



## Sambhav

### Day 15

**Question 1:** What are the reasons that led to the creation of Union Territories (UTs)? Mention some of the distinguished regulations for the UT of Delhi. Do you think Delhi should be accorded the status of a full fledged state? Discuss.

**Question 2:** What are the different regulations applied on 5<sup>th</sup> and 6<sup>th</sup> Schedule. How far the spirit of these schedules is realized on the ground? Discuss.

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### Approach / Explanation / Answer

#### Answer 1

##### Approach:

- Start your answer by giving a brief about UTs.
- Discuss the reasons for the creation of the UTs.
- Discuss the Special Provisions Related to the UT of Delhi.
- Discuss the arguments against and in favour of giving the status of state to Delhi.
- Conclude suitably.

##### Introduction:

Under **Article 1 of the Constitution**, the territory of India comprises three categories of territories: (a) territories of the states; (b) union territories; and (c) territories that may be acquired by the Government of India at any time. At present, there are twenty-eight states, **eight union territories** and no acquired territories.

The states are the members of the federal system in India and share a distribution of power with the Centre. The union territories, on the other hand, are those areas which are under the direct of the centre and hence, are known as **Centrally administered territories**.

##### Body

The union territories have been created for a variety of reasons. These are mentioned below:

- **Political and administrative consideration:** There are some areas which are significant from the point of view security and administrative convenience. These areas have been accorded with

the Union Territory to save them from local politics of the state, for an instance Delhi and Chandigarh.

- **Cultural distinctiveness:** Some parts of India are culturally different, and people of this area have distinctive culture of their own which does not resemble mainstream culture. For example, Puducherry, Dadra and Nagar Haveli, and Daman and Diu.
- **Strategic importance:** Some areas are important from the perspective of securing our foreign policy goals like Andaman and Nicobar Islands and Lakshadweep.
- **Special treatment and care of the backward and tribal people:** Although tribals live throughout the territory of India but there are some tribal populations which doesn't have assimilated much with the living pattern of mainstream society like Mizoram, Manipur, Tripura etc. which later became states.

## **Special Provisions Related to the UT of Delhi**

- The 69<sup>th</sup> Constitutional Amendment Act of 1991 provided a special status to the Union Territory of Delhi and redesignated it as the National Capital Territory of Delhi and designated the administrator of Delhi as the lieutenant (lt.) governor. It created a legislative assembly and a council of ministers for 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 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. But the laws of Parliament prevail over those made by the Assembly.
- The strength of the council of ministers is fixed at 10% of the total strength of the assembly, that is, seven including one chief minister and six other ministers. The chief minister is appointed by the President (not by the lt. 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 council of ministers headed by the chief minister aid and advise the lt. governor in the exercise of his functions except in so far as he is required to act in his/her discretion. In the case of difference of opinion between the lt. governor and his ministers, the lt. governor is to refer the matter to the president for decision and act accordingly.

## **Arguments Against Full-Fledged Status of State to Delhi**

- In Delhi, there are a multiplicity of issues such as housing, water, electricity, transport, etc. which cannot be tackled by a state single-handily.
- It is the seat of major constitutional institutions like the Supreme Court, High Court, the Parliament of India, the President's House, etc. The central Govt can better take care of the security and safety of these institutions.
- In Delhi, people from all parts of India reside, in case it is given the status of a full-fledged state the party in power would promote the "sons of the soil policy" which will lead to uproar.
- It will create a domino effect as it will prompt other UTs as well as other regions to raise the demand for a separate state.

## **Arguments in Favour of Full-Fledged Status of State to Delhi**

- A growing population of 2.7 crore makes Delhi no longer just a Union Territory. Hence, it should be accorded the status of the state.
- It will hold the elected administration totally responsible for the Delhi's state. Since Delhi is a state, the Governor will take the role of the LG. All the items on the State and Concurrent List, "including" police, law and order, real estate, and municipal services, will be subject to government accountability.
- It will clear ambiguity in the jurisdiction of both center and Delhi. As the ambiguity in the area of control, powers, and authority would be resolved and made crystal clear like in the other states, there would be no way out for either the federal government or the state government with regard to the situation in Delhi.
- Delhi currently operates under a bureaucratic system. It neglects the democratic mandate of the people of Delhi because these officials are neither accountable to the city nor directly elected by

the populace. Delhi would be ruled by accountable individuals chosen by citizens after it becomes a full-fledged state.

## Conclusion

Although there exist various issues between the centre and the Delhi administration but bestowing the full-fledged title of state may not be a solution. They should be a gradual transfer of more responsibility and authority to the elected representative and also maintain the interest of residents of Delhi and citizens of India. There should be a proper demarcation of the jurisdiction between the centre and the states to minimize the chances of conflicts.

## Answer 2

### Approach:

- Start your answer by giving a brief about 5<sup>th</sup> and 6<sup>th</sup> Schedule.
- Discuss the various provisions related to 5<sup>th</sup> and 6<sup>th</sup> Schedule.
- Discuss their achievements and also discuss the issues with these schedules.
- Conclude suitably.

## Introduction

**Article 244 in Part X** of the Constitution envisages a special system of administration for certain areas designated as 'scheduled areas' and 'tribal areas'. The Fifth Schedule of the Constitution deals with the administration and control of scheduled areas and scheduled tribes in any state except the four states of Assam, Meghalaya, Tripura and Mizoram. The Sixth Schedule of the Constitution, on the other hand, deals with the administration of the tribal areas in the four northeastern states of Assam, Meghalaya, Tripura and Mizoram

## Body

**The various features of administration contained in the Fifth Schedule are as follows:**

- The **President is empowered to declare an area to be a scheduled area**. He can also increase or decrease its area, alter its boundary lines, rescind such designation or make fresh orders for such redesignation on an area in consultation with the governor of the state concerned.
- The **executive power of a state extends to the scheduled areas therein**. But the governor has a special responsibility regarding such areas. He has to submit a report to the president regarding the administration of such areas, annually or whenever so required by the president. The executive power of the Centre extends to giving directions to the states regarding the administration of such areas.
- Each state having scheduled areas has to establish a **tribal advisory council** to advise on welfare and advancement of the scheduled tribes.
- The **governor or President is empowered to direct that any particular act of Parliament or the state legislature does not apply to a scheduled area or apply with specified modifications and exceptions**. He can also make regulations for the peace and good government of a scheduled area after consulting the tribal advisory council.

**The various features of administration contained in the Sixth Schedule are as follows:**

- The **tribal areas in the four states** of Assam, Meghalaya, Tripura and Mizoram have been **constituted as autonomous districts**. But they do not fall outside the If there are different tribes in an autonomous district, the **governor can divide the district into several autonomous regions**.
- **Each autonomous district has a district council** consisting of 30 members, of whom four are nominated by the governor and the remaining 26 are elected on the basis of adult franchise. Each autonomous region also has a separate regional council.
- The **district and regional councils administer the areas under their jurisdiction**. They can

make laws on certain specified matters like land, forests, etc.

- The district and regional councils within their territorial jurisdictions can constitute village councils or courts for trial of suits and cases between the tribes. They hear appeals from them. The jurisdiction of high court over these suits and cases is specified by the governor.
- The acts of Parliament or the state legislature do not apply to autonomous districts and autonomous regions or apply with specified modifications and exceptions.

### **Achievements of the Fifth and Sixth Schedule:**

- **Protection of indigenous Culture:** The provisions of these Schedules give the tribals right to protect their local customs and traditions.
- **Ensuring democracy in true spirit:** It give tribals the right to govern their own affairs according to their customs without any external intervention.
- **Prevent Alienation of Tribals:** By bestowing the right of protection and preservation of local culture and by giving them a fair amount of autonomy it helps them keeping them fully satisfied.
- **Judicious Use of Funds:** The local bodies use the fund allocated to them according to local requirements which lead to their perfect utilization.

### **Issues Related to Fifth and Sixth Schedule:**

- **Undermining of Constitutional Principles:** They discriminates against the non-tribal residents in Scheduled and tribal areas in various ways and infringes upon their fundamental rights, like the right to equality before the law (Article 14), right against discrimination (Article 15), and the right to settle anywhere in India (Article 19).
- **Multiple Centres of Power:** It has created multiple power centres instead of bringing in a genuine process of autonomy in the region. There is frequent conflict of interest cases between the local governing bodies and the State Legislatures.
- **Conflict With Act-East Policy:** The restrictions under these acts as a roadblock for the success of Act East Policy, for which seamless connectivity and exchange within the Northeastern states are essential. Similarly, Inner Line Permit (ILP) deters investors and tourists and thereby hampers economic development in the region.
- **Denial of the Right to Self-Governance:** Tribal communities have progressively been denied self-government and rights to their communities' natural resources that should have been provided under the legislation.
- **Irregular Elections:** The elections to the local bodies of these areas do not hold regularly and intentionally held under suspension.
- **Emergence of Elite Element:** The various types of resources and funds allocated in these areas have benefitted only a handful of powerful people which has led to the emergence of the elite class.

### **Way Forward**

The 5th and 6<sup>th</sup> schedule of the constitution comes up with a lot of opportunities to rectify historical injustice met to the tribals and ensure their development in the true sense. If the provisions of these schedules are implemented properly then it will lead to realisation of the goals of the **Tribal Panchsheel policy**.