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**A COMPARATIVE ANALYSIS OF ARTICLE 32 & 226**- Ishan Anand<sup>1</sup>

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**ABSTRACT**

The Fundamental Rights (FRs) that are provided in part III (article 12<sup>2</sup>-35<sup>3</sup>) of the Indian Constitution, is available to all Indian citizens. As of now, there are six fundamental Rights. But the question arises, what if these fundamentals rights are infringed? So, as a remedy for the infringement of one's fundamental right there is Art. 32<sup>4</sup> and 226<sup>5</sup>. Under Art. 32<sup>6</sup> one can reach to the apex court i.e., the SC for the infringement of his Fundamental right under Art. 226<sup>7</sup> he/she can go to the HC. There are six fundamental Rights mentioned in Constitution of India and people are exercising it, but the importance of Art. 32 increases because it works as the saviour to the fundamental rights by providing the right to the citizens to approach to the apex court for the infringement of their FR's. Also, Dr. B. R. Ambedkar, "Father of the Indian Constitution" called Article 32 "The Heart and Soul of the Indian Constitution" and he also said, "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 Article 32 – Right to Constitutional Remedies."

So, in this paper the scope of Art. 32 and 226 has been discussed and what are the similarities and dissimilarities in these two articles and also how the privilege of seeking justice directly

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2. Indian Constitution, art. 12

3. Indian Constitution, art. 35

4. Indian Constitution, art. 32

5. Indian Constitution, art. 226

6. Id.

7. Id.

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from the apex court as per Art. 32 is being misused and the problem of frivolous petitions in courts, which is over burdening the Judiciary.

**Keywords:** Fundamental Rights, Article 32, Article 226, Similarities, Dissimilarities, Public Interest litigation, Misuse, Frivolous petitions.

## INTRODUCTION

*“True peace is not merely the absence of war; it is the presence of Justice.”*

- **Jane Addams**

The Constitution of India is considered as the supreme rule of the country. It was written with the faith that laymen and lawyers will read it alike, but after seventy years, some scared articles of the Indian Constitution have become so difficult to understand that a common man today would be confused if he reads the original text of the Constitution and the reason behind is, that there is a significant gap between the plain text and what is being practiced as a result of many decisions by various Courts of Law, whether it is the apex Court or any High Court.

India being the largest democracy in the world stands apart and succeeds, the reason is, it has been bolstered from time to time by its judicial foundation, which has seen countless martyrs during this holy war. For over two centuries, India has been ruled by the British. Although the British established formal courts of law in India, they did not give judges much discretion because the laws were codified. As a result, in 1950 when the Constitution was adopted, the lawcourts were not willing to stray too far from the context of the texts of the laws in effect. While the judiciary began to shift itself from being a police state to a genuine welfare state after the emergency of 1975. In order to provide full justice, courts of law have begun to apply purposive interpretation, or the golden rule of interpretation, to the rules of the law.

Apart from the FRs which are provided in part III of the Indian Constitution, there are two more Articles which are more important than that i.e., Art. 32 and Art. 226. These two Articles become more important than other articles because it provides the remedies to the infringement of one's FRs and that is the reason, when the father of the Indian Constitution and the Chairman of the drafting committee was asked to comment on the most important article in the Constitution of India, he said, *“If I was asked to name any particular article in*

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*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 (Article 32). It is the very soul of the Constitution and the very heart of it.”*

The scope of Art. 32 and 226 is expanding day by day, as it gives people the right to file a PIL and a writ petition in the SC and HC if they find that their constitutional rights are being violated. A writs petition and a public interest Litigation (PIL) may be filed to ensure that human rights are enforced. When an individual's civil rights are violated, a Writs petition is filed, while a PIL is filed for the benefit of the general public. The SC and HC's have the authority under this Art. 32 and Art. 226 to issue five separate writs, including habeas corpus, mandamus, prohibition, quo warranto, and certiorari, as the court sees fit for the execution of the rights conferred in this part. This article cannot be suspended except when there is a National Crisis which is mentioned under Article 359. Also, it provided the privilege to the petitioner to directly reach to this Supreme Court.

But the privileges provided under these two articles are being misused by the legal officers because they are filing PILs with a very petty subject or they are frivolous in nature. The Hon'ble SC and HC of different states have recorded many such petitions which are frivolous in nature and they are only wasting the time of the learned courts. *On 21<sup>st</sup> Feb, 2021 in one of the cases, the Hon'ble SC having J. DY Chandrachud said, "These contempt petitions which we initiate when undertaking is not met is increasing over burden" agreeing to this, J. MR Shah said, "We judge are, at times responsible for increasing the burden on judiciary<sup>8</sup>".*

## REVIEW OF LITERATURE

This research paper talks about the scope of Art. 32 and 226, and how these two articles work as the guardian of the FRs, though SC is the actual guardian of the fundamental rights, but Art. 226 is also for the protection of the FRs as well as other legal and constitutional rights. Then it talks about the application of Art. 32 and 226 lies against whom i.e., can these be

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8. Debayan Roy, *We judges are, at times responsible for increasing the burden on judiciary*, <https://www.barandbench.com/news/litigation/judges-responsible-increasing-burden-on-supreme-court-justice-mr-shah>

invoked against private individuals or not and along with that it also focuses on the liberalization of locus standi. The best part of this paper is it also focuses on the new dimensions of the writ jurisdiction of SC and HC under Art. 32 and 226<sup>9</sup>.

This article focuses on the difference between Article 32 and 226. It starts with a brief introduction of both the articles and then the author explains all the five writs namely Habeas Corpus, Mandamus, Prohibition, Certiorari and Quo-Warranto. Then he moves on to explain the difference between the two articles and gives seven major difference along with the case laws<sup>10</sup>.

This article deals with the difference between Art. 32 and 226, the article is written in a very comprehensive manner, first it talks about the applicability, scope and enforceability against private individuals of Art. 32, then it talks about the scope of Art. 226 also. The author explains all the five writs along with the important case laws related with it and then lastly, she gives the major difference between Art. 32 and 226.<sup>11</sup>

This article deals with a very relevant topic i.e., filing of frivolous PILs in courts. It explains PIL in a very detailed manner as to what is the need of the PIL and why it is considered as a privilege provided by the judiciary. The author gives the examples of many case laws which has helped judiciary to amend laws according to the need of the society, but now lawyers are filing PILs for the individual benefit and this defeats the purpose of PIL or if they are filing a PIL concerning with public matter then it is frivolous in nature, at last he concludes that we cannot end up filing PILs but we should have to do something to stop the filing of unnecessary PILs<sup>12</sup>.

This article is written by, “K.V. Vishwanathan, senior advocate and former additional solicitor general”, he focuses on the issue of frivolous and motivated PILs and they try to figure out that whether they are acting as a burden on judiciary’s time and resources, because PILs have

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9. Vishal Singh, the comparative study of Article 32 and 226 of the Constitution of India, 1-13, [https://www.academia.edu/32187770/The\\_Comparative\\_Study\\_of\\_Articles\\_32\\_and\\_226\\_of\\_the\\_Constitution\\_of\\_India](https://www.academia.edu/32187770/The_Comparative_Study_of_Articles_32_and_226_of_the_Constitution_of_India)

10. Sadaf Parves, Write a note on Article 32 and 226. What is the difference between Article 32 and 226 of the Indian Constitution, Dec 5, 2020, <https://lawcorner.in/write-a-note-on-article-32-and-226-what-is-the-difference-between-article-32-and-226-of-indian-constitution/>

11. Rachit Garg, Difference between Article 32 and Article 226, Nov 17, 2020, <https://blog.ipleaders.in/difference-article-32-article-226/>

12. Mahek, The practice of filing frivolous PILs and its legal consequences, 26 May, 2020, <https://lawsisto.com/legalnewsread/NDk4Ng==/THE-PRACTICE-OF-FILING-FRIVOLOUS-PILs-AND-ITS-LEGAL-CONSEQUENCES>

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been introduced in India because there is a need of it, the poor section of the society can seek justice through it. But now it is being misused by the legal officers and for which he suggests that judiciary should do something to dismiss these frivolous PILs without wasting any time on it<sup>13</sup>.

## RESEARCH QUESTIONS

Ques. 1: Why Art. 226 has been given wider scope than Art. 32, despite Art. 32 being the “Heart & Soul of the Indian Constitution”?

Ques. 2: What are the similarities and dissimilarities between Art. 32 and 226?

Ques. 3: What is the need of the PIL in Indian Society, but now how this privilege is being misused by the legal officers?

## CHAPTER 1: SCOPE OF ARTICLE 32 & 226

The fundamental or the basis of the principle Common and Indian law system is relied upon a well-known Latin maxim “*Ubi Jus Ibi Remedium*” which means that wherever there is right there is remedy. Article 32's key goal is to enforce the FRs granted by Part III of Constitution of India. As a result, the SC only hears cases where FRs have been violated under Art. 32. We are unable to reach the Supreme Court under Article 32 because there has been no breach of fundamental rights. Article 32's scope is not as broad as Article 226's because only Part III's constitutional rights can be enforced using Art. 32 and the same was held in “*Nain Sukh Das v. State of Uttar Pradesh*<sup>14</sup>”. Other than fundamental rights, no one can bring a case before the SC for enforcement. The Hon'ble apex court must have the authority to issue writs under Article 32 because this Article is a constitutional right in itself and the court is the guardian of these rights. The writs are powerful legal tools used against the government and its officials.

On the other hand, Article 226 grants the High Courts of all states the authority to enforce FR's and other legal and constitutional rights<sup>15</sup>, which means that the HC has been given

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13. KV Vishwanathan, Frivolous and Motivated PILs becoming a drain on judiciary's time and resource, may 27, 2021, <https://timesofindia.indiatimes.com/india/times-face-off-have-pils-drifted-away-from-their-original-ideal/articleshow/81461953.cms>

14. Nain Sukh Das v. State of Uttar Pradesh, 1953 AIR 384, 1953 SCR 1184

15. Andhra Industrial works v. chief controller of imports AIR 1974 SC 1539

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more power under Art. 32. Even, if no FR is being violated but any other legal right is violated by any administrative decision, it can be questioned in the HC under Art. 226<sup>16</sup>, not in the Supreme Court under Art. 32. Art. 226 gives the HC discretionary authority. It can only be used to serve the interests of justice. Article 226's term "**for any other purpose**" is not included in Art. 32, gives the HC the authority to rule on any issue, even though no FRs has been violated.

Regardless of the SC's restricted jurisdiction, there have been several instances where the SC has heard writ petitions under Art. 32 that did not require a FR. The explanation given for such cases is that the cases heard by the SC under Art. 32 involves important constitutional issues that no court other than SC has the authority to resolve it, and no other way, other than Art. 32, to put those issues under the Supreme Court's jurisdiction. Such issues are,

1. Bihar state misusing the power of Ordinance making<sup>17</sup>.
2. Issues related to SC's and HC's judge's appointment<sup>18</sup>.
3. Matters pertaining to SC's judge removal with due procedure<sup>19</sup>.

One more point in which Art. 226 has been given more wider perspective than Art. 32 is, Art. 32 is limited in its scope for the enforcement of FRs because the petitions filed under this article lies only when the opposite party is either state or an authority which is defined in Art. 12 of the Constitution of India. Art. 12 which talks about the concept of state or an authority has been liberalised by SC in a lot of cases such as, "**Rajasthan Electricity Board V. Mohanlal**<sup>20</sup>, **International Airport Authority Case**<sup>21</sup>, **Ajay Hasia V. Khalid Muji**<sup>22</sup>", and the interpretation of the text 'other authorities' mentioned in Art. 12 includes all these instrumentalities with the definition of state.

As a result, not only does the writ lie against these authorities under Art. 226 but also under Art. 32 of Indian Constitution. The question arises whether a writ can be issued against a private citizen or a corporation for violating FRs. There is no problem with Art. 226 because the HC has the authority to issue writs against private individuals and businesses. However,

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16. Bandhua Mukti Morcha v. Union of India, (1997) 10 SCC 549

17. DC Wadhwa v. State of Bihar AIR 1987 SC 579

18. Supreme Court Advocate on Record Ass. V. Union of India

19. Sarojini Ramaswamy v. UOI, AIR 1992 SC 2219

20. Rajasthan Electricity Board V. Mohanlal, AIR 1967 SC 1857

21. International Airport Authority Case, AIR 1979 SC 1628

22. Ajay Hasia V. Khalid Muji, AIR 1981 SC 487

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there is no such limitation or guideline in relation to Art. 32. So, based on this point, we can say that the SC can issue writs against an individual or a company if they violate Articles 17, 23, and 24 of the Constitution and the same was held in case of "*PUDR v. Union of India*<sup>23</sup>".

## **CHAPTER 2: SIMILARITIES & DISSIMILARITIES BETWEEN ARTICLE 32 & 226**

### **SIMILARITIES:**

1. Both Art. 32 and 226 can be used for the infringement of one's FR's that is given in part III of Constitution of India.
2. Under Art. 32 and 226, SC and the HC's have the power to issue writs.

### **DISSIMILARITIES:**

1. The SC has the power to issue writs under Art. 32, while HCs have been given the power to issue writs under Art. 226.
2. Art. 32, which is under part III of Indian constitution, is a FR (right to constitutional remedies), while article 226 falls under Part V of the constitution and is not a fundamental right. For example, in "*Darya and others v. State of Uttar Pradesh*<sup>24</sup>", it was held that Art. 32 is not only a citizen's fundamental right, but also the supreme court's responsibility to protect those rights. It is not necessary to file an application with the High Court before reaching the Supreme Court under Article 32 since it is a substantive right rather than a procedural right.
3. Article 32 can only be used to enforce fundamental rights, while article 226 has a broader scope and can be used to enforce fundamental rights as well as other legal rights. However, when it comes to granting compensation to the victim, the supreme court's scope is wider under article 32 than the high court's scope under article 226 as in the case of "*Rudul Shah vs. The State of Bihar*<sup>25</sup>". Under Art. 32, the Supreme Court created a new doctrine known as compensatory jurisprudence and compensated the detainee for being held for 14 years on a wrongful murder charge.

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23. *PUDR v. Union of India*, 1982 AIR 1473, 1983 SCR (1) 456

24 *Darya and others v. State of Uttar Pradesh*, 1961 AIR 1457

25 *Rudul Shah v. State of Bihar*, (1983) 4 SCC 141

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4. Article 32 can be suspended in the same way as all other human rights can be suspended in an emergency, with the exception of Art. 21 and 22. However, Art. 226 cannot be suspended even in an emergency.
5. Article 32's territorial jurisdiction is much broader than that of Art. 226, for example, in the cases of "*Election Commission v. Saka Venkata Rao*<sup>26</sup>" and "*Khajoor Singh v. Union of India*<sup>27</sup>", it was held that a high court could only issue writs to an authority if it was situated within its jurisdiction.
6. Article 32 has greater authority than Art.226 and can override a HC order issued under Art.226 of the Constitution. The court decided in the case of "*Daryao and others v. State of Uttar Pradesh*<sup>28</sup>", that the rule of res judicata was not only a technical rule, but that it was based on sound public policy, that the binding character of judgments pronounced by courts of competent jurisdiction was an essential part of the rule of law, and that the rule of law was the foundation of the administration of justice, which is the ultimate motive of the rule of law.
7. The SC has a mandatory obligation to issue writs under Art. 32 because it is the guardian and protector of the people's constitutional rights, while the high court has discretion in determining whether or not to issue writs based on the facts of the case. For example, the SC held in the case of "*Collector of Central Excise v. Dunlop India Ltd*<sup>29</sup>", held that Art. 226 is not intended to short-circuit or bypass legislative procedures.

Only where legislative remedies are completely unable to meet the demands of exceptional cases, such as where the statute's validity is in doubt or when private and public wrongs are inextricably connected and the avoidance of public harm and the vindication of public justice warrant it, can Art. 226 of the Constitution be invoked. A writ would not normally be granted by the Court if the contested order is made by an official within his jurisdiction and is not clearly erroneous.

### CHAPTER 3: NEED & PRIVILEGE OF PIL

The constitution's framers were a group of some remarkable Indians, among the best ever to have lived, headed by B.R. Ambedkar, the drafting committee's chairman. After the span of

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<sup>26</sup> Election Commission v. Saka Venkata Rao, 1953 SCR 1144

<sup>27</sup> Khajoor Singh v. Union of India, AIR 1961 SC 532

<sup>28</sup> Daryao and others v. State of Uttar Pradesh, 1961 AIR 1457

<sup>29</sup> Collector of Central Excise v. Dunlop India Ltd., 1985 AIR 330

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two years, eleven months, and seventeen days, they paid their full attention on each article, sentence, full stop, and comma. Their unwavering efforts resulted in a phenomenon document which shows a contract among the people of India and the state on the one hand, while the citizens and the state on the other.

The final draft was rejected by Ambedkar, claiming that it lacks the requirement of the young India. He claimed that rights are null unless they are accompanied by a remedy. “The right to move the Supreme Court by appropriate proceedings for the enforcement of rights conferred by this Part,” according to Art. 32.

The SC's authority to give orders, directives, or writs – as necessary for enforcing rights granted by Part III – is also outlined there. Art. 226 grants the power to every HC to give instructions, orders, or writs to any individual or authority, including the government, upon the infringement of rights conferred by Part III and for any other purpose. The SC has significantly broadened the reach of fundamental rights while also broadening the scope of its enforcement authority.

After the constitution of India is ready with us, altogether a new branch of law and jurisprudence born, which has served the country from past forty years, i.e., PIL.

The firm footing to this new branch was given by the bench of seven-judges in 1981's ruling of ***S.P. Gupta v. President of India and Ors.***<sup>30</sup>, when justice Bhagwati, speaking for the court, held that, “ *where a legal wrong or a legal injury is caused to determinate class of persons or a legal right and such person or determinate class of person is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or determinate class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons...*”.

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30.S.P. Gupta v. President of India and Ors, AIR 1982 SC 149

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He said, where the persons are actually helpless, “The Supreme Court will not insist on a regular petition to be filed and can even respond to a letter by an individual acting *pro bono publico*.”

He also said, “Whenever there is public wrong or public injury caused by omission or act or omission of the State or by a public authority which is contrary to the constitution or law, any member acting bona fide and having sufficient interest can maintain such action for redressal of such wrong or public injury”.

The reasoning given thus, *“in absence of a machinery to represent public interest generally in courts, it is necessary to liberalise the rule of standing in order to provide judicial redress for public injury arising from breach of public duty or other violation of the constitution or the law by allowing public minded persona and organizations to move the court and act for a general or group interest even though they may not be directly injured in their own rights”*.

Without such efforts to avoid the infringement of the rights of larger portion of society who are unable to claim those rights due to vulnerability, unawareness, or financial deprivation, the public interest can never be protected. They are sometimes unaware of their rights. Corruption, nepotism, and bias of executive decisions would go unchecked if PILs do not exist. The executive and legislative branches must be constantly monitored by the courts. Otherwise, all of our people' constitutional rights would be rendered null and void.

The rule of law is an agreed standard in all democratic societies and Indian courts have a responsibility to uphold it.

### **3.1 FRIVOLOUS PETITIONS AS PIL IN SUPREME COURT & HIGH COURTS:**

The concept of Public Interest Litigation (PILs) is made for the welfare of the society or for the need of the society. If any law which is not in accordance with the modern times, then it can be presented through PIL in SC or HC, so that it can benefit public at large. It is also introduced for the weaker section of the society, if they want to seek justice on any matter, they can approach to the courts through PIL. But today the privilege provided under Article 32 i.e., PIL is being misused and now it is overburdening the judiciary, it is like the privilege provided by judiciary is itself hampering the working or functioning of it.

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First of all, we need to understand that there is a difference between PIL and writ petition. A writ petitions is filed when the matter is of an individual person, but a PIL is filed for an issue which benefits public at large. But in today's time legal officers are filing PILs in SC as well as in different HCs which do not have any relation with the public at large. Secondly, they are filing petitions which are frivolous in nature, the matter is so trivial in nature that it can be resolved easily, there is no need to spend the valuable time of the learned courts, thus the privilege provided under Article 32 and 226 is being misused, concerning this issue the Hon'ble Supreme Court has framed the guidelines in the case of "State of Uttaranchal v. Balwant Singh<sup>31</sup>" in which various guidelines were issued for the preservation of purity and sanctity of PIL. After that also there had been some case of frivolous petitions, some of them are,

The 2018 "Tehseen Poonawalla v. Union of India<sup>32</sup>", written by J. D.Y. Chandrachud, which contains four different paragraphs and has a separate portion on PIL. This judgement of 2018 becomes more important because it uses two paragraphs from "Balwant Singh Chauhal (2010) judgment". The paragraphs are:

"161. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think *time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged.*"

"162. In our considered opinion, *we have to protect and preserve this important jurisdiction in the larger interest of the people of this country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non- monetary directions by the courts.*"

*The Telangana High Court on 28<sup>th</sup>, August 2020, levied a 50,000 fine on a petitioner for filing a PIL petition for the wrong reasons and wasting the court's valuable time.*

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31. State of Uttaranchal v. Balwant Singh (2010) 3 SCC 402

32. Tehseen Poonawalla v. Union of India, (2018) 6 SCC 72

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*The HC denied the petitioner's counsel's request to minimize the fine amount and requested that it be deposited in the Advocates Welfare Fund. B. Venkateshwarlu, a sixty-year-old resident of Nalgonda district, filed the PIL, requesting that authorities not allow the construction of a new petrol bunk near the Nagarjunsagar dam.*

*The petition was heard by CJ Raghvendra Singh Chauhan and J. A. Abhishek Reddy and they wanted to know more about the petitioner. The bench directly inquired about his job profile after his lawyer Venkat Mayur replied that he was working part-time.*

*The petitioner worked part-time in a gas bunk, according to the prosecutor. The bench said that filing such funded petitions in the name of public interest was not fair, noting that this suggested the likelihood of the petrol bank management being behind the PIL petition.*

## **SUGGESTIONS**

The power conferred under Art. 32 and 226 to issue five different writs on SC and HC for the infringement of FR's mentioned in part III and Art. 32 also provides remedial measures to the aggrieved person if required. This is the best part of the Indian Constitution and may be due to this only Art. 32 is the "Heart and the soul of the Indian Constitution".

Here, the important point is, Art. 32 provides the privilege to the aggrieved party to directly approach to the SC and seek remedy for it, because it is the protector of the FR's. But one should always keep in mind that Supreme Court is the apex court and it is already overburdened by so many important cases, so if possible, the aggrieved person or party first reach to HC and if he/she is not satisfied with it then he/she can reach to Supreme Court. The same has been said in "*Kalyaneshwari v. Union of India*<sup>33</sup>" in this the SC asked that the aggrieved party has to give justification while directing approaching to the apex court, why he didn't approach to the High Court first?

Secondly the legal officers who are directly approaching to the apex court must check that the subject matter of their PILs are not trivial in nature, because due to filing of frivolous petitions in apex court the judiciary is being overburdened and it is only wasting the valuable time of the court, which has been to given on important matters.

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33. *Kalyaneshwari v. Union of India*, (2011) 3 SCC 287

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Besides these, judiciary also has to make some changes in the PIL cell, when a PIL is filed, it first goes to the PIL cell and there the subject matter is checked, if the subject matter concerns with public interest it is forwarded to the bench, but now judiciary has to give some more powers to the PIL cell, so that they can dismiss the frivolous petitions then and there without wasting the time of the bench.

## CONCLUSION

To wrap up this project, I would like to point out that the makers of the Constitution understand that the rights granted in part III must be enforced by the courts in order for them to be anything than just paper rights. The mere assertion of rights is insufficient without an effective solution for enforcing them. The judiciary has played an important part in safeguarding fundamental rights. It is regarded as the Guardian of the Indian Constitution under Art. 32.

Article 32 is a one-of-a-kind provision in our Constitution, and in fact, no other country has such a provision. Regardless of the position played by the judiciary, we have failed to achieve either social or economic justice after six decades of independence. Because of its position, strategy, and recommendations to allow the most appropriate use of the nation's resources, the SC and the HC's have high respect for the shared jurisdiction of the HC's and the SC over violations of constitutional rights.

As per the research of the author and the discussion in the paper, the SC has liberalized its authority under Art. 32 and 226 in order to provide justice to people of India as per their requirement. We all are also aware of the universal principle of law is that where there is a right, there must also be a remedy, since a right without a remedy is nothing more than a sand rope. In this regard, our Constitution's provision for the protection of fundamental rights is a unique feature. However, the constitutional mechanism is insufficient since there is still a large distance between the lip and the cup.

***“There are always persons who will file frivolous petitions. But does one close down an entire legal system because some cases without merit are filed?”***

- **Colin Gonslaves**

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PILs on the chance in climate and environment, rights of women's, atrocities related to lower caste people, unfair tribal evictions, the destruction of forests, and etc. continue to be filed with great success. These cases have a huge impact and we should not ignore it. Only in the condition of "Right to food", food supplements were increased from 400 million to 700 million people. Without the finest and most widely recognized PIL jurisprudence in the world, the case laws of India will be devoid of conscience.

Person, who oppose PILs are, at their heart, opposing the mechanism that was created to guard the vulnerable and upgraded human rights. PILs serve as a reminder to the public and judges that the country has a spirit. All nations will perish if there is lack of morals, ethics, culture, compassion, goodwill and brotherhood. Also, the most prosperous economies will eventually collapse. The justice system, too, has a conscience. It extends beyond the Constitution's and statutes' written terms. In the constitution, there is a divine influence. PILs strike back when the law's spirituality is mocked and ridiculed. The PIL litigant takes legal action when menstruating women were barred from entering in temples. The PIL litigants challenges the issue that always the minority people are guided what they can and cannot eat. The response is given, the Constitution wins, against the slogan majority wins. Resistance to dictatorship, abuse, and bigotry is at the heart of the PIL.

Thus, the privilege provided under Art. 32 and 226 to file a PIL and a writ petition in courts must be used faithfully and sincerely, so that it will not overburden the judiciary and also the purpose of PIL does not gets defeated.

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