

RMM LAW COLLEGE SAHARSA

ADMINISTRATIVE LAW

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TOPIC- Doctrine of Repugnancy

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The doctrine of Repugnancy essentially deals with the conflict between the laws of Centre and State. India adopts a federal structure of governance, therefore the extent of legislative powers is distributed between the Centre and the States in VII Schedule of the Constitution. As per Article 245, Parliament may make laws for whole or any part of India and the The legislature of a State may make laws for whole or any part of the State and Article 246 clearly mentions the extent of legislative powers of the Parliament and State governments.

The Centre has the exclusive power to legislate over the topics mentioned in List I and similarly, the State governments have the exclusive authority to legislate on the subject-matters included in List II. List III or Concurrent list included those items which can be legislated upon by both the Centre and the States, thus leading to a possibility of collusion and conflict.

According to Black's Law Dictionary, Repugnancy could be defined as an inconsistency or contradiction between two or more parts of a legal instrument (such as a statute or a contract). In case of Indian Constitution which rests the power to legislate on both the Centre and the States, inconsistency can arise between the laws made by the Central Government and the State governments. The Constitution, however, clearly mentions in Article 254 that any law made by the State legislature on subject-matter enlisted in List III would be valid only in the absence of any contrary law passed by the Centre government. Through this Article, the Constitution developed the Doctrine of Repugnancy. Article 254 was included as a mechanism to resolve this repugnancy between the powers of the Parliament and State legislatures.

The Parliament and the State legislature have the power to make laws on several subject matters which cover the same field. In such a situation, there could be a collision between the laws made by the Parliament and the State Legislature. In a situation, the primacy of the laws made by the Centre would prevail over the laws made by the State Legislature.

The Doctrine of Repugnancy deals with the distribution of powers between the Central and State legislatures. This doctrine reflects the quasi-federal structure of the Constitution. It has clearly laid down the powers of the Parliament and State legislature to avoid inconsistencies and conflicts.

A very prominent and authoritative judgment in relation to the doctrine of repugnancy is *M. Karunanidhi v. Union of India*. The court said that

1. Where the provisions of a Central Act and a State Act in the Concurrent List are fully inconsistent and are absolutely irreconcilable, **the Central Act will prevail** and the State Act will become void in view of the repugnancy.
2. Where however a law passed by the State comes into collision with a law passed by Parliament on an Entry in the Concurrent List, **the State Act shall prevail to the extent of the repugnancy** and the provisions of the Central Act would become void **provided the State Act has been passed in accordance with clause (2) of Article 254.**
3. Where a law passed by the State Legislature while being substantially within the scope of the entries in the State List trenches upon any of the Entries in the Central List, **the constitutionality of the law may be upheld** by invoking the doctrine of pith and substance **if on an analysis of the provisions of the Act it appears that by and large, the law falls within the four corners of the State List and** entrenchment, if any, is purely incidental or inconsequential.
4. Where, however, a law made by the State Legislature on a subject covered by the Concurrent List is inconsistent with and repugnant to a previous law made by Parliament, then such a law can be protected by obtaining the assent of the President under Article 254(2) of the Constitution. **The result of obtaining the assent of the President would be that so far as the State Act is**

concerned, it will prevail in the State and overrule the provisions of the Central Act in their applicability to the State only.

In National Engg. Industries Ltd. v. Shri Kishan Bhageria, it was held that the best test of repugnancy is that if one prevails, the other cannot prevail. In this way the Court summarised the test for determining repugnancy and developed the doctrine of Repugnancy.

There is no doubt that both the Centre and State legislatures are equally powerful and enjoy absolute authority when legislating on their respective fields. But there are some fields (subject-matters) where the powers and interest of both the governments collide and a proper and logical mechanism to counter any inconsistency or conflict needs to be in place to ensure the efficiency of governance. Doctrine of repugnancy thus provides for an effective mechanism to deal with any such inconsistency