

Writs and Rights: A Comprehensive Study of Judicial Remedies in India

Pawandeep Kaur^{a,*}, 

^aLL.M., School of Law, Lovely Professional University, Phagwara, Kapurthala, Punjab-144411, India,



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ABSTRACT

The Indian Constitution give High Courts the power to issue writs to authorities, directing them to take or avoid from taking activities that are needed by law and the Constitution. Even before independence, several Indian High Courts had some few writs jurisdiction; however, the true extent and berth of this power have only been fully pour by High Courts after the Indian Constitution, which guarantees basic rights, came into effect. All Indian courts are obligated to provide appellate and supervisory jurisdiction over district and subordinate courts within the territories they oversee. This means that high courts may have the most extensive caseload of any court level. Research has indicated that the maximum Due to a combination of a lack of human resources and an inadequate case load, High Courts in India frequently experience delays and backlogs in cases. The community of the court to judge whether legislative acts are constitutional is called as judicial review of legislative acts. Enabling judicial review of State security measures that result in an unauthorized deprivation of an individual's liberty is the primary goal of writ of habeas corpus. Instead, then punishing any officials in charge of their incarceration, the purpose of the writ is to release the individual from unlawful cure. These are the writs that are explicitly mentioned in the Constitution tonight: Habeas Corpus, Mandamus, Certiorari, Prohibition, and Quo Warranto. All forms of the government apart from dictatorship must have a robust, impartial, and independent judiciary. The judiciary is essential to the interpretation and application of the law in any nation and resolving conflicts that arise between citizens as well as between citizens and the state. When a written constitution is in place, the courts also carry out the expensive duty of conserve the supremacy of the document by explain and distinguish its provisions and check that all authorities endure within it enclose.

1. Introduction

You might think of a writ petition as an official written order that is issued by a judicial authority that has the right to do so. "Writs" is a word that denotes an order given in writing under the court's name. A court-issued document that directs an individual or organisation to carry out a particular benefit or refrain from carrying out a particular action or conduct. Through a Writ Petition,

higher court can order lower court or courts to take security or refrain from doing any certain activity. A written order suppose in the court's name is known as a writ. It commands you to take a specific action. A writ is, at its core, an informal written order issued the any governmental or judicially body that has the power to do so. This body is mostly judicial in nature these days. Therefore, a formal written orders suppose by the court

Corresponding author


*E-mail: pawan15173@gmail.com (Pawandeep Kaur).

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 <https://orcid.org/0009-0003-0905-3424>



with the competence to spread such an order can be studied as a writ. A writ is basically an order, a warrant, directions, a summons, etc. An application seeking a specific writ to be issued by the appropriate Court is called a writ petition. An order issued by an authority is, in essence, what a writ is. A writ is therefore essentially a formal order that a court issues. An application to issue a particular writ that is submitted with a court is called a writ petition.

India is fortunate to possess a constitution that upholds fundamental rights and designates an autonomous judiciary to safeguard the document and safeguard individual liberty against the power of despotism. It is impossible to overstate how essential it is for a true democracy to have a fearless, independent, and impartial court. The Indian constitution has two essential aspects that lead to judicial review of legislation. The first type of legal system has two tiers: the constitution stays as the supreme law, and further laws are the ordinary law that is only enforceable to the extent as it aligns with the documents. The second is the type of the state's judicial, executive, and legislative tiers. The legislatures of India pass laws using the power granted to them by the constitution. There are two reductions on the statutes' legality. The Legislatures need to be consistent of putting them into result. They should also not be in opposition to the constitution. Insofar as they dispute with the constitution, they would be considered invalid.

Indian people are granted a number of rights under the country's constitution. Fundamental rights are among the most important rights for Indian citizens' moral and intellectual growth.¹

These rights are outlined in Part III of Indian Constitution and include the freedom from exploitation, equality, freedom of religion, rights to culture and education, and constitutional remedies. Declaring and granting these rights to India's citizens under the constitution is not enough. Protection of these rights is

essential.

Case Law

Smt. Imtiaz Bano opposes Masood Ahmad Jafri and People.

With writ petition filed under Article 226 for habeas corpus, a woman sought custody of her two children. She was granted a writ after the High Court approved her plea. Accordingly, the High Courts' jurisdiction to issue orders is limited when it comes to conduct before the Supreme Court Writs.²

If a person's fundamental rights as an Indian citizen are violated, they have the option to seek legal recourse from any of the Supreme Court or the High Court. However, they can only approach the High Court if the rights in question are not fundamental rights.

To have writs issued to protect their rights, citizens might petition the Supreme Court or the High Court. A person cannot file the same case in another court after it has been accepted and heard by the first one because of the Indian legal doctrine known as Res Judicata, which forbids the filing of a second case based on the same cause of action. The Supreme Court can hear an appeal by anyone who disagrees with the High Court's ruling. Individual A, for example, may appeal to the Supreme Court the decision of the High Court if A brings a lawsuit under Article 226 and the court finds in favour of the defendant. If A's case is dismissed by the High Court.

2. Objective

This paper aims to peruse and through light on the compound link between the availability of alternative judicial remedies they produce to writ jurisdiction. Update intellectual underpinnings and analysing judicial interpretations are the target of the study. By tackling this aim, this paper hopes to add to the body of knowledge as regards the compound opportunities and problems that stand up when writ jurisdiction is invoked. It supplies a thorough and perceptive analysis that lawful

scholars, practitioners, and policymakers can use to better comprehend these issues. The Indian High Court is forbidden by Article 226 of the Constitution to grant writs and directions to any person or organisation. The petition party must establish that his rights are being obeyed upon or are in danger of being oppressed upon before the court would issue a writ or make an order. The High Court may issue writs and instructions to any Government, authority, and person, wherever they can be found, so long as the cause of action largely arises within its jurisdiction. It is also within the jurisdiction of the High Court to decide whether to obey a writ in order to overturn legal rights other than the fundamental rights.

The court in this instance is not obligated to approve or even take the petition under consideration. If the petitioner is allowed to seek other remedies that are equally effective, the High Court's ability to grant writs is also subject to a variety of restrictions. Before exercising its extraordinary constitutional power, the high court will take a number of factors into account. In most cases, the high court will refer the party to the appropriate body to seek relief rather than awarding relief if a superior remedy is available. When evaluating writ petitions, the need to offer an alternative remedy is a self-imposed rule rather than a jurisdictional one. It has more to do with judgement, practice, and policy than it does with the law. Consequently, a writ may be issued in exceptional situations even while there is an alternative remedy available.

3. Historical context

Section III of the Indian Constitution, which covers Articles 12 through 35, contains an outline of the Fundamental Rights. For Indian citizens, these articles act as a proclamation of their independence. The Indian population's fundamental rights are enshrined in Article 32 of the Constitution and are comparable to those of Magna Carta. Dr. B.R. Ambedkar referred to Article 32

"the very soul of the Constitution and the very heart of it" during the Constituent Assembly debate. In his work "H.M. Seervai's Constitutional Law of India," renowned senior counsel and jurist H.M. Seervai noticed that the Constituent Assembly believed that writs were the best tool for upholding fundamental rights, a view influenced by Western legal traditions. Seervai further explained that any law infringing upon these rights would be deemed null and void under Article 13, as long as these rights remain intact and the powers, they confer remain inviolable.³

4. The Indian Constitution's Writs provision

In Part III of the Indian Constitution outlines fundamental rights, such as the rights to equality, life, and liberty, among others. It is essential not only to acknowledge these fundamental rights but also to ensure their enforcement and protection. Under Articles 32 and 226 of the Indian Constitution, any person whose fundamental rights have been violated has the right to approach either the Supreme Court and High Court for protection. These provisions grant the highest courts in the country the authority to issue writs aimed at safeguarding fundamental rights. Article 226, in particular, empowers the High Courts to issue writs like prohibition, certiorari, quo warranto, habeas corpus, or a combination thereof, to enforce fundamental rights or for other purposes. The term "for any other purpose" has been interpreted to include the enforcement of ordinary legal or statutory rights as well.

Article 226 provides the High Courts with jurisdiction, while Article 32 confers jurisdiction to the Supreme Court. Regarding fundamental rights, the jurisdictions under Articles 32 and 226 are independent and concurrent. Individuals can choose the appropriate remedy, either by petitioning the relevant High Court or the Supreme Court under Articles 32 and 226.

However, if a civil court has adjudicated the matter and the High Court has resolved an appeal against a civil court

decisions, a writ petition based on the same grounds cannot entertain. This principle upholds judicial discipline, emphasizing the importance of respecting the decisions of civil courts and appellate authorities.

Thus, a party not be allowed to the gamble across different forum when Res Judicata was involved. If a petition under Articles 226 and 227 was withdrawn or abandoned without the court's permission to file a new petition thereunder, a second petition involving the same subject matter in the High Court would be barred; however, other remedies, like suit or writ petition, would still be available and open under Article 32. It was decided that the public policy-based Rule 1 of Order 23 of the CPC applies.

Case Law

The State of Uttar Pradesh v. Rajmata Vijai Raje Scindia, 1986

The ruling stated that although there isn't a set amount of time in India for filing a writ petition, it is generally anticipated to be filed as soon as possible. The court requests a legitimate explanation if there is a delay. A justifiable delay is therefore warranted; in the event that it is not, the petition may be denied.⁴

5. Constitutional Remedies

The legal tools that a nation's constitution provides to protect and uphold citizens' fundamental rights are known as constitutional remedies. These legal remedies enable citizens to petition the courts for relief when the government or another party violates their constitutional rights. In a democratic society, these remedies play a vital role in safeguarding citizens' rights and liberties, guaranteeing accountability, and preserving the rule of law.

▪ **India's Constitutional Remedies Right**

The Indian Constitution guaranteed the fundamental rights to constitutional remedies. Article 32 of the Constitution contains detailed provisions regarding this

Right to Constitutional Remedies, acting as a safeguard against any violation of fundamental rights in India. By providing a legal means of enforcement, this right ensures those all the fundamental rights of the citizens are upheld and protected when they have been infringed upon.

If an Indian citizen's fundamental rights are violated, they can seek enforcement through the constitutional remedies outlined in Article 32. This article includes the following provisions:

There is an absolute assurance regarding the ability to petition the Supreme Court enforce fundamental rights.

- If any the Fundamental Rights are to be enforced, the Supreme Court may issue writs, directives, or orders.
- Without impairing the Supreme Court authority, the Parliament could provide any another court the authority to issue all manner of directives, orders, and writs.

Since the High Court already has this authority under Article 226, it is not included in the definition of "any other court". Unless the Constitution specifies otherwise, no one's ability to petition the Supreme Court may be suspended. The President is able to revoke the ability to file a petition in any court to have basic rights upheld in times of national emergency.

Taking into account the following is crucial while debating the right to constitutional remedies: The preservation of basic rights is guaranteed by this right, which validates the existence of those rights by making it a fundamental right in and of itself. The "heart and soul" of the Constitution, as Dr. B.R. Ambedkar put it, is these rights because of their significance. As the supreme defender and keeper of basic rights, the Supreme Court is positioned by this clause.

With the power to protect fundamental rights, the Supreme Court is granted "Original," "Wide," and "Non-Exclusive" jurisdiction.

Original Powers: Before going straight to the Supreme Court, a resentful citizen is not obliged to file an appeal.

Wide-ranging Authority: The Supreme Court has broad authority in this area, which includes the ability to issue orders and directions in addition to writs.

Non-Exclusive Powers: Under Article 226 the Supreme Court, the High Courts, and any other court authorised by Parliament to exercise writ jurisdiction jointly share this competence. Except for fundamental rights, only those rights are allowed to be enforced under Article 32.

6. Writ Types

The following five categories of writs may be granted in India by Supreme Court, High Courts, or all other courts with this necessary authority:

- a. The Habeas Corpus
- b. Accreditation
- c. Forbiddance
- d. The Mandamus
- e. The Quo Warranto

a. The Habeas Corpus

This phrase literally means "to have the body of." It is order from the court requiring someone has arrested someone else to bring the person's body before it. Next, the court looks into the reason for and legitimacy of the detention. If it became out that the detention was unlawful, it would release the person who was in custody.

This writ serves as the safeguard for personal freedom from unjustified imprisonment. This writ may be used against both private parties and public officials. It is not, however, issued in situations: Detention is authorised, the court is competent, the detention is outside the court's jurisdiction, and the procedure is for the contempt of the legislature and any court.

b. Mandamus

This phrase literally means "we command."

It's a court order to a public servant to carry out official tasks that he has neglected or refuses to carry out.

It can be granted to the government, a corporation, a lower court, a tribunal, or a public authority for the same objective.

This writ cannot be issued in the following cases: against any private person or organisation; to the enforce departmental directives they are not subject to statute law.⁵ where the duty is optional; to uphold a term of a contract; or in opposition to the Chief Justice of the High Court, State Governors, and the President of India.

c. Prohibition

The precise translation of this term is "to forbid." It is sent down to a subordinate court or tribunal from a higher court to prevent it from usurping territory that it does not own or from intruding on its own.

Therefore, the writ of "Prohibition" directs inaction whereas the writ of "Mandamus" directs action. A prohibition writ may only be directed towards quasi-judicial or judicial entities; it cannot be directed towards any private, governmental, or legislative entities.

d. Certiorari

This term means "to be certified" or "to be informed" its literal sense.

It sent to a lower court or tribunal by a higher court in order to overturn an order made by the lower court in a particular case or to transfer a matter that is pending with it to itself.

The reasons for issuing this writ are lack of jurisdiction, excess jurisdiction, or legal error. The writ of the "Certiorari" therefore both the preventive and curative, whereas the writ of "Prohibition" is purely preventive. It could be used against the administrative, judicial, and the quasi-

judicial agencies however, it cannot be used against legislative bodies and private persons, or other entities.⁶

e. Quo-Warranto

This word literally means "by what authority or warrant."

The court issues to investigate the validity of an individual's claim to a public office. As such, it forbids an individual from unlawfully taking over a public office.

In contrast to the other writs, this one need not be requested by the person who feels wronged; rather, anyone who is interested may do so.

This writ is only available for use in situations where a statute or the Constitution establish a significant, permanent public position. Ministerial or private offices are not eligible to receive it.

7. Writs' Importance

According to the Indian Constitution, Writs are extremely important in the Indian context only by definition. The following illustrates some of their significance:

1. Protection of the Fundamental Rights: These writs to give people quick and efficient way to the ask the court to step in when the government or another authority violates their rights.

2. Judgement- With the use of this writs, the judiciary is able to exercised its judicial review authority over the decisions made by Government agencies, administrative tribunals, and another organisations. These guarantees that acts taken by the government are constitutionally compliant, legitimate, and within the bounds of their power.

3. Checks and Balances: With the use of these writs, courts are able to examine and possibly even reverse the rulings or orders of subordinate authorities. By doing this, the system's internal checks and balances are kept in place.

4. Preventing Abuse of Power: Writs like quo warranto, prohibition, certiorari, and mandamus serve as restraints on public officials' and other organisations' arbitrary use of authority. They guarantee that procedures for making decisions are fair, unbiased, and compliant with the law.

5. Upholding Administrative Accountability: Writs compel judicial and administrative authorities to answer for their deeds or omissions. Writs preserve administrative accountability and integrity by correcting legal errors or avoiding jurisdictional excess.

6. Promoting Justice and the Equity: Writs provide individuals with swift and effective remedies against injustice, oppression, and wrongful denial of the rights. They uphold the rule of a law and ensure equal protection for all the citizens.

8. High Court and Supreme Court's Writ Jurisdiction

Radha Krishan Industries v/s State of H.P. is a significant ruling in this field. In its assessment of several matters concerning the application of Article 226 the Supreme Court has taken into account the concept of alternative remedy exhaustion. What emerges are the following legal precepts:

According to Article 226 of the Constitution, writs may be issued for any purpose, including defending basic rights.

A writ petition may be denied by the High Court at its discretion. A limitation on the jurisdiction of the High Court is enforced in situations where the aggrieved party has utilised a feasible substitute remedy. The Supreme Court defined the breadth of the writ of habeas corpus in **the case of Kanu Sanyal v/s District Magistrate**, holding that the court may assess the validity of a detention without the detained person's physical presence.⁷

In Sheela Barse v/s State of Maharashtra, Supreme Court further expanded the concluded of locus standi by

determining that if a detained person is unable to file a petition themselves, another individual may do so on their behalf to request a writ of habeas corpus.

In Nilabati Behera v/s. State of Orissa, the petitioner's son was taken in for questioning by the Orissa police and subsequently disappeared. His body was later discovered on a railway track while the petition was still pending. The court awarded the petitioner compensation of Rs. 1,50,000.

For instance, consider a scenario where A is a public servant with a legal duty to perform a task for B, but A fails to fulfil this duty. Feeling aggrieved, B approaches the High Court, seeking an order to compel A to perform the required duty. If the High Court finds B's claim to be valid and determines that A is indeed obligated to perform the duty, it will issue a Writ of Mandamus, directing A to fulfil his obligation.

If, however, A were a businessman and neglected to fulfil any obligation he owed to B. Because this Writ cannot be used in such a situation, A cannot petition the court for a mandate against private person.

A petition in the High Court demanded that the State form a commission to look at floods and climate change in **the case of Vijaya Mehta v/s State of Rajasthan**. But rather than making the appointment of such a commission necessary, the Court decided that it was a voluntary committee. A Writ of Mandamus was therefore not issued. The State Government would only be required to constitute the commission upon the passage of a resolution by the Legislature.

In the matter of **Bhopal Sugar Industries Ltd. v/s Income Tax Officer, Bhopal**, the Income Tax Appellate Tribunal in its final ruling provided explicit instructions to the respondent Income Tax Officer. But the Income Tax Officer did not follow the orders of the Tribunal. Following the Tribunal's instructions is mandatory for the Income Tax Officer. the Supreme Court declared, as doing otherwise would be manifestly unfair. To force the

officer to follow the Tribunal's instructions, a Writ of Mandamus was consequently granted.

9. Fundamental Right can be Suspended

In Article 352 of the Indian Constitution allows for suspension of fundamental rights during national emergency. When a national emergency is declared due to war or external aggression, Article 358 stipulates that the six fundamental rights guaranteed under Article 19 are automatically suspended. The suspension of other right is governed by the Article 359, which requires a separate notification from the President. However, the fundamental right enshrined in Articles 20 and 21 can never be suspended. It's important to note that fundamental rights remain unaffected during financial or constitutional emergencies.

1. **Res Judicata:** writ petition filed under Article 32 is subject to the doctrine of Res Judicata, meaning it cannot be refiled based on the same cause of action. However, this principle has not apply to habeas corpus petitions, which may be filed multiple times if necessary, but not based on the same facts.
2. **Delayed Petition Submission:** If a petition is submitted after an unreasonable delay without a justified reason, the court may choose to deny relief.
3. **Malicious Petition:** A petition found to be malicious in nature may be dismissed by the court.
4. **Fraud or Omission of Important Information:** Should it be shown that the petitioner has omitted important information, the case may be dismissed at any point.
5. **Availability of a sufficient substitute remedy-** The presence of a substitute remedy does not constitute a blanket legal requirement.

10. Writs Status in Other Countries

Since 1938, the writs compare than the habeas corpus have been known in England and Wales as prerogative orders, and they are discretionary remedies. The writs of procedendo and quo warranto are no longer valid. The 1998 Civil Procedure Rules refer to the amended nomenclature of certiorari, mandamus, and prohibition as a quashing order, obligatory orders, and the prohibiting orders respectively.

In US district courts, mandamus has been superseded by an injunction.

While other state and federal supreme courts grant review, the US Supreme Court grants certiorari.

○ **A writ petition can be filed by whom?**

Anybody whose fundamental rights has violated by the state may submit a writ petition. Even if one's personal fundamental rights have not been violated, anyone with a public heart may file a writ petition in the interest of the public under a public interest litigation.

○ **Where do you file a petition for writ?**

The Supreme Court may receive a writ petition under Article 32. If the petitioner can demonstrate that his fundamental rights have been violated, the Supreme Court will only grant a writ. It is noteworthy that the ability to petition the Supreme Court for a violation of the fundamental right is a fundamental right in and of itself, as stated in Part III of the Constitution. A writ petition under Article 226 may be brought, in whole or in part, before any High Court whose jurisdiction the cause of action arises. It makes no difference whether the authority that the writ petition is directed against is located inside the territory or not. The High Court has far more authority than Supreme Court to grant writs.

High Court has ability to issue the writs for a variety of reasons, including the enforcement of

the fundamental rights and the prosecution of statutory authorities that violate their duties. Therefore, it is possible to initiate a writ petition against a private individual before the Supreme Court. One may file a case with the Supreme Court and the High Court if a basic right has been violated. Going to the High Court first and then requesting an appeal to the Supreme Court is not required. On the other hand, if the writ petition is filed with the Supreme Court directly, then the petitioner must provide justification for not contacting the High Court.⁸

11. Landmark rulings

The famous "Habeas Corpus case," ADM Jabalpur v/s Shivakant Shukla, established that the right not to be treated unfairly might be suspended even in times of emergency.

❖ Amendment of Article 32 under Article 368

An essential part of the constitution, Article 32 remains unchangeable. **Kesavananda Bharati v. State of Kerala** established the fundamental structural theory, with the Supreme Court ruling that the "basic" cannot be altered.

The bench in Kumar L. Chandra v. Union of India and Others ruled: Article 32

In Article 32 is a crucial part of the basic structure of the Constitution and not covered by Article 368. Any arbitrary amendment to Article 32 would be considered void and subject to judicial review. The 42nd Amendment to the Constitution, passed in 1976, introduced Article 32A, which restricted the examination of State laws unless they conflicted with Central laws. After the emergency, Article 32A was repealed by the 43rd Amendment.

Article 32 and Public Interest Litigation: Article 32, citizen can be filing a Public Interest Litigation (PIL) before Supreme Court for the general benefit of the public. The court can also take up a PIL suo moto under

Article 32. PILs do not always involve direct violations of individual rights but allow the public to utilize judicial activism to seek remedies. To avoid being considered frivolous, the public interest in filing the petition must be supported by sufficient facts and grounds. In all PIL cases, Rule of Locus Standi is applied leniently when the petitioner is acting in good faith. A PIL should be motivated by the greater good of the public, rather than by financial gain, political interests, or dishonest intent.

12. Articles 226 and 32

Comparatively, Article 32 is a Fundamental Right. A constitutional prerogative known as Article 226 grants the High Court discretionary authority. Article 226 makes it quite explicit that the High Court has the ability to grant directions, orders, or writs to any person and entity, include, when appropriated, any Government within the territory over which it exercises jurisdiction. Since it can be used to enforce legal rights other than fundamentals, Article 226 has a wider application than Article 32.⁹

13. Recent views Article 32 from the Supreme Court cases

Regarding the petitioner's failure to attend the High Court first, **the Supreme Court in the Siddique Kappan case of 2021** asked him questions orally. Another petitioner was also instructed by the same Bench to start a High Court case.

The Supreme Court, referring to P. Hemalatha's husband's medical problems, ordered the Bombay High Court to take her bail appeal into consideration in a relief plea in a different case.

The Maharashtra Legislative Assembly's Assistant Secretary received a notice of contempt from the Supreme Court, underscoring the fundamental right that everybody has to petition the Supreme Court. It stated, "It is undeniable that preventing an Indian citizen from exercising their rights under Article 32 of the Indian

Constitution constitutes a serious and direct interference in the nation's judicial system."

14 . In summary

In Article 32 of the Constitution gives the Supreme Court under authority to provide remedies in cases when fundamental rights are violated, enabling it to act as the guardian and protector of these rights. Fittingly, Dr. B.R. Ambedkar call Article 32 the "Heart and Soul of the Constitution." In facts listed above make it clear that Article 32 preserves the ideas of natural justice and equity. Furthermore, writs make it easier for the public interest litigation (PILs) to be filed. A welfare-state-based constitution must forbid the arbitrary use of force, and in a constitutional democracy, writs are crucial to achieving this goal.

While the Indian Constitution outlines fundamental rights, their protection and enforcement hinge on Article 32. Often refer to as the "heart and soul" of the Constitution, Article 32 empowers the Supreme Court to issue the writs for the enforcement of fundamental rights or in instances where these rights have been violated. Writs serve as powerful instruments to prevent arbitrary actions that infringe upon fundamental right, with the Supreme Court standing as the ultimate guardian of these rights. Additionally, Article 32 bolsters the court's judicial authority.

However, there are certain limitations under Article 32 that prevent the Supreme Court from issuing writs in specific situations where legal rights, rather than fundamental rights, are violated. Nonetheless, Article 32 remains a cornerstone for protection and enforcement of fundamental right, ensuring access to justice and allowing individuals to seek redress from the Supreme Court when their rights are infringed upon.

The judiciary utilizes the writ jurisdiction granted by Article 32, which includes the habeas corpus, mandamus, prohibition, certiorari, and quo warranto, as a powerful tool to protect individual liberties, check

executive abuses, and uphold the rule of law. Article 32 embodies the constitutional philosophy of protecting fundamental rights, judicial review, restorative justice, access to justice, and the promotion of the rule of law. It underscores the Indian Constitution's commitment to safeguarding the fundamental right of all citizens and reinforces the judiciary's role as the custodian of the Constitution.

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