THE GNCTD AMENDMENT ACT, 2020: AN ALTERNATIVE CONSTITUTIONAL INTERPRETATION

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ABSTRACT

Delhi holds the constitutionally recognized special status of a National Capital Territory. The Government of National Capital Territory of Delhi Act, 1991 contains the administrative framework for its governance. On April 27th, the latest amendment to this law came into force. The Amendment Act modifies Sections 21, 24, 33 and 44 of the Act of 1991. It makes potentially significant changes including redefining the word 'government' to refer to the Lieutenant Governor, limiting the rule making power of Delhi's legislative assembly and so on.

A slew of articles have heavily criticized these changes. Popular media has tended to paint a picture of obvious and extreme violation of the Constitution by the amendment. The current paper explores the rest of the picture that has been left untouched. It provides an alternative constitutional interpretation to the clauses of the amendment. The paper begins with a broad analysis of the scheme and intent of the legislation, before moving into a clause by clause discussion. It backs up its constitutional validity with arguments founded in

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Constitutional jurisprudence, rationale, and common law. It addresses the potential impact of this legislation amid COVID-19 pandemic. The Research is doctrinal.

I. BACKGROUND

Part VIII of the Indian Constitution[1] introduces a unique category of administration – the Union Territories ("**UTs**"). Unlike States, which are part of a relatively rigid federal structure, UTs are under the direct administrative control of the Centre. Hence, they are also known as centrally administered territories. The constitutional status of Delhi has traversed a meandering journey. Originally called the Chief Commissioner's Province of Delhi, it held the status of a State till 1956. That year, India saw cyclonic reforms in territorial boundaries brought by the winds of the 7th Constitutional Amendment[2] and the subsequent States Reorganization Act, 1956[3]. Consequently, Delhi was designated as a UT. 35 years later, the 69th Constitutional Amendment Act, 1991[4] introduced Article 239AA[5] which gave the story an unprecedented turn. It endowed Delhi with the title of 'National Capital Territory' ("**NCT**"), and

[1] INDIA CONST. art. 239-242.
[2] INDIA CONST. amend. VII.
[3] The States Reorganisation Act, 1956, No. 37, Acts of Parliament, 1956.
[4] INDIA CONST. amend. LXIX.
[5] INDIA CONST. art. 239AA.

its administrator the designation 'Lieutenant Governor' ("**LG"**).

Article 239AA laid the constitutional framework for this new vision for Delhi. It provided Delhi with a legislative assembly which has 70 directly elected members and a council of ministers with the Chief Minister at its head, but all the while preserving the role of the administrator, in this case the LG. Drawing power from the Article, a comprehensive framework was enacted in the Government of National Capital Territory of Delhi, Act 1991 ("**Act of 1991**").[6] This law set up the requisite mechanism for the operation of Delhi's affairs in this special status, and attempted to iron out the wrinkles that existed.

However, ambiguities arose as to the division of powers and functions among the motley of entities. The judiciary, thus, made its appearance in two landmark judgments dated 4th July, 2018[7] and 14th February, 2019[8]. The former is of primary significance in this context where the Apex Court interpreted the special status of Delhi, and the peculiar relationship between the Chief Minister and the LG. The 5 Judge bench categorically held Delhi to not be a State, and barring Hon'ble Justice Bhushan, also agreed

[6] The Government of National Capital Territory of Delhi Act, 1991, No. 1, Acts of Parliament, 1992.
[7] Government of NCT of Delhi v. Union of India, (2018) 8 SCC 501.
[8] Government of NCT of Delhi v. Union of India, (2020) 12 SCC 259.

that it was neither a UT in the strict sense. They held the LG to be bound by the aid and advice of the Council of Ministers. The latter judgment delved into the division of the power of appointment and transfer of certain officials between the NCT and the Centre.

II. INTRODUCTION

On March 24, 2021, the Parliament passed the Government of National Capital Territory of Delhi (Amendment) Bill, 2021[9]. The Central Government notified the Act with effect from April 27, 2021, thereby bringing it into force. The Act modifies Sections 21, 24, 33 and 44[10] of the parent Act of 1991. It makes changes of substantial potential including, redefining the word 'government' to refer to the LG, limiting the rule making power of Delhi's legislative assembly and so on. Amid a downpour of articles deeply criticizing this move of the government, a petition[11] has crystallized in the Delhi High Court challenging the constitutionality of the Amendment Act. A division bench comprising D N Patel CJ. and

[9] Government of National Capital Territory of Delhi (Amendment) Bill, 2021, No. 55, 2021.
[10] The Government of National Capital Territory of Delhi Act, 1991, §§ 21, 24, 33, 44, No. 1, Acts of Parliament, 1992.
[11] Shreya Agarwal, *Delhi High Court Issues Notice On Plea Challenging GNCTD Amendment Act Giving More Powers To Delhi LG*, LIVE LAW (Aug. 2, 2021, 1:31 PM), https://www.livelaw.in/news-updates/delhi-high-court-issues-notice-in-plea-challenging-the-vires-of-gnctd-amendment-act-2021-173555.

Jasmeet Singh J. has issued notice in the case, which now awaits hearing.

The petition, and the several articles on the subject have effectively painted a case of blatant violation of all essential features and provisions of the Constitution by the Amendment Act. Upon a perusal of popular media's criticism, one will be compelled to wonder how the Parliament even passed a law so patently bad. Exploring this *how* is one agenda of the current article. In other words, the current article explores the assertion that the case in favor of constitutionality of the amendment remains quite sound.

The objective is not to pick a side. It is to paint the remainder of the picture left untouched, so as to have a clearer look as to what this landmark tussle might hold for us in the foreseeable future.

III. 'VIOLATION OF DEMOCRACY, FEDERALISM AND FRANCHISE' - A FLAW IN THE CENTRAL ARGUMENT

It has become almost inevitable that a controversial law be enacted and the terms 'basic structure' are not thrown around it. Similarly, some major challenges[12] to the present legislation also raise the violation of – Democracy,

[12] P.D.T Achary, *Centre's Delhi Amendment Bill is at Odds With Supreme Court's Ruling and the Constitution,* THE WIRE (Apr. 20, 2020, 6:00 PM), https://thewire.in/law/delhi-amendment-bill-centre-lieutenant-governor-supreme-court.

Federalism, Adult Franchise and an inherent right therein to be governed by the government one has elected.

These substantial allegations follow the following simplified structure - 'The impugned Act violates Democracy. Democracy has been held to be a part of the basic structure of the Constitution. Per *Kesavananda Bharati* v. *State of Kerala*[13], Parliament cannot violate the Basic Structure. Hence, the law must be unconstitutional.' *The flaw in this central argument is that the Basic Structure doctrine was propounded to be applicable only in cases of Amendment to the Constitution under Article 368.*[14]

One may be reminded of the historical series of verdicts which drew a line between the constituent power of legislation under Article 368 and ordinary legislative power. The pioneer verdict being Justice Patanjali Shastri's *Sankari Prasad Singh Deo* v. *Union of India*[15], where he closely examined the argument that constitutional amendments were covered by the expression 'law' in Article 13. He rejected the argument holding: "the word "law" used in Article 13 must be taken to mean rules or regulations made in exercise of *ordinary legislative power* and not amendments to the Constitution made in exercise of

[13] Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.
[14] INDIA CONST. art. 368.
[15] Sankari Prasad v. Union of India, AIR 1951 SC 458.

constituent power with the result that Art. 13 (2) does not affect amendments made under Art. 368."

[Emphasis Supplied]

This was affirmed by Justice Gajendragadkar in *Sajjan Singh* v. *State of Rajasthan*[16] and has been the settled position since.

Now, it is pertinent to highlight that not only does the present legislation not make any express amendments to the Constitution, it is additionally protected by Article 239AA Clause 7(2)[17]: "Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution."

Hence, without any express or implied amendment under Article 368, it appears that any challenge based directly on the ground of Basic Structure doctrine falls flat.

1. What is the implication of this?

The Authors do not intend to imply that the impugned law has become immune from challenge. The impact of Basic Structure being taken out of the debate is practically only this — each challenge must now be connected directly to

[16] Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845.
[17] INDIA CONST. art. 239AA, cl. 7(2).

the violation of a Fundamental Right for the law to be unconstitutional under Article 13[18]. In other words, where one could connect the alleged violation of our democracy directly to the Basic Structure and be done with their responsibilities, now the capable advocate would have to connect the violation of these principles directly to a Fundamental Right under Part III to make their case.

This additional burden might prove to be a heavy one owing to the masterful wording and the excellent scheme of the impugned law.

IV. THE AMENDMENT FORMS A PART OF A WELL-STRUCTURED, WELL-INTENDED SCHEME

The present legislation is far from arbitrary. Each individual clause of the amendment fits in place to form a central scheme — a scheme which seeks to attain a *clear, functional and harmonious separation of powers* in the NCT.

Drawing from the Statement of Objects and Reasons of the amendment bill,[19] the following salient points shall outline the general scheme and intent of the same:

One, the 69th Constitutional Amendment, 1991[20] introduced Article 239AA to provide for a constitutional

[18] INDIA CONST. art. 13.
[19] *Supra* note 9.
[20] *Supra* note 4.

framework recognizing Delhi's special status. Clause 7(a) of Article 239AA[21] is of paramount significance here "Parliament may, by law, make provisions for giving effect to, or supplementing the provisions contained in the foregoing clauses and for all matters incidental or consequential thereto."

The Act of 1991 was brought under this clause, and the present law being an amendment to that Act, also comes within its ambit.

The implication here is that *the present amendment, drawing power from Article 239AA 7(a), merely gives effect to or supplements what already exists*. It does not introduce anything new, it only seeks to fill the gaps that were left by the original law.

Two, the need for this legislation became evident after the two judgments of the Apex Court. The amendment does not nullify these judgments, it gives a rational and practical effect to them. In this era of judicial activism, the division of roles between the judiciary and the legislature seem to have been forgotten. When a law is impugned before the judiciary, and it finds that the law has some legislative faults in it, it provides an *interim* relief to the situation by *interpreting* the law. It is then the solemn duty of the legislature to take note of the decision and incorporate amendments in the law to permanently remedy the

[21] INDIA CONST. art. 239AA, cl. 7(a).

situation. In this case, the judgments exposed the lacunae of the existing framework, and the ambiguity in its interpretation. Hence, the legislature inserted viable mechanisms to fill the lacunae, and expressed its intended interpretations to remedy any ambiguity.

Three, it would be patently erroneous to say that the 69th Amendment had made Delhi a State. A five Judge Bench of the Apex Court in *NDMC* v. *State of Punjab*[22] stated it most clearly, "it is clear as noon day that by no stretch of imagination, NCT of Delhi can be accorded the status of a State under our present constitutional scheme." The administrative status of Delhi is constitutionally peculiar, whereby it stands somewhere in the spectrum between a State and a UT. The authors' considered opinion is that it stands closer to the UT end of the spectrum.

In support of the averment, a look may further be had at the wording of the first clause of Article 239AA – "the Union territory of Delhi shall be called the National Capital Territory".[23] A 3 judge bench of the Apex Court[24] has interpreted the clauses in alignment with the Author's own, clarifying that after the introduction of this article, the NCT of Delhi has been administered by the President through the administrator appointed under

[22] NDMC v. State of Punjab, (1997) 7 SCC 339.
[23] INDIA CONST. art. 239AA, cl. 1.
[24] Delhi Bar Association v. Union of India, (2008) 13 SCC 628.

Article 239. Thus, it says, "the Lt. Governor is the administrator for the National Capital Territory of Delhi and shall be representing and authorized to act for and on behalf of the National Capital Territory of Delhi."

Thus, it is made abundantly clear that merely new designations are being given to Delhi and its administrator, which is still in its fundamental nature a UT.

The above averment seeks to put forth this point – In a territory which is akin to a UT, the administrator (here LG) cannot be made a nominal head akin to a governor in a state. His powers and functions must be reserved as well. Hence, a novel, clearer separation of powers was urgently needed in the NCT, and attaining that is the primary objective of this amendment.

V. CLAUSE BY CLAUSE DISCUSSION ON THE IMPUGNED AMENDMENT

The following is a clause-by-clause discussion on the amendment.

1. Clause 1: Is the 'Government' the Lieutenant Governor?

The amendment[25] to Section 21[26] of the Act of 1991 has been the fastest one to spread. Section 21 restricts the legislative power of the assembly in certain matters. The amendment adds Section 21(3) which reads as follows -

"(3) The expression "Government" referred to in any law to be made by the Legislative Assembly shall mean the Lieutenant Governor."

The amendment is narrower in its operation than what popular news has made it to be. *First,* it is prospective in its operation. As opposed to the other clauses of Section 21 itself which use the phrase *laws passed by*, the current provision uses *law to be made by*. Hence, this change will only affect the laws that are to be made starting April 27th.

Second, let us understand what the provision actually implies. In a law made now by Delhi's legislature, where there is the term *government* attached (as opposed to say, the phrase Government of India) it shall be deemed *de jure* to be a reference to the LG. For instance, if a provision talks about salaries and allowances of an officer and ends with the phrase, "... as may be prescribed by the government."

[25] The Government of National Capital Territory of Delhi (Amendment) Act, 2021, § 2, No. 15, Acts of Parliament, 2021.
[26] The Government of National Capital Territory of Delhi Act, 1991, § 21, No. 1, Acts of Parliament, 1992.

This would imply that the salaries and allowances would be prescribed by the LG, who ultimately will operate on the aid and advice of the Council of Ministers.

The point being made is this. As in the above example, all references to the government that are made by a law are a form of subordinate legislation or other executive function. The legislature makes a law and within it refers all the executive functions to its Ministry which has special knowledge to carry it forward. The only difference in this case is that instead of referring the task directly to the Ministry, it refers it to the LG. The LG then acts on the referral on the aid and advice of the Ministry. Hence, the impact of the amendment is twofold. *One,* it clarifies that the subordinate legislation and all other executive functions specified in a law would lie with the executive. *Two*, it manages to keep all the entities — the LG and the Council headed by the CM — in the loop while making executive decisions. It is not unimaginable that if the word *government* were to refer directly to the Council, the LG may be cut out of the process.

2. Clause 2: If the law incidentally falls outside the conferred powers, it must be reserved

The second clause[27] in the amendment has modified Section 24[28] of the Act of 1991 which deals with the LG's power to give assent to bills. The clause makes an addition to the existing list of situations in which the LG is required to reserve a bill for the President's consideration. Post amendment, if in the opinion of the Governor a bill incidentally covers any matter which falls outside the purview of the powers conferred on the legislative assembly of Delhi, he must reserve the bill for reference of the President.

This amendment clause in its essence attempts at giving effect to clause 3(a) of Article 239AA.[29] The said clause places certain limits on the legislative power of the assembly of Delhi. One limit is the clear and express bar on legislation on three items, namely Police, Public Order and Land. The other, relatively obscure one is marked by the phrase "in so far as any such matter is applicable to Union territories". That is, the assembly is only competent

[27] The Government of National Capital Territory of Delhi (Amendment) Act, 2021, § 3, No. 15, Acts of Parliament, 2021.
[28] The Government of National Capital Territory of Delhi Act, 1991, § 24, No. 1, Acts of Parliament, 1992.
[29] INDIA CONST. art. 239AA, cl. 3(a).

to legislate on matters in the list in so far as they apply to a UT.

It is an unequivocally settled stance that the Constitution demands competency as a prerequisite for legislation. The Supreme Court in *R.S. Joshi* v. *Ajit Mills, Ahmedabad*[30] held: "In the jurisprudence of power, colorable exercise of or fraud on legislative power or, more frightfully, fraud on the Constitution, are expressions which merely mean that the legislature is incompetent to enact a particular law."

The argument which arises here is that even though constitutional limits have been imposed on the legislating power of the assembly, there exist no mechanism to give effect to the same. The current amendment seeks to do only this. It establishes a mechanism where the LG performs his supervisory role by checking if any Bills incidentally encroach on matters outside the assembly's competence, and if so, he refers the same to the President.

3. Clause 3: Unreasonable Limitations on the Rule Making Power of Assembly?

The third clause[31] has amended Section 33[32] of the Act of 1991, which deals with the rules of procedure of the

[30] R.S. Joshi v. Ajit Mills, Ahmedabad, (1977) 4 SCC 98.
[31] The Government of National Capital Territory of Delhi (Amendment) Act, 2021, § 4, No. 15, Acts of Parliament, 2021.
[32] The Government of National Capital Territory of Delhi Act, 1991, § 33, No. 1, Acts of Parliament, 1992.

legislative assembly. Firstly, it places a condition on the rule-making power of the assembly stating that it must not be inconsistent with that of the Lok Sabha.

There has been a subtle misreading of this clause, as is also evident in the plea filed before the Delhi High Court.[33] The plea describes this amendment clause to read as "the Rules made by the Delhi Legislative assembly to regulate the procedure and of business the assembly must be in conduct consistent with the Rules of Procedure and Conduct of Business in the Lok Sabha." However, the amendment is worded in a double negative — saying that the rules should *not be inconsistent*. This seemingly insignificant difference might just be what saves this clause from the gallows.

Let us understand the scope and effect of this amendment in this new light. The Authors' interpretation of the double negative implies that the rules of the assembly may *differ* from that of Lok Sabha as long as they are not *repugnant* to the latter. *If both rules may co-exist, this amendment does not come into play at all.* Reading the amendment without the double negative would imply a situation where whenever an amendment is made to the Lok Sabha rules, a similar amendment must be made in the assembly to keep the rules consistent. However, the current interpretation

[33] *Supra* note 11.

leaves a window where the assembly's rules need not be amended, if they can exist without contradiction.

Having settled the scope of this amendment, one must look into its need to answer, *why was even such a limitation imposed?* The definite answer lies with its creator, and so it should as it has been long regarded in our constitutional jurisprudence that the legislature knows best the need of its people. It has been categorically settled by a nine judge bench of the Apex Court[34] that even after the 69th Amendment, the legislative assembly of Delhi is subordinate to the legislature at the Centre, and any law made by it which is repugnant to a Central law shall stand void to that extent.

Nevertheless, a possible answer is that Delhi is a specially circumstanced territory. The same reasons that justified a special status for it, justify some special restrictions as well. Where in any other state or UT, a contradiction between the rules of the assembly and the Centre may not be of much effect, Delhi's nature and proximity to the Centre may make administration difficult if the two sets of rules contradict each other.

This clause of the amendment further precludes the Delhi assembly from making any *rule to enable itself or its Committees to consider the matters of day-to-day administration of the Capital or*

[34] New Delhi Municipal Council v. State of Punjab, (1997) 7 SCC 339.

conduct inquiries in relation to the administrative decisions. It goes on to endow retrospective effect on this condition.

Collective responsibility and accountability of the executive to the legislature is a constitutionally guarded feature of the NCT, under Article 239AA (6).[35] It is averred that the current amendment does not eliminate or even reduce this salient right of the elected legislature. The conduct of business in the assembly operates significantly through questions, answers and discussions. The members ask and the ministers answer. The capstone of this framework and faithful protector of Collective Responsibility is the No Confidence motion under Rule 251 of the Rules of Procedure and Conduct of Business, legislative assembly of Delhi.[36]

The words "conduct inquiry" in the amendment clause *cannot* be given such a wide interpretation so as to hold that the entire inquisitive mechanism of working of the assembly or the power to raise a no-confidence motion will be impaired by its operation. The amendment clause seeks to make two changes. *One,* it carves out from the ambit of discussions in the assembly only matters of "day to day administration". The phrase excludes both short and long term policy matters, only restricting itself to matters of

[35] INDIA CONST. art. 239AA, cl. 6.

[36] Rules of Procedure and Conduct of Business in the Legislative Assembly of the National Capital Territory of Delhi, 1997, Delhi Gazette (Extraordinary, Part IV) 97.

daily administration. *Two,* it prohibits the assembly from setting up inquiries on particular administrative decisions. The objective is to secure an independent functioning of the executive.

Independence of the branches of administration is a *sine qua non* for harmonious separation of powers. The power of the assembly is primary legislation, and that of the Council of Ministers alongside the LG is to take and implement administrative decisions. Matters of daily administration come strictly under the executive's domain. This amendment clarifies in express words what was already implied.

It is not far from imagination that the legislature may use its unbounded rule making ability to toss the entire administrative power in its hand. After the judgment of the Supreme Court in 2018, it was discernible that the Delhi government had overlooked the role of LG in the executive and kept him at a distance from administrative decisions. This amendment will secure his position and the independence of the executive in the NCT.

4. Clause 4: Concurrence of the Lieutenant Governor Mandatory in All Matters?

The last amendment clause[37] which amends Section 44[38] of the Act of 1991 has been chastised for having hamstrung the Delhi Government by forcing it to seek concurrence of the LG before implementing any decision. This clause appears to directly contravene the Supreme Court ruling of 2018 as well. Here is an alternate interpretation of the same.

Like the other clauses of the amendment, this clause seeks to give effect to a provision of Article 239AA, namely Clause 4[39]. The proviso of Clause 4 of Article 239AA makes it obligatory for the LG to refer "*any matter*" in which there is a difference of opinion between the two arms of the government to the President. The current amendment arises out of the question, *how will a difference of opinion emerge if an opinion is not sought at all?* This gaping lacuna has now been filled with a relatively clearer mechanism which gives effect to the power the *Constitution had already bestowed on the LG.*

[37] The Government of National Capital Territory of Delhi (Amendment) Act, 2021, § 5, No. 15, Acts of Parliament, 2021.
[38] The Government of National Capital Territory of Delhi Act, 1991, § 44, No. 1, Acts of Parliament, 1992.
[39] INDIA CONST. art. 239AA, cl. 4

Another point becomes pertinent to mention here that the amendment itself has restricted this duty to only 'certain matters as may be specified by general or special order.' The Supreme Court's verdict had clarified that the words 'any matter' do not imply all matters to be sent to the President without application of mind. The amendment respects the same by limiting the matters and introducing a mandated application of mind by the LG through the requirement of a general or special order.

VI. WILL THIS AMENDMENT HAVE AN ADVERSE EFFECT ON THE COVID-19 TUSSLE?

The recurring waves of COVID-19 has brought certain administrative inefficiencies of the Delhi government to daylight. In a judgment just one day prior to the current amendment being notified, a division bench of the Delhi High Court reprimanded the government in a livid tone asking it to "set its house in order" or hand over the administration to the Centre's officers.[40] In this backdrop, will the new amendment add fuel to the fire and hinder administration further? The answer is held in the grip of

[40] Srishti Ojha, *[Oxygen Supply] "Pull Up Your Socks, Get Your House In Order, Will Ask Central Govt To Take Over If You Cannot Do It": Delhi High Court To Delhi Govt.,* LIVE LAW (May 20, 2021, 10 PM), https://www.livelaw.in/news-updates/delhi-high-court-delhi-government-on-distribution-of-medical-oxygen-central-government-to-take-over-173218.

time, but the Authors hold the considered opinion that the amendment may benefit administration instead.

An additional check being placed in the nature of an opinion from the LG, and the subsequent mechanism of seeking the President's advice in case of a difference, would serve as a robust system to prevent hasty decisions amid an alarming situation. However, where haste is required, the provision does provide LG the power to take expeditious action even while the matter remains before the President. Similar is the safeguard against hasty legislation which may incidentally encroach on matters outside the assembly's purview. The amendment allots different areas of work to the several entities that co-exist. It will make sure that the legislature does not micromanage the executive in day-to-day administration as it fights the pandemic, while securing its ultimate accountability to the people's elected representatives.

VII. CONCLUSION

In a UT, the administrator holds the bulk of the power. In a state, it is coextensively divided between the assembly and the Council. So, by granting Delhi a status where an assembly, a council, a Chief Minister and an LG all existed, a debate was inevitable as to the division of power among these entities. This amendment is a bold legislation by the Union and it seems to clarify the legislature's stance on this

debate as follows. The LG in Delhi is not just a *de jure* head of the executive like the Governor. Although in a relatively limited sense, he is akin to the administrator in a UT and is to play an active role in administrative activities. The difference is that from the whole realm of powers that lie with the administrator in a UT, the primary legislative powers have been plucked out and given to the legislative assembly, and a Chief Minister in Council has been provided to assist the LG with the rest.

The above article merely touches the fringe of an exquisite constitutional debate, as would soon unfold before the Courts. Several questions remain from both sides. What is the extent of the right of the voters in a democratic republic over the nuances of who governs their daily administration? Can it be said that the current law being formed under Article 239AA of the Constitution, as opposed to ordinary legislative power under Article 245, is an exercise of *constituent power* of the legislature, thereby reviving the Basic Structure doctrine's applicability? The foreseeable future seems to hold the answers to these and many significant questions.