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Analysing the Importance of the Doctrine of Harmonious Construction in the Indian Legal System

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ABSTRACT

This paper explains the meaning of the Doctrine of Harmonious Construction and traces its genesis through various landmark cases both pre and post-Independence. It looks into the origins rooted in Latin legal maxims and showcases its various versions of applications through a series of caselaws. The broad scope of the doctrine and various methods in which it has been applied by the Indian Judiciary are highlighted. Furthermore, the relevance of the Doctrine and the fact that it is integral to the functioning of the Indian Legal System is emphasised by pointing out the need for its application and the potential consequences of its non – application.

I. EXPLANATION

The Doctrine of Harmonious Construction dictates that every provision of every statute should be read in accordance with that particular statute as a whole and all other relevant legislations to prevent misinterpretation or misconstrued application due to lack of coherence and isolated interpretation of the particular section/provision.² It further dictates that when the law is to be applied by the judiciary, it should be applied in coordination with all applicable provisions to the extent that there is no conflict between the provisions of the law, and in the event of a conflict in the provisions, they should be interpreted and applied in a way so as to not violate the sanctity of either while upholding the spirit and principles of the law. The essence of this doctrine is to respect and adhere to all laws and prevent conflict over or exploitation of any lacunae in the law. All laws must be interpreted in harmony and applied to the matter before the bench in a cohesive manner.

This Doctrine interlinks the maxims of *Generalia Specialibus Non-Derogant*, and *Generalibus Specialia Derogant*

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² <https://lexlife.in/2021/02/23/rule-of-harmonious-construction-explained/>

1. *Generalia Specialibus Non – Derogant*³ means the general statute does not prevail over the specific/special legislation. In a conflict between a general legislation and a specific legislation, the specific legislation shall prevail come time of interpretation and application.
2. *Generalibus Specialia Derogant*⁴ means when there a special provision is applicable on a certain subject matter; the general provisions are nullified to the extent of the specific provision and the latter takes precedence over the general principles.

Therefore, the roots of the Doctrine of Harmonious Construction can be traced to these two maxims when interconnected.

II. GENESIS

This Doctrine's genesis can be traced back to the case of C.P. and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938⁵. In this case the dispute lay as to whether the respondent was to pay the excise tax to the federal government or sales tax to the provincial government. The 3 Judge Bench of the Federal Court of India reconciled the differences in the relevant entries of the Central List and Provincial List under the Government of India Act 1935 by harmoniously interpreting both provisions so as to not violate either provision. The bench unanimously held that that excise tax was payable to the Central Legislature on the manufacturing of the motor spirits by the company and the sales tax was payable to the Provincial Legislation upon sale of the motor spirits. This ruling harmoniously interpreted both provisions without violating or nullifying the other by applying the Rule of Conciliation which is the precursor to the application of the Doctrine of Harmonious Construction in India.

In the case of Commissioner of Income Tax vs. Hindustan Bulk Carrier⁶, the Supreme Court set the first defining precedent in regards to the Doctrine of Harmonious Construction. In this case there was a dispute regarding the tax levied under Sections 234 – A, 234 – B and 234 – C of the Income Tax Act, 1961. The Supreme Court laid down the following principles of the Doctrine of Harmonious Construction in the Indian Legal System:

1. “While interpretation of the provisions, the courts need to avoid all circumstances of ‘head-on clash’ between the provisions. They must be construed harmoniously.

³ <https://www.oxfordreference.com/view/10.1093/acref/9780195369380.001.0001/acref-9780195369380-e-835>

⁴ <https://india.lawi.asia/generalibus-specialia-derogant/>

⁵ In re the Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938 (Central Provinces and Ber, 1938 SCC OnLine PC 41

⁶ CIT v. Hindustan Bulk Carriers, (2002) 7 SCC 705

2. Interpretation by the courts should be done in such a way that one provision does not defeat the other provision unless there seems no possible construction.
3. If the situation is so that it becomes impossible to reconcile the provisions in conflict, the courts must decide in such a way that both provisions are given effect.
4. Any construction that renders one provision of the statute (or another statute, in case of two different statutes) ‘useless lumber’ or ‘dead letter’ should not be given effect. Such construction is not a harmonious construction.
5. A harmonious construction is one which does not defeat any other provisions”

Thereafter, these were the principles applied by the judiciary in the case of conflict between provisions or any lacunae in the law which would require such judicial interpretation and application.

III. RELEVANCE

This doctrine plays a vital role in the adjudication of disputes by the Indian Judiciary. There are a vast amount of legislations in the Indian Legal System and innumerable disputes arising out of the same hence the application of this Doctrine by the judiciary is of vital importance. Though this Doctrine was expressly defined and laid down in the Judgement of Commissioner of Income Tax vs. Hindustan Bulk Carrier, the application can be seen in several landmark judgements before that, both pre – independence and post – independence. Several judgements have applied these principles implicitly and the same is reflected in their interpretation of legislations while adjudicating disputes.

1. Venkataramana Devaru v. State of Mysore, 1958⁷

In this case, the conflict between Article 25(2)(b) and Article 26(b) of the Constitution was called into question.

Article 25(2)(b) states the following; “Nothing in this article shall affect the operation of any existing law or prevent the State from making any law providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.”⁸

Article 26(b) reads as follows; “Subject to public order, morality and health, every religious denomination or any section thereof shall have the right to manage its own affairs in matters

⁷ Venkataramana Devaru v. State of Mysore, 1958 AIR 255

⁸ Article 25(2)(b), Constitution of India, 1949

of religion.”⁹

The dispute lay as to whether a certain temple in Madras could prevent the general public from entering the temple for the performing of certain rituals and exclusively allow a certain sect of Hindus only. The provisions were in direct conflict with each other and the same was reconciled by the constitutional bench of the Supreme Court. The bench believed that upholding Article 25(2)(b) as against Article 26(b) would completely invalidate the latter, alternatively, upholding the latter over the former would invalidate the former only in part and hence the ruling was made in that direction. The court held that the application of Article 25(2)(b) was subject to the provisions of Article 26(b) and thereby the temple was allowed to frame its own regulations and prohibit the general public from attending certain religious ceremonies with the exception of an exclusive sect of Hindus. The temple was open to the general public for all other practices of worship, the limitation/restriction was only in regard to a specific practice of worship and hence the temple was allowed to impose such restriction.

The bench applied the Doctrine of Harmonious Construction expressly while delivering this landmark judgement. This case displays directly conflicting provisions though not prima facie but in the facts of the case the provisions were contradictory and the judiciary upheld one provision to a certain extent over the other, thereby overriding only part of the other provision

2. M. S. M Sharma v. Krishna Sinha, 1958¹⁰

In this 1958 case, the dispute lay between Article 19(1)(a) and Article 194(3) of the Indian Constitution. Article 19(1)(a) gives the fundamental right of freedom of speech and expression to all citizens of India¹¹. Article 194(3) speaks about the special powers, privileges and immunities of the House of State Legislature and its members¹².

The litigation arose as a result of certain harsh comments made by a speaker of the Bihar Legislative Assembly against the Chief Minister. This harsh attack was expunged from the official record and transcript of the house proceedings however, the same was subject to public spectatorship and a journalist of the newspaper ‘Searchlight’ published the expunged parts of the hate speech made by the speaker.

The speaker contended that this publication was violating the privilege of the house as indirectly granted by Article 194(3) of the Constitution and the journalist responded by stating

⁹ Article 26(b), Constitution of India, 1949

¹⁰ M.S.M. Sharma v. Sri Krishna Sinha, 1959 Supp (1) SCR 806

¹¹ Article 19(1)(a), Constitution of India, 1949

¹² Article 194(3), Constitution of India, 1949

he was exercising his right to free speech and expression under Article 19(1)(a) of the Constitution.

The Constitutional Bench of the Supreme Court ruled that the specific provisions of Article 194(3) supersede the general provisions of Article 19(1)(a), applying the maxim of *Generalibus Specialia Derogant*. This ruling is one of the earliest applications of the Doctrine of Harmonious Construction as the judiciary interpreted the legislations in a way to reconcile the conflict created, harmoniously.

In this case, the judiciary applied the doctrine to uphold the special provision over the general provision in respect to the case at hand.

3. Sirsilk Ltd. v. Govt. of Andhra Pradesh, 1964¹³

The dispute arose between Section 17 and Section 18 of the Industrial Disputes Act, 1947. Section 17 states that the ruling of the Industrial Tribunal shall be published within 30 days of such decision.¹⁴ Section 18 speaks about the parties to the dispute arriving at a settlement and states that such settlement is binding on all concerned parties, that is, the employer and the workmen¹⁵. The dispute at hand was ruled upon by the Industrial Tribunal but before the ruling could be published, the parties arrived at a mutually agreed upon settlement amongst themselves and sought to prevent the publication of such ruling which awarded a certain compensation, in the interest of maintaining industrial peace.

The Government of Andhra Pradesh contended that they were mandated by law to publish the ruling of the Tribunal. The measure at issue was the fact that the settlement was arrived at after the Tribunal sent its ruling to the concerned authority for publication, a situation which was not covered by the legislation. The 3-judge bench of the Supreme Court held that the settlement arrived at between the parties amongst themselves amicably resolves the dispute which is the very purpose of the litigation before the Tribunal and as Section 18 of the Industrial Disputes Act, 1947 allows such settlement and makes it binding, there is no need to publish the award of the Tribunal.

This exceptional situation allows the judiciary to prevent the publication of the award of the Tribunal as there is no benefit that would arise out of the same as compared to the result of upholding the petitioner's contentions. Therefore, the bench held that applying Section 18 in the matter at hand does not violate the provisions of Section 17 as the issue at hand was only

¹³ Sirsilk Ltd. v. Government of Andhra Pradesh, AIR 1964 SC 160

¹⁴ Section 17, Industrial Disputes Act, 1947

¹⁵ Section 18, Industrial Disputes Act, 1947

in regard to the timeline of events.

This case is a stellar example of how in the event of a prima facie conflicting set of provisions, the conflict can be circumvented by applying the Doctrine of Harmonious Construction, which allows the judiciary to uphold one provision without violating the other by simply interpreting the facts in a way to diminish the need to apply the conflicting provision of Section 17.

The above explained three landmark judgements display three different situations where the Doctrine of Harmonious Construction is applied in varying ways. The first case of Venkataramana Devaru v. State of Mysore illustrates the application of the Doctrine in a way where one provision is held up against the other in a manner where one provision is applicable in its entirety and the other is applicable in part. The second case of M. S. M Sharma v. Krishna Sinha demonstrates the application of the Doctrine in a way that the specific provisions completely supersedes the general provision and thereby nullifying the general provision in the dispute at hand. The third case of Sirsilk Ltd. v. Govt. of Andhra Pradesh sets out the application of the Doctrine in a manner where the facts are interpreted in a way where the conflict does not arise at all by painting the situation in a light that circumvents the need to apply one provision and therefore the other provision is upheld in its entirety without violating the former. This diverse set of cases brilliantly highlights the relevance of the Doctrine of Harmonious Construction and the wide applicability of it in our legal system.

IV. PERSONAL OPINION

The Indian Legal System is one of the largest sets of legislations and hence conflicts are bound to arise. The legislations have several loopholes and lacunae, some unintentional due to the sheer volume of legislations applicable in India, and some intentional, to be exploited by the corrupt officials in office and the well – connected sect of society which often controls the large industries. These lacunae result out of ignorance of the legislature, genuine faux pas and intentionally constructed misconstructions. As a result of this, the judiciary is bound of to have an unfortunate bounty of cases where the provisions of different legislatures contravene each other and call for the application of the Doctrine of Harmonious Construction. Applying this Doctrine is not easy as it requires interpretation and insight of a higher order to be able to manoeuvre the lacunae without violating the integrity of any legislation and the sanctity of our legal system. As India follows the common law system, judicial precedents are a major source of law and hence the decisions of the court have wide spread implications and repercussions. This forces the judiciary to walk the thin line of the conflict to harmoniously interpret the various legislations and their provisions.

Without the existence of this concept in the judiciary, there would be immeasurable instances of unjust exploitation and violation of the law. If the judiciary interpreted the conflicting laws in a way where one was nullified completely, it might deliver justice in the matter at hand, but the precedent it creates is unimaginably dangerous and could spiral into an ocean of unjust rulings, violating the very principles of the law and the integrity of the legal system.

There are several judgements relating to the application of the Doctrine of Harmonious Construction which explicitly highlights the importance of it and gives one a vague idea of the damage and devastation its non – existence could create. Discussed above are just four cases where the Doctrine was relevant but there are countless more reported and unreported cases where this Doctrine has played a vital role and has protected the sanctity of the law and justice system in India.

The application of this Doctrine is not limited to India, it is an internationally acknowledged and applied concept which acts as a tool of justice delivery. The usage of this Doctrine is especially prevalent in common law countries such as England and Australia, so it is undoubtedly an integral and necessary tool in the arsenal of the judiciary worldwide.

The Doctrine of Harmonious Construction is an essential, integral and extremely necessary part of our vast and complex legal system. Though formally detailed in the 2002 case of Commissioner of Income Tax vs. Hindustan Bulk Carrier, the doctrine has been explicitly and implicitly applied in the Indian Legal System since the pre – independence era. The various methods of application of this Doctrine are a strong indicator of its importance and relevance. Without this Doctrine, the Indian Legal System would be even more complex and riddled with inconsistencies, dangerous precedents and unfathomable complications.

V. CONCLUSION

As explained in detail, the Doctrine of Harmonious Construction is vital to the survival of the Indian Legal System and the integrity of dispute resolution by the judiciary. This Doctrine protects the sanctity of the system of people approaching the court seeking justice. Non – application of this Doctrine when the matter demands it would be an abhorrent violation of the law and due process. In summation, the importance of the harmoniously interpreting conflicting provisions of the law in a manner to protect all concerned legal provisions and when the case may require it, upholding one over the other in a delicate and sensitive manner, is foundational and structural to the Indian Legal System.
