

Legislative Relations

▼ Distribution of Powers between Union and the States

▼ Union List

The Union list contains 97 items which comprise of the subjects having national significance. This list admits uniform laws that are applicable over the entire Indian territory, and only the Indian Parliament is capable of legislating upon them.

- Defense
- Central Bureau of investigation
- Foreign Affairs
- Banking
- Census
- Corporation Tax
- Atomic energy and necessary mineral resources
- Preventive Detention
- Diplomatic, consular, and trade relations
- War & peace
- Citizenship
- Highways and Railways, etc

▼ State List

The State list contains 66 items that comprise subjects relating to local interest or the interest of the State. The State legislature is thus competent in legislating over these subjects. Some of the subjects in this List-II are as follows:

- Public Order
- Local Government
- Public health & Sanitation

- Agriculture
- Fisheries
- Libraries, museums, and other resembling institutions
- Markets & fairs
- Gas & allied works

▼ **Extent of legislative power**

1. Subject to the provisions of this Act, the Legislative Assembly of 1[the Union territory] may make laws for the whole or any part of the Union territory with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution in so far as any such matter is applicable in relation to Union territories.
2. Nothing in sub-section (1) shall derogate from the powers conferred on Parliament by the Constitution to make laws with respect to any matter for 1[the Union territory] or any part thereof.

▼ **Doctrine of Territorial Nexus**

- According to the Doctrine of Territorial Nexus, laws made by a state legislature are not applicable outside that state, except when there is a sufficient nexus between the state and the object.
- This doctrine derives its authority from Article 245 of the Indian Constitution.
- The doctrine states that in order for a state law to have an extraterritorial operation, there must be a nexus between the object and the State.

▼ **Doctrine of Pith Substance**

- The Doctrine of Pith and Substance states that if the substance of legislation falls within a legislature's lawful power, the legislation does not become unconstitutional just because it impacts an issue beyond its area of authority.
- "*True nature and character*" is what the phrase "pith and substance" signifies.
- The infringement of the constitutional delimitation of legislative powers in a Federal State is the subject of this concept.

- The Court uses it to determine whether the claimed intrusion is just incidental or significant.
- Thus, the 'pith and substance' concept holds that the challenged statute is fundamentally within the legislative competence of the legislature that enacted it but only incidentally encroaches on the legislative field of another legislature.
- The present article discusses this doctrine majorly highlighting the same on how the Indian Constitution has perceived this doctrine.

▼ **Doctrine of Colorable Legislation**

- India has a federal form of government and has been a united country for over seven decades with power being divided between the Centre and the States on the account of federal structure of governance.
- Federal form of government has two or more levels of government.
- Each level of government has its own jurisdiction (area of control). The jurisdiction of the respective levels of government is specified in the Constitution.
- The main feature of federalism is the segregation of power between the Centre and the states.
- The fundamental provisions of the Constitution cannot be unilaterally changed by one level of government.
- Federal system has the objective to safeguard and promote unity and accommodate regional diversity.

▼ **Doctrine of Repugnancy**

- Article 254 of the Indian Constitution establishes the doctrine of repugnancy in India.
- Before getting to this doctrine, it is quintessential to understand the legislative scheme and the Centre-State relations set out by the Constitution.
- Article 245 empowers the Parliament to make laws for the whole or any part of India and the State legislature to make laws for the whole or any part of the State.

- It also states that a law made by the Parliament shall not be deemed invalid due to its extraterritorial application.
- Further, Article 246 provides the subject-matter of laws that can be made by the Parliament and Legislature of the States.
- The Parliament has exclusive powers to make laws for all matters given in the Union List or List I of the Schedule VII of the Indian Constitution.
- The Legislature of the State has powers to make laws for such State for all matters given in the State List or List II of Schedule VII.
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▼ **Residuary powers of legislation**

1. Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List
2. Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists