



NAVIGATING JURISDICTIONAL BOUNDARIES: UNDERSTANDING LEGISLATIVE CONFLICTS IN FEDERAL SYSTEMS

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Abstract:

The functioning of governance structures in federal systems significantly depends on the dynamics of legislative powers. The complex tensions between legislative domains at the federal and local levels are examined in this research. It looks at power distribution, dispute resolution, and the effects on law enforcement and governance, drawing on constitutional frameworks and judicial interpretations. The complexity inherent in federal governance arrangements is clarified by examining constitutional provisions and precedents extensively.

Keywords: Constitutional frameworks, governing structures, jurisdictional boundaries, federal systems, and legislative powers.

Introduction

The separation of powers and responsibilities between the federal government and its regions is outlined in a federal constitution, and this core idea remains at the centre of the federal system's organizational framework. There may be a common or concurrent region where both can work simultaneously. Typically, some abilities are assigned solely to the centre, while other powers are allocated exclusively to the units. Functions of national relevance should go to the centre, and those of local interest should go to the units, which is a basic criterion used to determine what subjects should be assigned to either level of government. This criteria is quite broad, akin to an ad hoc formula, and it doesn't produce a consistent pattern of authority and function distribution between the two branches of government across all federal counties. This lack of consistency stems from the inability to determine what is local relevance vs what is broad or national importance a priori.

Priorities assigned to the centre include foreign policy, currency, and defence. The power structures of federations differ according to time and place. The division of functions is shaped by two conflicting forces that support local or particular tendencies based on linguistic, cultural, religious, and ethnic elements. The balance of these opposing forces

throughout the formulation of the Constitution led to the plan that eventually materialised as a federation.

The judiciary is a symbol of national sovereignty. In a federal Constitution where the general and local governments share legislative power, especially vital to government and law enforcement. The elaborate and precise power-sharing arrangements between the union and the states in the Constitution require the courts to interpret and construe them in a way that advances the intended goal. When talking about this federalism topic, the power distribution plan should be taken into consideration. Three lists are intended to divide legislative functions between the Union/Central and the States under the Indian Constitution.¹

Professor Wheare argues that the Indian Constitution, which he considers to be a quasi-federal governmental structure, improperly distributes legislative power. This should be mentioned before delving into a comprehensive analysis of the legislative power division between the union and the constituent units. Three legislative lists are included in the 1950 Indian Constitution. The first lists, under ninety-seven headings, the subjects under the actual exclusive jurisdiction of the union legislature; the second lists, under sixty-six headings, the subjects under the actual exclusive jurisdiction of the states; and the third lists, under forty-seven headings, the subjects under the joint jurisdiction of the union and state legislatures. This enumeration is more comprehensive than anything else tried in the federation area.²

The language used to frame Article 246 of the Constitution³ demonstrates our founding fathers' concern to ensure the legislative supremacy of the union despite the three lists.

A. Disagreements inside the Exclusive Domain

The Union Parliament and state legislatures each have their own exclusive areas of lawmaking established by the Constitution. Enumerating different subjects or heads of legislation in the corresponding lists creates fields. There are currently 100 entries in the Union List that are part of its exclusive field. List II of the seventh schedule has 62 elements that are specific to the state legislature.

1. M.P Jain, *Indian Constitutional Law*, 4th edn. (1993), p. 242

2. K.C. Wheare, *Federal Government*, (1960), p. 77.

3. According to Art. 246(2), parliament, subject to clause (1), the legislature of any state too, has the authority to pass legislation regarding any of the subjects included in List III of the seventh schedule (referred to as the "Concurrent List" in this Constitution), regardless of what clause (3) says.

According to Article 246(3), the legislature of each state, subject to Clauses (1) and (2), has the sole authority to enact laws for the state or any portion thereof on any of the subjects listed in List III of the seventh schedule (referred to as the "State List" in this Constitution). According to Article 246(4), even if a topic is listed in the state list, Parliament nevertheless has the authority to enact laws regarding it for any area of India's territory that is not a state.

Furthermore, this serves as evidence of the Union's legislative preeminence, to the extent that it is permitted. The majority opinion of the Supreme Court in *Kesaram Industries Ltd. and others v. State of West Bengal and others* stated that List I is more important than List III and II, while List III is more significant than List II. Additionally, the court determined that the dominance of List I would not impede the ability of state legislatures to address any subject within List II, even if it did affect an entry in List I. The way that the Article 246 phrases are worded indicates that the goal of these priorities is to provide for the possibility, that a legislation may be passed that falls, in the alternative, outside the purview of items on two distinct Lists. State legislatures have the sole authority to levy taxes on occupations, trades, vocations, and employment, which they typically assign to local self-government organizations. Parliament has the unique authority to impose income taxes. Such a tax would fall under the Union's jurisdiction over income tax, which is superseded by state authority under Article 246.

Although a wide legislative topic can be separated between the domains of the union and the states, overlap cannot be avoided by a distinct division. Therefore, under Entry 41 of List I of the 7th Schedule of the Constitution, the Union Parliament has legislative authority over import and export across custom borders, trade and commerce with other nations, and the defining of "custom frontiers." Interstate trade and commerce are included in the exclusive union field. Under Entry 42 of the same List, the legislature manages state trade and commerce in the exclusive state sector. However under Entry 33 of List III, the concurrent field deals with trade in food, other items, and products from restricted industries. Because of this division, the courts have to decide which field has more authority when it comes to trade and commerce.

While the Union List designates railroads, highways, shipping, and navigation on inland waterways as national highways under various Entries of List I, Entry 13 of List II adds "... and other means of communication not specified in List I." The creation, regulation, and dissolution of trading corporations—such as those in banking, insurance, and finance—are covered by Entry 32 of List II; however, cooperative societies and corporations with non-state-specific purposes—but not universities—are not.⁴

Thirdly, the exclusive domain, is executed and set apart for it and the union in several instances. In certain situations, a declaration from Parliament determines the extent of the union field.⁵

Therefore, identify the field and then describe the legislation to ascertain which field it relates to to resolve legislative conflicts between exclusive fields.⁶

It was decided in *Harakchand v. Union of India*⁷, that the List entries are limited to legislative heads or subjects of legislation. They define the domain that the relevant legislator can regulate. The language used in the entries should have the greatest amplitude. Under *State of Madras v. Ganon Dunkerley*, the Supreme Court examined the

⁴. *Western U.P. Power Co. v. Town Area*, AIR 1957 All. 433

⁵. Schedule VII, List II, Entry 60.

⁶. Schedule VII, List I, Entry 82.

⁷. AIR 1970 SC 1453

extent to which the definition of "Sale of Goods" under Entry 48 of the state list of the seventh schedule to the Government of India Act, 1935 could be adopted. The court decided that the definition of "sale of goods" should be adopted from the Selling of Goods Act 1930 and given the common interpretation found in Indian law.

Chandrachud, J., in *Vishwa Agencies v. Commercial Tax Officer*⁸, Observed, in his ruling on behalf of six of the seven justices that make up the Bench:

An agreement to sell movables for a price and the transfer of property therein in accordance with that agreement were necessary elements for the sale of commodities to be considered. There was no actual sale of goods in a work contract, which was an entire and indivisible agreement. Moreover, the province legislature lacks the authority to impose sales tax on the cost of the materials used in a work contract because that is the responsibility of the State Legislature as defined by Entry 48 of List II of the 7th Schedule to the Government of India Act 1935.⁹

The non-obstante provision found in Article 246 must be cited to discuss the relative jurisdiction of the Union and State Legislatures. Before applying the non-obstante clause in Art. 246 in cases where two competing Entries in List I and II are capable of overlapping, the court would first determine whether the applicable union legislation aims to occupy the entirety of the subject area.¹⁰

(a) The state legislature will lose all legislative authority over the matter when the Union legislation completely occupies the relevant field.

(b) state legislation may be implemented in the area left unoccupied by the union, nonetheless, if the court determines that the union law does not cover the complete subject matter pertaining to the union entry.

The Court is free to express its opinions on any given topic, but it is not allowed to contest the wisdom of the Parliament. A law is to be ratified if it is within the purview of the Parliament and does not violate Part III of the Constitution. The boundaries of the Parliament's exclusive jurisdiction are not where the legal process ends.

A measure passed by Parliament that complies with all other constitutional requirements and is otherwise lawful cannot be deemed to be exceeding its authority.

The Parliament is authorized to enact laws pertaining to the subjects listed in List I of the Seventh Schedule by Articles 245(1)¹¹ and 246. The Union list's entries serve as a limit on

⁸. AIR 1978 SC 449

⁹. *State of Haryana v. Chanan*, AIR 1976 SC 1654.

¹⁰. *Jai Singh v. Union of India*, AIR 1993 Raj. 177; See also *Bombay v. Narayan Das Mangilal*, AIR 1958 Bom. 68; *E.R. Samuel v. Punjab*, AIR 1966 HP 59; *K.K. Kochunni v. State of Madras*, AIR 1966 SC 1080; *Khazan Singh v. Uttar Pradesh*, AIR 1974 SC 669; *Akhilesh Prashad v. Union Territory of Mizoram*, AIR 1981 SC 806; *Prithipal Singh v. Union of India*, AIR 1982 SC 1413

¹¹. "If any provision of a law made by the legislature of a state is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the concurrent list, then subject to the provision of clause (2), the law made by Parliament, whether passed

the Parliament's authority within the granted field.

B. Disagreements in the Concurrent Field

The Constitution's Article 246(2) gave the State Legislatures and Parliament complementary authority over the items on the concurrent list. The Constitution had to include a provision for resolving conflicts that might arise from the simultaneous exercise of power by the two competent authorities about a matter in the field after granting authority to two authorities to operate within the concurrent field. This provision is found in Article 254(1).

The phrase "subject to the provisions of clause (2) for clause (2)"¹² contemplates only a state law relating to the concurrent list" clarifies the scope of clause (1) of Article 254, even though the words "competent to enact" in clause (1) are rather broad and might include laws made under List I as well. Therefore, clause (1) refers to the incompatibility of a state law and a federal legislation that deals with the same issue in the concurrent list.¹³

This appears to be a reasonable interpretation of Article 254's clause (1), and the Supreme Court's summary of the clause's provisions in *Deep Chand v. State of UP*¹⁴ indicates that even the Supreme Court agreed with this conclusion. Clause (1) of Article 254 thus effectively states that in the event of a repugnancy between a State Legislature law and a Parliamentary law regarding one of the subjects listed in the concurrent list, the latter will take precedence over the former regardless of when it was enacted, and the former will be void to the extent of the repugnancy.

The concept of repugnancy was explained by the Supreme Court in the case of *Tika Ramji v. State of UP*¹⁵. Prior to expressing its opinion regarding the legitimacy of the contested State Act, the Supreme Court observed that:

before or after the law made by the legislature of such state, or, as the case may be, the existing law, shall prevail and the law made by the legislature of the state shall, to the extent of the repugnancy, be void".

¹². According to Article 254(2), a state legislature's law will take precedence over any earlier legislation passed by Parliament or existing laws on the same subject if the state legislature enacts a law on the concurrent list and that law contains any provisions that are incompatible with those laws. However, the law must first be reserved for the President's consideration and assent.

With the proviso that nothing in this article would prevent Parliament from making laws at any time on the same subject, including laws that amend, repeal, or add to the original legislation passed by the state legislature.

¹³. D.D. Basu, *Commentary on the Constitution of India*, (1986), pp. 143-145

¹⁴. (1959) SCJ 1069; See also *N.K. Doongaji v. State*, AIR 1975 MP 1 *Bombay v. Balsara*, AIR 1951 SC 318; *Nashirwar v. Madhya Pradesh*, AIR 1975 SC 360; *Uttar Pradesh v. Synthetic and Chemicals Ltd.*, AIR 1980 SC 614; *Southern Synthetics v. State*, AIR 1982 Madras 330; *Madras Race Club v. Tamil Nadu*, AIR 1976 Mad. 239; *Srinivasa Enterprises v. Union of India*, AIR 1981 SC 504

¹⁵. 1956 SCR 393

"Repugnancy is taken into consideration when the State Legislature's and Parliament's laws are in the same field because repugnancy does not arise if both of these pieces of legislation address different and distinct matters, even though they are cognate and related." ¹⁶

Only when both the State Legislatures and the Parliament have the legislative authority to enact laws can the issue of repugnancy come up. Put another way, the issue of repugnancy comes up when the legislative branch is positioned within the concurrent list. The Supreme Court highlighted this in the *Uttar Pradesh Bar Council v. State*¹⁷.

Therefore, under Article 254¹⁸, there is no repugnancy between the two Acts where there is no conflict between their contents. In *F.M. The Bombay High Court* noted in *Balsara v. Union of India*¹⁹ that the President's assent under Article 254(2) was granted with the specific intention of resolving the conflict between the State Act and the Central Act. It does not imply that state laws will take precedence over federal laws in any one state. As d According to Article 254(2), a state legislature's law will take precedence over any earlier legislation passed by Parliament or existing laws on the same subject if the state legislature enacts a law on the concurrent list and that law contains any provisions that are incompatible with those laws. However, the law must first be reserved for the President's consideration and assent.

With the proviso that nothing in this article would prevent Parliament from making laws at any time on the same subject, including laws that amend, repeal, or add to the original legislation passed by the state legislature.

As demonstrated in *Saikanan Saheb v. District Collector, Kanmani*²⁰, the Parliament retains its authority to enact laws on any topic on the concurrent list.

Therefore, if the repugnancy results from an inconsistent state law, it can be eliminated by violating the infringing state law and making it null. Therefore, all of the state laws that are in conflict or violate these principles are null and void. As a result, all state laws that conflict with union law are null and void, meaning they cannot be enforced.

C. Disagreements between Concurrent and Exclusive Fields

When there is a conflict between the concurrent and exclusive fields, power is at issue rather than repugnancy. There is a hierarchical relationship between the concurrent field and the exclusive field. Contrasting with the relationship within the same field—that is, the concurrent field—where there is a relationship of cohabitation and tolerance—are subordination and power. Therefore, the methods available for resolving disputes between the union and exclusive state domains also apply in this situation. To resolve such conflicts, it is, therefore, possible to apply the principles of harmonious construction, pith

¹⁶. *Ibid*

¹⁷. AIR 1976 SC 1031

¹⁸. *Supra* n. 41

¹⁹. AIR 1992 Bom. 375; See also *M.A. Kamath v. Karnataka Financial Corporation*, AIR 1981 Kant. 193

²⁰. AIR 1991 AP 43; See also *Ramkrishna Dalmia v. Tendulkar*, AIR 1958 SC 538.

and substance, incidental encroachment, hierarchical arrangement of the union, and concurrent and state jurisdiction with provisions for the subjection of each to the immediately higher one.²¹

The majority in *Greater Bombay Co-operative Bank Ltd. v. United Yarne Tex (P) Ltd*²², concluded that, despite the Constitution being an organic, living constitution, its flexible provisions must be interpreted in a way that keeps pace with the times.²³

The concurrent list of the Indian Constitution has multiple entries about criminal law. The only way to determine the area of criminal jurisprudence is to look at the activities that the state declares to be crimes during a given period.²⁴ If such legislation does not exist, one cannot conduct the crime. It applies to all legal branches.²⁵

Given that there are several legislative items about criminal law on both the Union List and the State List, there is a potential for conflict between Central Law and State Law in this area.²⁶

Control over trade and commerce is another area where exclusive and concurrent domains clash. The three list members share this power. The ideas of entry reconciliation can be utilized to resolve discrepancies among these entries.

By providing the parliament the overriding authority to enact laws pertaining to any of the subjects listed in List I²⁷, and the residuary legislative powers, it is evident that there is a significant tilt toward the center in the allocation of powers.

Therefore, there is a belief that, in the event of a discrepancy between a State's legislation and the laws passed by Parliament, the Union Parliament should be given the benefit of the doubt²⁸.

Conclusion

In conclusion, the analysis underscores the nuanced interplay between legislative powers in federal systems. The delineation of exclusive, concurrent, and conflicting fields reflects the delicate balance sought to be achieved by constitutional framers. Judicial

²¹. V.D. Sebastian, *Legislative Conflicts and Indian Federation*, (1980), p. 25

²². (2007) 6 SCC p. 236

²³. Schedule VII, List III, Entries 1 and 2

²⁴. See J. Narain, "Classification of Law", 12 *JILI* (1970), p. 19

²⁵. Seventh Schedule List I Entries 41 and 42 List II, Entry 26 List III Entry 33.

²⁶. See *Tika Ramji v. State of UP*, AIR 1956 SC 676

²⁷. For instance Schedule VII, List I

Entry 8- Central Bureau of Intelligence and Investigation

Entry 80- Extension of the Power and Jurisdiction of members of Police force

Schedule VII List II

Entry 1- Public Order

Entry 2- Police

Entry 3- Administration of Justice.

²⁸. See J.L. Kapur, "The Federal Structure of Indian Republic- Its nature and Extent", XXI *JILI* (1989), p. 84.

interpretations and principles of harmonization play pivotal roles in resolving conflicts and maintaining the integrity of federal structures. While centralization tendencies may prevail in certain jurisdictions, the principles of federalism remain resilient, adapting to the evolving needs of diverse polities. As federal systems continue to evolve, understanding legislative conflicts becomes indispensable for upholding the principles of democracy, autonomy, and the rule of law. The analysis concludes by highlighting the complex interactions between the legislative branches in federal systems. The boundaries of exclusive, concurrent, and conflicting domains show the careful balance that the framers of the Constitution aimed to achieve. Conflict resolution and preserving the integrity of federal structures depend heavily on judicial interpretations and harmonization principles. The concepts of federalism are durable and can adjust to the changing demands of varied polities, even when there may be a tendency toward centralization in some jurisdictions. Understanding legislative conflicts becomes essential for maintaining the values of democracy, autonomy, and the rule of law as federal systems continue to change.

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