

SEPARATION - BEGINNING OR DEMISE??

Mula.Sneha Goud, B.B.A.LL.B(Hons), JSS Law College, snehamula@gmail.com

INTRODUCTION:

[Hyderabad](#) is the largest city of the Telangana region in Andhra Pradesh. A Movement for separate Telangana State is a burning topic since 1948. Telangana came under the Muslim rule of the [Delhi Sultanate](#) in the 14th century. In 1948, Indian Army ousted Nizam to include Hyderabad and its regions into India. In 1953, Andhra was formed as a State under Reorganization of States based on linguistic lines. Though there was a demand for a separate state of Telangana in the year 1956, it was merged with Andhra, which has resulted in several protests in Hyderabad. It was quelled by police killing and also, some of the protestors.

The Telangana State movement got political dressing from the year 1999 to till date and many political parties got in to this for many reasons. The reasons for separate Telangana are in abundance. It was feared that the populace of Andhra, who had access to higher standards of education under the British rule, would have an unfair advantage in seeking government and educational jobs.

In 1969, there was a major revolt in Telangana region by students, professors, government employees, politicians and many others demanding a separate state. The movement was quashed- many were jailed. Some of the politicians got reassurances. Over the last thirty years, none of those reassurances and promises was kept. The region is still reeling under strong Andhra influence in all phases of social, educational, economic and cultural life. There is a renewed struggle for a separate state now from couple of years. This paper intends to focus on the positive and negative aspects of forming a separated state.

LEGAL PROVISIONS:

India is a union of states.[1]^[2] The law of the land, itself enumerates on the possibility of forming a new state under Article 3[3] of Indian Constitution enumerates on the formation of new states and alteration of areas, boundaries or names of the existing states-parliament may by law[4]-

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.

- (a) Increase the area of any state.
- (b) Diminish the area of any state.
- (c) Alter the boundaries of any state.
- (d) Alter the name of any state.

The provisions deem to have inserted by analyzing the interest of it. When the writers of Constitution were drafting Article 3[5], our nation was not fully integrated or well organized as some Princely States were not included and States Reorganization Commission, 1953[6] was working on forming linguistic states. For this purpose the Constitution provided a simple

and easy process for 'reorganizing' a new state.[7] Hence Constitutional Amendment is also not required.[8]

CONSTITUTIONAL VALIDITY:

Article 3 is not concerned with the genesis of a Bill. It does not postulate that it must be introduced only on the recommendation of parliament or as a result of mutual agreement between the states.[9] It clearly envisages that the creation of a new state can be achieved only by a law made by the parliament and even parliament cannot do so unless a bill is introduced in either house of parliament and the president approves the same.[10] Parliament acting under Article 2[11] and, can enact a law for the organization of a state. The constitutional validity of law made under Article 3[12] and 4[13] cannot be questioned on ground of lack of legislative competence with reference to the lists of seventh schedule and the new state owes its very existence to the law made by the parliament.[14]

The Constitution contemplates changes in the territorial limits of the constituent states. Thus the States have no guarantee of their territorial integrity.[15] The new states may be formed in different ways.[16] Parliament can even take away the entire area of a State to form a new State or to increase the area of another State. There is no constitutional guarantee of continuing existence of a State that existed at the commencement of the Constitution or came into existence later.[17] *"Political will and Parliament Bill are enough for formation of Telangana State as per the Constitutional procedures and requirements.[18] Neither the consent of Andhra Pradesh Assembly, nor the Amendment to the Constitution is required for carving out a new territory from the boundaries of present Andhra Pradesh state."*[19]

REASONS FOR THE DEMAND OF SEPARATE STATE OF TELANGANA:

There has been arising demands for smaller states and the latest being the issue of separate state of Telangana and anti-Telangana agitations.[20] The main apparent reason is the sense of economic deprivation of certain areas in large states like U.P, W.B, A.P etc.[21] Cultural and political reasons are also being responsible for such demands. It is argued that smaller and medium sized states will bring functional politics closer to people by making state government more responsible to local demands. The ultimate criteria in deciding whether the formation of separate state of Telangana is relevant, is by checking how far is the administrative convenience, economic viability and political consensus is achieved.

GRIEVANCES OF TELANGANA PROPONENTS:

Proponents of a separate Telangana state perceived injustices in the distribution of water, budget allocations and jobs. They claim that Budget allocations to Telangana are generally less than 1/3 of the total Andhra Pradesh budget.[22] There are allegations that in most years, funds allocated to Telangana were never spent. None of these allegations were proved wrong by Srikrishna Committee, due to lack of data.[23] The demand for the separate state is due to the following reasons:[24]

- Telangana is the largest single region of the three regions of Andhra Pradesh state covering 41.47% of its total area, is inhabited by 40.54% of the state's population, contributes about 76% to the state's revenues(if you exclude center contribution). From Central govt:

19.86%, From Telangana: 61.47 % (including 37.17% from capital), From Andhra: 14.71, From Rayalaseema: 3.90%. Among others, alleged injustices in water, budget allocations, and jobs are the grievances cited by Telangana proponents.

- **Irrigation:** Within the state of Andhra Pradesh, 68.5% of catchment area of river Krishna and 69% of catchment area of river Godavari are in the Telangana region. The benefit of irrigation through the canal system under major irrigation projects is accruing substantially, i.e. 74.25%, to the Coastal Andhra region. While the share of Telangana is 18.20%, the remaining 7.55% goes to the Rayalaseema region. State's expenditure on Telangana's major irrigation projects is just 18.20% of the total expenditure.

- **Education:** The share of Telangana as a percent of the total expenditure of the state on salaries of staff in educational institutions in 2001 is as follows:

Primary schools (government): 31.44%

Primary schools (aided): 9.86%

Degree colleges (government): 37.85%

Degree colleges (aided): 21.79%

*****Above numbers includes the expenditure in Capital Hyderabad.***

- **Budget Allocations:** Expenditure incurred on this region has never been more than 25% to 30% of total expenditure of Andhra Pradesh. Most years, funds allocated to Telangana were never fully spent.

- **Jobs:** Only 20% of total Government employees, less than 10% employees in secretariat, less than 5% of head of the departments in Andhra Pradesh are from Telangana. In 1985, Government published G.O 610 to remove/transfer all the non-locals in government jobs in Telangana region, against the six point formula. By this time in 1985, 58,000 non-locals have occupied jobs in Telangana region. The Girglaini Commission set up in 2001, came up with a report that around 2 lakh govt. jobs in Telangana region are enjoyed by migrants from Andhra and Rayalaseema regions.

- **Political power:** Andhra Pradesh was ruled by Telangana chief ministers for only 6-1/2 years out of over five decades of its existence. No Telangana chief minister was in power continuously for more than 2-1/2 years.

- Proponents of a separate Telangana state feel all the agreements, accords, formulas, plans and assurances on the floor of legislature and Lok Sabha, in the last 50+ years, could not be honored and Telangana was forced to remain neglected, exploited and backward. They allege that the experiment to remain as one state proved to be a futile exercise and therefore, separation is found to be the best solution

FORMATION OF A NEW STATE IS A SOLUTION OR A NEW PROBLEM?

Division has never been a good solution but sometimes it will become necessary. Currently India has many problems which are nurtured by their own state governments. If the new

states are formed on basis of these different problems then our Country will have more than a billion states. Creating a new state of Telangana might not be a better solution for the development of the state of Andhra Pradesh. It might result in many more problems across India; it may get us back to the time of India Pakistan separation. Encouraging separatist movement of Telangana has two fold effect or impact on mere future of the Country. As far as the Telangana Movement is concerned it is more of a political issue rather than social or economical.[25] As far as the National unity is concerned it is not advisable and a long term solution for the problem that aroused. The first thing that should be regarded is national security which is under question. Thus, the formation of new state might result in a problem rather than being a solution as Country's National Integrity and National Security is more important than to divide a state or form a new state on the state issues. It is advisable to form a new state policy and try to rectify the flaws so as to satisfy the people of Andhra and Telangana as well.

CONCLUSION:

I strongly believe that injustice has been done to Telangana. Telangana is nearly 1/3rd of AP with all water and energy resources in its side and it is injustice that nothing has been offered to Telangana. But here is my view on Telangana as a separate state. Andhra Pradesh is presently considered as third rated state in India, after the software growth started along with industrial growth in Hyderabad, which in turn benefits the people of Hyderabad. By creating a separate state all we are doing is going 15 to 20 years back. In my perspective if Telangana as a separate state, starts development at this moment, it will take another 15 years to reach where we are now. Instead of that I think we need to be smart enough to get the projects done for Telangana and with Hyderabad competing with metro cities in development, Telangana region will be the first among beneficiaries.

According to me separate state takes a long time to form in today's government and if we have a separate state, then projects like Fab city, Sky bus, Hyderabad Metro and numerous projects will come to a halt and eventually disappear from the state only for the reason that the government will not support it after the new state. The state will be too busy trying to form new rules, so crime and other factors will incorporate in it. Right from childhood I have seen lot of people from Andhra region and Telangana region and I was not able to see any differences between them except a bit of culture difference. So, it makes really no sense in creating a bar.

It's not that Telangana is the only region that is neglected in AP. I think this solution of separation of state will not solve the problem because of our corrupted leaders. Fighting among ourselves will only give some selfish people to succeed. Better way is to work for the state as a whole and become a model for others. This is the only way anyone will get recognition. In my opinion we need to stay united and work towards progress. Fight for allocation of resources & funds that help the people of the region to live up to the standards rather than fighting for a split or separation. Breaking the state in 3 to 4 parts is not at all a solution. If AP gets divided into pieces there will be no development in any parts and all the industrial ventures, Projects & investment will go to other states. If split happens it's a loss for all Telugu speaking people. There will be no development. There will be more political parties and more corruption. My personal view is that people of the state need to wake up, think and fight for right cause which is development of Telangana region and AP but not for disintegration/split of the state.

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- [1] J.N.Pandey, The Constitutional of India, 49th edition, central law agency, pg. 5-6.
- [2] Article 1, while considering the definition of union of states, should interpret the Constitution of India keeping in view the essential structure of a federal or quasi-federal Constitution. See also: Automobile Transport Ltd. V. Rajasthan (62) A. SC 1406, 1416.
- [3] H. M. Seervani, Constitutional Law of India, Vol.1, Silver Jubilee Edition, 4th Edn., Universal Law Publishing Co. pg. 12
- [4] M.V.PYLEE, Constitutional Ammendments in India, 3rd Edn, Universal Law Publishing Co. pg
- [5] *Swati Sharma*, Mightylaws.in, Telangana- Constitutional Issues in New State Formation, *June 7th, 2011*, <http://www.mightylaws.in/725/telangana-constitutional-issues-state-formation>.
- [6] States Re-organisation Act, visited on: 3rd march,2013, http://en.wikipedia.org/wiki/States_Reorganisation_Act
- [7] V.N. Shukla, Constitution of India, 11th edition by Mahendra P. Singh, Eastern Book Company.
- [8] Prof. Madabhushi Sridhar, Concurrence Of Legislature: Not A Constitutional Requirement For Telangana Formation, July 12, 2011, <http://indiacurrentaffairs.org/concurrence-of-legislature-not-a-constitutional-requirement-for-telangana-formation-madabhushi-sridha/>
- [9] Nalluri Venkataraju v. state of AP, AIR 1961 AP 50, 53.
- [10] Machineni Kishan Rao v. Union of India, AIR 1997 AP 275.
- [11] 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. See also: V.N. Shukla, Constitution of India, 11th edition by Mahendra P. Singh, Eastern Book Company.
- [12] Formation of new States and alteration of areas, boundaries or names of existing States. See also: V.N. Shukla, Constitution of India, eleventh edition by Mahendra P. Singh, Eastern Book Company
- [13] Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters. See also: V.N. Shukla, Constitution of India, eleventh edition by Mahendra P. Singh, Eastern Book Company
- [14] Arvind P Datar, Commentary on the Constitution of India, Volume 1, 2nd edn., Wadhwa Nagpur
- [15] Berubari Union and Exchange of Enclaves, Re, AIR 1960 SC 845,857.

[16] V.N. Shukla, Constitution of India, eleventh edition by Mahendra P. Singh, Eastern Book Company

[17] State of W.B v. Union of India, AIR 1963 SC 124.

[18] Prof. Madabhushi Sridhar, Concurrence Of Legislature: Not A Constitutional Requirement For Telangana Formation , 12th July, 2011,
<http://indiacurrentaffairs.org/concurrence-of-legislature-not-a-constitutional-requirement-for-telangana-formation-madabhushi-sridhar/>

[19] *ibid*

[20] Andhra Pradesh State Division- Politics of Telengana, Separation of State. Impact of Telangana Heat. A Hard Look at the Political Situation, 08th January, 2012
<http://www.exclventures.com/News-telangana-separation-Jan08.asp>

[21] Mr. Madhusudhan, formation of new state, promiseofreason.com , 1st February 2013,
<http://promiseofreason.com/formation-of-new-states-criteria-and-right-path/>

[22] Shobha Manasa, The burning issue in India - 'Separation of Telangana from the state Andhra Pradesh', 27th February, 2013, [Indiastudychannel.com](http://www.indiastudychannel.com),
<http://www.indiastudychannel.com/resources/98744-The-burning-issue-India-Separation.aspx>

[23] Vinay Kumar, The Hindu, United Andhra Pradesh with constitutional empowerment of Telangana 'best way forward', Jan 07, 2011
<http://www.hindu.com/2011/01/07/stories/2011010759580100.htm>

[24] [Telangana Journal : Latest Articles & News on Telangana State Movement](#), Articles on Telangana Region, February 3, 2010
<http://telanganajournal.blogspot.com/2010/02/grievances-of-telangana-proponents.html>

[25] Sinkaravelan, IAS 100, Formation of Telangana state is a solution or a new problem? 19th January, 2011,

http://www.ias100.in/debatepoll.php?debate_id=34