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SUPREME COURT EXTENSIVE POWERS UNDER ARTICLE 141 AND 142: SCOPE AND CHALLENGES

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Abstract

The Indian Supreme court, as the apex judicial authority, is vested with extraordinary constitutional powers under Articles 141 and 142 of the Constitution of India. These provisions uniquely empower the Court not only to declare binding law but also to craft justice-oriented remedies that transcend procedural and statutory limitations. Article 141 mandates that the law declared by the Supreme Court is binding on all subordinate courts, thereby institutionalizing the doctrine of precedent within the Indian legal system. Article 142, on the other hand, confers wide-ranging discretionary authority upon the Court to pass any order necessary to ensure “complete justice” in matters before it. This dissertation undertakes a comprehensive study of the scope and implications of these provisions, tracing their historical evolution, interpretative expansions, and impact on the legal and constitutional framework. It further delves into landmark judgments where these powers have been invoked to achieve transformative justice and public interest governance, including Vishaka, Union Carbide, and Navtej Singh Johar. However, the exercise of such expansive powers has not been free from controversy. This study critically analyses the challenges posed by judicial overreach, tensions with the principle of separation of powers, and the absence of procedural safeguards in the use of Article 142. Through a comparative lens with other constitutional democracies, the dissertation identifies institutional safeguards and suggests recommendations for ensuring a more transparent and balanced use of these extraordinary powers. Ultimately, it concludes that while Articles 141 and 142 are indispensable instruments for legal development and equity, their legitimacy and effectiveness depend on judicial restraint, reasoned elaboration, and cooperative constitutionalism.

KEY WORDS: Article 14, Complete Justice, Judicial Activism, Binding Precedent, Supreme Court of India, Separation of Powers, Judicial Overreach, Public Interest Litigation (PIL).

INTRODUCTION

The Indian Constitution stands not only as a legal document but also as a living, evolving framework designed to ensure justice, liberty, and equality in a diverse and dynamic society. While the three pillars of government the Legislature, Executive, and Judiciary have clearly defined roles, the Judiciary, particularly the Supreme Court, has emerged as the ultimate protector of the Constitution and the rule of law. Articles 141 and 142 of the Constitution are two of the most powerful tools in the Supreme Court's arsenal, enabling it to act not only as the final interpreter of law but also as the ultimate dispenser of justice. These provisions do not merely reflect procedural authority; they represent a constitutional vision of justice that transcends the limitations of statutory text and procedural formality. Article 141 ensures that the law declared by the Supreme Court is binding across all Indian courts, thus preserving consistency and legal certainty in judicial administration. Article 142, on the other hand, arms the Supreme Court with extraordinary discretionary powers to ensure that complete justice is done in any case before it, even if that means stepping outside the boundaries of existing statutes. The combination of these two provisions empowers the Court to act in ways that have been transformative in many landmark judgments. However, this power is not without its critics. The expansiveness of Articles 141 and 142 has raised important questions about judicial overreach, separation of powers, and constitutional accountability. This dissertation explores the origin, evolution, judicial interpretation, application, and contemporary challenges of Articles 141 and 142, delving deep into their transformative role in Indian constitutionalism.

Constitutional Foundations of Articles 141 and 142

Articles 141 and 142 find their place in Chapter IV of Part V of the Constitution, which deals with the Union Judiciary. These articles were not included to merely affirm the supremacy of the Supreme Court, but to confer upon it the tools required to mould Indian jurisprudence and administer justice in its purest form. Article 141 stipulates that the law declared by the Supreme Court shall be binding on all courts in India. This constitutional mandate is rooted in the doctrine of stare decisis, which ensures legal consistency and predictability. However, unlike traditional common law jurisdictions, where precedents evolve gradually and are occasionally overturned by legislative intervention, the Indian model grants constitutional status to judicial declarations by the Supreme Court. Article 142, in contrast, grants the Court wide discretionary power to ensure that complete justice is done in any matter pending before it. The exact text of Article 142(1) states: "The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it..." This provision goes beyond conventional judicial authority, enabling the

Supreme Court to provide remedies that no other court in the country can. It has allowed the Court to fill legislative gaps, address executive inaction, and evolve equitable principles of governance. Together, these provisions are not just procedural mechanisms; they form the core of a “transformative judiciary” that plays an active role in the realization of constitutional goals.

Article 141: Doctrine of Precedent and Judicial Authority

Article 141 establishes the constitutional foundation of judicial precedents in India. It serves to unify the legal system across the country by mandating that all subordinate courts follow the law declared by the Supreme Court. This principle is essential in a federal system like India’s, where multiple High Courts function independently and often deal with diverse legal contexts. The authority of Supreme Court precedents under Article 141 ensures consistency in interpretation of statutes, application of constitutional doctrines, and procedural fairness across jurisdictions. This has a stabilizing effect on Indian jurisprudence and provides clarity to litigants, lawyers, and lower judiciary alike. However, the scope of “law declared” has itself been a subject of judicial scrutiny. In the landmark case of *Keshav Mills Co. Ltd. v. CIT* (1965), the Court held that not every observation of the Supreme Court becomes binding under Article 141. Only the ratio decided, i.e., the principle of law on which the decision is based, has binding authority. This principle was reiterated in *State of Orissa v. M.D. Pandey* (2008), where the Court emphasized that obiter dicta are not binding, although they may have persuasive value. The doctrine of precedent under Article 141 is particularly critical in constitutional interpretation, where the Court often lays down principles that guide the political branches of government. Over time, the Supreme Court has interpreted this Article to expand its jurisdictional influence, asserting that even when the Court departs from established statutory interpretation or legislates in gaps left by Parliament, its decisions still hold the force of law across the country.

Scope and Influence of Article 141

The influence of Article 141 extends far beyond mere legal uniformity. It enables the Supreme Court to act as a “constitutional conscience keeper”, guiding not just the lower judiciary but also the legislature and executive. This article allows the Court to shape public policy indirectly by giving binding interpretations that must be followed unless overturned by constitutional amendment or a larger bench. A good example is the *Vishaka v. State of Rajasthan* (1997) judgment, where the Supreme Court, in the absence of domestic legislation on sexual

harassment at the workplace, laid down detailed guidelines binding under Article 141. These guidelines functioned as law until Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Similarly, in *Navtej Singh Johar v. Union of India* (2018) and *Joseph Shine v. Union of India* (2019), the Supreme Court used Article 141 to decriminalize homosexuality and adultery respectively, setting new social standards by interpreting constitutional morality. The binding nature of such progressive rulings highlights the proactive and dynamic potential of Article 141 in social justice jurisprudence. However, this expansive role is not without criticism. Detractors argue that the Court often steps into the domain of legislation, which should ideally belong to the Parliament. Nevertheless, the jurisprudential logic has been that the judiciary steps in only when there is a legislative vacuum or when constitutional rights are endangered. The article, therefore, becomes a tool of judicial empowerment, enabling the Court to rise above procedural constraints and give meaning to fundamental rights in real, practical terms.

Article 142: Power to Do Complete Justice – Meaning and Dimensions

Article 142 of the Indian Constitution is a unique and potent provision that vests in the Supreme Court an unparalleled authority to render “complete justice” in any matter before it. This provision goes far beyond the ordinary judicial function of applying laws to specific cases; it empowers the Supreme Court to issue any decree or order necessary to ensure justice is not defeated by technicalities, legislative gaps, or procedural limitations. The phrase “complete justice” is not defined in the Constitution, and its open-textured nature provides vast interpretive space for judicial creativity. The framers of the Constitution anticipated that the Court might, in exceptional circumstances, need to transcend statutory law in order to uphold the values of justice, equity, and good conscience. This is why Article 142 is considered a reservoir of equity jurisdiction, enabling the Court to craft remedies tailored to the facts and complexity of individual cases. One of the earliest and most celebrated uses of Article 142 came in the *Union Carbide Corporation v. Union of India* (1991) (Bhopal Gas Tragedy case), where the Supreme Court used this power to approve a compensation settlement, thereby balancing the need for immediate relief against the prolonged litigation that could have ensued. The Court’s intervention was not based on any statute but on its perception of what would constitute complete justice for the thousands of victims. Similarly, in the *Supreme Court Bar Association v. Union of India* (1998), the Court clarified that while Article 142 allows it to do complete justice; it cannot be used to contravene express statutory provisions, particularly when dealing with the field of criminal contempt and professional misconduct of advocates.

Thus, while Article 142 is broad in its application, it is not without limitations. It operates in harmony with the rest of the Constitution and should not be seen as a tool to override the basic structure or statutory law arbitrarily.

Judicial Activism and Article 142

Over the decades, Article 142 has come to symbolize the judicial activism of the Supreme Court. In many landmark judgments, the Court has invoked this provision to go beyond traditional judicial roles and actively engage in governance, policy formulation, and social engineering. While some view this as an overreach, others see it as a necessary function of a constitutional court in a developing democracy where the legislative and executive branches often fail to fulfill their responsibilities. The Court's interventions under Article 142 have been most visible in matters of environmental protection, electoral reform, gender justice, and criminal justice reform. For instance, in the MC Mehta series of cases, particularly the Taj Trapezium case and the Ganga Pollution case, the Court directed closure of polluting industries and mandated environmental safeguards under Article 142, filling in the void left by administrative inaction and legislative inertia. Similarly, in *Lily Thomas v. Union of India* (2013), the Court used its powers to ensure that convicted legislators are disqualified immediately, thereby strengthening the purity of the electoral process. The Court's directions in the *Prakash Singh v. Union of India* (2006) judgment regarding police reforms were also issued under Article 142, compelling the states to implement structural changes in police administration. These interventions show how Article 142 has become a crucial tool in the hands of the judiciary to bring about structural reforms. However, this judicial dynamism has not been free from controversy. Critics argue that the Court, by invoking Article 142 to make law or enforce policy, often steps into the domain of Parliament and violates the doctrine of separation of powers. Yet, the judiciary has defended its use of Article 142 on the ground that constitutional silence or legislative failure should not result in denial of justice. The Court has stressed that judicial activism under Article 142 is not an encroachment but a constitutional necessity in exceptional cases.

Interplay Between Articles 141 and 142

While Articles 141 and 142 are distinct in their wording and immediate function, they often

work in tandem to reinforce the Supreme Court's constitutional authority and ensure delivery of justice. Article 141 deals with the binding nature of the Court's decisions, while Article 142 provides the remedial and equitable power to issue decrees that fulfill the goal of justice in particular circumstances. The former cements the Court's decisions into the legal fabric of the nation, ensuring uniformity and predictability; the latter gives the Court the flexibility to adapt its approach to the demands of justice in individual cases. Together, they empower the Court to be both a guardian of legal certainty and an arbiter of equitable solutions. In practice, many landmark judgments have invoked both provisions simultaneously. For instance, in the Ayodhya case (*M. Siddiq v. Mahant Suresh Das*, 2019), the Supreme Court used Article 141 to lay down the law on adverse possession, title determination, and evidentiary burden, while invoking Article 142 to direct the allotment of alternate land to the Muslim parties in the interest of peace and complete justice. Similarly, in *Mohd. Ahmed Khan v. Shah Bano Begum* (1985), the Court laid down binding law under Article 141 on the maintenance rights of Muslim women under Section 125 CrPc, while also invoking Article 142 to grant justice to Shah Bano despite religious personal law challenges. This dual exercise of constitutional authority illustrates how the Supreme Court balances the rigidity of law with the demands of justice. However, the interplay also raises concerns: when Article 142 is used to issue far-reaching orders that are binding under Article 141, it effectively becomes a source of law creation without democratic legitimacy. This has led to calls for institutional restraint and better guidelines to ensure that these expansive powers are not misused or perceived as arbitrary.

Case Law Analysis: Key Judgments Interpreting Articles 141 and 142

The jurisprudential landscape of Articles 141 and 142 is shaped and defined by a series of landmark judgments where the Supreme Court has elucidated the scope, ambit, and limitations of these provisions. A comprehensive study of these cases reveals how the Court has interpreted its role as the ultimate arbiter of law and justice in India.

One of the earliest authoritative interpretations of Article 141 came in *Keshav Mills Co. Ltd. V. Commissioner of Income Tax* (1965), where the Court emphasized that the law declared under this Article is binding on all courts, including High Courts and tribunals. This case clarified that only the ratio decidendi, or the principle of law on which the decision is based, is binding, while obiter dicta remain persuasive but not compulsory. This distinction has been critical in maintaining judicial discipline and avoiding unnecessary rigidity in the law. The ruling established the precedent that the Supreme Court's decisions serve as the supreme source

of legal norms in the country.

Moving to Article 142, the Supreme Court's judgment in *Union Carbide Corporation v. Union of India* (1991) is seminal in understanding the "complete justice" doctrine. The Bhopal Gas Tragedy, one of the worst industrial disasters in history, exposed the failure of legislative and executive mechanisms to provide timely and adequate relief to victims. The Supreme Court, invoking Article 142, approved a settlement between the government and Union Carbide, facilitating compensation without prolonged litigation. This judgment underscored the Court's willingness to employ its extraordinary powers to provide equitable relief, recognizing that rigid application of procedural law could deny justice to the aggrieved. Subsequently, in *Supreme Court Bar Association v. Union of India* (1998), the Court examined the limits of Article 142, holding that while it is wide-ranging, it cannot contravene clear statutory provisions or the fundamental rights enshrined in the Constitution.

The Interaction of Articles 141 and 142 was vividly demonstrated in the Ayodhya land dispute case (*M. Siddiq v. Mahant Suresh Das*, 2019). The Supreme Court formulated a binding legal framework under Article 141 to resolve complex issues relating to possession, title, and religious rights. Simultaneously, under Article 142, the Court ordered that alternate land be allotted to the Muslim parties as compensation, ensuring that the judgment achieved a just and equitable outcome. This case exemplifies the dual function of the Supreme Court in upholding the rule of law while simultaneously ensuring substantive justice.

Other notable cases include *Vishaka v. State of Rajasthan* (1997), where the Court laid down binding guidelines to prevent sexual harassment at the workplace in the absence of any statutory framework. This guideline, binding under Article 141, demonstrated how the Court could step in to fill legislative gaps, while subsequent enactment of the Sexual Harassment Act reaffirmed the binding effect of judicial law-making. Similarly, the *Navtej Singh Johar* (2018) and *Joseph Shine* (2019) judgments represent the Supreme Court's evolving role in expanding individual liberties and social justice by overruling archaic penal provisions and reinforcing constitutional morality.

Through these landmark rulings, the Court has clarified that its powers under Articles 141 and 142 are not unfettered. The Court must operate within the boundaries of the Constitution's basic structure, respecting the separation of powers and democratic principles while ensuring justice.

This delicate balance reflects a mature judicial philosophy committed to both legal certainty and the imperatives of equity.

Challenges and Criticisms of Judicial Overreach

While the Supreme Court's expansive powers under Articles 141 and 142 have been instrumental in advancing justice, they have also attracted significant criticism and raised complex challenges for India's constitutional democracy. One of the foremost concerns is the issue of judicial overreach, where the Court is perceived to step beyond its traditional adjudicatory role into the domains of legislation and administration. Critics argue that by issuing sweeping directions and policy prescriptions under Article 142, the Court bypasses the elected branches of government, undermining the doctrine of separation of powers and democratic accountability.

The tension between judicial activism and democratic governance is especially pronounced in cases involving socio-economic reforms and governance issues, such as police reforms, environmental regulation, and electoral laws. For instance, the directions issued in the Prakash Singh (2006) case for police reforms were groundbreaking, yet many states delayed or ignored implementation, highlighting the practical limits of judicial power. The Court's attempts to enforce these directions under Article 142 led to debates about judicial efficacy versus legislative inertia. Similarly, while the Court's intervention in environmental cases is widely praised, questions remain about whether judicial orders can replace the nuanced policymaking and resource allocation functions of the executive.

Another challenge is the ambiguity inherent in the phrase "complete justice" under Article 142. The open-ended language gives the Court immense discretion, which some argue lacks clear guidelines and risks inconsistent or arbitrary decisions. This broad discretion has been both a strength and a source of uncertainty, with critics calling for codified principles or judicial self-restraint to prevent misuse.

Moreover, the binding nature of Supreme Court decisions under Article 141 sometimes creates rigidity in the law, potentially stifling legislative innovation and adaptability. While the doctrine of precedent promotes legal certainty, it can also lock in outdated interpretations until overturned by a larger bench or constitutional amendment, a slow and complex process. This can delay necessary legal reforms and place excessive power in the hands of unelected judges.

Finally, there is an ongoing debate on the balance between judicial activism and restraint. Scholars and practitioners continue to grapple with where the line should be drawn between protecting fundamental rights and respecting institutional roles. The Court itself has recognized these challenges, advocating cautious and principled use of its powers, emphasizing that judicial activism must be exercised in rare and exceptional cases, always guided by constitutional morality.

Comparative Perspective: Judicial Powers in Other Constitutional Democracies

To fully appreciate the scope and challenges of the Supreme Court's powers under Articles 141 and 142, it is instructive to place India's constitutional framework in a comparative context. Many democracies endow their highest courts with binding precedent and expansive remedial powers, but the extent and nature of these powers vary significantly, reflecting differences in constitutional design, judicial philosophy, and political culture.

In the United States, the Supreme Court's decisions are binding on lower courts under the principle of *stare decisis*, similar to Article 141. However, unlike India, the U.S. Constitution does not explicitly provide a power akin to Article 142's "complete justice" clause. Instead, the Court relies on its equitable powers and constitutional injunctions under its inherent jurisdiction and the principle of judicial review established in *Marbury v. Madison* (1803). The U.S. Supreme Court's power to fashion remedies is more circumscribed and tends to focus on ensuring compliance with constitutional rights rather than issuing broad policy orders. Consequently, judicial activism in the U.S. often faces more pronounced checks through political mechanisms such as Congressional legislation and executive enforcement discretion.

In the United Kingdom, the doctrine of parliamentary sovereignty historically limited judicial review, but the introduction of the Human Rights Act 1998 and the Supreme Court's establishment in 2009 have shifted this dynamic. UK courts can issue declarations of incompatibility but cannot strike down primary legislation. Judicial decisions are highly persuasive but not strictly binding on other courts, reflecting a more flexible precedent system. The UK judiciary exercises equitable powers primarily through common law remedies but lacks a constitutional provision equivalent to Article 142's "complete justice" clause. The UK

model thus emphasizes judicial dialogue and incremental law development rather than expansive remedial decrees.

South Africa provides a particularly interesting comparison. The Constitution of South Africa (1996) empowers the Constitutional Court with both binding authority and broad remedial powers, including the ability to make any order “just and equitable” under Section 172(1)(b). This provision, similar to India’s Article 142, allows the Court to craft remedies tailored to the circumstances, emphasizing substantive justice and social transformation. South African jurisprudence has embraced a transformative constitutionalism model where the Court actively engages in remedying systemic inequalities and ensuring socio-economic rights, paralleling India’s judicial activism under Articles 141 and 142. However, the South African Court’s power is embedded within a framework that explicitly recognizes and balances these powers with legislative authority, offering a nuanced model of judicial intervention.

This comparative analysis reveals that while binding precedent and judicial remedy powers are common features of constitutional democracies, India’s Article 142 remains uniquely broad and explicit in its language. This grants the Supreme Court a distinct capacity to engage in law-making and governance, but also necessitates ongoing reflection on institutional limits and democratic legitimacy. Learning from other jurisdictions, India may benefit from developing clearer guidelines or principles governing the exercise of these powers to enhance transparency, consistency, and respect for constitutional boundaries.

Conclusion: Navigating the Balance Between Authority and Accountability

The Supreme Court’s expansive powers under Articles 141 and 142 of the Indian Constitution represent a cornerstone of judicial authority and constitutional governance in India. Article 141 ensures that the Court’s legal pronouncements bind all courts and authorities, fostering uniformity and legal certainty, while Article 142 empowers the Court to issue any order necessary to do complete justice, including orders transcending statutory and procedural limitations. Together, these provisions equip the Supreme Court to fulfill its dual role as the final interpreter of law and the protector of justice in a complex and diverse democracy.

However, the extraordinary nature of these powers also presents inherent challenges. The broad discretion under Article 142, while enabling judicial innovation and remedial flexibility, risks judicial overreach and conflict with the democratic principle of separation of powers. The

binding nature of Article 141 judgments, though critical for legal stability, may inadvertently curtail legislative adaptability and delay needed reforms. The Court's evolving jurisprudence reflects a careful balancing act asserting its constitutional mandate to uphold justice while respecting the roles of the legislature and executive.

Going forward, the Supreme Court's exercise of powers under Articles 141 and 142 will continue to shape India's constitutional trajectory. As social complexities deepen and governance challenges multiply, the Court's ability to provide timely, equitable, and authoritative resolutions remains indispensable. Yet, the legitimacy and effectiveness of this authority hinge on judicial self-restraint, principled discretion, and transparent reasoning. Developing institutional mechanisms such as detailed guidelines, reasoned limitations, and enhanced dialogue with democratic institutions can help preserve this delicate balance.

In sum, Articles 141 and 142 empower the Supreme Court not only as the ultimate interpreter of law but also as the guardian of constitutional justice. These powers, when exercised with wisdom and restraint, uphold the promise of the Constitution as a living document responsive, inclusive, and just.

