Division of states has set procedures and precedents

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Many doubts, concerns, fears and hopes over demerger of Telangana have been propagated by "responsible" p ersons and carried by mass media. The terms of reference of the GoM on Telangana has also caused some conf usion. Aditya Krishna Chintapanti, a young and talented lawyer, has analysed several Reorganization Acts-- Bombay (1960), Punjab (1966), Madhya Pradesh (2000) and Bihar (2000). The procedures have thus been esta blished over a 40year period. For Telangana and Andhra Pradesh, what are the issues and solutions as per past practice?

First, Article 3 of the Constitution confers extraordinary power on Parliament to merge or separate states at wil l. Artic le 3 also allows Parliament to amend Constitutional provisions and Amendments by simple majority. T hese are sovereign powers and are confirmed by the Supreme Court.
Article 3 makes it clear that the Bill for separation has to be sent to the Assembly for its views alone. Only in t he case of Jammu and Kashmir is the specific consent of its Legislature required; in all other States no consent is required. In the event of President's Rule, the President can suspend the Assembly, and Parliament assumes all the powers of the State, and the Assembly's views and, even in the case of J&K, its consent, is not necessar y.Prior resolution by the Assembly is also not required. The NDA government managed to get it before the bill (not after) for Chhattisgarh and Jharkhand as Digvijay Singh's Congress government ruled Madhya Pradesh a nd Rabri Devi's RJD Government in Bihar. Uttaranchal was not an issue as Uttar Pradesh was under BJP rule. These were the only cases.

Second, separate Assemblies are reconvened after the Bill is passed and all MLAs will retain their tenure. The Legislative Council will continue only for the residuary State with MLCs elected only from its region.

Third, the Reorganisation Acts created new High Courts as only Parliament can do so. In the current state of af fairs, with lawyers violently divided on regional lines, a common High Court will be impossible. The Bill will have to create a Telangana High Court at Hyderabad and specify the location of the High Court of the residuar y Andhra Pradesh.

Fourth, every statutory Commission, Authority or any other body in the existing State shall continue in the resi duary State. They will also exercise jurisdiction over the newly formed State for a maximum period of two yea rs. However, the new State may constitute separate Public Service Commission or any other body at any time.

Fifth, distribution of revenues to the respective states applies to the total amount payable and due by the Centre to the parent state. It does no apply to state revenues which will accrue to the successor States based on princi ples of territoriality etc.

Sixth, the allocation of assets and liabilities of joint projects such as Srisailam and Nagarjuna Sagar may be fix ed either by agreement between the two states or if agreement is not possible, by the Central Government. Inde pendent boards shall be set up to manage these projects and which will distribute water and power equitably to the two states. The shares of the Krishna and Godavari river waters have already been allocated by Bachawat T ribunal in 1976 to Telangana and Seemandhra and there is nothing to dispute here.

Seventh, Article 371 (D) was enacted to implement the Six-Point Formula to safeguard Telangana interests. The Bombay and Punjab Reorganisation Acts amended Article 371. Since Article 371 (D) will no longer be required for Telangana State, its subsection (9) which refers to Telangana region can be deleted. Article 371 (D) may be useful to the residuary Andhra Pradesh State to ensure justice between Coastal Andhra and Rayalaseema regions. Anyway, Article 371 (D) empowers the President to issue orders, and it is the Presidential Order of 1975 which was the operative instrument of the reservation in Telangana employment. Presidential Orders can be changed or deleted.

Eighth, and most important, is the common capital issue for a maximum of 10 years. It is inconceivable that the residuary Andhra Pradesh can be ruled for 10 years from a temporary capital 200-1000 miles away from its districts. However, in the case of the Andhra Act (1953), 14 specified institutions were notified in Schedule 9 to be used by the Andhra Government on terms to be agreed by the two Governments.

Similar buildings and institutions can be made available for the Government of residuary Andhra Pradesh in Hyderabad on terms and tenures to be agreed to between the successor states. And of course, all residents of Telangana will be treated as citizens of India and have the same rights. The government offices of residuary Andhra Pradesh in Hyderabad will have the same privileges and security as have the offices of the Government of India, Government of Karnataka, United Nations and the Consulates of Iran and the United States. All Reorganisation Acts assumed that the successor states will be responsible for law and order in their territories.

The sum up: The procedure of reorganising States is clear and set over time and tested in the Supreme Court. The Andhra Pradesh Reorganisation Bill needs to cover the above points and ensure that no further litigation or tension arises between the successor States. Seemandhra leaders who have knowledge of the creation of Andhra State in 1953 and Andhra Pradesh in 1956 are aware of the issues and need to explain to their masses that the Telangana demerger is only a reverse repeat with variations.