



**LEMURIA RESEARCH FORUM (LRF) KANYAKUMARI**

**MUSLIM ARTS COLLEGE**

*Thiruvithancode, Kanyakumari, Tamilnadu, India.*

**THIRD INTERNATIONAL CONFERENCE**



## *CERTIFICATE*

*This is to certify that Dr/Mr/Mrs/Ms ..J. GODVIN...JOMI...,...DEPARTMENT..... of  
.....HISTORY..... participated in the Third International Conference of Lemuria  
Research Forum on "REVELATIONS OF EPIGRAPHIC EXCAVATIONS" held at MUSLIM ARTS  
COLLEGE, Thiruvithancode, on 28/08/2023 and presented a paper entitled ...ARTICLE...32.....  
.....OF.....THE.....INDIAN.....CONSTITUTION.....AN.....OVERVIEW.....*

*[Signature]*  
Lion Dr. H. MOHAMED ALI  
President, LRF

*[Signature]*  
Dr. G. EDWIN SHEELA  
Principal, MAC

*[Signature]*  
Dr. C. AMOSE  
Secretary, LRF

ISBN : 978-81-908060-0-8

PROCEEDINGS OF THE LEMURIA RESEARCH FORUM,

KANYAKUMARI



28/08/2023

**THIRD  
INTERNATIONAL  
CONFERENCE OF  
LRF-2023**

**REVELATIONS OF  
EPIGRAPHIC  
EXCAVATIONS**



**கல்வெட்டு அகழ்வாராய்ச்சிகளின்  
வெளிப்பாடுகள்**



ISBN 978-81-908060-0-8



IMAGE FORGERY DETECTION USING UNET SEGMENTATION <i>X. Tubax, Dr.A. Yesu Raja</i>	168
THE ARCHAEOLOGICAL SURVEY IN NILGIRI DISTRICT <i>Dr.T.Karuppannan,M.A,M.Phil,Ph.D</i>	174
TRADE ACTIVITIES OF THE ANCIENT TAMILS IN THE 6TH CENTURY BC <i>S.B.Lakshme Pavlthraa</i>	177
REV. JAMES DUTHIE AND HIS SERVICES IN SOUTH TRAVANCORE <i>Dr. L. Rathl</i>	181
WOMEN LIBERATION MOVEMENT OF PERIYAR <i>Dr. T. Vinsela Jeev</i>	184
THE CURRENT STATUS OF INDIAN ARCHAEOZOOLOGICAL STUDIES AND ITS GOALS <i>A. Asmin Berfi, Dr. C. Amose</i>	188
CHALLENGES AND OPPORTUNITIES IN INDIAN BANKING SECTOR <i>Dr. M. Uma Rani,</i>	190
CHRISRIAN EDUCATION IN KANAYAKUMARI DISTRICT <i>S.Nava Parvathi,Dr.C.Amose</i>	194
ETHICS FOR ENVIRONMENTAL SUSTAINABILITYIN TAMIL NADU <i>S. Sindhu</i>	196
THE ROLE OF GUILDS IN ANCIENT INDIA <i>R.Jaculin Subi</i>	202
NAGARAJA TEMPLE <i>A.R.Anto Pushpika</i>	205
EVOLUTION OF SOCIETY IN SOUTH INDIA <i>P. Sankamithra</i>	209
THE CHITHARAAL JAIN TEMPLE TEMPLE : A STUDY <i>Dr.P.Pushpalatha</i>	212
VICTIMISATION TO TRANSITION: A JOURNEY OF SELF- REALISATION IN ANITA NAIR'S <i>LADIES COUPE</i> <i>Deepa B S, F Meena Theresa</i>	216
ART AND ARCHITECTURE ACROSS CULTURES : A GLOBAL PERSPECTIVE. <i>Asna Syed Ali, &amp; A. Katheeja Hamna</i>	219
ARTICLE 21 OF THE INDIAN CONSTITUTION <i>Sajindrakumar. S, Dr. Pushpalatha Rani</i>	224
ARTICLE 32 OF THE INDIAN CONSTITUTION-AN OVERVIEW, <i>Dr.T. Godvin Joni</i>	229
IMPORTANT FEATURES OF ARCHAEOBOTANY IN NORTHERN INDIA :A STUDY <i>Sanchit. S. S, Dr.Kalarani</i>	233
EARLY INDIAN EPIGRAPHY AND ITS REVELATIONS <i>Er.A.Ida Beryl,Dr.C.Amose</i>	235
OVERCOMING CHALLENGES FACED BY WOMEN ENTREPRENUERS IN NAGERCOIL TOWN <i>Dr.N.Umaiba M.Com, M.Phil,</i>	238
A STUDY ON WOMEN ENTREPRENUERSHIP AMONG BEAUTICIANIN KANYAKUMARI DISTRICT <i>Dr.S.Sheeba Ananthy</i>	243

# ARTICLE 32 OF THE INDIAN CONSTITUTION-AN OVERVIEW,

Dr. T. GODVIN JONI

Assistant Professor,

Department of History,

Muslim Arts College, Thiruvithancode

## Abstract:

*The Constitution of India has always focussed upon the concept of Fundamental Rights. Thus, it has provided the remedies for enforcement of such rights. So the author intends to give a proper evaluation of the Article 32 and its further validation down the years. The author deals with the conceptual overview and also the related cases. There is substantive interpretation in this paper by the author. Insight into concepts such as 'Right to move the Supreme Court and Writs has been given primary importance. In-depth analysis and validity of the provisions in Indian scenario would closely dealt in this paper*

**Keywords:** Writs, article 32, Constitution of India, Right to constitutional remedies, prerogative writs

## INTRODUCTION

Article 32 of the Indian Constitution bestows upon individuals the fundamental right to approach the Supreme Court of India directly for the enforcement of their fundamental rights. This provision, regarded as a cornerstone of the Constitution, empowers citizens to seek legal remedies when their fundamental rights are violated, thus ensuring the protection and preservation of individual liberties. Article 32 serves as a safeguard against arbitrary actions of the government, enabling the judiciary to act as a guardian of the Constitution and an arbiter of justice. By granting direct access to the apex court, Article 32 reinforces the principles of equality, justice, and the rule of law, fostering a democratic society built on the pillars of fundamental rights and constitutional governance. It states that—

**"32. Remedies for enforcement of rights conferred by this Part. —**

- The right to move the Supreme Court by appropriate proceedings for

the enforcement of the rights conferred by this Part is guaranteed.

- The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part..."[1]

Dr. B.R. Ambedkar provided a thought-provoking insight when he expressed—"If I was asked to name any particular article in this Constitution as the most important-an article without which this Constitution would be a nullity-I could not refer to any other article except this one. It is the very soul of the Constitution and the very heart of it and I am glad that the House has realised its importance"[2]

In this article we'd be dealing with nitty gritty of Article 32 of the Constitution of India. We will be delving into definitions of writs, their types and applications. In the

last part, we'd be discussing some of the important case laws in this regard.

## WRIT AND WRIT PETITION

A writ can be analogized to a written directive issued by a higher court to a court of lower jurisdiction or to an individual in cases where there has been a violation of a citizen's fundamental rights. In accordance with Article 32 of the Indian Constitution, the Indian Supreme Court possesses the authority to issue such writs.

A writ petition refers to a formal written application or document submitted to a court, typically a higher court, seeking legal remedies or relief for the violation of fundamental rights or a legal right. It is a legal mechanism by which an aggrieved party, such as an individual, organization, or entity, can approach the court to seek justice, protection, or redressal for a specific issue or grievance. Writ petitions are usually filed in response to a violation of constitutional rights, and they enable the court to exercise its power of judicial review and provide appropriate remedies or orders to address the situation.

## TYPES OF WRITS

There are five main types of writs recognized under the Indian legal system. These five types of writs are as follows:

- i. **Habeas Corpus:** Habeas Corpus, derived from Latin meaning "you shall have the body," is a legal recourse that ensures the protection of individual liberty by enabling a person who is unlawfully detained or imprisoned to seek immediate release. This legal remedy, deeply rooted in the principles of due process and fundamental rights, has been upheld and reinforced through various significant case laws.

One notable case that exemplifies the significance of habeas corpus is the

landmark judgment of *Maneka Gandhi v. Union of India*. In this case, the Supreme Court of India expanded the scope of personal liberty and emphasized that any law depriving a person of their liberty must adhere to the principles of fairness, reasonableness, and procedural safeguards. The court held that the right to personal liberty, encompassing the right to live with dignity, was a fundamental right protected by Article 21 of the Indian Constitution. This ruling not only reiterated the importance of habeas corpus in safeguarding individual freedom but also reinforced the duty of the court to review and rectify any infringement of such rights.

Another significant case that highlights the potency of habeas corpus is *A.K. Gopalan v. State of Madras*. In this case, the Supreme Court emphasized the preventive aspect of habeas corpus, stating that the court can intervene to secure the release of a person even before an actual arrest or detention takes place. The judgment reaffirmed the vital role of habeas corpus as a preventive check against arbitrary state action, ensuring that the government does not unlawfully restrict an individual's freedom.

1. **Mandamus:** Mandamus, a writ derived from Latin meaning "command," is a powerful legal remedy employed to compel a public authority or official to perform their lawful duties and fulfil specific obligations. It serves as a judicial tool to ensure that public officials act within the bounds of the law, exercise their powers judiciously, and do not abuse their authority.

A significant case that resonates with the significance of mandamus is the *State of Bihar v. Bal Mukund Sah*. In this case, the Supreme Court of India reiterated that mandamus can be invoked when a government servant is wrongfully denied promotion despite meeting the necessary

eligibility criteria. The court held that if the authorities fail to rectify the injustice and grant the promotion deserved, the writ of mandamus can be issued to compel them to act in accordance with the law.

The judgment in *State of Bihar v. Bal Mukund Sah* underscores the crucial role of mandamus in ensuring accountability and efficiency in the functioning of public bodies. By wielding the power of mandamus, the court ensures that public officials perform their duties diligently, uphold the principles of fairness and justice, and prevent any misuse or nonfeasance of their powers.

2. **Prohibition:** Prohibition refers to a writ issued by a higher court to a lower court or tribunal, restraining them from exceeding their jurisdiction or acting beyond their authority. It acts as a safeguard against potential miscarriage of justice or unlawful exercise of power by lower courts. Prohibition ensures that lower courts operate within their prescribed limits and do not transgress the boundaries of their authority.

One notable case that exemplifies the significance of prohibition is *Kanta Kathuria v. Manak Chand Surana* (1991). In this case, the Supreme Court of India clarified that a writ of prohibition can be invoked when a lower court attempts to exercise jurisdiction over matters outside its legal authority. The court reiterated that prohibition is an appropriate remedy to prevent lower courts from acting *ultra vires* and trespassing upon matters that fall beyond their competence.

3. **Certiorari:** Certiorari, derived from Latin meaning "to be certified," is a powerful writ employed by higher courts to review the decisions of lower courts or tribunals. It serves as a

mechanism to ensure that the lower court's judgment is in accordance with the law and to correct any errors of law or jurisdiction. Certiorari acts as a safeguard against judicial overreach or miscarriage of justice, reinforcing the principles of fairness, equity, and the rule of law.

One significant case in this regard is the celebrated judgment of *Keshvananda Bharati v. State of Kerala*. In this landmark case, the Supreme Court of India exercised its power of certiorari to review and evaluate the constitutionality of certain amendments made to the Indian Constitution. The court held that it had the authority to examine the validity of legislative actions and struck a balance between the powers of the Parliament and the fundamental rights of citizens.

4. **Quo Warranto:** The writ of quo warranto, a legal term derived from Latin meaning "by what authority," is a powerful legal remedy used to inquire into the legitimacy or validity of a person holding a public office, position, or franchise. It challenges the authority or qualifications of the individual and seeks to prevent the unlawful occupancy of public positions. Quo warranto acts as a mechanism to ensure that public offices are held by those who are duly qualified and have the legal authority to occupy them.

One significant case that illustrates the importance of quo warranto is *Lalita Kumari v. Government of U.P*. In this case, the Supreme Court invoked quo warranto to question the appointment of persons to the post of constables in the police force. The court emphasized that it was necessary to ascertain whether the appointments were made in compliance with the relevant rules and qualifications. This case demonstrated

the significance of quo warranto in scrutinizing appointments to public offices and preventing unauthorized individuals from assuming such positions.

## CONCLUSION

This research article has delved into the significant role and implications of writs under Article 32 of the Constitution of India. Through a comprehensive analysis of judicial precedents, scholarly works, and constitutional provisions, several key findings have emerged.

Firstly, Article 32 of the Constitution of India provides a fundamental right to move the Supreme Court for the enforcement of fundamental rights. This unique provision empowers the Supreme Court as the guardian of the Constitution, ensuring that the rights enshrined within it are protected and upheld.

Secondly, the writ jurisdiction granted under Article 32 encompasses five types of writs, namely habeas corpus, mandamus, prohibition, certiorari, and quo warranto. Each of these writs serves a distinct purpose and enables the Supreme Court to exercise its authority in the face of executive or legislative excesses or violations of fundamental rights.

Furthermore, the Supreme Court, through its consistent interpretation and application of Article 32, has played a pivotal role in safeguarding individual liberties and promoting justice and equality. The Court's expansive approach towards the writ jurisdiction has resulted in the development of jurisprudence that strengthens the democratic fabric of the nation.

Moreover, the significance of writs under Article 32 cannot be understated in

addressing public interest litigation (PIL) and promoting social justice. By allowing any citizen or group to approach the Supreme Court on behalf of marginalized communities or the underprivileged, Article 32 has served as a powerful instrument for social transformation and the advancement of human rights.

However, it is essential to acknowledge the challenges and limitations associated with the exercise of writ jurisdiction under Article 32. The delicate balance between the judiciary and the other organs of the state, as well as the need to ensure the efficient functioning of the justice system, must be carefully maintained. In conclusion, the writ jurisdiction conferred by Article 32 of the Constitution of India is a cornerstone of the Indian legal system. It empowers the Supreme Court to protect fundamental rights, redress grievances, and uphold the rule of law. By embracing its constitutional duty, the judiciary can continue to shape a just and inclusive society, ensuring that the rights and aspirations of every Indian citizen are safeguarded.

## REFERENCES

<https://byjus.com/free-ias-prep/right-to-constitutional-remedies/>

<https://blog.ipleaders.in/article-32-constitution-india/>

<https://indiankanoon.org/docfragment/1171702/?big=3&formInput=article%2032>

<https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5d8f/uploads/2023/05/2023050195.pdf>

[1] Article 32, Part III, Fundamental Rights, Constitution of India

[2] Constituent Assembly Debates, December 9, 1948, Vol. VII, p. 953