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Q4

From the resolution of contentious issues regarding distribution of legislative powers by the courts, 'Principle of Federal Supremacy' and 'Harmonious Construction' have emerged. Explain.

UPSC Civil Services Mains 2019 · GS II · 10 marks · Federal Structure and Devolution

Functions and responsibilities of the Union and the States, issues and challenges pertaining to the federal structure, devolution of powers and finances up to local levels and challenges therein.

Core demand of the question

- Explain the Principle of Federal Supremacy as it emerged from court resolution of disputes on distribution of legislative powers
- Explain Harmonious Construction in the same setting

Revision summary

Legislative disputes are resolved by **pith and substance**, colourable-legislation tests, and repugnancy analysis.

Harmonious construction reads Union and State entries so both retain meaning.

If both cannot be obeyed, **Article 254** makes the Union Concurrent law prevail.

Article 254(2) is a limited, President-assented exception until Parliament occupies the field again.

Federal supremacy is the residual rule after harmony fails, not the first strike against every State statute.

Introduction

Articles 245 and 246 and the three Lists in the **Seventh Schedule** divide law-making between the Union and the States. When two laws or two entries appear to clash, the Supreme Court has not always struck one down at once. It first tries to let both live (harmonious construction). If a real conflict remains, Union law prevails (federal supremacy), especially under **Article 254** on the Concurrent List.

Body

How courts resolve legislative conflict

- **Pith and substance** looks at the true subject of a statute, so a State law is not void merely because it has some incidental Union effect.
- Colourable legislation asks whether the legislature has done indirectly what the List forbids directly.
- Occupied field and repugnancy tests apply when Union and State both legislate on a Concurrent entry.

- These tools came out of cases such as *In re C.P. and Berar Motor Spirit*, *State of Bombay v. F.N. Balsara*, and later *Hoechst Pharmaceuticals and State of West Bengal v. Union of India*.

Harmonious construction of entries

- Harmonious construction means reading two entries or two statutes so that both have meaning, rather than destroying one by a wide reading of the other.
- **Union and State lists are construed to avoid overlap:** a State tax entry is not stretched to cover a Union duty, and a Union entry is not stretched to empty a State field.
- On the Concurrent List, courts ask whether obedience to both laws is possible; if it is, there is no repugnancy and both operate.
- The method protects the federal bargain in the *Seventh Schedule* and matches the idea that federalism is part of the basic structure after *Kesavananda Bharati* and *S.R. Bommai*.
- Harmonious reading is the first duty; supremacy is the residual rule when harmony fails.

Principle of federal supremacy

- **Article 246(1)** gives Parliament exclusive power on the Union List; in a direct clash with a State law on that occupied Union field, the Union law stands.
- **Article 254(1)** says that if a State law on a Concurrent subject is repugnant to a Union law, the Union law prevails, and the State law is void to the extent of repugnancy.
- **Article 254(2)** allows a reserved State law to operate in that State if the President has assented, until Parliament legislates again - a controlled exception, not a denial of supremacy.
- Federal supremacy here is supremacy of the Constitution's allocation, usually in favour of the Union when conflict is irreconcilable, not a political claim that States have no lists.
- **Later Goods and Services Tax amendments show the same logic:** once a Union-and-State scheme occupies a tax field by constitutional text, State power is read in harmony with that text, not against it.

Short way forward

- Use **pith and substance** and harmony first, so cooperative federalism is not killed by a mechanical Union veto.
- Keep **Article 254(2)** and Inter-State Council consultation for genuine Concurrent experiments.

Flow diagram

Seventh Schedule Arts 245-246 -> Harmonious construction
 Harmonious construction -> Both laws can operate
 Harmonious construction -> Irreconcilable clash
 Irreconcilable clash -> Federal supremacy Art 254
 Federal supremacy Art 254 -> Union law prevails to that extent

Conclusion

Courts first apply harmonious construction so that Union and State entries both survive. If a true conflict remains, the Principle of Federal Supremacy - **Articles 246 and 254** - gives the Union law the last word to the extent of repugnancy, which is how the distribution of legislative powers is kept workable.

Facts & figures

Articles 245 and 246

Territorial and subject-matter distribution of legislative power; **Seventh Schedule** Lists I, II and III.

Article 254

Repugnancy on Concurrent subjects: Union law prevails; clause (2) saves a reserved State law with Presidential assent until later Union legislation.

Pith and substance

Judicial test of the true character of a law so incidental encroachment does not void it.

Kesavananda Bharati (1973)

Federal character of the Constitution is among the features that amending power cannot destroy.

S.R. Bommai v. Union of India (1994)

Treated federalism as a basic feature and limited arbitrary use of **Article 356** against State governments.

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