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### Introduction

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The concept of territories administered by the Centre dates back to before the country's independence. Certain areas were designated as scheduled districts in 1874. These were later known as Chief Commissioners provinces, and they were essentially administered by a Chief Commissioner who reported directly to the Governor General/Viceroy of India.

The States Reorganisation Act of 1956 established the Union Territories. The Constitution (Seventh Amendment) Act of 1956 introduced the notion of the Union Territories.

### Administration of Union Territories

Part VIII (Articles 239 to 241) of the Constitution deals with the Union Territories. Even though all Union Territories belong to the same category, their administrative systems are not consistent. Every Union Territory is governed by the President of India, who appoints an Administrator to do so.

- ❑ An Administrator of a Union Territory, unlike a Governor, is an agent of the President rather than the head of State. The President can name an administrator; it could be a Lieutenant Governor, Chief Commissioner, or Administrator.
- ❑ In the cases of Delhi, Puducherry, the Andaman and Nicobar Islands, Jammu and Kashmir and Ladakh, it is currently Lieutenant Governor, and in the cases of Chandigarh, Dadra and Nagar Haveli-Daman and Diu, Ladakh and Lakshadweep, it is Administrator.
- ❑ The President can also appoint the Governor of a State to serve as the administrator of a Union Territory bordering on it. The Governor is to operate independently of his Council of Ministers in this role. The Governor of Punjab is concurrently the Administrator of Chandigarh.
- ❑ A Legislative Assembly and a Council of Ministers led by a Chief Minister have been established in the

Union Territories of Puducherry (in 1963), Delhi (in 1992), and Jammu & Kashmir (in 2019). There are no comparable popular political institutions in the remaining five Union Territories.

- ❑ However, the establishment of such institutions in Union Territories does not negate the President's and Parliament supreme control over them. For the Union Territories, Parliament has the authority to enact legislation on any subject from the three lists (including the State List).
- ❑ Parliament's power extends even to Puducherry, Delhi and Jammu and Kashmir, all of which have their Legislatures. This means that even after establishing a local legislature for the Union Territories, Parliament's legislative power over subjects on the State List remains unaffected.
- ❑ The Legislative Assembly of Puducherry, on the other hand, has the power to enact legislation on any subject on the State and Concurrent Lists. Similarly, the legislative assembly of Delhi can make laws on any subject of the State List (except public order, police, and land) and the Concurrent List.
- ❑ Likewise, the Legislative Assembly of Jammu and Kashmir can make laws on any subject of the State List (except public order and police) and the Concurrent List.
- ❑ The President has the authority to issue regulations for the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli-Daman and Diu and Ladakh in order to maintain peace, progress, and good governance.
- ❑ The President can also legislate by rules in Puducherry, but only when the assembly is suspended or dissolved.
- ❑ A regulation issued by the President has the same force and effect as a law passed by Parliament, and it has the power to revoke or alter any law passed by Parliament that applies to these Union Territories.

- ❑ A High Court for a Union Territory can be established by Parliament, or it can be placed under the jurisdiction of the High Court of the neighbouring States.
- ❑ Delhi is the only Union Territory with its own High Court (since 1966).
- ❑ There are no separate provisions in the Constitution for the administration of acquired territories. However, the Constitutional provisions governing the administration of Union Territories also apply to the acquired territories.

### ***Creation of Legislature or Council of Ministers for Union Territories***

Article 239 A (1) of the Indian Constitution which states that a Parliament through law can enact a body that can function as a Legislature for the Union Territory of Puducherry consisting of:

- ❑ elected or partly elected or partly nominated persons,
- ❑ or can make a body consisting of the Council of Ministers,
- ❑ or can create both of these with the constitutional powers and functions vested to the Parliament.

Article 239 A (2) further States that irrespective of anything mentioned in the above-stated Clause (1), that has the effect of amending the Constitution or is any amendment to the Constitution by the way of Article 368, shall not be deemed to be an amendment or a change to the constitution. In other words, the changes made in the Constitution will not be considered as the amendment to the Constitution.

### ***Special provision with respect to Delhi***

Special provisions are enshrined for the creation of legislature or for the creation of a Council of Ministers under Article 239AA of the Constitution with regards to Delhi. It states that from the 69th Amendment Act, 1991, Delhi shall be called the National Capital Territory of Delhi and the Administrator then appointed shall be referred to as the Lieutenant Governor.

At present, the Government of Delhi is the authority governing the National Capital Territory of Delhi and its 11 districts. The body of the Government of Delhi consists of the judiciary, legislature, and executive headed by the Lieutenant Governor.

The State Government of Delhi is expressly prohibited from exercising authority over land, police, and public order under Article 239AA of the Constitution.

Any law relating to local bodies passed by the Delhi assembly must be submitted to the Urban Development Ministry for approval, and it must be in compliance with the Municipal Corporation Act 1957.

### ***69th Constitutional Amendment Act of 1991 - Important Provisions***

As per clause 3(a) of the Article 239AA, the Legislative Assembly of the capital can make laws with respect to any of the matters enumerated in the State or Concurrent lists under Schedule VII excluding the matters regarding land, police and law & order which were to be governed by the Centre through the Lieutenant Governor.

There shall be a Council of Ministers headed by the Chief Minister of the State which will 'aid and advise' the Lieutenant Governor on the matters set forth above as per clause (4) of the same Article.

Moreover, clause 4 of Article 239 AA, warrants the Lieutenant Governor to refer 'any matter' to the President of India for his/her decision if there is a clash of opinion between the Governor and the ministers (Council of Ministers headed by the Chief Minister of the State). The Lieutenant Governor, as a matter of law, is bound by the decision of the President given thereon.

### ***Council of Ministers***

Further, clause (4) of Article 239 AA talks about the Council of Ministers in relation to the National Capital Territory of Delhi.

- ❑ The strength of the assembly is fixed at 70 members, directly elected by the people.
- ❑ The elections are conducted by the Election Commission of India. The strength of the Council of Ministers is fixed at ten per cent of the total strength of the assembly, that is, seven—one Chief Minister and six other ministers. The Chief Minister shall be the head of such a body of the Council of Ministers.
- ❑ The Chief Minister is appointed by the President (not by the Lieutenant Governor). The other ministers are appointed by the President on the advice of the Chief Minister. The ministers hold office during the pleasure of the President. The Council of Ministers is collectively responsible to the assembly.
- ❑ The Chief Minister shall be assigned by the President and the other Ministers shall also be assigned by the President on the advice of the Chief Minister and shall hold their offices during the pleasure of

the President (Clause (5) of Article 239 AA).

- ❑ The Council of Ministers so elected shall remain responsible collectively to the legislative assembly (Clause (6) of Article 239 AA).
- ❑ The Chief Minister's duty includes aiding and advising the Lieutenant Governor in the execution of his functions until and unless the Lieutenant Governor is himself empowered to make laws at his discretion.
- ❑ If there is a dispute regarding the difference of opinion between the Lieutenant Governor and his Ministers then the dispute should be referred to the President whose decision would be final and binding.
- ❑ The assembly can make laws on all the matters of the State List and the Concurrent List except the three matters of the State List, that is, public order, police and land.
- ❑ Still, in urgent situations, where the Lieutenant Governor feels that waiting for the President's decision could have a worsening effect than in those situations, the Lieutenant Governor is empowered to take immediate action till the further orders of the President.

#### ***Controversy related to the National Capital Territory of Delhi (Amendment) Bill, 2021***

- ❑ In Parliament, the Centre Government recently introduced the Government of National Capital Territory of Delhi (Amendment) Bill, 2021.
- ❑ The bill, according to the federal government, aims to change the statute governing the administration of the National Capital Territory of Delhi and give effect to the Supreme Court's interpretation of the city's governance structure.

#### ***Amendments proposed by National Capital Territory of Delhi (Amendment) Bill, 2021***

- ❑ The term "Government" in the context of laws passed by the legislative assembly is now defined as the Lieutenant Governor of Delhi, rather than the elected government.
- ❑ Lieutenant Governor's authority by forcing the elected government to seek Lieutenant Governor's advice on certain issues. Furthermore, it is up to Lieutenant Governor to determine whether these "matters" should be defined in a generic or specified order.

- ❑ It limits the assembly's ability to make rules for its committees on day-to-day administration.

#### ***Effect of Amendments on the functioning of the Assembly***

- ❑ Its standards of procedure and conduct of business have been firmly tethered to that of the Lok Sabha, depriving Delhi's elected MLAs of an effective say in how their Assembly should be run.
- ❑ The Amending Act prohibits the Assembly from making any rule enabling either itself or its committees to consider any issue concerned with "the day-to-day administration of the capital" or "conduct inquiries in relation to administrative decisions".
- ❑ The most significant impact of this shall be on the exercise of free speech in the Assembly and its committees.
- ❑ By restricting the Assembly's capacity to freely discuss issues in the capital, the amendment hampered the Assembly's ability to exercise its most basic legislative job of holding the executive to account.

#### ***Difference between the Lieutenant Governor of Delhi & Puducherry***

Both Delhi and Puducherry have quite similar administrations and management. However, while talking about the functioning of the Lieutenant Governor in the context of both of these places there are few differences. The differences can be explained as below:

Lieutenant Governor of Delhi	Governor of Puducherry
The Lieutenant Governor of Delhi enjoys more power than the Governor of Puducherry.	The Governor of Puducherry has lesser power than the Lieutenant Governor of Delhi.
The Government of National Capital Territory of Delhi Act, 1991, and the Transaction of Business of the Government of National Capital Territory of Delhi Rules, 1993, guide the Lieutenant Governor of Delhi.	Governor of Puducherry is guided by the Government of Union Territories Act, 1963.
The Legislative Assembly of Delhi has the power to make laws on all subjects except law and order. In Delhi, the role of the Centre is more important in contrast with the role of the Lieutenant Governor who acts as the eyes and ears of the Centre.	The Legislative Assembly in Puducherry can legislate on any matter under the State Lists and the Concurrent Lists however it must not be in contravention to the law.

### ***Power of President to make regulations for certain Union Territories***

These powers of the President are discussed under Article 240 of the Constitution. The President may make regulations for the peace, progress and good government of the Union Territory of:

- ❑ Andaman & Nicobar Islands;
- ❑ Lakshadweep;
- ❑ Ladakh;
- ❑ Dadra and Nagar Haveli & Daman and Diu;
- ❑ Puducherry.

Still, there is a restriction to the powers of the President in this regard. The President shall only exercise his powers when the Legislature of the Union Territory is suspended or disbanded in relation to any law in accordance with Clause (1) of Article 239 A. The President shall also not exercise his power after the Legislature has been created i.e., from the date approved for the first meeting of the Legislature after its creation.

Clause (2) of Article 240, on the other hand, States that any law made for the Union Territory for the time being, in order to amend any Act made by the Parliament, when promulgated by the President shall have the same effect on the Union Territory as any Act of Parliament.

### ***High Courts for Union Territories***

According to Article 241 Clause (1), of the Constitution the Parliament may by law constitute a High Court for a Union Territory or make a court in the territory to be the High Court for any such purposes made by the Constitution.

Clause (2) of Article 241 further States that the provisions of Part V and Part VI shall apply to High Courts

of Union Territories as mentioned in the above clause, in a similar manner as they apply to other High Courts under Article 214 unless any provision or specification as Parliament may by law provide.

Moving on to Clause (3), it States that every High Court that exercises jurisdiction on any Union Territory immediately before the formation of the Constitution will carry on to do so subject to the provisions of the Constitution or any law made by the Legislature. However, nothing prevents the Parliament from making any law to extend or to keep out the jurisdiction of the High Court of a State upon any Union Territory or any part thereof.

Comparing States and Union Territories	
States	Union Territories
Their relationship with Centre is federal.	Their relationship with Centre is unitary.
They share a distribution of power with the Centre.	They are under the direct control and administration of the Centre.
They have autonomy.	They do not have any autonomy.
There is uniformity in their administrative set-up.	There is no uniformity in administrative set-up. their administrative set-up.
Their executive head is known as Governor.	Their executive head is known by various designations– Administrator or Lieutenant Governor or Chief Commissioner.
A Governor is a constitutional head of the State.	An Administrator is an agent of the President.
Parliament cannot make laws on the subjects of the State list in relation to the States except under extraordinary circumstances.	Parliament can make laws on any subject of the three lists the State list in relation to the States except under in relation to the Union Territories