and because of being small, could not be created as states were

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6 While rejecting the proposal to carve out Purbachal from Assam the Commission stated, "...It is clear that it will have neither the resources nor the stability to provide for the security of the Indian border in this part of the country." *Ibid.*, para 706, p. 191

7 In setting aside the suggestion, the S.R.C. observed: "If this state is formed, it is unlikely to have adequate resources in manpower or material to police a seven-hundred-mile frontier, and financially it will be a weak unit." *Ibid.*, para 495, p. 135
viewed in terms of their communication links with the neighbouring States. The areas which had well-established communication connections with the adjoining larger States, the policy in respect of them was to merge them with the larger States. The part C State of Kutch was one such area.\(^8\) As a small unit, it could not stand by itself. However, because of its being contiguous to Bombay, it was merged with the latter.\(^9\)

In cases of strategic areas where conferment of Statehood and merger was not feasible because of the above-mentioned considerations the policy of the Union Government in respect of those areas was to bring them under its own control. At the time of the reorganisation of the States, Part C States of Manipur and Tripura were insufficient both in size and resources.\(^10\) Even by integrating these two territories, the area of N.E.F.A., the Mizoram Hills, the Cachar District of Assam and the Naga Hills into one unit,

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\(^8\) Part C State of Tripura was also well connected with the neighbouring States. But in respect of this area the consideration of communication links was dispensed with in view of political and economic problems of the adjoining State of Assam.

\(^9\) After the reorganisation of Bombay, Kutch was included in the State of Gujarat, vide the Bombay (Reorganisation) Act (11 of 1960) 1960, Sec. 3

they were financially deficit.\textsuperscript{11} As such either Manipur or Tripura could not be created as States. Besides, they could not be integrated with the neighbouring State of Assam owing to difficulties in respect of communications and the incapacity of the State of Assam to look after, apart from the autonomous hill districts, the administration of Manipur and Tripura.\textsuperscript{12} It was because of this delicate position of Assam that the E.R. Commission rejected the suggestion of the Government of Assam that N.E.P.A. should be merged with Assam, and recommended the continuation of status quo.\textsuperscript{13} Later on, for the same reason,\textsuperscript{14} N.E.P.A. was fully detached and made a Union Territory.

From the above arguments it is apparent that it was never the policy of the Government of India to bring all the border areas under the Central administration. If this had

\textsuperscript{11} It was for this reason that the S.R.C. opposed the formation of Jurubshal State.

\textsuperscript{12} Source : para 729, p. 197, Part III, Chapter XVII, Report of the States Reorganisation Commission (1955)

\textsuperscript{13} While considering the case of N.E.P.A., the Commission observed : "... Central expenditure in this area has been increased very considerably during the last few years, and it is now widely recognized that an efficient and progressive administration is being gradually built up. In these circumstances, the suggestion made by the Assam Government for the early integration of this frontier area is not feasible and the existing arrangements regarding the North-East Frontier Agency should continue." Ibid., para 715, p. 193

\textsuperscript{14} When the North-East Council Bill was being considered in the Lok Sabha attention in regard to the weak financial position of Assam was drawn by the Minister of State in the Ministry of Home Affairs, Shri K.C. Pant. See L.S.R.A., Vol. X, particularly Col. 112, dated 22 December 1974
been the policy, the highly strategic State of Sikkim would also have come under Central control. In a nutshell, the strategic areas were classified according to their size, financial resources and communication connections with the neighbouring States.

(B) preservation of the hill culture

The cultural criterion that was adopted for constituting the hill areas of Himachal Pradesh and Mizoram into Union Territories was also subjected to similar subsidiary considerations. At the outset it is to be made clear that neither the hills versus plains alone was a factor for the determination of distinct culture nor was it the intention to bring all the areas of diverse cultures under the Central control. Had it been the intention, a large number of the hill areas of Uttar Pradesh and other States would have emerged as Union territories.

At the time of reorganisation of States, when a large number of areas claimed separate administration on the basis of distinct culture, the Commission at first adjudged the

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15 Before 1974, Sikkim was a Protectorate of India. In 1974, on the request of the people of Sikkim it was associated with the Indian Union. See the Constitution (Thirty-fifth Amendment) Act, 1974, Sec. 2. Subsequently, the Legislative Assembly of this State through a resolution requested the Government of India to make it a constituent unit of the Indian Union. See the Constitution (Amendment) Bill (36 of 1975) : Statement of Objects and Reasons. To give effect to this request, the Constitution was amended and it was admitted as a full-fledged State. See Constitution (Thirty-sixth Amendment) Act, 1975, Sec. 2.
genuineness of such claims. In this respect, it applied the
twofold test, i.e. an area claiming cultural individuality
must be sufficient in size and population. The area of
Himachal Pradesh and the hill districts of Assam which
qualified the condition of size and population were identified
as culturally distinct. The S.R.C. did not consider the
claims of those areas which failed to fulfil these two
conditions because the Constitution contained adequate
provisions for safeguarding the cultural rights of the people.
After ascertaining the cultural individuality, it was further
examined whether these entities were financially capable of
surviving at their own, or whether separation was the only
solution to safeguard their diverse culture.

The part C State of Himachal Pradesh was very poor
and deficient in resources. Even by integrating with it
the adjoining hill territories of the Punjab and Uttar
Pradesh, it could not become financially viable. As such,
the States Reorganisation Commission unanimously disfavoured
either the elevation of the status of Himachal to a full-
fledged State or the formation of a larger hill State. All
the same, it was also not desirable to give effect to the
proposal of the majority view of the Commission who

16 See Para 167, p. 47, Part II, Chapter III, Report of the
States Reorganisation Commission (1955)
17 Ibid., para 558, p. 150
18 Ibid., para 566, p. 152
recommended the amalgamation of this area (with suitable safeguards to ensure that the development was not obstructed) with the Punjab, because there was a great deal of discontentment among the people of Himachal Pradesh over the question of its being integrated in Punjab. It was apprehended that the merger of Himachal with those areas which were culturally different from and economically more advanced than, would liquidate its distinctiveness. Apart from this principal consideration, there were doubts whether Punjab would spare large sums which Himachal Pradesh required for its development. These misgivings were not unfounded, because uneasiness existed in the Hindi regions which felt that they were neglected by the Punjab and the latter was thriving at the expense of non-Punjabi-speaking areas. In such a situation, all considerations favouring the merger of this area with the Punjab were overlooked and the Central administration was considered the only satisfactory solution to the problem of protecting the distinct entity of the infantile Himachal Pradesh.

The economic position of the hill areas of Assam was also very weak. Neither individually nor together, they had the resources to carry out their economic development. It was for this reason that the States Reorganization Commission and subsequently the Prime Minister, Pandit Nehru

19 Ibid., p. 242
turned down the demands to constitute a Hill State or the creation of Eastern Frontier State. On the contrary the hill districts had economic, administrative and geographical links with Assam. The development of these areas was not possible in isolation. Therefore, they continued to form part of Assam. At this juncture, it is necessary to mention why the consideration of links attained a paramount importance in the case of the hill areas of Assam and why this consideration was not followed in respect of Himachal Pradesh? When it was decided that the links between Assam and the hill areas would be maintained, why later on the hill districts were detached from Assam? Why Mizoram was not elevated to statehood or included in the State of Meghalaya or the Union territory of Arunachal Pradesh?

There were several reasons for treating Himachal Pradesh on a different footing. First, the intensity of demand to retain Himachal Pradesh a separate unit was much greater than that of the hill districts of Assam. Second,

20 See discussions in Chapter IV entitled, "An Analysis of the Union Territories constituted under the Constitution on the basis of criteria adopted for their creation", pp. 109-111

21 Ibid.

22 With the exception of the small groups, all the political parties - the Congress, the Praja Socialist and the Communists - as also the great majority of the persons who appeared before the Commission strongly opposed the merger of Himachal Pradesh. Source: p. 239, Report of the States Reorganisation Commission (1955), see also Col. 1973, A.S.D., Vol. XIV, dated 23 August 1956, whereas the agitation for the separation of the hill areas was confined virtually to the Garo and Khasi and the Jaintia hills, vide para 696, p. 188, Report of the States Reorganisation Commission (1955)
it was a single larger entity; whereas the hill districts were six in number, none of them culturally resembling one another. From the standpoint of unity and security, it was not desirable to create a large number of small units on the border. Third, under the Sixth Schedule of the Constitution, provisions existed to safeguard the cultural autonomy of the hill districts.

Subsequently, these arrangements could not satisfy the hill people of Misoram. They felt that nothing short of separation could ensure the preservation of their individuality and foster their economic development. To get their demand conceded, agitational means were deployed. The Government of India looked into these demands and ultimately was convinced that the reorganization of Assam was the only alternative to meet the aspirations of the people of the hill districts.

While reorganizing the north-east region, the poverty-stricken Mizo District could not shoulder the responsibility for its economic development. It could not run even the normal administration on its own resources and, for this purpose, was utilizing the grants-in-aid, which it was receiving from the Central Government for its economic

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development. Therefore, there was no good ground for granting Statehood to this District. There was no cultural affinity between the Mizo and other hill districts. Geographically, also, it was cut off from the other hill districts. As such, there

24 See table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Total receipts (in rupees)</th>
<th>Expenditure on normal administration (in rupees)</th>
<th>Expenditure on development (in rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Out of the Council's grant</td>
<td>Out of the Government own resources grant</td>
</tr>
<tr>
<td>1965-66</td>
<td>3576490</td>
<td>1140698</td>
<td>1991880</td>
</tr>
<tr>
<td>1966-67</td>
<td>4763535</td>
<td>299973</td>
<td>4068608</td>
</tr>
<tr>
<td>1967-68</td>
<td>4635291</td>
<td>276780</td>
<td>3559200</td>
</tr>
<tr>
<td>1968-69</td>
<td>5946284</td>
<td>413476</td>
<td>3525993</td>
</tr>
<tr>
<td>1969-70</td>
<td>6703815</td>
<td>2464707</td>
<td>3547680</td>
</tr>
<tr>
<td>1970-71</td>
<td>7794791</td>
<td>1997886</td>
<td>4659647</td>
</tr>
</tbody>
</table>

As per figures supplied by the Government of Mizoram, the Local Administration, Town-Planning Housing Department in response to the letter addressed by the researcher - Memo. No. LAD/A-9/76/Vol-II/Pt A; Aizwal, dated 14 August 1978 (the letter mentions that the Budget estimates for the above-mentioned years were not traceable. Owing to disturbances in Mizoram, the Budget estimates were mainly based on the anticipated receipts from the Government).

was no point to merge it either with Meghalaya or Arunachal Pradesh.

(C) Historical and communication criterion : Island territories

Another criterion which was used for the creation of the Andaman and Nicobar Islands and Lakshadweep as Union territories was their history and remoteness from the mainland. At the outset, it appears hardly justifiable to provide for a costly administration for these sparsely and partially populated islands. However, if the issue is to be examined from the point of view of communication, which was of paramount consideration in administration, then it would prima facie appear that the Central administration could be the only solution for establishing adequate inter-Islands and mainland-Islands communication.

These Islands are located at a considerable distance from the mainland. There was no frequent service between these islands and the mainland. Moreover, it was interrupted during the monsoon. The proposals to meet the challenges of communication and development required large sums.

The neighbouring States and the territory of these islands by itself was not capable of incurring an huge amount of expenditure. It was against this background that the Central Government did not think it proper to merge the Andaman and Nicobar Islands with the adjoining States of
West Bengal or Madras. On a similar consideration, the amendment of Shri Khan Chaudhury and the suggestion of Janab M. Muhammad Ismail who sought the integration of Lakshadweep with Kerala were not accepted. There is reason to believe the arguments of the Government of India, because when these Islands form part of Madras (now named Tamil Nadu), they remained neglected. If the Government of Madras could not afford to look after the development of these Islands, how could Kerala, whose own resources were limited, undertake the tremendous task of establishing the means of communication and development of Lakshadweep. Even after bringing them under the Central control, the plight of communications of both the Andaman group and Lakshadweep remained unsatisfactory. In consequence, the administration was facing much difficulty in developing them. Taking this fact into account while reviewing the administration of the

26 See the speech of the Minister of Home Affairs, Shri G. E. Pant, Col. 1974, H.R.D., Vol. XIV, dated 23 August 1936

27 Ibid., Col. 2014. While turning down the amendment and the suggestion, the Minister of State in the Ministry of Home Affairs, Shri B. D. Datar stated: "I may point out that all these Islands required a very considerable degree or measure of development and one of the things that has to be immediately attended to is the means of communications between the mainland and these Islands. These have not to be established... These are all matters which involve considerable expenditure. Kerala would be a new State and Kerala, as we know, has a number of its own problems. The question is whether Kerala will be in a position to see to the proper development of all these Islands, including the establishment of proper means of communications..."

28 Source: Col. 6161, L.R.D., Vol. IV, dated 23 April 1936
Union territories and N.E.F.A., the A.R.C., in regard to Lakshadweep, observed that it would be in the larger interests of the Nation and of the local people if it continued to be centrally administered. In the case of the Andaman and Nicobar Islands, the attention of the Central Government in respect of the lack of proper communication was drawn by the Estimate Committee of Lok Sabha. In order to remove this handicap, the Committee recommended that more jetties and harbours should be constructed and more ships (both passenger and cargo) should be pressed into service as quickly as possible.

The retention of the Islands as Union territories on strategic considerations

The Islands of the Andaman group and Lakshadweep, which emerged as Union territories because of the inadequacy of communication may further be retained under the Central control on strategic considerations after the establishment of sufficient communication and development. In regard to the strategic importance, it is relevant to mention that on 23 March 1942 during the World War II, the Japanese seized the Andaman and Nicobar Islands. They were reoccupied on 8 October 1945 and Civil administration was restored, but in view of their location, they are as much strategic as in the

30 See the Eighth Report of the Estimate Committee (Fifth Lok Sabha), p. 23 (1971)
31 See p. 3, Annual General Administration Report : The Andaman and Nicobar Islands (1975-77)
past. All these Islands, being located in the midst of the
sea, are like Diego Garcia which more recently shot into
prominence in view of its strategic importance. In that
context also they have assumed strategic significance. The
importance of these Islands from the defence point of view
has often been realized. For example, in 1971 the Estimate
Committee of Parliament noticed that these Islands sprawling
over the Bay of Bengal and the Indian Ocean have acquired
further strategic importance after the withdrawal of the
British Naval forces from the Indian Ocean. It felt that the
establishment of a naval unit and the posting of a naval
officer were inadequate to meet the needs of the situation and
recommended for exploring the feasibility of opening a naval
base. In the light of this it is, therefore, possible that

32 See p. 3, Chapter II, the Eighth Report of the Estimate
Committee (Fifth Lok Sabha) 1972. Also an article by
Lt.-General K. P. Candeth under the heading, 'The Kra Canal
and the Andamans', Motherland (Delhi), dated 1 October 1973.
It observed: "It is clear that once this canal or pipeline
comes into existence, the centre of gravity in the Indian
Ocean will shift North. If this happens, the Andaman
Islands which lie opposite the Western terminus of the
Canal will gain in importance both economically and
strategically."

Similarly, in regard to Lakshadweep, the Editorial of
Free Press Journal (Bombay), dated 11 October 1969 wrote:
"It is a measure of the acceptance of the strategic
importance of these offshore Islands in the wider
context of India's security problems and the urgent need of
development of its naval strength... Their strategic
importance should be evident from the fact that it was from
the vicinity of these Islands that the Eden... operated
to the great dismay and panic of the people of the West
Coast." To the same effect, the Editorial of Northern
India Patrika (Allahabad), dated 12 October 1969,
expressed: "At the same time, however, the question of
the security of highly strategic Archipelago, especially

......Contd.
the Government of India in the near future for strengthening the national security may think of retaining these Islands under the Central administration for all times to come.

(D) Preservation and promotion of foreign culture: Acquired territories

The former foreign possessions of Dadra and Nagar Haveli, Goa, Daman and Diu, and Pondicherry were constituted Union territories for cultural reasons. Geographically and historically they belonged to India. It was an accident that they came to be attached to countries, such as France and Portugal. Soon after the attainment of Independence, the leaders of the Indian National Congress strongly opposed the continuation of foreign rule on the Indian soil. At the same time, it was resolved that after the transfer of these possessions, their individuality and distinctiveness in the background of the present developments in this part of the world, ought not to escape New Delhi's serious attention.

Footnote 32 continued from pre-page

When a bill to alter the name of the Union territory of Lakshadweep was being considered in the Lok Sabha, attention in this regard was also drawn particularly by Dr Henry Austin and Shri Atal Bihari Vajpayee. They laid stress on the strategic importance of Lakshadweep in the context of some foreign powers' interest in the Indian Ocean and urged the Government for exploring the possibility of setting up an advanced naval base there, see particularly Col. 291 and 299, L. & D., Vol. XXIX, dated 30 July 1973.

33 In 1948 in the Jaipur Session on the subject, the Congress passed the Resolution (No. 6) which stated: "With the establishment of Independence in India, the continued existence of any foreign possession in India becomes anomalous and opposed to the conception of India's unity and freedom. Therefore, it has become necessary for these possessions to be politically incorporated in India and no other solution can be stable or lasting or in conformity with the will of people. The Congress trusts that this change will be brought about soon..."
would not be put to an end without the will of the people. In the case of Fondicherry assurance in this respect was also given to the French Government. After the acquisition and liberation of foreign settlements, effect was given exclusively to the wishes of the people. Except Chandernagore, the desire of the people was that they should not be attached to any state and should be treated as units of the Union of India. In the case of Chandernagore, the people of the territory expressed their desire that they should be integrated with West Bengal. It was only to carry out the will of the people that the territory was merged with the State of West Bengal. For the same consideration, the Central Government despite the smallness of area, little

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34 Ibid. The Resolution observed: "The chequered phase of India's history during the last two hundred years or more has left certain foreign possessions in various parts of the country... The Congress realises that during the long period administrative, cultural, educational and judicial systems have grown up in these foreign possessions, which are different from those prevailing in the rest of India. Any change-over therefore must take these factors into consideration and allow for a gradual adjustment which will not interfere with the life of the people of the areas concerned. The Congress would welcome the present cultural heritage of these possessions to be continued, in so far as the people of these possessions desire and for a measure of autonomy to be granted wherever possible, so as to enable the people of these possessions to maintain their culture and institutions within the larger framework of free India."

35 See for detailed discussions, Chapter IV entitled, "An analysis of the Union territories constituted under the Constitution on the basis of criteria adopted for their creation", p. 122

36 See p. 4, Report of the Chandernagore Enquiry Commission (18 December 1953)

37 See the Chandernagore(Merger) Act(36 of 1954) 1954, Sec. 2
population, linguistic affinity and geographical contiguity of Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry with the neighbouring States ruled out the merger of Dadra and Nagar Haveli and Goa, Daman and Diu with the adjoining States of Gujarat and Maharashtra and of Pondicherry (including Karaikal) with Tamil Nadu and its other component.

When the Constitution (Tenth Amendment) Bill was being considered in the Lok Sabha, while turning down the suggestion to merge Dadra and Nagar Haveli with the contiguous States, the Prime Minister and Minister for External Affairs, Pandit Jawaharlal Nehru stated, "We have treated them as Union territories deliberately because we do not want to split them up or put them in either the State of Gujarat or Maharashtra. First of all, we are giving effect to the wishes of the people there in that matter. In effect, the whole procedure that we are adopting is to give effect to their wishes and their wishes were that we should treat them as a unit...." Col. 2066, L.S.D., Vol. LVI, dated 11 August 1961

During the course of discussions on the Constitution (Twelfth Amendment) Bill, rejecting the suggestions to merge Goa, Daman and Diu with the adjoining States, Shri Nehru observed: "As a matter of fact, it is our intention to give the greatest autonomy that is feasible to this territory and to maintain their traditions, culture, religion and language - the language being the Konkani language - and to make no major changes in regard to any of these matters without the goodwill of people concerned...." Col. 823, R.S.D., Vol. XXXVII, dated 20 March 1962

Similarly, during the course of discussions on the Constitution (Fourteenth Amendment) Bill, 1962, Shri Nehru discarding the merger of Pondicherry etc., recalled: "As we have stated in our assurance to the French Government, it is for the people of the area to decide in future what they would like to do, whether they would like to merge into the adjoining States or remain as a separate entity. The question rests not with us. That is perfectly clear. We cannot go behind that undertaking...." Cols. 5648-5649, R.S.D., Vol.XL, dated 7 September 1962
parts, namely Mahé and Yanam with Kerala and Andhra Pradesh respectively.

Subsequently, when the ruling party of Goa which was voted to power in 1963 Assembly elections[^9], sought for the merger of Goa with Maharashtra, and the contiguous States pressed their claims on this Union territory, it was because of the assurances and commitments made to the people of Goa, Daman and Diu that the Government of India decided to ascertain the wishes of the people on this issue through an opinion poll.[^40] Further it was only to give effect to the

[^9]: The Assembly elections took place on 3 December 1963. The results of the elections are shown in the table below:

<table>
<thead>
<tr>
<th>Parties contested mainly on issues</th>
<th>Election manifesto</th>
<th>Seats secured by each party in the 30-members House</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Mahasarakraddi Gomantak Party</td>
<td>Pro-Merger</td>
<td>14</td>
</tr>
<tr>
<td>2 United Goan Party</td>
<td>Statehood</td>
<td>12</td>
</tr>
<tr>
<td>3 Congress</td>
<td>status quo</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: *Indian Express* (New Delhi), dated 13 December 1963

[^40]: The essentiality of holding the opinion poll was laid down in the Statement of Objects and Reasons appended to Goa, Daman and Diu opinion poll Bill (S of 1966) 1966. It observed: “There has been a demand from certain sections of the people of this territory for merger of Goa with the adjoining State of Maharashtra. There are other sections of people demanding its continuance as a separate entity. With a view to taking a decision on this issue, it is considered expedient to ascertain the wishes of the electors of this territory through an opinion poll on the question whether the Goa area should merge in the adjoining State of Maharashtra or not or whether the Daman, and Diu areas should merge in the adjoining State of Gujarat or not...”
verdict of the people, who opposed the merger of their territories with the neighbouring states, the Central Government rejected the demands to integrate Goa with Maharashtra and Daman and Diu with Gujarat.

Similarly, when the States of Maharashtra and Gujarat revived their demands to amalgamate the Union Territory of Dadra and Nagar Haveli with their respective States, the Central Government in view of the will of the people, who repudiated the integration of their territory with either state declined to accept any such suggestion.

It is thus apparent that in respect of these

41 On 16 January 1967, when the people of Goa, Daman and Diu were asked to express their opinion on the future of their territory, they overwhelmingly disfavoured the merger of their territory with the adjoining States of Maharashtra and Gujarat. The results of poll are reproduced below:

<table>
<thead>
<tr>
<th></th>
<th>Goa</th>
<th>Daman and Diu</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Total number of votes polled</td>
<td>3,17,633</td>
<td>15,619</td>
</tr>
<tr>
<td>(b) Number of invalid votes</td>
<td>7,272</td>
<td>492</td>
</tr>
<tr>
<td>(c) Number of votes in favour of merger in Maharashtra/Gujarat States</td>
<td>1,38,170</td>
<td>1,395</td>
</tr>
<tr>
<td>(d) Number of votes in favour of status quo</td>
<td>1,72,191</td>
<td>13,732</td>
</tr>
</tbody>
</table>

Source: The Tribune (Ambala), dated 20 January 1967

42 When the neighbouring States pressed their claims on this Union territory, the Varijatha Panchayat of Dadra and Nagar Haveli in a memorandum presented to the Government of India urged: "... that the political groups in the neighbouring States propagate for division of this area for integration with the neighbouring State. The Varijatha Panchayat has already resolved on 19-10-1962 and we again take this opportunity to firmly state that the Union Government had given an assurance for maintaining the entity of this area. We, therefore, request that the Union Government may not divide an inch of our land but should keep it as one entity and integrate it at the proper time." Para reproduced from para 910, p. 243, Part V, Chapter II, Report of the Study Team on the Administration of Union territories and States, (1968)
possessions, neither the contiguity, nor the size, nor the population, nor financial viability were the considerations for Central administration. On the other hand, they could have easily been served, but the whole process was subjected to historical necessity and the commitments made to the people of these territories that the course of history would not be reversed at any time without their wishes.43

(2) **Seat of Union Government and the National Capital: Delhi**

In the creation of Delhi as a Union territory consideration has been given to its unique position. It is unique because it is the capital of the country, a cosmopolitan city where all the national and foreign agencies are located and, above all, it is the seat of the Union Government. While deciding the future of Delhi, the attention of the Central Government was drawn by the C.R.C., particularly to the last-mentioned point and taking into account the special position of Delhi, the precedents in respect of capital cities where the seats of government are located and its history before Independence, the Commission did not consider it proper to accept the proposals to the formation of a greater Delhi State or to

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43 Although the Government of India is contemplating the merger of the Union Territory of Pondicherry with the neighbouring States, and in this matter is in touch with the French Government, it has, however, been made clear by Chari H. N. Patel, the Minister of Home Affairs, that no decision in this regard would be taken without the will of the people. See The Tribune (Chandigarh), dated 1 February 1979, p. 6
make Delhi a part of a full-fledged State.\footnote{While declining to accept such suggestions the S.R. Commission observed: "Any constitutional division of powers, if it is applicable to units functioning in the seat of national governments, is bound to give rise to embarrassing situations. Practice in other countries, administrative necessity and the desirability of avoiding conflicting jurisdictions, all points to the need for effective control by national governments over federal capitals." Para 584, p. 158, Part III, Chapter XII, Report of the States Reorganization Commission (1956).}

Besides, the Commission looked into the suggestion that Delhi should be divided into New Delhi and Old Delhi. The former where all the legations, and principal offices and ministries of the Union Government were located be placed under the Central Administration and the latter, by extending its boundaries, be given statehood or merged with the adjoining states. But from the point of view of law and order, the social life of the people, trade and commerce and common public-utility services Old Delhi and New Delhi constituted one integrated whole. Taking this fact into account, the S.R. Commission felt it unrealistic to draw a line between the two.\footnote{Ibid., para 588, p. 160} In this connection, the Commission drew attention of the Central Government to the fact that when in 1949, the Government of India decided to exclude New Delhi from the purview of the Corporation proposed for Old Delhi, the kind of Corporation envisaged was regarded as ‘truncated’ ‘moth-eaten’ and not sufficiently inspiring.\footnote{Ibid.}
Consequently, the Commission expressed the opinion that if there was any objection to the two areas being treated as two different units in the civic field, there would be even less justification for the assumption that administratively they could be placed under two distinct governments. 47

At this juncture it may be asked that when it was the firm policy of the Union Government that there would be no division of responsibility in respect of Delhi, why the Central Government has recently provided for the creation of a Legislative Assembly and a Council of Ministers in this Union territory? The reason for this is that since the enactment by the Government of the Union territories Act, 1963, the Central Government was being urged, particularly by the former Janata Party, which is now a component part of the ruling Janata Party that the constitutional status of Delhi should be elevated to Statehood. The demand that was made every now and then was rejected by the Central Government on the ground that it was a hub of national and international political activities. 48 After the general elections of 1977, when the Janata Party came to power at the Centre and in the Union territory of Delhi, the demand was

47 Ibid.

revived. The Government of India looked into this question and in order to accommodate public sentiment of the territory decided that Delhi would have a Legislative Assembly.

However, considering the importance of New Delhi, and law and order and police, it has been provided for that any decision of the Minister or of the Council of ministers affecting any matter concerning the New Delhi and law and order including the organization and the discipline force in this Union territory would be subject to the concurrence of the Administrator.49

(5) Political controversy: Chandigarh

Finally, in respect of Chandigarh, it was not difficult to merge this area with Haryana or the Punjab. But none of the States wanted to part with this beautiful city. At the time of the reorganization of the Punjab, the Central Government was left with no other option than to constitute Chandigarh a Union territory. Subsequently, when the Chief Ministers of both the States urged the Prime Minister, Shrimati Gandhi, to arbitrate over the future of this area, the Union Government considered the alternative that the territory should be divided between the two States. However, in view of the need for maintaining the beauty of the planned and model city, instead of dividing it, the Government of India preferred to merge it with the Punjab.50 The award of the

49 See Government of Union Territories (Amendment) Bill (125 of 1978), 1978, Sec. 6

50 Source: Press communique released by the Ministry of Home Affairs, dated 29 January 1970
Prime Minister was to come into force after five years. But even after the expiry of five years, Chandigarh is a Union territory and its future is uncertain.

While considering the case of Chandigarh, it is also necessary to point out why the Central administration was devised, particularly for Chandigarh and why Belgium and Nasaragod which are disputed areas between Karnataka and Maharashtra and Karnataka and Kerala respectively have not been constituted Union territories. There are a few important considerations that are peculiar only to Chandigarh. First, the city is significant not for Punjab and Haryana only. Being a planned and modern city it has obtained national and international repute and also has developed a cosmopolitan character. Second, from the point of view of land and money, it was also difficult to disentangle the claims of each of the two States, because it has been built on the land and at the cost of the composite Punjab and not by the Punjab minus Haryana or Haryana minus Punjab. Lastly, it has been the joint capital of both the States. The inclusion of the city in one State involved the problem of building a new capital for the other State, as none of the two are financially in a position to build a capital on its own resources. It was because of this consideration when Chandigarh was awarded to the Punjab, the Central Government

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51 Source: Report of the Commission on Maharashtra-Mysore-Kerala Boundary Disputes (1967). The dispute has not been settled so far.
to enable Haryana for the construction of a new capital awarded a loan and grant to the tune of twenty crores of rupees.\textsuperscript{52} The disputed areas, such as Belgaum or Kasaragod, in comparison with Chandigarh have regional significance only.

\textbf{Creation of Union territories on the basis of political controversy}

However, if the States fail to settle their boundary disputes, the Central Government may think of constituting the disputed-areas, such as Belgaum into Union territories. Obviously, this device is costly and would put an extra financial burden on the Centre. But such a solution would have advantages, too. On the one hand, it would persuade the states (laying claims over the territory) to resolve their territorial disputes, as otherwise they would lose their territories. On the other hand, it would put a halt on a tendency towards the making of undue claims.

From the critical examination of the criteria adopted in the formation of Union territories, it is clear that these areas could neither be merged nor created as States. Their geographical, economic, cultural and political backgrounds were such that there was no alternative but to bring them under the authority of the Central Government. All the same, these are not the only criteria in the creation of Union

\textsuperscript{52} See press communiqué on the future of Chandigarh, dated 29 January 1970
territories. Situations in some of the areas may develop in such a way that to cope with the new situation, the Union Government may create some new Union territories on new criteria.

**Formation of Union territories on new criteria**

(1) **Sustaining the existing pace of development or developing the neglected areas**

The Union territories may be created for keeping alive the existing pace of development or for the development of backward areas. Suppose an area requires considerable expenditure for its over all development, and the government of the State owing to the lack of sufficient funds cannot spend the required amount of money, then on consideration of the incapacity of the State government to develop the area, the Central Government may take over the administration of that area in its own hands. The fate of Chandigarh may in future be decided in terms of its development requirement **vis-a-vis** the financial position of the adjoining States.

The budget estimates of the Union territory in the year 1978-79 are 32,08,44 thousand rupees. The receipts of the Territory amount to 17,94,05 thousand rupees only. Consequently, the deficit comes to 14,14,79 thousand rupees. If the neighbouring States of Haryana and the Punjab ask for

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54 Ibid., p. 284
the merger of Chandigarh with their respective States, the Government of India may ask them whether they have finances to maintain and carry on its development. After ascertaining the economy of these States, which is apparently deficit, the Central Government on consideration of development of Chandigarh may refuse to merge it with either of the States and retain it as a Union territory. Similarly, this criterion can also be applied to any area of the State which is neglected for political or economic considerations.

(2) 

**Finance for settling Inter-State water disputes**

The creation of Union territories is also a possible solution for checking the inter-State disputes over the allocation of water and power resources. The major cases of water disputes pending before the Union Government for settlement are the Krishna, the Ravi, the Beas, the Yamuna, the Damodar, etc. The Bhakra Project which is, at present, under the control of the Central Government, is also a bone of contention between Haryana and the Punjab. Attempts are being made by the Government of India to resolve squabbles among the states over the rivers' waters. However, if these disputes

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55 The deficit in the budget of the Punjab is 35.69 crores rupees, see Budget Estimates (1978-79). In the case of Haryana the deficit is 26.89 crores rupees, see Budget Estimates (1978-79).

56 Source: Unstarred question No. 2399, L&L, Vol. 42, dated 14 August 1974. There was also controversy among the States over the distribution of water of rivers Cauvery, Narmada and Godavari. But in 1975, the questions at issue in respect of these rivers were settled.
remain unresolved, the Centre may think of creating the dam sites, catchment areas along with its surroundings settlements as Union territories. However, while doing so, the Central Government itself should not bear the cost of administration. The expenditure incurred for this purpose should be charged to the States that benefit from these waters or power resources in proportion to their share determined. Take for instance the case of Rivers Ravi and Beas. Suppose that 38 per cent of their waters are allocated to Haryana, 43 per cent to the Punjab and 19 per cent to Rajasthan. According to percentage, 38 per cent of the total expenditure should be charged to Haryana, 43 per cent to Rajasthan.

57 It is worthy to note that the matter of settlement of inter-State water disputes came up before the States Reorganisation Commission. However, the S.R.C. did not attach more significance than was necessary in this regard, because constitutional provision exists for this purpose and also because a Bill to this effect was being considered in Parliament to settle inter-State water disputes.

The S.R.C. observed as follows: "In the course of our enquiry we came across a number of cases in which claims were preferred for the transfer of particular areas on the ground that control over the catchment area of a river or over the dam site or the benefit area was necessary. We have not attached too much importance to these suggestions, for the reason partly that legislation which has already been introduced in Parliament makes specific provision for the regulation and development of inter-State rivers." Para 831, p. 24, Part IV, Chapter III, Report of the States Reorganisation Commission (1955).

The Commission, however, did not consider the issue as to what would happen in case the disputes were not resolved under the various provisions contained under the Bill/Act. Consequently, the S.R.C. could not think in terms of constituting such an area into "territories."
such a measure would facilitate the bringing to an end of all such disputes without involving the economy of the Centre. Over and above, it would ensure the proper utilization of natural resources.

(3) **Prevention of internal dissensions**

Union territories may also be constituted to silence the demands for statehood. It is an excellent remedy for solving the problems of an area, e.g., Telangana. The region which is a part of the state of Andhra claimed the status of an autonomous state on the grounds that it was being discriminated against by the Government of the state in respect of education, employment, development and political leadership, which were provided for areas outside Telangana. The Central Government was urged that the people of the area could not get their due share unless they were separated and granted statehood. The Government of India in order to redress the grievances of the people of Telangana amended the Constitution and embodied special provisions for safeguarding the interests of the people. But then the people of Telangana may not be satisfied with these constitutional safeguards and in course of time, the demand for a separate Telangana State could be revived. In such a situation, the Union Government may

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58 See short-duration discussion regarding the demand for a Telangana State, particularly the speech of Shri V. R. Raju, Cols. 158 to 175, *Hansard*, Vol. 72, dated 13 May 1970.

59 See Article 371-D. Inserted by the Constitution (Thirty-second Amendment) Act, 1973, Sec. 3.
propose to Telangana its continued association with the parent state or Central administration. It is clear that if the latter choice is adopted, the area would be divested of the normal administration of a State. Such stipulation may force the people to withdraw their demand, for Statehood and choose to become a Union territory.

(4) Settlement of the fate of areas which could not be settled because of two competing criteria

Union territories may be created when it is hard to decide about an area, which when viewed from one criterion could be attached to one state, but when viewed from another criterion warranted its inclusion in another state. Take for example an area in which the largest single group on the basis of language is X, but its trade and commercial prosperity depends upon another linguistic group Y and as a consequence, the attachment of the area to one or other linguistic state adversely affects the trade or the linguistic group, the only way to secure the best of both would be to constitute the area into a Union territory. This, incidentally, was one of the dilemmas which the States Reorganisation Commission faced in respect of the City of Bombay, in which linguistically, the Marathi-speaking people constituted the largest single group and trade was under the control of the Gujaratis. So much so, on the basis of language, the City

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could form part of Maharashtra, but on the basis of trade, it could form part of Gujarat.

(5) **Issues for safeguarding pockets of linguistic and communal groups**

Similarly, the creation of a Union territory is the best solution for safeguarding the interests and promoting the overall growth of pockets, localities or areas of concentration of a linguistic or communal group in a State which is constituted, primarily on the basis of the predominant language group, or that the State happens to have an overwhelming majority belonging to a communal group other than the one in the pocket. Way back, when the S.R.C. was going about with its task it was faced with such a situation in Orissa.61 There was the City of Berhampur, with predominantly Telugu-speaking people, and was surrounded on all sides by Oriyas. Linguistically, there was a case for its separation from Orissa and its attachment to Andhra Pradesh, if geographically it had been contiguous to it and the people had expressed a strong desire in that direction. However, since the area was in the heart of Orissa and there was no strong discontentment over the existing dispensation, the area was allowed to remain as part of Orissa. But then if the Telugu-speaking people of Berhampur had not become reconciled to the Oriyan atmosphere, and had there been great

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61 Ibid., para 736, p. 199
dissatisfaction to the extent that the Telegus in Berhampur felt that their continued attachment to Orissa would be detrimental to their growth, it was certain that the S.R.C. could have been left with no alternative but to constitute that area into a Union territory. The same could be said of a communal pocket, irrespective of location, if its growth is jeopardized because of a predominantly different communal group around it.