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## Legislative Federalism or Dominance of Union: A critical analysis of Legislative Relations through The Doctrine of Repugnancy

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### Abstract

The Indian Constitution is a blend of both Unitary as well as Federal features, which is rightly termed by Prof. K.C Wheare as Quasi Federal. Although the term, "federal" is not defined explicitly in the constitution, "Article 1 states that India, that is, Bharat, shall be a Union of States." In his address to the Constituent Assembly, Dr. Ambedkar explained why the term "State" was chosen instead of "Central." He stated that the Indian Federation is a result of a consensus among the States, in contrast to the United States of America. Hence, the Indian states do not have the authority to secede from the union, and because of this the rationale for the Centre's dominance over the individual states is particularly evident. The concept of Repugnancy may be viewed as a means of resolving conflicts that arise and when provisions of two statutes passed by two different legislatures within their respective spheres of legislative jurisdiction are incompatible. Article 254 of the Constitution contains the fundamental clauses that deals with issue of Repugnancy.

**Keywords:** Legislative, Federalism, Dominance, Union, Critical, Repugnancy

### Introduction

#### The doctrine of repugnancy under article 254

Given that the Indian Constitution combines federal and unitary characteristics, disputes regarding the division and scope of powers between the Centre and the states naturally arise. In order to overcome the conflicts that arise between the state legislature and the central legislature, Article 254 of the Indian Constitution is put into effect. This relates to the Constitution's List III, or Concurrent List, legislative authority. These disputes are intended to be settled by the Doctrine of Repugnancy. A conflict between two rules that yield different conclusions when applied to the identical set of circumstances is known as repugnancy. It is used to characterize the incompatibility and inconsistency between state and federal laws when they are implemented concurrently. A condition known as repugnancy occurs when two laws are so incompatible that applying one would mean breaking the other.

#### Tests for determining repugnancy

For their use in India, the Australian idea of Repugnancy

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has been adopted. In the *Deep Chand v. State of Uttar Pradesh* case, the Court noted, in accordance with Australian precedents, that the following three factors can be used to determine if two enactments are repugnancy<sup>[1]</sup>:

1. Whether the two conflicting provisions directly conflict;
2. Whether the Parliament intended to replace the State legislature's law with an exhaustive enactment on the subject matter; and
3. Whether the Parliamentary and State legislatures' laws fall under the same purview.

In *M. Karunanidhi v. Union of India*, the Supreme Court upheld the following tests for determining repugnancy<sup>[2]</sup>:

1. It must be demonstrated that the two enactments include incompatible and irreconcilable provisions that prevent them from standing together or functioning in

<sup>[1]</sup> Deep Chand v. State of Uttar Pradesh, AIR 1959 SC 648 (India)

<sup>[2]</sup> M. Karunanidhi v. Union of India, (1979) 3 SCC 431 (India)

the same field in order to resolve the repugnancy issue.

2. That unless the discrepancy is evident on the face of the two legislations, there cannot be an implied repeal.
3. No repugnancy occurs when two statutes occupy the same field, yet there is some space or potential for both statutes to operate in the same field without colliding.

That no question of repugnancy emerges and both legislations continue to function in the same field where there is no discrepancy but one of them aims to create different and separate offenses.

### **Power of Parliament to Make Laws on State-Subject In national interest**

The Indian Constitution's Article 249 contains clauses pertaining to the Parliament's power to enact legislation on matters covered under the State List. These laws deal with matters that affect the whole country. The Council of States may declare a resolution to be extremely important, of national interest, and in need of addressing it if it is approved by the Rajya Sabha or the Council of States and backed by at least two-thirds of its members who are present and voting in such a scenario. The Parliament is then permitted to enact laws on issues that fall under the purview of the State Government in the State List.

Should a resolution have been issued, it would remain in force for a maximum of one year. Should such a resolution be extended, it will remain in effect for an additional year; if not, it will expire. Unless another resolution has been approved specifically for that purpose, the resolution cannot be prolonged for longer than a year. If not, the resolution would no longer be relevant.

### **In emergency**

According to Article 250, the Parliament gains the right to enact legislation for the entire state or just a portion of it if an emergency is declared. Additionally, a legislation enacted in reaction to an emergency will remain in effect for six months following the situation's conclusion.

### **State's power to legislate after emergency situation ceases**

According to the Indian Constitution, the state legislature has been given specific jurisdiction and unique capabilities to enact legislation for that state. Accordingly, Article 251 declares that the authority of state legislatures cannot be curtailed by the powers outlined in Articles 249 and 250 of the Constitution.

In some extraordinary circumstances, the Parliament may enact legislation for the state under Articles 249 and 250. The laws passed by the state legislature during this period will not be enforceable until the legislation of Parliament takes effect. The legislation passed by the State Legislature takes effect when the Parliamentary statute expires, following the end of the exceptional circumstance.

### **Power of the parliament to repeal state laws**

- A legislation passed by the State Legislature may be repealed by the Parliament by the enactment of a new law under certain circumstances. The circumstances are:
- A central legislation on the subject ought to have

previously existed in the Concurrent List.

- After the state legislature passed a bill that conflicted with the federal law, the federal government approved it.

In the case of *Kannan Devan Hills Produce Co. Ltd. v. State of Kerala*, (1972) <sup>[3]</sup> The potential for a conflict between a state law and a central law was discussed by the Supreme Court. The Court ruled that the State possessed the necessary authority to enact laws pertaining to Entry 18 of the State List (land rights, land tenures, landlord-tenant relations, land improvement and agricultural loans, etc.), and that the authority could not be revoked on the grounds that it had an impact on an industry governed by Entry 42 of List III (Acquisition and Requisitioning of Property).

### **Limitations to the doctrine of repugnancy**

#### **When laws deal with different subjects**

The courts have stated that there can be no repugnancy when Union Law and State Law belong to different subject-matters. In *Vijay Kumar Sharma v. State of Karnataka*, the Supreme Court ruled that the Motor Vehicles Act of 1988, which was passed under Entries 42 and 35 of List III, respectively, and the Karnataka Contract Carriages (Acquisition) Act of 1976 were not incompatible. It was decided that where two laws pertain to separate Concurrent List heads, there cannot be repugnancy. However, a contrasting view was laid down in *Rajiv Sarin v. State of Uttarakhand and Innovative Industries Ltd. Case* <sup>[4]</sup>. Therefore, whether two statutes address essentially the same topic is the test, not whether they are included in the same List III entry <sup>[5]</sup>.

### **Incidental coverage partial or superficial overlapping**

Repugnancy is not attracted when two laws overlap only incidentally or operate in different contexts and for different purposes. In *State of W.B. v. Kesoram Industries Ltd.*, the Supreme Court clarified that the entries in the three Lists are merely legislative fields, and that the power to legislate on a subject includes incidental and ancillary matters. Applying the doctrine of pith and substance, a law must be assigned to its true legislative field, and any incidental encroachment on another List must be disregarded. Repugnancy arises only when there is a direct and irreconcilable conflict between a state law and a central law on the same subject within the Concurrent List. In such cases, Article 254 ensures that the central law prevails <sup>[6]</sup>.

### **When it is possible to obey both laws**

In *U.P. Coop. Cane Unions Federations v. West U.P. Sugar Mills Assn*, the Court found that "repugnancy will arise only when the State Government fixes a price lower than that fixed by the Central Government" while determining whether the U.P. Sugarcane Act, 1953 and the Sugarcane Control Order, 1966 were in conflict. However, since both commands may be obeyed, there won't be any conflict if the

<sup>3</sup> *Kannan Devan Hills Produce Co. Ltd. v. State of Kerala*, (1972) 2 SCC 218 (India).

<sup>4</sup> *Vijay Kumar Sharma v. State of Karnataka*, (1990) 2 SCC 562 (India)

<sup>5</sup> *Rajiv Sarin v. State of Uttarakhand*, (2011) 8 SCC 708 (India)

<sup>6</sup> *State of W.B. v. Kesoram Industries Ltd.*, (2004) 10 SCC 201 (India)

State Government sets a price that is greater than the Central Government's [7]."

### When the parliamentary law does not purport to be a complete code

If the dominant or paramount legislation does not assert that it is a comprehensive code in and of itself, the State Legislature's bill addressing the unoccupied regions will not be considered offensive. Furthermore, any limitations or qualifiers imposed by other laws would not be considered incompatible with the paramount law if the dominant legislation itself acknowledges or enables other laws that qualify or restrict the general provisions provided thereunder.

### Point of time when repugnancy arises

In *State of Kerala v. Mar Appraem Kuri Co. Ltd.* the Supreme Court has held that "repugnancy occurs on the day the legislation is enacted, not when it becomes effective. When the Central Chit Funds Act, 1982 was made, that is, on August 19, 1982, when the President gave his assent, or when a notification was issued under Section 1(3) of the Central Chit Funds Act, 1982, bringing the Central Act into force in the State of Kerala, the court was addressing whether the Kerala Chitties Act, 1975 became incompatible with the Central Chit Funds Act, 1982 under Article 254(1). Even before the Central Act went into effect, it was decided that the Kerala Act was rendered unconstitutional on the day the Central law was passed [8]."

### Presidential assent

According to Article 254(2), the President's approval of the State legislation cures the repugnancy, and the Central law must yield to the State law only to the degree that it is objectionable and not beyond. According to the proviso of Article 254(2), Parliament has the authority to either alter or abolish the disreputable State law or adopt legislation on the same topic. Even if the Central Act doesn't state it explicitly, the previous State legislation is nullified as soon as Parliament passes a measure that contradicts it.

In *Kaiser-I-Hind (P) Ltd. v. National Textile Corp.* (Maharashtra North) Ltd. According to the ruling, "it is a procedural requirement under Article 254(2) that the President's attention be drawn to such repugnancy while obtaining presidential assent to the repugnant State law." The authority to grant assent falls under the jurisdiction of judicial review as it is an exercise of legislative process rather than legislative power. Only the central laws that have been mentioned to the president in the proposal will be superseded by state legislation [9]."

### Conclusion

The principle of repugnancy under Article 254 exemplifies the Indian Constitution's quasi-federal character by balancing federal supremacy with limited state autonomy. Courts have consistently held that repugnancy arises only when there is a direct and irreconcilable conflict on a

<sup>7</sup> U.P. Coop. Cane Unions Federations v. West U.P. Sugar Mills Assn, (2004) 5 SCC 430 (India)

<sup>8</sup> State of Kerala v. Mar Appraem Kuri Co. Ltd., (2012) 7 SCC 106 (India)

<sup>9</sup> Kaiser-I-Hind (P) Ltd. v. National Textile Corp., (2002) 8 SCC 182 (India)

Concurrent List subject, and not where overlaps are merely incidental. Decisions such as *State of Kerala v. James Varghese* [10] and *T.N. Medical Officers Assn. v. Union of India* [11] reaffirm that Presidential assent can validate a conflicting state law, and that states may legislate to fill gaps where central law is not exhaustive. The ruling in *Tika Ramji v. State of Uttar Pradesh* further clarifies that Parliament can override state legislation only when a prior central law occupies the same field. Collectively, these doctrines and judgments demonstrate how Article 254 carefully harmonizes Centre-State legislative powers and underscores the Constitution's nuanced, quasi-federal structure [12].

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<sup>10</sup> The Secretary to Government of Kerala, Irrigation Department v. James Varghese, (2022) 5 SCC 1 (India).

<sup>11</sup> Tamil Nadu Medical Officers Ass'n v. Union of India, (2020) 17 SCC 478 (India).

<sup>12</sup> Tika Ramji v. State of Uttar Pradesh, AIR 1956 SC 676 (India)