Shodhbodhalaya: An International Peer reviewed
Multidisciplinary Journal
Volume 4 | Issue 3 | ISSN: 2584-1807 | (https://shodhbodh.com/)

Constitutional Remedies in India: Examining the Relationship Between Articles 32 and 226

Name of Research Scholar: *Anshu*

Designation: *Research Scholar*

Research Discipline: *Law*

Research Supervisor: *Prof. (Dr.) Bhoma Ram*

Research Period: *2023–2026*

University: *Jayoti Vidyapeeth Women's University (JVWU)*

University Location: *Jaipur, Rajasthan, India*

University Campus Address: *Vedaant Gyan Valley, Village Jharna, Mahala–Jobner Link Road, Jaipur–Ajmer Expressway, NH-8, Jaipur – 303122, Rajasthan, India.*

Abstract

Articles 32 and 226 of the Indian Constitution form the foundation of constitutional remedies and writ jurisdiction in India. While Article 32 provides a Fundamental Right to approach the Supreme Court for enforcement of Fundamental Rights, Article 226 grants wider constitutional powers to High Courts for enforcement of Fundamental Rights as well as other legal rights. This research paper examines the relationship between these two provisions by analysing their constitutional framework, scope, jurisdiction, remedial powers, and role in judicial review. The study highlights that Article 32 acts as a national safeguard for Fundamental Rights, whereas Article 226 strengthens decentralised constitutional supervision through High Courts. Through judicial interpretation and landmark decisions, both provisions have developed as complementary mechanisms for maintaining constitutional supremacy, rule of law, and protection of individual liberty.

Keywords

Article 32; Article 226; Constitutional Remedies; Writ Jurisdiction; Judicial Review; Fundamental Rights.

I. Introduction

The Constitution of India provides multiple mechanisms for protecting individual rights and ensuring that public authorities function within constitutional limits. Among these mechanisms, Articles 32 and 226 occupy a significant position as they empower constitutional courts to issue writs for the protection of rights and maintenance of the rule of law. Article 32 guarantees the right to approach the Supreme Court for enforcement of Fundamental Rights under Part III of the Constitution. It empowers the Supreme Court to issue writs such as habeas corpus, mandamus, prohibition, quo warranto, and certiorari. Article 226, on the other hand, provides High Courts with a broader jurisdiction by allowing them to issue writs not only for Fundamental Rights but also for other legal rights and public duties. Although both provisions provide constitutional remedies, they differ in their scope, constitutional character, and institutional role. Article 32 is a guaranteed remedy available before the Supreme Court, while Article 226 is a discretionary but wider power exercised by High Courts. Together, these provisions create a balanced system of judicial protection by combining national constitutional safeguards with accessible regional judicial supervision.

Objectives of the Research

1. To examine the constitutional framework and scope of Articles 32 and 226 in India.
2. To analyse the differences and complementary relationship between Supreme Court and High Court writ jurisdiction.
3. To study the role of Articles 32 and 226 in strengthening judicial review and protection of rights

II. Interplay Between Article 32 And Article 226

Articles 32 and 226 of the Constitution of India together constitute the twin pillars of the Indian writ jurisdiction, empowering the Supreme Court and the High Courts respectively to issue prerogative writs for the protection of legal and constitutional rights. Although both provisions authorise courts to issue the same set of writs — habeas corpus, mandamus, prohibition, quo warranto and certiorari — the two are neither identical in origin, scope nor constitutional character. Article 32 is a fundamental right, narrowly confined to the enforcement of Part III rights, and available only before the Supreme Court. Article 226 is not a fundamental right but a constitutional power of a wider amplitude, available before the High Courts for the enforcement of fundamental rights as well as for *"any other purpose,"* extending to violations of ordinary legal rights. This chapter examines the constitutional design of the two provisions, the doctrine of alternative remedy that has come to regulate their concurrent operation, and the practical and jurisprudential consequences of the Supreme Court's evolving practice of directing petitioners under Article 32 to first approach the jurisdictional High Court.

Constitutional Framework of Article 32

Article 32(1) guarantees the right to move the Supreme Court by *"appropriate proceedings"* for enforcement of the rights conferred by Part III. Clause (2) empowers the Court to issue directions, orders and writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari. The textual combination is deliberate: the Constitution guarantees access and simultaneously equips the Court with flexible remedial power.[62]

The jurisdiction is confined to enforcement of Part III. A statutory, contractual or private-law grievance does not become maintainable merely because it is serious. The petitioner must show a legally sustainable connection to a Fundamental Right. Some such rights are citizen-specific, while Articles such as 14 and 21 protect persons more generally; Article 32 itself does not convert that distinction into a universal citizen-only rule.

The phrase *"appropriate proceedings"* permits adaptation of form, especially where detention, disability or social exclusion makes ordinary filing impossible. Appropriateness also imposes discipline: pleadings must identify the right, State action or constitutional duty, necessary parties and a factual basis sufficient for adjudication.

Guaranteed Access and Questions of Maintainability

Romesh Thappar rejected the argument that a petitioner must invariably approach a High Court before invoking Article 32. The decision affirms that the existence of Article 226 does not extinguish the constitutional guarantee of direct access to the Supreme Court.[63]

Guaranteed access, however, is not equivalent to an unconditional merits hearing. The Court may reject a petition that discloses no Part III infringement, lacks necessary parties, depends upon unresolved facts unsuitable for summary adjudication, repeats a finally decided claim or seeks relief beyond constitutional competence. These rules define an appropriate proceeding rather than create an alternative-remedy bar. Daryao v. State of Uttar Pradesh applied res judicata to a subsequent Article 32 petition after a High Court had adjudicated the same rights claim on the merits. The judgment reconciles the guaranteed remedy with finality and prevents constitutional process from becoming an endless sequence of identical proceedings.[64]

Remedial Power and Institutional Role

Article 32 relief is not restricted to the historical writ names. The Court may issue declarations, directions, interim protection, compensation and, in suitable systemic cases, continuing orders. The form of relief must remain connected to enforcement of the established Fundamental Right and should be no broader

[62] Constitution of India, Art. 32(1)-(2).
[63] Romesh Thappar v. State of Madras, AIR 1950 SC 124.
[64] Daryao v. State of Uttar Pradesh, AIR 1961 SC 1457; (1962) 1 SCR 574.

than necessary to cure or prevent the violation. The Supreme Court's national position is especially valuable where a measure operates across several States, a uniform constitutional rule is urgently required or the alleged violation originates in central legislation or action. Conversely, disputes demanding local evidence, continuing supervision of State authorities or use of the wider *"any other purpose"* jurisdiction may be more effectively addressed by a High Court.

The constitutional status of Article 32 is therefore best expressed in two propositions: the right to invoke the Supreme Court for enforcement of Part III is guaranteed; the Court retains judicial authority to determine maintainability, proof, remedy and institutional appropriateness. This formulation preserves both constitutional access and adjudicatory responsibility.

4 Standing, Representative Proceedings and the Meaning of an Appropriate Proceeding

Article 32 does not prescribe one exclusive procedural form. The expression *"appropriate proceedings"* has allowed the Supreme Court to respond to detention, poverty, disability and collective injury through flexible standing and simplified initiation. That flexibility is directed to enforcement of Part III, not to creation of a general advisory jurisdiction.

In S. P. Gupta and Bandhua Mukti Morcha, standing was relaxed where the persons whose rights were affected could not realistically approach the Court. A representative petitioner must act bona fide, demonstrate sufficient concern and place a concrete constitutional injury before the Court. The affected persons remain the holders of the rights; the petitioner facilitates access.[65] Representative litigation requires procedural safeguards. Courts should identify the class or community represented, ensure that relief reflects their interests, disclose reports obtained through commissions and permit affected authorities to contest adverse material. Relaxation of adversarial form should not deprive parties of a fair opportunity to be heard.

The Court may treat a letter or communication as a petition in exceptional circumstances, but contemporary access to legal-services institutions, electronic filing and High Courts affects the need for epistolary procedure. The constitutional principle is adaptability, not preservation of every procedural experiment in its original form. Standing under Article 32 also differs from a claim to litigate an abstract disagreement with government policy. A public-spirited petitioner must demonstrate a rights-bearing group, a public wrong or a serious constitutional failure. Courts may impose costs or dismiss proceedings brought for publicity, private rivalry or political advantage.

An appropriate proceeding further requires identification of the respondent's legal responsibility. Where injury is caused by several levels of government or by public and private actors, the petition should distinguish direct State action, failure of regulation and the conduct of entities alleged to perform public functions. This clarity determines both maintainability and remedy. The standing doctrine therefore

[65] S.P. Gupta v. Union of India, 1981 Supp SCC 87; Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.

supports access while preserving adjudicatory discipline. Its purpose is to remove barriers between a constitutional injury and the Court, not to remove the need to prove the injury or to identify a lawful basis for relief.

Fact-Finding, Original Jurisdiction and Categories of Article 32 Cases

Article 32 is an original jurisdiction, but it is ordinarily exercised through pleadings, affidavits and records rather than a full civil trial. Cases involving an admitted detention order, the text of legislation or an undisputed governmental policy may be resolved efficiently. Cases turning upon extensive oral evidence, local inspection or contested private facts may require a different institutional route. The presence of disputed facts is not an automatic jurisdictional bar. Constitutional courts have appointed commissions, called for records and directed independent investigation where the rights claim could not otherwise be examined. The relevant question is whether the facts can be determined fairly and proportionately within the proceeding.

Habeas corpus demands particular urgency. The Court should not deny prompt examination merely because some facts are contested; the detaining authority bears responsibility to establish lawful custody. By contrast, a complex service or commercial dispute dressed in the language of Article 14 may be unsuitable where a statutory forum can receive evidence and provide complete relief. Nationwide constitutional challenges form another category. Where central legislation or a uniform policy affects persons across States and the dispute is substantially legal, direct Supreme Court adjudication may prevent conflicting interim orders and provide authoritative resolution. Even then, representative pleadings, complete records and participation of affected States may be necessary.

Localised systemic violations may favour High Court adjudication. Conditions in prisons, police stations, educational institutions or municipal systems often require regional evidence and continuing supervision. Referral to a High Court can enhance effectiveness if the Supreme Court protects urgent rights and explains the jurisdictional route.

The choice of forum should therefore respond to the character of the claim: urgent liberty, nationwide validity, local administration, disputed evidence, statutory expertise or the need for structural implementation. This categorisation provides a principled basis for appropriateness without converting Article 226 into a compulsory precondition.

III. Constitutional Framework of Article 226

Scope and Territorial Nexus

Article 226 empowers every High Court to issue directions, orders and writs for enforcement of Fundamental Rights and *"for any other purpose"*. Its subject-matter reach is therefore wider than Article

32 because it extends to other public-law and legal rights. The power remains constitutional, although the decision to exercise it is guided by judicial discretion and equitable considerations.[66]

Territorial jurisdiction is governed by the location of the respondent and by the cause of action arising wholly or in part within the High Court's territory. This nexus permits a High Court to address public-law wrongs connected to the State or region while preventing purely forum-shopping litigation with no substantial territorial connection. Dwarka Nath emphasised the width and adaptability of Article 226. The jurisdiction is capable of reaching injustice caused by unlawful public power, but its breadth does not remove requirements of legality, standing, territorial connection and an appropriate public-law duty.[67]

Public Duty and Respondents beyond Article 12

Article 226 may reach a body that is not *"State"* for every purpose under Article 12 when the particular function or duty sought to be enforced is public in nature. The inquiry focuses on the source, character and consequences of the duty rather than only the formal identity of the respondent.

Andi Mukta recognised that mandamus may issue to a body performing a public duty, while Binny Ltd. and K. K. Saksena clarified that not every activity of a private body becomes amenable to writ jurisdiction. The pleaded obligation must possess a public-law element and the relief must be directed to performance of that obligation.[68]

This functional reach is a major practical difference from Article 32. Where a respondent does not satisfy Article 12 and no direct Part III obligation is established, a High Court may nevertheless examine a public duty, statutory obligation or administrative law wrong under Article 226.

Discretion and Institutional Position of High Courts

The discretion under Article 226 is not an absence of constitutional duty. A High Court must exercise the power judicially, considering the seriousness of the illegality, availability and effectiveness of another remedy, delay, conduct of the parties, disputed facts and the public consequences of intervention.

High Courts offer practical advantages of proximity. They can receive regional records, evaluate State legislation and administration, supervise local compliance and provide interim relief without requiring every claimant to litigate in New Delhi. Their constitutional status also enables them to develop administrative-law standards suited to varied forms of public power.

The federal importance of High Court review was reinforced in State of West Bengal v. Committee for Protection of Democratic Rights, which treated Article 226 power as part of the constitutional structure

[66] Constitution of India, Art. 226(1).
[67] Dwarka Nath v. Income Tax Officer, AIR 1966 SC 81.
[68] Andi Mukta Sadguru v. V.R. Rudani, (1989) 2 SCC 691; Binny Ltd. v. V. Sadasivan, (2005) 6 SCC 657; K.K. Saksena v. International Commission on Irrigation and Drainage, (2015) 4 SCC 670.

and rejected an absolute State claim against High Court directions for a central investigation in an appropriate case.[69]

Article 226 thus combines wider subject matter, territorial responsibility and remedial flexibility. It is not a lesser version of Article 32; it performs a different and complementary role within the same constitutional system of judicial review.

Territorial Jurisdiction under Article 226(2)

The original territorial model of Article 226 focused heavily on the location of the authority. Early decisions revealed that this approach could deny a convenient remedy where an authority situated outside the State produced legal consequences within it. The Constitution (Fifteenth Amendment) Act, 1963 inserted the cause-of-action basis now reflected in Article 226(2).

A High Court may exercise jurisdiction when the cause of action arises wholly or in part within its territory even though the seat of the government or authority is elsewhere. Cause of action refers to the material facts that the petitioner must prove to obtain relief. A trivial or incidental fact is insufficient; the territorial connection must form an integral part of the legal claim.

Kusum Ingots explained that the situs of Parliament or the mere fact that legislation is enacted in New Delhi does not, without more, create a cause of action there for every challenge. The place where the law is applied and produces legal injury may be more relevant. Territorial jurisdiction must be connected to the facts giving rise to the grievance.[70]

ONGC v. Utpal Kumar Basu cautioned against forum shopping based upon immaterial events such as reading an advertisement or sending communications from a preferred State. Alchemist Ltd. similarly required a real connection between the pleaded facts and the relief sought.[71]

Territorial analysis affects the Article 32–226 relationship. A direct Supreme Court petition avoids competing territorial claims, but that convenience should not displace High Court jurisdiction where the dispute is regionally grounded. Conversely, a High Court should not accept a national dispute solely because a minor consequence occurred within its territory.

Where several High Courts possess jurisdiction, coordination may be achieved through transfer, consolidation, restraint in duplicative interim orders and authoritative resolution by the Supreme Court. The objective is not to eliminate concurrent jurisdiction but to prevent procedural competition from undermining coherent constitutional adjudication.

[69] State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571.
[70] Kusum Ingots & Alloys Ltd. v. Union of India, (2004) 6 SCC 254.
[71] Oil and Natural Gas Commission v. Utpal Kumar Basu, (1994) 4 SCC 711; Alchemist Ltd. v. State Bank of Sikkim, (2007) 11 SCC 335.

Territorial proximity also has an evidentiary and remedial dimension. The High Court connected to the cause of action can obtain local records, hear affected parties and supervise State authorities. Article 226(2) thus advances access and federal distribution of judicial work while retaining legal controls against opportunistic forum selection.

Article 226 and the Supervisory Jurisdiction under Article 227

Article 226 and Article 227 are related but distinct. Article 226 authorises writs and directions for enforcement of rights and public-law legality. Article 227 confers superintendence over courts and tribunals within the High Court's territory. The source, object and procedural consequences of the two jurisdictions should not be casually merged.

A petition challenging a tribunal's jurisdiction or procedural legality may invoke both provisions, but the court should identify the basis of intervention. Article 226 commonly addresses the legal validity of action; Article 227 focuses upon keeping subordinate adjudicatory bodies within the bounds of their authority and correcting grave dereliction.

The distinction matters for appellate remedies and standards of interference. Supervisory jurisdiction is not a routine appeal on facts or law. It is used to correct jurisdictional excess, manifest procedural injustice or perversity that affects the lawful exercise of subordinate judicial power.

L. Chandra Kumar located review of tribunal decisions in a Division Bench of the High Court under Articles 226 and 227. The combination preserves constitutional scrutiny while recognising the tribunal's first-instance role and the High Court's supervisory relationship to adjudicatory institutions within the State.[72]

Article 32 has no exact analogue of territorial superintendence over all subordinate courts and tribunals. This difference is another reason why fact-intensive challenges to regional tribunals may proceed more effectively before a High Court, subject to the Supreme Court's appellate and constitutional authority.

IV. Article 32 and Article 226: A Comparative Analysis of Constitutional Remedies

Articles 32 and 226 constitute the foundational framework of constitutional remedies under the Indian Constitution. Both provisions empower constitutional courts to issue writs for the protection of rights and the maintenance of the rule of law; however, their constitutional character, scope, and operational mechanisms differ significantly. While Article 32 establishes a direct constitutional remedy before the Supreme Court for the enforcement of Fundamental Rights, Article 226 confers upon High Courts a broader supervisory jurisdiction extending beyond Fundamental Rights to include the enforcement of legal rights and correction of administrative illegality.

The relationship between Articles 32 and 226 reflects the constitutional philosophy of providing multiple levels of judicial protection against State action. Article 32 represents the national constitutional safeguard

[72] L. Chandra Kumar v. Union of India, (1997) 3 SCC 261.

for Fundamental Rights, whereas Article 226 ensures decentralised constitutional supervision through High Courts. Together, these provisions maintain the balance between individual liberty, governmental authority, and constitutional supremacy. The distinction between the two provisions is not merely based on institutional hierarchy but arises from their different constitutional purposes. Article 32 is primarily concerned with the protection of Fundamental Rights as guaranteed under Part III, while Article 226 serves the wider purpose of ensuring legality, fairness, and accountability in the functioning of public authorities.

Constitutional Position and Authority Exercising Jurisdiction

The most fundamental distinction between Article 32 and Article 226 relates to the constitutional authority empowered to exercise writ jurisdiction.

Article 32 confers jurisdiction exclusively upon the Supreme Court of India. The Supreme Court, while exercising jurisdiction under Article 32, does not function merely as a court of law but as the constitutional guardian of Fundamental Rights. The provision creates a direct constitutional relationship between the individual and the Supreme Court, ensuring that violations of Fundamental Rights receive immediate constitutional attention. The special status of Article 32 was recognised in Romesh Thappar v. State of Madras (1950), where the Supreme Court held that the right to approach the Court under Article 32 is itself a Fundamental Right. The Court rejected the argument that a person must first approach the High Court under Article 226 before invoking Article 32. It observed that the Constitution itself had entrusted the Supreme Court with the responsibility of protecting Fundamental Rights.

Article 226, on the other hand, empowers every High Court to issue writs within its territorial jurisdiction. This decentralised structure ensures greater accessibility to constitutional justice. Unlike Article 32, which provides a single national forum, Article 226 allows individuals to approach constitutional courts closer to their place of residence or where the cause of action arises. The existence of High Court jurisdiction under Article 226 reflects the federal character of the Indian constitutional system. High Courts act as constitutional courts within the States and provide immediate judicial supervision over administrative and governmental actions.

Nature and Constitutional Character of Jurisdiction

The constitutional nature of jurisdiction under Articles 32 and 226 is fundamentally different.

Article 32 is unique because the remedy itself has been incorporated as a Fundamental Right. It is not merely a power granted to the Supreme Court; rather, it is a constitutional entitlement available to individuals. Therefore, when a violation of a Fundamental Right is established, the Supreme Court performs a constitutional obligation to provide appropriate relief.

The Supreme Court in **Daryao v. State of Uttar Pradesh (1961)** recognised the importance of constitutional remedies and emphasised that Article 32 forms an essential part of the constitutional guarantee of Fundamental Rights.

In contrast, Article 226 represents a constitutional power vested in High Courts, but it is not itself a Fundamental Right. The exercise of this jurisdiction is discretionary and equitable. A High Court may refuse to intervene where an alternative and effective remedy exists, where factual disputes require ordinary adjudication, or where the circumstances do not justify extraordinary constitutional relief. However, such discretion does not mean that Article 226 is limited in scope. Rather, it allows High Courts to balance constitutional protection with principles of judicial restraint.

Difference in Scope of Rights Protected

The most important substantive difference between Articles 32 and 226 lies in the scope of rights that may be enforced.

Article 32 is restricted exclusively to the enforcement of Fundamental Rights contained in Part III of the Constitution. Its purpose is to protect rights considered essential to individual liberty and constitutional democracy.

A person cannot invoke Article 32 merely because a statutory or contractual right has been violated. The violation must involve a Fundamental Right.

Article 226 possesses a considerably wider scope because it extends to:

- Fundamental Rights;
- statutory rights;
- legal rights;
- administrative obligations;
- and violations of principles of natural justice.

The phrase ***"for any other purpose"*** contained in Article 226(1) gives High Courts extensive authority to review governmental actions beyond the limitations of Part III.

This wider scope has made Article 226 a central instrument of administrative law. Through Article 226, High Courts have examined:

- arbitrary administrative decisions;
- illegal exercise of statutory powers;
- unlawful dismissal from public employment;
- improper exercise of discretion;
- and violations of procedural fairness.

Thus, Article 32 is narrower in subject matter but stronger in constitutional status, whereas Article 226 is broader in subject matter but dependent upon judicial discretion.

Territorial Jurisdiction and Accessibility

Another important distinction relates to territorial operation.

Article 32 operates throughout the territory of India because the Supreme Court exercises nationwide jurisdiction. Any individual whose Fundamental Rights are violated may directly approach the Supreme Court.

Article 226, however, is subject to territorial limitations. A High Court may exercise jurisdiction where the authority is located within its territory or where the cause of action arises wholly or partly within that territory.

The constitutional expansion introduced by Article 226(2) has significantly strengthened access to justice by preventing technical territorial barriers from restricting constitutional remedies.

This distinction demonstrates the different constitutional roles of the two provisions:

- Article 32 ensures uniform national protection of Fundamental Rights.
- Article 226 provides accessible constitutional supervision at the regional level.

Judicial Discretion and Alternative Remedy Principle

The principle of alternative remedy operates differently under Articles 32 and 226.

Under Article 32, the existence of an alternative remedy does not ordinarily prevent the Supreme Court from exercising jurisdiction because the right to approach the Court is itself constitutionally guaranteed.

The Supreme Court has repeatedly emphasised that Article 32 cannot be treated as an ordinary discretionary remedy.

Under Article 226, however, the availability of an alternative remedy is an important consideration. High Courts generally avoid exercising writ jurisdiction where effective statutory remedies are available.

However, this principle is not absolute.

In **Whirlpool Corporation v. Registrar of Trade Marks (1998)**, the Supreme Court recognised exceptions where High Courts may exercise Article 226 jurisdiction despite alternative remedies, particularly when:

- Fundamental Rights are violated;
- principles of natural justice are breached;
- proceedings are without jurisdiction;
- or constitutional validity of legislation is challenged.

Therefore, Article 226 combines wide constitutional authority with judicial discretion.

Relationship Between Article 32 and Article 226 in Constitutional Governance

Although Articles 32 and 226 differ in scope and function, they operate in a complementary manner.

Article 32 provides constitutional protection at the highest judicial level, ensuring that Fundamental Rights remain enforceable throughout India.

Article 226 strengthens constitutional governance by enabling High Courts to supervise administrative authorities and protect both constitutional and legal rights.

The Supreme Court in **L. Chandra Kumar v. Union of India (1997)** recognised that judicial review exercised under Articles 32 and 226 forms part of the basic structure of the Constitution.

The Court held that constitutional courts cannot be excluded from reviewing governmental actions because judicial review is essential for maintaining constitutional supremacy.

Thus, both provisions together form an integrated constitutional mechanism:

- Article 32 protects constitutional rights against violations by the State.
- Article 226 ensures legality and accountability in public administration.

Comparative Constitutional Significance

The importance of Articles 32 and 226 lies in their combined contribution to the preservation of constitutional democracy.

Article 32 represents the constitutional guarantee that Fundamental Rights cannot remain merely theoretical promises. It provides citizens with direct access to the Supreme Court and ensures protection against unconstitutional State action.

Article 226 represents the broader constitutional principle that all public authorities must act within the limits of law. It enables High Courts to correct administrative failures and prevent misuse of public power.

Together, these provisions uphold:

- constitutional supremacy;
- rule of law;
- judicial review;
- protection of individual liberty;
- and accountability of governmental institutions.

Articles 32 and 226 represent complementary dimensions of constitutional remedies in India. Article 32, being itself a Fundamental Right, provides a specialised constitutional remedy for enforcement of Part III rights through the Supreme Court. Article 226, while not a Fundamental Right, provides High Courts with a wider and more flexible jurisdiction to protect Fundamental Rights as well as other legal rights. The constitutional design does not establish superiority of one provision over the other; rather, it creates a coordinated system of judicial protection. Article 32 ensures the supremacy of constitutional rights at the national level, while Article 226 strengthens the rule of law through decentralised constitutional supervision. Together, these provisions form the backbone of Indian writ jurisdiction and represent one of the most important safeguards against arbitrary exercise of State power. They ensure that constitutional governance remains founded upon rights protection, judicial accountability, and the supremacy of the Constitution.

Comparative Dimensions of Rights, Respondents and Grounds of Review

The most visible difference is the right enforced. Article 32 is confined to rights conferred by Part III. Article 226 extends to those rights and to other legal rights, including statutory duties, administrative-law obligations and some public duties owed by bodies outside Article 12. This wider subject matter often enables a High Court to decide the complete controversy.

A claim may involve overlapping grounds. Cancellation of a licence, for example, may violate a statute, natural justice and Article 14. Under Article 226 the High Court can examine all three grounds together. Under Article 32 the petitioner must establish the Part III infringement; the Court does not ordinarily exercise a general supervisory jurisdiction over statutory error. The respondent inquiry also differs. Article 32 generally requires State action, an entity falling within Article 12, a direct constitutional obligation or a legally sustainable case of attribution. Article 226 may issue mandamus to a body performing a public duty even if it is not State for all constitutional purposes.

The wider respondent reach of Article 226 is functional rather than status-free. A prominent corporation, sports body, educational institution or association is not subject to writs merely because its decisions affect many people. The petitioner must identify the public source or character of the duty and seek relief connected to that duty.

The grounds of review under Article 226 include lack of jurisdiction, error of law, breach of natural justice, mala fides, arbitrariness, unreasonableness and failure to perform a statutory duty. Under Article 32 these grounds matter when they establish or contribute to violation of a Fundamental Right. The same administrative defect may therefore have different jurisdictional significance. Both provisions permit review of legislation, but the framing of the claim remains important. A High Court may test legislation against Fundamental Rights, legislative competence and other constitutional limitations. The Supreme Court under Article 32 is directly engaged where enforcement of Part III requires invalidation or reading down of the law. The distinction does not create a hierarchy of importance. Article 32 has a narrower

subject matter but a guaranteed constitutional character; Article 226 has broader subject matter and distributed territorial operation. Their overlap is intentional, giving litigants more than one constitutional route while allowing courts to allocate disputes rationally.

Comparative Remedial Capacity and the Five Writs

Both courts may issue the five named writs and other directions or orders. The historical labels guide analysis but do not exhaust remedial power. The court should select relief according to the unlawful act, the right affected and the stage of the proceeding. Habeas corpus operates with comparable urgency in both jurisdictions. A High Court usually offers territorial proximity to the place of detention, while the Supreme Court may intervene where detention has national dimensions, several jurisdictions are involved or immediate central protection is necessary.

Mandamus under Article 226 has a wider field because it may enforce statutory and public duties beyond Part III. Article 32 mandamus must be connected to a Fundamental Right. In either forum, the duty should be sufficiently identifiable, and the order should not require performance of an act prohibited by law. Certiorari and prohibition commonly arise in High Court supervision of courts, tribunals and administrative bodies within the territory. The Supreme Court may grant equivalent relief under Article 32 where the impugned proceeding violates Part III, but it does not function as a general original court for correction of every jurisdictional error.

Quo warranto protects legality in public office and may be sought without proof of personal injury because the issue concerns unlawful occupation of a public position. Article 226 is the ordinary and territorially suitable forum, though a Part III dimension may support Article 32 in an exceptional national controversy. Declaratory, compensatory and structural remedies demonstrate the flexibility of constitutional jurisdiction. The High Court may combine statutory and constitutional relief; the Supreme Court may provide nationally authoritative or innovative remedies under Article 32. In both courts, relief must remain reasoned, proportionate and capable of implementation. Interim relief is especially important where the final remedy would be ineffective after delay. Courts should consider prima facie legality, irreparable rights injury, balance of convenience and public consequences. An interim order should preserve the ability to adjudicate without granting the entire final relief on an incomplete record.

VI. Conclusion

Articles 32 and 226 represent two essential dimensions of constitutional remedies in India. Article 32, being a Fundamental Right itself, provides direct access to the Supreme Court for enforcement of Fundamental Rights, while Article 226 gives High Courts wider authority to protect constitutional as well as legal rights. The relationship between these provisions is not based on superiority but on complementary functions. Article 32 ensures uniform protection of Fundamental Rights at the national level, whereas Article 226 enables effective regional supervision over administrative and governmental

actions. Together, they strengthen constitutional supremacy, judicial review, rule of law, and accountability of public authorities.

Bibliography

1. The Constitution of India, Government of India.
2. Basu, D.D., *Commentary on the Constitution of India*, LexisNexis.
3. Jain, M.P., *Indian Constitutional Law*, LexisNexis.
4. Seervai, H.M., *Constitutional Law of India: A Critical Commentary*, Universal Law Publishing.
5. Austin, Granville, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press.
6. *Romesh Thappar v. State of Madras*, AIR 1950 SC 124.
7. *Daryao v. State of Uttar Pradesh*, AIR 1961 SC 1457.
8. *Dwarka Nath v. Income Tax Officer*, AIR 1966 SC 81.
9. *Whirlpool Corporation v. Registrar of Trade Marks*, (1998) 8 SCC 1.
10. *L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261.