ARTICLE 32: A SENTINEL OF FUNDAMENTAL RIGHTS

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ABSTRACT

Article 32 of the Indian Constitution stands as a cornerstone of fundamental rights, empowering individuals to directly approach the Supreme Court for their enforcement. Thus Article 32, enshrined in Part III of the Constitution, acts as a potent shield against any infringement upon the guaranteed rights. This article, aptly titled "Article 32- A Sentinel of Fundamental Rights", grants citizens a unique and potent tool to seek justice against infringements perpetrated by the State or any other authority. However, navigating the intricacies of Article 32, particularly in the context of evolving societal needs and emerging challenges, necessitates a nuanced understanding of its scope, limitations, and interpretations through landmark case laws. This article delves into these aspects, weaving together the historical context, core principles, and contemporary judicial pronouncements surrounding this crucial constitutional provisions.

I. PREAMBLE

Drafted in the aftermath of colonial rule, Article 32 emerged as a safeguard against arbitrary state action and a guarantee of access to justice for all. The framers envisioned the Supreme Court as the ultimate protector of fundamental rights, accessible to every citizen irrespective of their social or economic standing. This intent resonates with the words of Dr. B.R Ambedkar, chairman of the Drafting Committee, who emphasized that "the Supreme Court is thecustodian of the fundamental rights of the people."

II. THE CORE PRINCIPLES AND SCOPE OF ARTICLE 32

Article 32 empowers individuals to move the Supreme Court through "appropriate

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proceedings" for the enforcement of fundamental rights enshrined in Part III of the Constitution. These proceedings typically take the form of writ petitions, seeking remedies like habeas corpus (against unlawful detention), mandamus (to compel performance of a public duty), prohibition (torestrain a court or tribunal from exceeding its jurisdiction), and certiorari (to quash an order exceeding jurisdiction or violating natural justice). However, the scope of Article 32 is not absolute. It does not extend to non-fundamental rights, advisory opinions, or private disputes between individuals. Additionally, the Supreme Court possesses discretion to dismiss petitions deemed frivolous, repetitive, or lacking merit.

III. UNDERSTANDING THE ESSENCE OF ARTICLE 32

A. Article 32 addresses the core issue of Fundamental Rights enshrined in the Indian Constitution and applies to the enforcement of all fundamental rights, encompassing Articles 12- 35 of the Constitution. These rights range from the right to equality and freedom of speech to theright against exploitation and religious freedom. Therefore, it essentially guarantees the right to constitutional remedy, allowing individuals to directly move the Supreme Court for enforcement of their fundamental rights. Thus, it empowers citizens to seek justice directly from the highest court, circumventing lower courts, if necessary.

B. The basic question of as Who Can Invoke Article 32 could be simply explained as that theright to initiate legal proceedings under Article 32 extends to all individuals i.e. any citizen whose fundamental rights have been violated can approach the Supreme Court. Even Public-spirited individuals or organizations can approach the apex court under this article in case of violations offundamental rights as this expansive interpretation has been well established in the case of

Badhua Mukti Morcha v. Union of India (1981), allowing public-spirited individuals or organizations to petition on behalf of those whose rights have been infringed.

IV. JUDGMENTS SHAPING THE COURSE OF ARTICLE 32

A. Several landmark judgments have shaped the interpretation and application of Article 32, each contributing significantly to its dynamism and effectiveness. Here are a few noteworthy examples:

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1) Maneka Gandhi v. Union of India (1978): This landmark case expanded the meaning of "procedure established by law" under Article 21 (right to life and personal liberty). The court held that the procedure must be fair, just, and reasonable, paving the way for a broader interpretation of fundamental rights and their enforcement.
2) Olga Tellis v. Bombay Municipal Corporation (1985): This case emphasized the importance of public interest litigation (PIL) under Article 32. The court recognized the ability of public-spirited individuals and organizations to initiate proceedings on behalf ofthose whose rights have been violated, even if they haven't personally suffered the harm.
3) State of Karnataka v. Union of India (2017): This case reaffirmed the crucial role of Article 32 in protecting fundamental rights. The court reiterated its constitutional obligation to intervene and protect these rights whenever they are infringed upon by the state or any other authority.

B. After examining the recent Case Law Perspectives one can easily see that recent case lawsshed light on the evolving interpretation and application of Article 32 in the contemporary legal landscape. Here are some noteworthy examples:

1) W.P.(C) No. 1517/2018 (2018): This case raised a crucial question of gender equality andchallenged the discriminatory aspects of the Hindu Succession Act on the grounds of its violation of Article 14 (right to equality). This case highlights the ongoing effort to utilizeArticle 32 to ensure equal enjoyment of fundamental rights for all.
2) Rekha Rani v. State of Bihar (2022): This case clarified the limitations of Article 32, highlighting that it cannot be used to quash First Information Reports (FIRs) or ongoingcriminal proceedings.
3) It is notable that under Article 32 parties cannot directly approach Supreme Court Seeking divorce on ground of irretrievable Breakdown of Marriage: SC (2022). This case clarifies that while irretrievable breakdown of marriage can be a ground for divorce, seeking its dissolution directly through Article 32 isn't permissible because grant of divorce on groundof irretrievable breakdown of marriage is not a matter of right, but a discretion under Article

   142. It underscores the specific procedures involved in different legal matters.

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V. CHALLENGES AND THE FUTURE OF ARTICLE 32

A. Despite its immense significance, Article 32 faces certain inherent challenges and the most visible challenge comes in the form of increased workload on the Supreme Court due to the rising petitions under Article 32, leading to delays in judgments and concerns about accessibility. Most of the aggrieved individuals would like to approach the apex court for violations of their rights, however, the Supreme Court is not in a position to entertain all the petitions filed under Article 32.Thus, it would generate a feeling of dissatisfaction amongst the majority of petitioners, being denied the opportunity of hearing by the Supreme Court under the Article 32.

B. Another challenge is how to contain its misuse coming in the garb of PIL. While Public Interest Litigation is crucial, its misuse for personal gains or frivolous claims can undermine the effectiveness of Article 32. However, equally important is the fact that prolonged judicial delays in habeas corpus petitions can render the remedy ineffective, defeating the very purpose of timelyprotection under Article 32 against unlawful detention.

C. Furthermore, the Supreme Court has a profound duty of balancing individual rights with state interests thus striking a balance between individual fundamental rights and legitimate state interests remains a complex challenge for the Supreme Court. The core challenge lies in striking a delicate equilibrium between individual rights and state interests. On the one hand, absolute and unfettered protection against arrest could hamper investigations and prosecutions, impeding law and order. Conversely, excessive state power to detain individuals without due process can lead toarbitrary arrests, eroding fundamental rights and fostering fear. Preventive detention laws or lawslike the National Security Act (NSA) can be misused to detain individuals without specific charges, raising concerns about their constitutional compatibility.

D. As a matter of fact, due to a lack of awareness and access to legal aid, many individuals, particularly from marginalized communities, lack awareness of their rights under article 32 and struggle to access legal aid to enforce them which may get further aggravated due to varying interpretations of Article 32 by different benches of the Supreme Court that can create confusion and inconsistency in its application, impacting its overall effectiveness. Many aggrieved petitioners who have approached the Supreme Court for

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getting redressal under Article 32 have made accusations of bias towards the powerful and the privileged getting heard under Article 32 by the Supreme Court and others less privileged being told to approach the High Courts. Recently,the Supreme Court constituted a three-judge bench to hear the petition of former chief minister ofJharkhand, Shri Hemant Soren, when he approached the apex court under Article 32 against his arrest by the Enforcement Directorate, however, the petition was disposed of without hearing with direction to approach the concerned High Court of judicature.

VI. POTENTIAL SOLUTIONS

A. Looking ahead, ensuring the continued effectiveness of Article 32 necessitates addressing the above challenges with alacrity and the Potential solutions include:

1) **Reforming preventive detention laws** with Stringent safeguards, including judicial review at regular intervals and stricter grounds for detention, can prevent misuse of these laws while ensuring legitimate state interests are served.
2) **Fast-tracking judicial review mechanisms** with dedicated courts or tribunals, streamlined procedures, and adequate resources can expedite habeas corpus petitions, ensuring timely relief from unlawful detention.
3) **Enhancing legal aid and awareness** with widespread legal literacy campaigns and readily available legal aid services can empower individuals to access and enforce their rights under Article 32.
4) **Uniform judicial interpretation** is possible with collaborative efforts by the judiciary, including model guidelines and training programs, that can promote consistent and clear interpretation of Article 32 across various courts.

B. Beyond Legal Solutions: The effectiveness of Article 32 goes beyond purely legal aspects. Fostering a culture of human rights respect within law enforcement agencies, upholding ethical standards in investigations, and promoting public discourse on civil liberties are crucial aspects of ensuring its continued relevance. Strengthening Alternate Dispute Resolution (ADR) mechanisms can help divert some cases away from the Supreme Court, promoting swifter and less cumbersomeprocess of law.

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VII. CONCLUSION

Article 32 represents a cornerstone of India's constitutional framework, safeguarding individual liberty from arbitrary state action. By acknowledging the challenges it faces and actively pursuing solutions, we can ensure it remains a potent tool for protecting fundamental rights while balancing legitimate state interests. It is a continuous endeavor requiring proactive measures from the judiciary, legislature, law enforcement, and civil society to preserve the delicate balance at the heart of Article 32.

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